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1D22-3590

STATE OF FLORIDA
FIRST DISTRICT COURT OF APPEALS

ELIAS MAKERE, FSA, MAAA
(Appellant/Plaintiff)

v.

STANLEY GORSICA, ET AL
(Appellee/Defendant)

On Appeal From The
4th Judicial Circuit, Duval County, Florida
16-2022-CA-003804-XXXX-MA

APPENDIX TO APPELLANT'S INITIAL BRIEF

Elias Makere, FSA, MAAA
Appellant ("Civilian X")
PO Box 324
Hobart, IN 46342
P: 904.294.0026
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W: TextBookDiscrimination.com
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ORAL ARGUMENT REQUESTED

STATE OF FLORIDA
FIRST DISTRICT COURT OF APPEALS

ELIAS MAKERE, FSA, MAAA

)

CASE NUMBER

Appellant/Plaintiff

)

1D22-3590

)

v.

)

)

STANLEY GORSICA, EDWARD GARY
EARLY, ALLSTATE INSURANCE
COMPANY

)

(LT)

16-2022-CA-003804-XXXX-MA

Duval County, 4th Judicial Circuit

Appellee/Defendant

)

APPENDIX

On Appeal from the

4th Judicial Circuit in and for Duval County, Florida

In compliance with Rule 9.220 Fla. R. App. P.

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DOCKET

(LOWER TRIBUNAL)

4th Judicial Circuit Court, Duval County, Florida

Makere v Gorsica, et al
16-2022-CA-003804-XXXX-MA

6/30/22-10/17/22

please see [Volume AO](#) for conformed copies of the [Appealed Orders](#)

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME D01

ITEM 01

PAGES 0010 - 0016

SHORT TITLE: Civil Complaint

DATE ENTERED: 6/30/2022

DOC TYPE: Pleading

TRIBUNAL: 4th Judicial Circuit, Duval County (Florida)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 3

Filing # 152559786 E-Filed 06/30/2022 10:46:01 PM

**IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA**

ELIAS MAKERE, FSA, MAAA

Case No. _____

*(to be filled in by the Clerk's Office)**Plaintiff(s)*

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

STANLEY GORSICA; EDWARD GARY EARLY;
ALLSTATE INSURANCE COMPANY

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: *(check one)* ☒ Yes ☐ No

**COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Non-Prisoner Complaint)**

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Elias Makere, FSA, MAAA		
Address	3709 San Pablo Rd S #701		
	Jacksonville	FL	32224
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Duval		
Telephone Number	904.294.0026		
E-Mail Address	Justice.Actuarial@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Stanley George Gorsica		
Job or Title <i>(if known)</i>	Former Staff Attorney (FCHR)		
Address	PO Box 13612		
	Tallahassee	FL	32317
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Leon		
Telephone Number	850.907.6809		
E-Mail Address <i>(if known)</i>	SGorsica@GorsicaLaw.com		
☒ Individual capacity ☐ Official capacity			

Defendant No. 2

Name	Edward Gary Early		
Job or Title <i>(if known)</i>	Administrative Law Judge (DOAH)		
Address	1230 Apalachee Pkwy		
	Tallahassee	FL	32399
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Leon		
Telephone Number	850.488.9675 x5462		
E-Mail Address <i>(if known)</i>	Edward.Early@DOAH.State.FL.US		
☒ Individual capacity ☐ Official capacity			

Defendant No. 3

Name	Allstate Insurance Compny		
Job or Title <i>(if known)</i>	Corporation (Publicly Traded)		
Address	1776 American Heritage Life Dr.		
	Jacksonville	FL	32224
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Duval		
Telephone Number	407.393.2900		
E-Mail Address <i>(if known)</i>	KDoud@Littler.com		
☐ Individual capacity ☐ Official capacity			

Defendant No. 4

Name			
Job or Title <i>(if known)</i>			
Address			
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number			
E-Mail Address <i>(if known)</i>			
☐ Individual capacity ☐ Official capacity			

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

28 USC §1343; 28 USC §1346; 42 USC §1981; 42 USC §1983; 42 USC §1985.

1st Amendment - Access to the Courts

7th Amendment - Trial by Jury

14th Amendment - Equal Protection, Due Process

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Gorsica was a staff attorney at a state agency violating the constitution.

Defendant Early is a state hearing officer violating the constitution.

Allstate is a company commandeering public officials to violate the constitution.

Importantly, Plaintiff fully incorporates the operative complaints in *Makere v Allstate* (3:20-cv-905) and *Makere v Early* (4:21-cv-96) herein. Hereby restating and re-alleging each & every factual allegation.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Florida.

United States of America.

- B. What date and approximate time did the events giving rise to your claim(s) occur?

Spring 2018 - Spring 2022

continuing violation

- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

--- Background ---

Plaintiff sued his former employer (Allstate) for employment discrimination (race, sex).

All of the material facts of Plaintiff's case were (1) in his favor, (2) clear-cut, and (3) not dependent on interpretation (ie, he had a very strong case). Anti-black propaganda, however, was against him.

--- Violations ---

Gorsica (a) ratified perjury; (b) omitted charges; (c) engaged in bribery; and (d) did more.

In March 2022, 1DCA established that FCHR bribery is clearly unlawful.

Defendant Early (a) destroyed evidence; (b) perjured himself; and (c) engaged in bribery.

Allstate (a) engaged in bribery; (b) perpetrated frauds; (c) conspired; (d) discriminated; and (e) did more.

All defendants have been infused with invidious discrimination (on the bases of race & sex).

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

--- Constitutional Injuries ---

- ▶ Lost/impaired chance at accessing the court (1st)
- ▶ Lost/impaired chance at a trial by jury (7th)
- ▶ Lost/impaired chance at a fair trial (due process - 14th)
- ▶ Lost/impaired chance at equal protections under the law (14th)

--- Financial Injuries ---

- ▶ Loss of Income
- ▶ Legal Costs
- ▶ Professional Impairment

--- Non-Pecuniary Injuries ---

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

--- Punitive Damages ---

(deter Defendants' comrades from similar transgressions; combat Defendants' disregard for the law)

--- Declaratory Relief ---

Declare that Defendants violated Plaintiff's constitutional rights

--- Injunctive Relief ---

Enjoin Defendants from further unlawful conduct

Enjoin Defendants from further interference/obstruction of the Makere v Allstate case (3:20-cv-00905)

--- Equitable Relief ---

Plaintiff seeks an award of all other relief that is just, equitable, and proper.

Plaintiff expects damages to exceed \$30,000 (allocated properly).

Thus, Plaintiff asks this Court to permit such a final calculation to await the appropriate time.

VI. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 06/30/2022

Signature of Plaintiff /s/ Elias Makere

Printed Name of Plaintiff Elias Makere, FSA, MAAA

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

City *State* *Zip Code*

Telephone Number _____

E-mail Address _____

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME D01

ITEM 02

PAGES 0017 - 0018

SHORT TITLE: Summons Returned Indicating Service on 'Officer
Y'

DATE ENTERED: 8/15/2022

DOC TYPE: Return of Service

TRIBUNAL: 4th Judicial Circuit, Duval County (Florida)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 10

RETURN OF SERVICE

SHERIFF NUMBER: 22010486

PARTY TO BE SERVED
STANLEY GORSICA
1833 HALSTEAD BOULEVARD APT 1409
TALLAHASSEE, FL 32309

ATTORNEY /
PETITIONER

PLAINTIFF: ELIAS MAKERE, FSA, MAAA

-VS-

DEFENDANT: STANLEY GORSICA, EDWARD GARY EARLY, ALLSTATE INSURANCE COMPANY

TYPE OF WRIT: ALIAS SUMMONS, COMPLAINT FOR VIOLATION CIVIL RIGHTS

COURT: CIRCUIT / DUVAL
CASE #: 2022CA3804

COURT DATE:

Received the above-named writ on July 26, 2022, at 2:27 PM, and SERVED the same on the 27th day of July 2022, at 12:22 PM. Service was completed at 1833 HALSTEAD BOULEVARD APT 1409 TALLAHASSEE, FL 32309 in LEON County, Florida, as follows:

INDIVIDUAL

By delivering a true copy of this writ together with a copy of the initial pleadings, if any, with the date and hour of service endorsed thereon by me to: STANLEY GORSICA.

Attempts:

SERVICE COST: \$0.00
C.R., CIVIL CLERK

WALT MCNEIL, SHERIFF
LEON COUNTY, FLORIDA

COURT:

DUVAL COUNTY
CLERK OF COURT

BY:  1504

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME D01

ITEM 03

PAGES 0019 - 0020

SHORT TITLE: Default

DATE ENTERED: 8/19/2022

DOC TYPE: Clerk Entry

TRIBUNAL: 4th Judicial Circuit, Duval County (Florida)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 12

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT): 2022-CA-3804-XXXX

STANLEY GORSICA; EDWARD
GARY EARLY; ALLSTATE
INSURANCE COMPANY

)

Division: CV-E

)

Defendant,

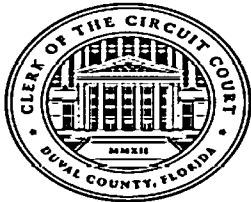
)

DEFAULT

Default is hereby entered in this action against Defendant
STANLEY GORSICA for failure to respond as required by law.

DATED ON: Aug 19 2022 20

JODY PHILLIPS



Clayton Smith

Deputy Clerk

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME D01

ITEM 04

PAGES 0021 - 0041

SHORT TITLE: [Appellant]'s Motion to Strike [Appellee]'s
Motion to Dismiss (for being Untimely)

DATE ENTERED: 8/30/2022

DOC TYPE: Party Motion (Appellant)

TRIBUNAL: 4th Judicial Circuit, Duval County (Florida)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 20

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT): 2022-CA-3804-XXXX

STANLEY GORSICA; EDWARD

)

Division: CV-E

GARY EARLY; ALLSTATE

)

INSURANCE COMPANY

Defendant,

)

**PLAINTIFF'S MOTION TO STRIKE
DEFENDANT'S MOTION TO DISMISS
(AS UNTIMELY)**

Plaintiff, ELIAS MAKERE, on this 30th day of August 2022, hereby moves this Court - pursuant to Rule 1.140(f) Fla. R. Civ. P. - to strike the "*Motion to Dismiss*" that Defendant STANLEY GORSICA filed in this court (see Doc #17; 8/24/22).1/

Key Points:

A.) Points untimely; prejudicial;

B.) Grounds immaterial; waived defense;

Table of Contents:

Context	3 rd Page
Motion	4 th Page
Certificates	8 th Page
Exhibits	10 th Page

Background: Defendant defaulted
Problem: OAG filed an untimely *motion to dismiss* for Defendant
Request: Court strikes Defendant's motion

Rule 1.140(f) Fla. R. Civ. P. | Motion to Strike (highlights added)

A party may move to strike or the court may strike redundant, immaterial, impertinent, or scandalous matter from any pleading at any time.

Rule 1.500(c) Fla. R. Civ. P. | Right to Plead (highlights added)

A party may plead or otherwise defend at any time before default is entered.

State v. Lenoir; AHCA; 2015-3178 (highlights added)

"Indeed, if the Agency were to consider Respondent's exceptions despite their untimeliness, it would open the floodgates for other parties to ignore deadlines."

Precedence

- 2010-CA-014727-XXXX - CV-A (8/20/14)
- 2011-CA-006258-XXXX - FC-F (2/14/13)
- 2012-CA-000129-XXXX - FC-D (11/6/12)
- 2012-CA-004530-XXXX - CV-C (11/28/12)
- 2018-CA-005232-XXXX - CV-H (7/8/20)
- 2019-CA-002448-XXXX - CV-H (6/5/19)
- 2019-CA-004213-XXXX - CV-D (10/22/19)

Duval regularly grants similar motions to strike

Abbreviations

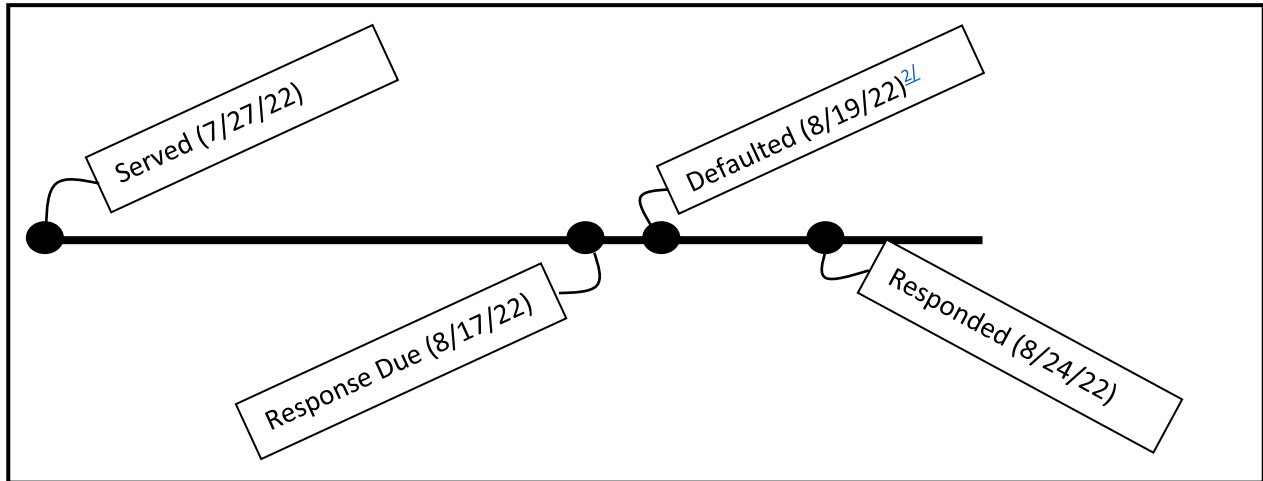
- 4DCA - Fourth District Court of Appeals (FL)
- AHCA - Agency for Healthcare Administration (FL)
- OAG - Office of Attorney General (FL)
- USFLMD - US District Court, Florida, Middle District

MOTION**I. Pertinent History**

1. On June 30, 2022, Plaintiff sued Defendant Gorsica - in Defendant Gorsica's individual capacity only [**Exhibit A**] - under the '*Ku Klux Klan Act of 1871*' (42 USC §1983) [**Exhibit B**].
 - a) The facts detailed - among other things - Defendant Gorsica's **ratification of perjury**; which abridged Plaintiff's constitutional rights (1st, 7th, 14th Amendments).
 - b) Plaintiff's complaint also disclosed the underlying legal case that Defendant Gorsica's acts & omissions have hampered (ie, *Makere v Allstate*; 3:20-cv-00905; USFLMD)
2. On July 27, 2022, a process server duly served Defendant Gorsica [**Exhibit C**] (§48.031(1) FS, §48.21(1) FS).
3. Twenty-two (22) days later - on August 18, 2022 - Plaintiff moved the Honorable Jody Phillips (Clerk of the Circuit Court) for entry of default.
4. This Court's Clerk obliged; entering default against Defendant soon thereafter (Rule 1.500(a) Fla. R. Civ. P.) [**Exhibit D**].
5. The following week (on August 24, 2022), a man named Charles Schreiber filed a *Notice of Appearance* {#13} in this case; citing Rule 2.505(e)(2)/(e)(5) Fla. R. Jud. Admin. Mr. Schreiber presented himself as a lawyer at OAG, and purported to be counsel for Defendant.
6. Soon thereafter, OAG added a *Motion to Dismiss* (hereinafter "That Motion") {#17}. That Motion was filed on August 24, 2022 [**Exhibit E**].

II. Analysis

7. That Motion was untimely.



8. Pursuant to Rule 1.140(a) Fla. R. Civ. P., Defendant Gorsica **had twenty (20) days** (from **July 27, 2022**) to file it. And - pursuant to Rule 2.514(a) Fla. R. Jud. Admin. - that **twenty (20) day** window closed on **August 17, 2022**.

9. Upon Plaintiff's duly filed motion ({#12} 8/18/22), the Clerk of Court properly entered default against Defendant Gorsica; doing so **on August 19, 2022**.²¹

10. Five days after default (and seven days after his due date), Defendant Gorsica filed That Motion. It was docketed the same day - **August 24, 2022**.

11. Moreover, Plaintiff never sued Defendant Gorsica under §768 FS (§1 *supra*). Therefore, the twenty-day window was the only window governing Defendant Gorsica.

12. In sum, That Motion was **more-than five days late** (8/24/22 vs 8/18/22; 8/24/22 vs 8/19/22)²¹.

III. Arguments in Favor of Striking That Motion

Defendant Waived his Defense

13. Defendant's failure to appear/answer on time - and the consequent entry of default - rendered That Motion a **nullity**. This point has been codified in the rules of civil procedure (highlights added):

"(c) Right to Plead. A party may plead or otherwise defend at any time before default is entered."

- Rule 1.500(c) Fla. R. Civ. P.

14. Rule 1.140 (ie, the rule which That Motion was filed under^{3/}) further emphasizes this point (highlights added):

*"(h) **Waiver of Defenses.***

(1) A party waives all defenses and objections that the party does not present either by motion under subdivisions (b), (e), or (f) of this rule or, if the party has made no motion, in a responsive pleading except as provided in subdivision (h) (2)."

- Rule 1.140(h)(1) Fla. R. Civ. P.

15. Put together, Defendant waived his right to defend **by failing to defend** before default was entered. 4DCA engraved this legal operation in its JAB Enterprises decision:

"All other defenses are waived if not raised by motion or responsive pleading."

- JAB Enterprises v. Gibbons, 596 So.2d 1247 (4DCA 1992)

16. Waived defenses, of course, are immaterial; and unavailable for adjudication (internal citations omitted) (highlights added):

"A motion for set-off is an affirmative defense. Affirmative defenses are waived if not pled. Accordingly, the trial court erred in granting the set-off based on DBR's untimely post-trial motion."

- Jojo's Clubhouse v. DBR, 860 So.2d 503 (2003)

17. In the instant case, That Motion was an affirmative defense. This is so due to: (a) **its own admission** (see That Motion at page 1); and (b) **rule** (ie, Rule 1.140(b) Fla. R. Civ. P.).

18. In the instant case, Defendant Gorsica waived his affirmative defense (§13-15 *supra*). This is due to the fact that (a) Defendant Gorsica was untimely (§7-12); and (b) Defendant Gorsica never offered any *excusable neglect, meritorious defense, due diligence, or intent to defend on the merits* (for being untimely).

19. As such, Defendant Gorsica has admitted Plaintiff's entitlement to recover from the damages Defendant Gorsica inflicted. And, similarly, Defendant Gorsica is entitled to a hearing on damages:

"the supreme court held that by failure to plead the defendant admitted the plaintiff's right to recover on the pleaded cause of action but nothing more and therefore the defendant was entitled to be heard as to damages."

- Bowman v Kingsland, 432 So. 2d 660 (Fla. 5th DCA 1983)

Prejudice to Plaintiff

20. That Motion, however, has just been obstructive to these entitlements. Currently, this Court is contemplating a hearing on it. A contemplation exhibiting bias against Plaintiff (and affinity for Defendant Gorsica). More importantly, That Motion is interfering with the declaratory relief Plaintiff is seeking to cure the *Makere v Allstate* case (§1b *supra*).

21. For those reasons - among others - That Motion has been an unjust, expensive, and dilatory tactic. A ploy that this Honorable Court is poised to bar (highlights added):

"These [rules of civil procedure] shall be construed to secure the just, speedy, and inexpensive determination of every action."

- Rule 1.010 Fla. R. Civ. P.

The 11th Circuit emphasized this point in Martin (highlights added):

"Courts have the inherent authority to control the proceedings before them"

- Martin v Automobili, 307 F. 3d 1332 (11th Cir. 2002)

In Hutto, the US Supreme Court focused this control on attorneys who delay/disrupt/hamper legal proceedings (highlights added):

"An equity court has the unquestioned power to [punish someone] who shows bad faith by delaying or disrupting the litigation or hampering enforcement of a court order."

- Hutto v Finney, 437 US 678 (1978)

Here, OAG is that *dilatory bad actor* which the US Supreme Court warned of; and Plaintiff's entitlement to a full recovery of defaulted damages is what OAG is trying to hamper. A hampering that has already **prejudiced Plaintiff**. An injury that this Court is well-positioned to prevent.

CONCLUSION

WHEREFORE, Plaintiff respectfully asks this Court to strike "*Defendant Stanley G. Gorsica's Motion to Dismiss*" {#17} for being untimely and prejudicial.

Dated this 30th day of August 2022.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA, Plaintiff

3709 San Pablo Rd. S # 701

Jacksonville, FL 32224

P: (904) 294-0026

E: justice.actuarial@gmail.com

W: TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

CERTIFICATE OF COMPLIANCE

I certify that the size and style of type used in this document is Times New Roman 14-point Font (caption) and Courier New 12-point Font (contents); thus complying with the font requirements of Rule 9.210(a)(2) Fla. R. App. P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2022, I electronically filed the foregoing by using the Florida Courts E-filing Portal which will send a notice of filing to the attached service list.

/s/ Elias Makere

Endnotes:

^{1/} a text-searchable, electronic copy of this document can be found here:

TextBookDiscrimination.com/Files/Duval/22003804_GMOT_20220830_163007.pdf

^{2/} For some unwarranted/undisclosed/unequal reason, the Clerk entered Default on August 19th (instead of August 18th - when it was due). Nevertheless, despite getting preferential treatment from the Clerk, Defendant Gorsica still defaulted.

^{3/} see That Motion at Page 1 (paragraph 1).

SERVICE LIST

Charles Schreiber, Jr., Esquire (0843075)
John Bennett

E: Charles.Schreiber@MyFloridaLegal.com
E: John.Bennett@MyFloridaLegal.com
P: 850.414.3300
F: 850.488.4872

Office of the Attorney General
The Capitol PL-01
Tallahassee, FL 32399-1050

EXHIBIT A

Document

Showing Plaintiff Declare 'Individual Capacity'
as the only manner in which he was suing Defendant Gorsica

Florida
In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-002763-XXXX-MA
Makere v Gorsica
42 USC §1983
(*'Ku Klux Klan Act of 1871'*)

Doc #3
2nd Page Only

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Elias Makere, FSA, MAAA		
Address	3709 San Pablo Rd S #701		
	Jacksonville	FL	32224
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Duval		
Telephone Number	904.294.0026		
E-Mail Address	Justice.Actuarial@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Stanley George Gorsica		
Job or Title (if known)	Former Staff Attorney (FCHR)		
Address	PO Box 13612		
	Tallahassee	FL	32317
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Leon		
Telephone Number	850.907.6809		
E-Mail Address (if known)	SGorsica@GorsicaLaw.com		

☒ Individual capacity ☐ Official capacity

Defendant No. 2

Name	Edward Early		
Job or Title (if known)	Administrative Law Judge (DOAH)		
Address	1230 Apache Pkwy		
	Tallahassee	FL	32399
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Leon		
Telephone Number	850.488.9675 x5462		
E-Mail Address (if known)	Edward.Early@DOAH.State.FL.US		

☒ Individual capacity ☐ Official capacity

EXHIBIT B

Document

Showing Plaintiff Indicate that This Cause of Action
Was Never Filed Under §768 FS

Florida
In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-002763-XXXX-MA
Makere v Gorsica
42 USC §1983
(*'Ku Klux Klan Act of 1871'*)

Doc #3
3rd Page Only

Defendant No. 3

Name Allstate Insurance Compny
 Job or Title (if known) Corporation (Publicly Traded)
 Address 1776 American Heritage Life Dr.
 Jacksonville FL 32224
 City State Zip Code
 County Duval
 Telephone Number 407.393.2900
 E-Mail Address (if known) KDoud@Littler.com

☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name _____
 Job or Title (if known) _____
 Address _____
 City State Zip Code
 County _____
 Telephone Number _____
 E-Mail Address (if known) _____

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

28 USC §1343; 28 USC §1346; 42 USC §1981; 42 USC §1983; 42 USC §1985.

1st Amendment - Access to the Courts
 7th Amendment - Trial by Jury
 14th Amendment - Equal Protection, Due Process

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

EXHIBIT C

Return of Service

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #11

RETURN OF SERVICE

SHERIFF NUMBER: 22010486

PARTY TO BE SERVED

STANLEY GORSICA
1833 HALSTEAD BOULEVARD APT 1409
TALLAHASSEE, FL 32309

ATTORNEY /
PETITIONER

PLAINTIFF: ELIAS MAKERE, FSA, MAAA

-VS-

DEFENDANT: STANLEY GORSICA, EDWARD GARY EARLY, ALLSTATE INSURANCE COMPANY

TYPE OF WRIT: ALIAS SUMMONS, COMPLAINT FOR VIOLATION CIVIL RIGHTS

COURT: CIRCUIT / DUVAL
CASE #: 2022CA3804

COURT DATE:

Received the above-named writ on July 26, 2022, at 2:27 PM, and SERVED the same on the 27th day of July 2022, at 12:22 PM. Service was completed at 1833 HALSTEAD BOULEVARD APT 1409 TALLAHASSEE, FL 32309 in LEON County, Florida, as follows:

INDIVIDUAL

By delivering a true copy of this writ together with a copy of the initial pleadings, if any, with the date and hour of service endorsed thereon by me to: STANLEY GORSICA.

Attempts:

SERVICE COST: \$0.00
C.R., CIVIL CLERK

WALT MCNEIL, SHERIFF
LEON COUNTY, FLORIDA

COURT:

DUVAL COUNTY
CLERK OF COURT

BY:  1504

EXHIBIT D

Default Entry

Rendering 'That Motion' Immaterial/Waived

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #13

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT): 2022-CA-3804-XXXX

STANLEY GORSICA; EDWARD

)

Division: CV-E

GARY EARLY; ALLSTATE

)

INSURANCE COMPANY

)

Defendant,

)

DEFAULT

Default is hereby entered in this action against Defendant
STANLEY GORSICA for failure to respond as required by law.

DATED ON:

Aug 19 2022

20

JODY PHILLIPS



Angela Smith

Deputy Clerk

EXHIBIT E

Defendant's Motion to Dismiss

Showing Defendant's Untimeliness

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #17

Excerpt

Pages 1 and 17 only

Filing # 155983849 E-Filed 08/24/2022 09:15:45 AM



IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

DEFENDANT STANLEY G. GORSICA'S MOTION TO DISMISS

Without waiver of any objections, responses, defenses, or immunities to any complaint of Plaintiff, Elias Makere ("Plaintiff"), Defendant, Stanley G. Gorsica ("Defendant Gorsica"), hereby moves the Court, pursuant to Fla. R. Civ. P. 1.110(b), (f), 1.120(c), 1.130, 1.140(b), to dismiss or drop him with prejudice, and states:

BACKGROUND

On June 30, 2022, Plaintiff filed his Complaint for Violation of Civil Rights ("Complaint"). Plaintiff names Defendant Gorsica as a former staff attorney (FCHR) who he sues in an individual capacity.¹ [Complaint at 1; 2, ¶I.B.No.1.] He

¹ FCHR is the Florida Commission on Human Relations.

Respectfully Submitted,

**ASHLEY MOODY
ATTORNEY GENERAL**

/s/ Charles J. F. Schreiber, Jr.

Charles J. F. Schreiber, Jr.

Senior Assistant Attorney General

Fla. Bar No.: 0843075

charles.schreiber@myfloridalegal.com

Office of the Attorney General

State Programs Litigation Bureau

The Capitol PL-01

Tallahassee, Florida 32399-1050

Telephone: (850) 414-3300

Telefacsimile: (850) 488-4872

Attorney for the Defendant Stanley G. Gorsica

CERTIFICATE OF SERVICE



I HEREBY CERTIFY that a true and correct copy hereof has been furnished this 24th day of August 2022, via the CM/ECF System, U.S. Mail, & e-mail to:



Elias A. Makere a/k/a Elias Makere, FSA, MAAA
3709 San Pablo Road S #701
Jacksonville, Florida 32224-4809
justice.actuarial@gmail.com
Plaintiff, *pro se*

/s/ Charles J. F. Schreiber, Jr.

Charles J. F. Schreiber, Jr.

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME D01

ITEM 05

PAGES 0042 - 0075

SHORT TITLE: [Appellant]'s Motion to Strike [Appellee]'s
Motion to Dismiss (for being Untimely)

DATE ENTERED: 8/30/2022

DOC TYPE: Party Motion (Appellant)

TRIBUNAL: 4th Judicial Circuit, Duval County (Florida)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 21

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT): 2022-CA-3804-XXXX

STANLEY GORSICA; EDWARD

)

Division: CV-E

GARY EARLY; ALLSTATE

)

INSURANCE COMPANY

Defendant,

)

**PLAINTIFF'S VERIFIED MOTION TO STRIKE
DEFENDANT'S MOTION TO SET ASIDE DEFAULT
(AS A SHAM PLEADING)**

Plaintiff, ELIAS MAKERE, on this 30th day of August 2022, hereby moves this Court - pursuant to Rule 1.150 Fla. R. Civ. P. - to strike the "*Motion to Set Aside Default*" that Defendant STANLEY GORSICA filed in this court (see Doc No 18; 8/24/22).^{1/}

Key Points:

A.) Grounds materially false statements;

Table of Contents:

Context	2 nd Page
Motion	3 rd Page
Certificates	9 th Page
Exhibits	11 th Page
Affidavits	29 th Page

Background: Defendant defaulted
Problem: OAG filed a sham *motion to set aside default*
Request: Court strikes Defendant's motion

Rule 1.150 Fla. R. Civ. P. | Sham Pleadings (highlights added)

"(a) Motion to Strike. *If a party deems any pleading or part thereof filed by another party to be a sham, that party may move to strike the pleading or part thereof before the cause is set for trial and the court shall hear the motion, taking evidence of the respective parties, and if the motion is sustained, the pleading to which the motion is directed shall be stricken.*"

Rule 1.500 Fla. R. Civ. P. | Defaults and Final Judgments

"(d) Setting aside Default. *The court may set aside a default, and if a final judgment consequent thereon has been entered, the court may set it aside in accordance with rule 1.540(b).*"

Rule 1.540(b) Fla. R. Civ. P. | Relief From Judgment, Decrees, or Orders

"(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. *On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons:*"

Precedence

- 2014-CA-002567-XXXX - CV-C (10/1/14)
- 2019-CA-002448-XXXX - CV-H (6/5/19)
- 2019-CA-004556-XXXX - CV-D (9/16/19)

Duval regularly grants similar motions to strike sham pleadings

Abbreviations

[M###]	- Page ### of 'That Motion'
4DCA	- Fourth District Court of Appeals (FL)
AHCA	- Agency for Healthcare Administration (FL)
OAG	- Office of Attorney General (FL)
USFLMD	- US District Court, Florida, Middle District

MOTION**I. Pertinent History**

1. On June 30, 2022, Plaintiff sued Defendant Gorsica - in Defendant Gorsica's individual capacity only [**Exhibit A**] - under the '*Ku Klux Klan Act of 1871*' (42 USC §1983) [**Exhibit B**].
 - a) The facts detailed - among other things - Defendant Gorsica's **ratification of perjury**; which abridged Plaintiff's constitutional rights (1st, 7th, 14th Amendments).
2. On July 27, 2022, a process server duly served Defendant Gorsica [**Exhibit C**, **Exhibit D**] (§48.031(1) FS, §48.21(1) FS).
3. Twenty-two (22) days later - on August 18, 2022 - Plaintiff moved the Honorable Jody Phillips (Clerk of the Circuit Court) for entry of default.
4. This Court's Clerk obliged; entering default against Defendant soon thereafter (Rule 1.500(a) Fla. R. Civ. P.) [**Exhibit E**].
5. The following week (on August 24, 2022), a man named Charles Schreiber filed a *Notice of Appearance* {#13} in this case; citing Rule 2.505(e)(2)/(e)(5) Fla. R. Jud. Admin. Mr. Schreiber presented himself as a lawyer at OAG, and purported to be counsel for Defendant.
6. Soon thereafter, OAG added a *Motion to Set Aside Default* (hereinafter "That Motion") {#18}. That Motion was filed on August 24, 2022; under Rules 1.160 and 1.500(d) Fla. R. Civ. P. [**Exhibit F**].

II. Analysis

7. OAG made **two false statements** on Defendant Gorsica's behalf. The statements were **undoubtedly false**; and they were used as **the basis for That Motion**.

Capacity (Individual vs Official)

8. For starters, That Motion claimed that Defendant was sued in his official capacity (highlights added):

"since Defendant Gorsica is an employee of the State of Florida sued in his official capacity, he has forty (40) days after service of process is perfected within which to respond to the Complaint."

- [M005]

9. Of course - and as the record shows - **that statement is false**. Defendant Gorsica has never been sued in his official capacity. He has always been sued in his individual capacity only (§1 *supra*).

10. In fact, OAG knew this statement was false. During the call that OAG made to Plaintiff [M003], Plaintiff recited the '*individual capacity only*' distinction to OAG twice [Affidavit].

11. Importantly, OAG used the false statement (ie, "official capacity") as the basis for That Motion's request (ie, "*since*" Defendant Gorsica is sued in his official capacity, "*he has forty (40) days*" to respond to the complaint).

12. However, since Defendant Gorsica was never sued in his official capacity, he was never allowed to have forty (40) days to respond to the complaint. He only had twenty (20) days.

13. Thus, OAG's false statement was material; it was clear; and it was a sham. Yet, OAG made another materially false statement.

Statute (§768 vs Non-§768)

14.OAG also claimed that Defendant Gorsica was being sued under §768 FS (highlights added):

"Except when sued pursuant to section 768.28, Florida Statutes," Defendant Gorsica "must serve an answer to the complaint ... within 40 days after service". Fla. R. Civ. P. 1.140(a)(2)(A). Forty days from the date of service of process of the summons and complaint on Defendant Gorsica on July 27, 2022, is September 6, 2022. Therefore, the time for Defendant Gorsica's response to the complaint does not expire until September 6, 2022."

- [M005]

15.This averment, once again, **is false**. Defendant Gorsica has never been sued under §768 FS (Torts). Rather, he has always been sued under the *Ku Klux Klan Act of 1871*. The record is clear on this (§1 *supra*).

16.In fact (and once again), OAG knew this statement was false. During the call that OAG made to Plaintiff [M003], Plaintiff recited the 'lack of §768 charges' distinction to OAG three times [Affidavit].

17.Importantly, OAG compounded this false statement (ie, "sued pursuant to section 768.28") as the basis for That Motion's request. Exemplified by OAG's concluding statement that Defendant Gorsica's deadline would not expire until "September 6, 2022".

18.However, since Defendant Gorsica was never sued under §768 FS, his deadline was never September 6, 2022. It was always **August 17, 2022** (Rule 2.514(a)(1) Fla. R. Jud. Admin.).

Materiality

19.OAG's second false statement ('\$768 FS') piggybacked off of its first false statement ('official capacity'); and both were material to That Motion.

20.Each one was forged in order to extend the deadline for default (§8, §14 *supra*). The extension of that deadline - as OAG argued - was the sole reason for setting aside default (highlights added):

"Defendant Gorsica's response to the Complaint is due, not within 20 but 40 days, by September 6, 2022. Fla. R. Civ. P. 1.140(a)(2)(A). The Court should vacate and set aside the Clerk's Default and deny Plaintiff's Motion for Final Judgment after Default because: (1) time has not expired for Defendant Gorsica's response to the Complaint; (2) the Clerk's Default is premature, erroneous, and voidable or void; (3) Defendant Gorsica timely responded to the Complaint by filing "Defendant Gorsica's Motion to Dismiss" within the time required by law; and (4) in any event did so before entry of a Final Judgment After Default."

- [M003]

21.As can be seen, That Motion's entire argument was based on timeliness. Thus, OAG's false statements - which were the only factors in calculating the timeframe - were material.

"A fact is "material" only if the fact has some affect on the outcome of the suit."

- Catanzaro v. Weiden, 140 F.3d 91 (2d Cir. 1998)

22.Therefore, Defendant Gorsica's two materially false statements have rendered That Motion to be a sham. One which this Court is well-positioned to strike.

III. Arguments in Favor of Striking That Motion

23. According to Florida's Supreme Court, sham pleadings must be stricken in order to allow only genuine issues to survive to trial:

"the effect that the very object of a motion for judgment because of sham pleadings "is to separate what is formal or pretended in denial or averment from what is genuine or substantial, so that only the latter may subject a suitor to the burden of trial"."

- Meadows v. Edwards, 82 So.2d 733 (Fla. 1955)

24. Here, in the instant case, what was '**formal/pretended**' was That Motion (in its entirety). What is 'genuine/substantial', on the other hand, is the calculation of unliquidated damages. This is especially the case since default has already been entered:

"to strike as sham pleas interposed by a defendant which are shown to be false and filed merely for delay, though apparently good on their face and verified in legal form, and thereupon to give plaintiff a final judgment against the defendant as upon default for want of any defense whatsoever."

- Rhea v Hackney, 157 So. 190

25. Plus, since That Motion was "**inherently false**", it should be stricken:

"A plea is considered sham when it is palpably or inherently false, and from the plain or conceded facts in the case, must have been known to the party interposing it to be untrue."

- Rhea v Hackney, 157 So. 190

26. That Motion's *palpably false* basis has only served to delay the justice that Plaintiff is entitled to. The Rhea court also held that **dilatory** tactics are ripe for striking:

"the tactics of the defendant in this case indicate clearly that the real purpose and intent was to delay the entry of a judgment herein as long as possible"

- Rhea v Hackney, 157 So. 190

27. Moreover, OAG knew that it was making false statements. Not only did the record show its falsities, but OAG's phone call with Plaintiff also revealed the falsehoods. Yet - mired in dishonesty - OAG pressed on with its intent to get an unfair advantage. According to the US Supreme Court, such **bad faith** tactics should be stricken as sham:

"As otherwise expressed, to warrant the rejection of a pleading as sham, it must evidently be a mere pretense set up in bad faith and without color of fact."

- Rhea v Hackney, 157 So. 190

28. In short, That Motion was based on two materially false statements. OAG authored them as bad faith dilatory tactics aimed at impeding Plaintiff's access to justice. An inherently false act that this Court is well-positioned to strike down.

CONCLUSION

WHEREFORE, Plaintiff respectfully asks this Court to strike "*Defendant Stanley G. Gorsica's Motion to Set Aside Default...*" because it is a sham pleading materialized by two indisputably false statements.

Dated this 30th day of August 2022.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA, Plaintiff

3709 San Pablo Rd. S # 701

Jacksonville, FL 32224

P: (904) 294-0026

E: justice.actuarial@gmail.com

W: TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

CERTIFICATE OF COMPLIANCE

I certify that the size and style of type used in this document is Times New Roman 14-point Font (caption) and Courier New 12-point Font (contents); thus complying with the font requirements of Rule 9.210(a)(2) Fla. R. App. P.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of August 2022, I electronically filed the foregoing by using the Florida Courts E-filing Portal which will send a notice of filing to the attached service list.

/s/ Elias Makere

Endnotes:

^{1/} a text-searchable, electronic copy of this document can be found here:

TextBookDiscrimination.com/Files/Duval/22003804_GMOT_20220830_190027.pdf

SERVICE LIST

Charles Schreiber, Jr., Esquire (0843075)
John Bennett

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Office of the Attorney General
The Capitol PL-01
Tallahassee, FL 32399-1050

EXHIBIT A

Document

Showing Plaintiff Declare 'Individual Capacity'
as the only manner in which he was suing Defendant Gorsica

Florida
In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-002763-XXXX-MA
Makere v Gorsica
42 USC §1983
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Doc #3
2nd Page Only

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Elias Makere, FSA, MAAA		
Address	3709 San Pablo Rd S #701		
	Jacksonville	FL	32224
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Duval		
Telephone Number	904.294.0026		
E-Mail Address	Justice.Actuarial@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Stanley George Gorsica		
Job or Title (if known)	Former Staff Attorney (FCHR)		
Address	PO Box 13612		
	Tallahassee	FL	32317
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Leon		
Telephone Number	850.907.6809		
E-Mail Address (if known)	SGorsica@GorsicaLaw.com		

☒ Individual capacity ☐ Official capacity

Defendant No. 2

Name	Edward Early		
Job or Title (if known)	Administrative Law Judge (DOAH)		
Address	1230 Apache Pkwy		
	Tallahassee	FL	32399
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Leon		
Telephone Number	850.488.9675 x5462		
E-Mail Address (if known)	Edward.Early@DOAH.State.FL.US		

☒ Individual capacity ☐ Official capacity

EXHIBIT B

Document

Showing Plaintiff Indicate that This Cause of Action
Was Never Filed Under §768 FS

Florida
In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-002763-XXXX-MA
Makere v Gorsica
42 USC §1983
(*'Ku Klux Klan Act of 1871'*)

Doc #3
3rd Page Only

Defendant No. 3

Name Allstate Insurance Compny
 Job or Title (if known) Corporation (Publicly Traded)
 Address 1776 American Heritage Life Dr.
 Jacksonville FL 32224
 City State Zip Code
 County Duval
 Telephone Number 407.393.2900
 E-Mail Address (if known) KDoud@Littler.com

☐ Individual capacity ☐ Official capacity

Defendant No. 4

Name _____
 Job or Title (if known) _____
 Address _____
 City State Zip Code
 County _____
 Telephone Number _____
 E-Mail Address (if known) _____

☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

28 USC §1343; 28 USC §1346; 42 USC §1981; 42 USC §1983; 42 USC §1985.

1st Amendment - Access to the Courts
 7th Amendment - Trial by Jury
 14th Amendment - Equal Protection, Due Process

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

EXHIBIT C

Return of Service

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #11

Filing # 153214100 E-Filed 07/13/2022 08:28:34 AM

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

Plaintiff,

vs.

STANLEY GORSICA; EDWARD GARY
EARLY; ALLSTATE INSURANCE COMPANY

Defendant,

Case No (LT): 2022-CA-3804-XXXX

Division: CV-E

ALIAS SUMMONS

TO:

Stanley Gorsica
1833 Halstead Blvd; Apt. 1409
Tallahassee, FL 32309

A lawsuit has been filed against you. **You have 20 calendar days after** this summons is served on you to file a written response to the attached **Complaint** in this Court. A phone call will not protect you; your written response, including the above case number and named parties, must be filed if you want the Court to hear your case.

If you do not file your response on time, **you may lose the case**, and the Court may enter a default against you for the relief requested in the complaint. There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

If you choose to file a written response yourself, at the same time you file your written response to the Court you **must** also mail (or take a photocopy/carbon copy of) your written response to the Plaintiff:

Elias Makere, FSA, MAAA
3709 San Pablo Rd. S #701
Jacksonville, FL 32224
P: 904.294.0026
E: justice.actuarial@gmail.com

ACCEPTED: DUVAL COUNTY, JODY PHILLIPS, CLERK, 07/21/2022 04:14:55 PM

EXHIBIT D

Return of Service

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #11

RETURN OF SERVICE

SHERIFF NUMBER: 22010486

PARTY TO BE SERVED

STANLEY GORSICA
1833 HALSTEAD BOULEVARD APT 1409
TALLAHASSEE, FL 32309

ATTORNEY /
PETITIONER

PLAINTIFF: ELIAS MAKERE, FSA, MAAA

-VS-

DEFENDANT: STANLEY GORSICA, EDWARD GARY EARLY, ALLSTATE INSURANCE COMPANY

TYPE OF WRIT: ALIAS SUMMONS, COMPLAINT FOR VIOLATION CIVIL RIGHTS

COURT: CIRCUIT / DUVAL
CASE #: 2022CA3804

COURT DATE:

Received the above-named writ on July 26, 2022, at 2:27 PM, and SERVED the same on the 27th day of July 2022, at 12:22 PM. Service was completed at 1833 HALSTEAD BOULEVARD APT 1409 TALLAHASSEE, FL 32309 in LEON County, Florida, as follows:

INDIVIDUAL

By delivering a true copy of this writ together with a copy of the initial pleadings, if any, with the date and hour of service endorsed thereon by me to: STANLEY GORSICA.

Attempts:

SERVICE COST: \$0.00
C.R., CIVIL CLERK

WALT MCNEIL, SHERIFF
LEON COUNTY, FLORIDA

COURT:

DUVAL COUNTY
CLERK OF COURT

BY:  1504

EXHIBIT E

Default Entry

Rendering 'That Motion' Immaterial/Waived

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #13

IN THE CIRCUIT COURT, FOURTH JUDICIAL CIRCUIT,
IN AND FOR DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT): 2022-CA-3804-XXXX

STANLEY GORSICA; EDWARD

)

Division: CV-E

GARY EARLY; ALLSTATE

)

INSURANCE COMPANY

)

Defendant,

DEFAULT

Default is hereby entered in this action against Defendant
STANLEY GORSICA for failure to respond as required by law.

DATED ON:

Aug 19 2022

20

JODY PHILLIPS



Angela Smith

Deputy Clerk

EXHIBIT F

Defendant's Motion to Set Aside Default

Showing Defendant's Sham

Florida

In the Circuit Court, 4th Judicial Circuit, Duval County

16-2022-CA-003804-XXXX-MA

Makere v Gorsica

42 USC §1983

(*'Ku Klux Klan Act of 1871'*)

Doc #17

Excerpt

Pages # and # only

Filing # 155995192 E-Filed 08/24/2022 10:34:35 AM



IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

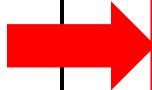
Defendants.

**DEFENDANT STANLEY G. GORSICA'S MOTION TO DISCHARGE, SET
ASIDE OR VACATE CLERK'S DEFAULT AND RESPONSE OPPOSING
PLAINTIFF'S MOTION FOR FINAL JUDGMENT AFTER DEFAULT**

Without waiver of any objections, responses, defenses, or immunities to any complaint of Plaintiff, Elias Makere ("Plaintiff"), Defendant, Stanley G. Gorsica ("Defendant Gorsica"), hereby moves the Court, pursuant to Fla. R. Civ. 1.160, 1.500(c), (d), to dismiss or drop him with prejudice, responds opposing and moves the Court to discharge, set aside, or vacate the Clerk's Default rendered on August 19, 2022 ("Clerk's Default") ("Motion to Discharge/Set Aside Clerk's Default") and response opposing ("Response") the Plaintiff's "Motion for Final Judgment After Default", and states:

BACKGROUND

On June 30, 2022, Plaintiff filed, *pro se*, his Complaint for Violation of Civil Rights naming Defendant Gorsica as a former staff attorney of the Florida Commission on Human Relations ("FCHR") ("Complaint").



On July 27, 2022, Plaintiff served process of a summons and the Complaint on Defendant Gorsica.

On August 18, 2022, Plaintiff filed "Motion for Clerk Default" against Defendant Gorsica asserting that Defendant Gorsica failed to answer his Complaint or communicate an "intent to contest the charges" when time to do so expired on August 17, 2022.



On August 19, 2022, the Clerk entered a Clerk's Default against Defendant Gorsica. It shows no service. The Clerk has not sent, and Defendant Gorsica has not received from the Clerk, notice that the Clerk entered a Clerk's Default. Fla. R. Civ. P. 1.500(c).

On August 19, 2022, Plaintiff filed "Motion for Final Judgment after Default on Defendant Stanley Gorsica" asserting that Defendant Gorsica failed to answer his Complaint or communicate an "intent to contest the charges" when time to do so expired on August 17, 2022 ("Motion for Final Judgment after Default").



On August 24, 2022, the undersigned noticed appearance on behalf of Defendant Gorsica, and Defendant Gorsica filed "Defendant Gorsica's Motion to Dismiss" the Complaint and this entire action with prejudice.

On August 23, 2022, the undersigned contacted Plaintiff telephonically and he indicated he was not amenable to discharging, setting aside, or vacating the Clerk's Default and withdrawing his Motion for Final Judgment after Default.

ANALYSIS



Defendant Gorsica's response to the Complaint is due, not within 20 but 40 days, by September 6, 2022. Fla. R. Civ. P. 1.140(a)(2)(A). The Court should vacate and set aside the Clerk's Default and deny Plaintiff's Motion for Final Judgment after Default because: (1) time has not expired for Defendant Gorsica's response to the Complaint; (2) the Clerk's Default is premature, erroneous, and voidable or void; (3) Defendant Gorsica timely responded to the Complaint by filing "Defendant Gorsica's Motion to Dismiss" within the time required by law; and (4) in any event did so before entry of a Final Judgment After Default.

Florida cases on the issue of setting aside defaults reflect a policy favoring liberal exercise of discretion on the part of the trial judge so that all reasonable doubts are resolved in favor of the defaulting party, permitting a determination of the controversy on the merits rather than on procedural technicalities. *See N. Shore Hosp., Inc. v. Barber*, 143 So. 2d 849, 852-53 (Fla. 1962); *Tutwiler Cadillac, Inc. v.*

Brockett, 551 So. 2d 1270, 1271-72 (Fla. 1st DCA 1989). The purpose of the default rule is to speed the action toward conclusion on the merits, not by ex parte actions, surprise, or “gotcha” tactics. See Hendrix v. Dep’t Stores Nat’l Bk., 177 So. 3d 288, 291 (Fla. 4th DCA 2015). A “default is not designed to give a strategic advantage to the plaintiff so that [he] may obtain a judgment without dealing with defendant’s challenges and defenses.” Makes & Models Mag., Inc. v. Web Offset Printing Co., 13 So. 3d 178, 181 (Fla. 2d DCA 2009).



The summons states an incorrect deadline within twenty (20) days of that service for Defendant Gorsica’s response to the complaint, i.e., no later than August 16, 2022.

Plaintiff’s Motion for Clerk’s Default is not verified.

No supporting affidavit is filed with Plaintiff’s Motion for Clerk’s Default.

Plaintiff’s Motion for Clerk’s Default is erroneous.

Entry of the Clerk’s Default is voidable or void because it was improperly entered.



This Motion for Clerk Default misrepresents the deadline for Defendant Gorsica’s response to the Complaint as twenty instead of forty days.

The Motion for Final Judgment after Default is not verified.

No supporting affidavit is filed with Plaintiff’s Motion for Final Judgment after Default.

Plaintiff's Motion for Final Judgment after Default is erroneous.

Plaintiff's Motion for Clerk's Default misrepresents the deadline for Defendant Gorsica's response to the Complaint as twenty instead of forty days.



Plaintiff's complaint allegations and wording in the summons support application of Rule 1.140(a)(2)(A). Pursuant to Fla. R. Civ. P. 1.140(a)(2)(A), since Defendant Gorsica is an employee of the State of Florida sued in his official capacity, he has forty (40) days after service of process is perfected within which to respond to the Complaint. "Except when sued pursuant to section 768.28, Florida Statutes," Defendant Gorsica "must serve an answer to the complaint ... within 40 days after service". Fla. R. Civ. P. 1.140(a)(2)(A). Forty days from the date of service of process of the summons and complaint on Defendant Gorsica on July 27, 2022, is September 6, 2022. Therefore, the time for Defendant Gorsica's response to the complaint does not expire until September 6, 2022.

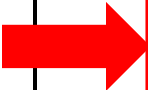
Defendant Gorsica responded to the Complaint contemporaneously with his Motion to Discharge/Set Aside Clerk's Default and Response within the time required by law. Since the time for Defendant Gorsica to respond to the Complaint has not yet expired, the Clerk's Default is premature; a prematurely entered clerk's default should be vacated. Nardi v. Nardi, 390 So. 2d 438, 440-41 (Fla. 3d DCA 1980) (holding "a prematurely entered default should be vacated even if the defendant does not move to do so or otherwise respond until the appropriate time for

lawsuit.

4. I am making this affidavit in support of: (a) Defendant Gorsica's Motion to Dismiss; (b) Defendant Gorsica's Motion to Discharge or Set Aside Clerk's Default; (c) Defendant Gorsica's response opposing Plaintiff's Motion for Final Judgment After Default ("Response") filed in the captioned action.

5. I am making this affidavit against: (a) Plaintiff's Motion for Clerk's Default; (b) Clerk's Default; and (c) Plaintiff's Motion for Final Judgment After Default filed in the captioned action.

6. On June 30, 2022, Plaintiff filed, *pro se*, his Complaint for Violation of Civil Rights naming Defendant Gorsica as a former staff attorney of the Florida Commission on Human Relations (FCHR) ("Complaint").



7. On July 27, 2022, Plaintiff served process of an alias summons and the Complaint on Defendant Gorsica.

8. On August 18, 2022, Plaintiff filed "Motion for Clerk Default" against Defendant Gorsica asserting that Defendant Gorsica failed to answer his Complaint or communicate an "intent to contest the charges" when time to do so expired on August 17, 2022.



9. On August 19, 2022, the Clerk entered a Clerk's Default against Defendant Gorsica. It shows no service. The Clerk has not sent, and Defendant Gorsica has not received from the Clerk, notice that the Clerk entered a Clerk's

Default. Fla. R. Civ. P. 1.500(c).

10. On August 19, 2022, Plaintiff filed "Motion for Final Judgment after Default on Defendant Stanley Gorsica" asserting that Defendant Gorsica failed to answer his Complaint or communicate an "intent to contest the charges" when time to do so expired on August 17, 2022 ("Motion for Final Judgment after Default").

11. On August 23, 2022, the undersigned contacted Plaintiff telephonically and he indicated he was not amenable to discharging, setting aside, or vacating the Clerk's Default and withdrawing his Motion for Final Judgment after Default.

12. On August 24, 2022, the undersigned noticed appearance on behalf of Defendant Gorsica, and Defendant Gorsica filed "Defendant Gorsica's Motion to Dismiss" the Complaint and this entire action with prejudice.



13. Since at times material as alleged in the Complaint Defendant Gorsica was an employee of the State of Florida; a former staff attorney FCHR he has forty (40), not twenty (20), days to respond to the Complaint, i.e., by September 6, 2022. Fla. R. Civ. P. 1.140(a)(2)(A).

14. I believe the filing of Defendant Gorsica's Motion to Dismiss today should be deemed timely as required by law.

15. Defendant Gorsica has set forth defenses to the Complaint in Defendant Gorsica's Motion to Dismiss.

16. Plaintiff has not shown any prejudice by the timing of filing and service

AFFIDAVIT

ELIAS MAKERE, FSA, MAAA	)	
Plaintiff,	)	
	)	
vs.	)	Case No (LT): 2022-CA-3804-XXXX
STANLEY GORSICA; EDWARD	)	Division: CV-E
GARY EARLY; ALLSTATE	)	
INSURANCE COMPANY	)	
Defendant,	)	

**PLAINTIFF'S VERIFIED AFFIDAVIT IN SUPPORT OF
'PLAINTIFF'S MOTION TO STRIKE DEFENDANT'S MOTION TO SET
ASIDE DEFAULT (AS A SHAM PLEADING)'**

The affiant, Elias Makere, FSA, MAAA, swears or affirms as follows:

Background

1. I am over the age of eighteen (18).
2. I am a civilian; a resident of Duval County, Florida.
3. This affidavit is made in good faith.

Familiarity

4. I have read the Division Rules (CV-E), the Florida Rules of Civil Procedure, the Florida Rules of Judicial Administration, the Florida Rules of Appellate Procedure, and much more.
5. The facts mentioned in this Affidavit are based on verifiable public fact.

Pertinent Facts

6. On-or-around June 30, 2022, I filed this lawsuit.
7. On July 27, 2022, Defendant Stanley G. Gorsica was served a summons in this action.
8. Between June 30, 2022 and August 23, 2022, I never heard from Defendant Gorsica.
 - a. Not via email; not via phone; not via mail.
 - b. Nothing.
9. On August 18, 2022, I filed a motion for clerk default.
10. On August 19, 2022, the Clerk of Duval County entered default against Defendant Gorsica. That same day, I asked this Court for entry of final judgment after default.
11. At 4:12 PM EST on August 23, 2022, a man named Charles JF Schreiber Jr called me on my phone. He presented himself as Defendant Gorsica's attorney (for this case).
12. He asked me if I was willing to agree to his purported *motion to set aside default*. I responded with two principal questions.
13. First, I asked Mr. Schreiber if he disputed the fact that Mr. Gorsica was not being sued under §768 FS. Mr. Schreiber gave a sheepish response. So, I asked again. Mr. Schreiber gave another noncommittal answer. So, I stated "for the record: Mr. Gorsica is not being sued under §768; he is being sued under the Ku Klux Klan Act of 1871".

14. Second, I asked Mr. Schreiber if he disputed the fact that Mr. Gorsica was being sued in Mr. Gorsica's individual capacity only. Mr. Schreiber gave another noncommittal answer. So, I stated it as a fact.

15. Immediately thereafter, Mr. Schreiber hung up the phone.

Ultimate Facts

16. Defendant Stanley G. Gorsica was properly served a summons in this action.

17. Defendant Stanley G. Gorsica has always known that he was being sued in his individual capacity only.

18. Defendant Stanley G. Gorsica has always known that he was never sued under §768 FS.

19. Defendant Stanley G. Gorsica failed to plead a defense in this case.

20. Defendant Stanley G. Gorsica defaulted.

21. Defendant Stanley G. Gorsica manufactured his Motion to Set Aside Default (ie, 'That Motion') as a bad faith, dilatory tactic.

22. The lies that he told in it have constituted a sham.

23. Moreover, Mr. Gorsica's underlying ratification of perjury (among other things) has damaged me; it continues to damage me; and I need justice.

Request

24. May you please strike Defendant Gorsica's Motion to Set Aside Default?

Thank You

Verification Under Oath Pursuant to §92.525 FS and 28 USC §1746

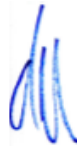
I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 30th day of August 2022.

UNITED STATES OF AMERICA

Florida

Duval County



8/30/2022

Elias Makere, Affiant

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME D01

ITEM 06

PAGES 0076 - 0081

SHORT TITLE: Joint Prehearing Stipulation of Fact

DATE ENTERED: 9/28/2022

DOC TYPE: Pretrial Stipulation (Joint)

TRIBUNAL: 4th Judicial Circuit, Duval County (Florida)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 28

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT): 2022-CA-3804-XXXX

STANLEY GORSICA; EDWARD

)

Division: CV-E

GARY EARLY; ALLSTATE

)

INSURANCE COMPANY

Defendant,

)

CERTAIN PARTIES' JOINT PREHEARING STIPULATIONS

COMES NOW Plaintiff, ELIAS MAKERE ("Plaintiff"), and Defendant STANLEY GORSICA ("Defendant Gorsica") (collectively Plaintiff and Defendant Gorsica are "Certain Parties"), on this 21st day of September 2022, who, by this "*Joint Prehearing Stipulations*" in preparation for the September 28, 2022, hearing (in accordance with Rule 1.010 Fla. R. Civ. P.; Rule 1.200(b) Fla. R. Civ. P.; and Division CV-E Rule III), jointly stipulate as follows:

I. Background

1. Next Wednesday, September 28, 2022, the Court will hold a hearing on pending motions of the Certain Parties listed in chronological order as follows:

<u>#</u>	<u>Motion Title</u>	<u>Date Filed</u>
13	<i>Plaintiff's... Final Judgment...</i>	8/19/22
14	<i>Plaintiff's... Set for Trial...</i>	8/23/22
17	<i>Defendant's... Dismiss...</i>	8/24/22
18	<i>Defendant's... Set Aside...</i>	8/24/22
21	<i>Plaintiff's... Strike... Untimely...</i>	8/30/22
22	<i>Plaintiff's... Strike... Sham...</i>	8/30/22

II. Stipulations of Fact

2. Over the past few days, the Certain Parties have conferred in good faith regarding potential stipulations. In doing so, they have agreed to the following stipulations of fact:

<u>ID</u>	<u>Stipulated Fact</u>
001	<i>On June 30, 2022, Plaintiff pro se initiated this lawsuit against Defendant Gorsica and others (hereinafter "This Action")</i>
002	<i>Plaintiff's complaint in This Action checked a box indicating he sued Defendant Gorsica in Defendant Gorsica's individual capacity and did not check the box for official capacity</i>
003	<i>Plaintiff's complaint in This Action does not reference §768 FS</i>
004	<i>On July 27, 2022, a process server served process of a summons and the complaint in This Action on Defendant Gorsica</i>

<u>ID</u>	<u>Stipulated Fact</u>
006	<i>On August 18, 2022, Plaintiff moved the Clerk of the Circuit Court to enter default against Defendant Gorsica in This Action</i>
007	<i>On August 19, 2022, the Clerk of the Circuit Court entered default against Defendant Gorsica in This Action</i>
008	<i>On August 19, 2022, Plaintiff moved the Court to enter final judgment after default on Defendant Gorsica in This Action</i>
009	<i>On August 23, 2022, Plaintiff moved the Court to set the case for trial in This Action</i>
010	<i>On August 24, 2022, counsel for Defendant Gorsica noticed his appearance on behalf of Defendant Gorsica in This Action^{2/}</i>
011	<i>Prior to August 23, 2022, Defendant Gorsica never contacted Plaintiff and other than service of process and a request to waive summons service on July 27, 2022, Plaintiff never contacted Defendant Gorsica about this case</i>

III. Disputed Facts

3. While conferring, however, the Certain Parties have been unable to agree to the following two items:

<u>ID</u>	<u>Potential Disputed Fact</u>
005	<i>August 17, 2022 marked the due date for Defendant Gorsica's responsive pleading</i>
012	<i>None of the damages that Plaintiff has sought against Defendant Gorsica have ever been intended to come from state coffers</i>

Furthermore, Plaintiff does not concede that Florida's Office of the Attorney General is allowed to represent Defendant Gorsica in this matter

IV. Witness List

4. Lastly, Plaintiff lists himself as a witness for purposes of testifying during the upcoming hearing on September 28, 2022.

CONCLUSION

WHEREFORE, the Certain Parties respectfully file this Joint Prehearing Stipulation for the upcoming September 28, 2022, hearing.

Dated this 21st day of September 2022.

Respectfully submitted,

/s/Elias Makere

ELIAS MAKERE, FSA, MAAA,
Plaintiff
3709 San Pablo Rd. S # 701
Jacksonville, FL 32224
P: (904) 294-0026
E: justice.actuarial@gmail.com
W: TextBookDiscrimination.com
Get **Booked Up** on Justice!

Plaintiff

/s/Charles J.F. Schreiber, Jr.

Charles J.F. Schreiber, Jr.
Senior Assistant Attorney General
Fla. Bar. No.: 0843075
charles.schreiber@myfloridalegal.com

Office of the Attorney General
State Programs Litigation Bureau
The Capitol PL-01
Tallahassee, FL 32399-1050
Telephone: (850) 414-3300
Telefacsimile: (850) 488-4872

*Attorney for Defendant
Stanley G. Gorsica*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of September 2022, I electronically filed the foregoing by using the Florida Courts E-filing Portal which will send a notice of filing to the attached service list.

/s/ Elias Makere

SERVICE LIST

Charles Schreiber, Jr., Esquire (0843075)
John Bennett

E: Charles.Schreiber@MyFloridaLegal.com
E: John.Bennett@MyFloridaLegal.com
P: 850.414.3300
F: 850.488.4872

Office of the Attorney General
The Capitol PL-01
Tallahassee, FL 32399-1050

SUPPLEMENTAL RECORDS

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME SR
ITEM 01
PAGES 0083 - 0174

SHORT TITLE: Full Verified Civil Complaint (Amended)

DATE ENTERED: 11/6/2021

DOC TYPE: Pleading

TRIBUNAL: US District Court, Florida, Middle District

CASE NO: 3:20-cv-00905-MMH-LLL

CASE CAPTION: *Makere v Allstate*

LINK: <https://ecf.flmd.uscourts.gov/>

DOC NO: 73

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA
(Plaintiff)

- against -

ALLSTATE INSURANCE COMPANY
(Defendant)

FULL VERIFIED CIVIL COMPLAINT

Florida Civil Rights Act of 1992
Equal Pay Act of 1963
Title VII of the Civil Rights Act of 1964
42 USC §1981, 42 USC §1981a, 42 USC §1985

November 4, 2021

JURY TRIAL DEMANDED



*Brimming with scorn and disdain, the GM
performed the attack-on-black. Pushing
past logic, doing away with fact.*

*Thereby buoyed by the beckoning crowd –
and aided by the state – master acted
illegally. Moving three pawns at once,
retreating another at twice. Even
occupying two squares with a single piece.*

*With GM's klan-destined contradictions &
subterfuge hopping in the kangaroo court,
black must hereby summon a jury-of-his-
peers for redress.*



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ABBREVIATIONS

ALJ	Administrative Law Judge
DOAH	Division of Administrative Hearings (Florida)
EEOC	Equal Employment Opportunity Commission
FAC	Florida Administrative Code
FCHR	Florida Commission on Human Relations
FS	Florida Statute (2020)

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA

Plaintiff,

vs.

ALLSTATE INSURANCE COMPANY

Defendant,

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)

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Case No (LT): 3:20-cv-00905-MMH-JRK

Division: (3) Jacksonville

Jury Trial Demanded

☒ Yes | ☐ No

FULL VERIFIED CIVIL COMPLAINT^{11/}

COMES NOW, Plaintiff, Elias Makere on this 4th day of November 2021 and hereby sues Defendant, Allstate Insurance Company and states the following:

I. NATURE OF THE CLAIM

1. This action is brought under §760 FS (“FCRA”), 29 USC §206 et seq (“EPA”), 42 USC §1981 (“1981”), 42 USC §1981a (“1981a”), 42 USC §1985 (“1985”), and 42 USC §2000e et seq (“Title VII”) to redress Defendant’s unlawful employment practices towards Plaintiff (also see 28 USC §1331, §1343, and §1367). Conduct that included – but was not limited to – race/sex/color discrimination, unlawful

retaliation, a pattern & practice of retaliation (financial, lethal, etc.), and a collaborative deprivation of Plaintiff's constitutional rights (due process, equal protection, trial-by-jury).

II. JURISDICTION: AMOUNT

2. Plaintiff seeks declaratory relief, injunctive relief, and damages in excess of thirty thousand dollars (\$30,000) – exclusive of interest, costs, and attorney fees.

III. JURISDICTION: PARTIES

3. At all times material hereto, Plaintiff was a resident of Jacksonville, FL (Duval County). Thus, he was a “Person”, as described by Title VII.
4. At all times material hereto, Defendant (a Florida corporation), had its principal place of business in Jacksonville, FL (Duval County). Employing fifteen (15) or more employees at all times pertinent. As such, Defendant has satisfied the definition of an “employer” – as contemplated by Title VII.

IV. JURISDICTION: VENUE

5. Defendant's unlawful conduct was committed within the jurisdiction of this Court. Thus, pursuant to 28 USC §1331 (and §1391), this venue is correct.

V. STATUTORY PREREQUISITES

6. All conditions precedent to bringing this action have been satisfied.
7. Plaintiff timely filed suit within ninety (90) days of receiving his right-to-sue letter from the EEOC (please see **Exhibit A**, **Exhibit B**).
 - a. On April 10, 2019, Plaintiff dual-filed his discrimination charge with the FCHR (a state agency which had a workshare agreement with the EEOC). After much impropriety (delay, writ of prohibition, etc.) the federal agency sent Plaintiff the requisite document.^{1/}

VI. STATEMENT OF THE FACTS

8. Plaintiff, a black male, began working for Defendant on November 18, 2013.
9. Defendant admitted him into its Actuarial Career Program (“ACP”) alongside many of his newfound co-workers. The ACP’s goal was to develop its members into FSAs (Fellows of the Society of Actuaries).
10. At the time of hiring, Plaintiff had passed six (6) actuarial exams, and had a little over one year of experience. This meant that he would have to pass four (4) more exams to attain the desired credential.
11. Defendant hired Plaintiff into its entry-level position named “Actuarial Technician” even though he was qualified for Defendant’s higher “Actuarial Associate” position.

- a. Based on information & belief, Plaintiff was the most qualified “actuarial technician” that Defendant had ever hired (judging by exam success + experience).

He reported directly to Ms. Lisa Henry.

- 12. Right off the bat, Ms. Henry subjected Plaintiff to sexual harassment; severe enough to alter the terms & conditions of his employment.

- a. A few Saturdays into Plaintiff's employment, Ms. Henry asked him to join her for dinner-&-a-movie. She added – voluntarily – that her husband would not be there. Plaintiff was distressed:

- i. For one, he had just moved to Jacksonville; did not know anyone else in the city; and was reliant on work income.
- ii. Secondly, he did not want a personal relationship with Ms. Henry.
- iii. Moreover, he did not want a romantic/sexual relationship with Ms. Henry either.

Plaintiff declined Ms. Henry's first date request.

It would not be her last.

- 13. Throughout Plaintiff's 3-year tenure with Defendant, Ms. Henry asked him out on a near-weekly basis. Usually asking him to go

- bowling with her. In that 33-month span, Ms. Henry never asked any other employee to go bowling with her. Just Plaintiff.
14. As a result, Plaintiff tried to avoid contact with Ms. Henry. Most notably, by abstaining from lunch outings. For instance, he exchanged his night-time gym visits with lunch-time gym visits (the gym was on Defendant's property) to dodge further harassment.^{2/}
15. The gym was of special importance to Plaintiff, because he had a heightened need for exercise. Plaintiff's legs were his only form of transportation^{3/}.
- a. Early into his tenure, Plaintiff's car died. He never replaced it.
 - b. Thus, he commuted to work via bicycling or jogging.
- Defendant knew this (please see ¶96-104).
16. Defendant also knew that Plaintiff lost his cell phone shortly after hire. Similarly, he never replaced it. From January 2014 to February 2018, Defendant – and Defendant's managers - never had Plaintiff's personal cell phone number (¶50, ¶56, ¶86-91).

Continued Harassment and Plaintiff's Initial Mitigating Efforts

17. In early December 2013, Plaintiff took and passed three minor exams.^{3/} Ms. Henry sat in as his proctor. He took the exams on company property.

18. Later that month, Plaintiff took and passed his seventh (7th) actuarial exam (the “Final Assessment”). These tests qualified Plaintiff for his first actuarial credential: the ASA (Associate of the Society of Actuaries).
19. To receive it, he would have to attend the Society of Actuaries’ (“SOA”) in-person course. The course was held in Atlanta, GA (ie, 500 miles from Plaintiff/Defendant).
20. In the days leading up to his multi-day trip, Ms. Henry offered to join Plaintiff. The trip included a hotel stay. She asked him in front of her own manager, Mr. Richard Schaefer. Plaintiff found her request to be illegitimate and sexually-motivated.
21. As a result, Plaintiff ramped up his measures for avoiding Ms. Henry. For example, he minimized face-to-face meetings with her by putting more detail in his Monday-morning updates.
 - a. Note: these face-to-face meetings featured Ms. Henry staring at Plaintiff’s privates; excessively.
22. Plaintiff developed a business-only relationship with Defendant’s employees. Offering only the courtesy, friendliness, and compassion he offered to complete strangers.
23. In-or-around Winter 2013/2014, Mr. Paul Ramirez (Defendant’s managerial employee) hosted a one-on-one meeting with Plaintiff.

The objective was to show Plaintiff a software program named Insight®.

- a. In the meeting, Mr. Ramirez showed Plaintiff various computer functions. Functions that Plaintiff already had mastery of. In deference and respect, Plaintiff played dumb to allow Mr. Ramirez to finish his presentation in its most-natural form.
- b. After the meeting, Plaintiff never asked Mr. Ramirez – or anyone – about Insight®. Any mild interest that he might have had beforehand evaporated (§119-124).
- c. He had to focus, instead, on the work that his manager, Ms. Henry, assigned to him. This is because she gave him explicit directions prior to the meeting. She said words to the effect of *“only do the work that I assign to you; other people might ask you to do work, but don’t do it”*.
- d. It was an easy directive for Plaintiff to follow; and he never attended any of the subsequent Insight® sessions that anyone scheduled (§119a, §121, §123).
 - i. Moreover, there were many other actuarial employees who did not attend Insight® sessions. So, there was no subsequent need to single out Plaintiff (§119-124).

Increasing Hostilities, Disparate Pay

24. Around this same time, racial harassment began ramping up, too. In a Spring 2014 inter-departmental meeting, Ms. Henry characterized Plaintiff as being racially inferior.

a. Doing so by saying a task was so easy she could get a “*monkey to do [it]*”. She elaborated, “*[it] will sit down, look at a piece of paper, then look up to compare it to what’s on the computer*”. It seemed she was casting Plaintiff as this monkey.

i. After all, he was Ms. Henry’s only [in-house] direct report.

Plus, likening black people to monkeys was a classic way of imputing racial inferiority onto them.

b. Just minutes later, Ms. Henry’s offensive remarks crystallized.

Upon returning to the cubicles, she directed Plaintiff to sit down at his seat. Then, she printed out a spreadsheet, placed it on his desk, and instructed him to compare the printout to the computer screen to see if the numbers were the same.

c. Plaintiff *was* the monkey.

25. As Defendant's only black actuary, Plaintiff's employment was conditioned on racial inferiority. Here are some highlights:

- a. When Plaintiff received his ASA credential – a major, equalizing milestone for Defendant's actuaries (§18) – Defendant paid him a lower salary than it paid his peers.
- b. In June 2014, Mr. Louis Posick (an actuarial manager) proclaimed that Plaintiff's recent credentials "*devalue[d] the profession*". Despite the fact that:
 - i. Plaintiff passed the same exams that everyone else did;
 - ii. Plaintiff received his ASA faster than most of his peers/predecessors (§113a.ii).

As became the norm, Defendant eschewed facts for the fictions of Plaintiff's racial inferiority.

- c. Mr. Posick's direct report, Mr. Kazuhiko Nagai, followed suit by issuing a nonstop array of harassment directed at Plaintiff. Harassment which involved mocking, ridicule, and incessant invasions of space. Harassment punctuated by a racist doll (a monkey that Mr. Nagai placed on Plaintiff's desk – in plain sight).
 - i. The invasion of space was particularly extreme. Plaintiff spent every weekend, night, and morning at Defendant's

office (studying for his final three actuarial exams). Mr. Nagai got a whiff of that and began spending seven days a week at the office, too. Mornings and nights, too.

ii. Mr. Nagai's new behavior was a significant departure from his behavior prior to Plaintiff's employment. In addition to his ballooning office time was his new standing desk.

iii. In total, it meant that every step from every day of every week Mr. Nagai was observing Plaintiff. Watching him work; watching him study; watching him go to the bathroom/kitchen/elevator; watching him do everything.

iv. It caused Plaintiff extreme discomfort. Plaintiff was Defendant's only employee subjected to such invasions.

v. And it was when Plaintiff asked Mr. Nagai '*why the excessive attention*' that Mr. Nagai placed the racist doll on Plaintiff's desk.

d. Mr. Posick's other direct report, Mr. Phil Kite, joined in by characterizing Plaintiff as a monkey, too. In Fall 2015, as Mr. Nagai's racist monkey doll sat on Plaintiff's desk, Mr. Kite yelled loudly, "[Plaintiff] *you look like a chimpanzee!!!*".

- e. In Summer 2015, Ms. Marilou Halim (an actuarial manager) screamed profanities at Plaintiff as he sat studying in a small conference room. His '*crime*': buying a condolence card for a grieving co-worker.
- f. Likewise, in Spring 2016, on two separate occasions, Ms. Henry said that "[*Plaintiff was the*] *monkey we can't let grow into a gorilla*". Once again playing on the theme of black inferiority.

26. Three things were clear:

- a. Defendant held its actuarial department in high esteem; basing that prestige on the notion of high intelligence.
- b. Defendant viewed black people as being racially inferior; basing that disdain on the notion of low intelligence.
- c. Defendant believed that black actuaries – and Plaintiff in particular – sullied its actuarial department; just by virtue of their existence.

Disparate Treatment, Discriminatory Animus

27. Recognizing Defendant's animus, Plaintiff begged management to let him **work from home**. He asked on a routine basis. Mainly in response to direct hostilities (eg, mocking & ridicule, racist dolls, racist characterizations, racial proclamations, etc.).

- a. Defendant denied his requests every time; giving the following excuse: *'Plaintiff could not work from home because sitting near his coworkers was a condition of his employment'*. Fateful.
- b. Defendant, however, allowed its non-black employees to work from home.
 - i. Ms. Bridget Tennant – who also reported to Ms. Henry – had been working from home for over a decade (her home was in Maryland; 700 miles away).
 - ii. Ms. Tetyana Dostie – who reported to Ms. Halim – was granted her contemporaneous work-from-home request.
 - iii. Defendant has allowed many other non-black-male actuarial employees to work from home.

28. Yet every time Plaintiff attempted to avoid the harassment, Defendant targeted him for more. Graduating the harassment into discrimination.

29. In Fall 2015, Mr. David Dickson (an IT manager) initiated Defendant's systematic method for discrimination. He called Plaintiff at 5:17 pm, introduced himself, told Plaintiff a series of lies, then threatened to get Plaintiff fired. It was a severe, surprising, and unwarranted escalation.

- a. Additionally, in November 2015, prior to his call, Mr. Dickson approached Plaintiff in the parking lot after dark. Plaintiff was on his bicycle heading home. Mr. Dickson told Plaintiff in an ominous tone, *“be careful on your bike.”* Plaintiff saw it as a threat. One which later came to fruition (§92-95). One which was capped off with a spiteful gesture (§118, §120-124).
30. Also, in Fall 2015, Ms. Marianne Poriecca (an IT manager) told Plaintiff's direct manager (Ms. Henry) that she wanted Plaintiff fired (*“I can't believe he still works here”*). A message that Ms. Henry relayed to Plaintiff in early 2016. A message – that Ms. Henry admitted – was made without reason.
31. There was no legitimate reason for someone to hunt for Plaintiff's termination.
 - a. Note: at this point, Plaintiff had passed his eighth (8th) actuarial exam and was working on number nine (9).

Internal Complaints, Retaliation

32. Plaintiff thereby filed an internal discrimination complaint against Mr. Dickson. Who acknowledged that it was based on “racism”. As it turns out, Mr. Dickson had been charged with employment discrimination before.^{5/}

33. Management responded by sending several staff members to replace Plaintiff's employment. The most explicit one was Mr. James Parks; who said that management (Mr. Schaefer, Mr. Dickson) sent him to take over for Plaintiff. Plaintiff obliged; sharing his knowledge and skills - as he had always done with all of his work (with everyone).
34. Also, in retaliation for Plaintiff's internal complaint, Ms. Henry denied Plaintiff a raise in 2016. Instead, she gave Plaintiff the standard actuarial salary increase for having passed an actuarial course (the DMAC)^{6/}. Plaintiff subsequently filed an internal retaliation complaint against Ms. Henry.
35. Matters only got worse for Plaintiff. Perhaps, the most significant event was when a non-actuarial co-worker sabotaged his work. On June 30, 2016, Ms. Patricia Boland staged an actuarial miscalculation; and attempted to blame it on Plaintiff. Plaintiff caught her in the act, though.
36. Alarmed that anyone would do that (ie, deliberately attempt to get Plaintiff fired), Plaintiff reported it – among other things (see Racist Doll ¶25c, see Mr. Dickson ¶29, see Ms. Henry ¶34) – to Mr. Schaefer. Who told Plaintiff, “[*Plaintiff*] you’re paranoid”, coupled with “*you should figure out if this is the place for you to work*”.

37. The message was clear: discrimination was going to win out.

- a. A message which was further emphasized when Plaintiff learned that Defendant made him purchase his actuarial exam (\$1,025) while not requiring the same of his non-black-male peers (Mr. Victor Ciurte, Mr. Kazuhiko Nagai, etc.).

Termination Excuse

38. Within a week-or-so, Plaintiff received negative results from his ninth (9th) actuarial exam. He believed foul play was involved.

- a. Specifically, he believed that Ms. Marilou Halim graded his exam, and failed him in order to produce an excuse to terminate Plaintiff's employment.
 - i. For over 20 years, Ms. Halim presented to Defendant's actuarial department that she was an actuarial exam grader.
 - ii. In November 2018, however, she told state administrative authorities the opposite (that she was never an exam grader). Statements that were contradicted by everyone else who testified that she was indeed an exam grader.

39. Based on information & belief, Ms. Marilou Halim graded Plaintiff's ninth (9th) actuarial exam. She did so with the intent to get him fired from Defendant's employ.
40. Nevertheless, as of July 2016, Plaintiff had thereby failed to satisfy Defendant's "1-in-3 rule".
- a. Note: Defendant's ACP had a "1-in-3 rule". The rule stated that an employee had to pass one exam in three attempts. Failure to satisfy that rule could lead to removal from the program.
41. Shortly thereafter, on-or-around August 10, 2016, Ms. Henry approached Plaintiff at his desk. It was at about 5:12 pm. She – once again – asked Plaintiff to go out with her (bowling). This request was different, though, because Defendant had severely compromised Plaintiff's employment. Nevertheless, Plaintiff – once again – declined to go out with Ms. Henry. Shocked; she stood at the corner of his desk; mouth open; for about 2-3 seconds.
42. A few hours later, Ms. Henry filed to have Plaintiff terminated.
43. That Friday (August 12, 2016), Ms. Henry escorted Plaintiff to the 1st floor for a meeting. It was not a regular staff meeting (as had been described). Instead, it was a termination meeting. The HR manager, Mr. Ellis Manucy, conducted it. He informed Plaintiff he was being

fired because he failed his actuarial exam. He added that it was “*extremely rare*”. No other reason was given.

Discriminatory Termination Excuse

44. The failure was not rare; the termination response was (and discriminatory). Here is a list of Defendant's employees who also failed to satisfy the “1-in-3” actuarial exam requirement:

- a. Mr. Victor Ciurte
- b. Ms. Tetyana Dostie
- c. Mr. Josh Garcia
- d. Mr. Phil Kite
- e. Ms. Anna Lunder
- f. Mr. Kazuhiko Nagai
- g. Ms. Bridget Tennant

None of whom were black (let alone black men).

45. Moreover, Defendant had a number of employees who were never even required to satisfy the “1-in-3 rule”. Including, but not limited to, Ms. Nasreen Ali. Likewise, Ms. Ali was neither black nor a man.

46. Immediately after terminating Plaintiff, Defendant hired two non-actuaries to assume his responsibilities. Neither of whom had even attempted an actuarial exam (let alone pass one). They were Ms. Boland and Mr. Christopher Mirisola. Again – neither were black (let alone black men).

Subsequent Events

47. Within a month, Ms. Henry approached Plaintiff in a restaurant near Plaintiff's home. She followed up with friendly emails to his personal account.

Plaintiff never replied.
48. Additionally, Plaintiff never re-applied for employment with Defendant. Nor did he ever inquire about returning to Defendant's employ.
49. Plaintiff was still focused on attaining his FSA. That Fall, he passed his ninth (9th) actuarial exam.
50. Also, that Fall, Plaintiff got a new cell phone. None of Defendant's employees had the number (§16, §56, §86-91). He was going to need it for his ultimate venture into small business ownership.
51. In early 2017, Plaintiff registered a company name with the Florida Department of State. He never advertised it. He never promoted it. He never mentioned it to Defendant (or any of Defendant's employees).
52. The subsequent legal action that he took against Defendant ended up consuming an unexpectedly large amount of Plaintiff's time.

First External Complaint

53. On June 30, 2017, Plaintiff filed a charge of discrimination with the FCHR. It was on the basis of race and sex (see **Exhibit C**).

54. On September 8, 2017, Defendant responded to **both** bases by denying any discriminatory conduct (see **Exhibit D**). Stating that it fired Plaintiff for a legitimate reason. Specifically, because he had failed an actuarial exam (see **Exhibit E**):

*“Complainant was terminated **solely** because he failed his [FSA] exam.”*

- Allstate Insurance Company, 9/8/17

55. Notably, Defendant told the FCHR – under oath – that it investigated Plaintiff's allegation of a racist doll, interviewed employees (including Mr. Nagai), and said that no one could corroborate it.

a. This statement was a bold lie.

i. The person who put the racist doll on Plaintiff's desk (ie, Mr. Nagai - ¶25c) admitted that he did it.

[1] He told the state investigator he did.

[2] He testified the same one year later.

b. This false statement exhibited Defendant's propensity to lie about its discriminatory conduct. A method of operation that it continues to this day (¶129).

56. As the case progressed to the administrative hearing phase (at DOAH), Plaintiff contacted several non-parties to begin discovery.

- a. It is important to note, that by virtue of DOAH's rules & procedures, Plaintiff's contact information became public record (eg, his previously unknown cell phone number).

Post-Termination Retaliation | Higgins (Part A)

57. One person, Mr. Kirk Higgins, went on attack in response. Filing documents aimed at embarrassing Plaintiff – in violation of §120.569(2)(e) FS; even calling local police departments to try to dig up dirt on Plaintiff.

“It seems clear that [this message] would be an embarrassment to [Plaintiff]...”

- Mr. Higgins | DOAH 18-0373 | FL | 2/27/18

58. Plaintiff believed that Defendant was putting him up to it. So, in early 2018, Plaintiff asked Defendant's trial counsel if Defendant was encouraging Mr. Higgins to retaliate. Defendant gave a minimal response. Plaintiff got a full answer, though, from Mr. Higgins himself.

59. At about 6:12pm EST on Monday, March 26, 2018, Mr. Higgins called Plaintiff's cell phone. Plaintiff picked up, and maintained that this

was strictly a legal action which he was going to see through to the end.

60. Mr. Higgins responded by saying he had been in recent communication with Defendant's employees. He emphasized that two of them were Ms. Henry and Mr. Schaefer.

a. Ms. Henry, of course, was responsible for Plaintiff's termination. Mr. Schaefer was her manager.

61. During the call, Mr. Higgins added that Ms. Henry recently gave him good marks/recommendations on a professional networking site (LinkedIn.com). He posited it as if it would dissuade Plaintiff from litigating his claim against Defendant.

62. It did not. The facts surrounding Defendant's discrimination were too strong. Instead, Mr. Higgins' words only shed greater light on Defendant's pattern & practice of retaliation.

63. Fear played a major role. As Mr. Higgins continued, he explained that he was afraid that Defendant would retaliate against him if he were to comply with Plaintiff's discovery requests.

a. Mr. Higgins' concerns were well-taken. At DOAH, Plaintiff made several attempts to conceal Mr. Higgins' identity (motions for confidentiality, aliases, etc.). As such, Defendant's intimidation factor was affecting Plaintiff's lawsuit.

64. The 10-minute phone call went on. Importantly, Mr. Higgins made unsolicited offers to network with Plaintiff. Plaintiff declined; on several grounds:

- a. Most importantly, Plaintiff was solely focused on litigating his case against Defendant;
- b. Secondly, Plaintiff did not want to network with anyone; and
- c. Thirdly, Plaintiff had particular disinterest in relating to anyone who had Allstate origins.

Defendant and Mr. Higgins

65. Mr. Higgins had an employment relationship with Defendant (ie, Allstate). One of the 'master-servant' type.^{7/}

66. Immediately before Defendant hired Plaintiff, Defendant employed Mr. Higgins. Mr. Higgins also reported to Ms. Henry. Mr. Higgins was also black.

67. On information & belief, Defendant has never hired any other black-male actuary (just Mr. Higgins; just Plaintiff).

68. Defendant had disdain for Mr. Higgins. Its employees expressed as much to Plaintiff.

- a. Mr. Posick spoke negatively of him (eating habits, lack of socializing). Mr. Ramirez said the same. As did Mr. Schaefer.

Ms. Henry – his direct manager – took it a step further by lamenting the cleanliness of Mr. Higgins' keyboard.

69. Plaintiff never knew him (had no knowledge of his demographics). In Summer 2014, though, during a car ride back to the office, Mr. Ramirez showed Plaintiff a picture of Mr. Higgins. On Mr. Ramirez's phone was a LinkedIn page showing Mr. Higgins as a connection. Mr. Ramirez quipped [something to the order of] "*maybe that's why they keep comparing you to him*". Plaintiff thereby learned that Mr. Higgins was a black man.

a. Important note: on information & belief, this car ride was the return trip from the farewell lunch in which Mr. Posick proclaimed Plaintiff's newly attained credentials "*devalue[d] the profession*" (§25b).

b. Additional note: Plaintiff had already begun requesting to work-from-home on account of Defendant's ongoing harassment.

70. In Plaintiff's 3-year tenure, none of Defendant's employees ever said a positive thing about Mr. Higgins. Not a single word.

71. Ms. Henry did add, though, that she bemoaned Mr. Higgins' prior requests to work-from-home; requests she always denied.

72. As Defendant's disparate history shows, it **never** granted the work-from-home privilege to any of its black-male actuaries. Defendant **always**, however, granted it to everyone else in the actuarial department (also see ¶27).

Post-Termination Retaliation: Higgins (Part B)

73. Equipped with this knowledge, Plaintiff found Mr. Higgins' 2018 phone call to have been:

- (a) motivated by fear of Defendant;
- (b) cushioned by the aid & comfort Defendant plied him with;
and
- (c) aimed at dissuading Plaintiff from continuing his lawsuit.

74. Mr. Higgins hung up dejected. His March 26, 2018 call marked the second-&-last time the two ever spoke.

75. Thus, what Mr. Higgins did next – in concert with Defendant – was purely in response to Plaintiff's lawsuit.

76. At first, the two paired up to relay Mr. Higgins' conversation points (networking solicitations, subpoena avoidance, etc.) to DOAH.

77. It progressed to a tag-team smear campaign. Mr. Higgins told the state agency that he called Plaintiff's local police department to try to find harmful information on Plaintiff.

“Upon doing further check on [Plaintiff] using public information, I am startled to find information that indicates [Plaintiff] has been arrested at least twice.”

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

Mr. Higgins added – explicitly – that his aim was to interfere with Plaintiff's case:

“The purpose of this document is to allow potential witnesses an opportunity to request protective orders against any potential subpoenas by [Plaintiff]...”

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

He continued, however, by saying his court filings may be frivolous:

*“There is **no** evidence of any convictions and **no** evidence any prosecutor attempted to pursue charges in court... This arrest may or may not have relevance to the case...”*

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

He also disclosed his zeal:

“I attempted to obtain confirmation from Jacksonville Police Department but was told inquiries for public records could take weeks or months.”

- Mr. Higgins | DOAH 18-0373 | FL | 4/4/18

78. Around this same time, Defendant hired an attorney named Christine Manzo (52121). She filed her notice of appearance with DOAH.

79. Upon information & belief, Ms. Manzo was hired only in response to Plaintiff's lawsuit/complaint.
- a. She never worked for Defendant beforehand; and
 - b. She never worked for Defendant afterwards
80. Ms. Manzo spoke for Defendant; and her actions spoke volumes.
81. On June 21, 2018, while Plaintiff was preparing his non-party subpoena to the Society of Actuaries ("SOA") Ms. Manzo emailed Mr. Higgins.
82. Her email encouraged Mr. Higgins to file documents on Defendant's behalf. Documents that Mr. Higgins was not authorized to file. Documents that were unlawful (see ¶57). Documents that were aimed at the most contentious piece of discovery (see ¶38a, ¶39).
83. Ms. Manzo further instructed Mr. Higgins to avoid writing anything that could negatively impact Defendant's accompanying pleading (**Exhibit F**).
84. Ms. Manzo was well-aware of Mr. Higgins' previous unlawful conduct.
- a. Such conduct was captured in the public forum; and
 - b. Such conduct was the subject of Plaintiff's prior motion for sanctions.
85. In short, Defendant enlisted its former employee to attack Plaintiff for filing his discrimination lawsuit.

Post-Termination Retaliation: Lethal

86. Running contemporaneous to Defendant's tag-team smear campaign against Plaintiff was Defendant's near-fatal attacks.
87. From the outset of the DOAH proceedings, Plaintiff received death threats on the phone; and supplemental taunts through the mail. The calls numbered in the dozens-per-day; the mailings came in at about six pieces per month.
88. All of the threats had a common theme centered around '*praying to God*'.
- a. One recorded phone call had an intimidating woman's voice asking, "*Do you need someone to pray for your life?*"
 - b. Mailed postcards contained similar phrasing.
 - c. It must be noted that the religious theme of '*praying to God*' was the exact quote Mr. Higgins levied at Plaintiff to dissuade Plaintiff from continuing his lawsuit against Defendant.
 - i. Thereby linking Defendant – via Ms. Manzo/Mr. Higgins – to the death threats.
89. Prior to his lawsuit, Plaintiff never received such phone calls. All of which came once his phone number entered the public domain (via DOAH).

90. Upon information & belief, Defendant was encouraging its employees (Ms. Henry, etc.) to attack Plaintiff for filing suit.

91. The verbal/mailed threats eventually turned into a physical assault.

92. In Spring 2018, Plaintiff was hit by a car while riding his bicycle. The car was traveling 45 mph (reportedly). Mr. Dickson's 2015 threat had indeed played out (§29a).

a. When Plaintiff awoke on the grassy median, he immediately thought Defendant was behind it. His first thought was that either Ms. Halim or Mr. Dickson was involved; and perhaps others.

93. The driver of the car was a man named Matthew Myrick. As revealed by the crash report, Mr. Myrick lived within 10 minutes of Defendant's office.

a. As Plaintiff later learned, Mr. Myrick's home was down the street from Mr. Schaefer's home (ie, the manager who told Plaintiff he should '*figure out if [Defendant] was the place for [Plaintiff] to work*' when Plaintiff complained of harassment/discrimination.) (see §36)

b. 12 minutes away from Mr. Myrick's home lay the home of Mr. Greg Guidos, Defendant's CEO. Whose subsequent resignation marked the end of the retaliatory threats + assaults described

herein - but not the taunts (see ¶117-124); and not the lies (¶129).

- i. Upon information & belief, Mr. Guidos resigned only in response to the fact that Plaintiff videotaped his testimony (at the administrative hearing).

[1] Mr. Guidos' testimony was the only testimony that Plaintiff recorded by camera.

[2] Upon information & belief, Defendant's managers have direct evidence of the Company's discriminatory intent. Evidence in the form of emails and/or written/recorded correspondence.

- ii. Upon information & belief, Defendant reacts primarily to the publicity of its misconduct rather than the misconduct itself.

94. If not for Plaintiff's safety gear, he likely would have fallen into a coma, become paralyzed, or died. Each result would have brought a near-certain end to his lawsuit against Defendant.

- a. The injury was still severe, nonetheless. As it reduced Plaintiff's responsiveness to the administrative proceedings.

- i. Evidenced by him filing only 3 documents in 51 days.

- ii. Compared to the 170 he filed in the 292 days after recovery.
 - iii. The difference put Plaintiff at 10% capacity due to the hit.^{8/}
- b. A reduction in capacity that had a pivotal effect on Plaintiff's administrative case.
- i. While injured, Defendant filed a motion to strike Plaintiff's sex discrimination charge, because it had too much detail. Details that Defendant claimed it was not ready to handle.
 - ii. The motion sat on DOAH's docket for 30 days before Plaintiff could file a response. By then it was too late, because DOAH entered its order already.
 - iii. An order that was improvident. An order that DOAH held onto in contravention of the 14th Amendment of the US Constitution (*Equal Protection Clause*). An order that DOAH's ALJ perjured himself to defend.
 - [1] Thereby exposing himself to a 42 USC §1983 action (ie, the "*Ku Klux Klan Act of 1871*").
 - iv. An order that violated Plaintiff's due process rights.
 - v. The hit was severe.

95. Upon information & belief, Defendant enlisted people (eg, Mr. Myrick) to maim, injure, and/or kill Plaintiff in retaliation for filing suit.

Post-Termination Retaliation: Surveillance

96. Around this same time, complete strangers began befriending Plaintiff. Some did so at Plaintiff's neighborhood gym – the only place Defendant knew Plaintiff to frequent (see ¶14-15).
97. One was a 50-60 year old 5'9 man who always wore an Allstate T-Shirt. The man presented himself as an in-house lawyer. He spoke to Plaintiff as if the two knew each other.
- a. Asking about Plaintiff's time with Defendant;
 - b. Asking about actuarial work;
 - c. Asking about Plaintiff's direct manager.
98. Plaintiff did not know the man; and could not recall ever seeing him prior to his lawsuit against Defendant. He kept the conversations cordial, though, and brief.
99. Upon information & belief, Defendant sent that man to (a) keep tabs on Plaintiff; (b) startle plaintiff; and (c) interfere with Plaintiff's legal action.
100. Another man was a 50-60 year old 6'3 man named David. David always wore a hat. David always talked about bicycle riding. David

- chatted up Plaintiff as well; regularly inviting him to play basketball. Plaintiff found him suspicious, but was friendly nonetheless.
101. One time, David bumped into Plaintiff at the beach. Where he revealed that he worked for Defendant.
- a. It must be noted, that no one else (from any other company) has (a) approached Plaintiff at this gym; **and** (b) befriended him with recurring conversation.
102. Upon information & belief, Defendant sent this man (David) to (a) investigate Plaintiff; (b) get legal intel from Plaintiff; and (c) dissuade Plaintiff from following through on his lawsuit.
103. Moreover, upon information & belief, Defendant enlisted people to surveil/investigate Plaintiff. Whereby the employer could obstruct Plaintiff's lawsuit; either by force, with guile, or through a combination of the two.
104. Of course, Defendant's involvement in such subterfuge was corroborated by the emailed instructions from Ms. Manzo (§82-83).

Post-Termination Retaliation: Financial

105. One month after Ms. Manzo sent that incriminating email, Plaintiff's former employer (Genworth Financial) reduced his retirement benefits substantially. They mailed him the notice.
106. Yet, Plaintiff had never given Genworth his Florida address.

107. Nor did Plaintiff ever talk to Defendant about Genworth.
108. Notwithstanding, Defendant's other trial lawyer (Ms. Carmen Rodriguez (710385)) made several statements about Genworth. She did so at Plaintiff's first administrative deposition. She did so at his second. Then she sandwiched in some more statements during Plaintiff's hearing.
109. Statements, of course, which were not pulled from evidence, from discovery, or even from discovery requests.
110. It was clear that Defendant was communicating with Genworth surreptitiously.
111. Considering the circumstances, Plaintiff reached out to Genworth to understand their actions. Genworth's benefits coordinator explained that Plaintiff's dissolved retirement benefits were not part of a company-wide policy. She further explained that he was the only person she knew who suffered dissolution.
112. Thus, upon information & belief, Defendant (via Genworth) retaliated to further damage Plaintiff's employment, compensation, and employment benefits. He believes Defendant did so by complaining about Plaintiff's lawsuit during phone calls with Genworth.

Plaintiff's Professional Progress and Defendant's Professional Retaliation

113. In the days surrounding Defendant's acts of financial retaliation, Plaintiff received passing results for his tenth (10th) actuarial exam. He took it weeks after the vehicular assault (see ¶91-95). Therefore, as of Spring 2018, Plaintiff had passed every exam necessary to qualify for his FSA (see **Exhibit E**).

- a. Coming full circle: at the administrative hearing (November 2018), Defendant's employee – and Plaintiff's manager – Mr. Richard Schaefer testified that Plaintiff should find a different career because of his exam progress.

"I probably recommended to you that you might consider another profession because you couldn't pass the exams for this one. That would be general career advice"

- Mr. Schaefer | DOAH 18-0373; Tr. 647:20 | FL | 11/29/18

A classic display of Defendant's discriminatory animus. Mr. Schaefer was referring to the termination excuse that Defendant concocted to try to conceal its unlawful motives (see ¶54).

- i. At the time that Defendant assembled the excuse (≈ 2016), it had many employees with far less exam success than Plaintiff (see ¶44-46).

[1] Some who failed every exam (passing none); some who never attempted any; and some who quit with fewer.

- ii. Plus, at the time that Mr. Schaefer gave the “*general career advice*” Plaintiff had already passed all of the exams. Passing the first 5 faster than 98% of the population.^{9/}

- b. Also coming full circle: at the same hearing, Defendant’s other managerial employee, Mr. Scott Randles, testified that he had never been an exam grader.

114. Yet, there he was. The next summer - at Plaintiff’s graduation ceremony – 3,000 miles from home (in Seattle, Washington); grading the last course for the FSA designation (**Exhibit G**).^{10/}

115. Upon information & belief, Mr. Randles – at Defendant’s behest – went to Plaintiff’s graduation ceremony in order to:

- a. target Plaintiff for harassment;
- b. obstruct Plaintiff’s attainment of his FSA;
- c. blackball Plaintiff from the profession; and

- d. supply the SOA with a false, perjured, unconstitutionally propagandized narrative on Plaintiff's racial inferiority.

Spite and Malevolence

116. Plaintiff found Mr. Randles' about-face presence (and suspected written submissions) to be spiteful and malevolent.

117. Also spiteful were the two mailings that arrived at Plaintiff's home (around June 2019).

118. One was a brochure to attend a Sharepoint® conference.

- a. Sharepoint® was part of the pretextual stream of lies that Mr. Dickson (Defendant's manager) targeted Plaintiff with back in Fall 2015 (see ¶29 *supra*). Plaintiff complained of Mr. Dickson's conduct, and wanted nothing to do with him.

- b. Upon information & belief, Defendant (via Mr. Dickson) effectuated delivery of the brochure to Plaintiff's home as a harassing, retaliatory gesture.

119. The other mailing was a different brochure to attend a conference on Insight®.

- a. Insight® was the software program that Mr. Ramirez (Defendant's manager) tried to get Plaintiff in on (¶23). Plaintiff was hamstrung by management; plus, he had no interest in Insight®.

- b. Upon information & belief, Defendant (via Mr. Ramirez) effectuated delivery of the brochure to Plaintiff's home as a harassing, retaliatory gesture.

120. Both of these brochures, importantly, were addressed to the company that Plaintiff registered with the state (2017 – after termination).

- a. The only time Plaintiff revealed this company name was when Defendant deposed him in the administrative phase.

121. These brochures indicated a collaborative effort to harass Plaintiff.

- a. The harassment was based on the same perjured, stereotyped narrative that Mr. Randles flew across the country on (§113b-116).

122. These brochures, individually and together, showed that Defendant's managers were (a) tracking Plaintiff's lawsuit, (b) responding with malice, and (c) tying themselves to all of the adverse acts Plaintiff suffered since the suit went public (as further spite/intimidation).

123. Plaintiff did not have any relationship with any of Defendant's employees. He did not want anything to do with them. The only thing that linked Plaintiff to Defendant's employees was Defendant itself.

- a. Moreover, before-&-after June 2019, Plaintiff never received any material from either Sharepoint® or Insight®.

- b. Plus, Defendant effectuated their delivery soon after DOAH's ALJ entered his perjurious Recommended Order. Doing so by typing Plaintiff's contact information onto online mailing lists.

124. As such, upon information & belief, Defendant has been spending years carrying out a campaign of spite, slander, surveillance, malice, and violence against Plaintiff. All in an effort to mute his lawsuit.

- a. A lawsuit with indisputable facts which Defendant has only addressed with lies & corruption.

Lies & Corruption

125. Faced with these eternal facts of textbook discrimination, Defendant set out to deprive Plaintiff of his constitutional rights.

126. Back on December 15, 2017, the FCHR confirmed that race **and** sex formed the basis of Plaintiff's complaint against Defendant (**Exhibit H**).

127. Yet, 1.5 years later – and after grave impropriety – that same agency excluded Plaintiff's sex charge in its final order (**Exhibit I**). Doing so based on a massive lie (§94b.iii, §123b).

128. Upon information & belief, Defendant commandeered the FCHR to remove Plaintiff's sex discrimination charge from his originating complaint. Accomplishing such a feat in a variety of ways:

- a. By pressuring the state agency;

- i. In all of the FCHR's publicly available annual reports (2010-2018), the agency tells its "*stakeholders*" how much money the commission has saved them. Boasting about its "*return on investment*" (highlights added):

*"During the past fiscal year, the Commission has helped Florida stakeholders avoid over **\$19 million** in litigation expenses. For FY 2017-18, the Return on Investment (ROI) is 104%"*

- FCHR | Annual Report | Fall 2018

- ii. One such stakeholder – as revealed in 2018 – is Florida Blue (a prominent insurer in Florida – a là Defendant).
- iii. Upon information & belief, Defendant is also an FCHR stakeholder. And as a stakeholder, Defendant improperly influenced the FCHR's conduct towards Plaintiff.

and/or

- b. By asking it directly;

- i. Upon information & belief, Defendant asked the FCHR to violate Plaintiff's 14th amendment rights (due process, equal protection) and 7th amendment rights (jury trial).
- ii. Doing so by email, fax, and/or phone.

and/or

c. By bribing the state agency;

i. §760.06(4) FS empowers the FCHR to accept gifts and bequests to “help finance its activities”.

ii. In September 2019, Plaintiff asked the FCHR whether it could accept a respondent’s gifts/bequests during the investigative phase of a complaint. The agency answered with “an emphatic yes” (highlights added) (**Exhibit J**):

“the [FCHR] has the power to accept gifts, bequests, grants, or other payments, public or private, to help finance its activities... There are no limitations in the text of the statute... There is no applicable case law suggesting that the Commission cannot accept bequests during the investigation of a claim ... Given that the answer to Petitioner's question of law on whether the Commission can accept gifts during the investigation phase of a claim is such an emphatic yes, there is no doubt to resolve”

- FCHR | Order 19-065 | 12/10/19

iii. Upon information & belief, Defendant gave the FCHR something of value in exchange for its acts & omissions. Acts & omissions which the FCHR carried out to violate Plaintiff’s constitutional rights.

[1] Acts which included but were not limited to (a) removing Plaintiff's sex discrimination charge; (b) mailing Plaintiff's determination letter to someone else; and (c) inducing the EEOC to also mail Plaintiff's Right-to-Sue letter to the wrong person.

129. Also, in further perpetuating the lie, Defendant perpetrated a fraud upon this Court.

a. On May 21, 2021, Defendant filed a document in this case (Doc No 53 "*Defendant's Response... Memorandum of Law*"). It did so via Ms. Kimberly Doud (523771), Defendant's trial attorney.

i. In it, the employer wrote that Plaintiff's initiating employment discrimination complaint (§53) was on the basis of race only (highlights added):

"On June 30, 2017, Plaintiff filed a Charge of Discrimination ("First Charge") with the FCHR, which alleged racial discrimination, as well as retaliation, in violation of the FCRA. See Exhibit A..."

- Defendant | 5/21/2021 | Doc No 53 | 3:20-cv-00905-MMH-JRK

*“On January 19, 2018, Plaintiff filed a 231-page Petition for Relief (“First Petition”) with the FCHR. See Exhibit C. The First Petition included allegations of race discrimination not previously presented to the FCHR and therefore not part of the FCHR investigation. Plaintiff also, **for the first time**, alleged sex discrimination and/or sexual harassment”*

- Defendant | 5/21/2021 | Doc No 53

- ii. Of course, the underlying facts (and Defendant's own attached exhibit) established that Plaintiff's originating charge was on the basis of race **and** sex (§53, §54, §126).
- b. Thus, on May 21, 2021, Defendant told a demonstrable lie of material fact. A lie aimed at depriving Plaintiff of a full & fair opportunity to litigate his discrimination case.

VII. ULTIMATE FACTS

130. It is indisputable that Defendant only fired the black man who failed an actuarial exam.

a. Defendant preceded this adverse employment action with years of harassment. Punctuated by:

- i. unwanted sexual attention;
- ii. date requests;
- iii. racist dolls;
- iv. racist characterizations; and
- v. more.

b. The harassment was coupled with disparate treatment.

Highlighted by:

- i. paying Plaintiff a lower salary than his non-black-male peers (indisputable);
- ii. forcing Plaintiff to pay \$1,025 for an actuarial exam while not doing the same to Plaintiff's non-black-male counterparts (indisputable); and
- iii. denying Plaintiff the work-from-home privilege that it granted Plaintiff's non-black-male coworkers (indisputable).

131. It is also indisputable that Defendant knew that Plaintiff exercised his civil rights.

- a. It answered his first complaint in September 2017.
 - i. Notarized by a state agent
- b. The complaint was investigated by a state agency.
- c. The complaint became public record in January 2018.
- d. Defendant hired at least 5 attorneys-of-record in response.
 - i. One such attorney was Ms. Christine Manzo.

132. It is also indisputable that Plaintiff suffered more adverse acts while his legal action was still pending.

- a. It is indisputable that Plaintiff was hit by a car in Spring 2018 (within two months of the case going public).
- b. It is indisputable that Plaintiff's former employer reduced Plaintiff's retirement benefits in July 2018.
- c. It is indisputable that Defendant's former employee harassed Plaintiff to presumably embarrass Plaintiff.

Upon information & belief, these adverse acts – individually and in total – would cause most reasonable employees to abandon their case.

133. It is also indisputable that Defendant was tied to these adverse acts.

a. Via its legal representative (Ms. Manzo), Defendant encouraged its former employee to file unlawful, unauthorized documents to hinder Plaintiff's civil rights case.

i. Defendant even instructed him on what to say.

134. It is also indisputable that Plaintiff's initiating complaint charged Defendant with race **and** sex discrimination.

a. It is indisputable that – on September 8, 2017, Defendant acknowledged both bases (§54).

b. It is indisputable that – on December 15, 2017 – the FCHR affirmed that Plaintiff's initiating complaint was on both bases (§126).

c. It is indisputable that *that same* state agency excluded Plaintiff's sex discrimination charge from the Final Order.

d. It is foundational that a sex discrimination charge is material to an employment discrimination complaint.

e. It is indisputable that – on May 21, 2021 – Defendant claimed that Plaintiff's initiating complaint did not have a sex discrimination charge (§129).

f. It is indisputable that Defendant knew its claim was false. Thereby, extending its state-sponsored lie to this tribunal.

Upon information & belief, Defendant unlawfully got the FCHR to deprive Plaintiff of his constitutional rights (due process, etc.), and is trying to perpetrate that fraud upon this Court.

A manifest injustice.

135. Lastly, it is also indisputable that all throughout its unlawful campaign, Defendant replaced Plaintiff with employees with far less qualifications while keeping others who also failed actuarial exams.

a. Objectively speaking: in terms of exam success (see ¶44)

b. Objectively speaking: in terms of experience

COUNT I: RACIAL DISCRIMINATION | §760 FS

136. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

137. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race; and were so severe and pervasive they created a hostile work environment for Plaintiff.

138. Defendant's resulting decision to terminate Plaintiff was motivated by Plaintiff's race.

COUNT II: SEXUAL DISCRIMINATION | §760 FS

139. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

140. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-male coworkers. Ms. Henry's sexual harassment related to Plaintiff's gender; and was so severe and pervasive it created a hostile work environment for Plaintiff.

141. Defendant's resulting decision to terminate him was motivated by Plaintiff's sex.

COUNT III: COLOR DISCRIMINATION | §760 FS

142. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

143. Defendant continuously treated Plaintiff less favorably and unfairly compared to coworkers of a different complexion.

144. Defendant's resulting decision to terminate him was motivated by Plaintiff's skin tone.

COUNT IV: RETALIATION | §760 FS

145. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

146. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black-male coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race/gender/color; and were so severe and pervasive they created a hostile work environment for Plaintiff.

147. Defendant thereafter retaliated against Plaintiff because he complained [internally] about Defendant's discriminatory practices.

148. Defendant's resulting decision to fire Plaintiff was motivated by Plaintiff's demographics; and in retaliation (Opposition Clause).

149. Defendant also retaliated against Plaintiff because he filed suit against Defendant (under the Participation Clause). It did so by interfering with his efforts to recover damages inflicted upon him by Defendant's discriminatory animus.

a. Most directly by instructing its former employee to file unauthorized and unlawful documents to obstruct Plaintiff's pursuit of justice (§73-85).

b. Most severely by enlisting a man to follow and strike Plaintiff with his vehicle (§86-95).

The adverse acts that Plaintiff suffered were causally related to his lawsuit because (a) Defendant knew Plaintiff had engaged in a protected activity; (b) the events took place in close temporal proximity to the complaint going public; (c) the attacks came from the same motivating themes; and (d) the attacks were material/severe.

COUNT V: PAY DISCRIMINATION | 29 USC §206, et. seq.

150. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

151. Defendant continually paid Plaintiff a salary that was lower than his opposite-sex peers. The pay disparity began when Plaintiff attained his ASA (§18, §25), and continued until his unlawful termination.

152. Defendant conditioned Plaintiff's salary on Plaintiff's [un]willingness to engage in a personal/romantic/sexual relationship with his direct manager (§12-13, ¶20-21).

153. As such, the compensation level that Defendant set for Plaintiff was motivated by his gender.

COUNT VI: RACIAL DISCRIMINATION | 42 USC §1981

154. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

155. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race; and were so severe and pervasive they created a hostile work environment for Plaintiff.

156. Defendant's resulting decision to terminate Plaintiff was motivated by Plaintiff's race.

COUNT VII: RETALIATION | 42 USC §1981

157. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

158. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black-male coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race/gender/color; and were so severe and pervasive they created a hostile work environment for Plaintiff.

159. Defendant thereafter retaliated against Plaintiff because he complained [internally] about Defendant's discriminatory practices.
160. Defendant's resulting decision to fire Plaintiff was motivated by Plaintiff's demographics; and in retaliation (Opposition Clause).
161. Defendant also retaliated against Plaintiff because he filed suit against Defendant (under the Participation Clause). It did so by interfering with his efforts to recover damages inflicted upon him by Defendant's discriminatory animus.
- a. Most directly by instructing its former employee to file unauthorized and unlawful documents to obstruct Plaintiff's pursuit of justice (§73-85).
 - b. Most severely by enlisting a man to follow and strike Plaintiff with his vehicle (§86-95).

The adverse acts that Plaintiff suffered were causally related to his lawsuit because (a) Defendant knew Plaintiff had engaged in a protected activity; (b) the events took place in close temporal proximity to the complaint going public; (c) the attacks came from the same motivating themes; and (d) the attacks were material/severe.

COUNT VIII: INTENTIONAL DISCRIMINATION | 42 USC §1981a

162. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

163. Defendant intended to discriminate against Plaintiff (§93b.i[2]). It fielded unwarranted calls for his termination (§30), it directed former employees to attack him (§132), and it commandeered a state agency to deprive Plaintiff of his constitutional rights (§134).
164. Thus, Plaintiff is entitled to a full recovery of all compensatory and punitive damages allowable (under both state & federal law).

COUNT IX: DEPRIVATION OF RIGHTS | 42 USC §1985

165. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).
166. Defendant has dipped into its reservoir of tactics to deprive Plaintiff of a full & fair opportunity to litigate his case. Conduct which has included – among other things – intimidation (§63), death threats (§87), lethal attacks (§91-95), corruption (§128a), bribery (§128c), and perjury (§94b, §115, §121, §123b).
167. In its unlawful trek, Defendant has enlisted former employees (§73-85), current employees (§86-95), in-house attorneys (§96-99), administrative attorneys (§78-85, §105-112), judicial attorneys (§129), state officers (§94b.iii), and state agencies (§127-128) to do its bidding. Bidding which has (a) obstructed the legal process (§128c.iii[1]); and (b) violated constitutional law (§128).

- a. Defendant – via the State of Florida – violated Plaintiff's 14th Amendment right to due process. Especially regarding Plaintiff's sex discrimination charge (§126-128).
- b. Defendant – via the State of Florida – violated Plaintiff's 14th Amendment right to equal protection.
- c. Defendant – via the State of Florida – violated Plaintiff's 7th Amendment right to a trial-by-jury (please see §760.11(7) FS).

168. This statute (42 USC §1985) was designed to cure these actions. Thus, Plaintiff is entitled to relief & recovery from Defendant's unlawful interference with Plaintiff's civil rights.

COUNT X: RACIAL DISCRIMINATION | 42 USC §2000e, et. seq.

169. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).
170. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race; and were so severe and pervasive they created a hostile work environment for Plaintiff.
171. Defendant's resulting decision to terminate Plaintiff was motivated by Plaintiff's race.

COUNT XI: SEXUAL DISCRIMINATION | 42 USC §2000e, et. seq.

172. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

173. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-male coworkers. Ms. Henry's sexual harassment related to Plaintiff's gender; and was so severe and pervasive it created a hostile work environment for Plaintiff.

174. Defendant's resulting decision to terminate him was motivated by Plaintiff's sex.

COUNT XII: COLOR DISCRIMINATION | 42 USC §2000e, et. seq.

175. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

176. Defendant continuously treated Plaintiff less favorably and unfairly compared to coworkers of a different complexion.

177. Defendant's resulting decision to terminate him was motivated by Plaintiff's skin tone.

COUNT XIII: RETALIATION | 42 USC §2000e, et. seq.

178. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).

179. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black-male coworkers. The offensive and derogatory remarks/actions were related to Plaintiff's race & gender; and were so severe and pervasive they created a hostile work environment for Plaintiff.

180. Defendant thereafter retaliated against Plaintiff because he complained [internally] about Defendant's discriminatory practices.

181. Defendant's resulting decision to fire Plaintiff was motivated by Plaintiff's demographics; and in retaliation (Opposition Clause).
182. Defendant also retaliated against Plaintiff because he filed suit against Defendant (under the Participation Clause). It did so by interfering with his efforts to recover damages inflicted upon him by Defendant's discriminatory animus.
- a. Most directly by instructing its former employee to file unauthorized and unlawful documents to obstruct Plaintiff's pursuit of justice.
 - b. Most severely by enlisting a man to follow and strike Plaintiff with his vehicle.

The adverse acts that Plaintiff suffered were causally related to his lawsuit, because (a) Defendant knew Plaintiff had engaged in a protected activity; (b) the events took place in close temporal proximity to the complaint going public; (c) the attacks came from the same motivating themes; and (d) the attacks were material/severe.

COUNT XIV: PATTERN & PRACTICE OF RETALIATION | 42 USC

§2000e, et. seq

183. Plaintiff hereby restates and realleges each and every factual allegation contained in Sections VI-VII (Paragraphs 8 through 135).
184. Defendant continuously treated Plaintiff less favorably and unfairly compared to his non-black-male coworkers. Defendant's actions were stereotyped and based on a false premise.

185. In order to propagate its illusion of fairness & legitimacy, Defendant carried out its tried & true methods of subjugation.
186. Tactics which included – but were not limited to – intimidation, coercion, bald-faced lies, falsified employment records, harassment, slander, financial retaliation, and violence.
187. Defendant honed this practice years before Plaintiff's employment. Notably doing so with Mr. David Dickson harassing & discriminating against his female direct reports (Latham, etc.). Ratifying his behavior so that select management could continue with impunity.
188. By the time Plaintiff arrived, Defendant's predatory might was taut and springing into action.
189. Defendant had a predetermined disdain for black people - viewing them as 'less than' - and treated them accordingly.
190. Disdain for which it pridefully defiled itself to normalize. First, Defendant defiled itself with its internal lies & cover-ups (§29-§36). Then, Defendant defiled the State of Florida with its heightened lies & cover-ups (§55, §126-128). And, now, Defendant has defiled this federal Court with an even more depraved lie (§129).
191. The bottom line is that Defendant discriminated against Plaintiff, and has infected everyone/everything its touched during its quest to cover up its initial cover-up.

PRETEXT

192. Defendant's initial cover-up was preordained.
193. It claimed that it terminated Plaintiff for a legitimate business reason by asserting that it terminated him "solely" because he failed an actuarial exam (see **Exhibit E**).
194. Yet, when Defendant's non-black-male employees also failed actuarial exams Defendant never fired them.
195. Notably, Defendant replaced Plaintiff with unqualified non-black-male employees. Neither of whom had passed even one actuarial exam.
- a. The disparity in qualifications (ie, 0 exams vs 8 exams) "*jumps off the page and smacks you in the face*".
196. As such, Defendant's reason for terminating Plaintiff was illegitimate, and merely a pretext for unlawful discrimination.
197. Gripped with this reality – as probably relayed to it by its trial attorneys (circa March 2018) – Defendant went on the attack. Enlisting people to harass Plaintiff, surveil Plaintiff, impair Plaintiff, deprive Plaintiff, and kill/maim Plaintiff.
198. None of the people that Defendant enlisted had any rational reason to engage with Plaintiff. They acted purely to rid Defendant of the towering set of indisputable facts pointing to its guilt.

DAMAGES

199. As a direct and proximate result of said acts, Plaintiff has suffered – and continues to suffer – loss of employment, loss of income, loss of other employment benefits, loss of earning capacity and has suffered and continues to suffer mental anguish, distress, pain, great expense, inconvenience, professional damage and other pecuniary and nonpecuniary losses.

200. As a further result of Defendant's discrimination, Plaintiff has incurred legal fees and will continue to incur legal fees.

RESERVATION OF RIGHTS

201. Defendant's acts, discriminatory patterns, and unlawful practices demonstrate a callous disregard and reckless indifference to Plaintiff that justifies an award of punitive damages at trial. Upon an evidentiary showing and hearing, Plaintiff reserves the right to amend his pleadings to assert a claim for punitive damages against Defendant.

202. Plaintiff may retain an attorney to represent him in prosecuting this action and if so will be obligated to pay him/her a reasonable fee for his/her services.

- a. Pursuant to 42 USC §1988, Plaintiff is entitled to request that the Court allow him to recover his reasonable attorney's fees incurred in successfully prosecuting this cause, should he retain an attorney.

REQUEST FOR JURY TRIAL

203. Pursuant to the 7th Amendment of the United States Constitution (and Art. I §22 FL Constitution, Rule 38(b) Fed. R. Civ. P., Rule 81(c) Fed. R. Civ. P.), Plaintiff respectfully requests that this Honorable Court grant him a trial by jury on all issues so triable.

REQUEST FOR RELIEF

204. WHEREFORE Plaintiff respectfully requests that this Honorable Court enter judgment in favor of Plaintiff and against Defendant on all claims herein, and enter an Order providing the following relief:

- a. Declaring that Defendant violated the FCRA;
- b. Declaring that Defendant violated the EPA;
- c. Declaring that Defendant violated Title VII;
- d. Declaring that Defendant violated §1981;
- e. Declaring that Defendant violated §1985;
- f. Enjoining Defendant from committing further civil rights violations (FCRA, EPA, Title VII, §1981, §1985);
- g. Awarding Plaintiff back pay and front pay, including interest, in the form of lost wages, including lost fringe benefits, which resulted from the illegal discrimination, harassment, wrongful termination, and retaliation;
- h. Awarding Plaintiff medical compensation for the vehicular assault Defendant carried out on Plaintiff;

- i. Awarding Plaintiff the cost of this action, together with reasonable attorney's fees (if any);
- j. Awarding Plaintiff pre-judgment interest;
- k. Awarding Plaintiff punitive damages; and
- l. Awarding such other & further relief as is just, equitable, and proper.



Dated this 4th day of November 2021.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA,

Plaintiff

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W: TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

Endnotes:

^{1/} please see “*Plaintiff’s Memorandum of Law on Equitable Tolling*” (filed on-or-around 11/8/21)

^{2/} evidenced by electronic badge records.

^{3/} “only form of transportation” excludes the occasional flight/rental car ($\approx$ 2-3 times/year)

^{4/} “minor” exams in the sense that they were not one of the 10 “actuarial” exams mentioned earlier. Specifically, these “minor” exams were the VEEs – necessary for obtaining actuarial credentials with the Society of Actuaries.

^{5/} in-or-around 2011, a former employee named Clare Latham charged Mr. Dickson with sexual discrimination.

^{11/} fully amended with respects to Magistrate Klindt’s order (Doc No 70, 10/13/21). These changes were made to Plaintiff’s 3/9/21 Complaint. The primary differences were (a) joining state & federal charges; and (b) adding §1981a + §1985 (due to Defendant’s post-complaint actions (on 5/21/21)).

^{6/} the DMAC is a course on decision-making and professionalism.

^{7/} see Spirides v Reinhardt, 613 F. 2d 826 (D.C. Cir. 1979).

see *Barron’s Dictionary of Legal Terms*, 5th Edition, Page 348

^{8/} $10\% \text{ Capacity} = 0.0588 / 0.5820$

Where:

$0.0588 = \text{documents per day (before)}$
 $= 3 \text{ documents} \div 51 \text{ days}$

$0.5820 = \text{documents per day (after)}$
 $= 170 \text{ documents} \div 292 \text{ days}$

^{9/} Notably, the “first 5” are graded by computer. Leaving no room for interpretation. The last 5 are graded by human. And as this Complaint details, they are open to surreptitious conduct.

Additional note: the exams don’t have an actual order; just a logical order that candidates typically follow.

^{10/} the “last course” is a presentation. Those who fail have to try again ($\approx$ \$2,600, 3-6 months later)

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct. Moreover, the ultimate, material facts laid out above come from publicly available sources. Thus, they are not subject to dispute because *"they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned"*. Some of the other facts are based on information & belief. These two elements come from my own personal observation, knowledge, and experience – coupled with circumstantial evidence of the matter.

Executed on this 4th day of November 2021.

UNITED STATES OF AMERICA



11/4/2021

Elias Makere, Plaintiff/Affiant

EXHIBIT A

EEOC Form 161
Right-to-Sue Letter

Date Sent: Tuesday, March 9, 2021

[transmission email included]

***please see "*Plaintiff's Memorandum of Law Regarding Equitable Tolling*" (~ 11/8/21)**

From: Ina Depaz <INA.DEPAZ@EEOC.GOV>
Sent: Tuesday, March 9, 2021 2:05 PM
To: justice.actuarial@gmail.com;
Subject: RTS

Good afternoon,

Per your request, enclosed please find RTS.

Thank you,

Ina

DISMISSAL AND NOTICE OF RIGHTS

To: **Mr. Elias Makere**
c/o Jerry Girley, Esquire
The Girley Law Firm
125 E Marks Street
Orlando, FL 32803

From: **Miami District Office**
Miami Tower, 100 S E 2nd Street
Suite 1500
Miami, FL 33131

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

15D-2019-00685

Ina Depaz,
State & Local Coordinator

(786) 648-5826**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☐

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☒

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Nina Santo Wright

JAN 23 2020

Enclosures(s)

[Signature]
Michael J. Farrell,
District Director

(Date Mailed)

cc:

Allstate Benefits
c/o Heather A. Johnson, Esquire
Littler Mendelson, P.C.
2301 McGee Street, 8th Floor
Kansas City, MO 64108

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Courts often require that a copy of your charge must be attached to the complaint you file in court. If so, you should remove your birth date from the charge. Some courts will not accept your complaint where the charge includes a date of birth. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**U.S. Postal Service™
CERTIFIED MAIL® RECEIPT**
Domestic Mail Only

IF YOU FILE SUIT, PL

er or if you have any
e. If you need to
writing and provide
a time, all charge files
t to review the charge
request should be

: OFFICE.

EXHIBIT B

Plaintiff's Submission of Administrative Complaint
(pursuant to 60Y-5.001 FAC)

Certified/Stamped by State Agency (the FCHR)

4/10/2019

[first and last pages only]

[first page = officially stamped page]

[last page = acknowledgement of receipt]

Elias Makere, Complainant
3709 San Pablo Rd. S #701
Jacksonville, FL 32224

Phone: 904.294.0026
Fax:
Email: justice.actuarial@gmail.com

MAKERE
V
ALLSTATE

COMPLAINT ATTACHMENT

Employment Discrimination (Race, Sex, Retaliation)

Here is the attachment to the employment discrimination complaint.

Petitioner: Elias Makere
Dates: November 2013 – July 2018
Race: Black
Sex: Male
Retaliation: Yes

RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS
2019 APR 10 PM 2:35

Williams, DarLinda

From: justice.actuarial@gmail.com
Sent: Wednesday, April 10, 2019 8:00 AM
To: FCHR Website Email
Subject: Complaint | Employment Discrimination | Makere v Allstate
Attachments: EEOC-Form-5.pdf; 0a_Complaint_001_Employment.pdf

Good Morning FCHR,

May you please investigate my employment discrimination complaint against Allstate Insurance Company?

Thank you,

Elias Makere, Complainant
904.294.0026 | justice.actuarial@gmail.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

EXHIBIT C

Charge of Discrimination

From: Plaintiff
To: State Agency (FCHR)
6/30/2017

[marked]

(first page only)

Case 3:20-cv-00905-MMH-JRK Document 53-1 Filed 05/21/21 Page 8 of 16 PageID 1653

RACIAL DISCRIMINATION | ALLSTATE CORPORATION | FLORIDA | 6/30/2017

Elias Makere, ASA

Phone

Fax

Email inquiry.allstate@gmail.com

Allstate

EMPLOYEMENT DISCRIMINATION

Racial Discrimination, Sex Discrimination

This document introduces the racial discrimination of a former Allstate employee. The discrimination involved racist dolls, epithets, hostility, ostracism, discrimination of terms/conditions/compensation, and termination. I am looking for justice, an examination of the facts, and an eradication of Allstate's racial discrimination.

2017 JUN 30 PM 12:32
RECEIVED
U.S. DISTRICT COURT
NORTH DISTRICT OF
FLORIDA
TALLAHASSEE

EXHIBIT D

Position Statement

Acknowledging Race & Sex Formed the Basis of Plaintiff's Initial
Charge

From: Defendant

To: State Agency (FCHR)

9/8/2017

[marked]

(first & last page only)



Charmaine Neal
Lead Consultant
Workforce Relations Team
Human Resources

September 8, 2017

Alicia Maxwell
Employment Investigator
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

Re: Charge No.: FCHR 201701432
Complainant: Elias Makere
Respondent: Allstate Insurance Company

Investigator Maxwell,

This letter sets forth the position of Respondent, Allstate Insurance Company ("Allstate"), regarding the above-referenced charge of discrimination. I am serving as the contact person; therefore, please address all communications to my attention.

The facts set forth in this letter are based upon a preliminary investigation of the circumstances of the allegations against Allstate.¹ It is Allstate's policy not to discriminate with regard to race, sex, age, national origin, sexual orientation, gender identity/gender expression, citizenship, disability, and status as a veteran with a disability or veteran of the Vietnam Era (Exhibit 1-Policy Guide). As outlined below, the allegations of discrimination based upon race and sex discrimination from Elias Makere (hereinafter "Ms. Makere" or "Complainant") are without merit.

FACTS

State of Illinois
County of Cook

AFFIDAVIT TO AUTHENTICATE DOCUMENTS

1. TRUE AND CORRECT COPIES

I (We) Charmaine NEAL
(Names(s) of custodian(s) of record(s))
HR LEAD Consultant
(Title(s) of such person(s))
after being duly sworn, hereby attest that the attached documents are true and correct copies of the originals maintained by Allstate Insurance Company
(Name of Respondent or Entity Keeping Documents)
HUMAN RESOURCES
(Name of Sections(s) or Division(s) Maintaining Records(s))
Charmaine Neal
(Signature of Custodian(s))

Sworn to and subscribed before me this

8th day of August, 20 17

Jennifer M. Duchon
(Notary Public)

My Commission Expires: December 17, 2017



2. ACCURACY OF ORIGINAL DOCUMENTS

I (We) Charmaine NEAL
(Names(s) of persons generating documents or person(s) familiar with events reflected in documents)
HR LEAD Consultant
(Title(s) of such person(s))
after being duly sworn hereby attests that the originals of the attached documents accurately reflect the events recorded on them.
Charmaine Neal
(Signature of Originator(s))

Sworn to and subscribed before me this

8th day of August, 20 17

Jennifer M. Duchon
(Notary Public)

My Commission Expires: December 17, 2017



EXHIBIT E

Position Statement
Defendant's Termination Reason

From: Defendant
To: State Agency (FCHR)
9/8/2017

[marked]

(fourth page only)



Complainant was terminated solely because he failed to pass his ASA exam and as a result, he became ineligible to maintain his status in the Allstate Financial Actuarial Career Program (ACP).



Lastly, Complainant's allegation that more African-American actuarial employees were involuntarily terminated is without merit. Complainant was the only employee that Respondent terminated in his department between 2014 and 2016.

CONCLUSION

Complainant's charge of discrimination based upon race without merit. Accordingly, Respondent requests that this Charge be dismissed in its entirety. Should you have any additional questions, please do not hesitate to contact me at (847) 402-7367.

Sincerely,



Charmaine Neal
Human Resources Lead Consultant

Attachments

Page 4 of 4

EXHIBIT F

Email

From: Defendant
To: Malevolent Retaliator

6/21/18

From: Christine M. Manzo <CMM@lgplaw.com>
Sent: Thursday, June 21, 2018 6:14 PM
To: Kirk H. <kirkhiggins@gmail.com>
Cc: justice.actuarial@gmail.com; crpa@crlaborlawfirm.com; Zascha Blanco Abbott <zba@lgplaw.com>
Subject: RE: 18-0373 : Notice of Motion to Strike Subpoenas to Non-Parties and Strike Motion to Compel First, Second, and Fifth Production

Mr. Higgins,

Respondent Allstate does not oppose the motions to strike Petitioner's motions to compel or the subpoena to ACE Manuals.

As to the subpoena to SOA, Respondent has not objected to that subpoena of Petitioner, and has served its own subpoena on SOA. Thus, Respondent will not object so long as it does not interfere with the subpoena Respondent has served and the information Respondent has requested from SOA.

Thank you,

EXHIBIT G

Photo

Plaintiff Receiving his FSA (final actuarial credential)



'A Picture Says a Thousand Words'. This one says the following:

Allstate fired the black guy for slipping in front of his destination - which he later got to - but rewarded his non-black peers for not even coming close.

EXHIBIT H

Notice of Determination

From: State Agency (FCHR)

To: Plaintiff/Defendant

12/15/2017

[marked]



Rick Scott
Governor

State of Florida
Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

4075 Esplanade Way • Room 110 • Tallahassee, Florida 32399-7020
(850) 488-7082 / FAX: (850) 487-1007
<http://fchr.state.fl.us>

United in One Goal: Equal Opportunity and Mutual Respect



Rebecca Steele
Chair
Michelle Wilson
Executive Director

FCHR No. 201701432

Mr. Elias Makere
3709 San Pable Road S., #701
Jacksonville, FL 32224

COMPLAINANT

Allstate Corporation
c/o Ms. Charmaine Neal, HR-Workforce Relations Lead Consultant
2775 Sanders Rd. F5
Northbrook, IL 60062

RESPONDENT

DETERMINATION: NO REASONABLE CAUSE

Complainant filed a complaint of discrimination alleging that Respondent violated the Florida Civil Rights Act of 1992. The Florida Commission on Human Relations has completed its investigation of this matter.

Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex. However, the investigation did not support Complainant's allegations. The investigation did not reveal enough evidence to establish that Complainant reported discriminatory harassment to Respondent. Complainant alleged that Respondent graded his required exams so that he would fail as an excuse to terminate him based on his race. However, the investigation revealed that the required exams were administered and graded anonymously by "The Society of Actuaries" and not Respondent. Therefore, the Respondent could not have been responsible for Complainant failing his exams. Complainant was terminated for failing his exam and not securing a non-actuarial position. The investigation did not reveal evidence of discrimination.

On the basis of the report from the Commission's Office of Employment Investigations and recommendation from the Commission's Office of General Counsel, pursuant to the authority delegated to me as Executive Director of the Florida Commission on Human Relations, I have determined that no reasonable cause exists to believe that an unlawful practice occurred.

Michelle Wilson

Dated: Dec. 15, 20 17

EXHIBIT I

FCHR Final Order
19-044
Makere v Allstate
6/27/2019
Florida

State Agency's Unconstitutional Exclusion of Sex Discrimination
Charge

[marked]

(first page only)

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ELIAS MAKERE,

Petitioner,

v.

ALLSTATE INSURANCE COMPANY

Respondent.

EEOC Case No. None

FCHR Case No. 2017-01432

DOAH Case No. 18-0373

FCHR Order No. 19-044

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Elias Makere filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2016), alleging that Respondent, Allstate Insurance Company, committed unlawful employment practices by harassing and terminating Petitioner on the basis of Petitioner's race (Black). Petitioner also alleged that Respondent unlawfully retaliated against Petitioner.

EXHIBIT J

FCHR Final Order

19-065

In Re: Makere

12/10/2019

Florida

Corrupt Allowance of Bequests During Active Investigations

[marked]

(pages 1 through 3 only)

Electronic Copies:

HTML: TextBookDiscrimination.com/Info/Misc/FCHRBribery/FirstDecision

PDF: TextBookDiscrimination.com/Files/FCHR/FO_19065.pdf

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

IN RE:

SEPTEMBER 11, 2019 PETITION FOR
DECLARATORY STATEMENT

ELIAS MAKERE,

FCHR Order No. 19-065

Petitioner

FINAL ORDER DENYING PETITION FOR DECLARATORY STATEMENT

Preliminary Matters

On September 11, 2019, Petitioner Elias Makere filed a Petition for Declaratory Statement with the Florida Commission on Human Relations ("Commission"). Notice of the Petition was published in the *Florida Administrative Register*, Volume 45, Number 179, September 13, 2019. The Commission has not received a petition to intervene in this action from any other person. The Commission did not receive any comments on the matter. No hearing on the Petition was requested and none was held.

The Commission undertook action to resolve the Petition for Declaratory Statement at a duly noticed public hearing on December 10, 2019.

Petitioner states that he has "well-founded uncertainty" as to whether the Florida Commission on Human Relations can accept gifts/bequests during the investigative phase of his case under Florida Statutes 760.06(4). This scenario – where someone questions a statutory right – is precisely the scenario that the declaratory statement process is designed to cure. See *Rosekrantz v. Feit*, 81 So. 3d 526 (Fla. 3rd DCA 2012). "*The purpose of a declaratory statement is to resolve a controversy or answer questions concerning the applicability of statutes which an administrative agency enforces, adopts, or enters*". *Citizens of the State ex rel. Office of Public Counsel v. Florida Public Service Commission*, 164 So.3d 58, 59 (Fla. 1st DCA 2015).

Petitioner concludes his September 11, 2019 petition, stating,

"Petitioner respectfully requests a declaration on whether the applicable section of Florida Statutes – 760.06(4) – allows Respondent in his case to give the Agency (FCHR) gifts/bequests/etc. during the investigative phase of Petitioner's (his) complaint."

Comments

The Commission has not received any comments subsequent to the filing of the Notice of Petition in the Florida Administrative Register.

FCHR Order No. 19-065

Page 2

Conclusions of Law

The Florida Administrative Procedure Act states, “any substantially affected person may seek a declaratory statement regarding an agency’s opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner’s particular set of circumstances.” Section 120.565(1), Florida Statutes (2019). It also states, “the petition seeking a declaratory statement shall state with particularity the petitioner’s set of circumstances and shall specify the statutory provision, rule, or order that the petitioner believes may apply to the set of circumstances.” Section 120.565(2), Florida Statutes (2019). When acting on the petition, the agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. See Florida Administrative Code, R. 28-105.003.

A declaratory statement is a device for resolving controversies, questions, or doubts regarding the applicability of statutes, rules, and orders within the agency’s authority to a petitioner’s circumstances. See Florida Administrative Code, R. 28-105.001. Use of this device, however, is for a particular purpose and is to be used for that limited purpose.

To grant a declaratory statement petition, there need be a live case or controversy on the interpretation of a statute to meet the requirements for standing. There must be applicable law in doubt – doubt which is not present in this petition. Under the Florida Civil Rights Act of 1992, the Commission has the power to accept gifts, bequests, grants, or other payments, public or private, to help finance its activities. Section 760.06(4), Florida Statutes (2019). There are no limitations in the text of the statute, nor is there cabining language in other applicable areas of law suggesting alternative interpretations aside from the plain text. Acceptance of funding for the agency from public and private sources was not a driving force for the Florida legislature crafting this statute; therefore, there was not robust debate within the legislative history on the Commission’s powers suggesting possible limitations on receiving gifts. Under standard theories of statutory interpretation, the Commission is to assume that the legislature intended to exclude language creating time-based exceptions.

Additionally, Petitioner claims uncertainty as to the motivations of the investigative branch of this agency. Petitioner questions the permissibility of bequest submissions, which could create the appearance of impropriety for receiving financial support from Petitioner or Respondent in his case. Assuming that such bequests were received at any point – although the Commission has no knowledge that any bequests were received during the investigation of this case – Petitioner would still lack the statutory support suggesting doubt over when the Commission can accept gifts. There is no applicable case law suggesting that the Commission cannot accept bequests during the investigation of a claim, nor is there any textual support that such a hypothetical scenario would be barred by the governing statute.

FCHR Order No. 19-065

Page 3

Declaratory statements are not to be issued addressing hypothetical questions lacking a fact-specific case or controversy. Federation of Mobile Home Owners v. Dep't of Business Regulation, et. al., 479 So. 2d 252, 253 (Fla. 2nd DCA 1985). There need be a showing beyond that of curiosity to suggest there be an actual present practical need for a declaratory statement. Id. at 254. Although the Administrative Procedure Act broadens public access to agency activities, there still need be a fact-specific inquiry addressing ambiguity over interpretation of an existing statute for Petitioner to meet the standing requirements to grant a declaratory statement petition. Fla. Home Builders Assoc. v. Dep't of Labor & Employment Sec., 412 So. 2d 351, 352 (1982). Given that the answer to Petitioner's question of law on whether the Commission can accept gifts during the investigation phase of a claim is such an emphatic yes, there is no doubt to resolve, no controversy to address. Absent such ambiguity, accordingly, the Commission must deny the petition for declaratory statement.

Denial of Petition

The Petition for Declaratory Statement is DENIED, because Petitioner does not meet the prerequisite requirements of standing. For the Commission to rule on a petition for declaratory statement, there must be a 'live case or controversy' in the specific question of law seeking relief. The statute in question and its accompanying relevant case law do not indicate more than one interpretation of the provision in question; therefore, Petitioner lacks standing to bring such declaratory statement given this lack of legal ambiguity to be resolved. Accordingly, the Petition for Declaratory Statement on the question of the Commission accepting gifts/bequests during an investigation is DENIED.

Petitioner has the right to seek judicial review of this Order. The Commission and the appropriate District Court of Appeal must receive notice of appeal within 30 days of the date this Order is filed with the Clerk of the Commission. Explanation of the right to appeal is found in Section 120.68, Florida Statutes, and in the Florida Rules of Appellate Procedure 9.110.

DONE AND ORDERED this 10, day of December,
2019 FOR THE FLORIDA COMMISSION ON HUMAN
RELATIONS

Commissioner Tony Jenkins, Panel Chairperson;
Commissioner Mario Garza; and
Commissioner Rebecca Steele

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME SR
ITEM 02
PAGES 0175 - 0209

SHORT TITLE: Verified Civil Complaint

DATE ENTERED: 1/3/2022

DOC TYPE: Pleading

TRIBUNAL: US District Court, Florida, Northern District

CASE NO: 4:21-cv-00096

CASE CAPTION: *Makere v Early*

LINK: <https://ecf.flnd.uscourts.gov/>

DOC NO: 26

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

ELIAS MAKERE, FSA, MAAA
(Plaintiff)

- against -

HON. E. GARY EARLY, ALJ
(Defendant)

VERIFIED CIVIL COMPLAINT

42 USC §1983
January 31, 2021

JURY TRIAL DEMANDED

♪

Deep in the chambers of a state agency, a man cried foul of a corporation's conduct. With due speed, the agency transmitted both of his fundamental sounds to a nearby hearing officer.

An officer, however, with corrupted hearing. An officer, however, who insisted that only one sound was made; eschewing the second for the echoed, stereotyped tales of his fathers.

His perjurous actions were not sound. For they ran afoul of **the man** - and **the grounds** that constituted **the land** which his **forefathers found**.

♪

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ABBREVIATIONS

ALJ	Administrative Law Judge
DOAH	Division of Administrative Hearings (Florida)
FCHR	Florida Commission on Human Relations
FS	Florida Statute (2020)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA, TALLAHASSEE DIVISION

ELIAS MAKERE, FSA, MAAA

)

Plaintiff,

)

)

vs.

)

Case No (LT):

)

Division: (4) Tallahassee

HON. E. GARY EARLY, ALJ

)

Jury Trial Demanded

Defendant,

)

☒ Yes | ☐ No

VERIFIED COMPLAINT

COMES NOW, Plaintiff, Elias Makere on this 31st day of January 2021 and hereby sues Defendant, the Honorable E. Gary Early, and states the following:

I. NATURE OF THE CLAIM

1. This action is brought under 42 USC §1983 - the Ku Klux Klan Act of 1871 ("§1983") - to redress Defendant's unlawful conduct towards Plaintiff (also see 28 USC §1331, §1343, and §1367). Unlawful conduct that infringed on Plaintiff's constitutional rights (including but not limited to the 1st, 5th, and 14th amendments).

II. JURISDICTION: AMOUNT

2. Pursuant to 28 USC §2201 and §2202, Plaintiff seeks declaratory relief, injunctive relief, and damages in excess of thirty thousand dollars (\$30,000) - exclusive of interest, costs, and attorney fees (also see 42 USC §1985, 42 USC §1988, Rule 54 Fed. R. Civ. P.).

III. JURISDICTION: PARTIES

3. At all times material hereto, Plaintiff was a resident of Jacksonville, FL (Duval County).

4. Upon information and belief, Defendant - at all times material hereto - worked and lived in-or-around Tallahassee, FL (Leon County). Furthermore, Defendant was an administrative law judge (see §120.65 FS) for Florida's Division of Administrative Hearings. A state agency for the territory's executive branch of government (see §20.22(2)(f) FS).

IV. JURISDICTION: VENUE

5. Defendant's unlawful conduct was committed within the jurisdiction of this Court. Thus, pursuant to 28 USC §1331 FS (and §1391), this venue is correct.

V. STATUTORY PREREQUISITES

6. It appears that no administrative remedies need to be exhausted before initiating this lawsuit. Indeed, DOAH does not have a formal grievance procedure for addressing unlawful conduct of its officers. Thus, the matter before this Honorable Court is ripe for adjudication.

VI. STATEMENT OF THE FACTS

7. Plaintiff fell into Defendant's grasp by virtue of a lawsuit that he filed against a private corporation. A brief review of that case is important for contextualizing Defendant's conduct.

Originating Lawsuit (Stage Agency, *Makere v Allstate*)

8. On June 30, 2017, Plaintiff filed an employment discrimination complaint with the FCHR. Pursuant to §760.11(1), he alleged that his former employer (Allstate Insurance Company) had violated his civil rights on the basis of race and sex (see Exhibit A).

9. On September 8, 2017, Allstate denied both allegations (see Exhibit B). Stating that it fired Plaintiff for a legitimate reason. Specifically, because he had failed an actuarial exam (see Exhibit C):

"Complainant was terminated solely because he failed his [FSA] exam."

- Allstate Insurance Company, 9/8/17

10. On December 15, 2017, the FCHR concluded its investigation. Notably affirming that race and sex were the basis of Plaintiff's complaint (see Exhibit D).

11. On January 19, 2018, Plaintiff filed his Petition for Relief with the FCHR. Just as in his original charge, he listed only race and sex as the protected characteristics for his complaint (see Exhibit E). Thus, pursuant to §760.11(7) FS and §120.569 FS, the FCHR transmitted it to DOAH.

12. After a series of irregularities (authority breaches, deposition sit-ins, recusals, etc.), Defendant became the administrative hearing officer over Plaintiff's case (circa November 13, 2018).

13.Despite the procedural incongruities, the facts continued to develop in Plaintiff's favor; heavily.

14.Allstate made it known that many of its *other* employees had also failed exams. Yet, Allstate never fired any of them. This was the '*smoking gun*' for proving that Allstate's reason for terminating Plaintiff's employment was a pretext.

15.Moreover, at the hearing, three other revelations were cementing:

a. Allstate granted the work-from-home privilege to its *other* employees. An accommodation it denied to Plaintiff on countless occasions.

b. Allstate made Plaintiff pay \$1,025 for an actuarial exam fee; a payment it never required any of its *other* employees to make.

c. Allstate paid Plaintiff an annual salary that was significantly lower than his similarly situated comparators.

16.These core facts rendered Plaintiff's lawsuit (against Allstate) a textbook case of employment discrimination. One which - unfortunately - ran counter to widespread propaganda (as foretold by the Ku Klux Klan itself; and its progenies).

17.Faced with these probative facts, Defendant went on the attack.

Defendant's Unlawful Conduct: (A) Evidence Suppression

18.On November 30, 2018, during the moments in which the payment disparity was being revealed (see ¶15b, *supra*), Defendant ordered Plaintiff to cease questioning.

19. After the hearing – around January 9, 2019 – Plaintiff asked Defendant for a redress of the cessation order (citing due process). He further detailed the importance of the requested testimony/revelation.

20. Two days later (January 11, 2019), Plaintiff received a copy of the hearing transcript. It was missing one page (and one page only). That crucial page was the one that contained testimony on the payment disparity (\$15b) – and Defendant's cessation order.

a. It is important to note that prior to this date, Plaintiff had never requested a hearing transcript on his case.

i. Plaintiff suspects that Defendant knew this, and was preying on Plaintiff's novice (Plaintiff was *pro se*).

21. Given these circumstances – and upon Plaintiff's information/belief – Defendant willfully and knowingly hid evidence.

Defendant's Unlawful Conduct: (B) Perjury

22. Defendant took it one step further, though, by making a wholesale removal of Plaintiff's sex discrimination charge.

23. On April 19, 2019, Defendant entered its Recommended Order ("RO").

24. The first page of the document had a section titled "*Statement of the Issue*". Where Defendant excluded Plaintiff's sex discrimination charge (see **Exhibit F**).

25. The second page had a section titled "*Preliminary Statement*". Where Defendant continued to exclude Plaintiff's sex discrimination charge. This time, however, Defendant made the fateful declaration that Defendant never complained of sex discrimination prior to the DOAH proceedings (see ¶11, *supra*) (see **Exhibit G**).

"[Plaintiff], also *for the first identifiable time*, alleged that Allstate, and in particular [Plaintiff's manager], engaged in sexually provocative and inappropriate behaviors, which [Plaintiff] alleged to be "sexual harassment and discrimination""

- The Honorable E. Gary Early, ALJ | 4/18/19 | Florida

26. Defendant repeated that highlighted line (ie, "for the first identifiable time") several more times throughout his authored RO.

27. The statement, of course, was false.

28. Plaintiff did charge Allstate with sex discrimination.

a. He did so in his original charge (6/30/17, see ¶8);

b. Allstate acknowledged the sex basis (9/8/17, ¶9); and

c. The FCHR explicitly ruled on the basis of sex (12/15/17, ¶10)

29. Nevertheless, the force and effect of Defendant's statement made the FCHR change its tune.

30. On June 27, 2019, the FCHR issued its Final Order ("FO"). In which it listed race as the only protected characteristic in Plaintiff's complaint (see Exhibit H); and adopted Defendant's ruling.

31. Defendant's lie had its intended effect.

32. Now, it is important to recognize that Defendant knew he was lying.

Defendant's Knowledge of the Truth

33. Prior to authoring his RO, Defendant deliberately acknowledged that the sex discrimination charge was in Plaintiff's originating complaint.

34. On February 6, 2019, Allstate moved Defendant to take official recognition of the FCHR's Determination (under §90.201 FS).^{1/}

35. That state-issued Determination letter read, in pertinent part, as follows (highlights added):

"Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex."

- The FCHR | 12/15/17 | Florida

36. On February 18, 2019, Defendant granted the motion. Thereby cementing - unequivocally - that he **knew** that Plaintiff charged Allstate with sex discrimination. He said the following (highlights added).

"[Allstate's] Motion for Official Recognition requests that official recognition be taken of the Notice of Determination: No Reasonable Cause, and of the Determination: No Reasonable Cause, both of which were issued by the Florida Commission on Human Relations on December 15, 2017. Those documents provided the point of entry to [Plaintiff] for this proceeding."

- The Honorable E. Gary Early, ALJ | February 18, 2019 | Florida

37. Thus, Defendant's repeated "statements" to the contrary were a known lie (a big lie - in fact).

38. A big lie that impacted the outcome of Plaintiff's lawsuit against Allstate. A case which sought monetary damages (among other things).

VII. ULTIMATE FACTS

39. Defendant broke the law in his quest to deny Plaintiff relief.

Defendant:

- a. hid evidence (see ¶18-21); and
- b. committed perjury (see ¶22-38).

VIII. LEGAL APPLICATION

COUNT I: FIRST AMENDMENT RIGHT TO LEGAL PROTECTION | 42 USC §1983

40. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 7 through 38).

41. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to petition the State of Florida for a redress of his grievances against Allstate Insurance Company.

42. While acting under the color of state law (§120.569 FS, §120.65 FS), Defendant denied Plaintiff access to the state's court system (see §760.11(7) FS). An act that violated Plaintiff's First Amendment right (1st Amendment US Constitution).

43. Defendant did so via evidence suppression and perjury (§92.525 FS).

COUNT II: FIFTH AMENDMENT RIGHT TO DUE PROCESS | 42 USC §1983

44. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 7 through 38).

45. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to due process. It is well settled that a violation of due process occurs when an agency excludes/removes a legal basis from a claimant's discrimination charge.

46. Thus, while acting as a state hearing officer (§120.569 FS, §120.65), Defendant violated Plaintiff's constitutional rights (5th Amendment US Constitution) by criminally removing the sex discrimination basis from his complaint.

COUNT III: FOURTEENTH AMENDMENT RIGHT TO EQUAL PROTECTION | 42 USC §1983

47. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 7 through 38).

48. Defendant's unlawful actions (individually and in total) abridged Plaintiff's right to a fair trial on the matters litigated.

49. While acting as the administrative law judge on Plaintiff's case (ie, under the '*color of state law*' - §120.569 FS, §120.65 FS) - Defendant discriminatorily prevented Plaintiff from attaining the legal protections that Florida afforded other similarly-situated people.

50. Defendant did so when he (a) suppressed crucial evidence (§18-21); and (b) perjured himself (§22-38).

51. As such, Defendant violated Plaintiff's constitutional rights to the "equal protection of [§760.11 FS]" (14th Amendment US Constitution).

COUNT IV: SUPREMACY CLAUSE | 42 USC §1983

52. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 7 through 38).

53. Defendant's unlawful actions (individually and in total) breached Article VI Section 2 of the US Constitution (ie, the "Supremacy Clause"). He did so when he usurped the federal government's power to protect Plaintiff from 1st, 5th, and 14th amendment violations.

COUNT V: PERJURY

54. Plaintiff hereby restates and realleges each and every factual allegation contained in Section VI (Paragraphs 7 through 38).

55. Defendant - infused with the power bestowed upon him by statute - broke the law (§92.525 FS) by making a false statement of material fact. He sold his falsehood to another state agency - which was acting in its official capacity (§22-30).

56. That agency (the FCHR) bought his lie; and thereby cemented Defendant's violation of Plaintiff's constitutional rights (1st Amendment - access to the court; 5th Amendment - due process; 14th Amendment - equal protection; Art. VI §2 - supremacy clause).

JUDICIAL IMMUNITY

57. The Doctrine of Judicial Immunity does not attach to this case for two fundamental reasons.

58. First, Defendant is not a judicial officer. Although he is a judge *per se*, he is an administrative judge. A designation that does not afford him the immunities reserved for judicial officers.

59. Secondly, and perhaps more importantly, Defendant broke the law (§92.525 FS - perjury). Judicial Immunity does not cover legal violations.

DAMAGES

60. As a direct and proximate result of said acts, Plaintiff has suffered - and continues to suffer - financial loss and loss of earning capacity. Plus, he has suffered (and continues to suffer) mental anguish, distress, pain, great expense, inconvenience, professional damage and other pecuniary and nonpecuniary losses.

61. As a further result of Defendant's constitutional breaches, Plaintiff has incurred legal fees and will continue to incur legal fees.

RESERVATION OF RIGHTS

62. Defendant's unlawful acts and discriminatory patterns demonstrate a callous disregard and reckless indifference to Plaintiff; that justifies an award of punitive damages at trial. Upon an evidentiary showing and hearing, Plaintiff reserves the right to amend his pleadings to assert a claim for punitive damages against Defendant.

63. Plaintiff may retain an attorney to represent him in prosecuting this action and if so will be obligated to pay them a reasonable fee for their services.

a. Pursuant to 42 USC §1988, Plaintiff is entitled to request that the Court allow him to recover his reasonable attorney's fees incurred in successfully prosecuting this cause, should he retain an attorney.

REQUEST FOR JURY TRIAL

64. Pursuant to Amendment 7 of the United States Constitution (and Rule 38(b) Fed. R. Civ. P., Rule 81(c) Fed. R. Civ. P.), Plaintiff respectfully requests that this honorable Court grant him a trial by jury on all issues so triable.

REQUEST FOR RELIEF

65. WHEREFORE Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against Defendant on all claims herein, and enter an Order providing the following relief:

- b. Declaring that Defendant violated §1983;
- c. Enjoining Defendant from committing further violations of §1983;
- d. Awarding Plaintiff compensatory damages (back pay, front pay, including interest, lost fringe benefits, etc.) which Defendant's unlawful acts precluded him from obtaining.
- e. Awarding Plaintiff the cost of this action, together with reasonable attorney's fees (if any).
- f. Awarding Plaintiff pre-judgment interest.
- g. Awarding Plaintiff punitive damages; and
- h. Awarding such other and further relief as is just, equitable, and proper.



Dated this 31st day of January 2021.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA, Plaintiff

3709 San Pablo Rd. S # 701

Jacksonville, FL 32224

P: (904) 294-0026

E: justice.actuarial@gmail.com

W: TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 31st day of January 2021, I filed the foregoing with the Clerk of Courts by mailing it to United States Courthouse; 111 N. Adams St, Ste 322; Tallahassee, FL; 32301.

CERTIFICATE OF GOOD FAITH

I HEREBY CERTIFY that pursuant to Rule 11 Fed. R. Civ. P. the foregoing (1) has been submitted in good faith; (2) is supported by existing law; (3) is supported by indisputable evidence (and will likely be compounded with further evidence); and (4) the complaint otherwise complies with the requirements of Rule 11.

/s/ Elias Makere

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct. Moreover, the ultimate, material facts laid out above come from publicly available sources. Thus, they are not subject to dispute because *"they are capable of accurate and ready determination by resort to sources whose accuracy cannot be questioned"*. Some of the other facts are based on information and belief. These two elements come from my own personal observation, knowledge, and experience – coupled with circumstantial evidence of the matter.

Executed on this 31st day of January 2021.

UNITED STATES OF AMERICA



1/31/2021

Elias Makere, Plaintiff/Affiant

Endnotes:

^{1/} in the administrative realm, "official recognition" = "judicial notice"

Note: an electronic copy of this document can be downloaded from:
www.TextBookDiscrimination.com/Pages/Misc/ALJPerjury/

EXHIBIT A

Charge of Discrimination

From: Plaintiff
To: State Agency (FCHR)
6/30/2017

[marked]

(first page only)

RACIAL DISCRIMINATION | ALLSTATE CORPORATION | FLORIDA | 6/30/2017

201701432

Elias Makere, ASA
3709 San Pablo Rd S, 701
Jacksonville, FL 32224

Phone 904.294.0026
Fax
Email inquiry.allstate@gmail.com

Allstate

EMPLOYEMENT DISCRIMINATION

Racial Discrimination, Sex Discrimination

This document introduces the racial discrimination of a former Allstate employee. The discrimination involved racist dolls, epithets, hostility, ostracism, discrimination of terms/conditions/compensation, and termination. I am looking for justice, an examination of the facts, and an eradication of Allstate's racial discrimination.

RECEIVED
JUN 30 2017
2017 JUN 30 PM 12:32

EXHIBIT B

Position Statement

From: Allstate
To: State Agency (FCHR)
9/8/2017

(note: Allstate = Plaintiff's former employer)

[marked]

(first page only)



Charmaine Neal
Lead Consultant
Workforce Relations Team
Human Resources

September 8, 2017

Alicia Maxwell
Employment Investigator
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

Re: Charge No.: FCHR 201701432
Complainant: Elias Makere
Respondent: Allstate Insurance Company

Investigator Maxwell,

This letter sets forth the position of Respondent, Allstate Insurance Company ("Allstate"), regarding the above-referenced charge of discrimination. I am serving as the contact person; therefore, please address all communications to my attention.

The facts set forth in this letter are based upon a preliminary investigation of the circumstances of the allegations against Allstate.¹ It is Allstate's policy not to discriminate with regard to race, sex, age, national origin, sexual orientation, gender identity/gender expression, citizenship, disability, and status as a veteran with a disability or veteran of the Vietnam Era (Exhibit 1-Policy Guide). As outlined below, the allegations of discrimination based upon race and sex discrimination from Elias Makere (hereinafter "Ms. Makere" or "Complainant") are without merit.

FACTS

EXHIBIT C

Allstate's Termination Rationale
(ie, Allstate fired Plaintiff "solely" for failing an exam)

From: Defendant
To: State Agency (FCHR)
9/8/17

[marked]

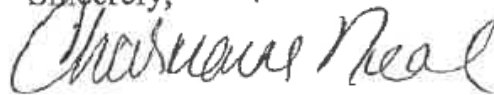
Complainant was terminated solely because he failed to pass his ASA exam and as a result, he became ineligible to maintain his status in the Allstate Financial Actuarial Career Program (ACP).

Lastly, Complainant's allegation that more African-American actuarial employees were involuntarily terminated is without merit. Complainant was the only employee that Respondent terminated in his department between 2014 and 2016.

CONCLUSION

Complainant's charge of discrimination based upon race without merit. Accordingly, Respondent requests that this Charge be dismissed in its entirety. Should you have any additional questions, please do not hesitate to contact me at (847) 402-7367.

Sincerely,



Charmaine Neal
Human Resources Lead Consultant

Attachments

Page 4 of 4

EXHIBIT D

Notice of Determination

From: State Agency (FCHR)

To: Plaintiff/Allstate/Defendant's Agency
12/15/2017

[marked]



Rick Scott
Governor

State of Florida
Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

4075 Esplanade Way • Room 110 • Tallahassee, Florida 32399-7020
(850) 488-7082 / FAX: (850) 487-1007

<http://fchr.state.fl.us>

United in One Goal: Equal Opportunity and Mutual Respect



Rebecca Steele
Chair
Michelle Wilson
Executive Director

FCHR No. 201701432

Mr. Elias Makere
3709 San Pable Road S., #701
Jacksonville, FL 32224

COMPLAINANT

Allstate Corporation
c/o Ms. Charmaine Neal, HR-Workforce Relations Lead Consultant
2775 Sanders Rd. F5
Northbrook, IL 60062

RESPONDENT

DETERMINATION: NO REASONABLE CAUSE

Complainant filed a complaint of discrimination alleging that Respondent violated the Florida Civil Rights Act of 1992. The Florida Commission on Human Relations has completed its investigation of this matter.

Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex. However, the investigation did not support Complainant's allegations. The investigation did not reveal enough evidence to establish that Complainant reported discriminatory harassment to Respondent. Complainant alleged that Respondent graded his required exams so that he would fail as an excuse to terminate him based on his race. However, the investigation revealed that the required exams were administered and graded anonymously by "The Society of Actuaries" and not Respondent. Therefore, the Respondent could not have been responsible for Complainant failing his exams. Complainant was terminated for failing his exam and not securing a non-actuarial position. The investigation did not reveal evidence of discrimination.

On the basis of the report from the Commission's Office of Employment Investigations and recommendation from the Commission's Office of General Counsel, pursuant to the authority delegated to me as Executive Director of the Florida Commission on Human Relations, I have determined that no reasonable cause exists to believe that an unlawful practice occurred.

Michelle Wilson

Dated: Dec. 15, 2017

EXHIBIT E

Petition for Relief

From: Plaintiff
To: State Agencies (FCHR/DOAH)
1/19/2018

[marked]

(first page only)

Elias Makere, ASA
3709 San Pablo Rd S, 701
Jacksonville, FL 32224

Phone 904.294.0026
Fax
Email inquiry.allstate@gmail.com

Allstate

PETITION SUPPLEMENT

Employment Discrimination (Race, Sex)

Here is the supplement to the Petition for Relief form. This document will begin with a description of the items in dispute. From there, the remaining pages exist to familiarize you with the case (legal elements, timeline, events, people, secured evidence, and requested evidence).

Petitioner: Elias Makere, Former Allstate Employee
Dates: April 2014 – October 2016
Race: Black
Sex: Male
Existence of Retaliation? Yes

000032

EXHIBIT F

Recommended Order

From: Defendant
To: State Agency (FCHR)
4/19/2019

[marked]

(Pages 1 and 2 only)

{Defendant's removal of sex discrimination charge}

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

ELIAS MAKERE,

Petitioner,

vs.

Case No. 18-0373

ALLSTATE INSURANCE COMPANY,

Respondent.

RECOMMENDED ORDER

Pursuant to notice, this case was heard in Jacksonville, Florida, on July 31, 2018, before Lawrence P. Stevenson, and on November 28 through 30, 2018, and January 29, 2019, before E. Gary Early, designated Administrative Law Judges of the Division of Administrative Hearings ("DOAH").

APPEARANCES

For Petitioner: Elias Makere, pro se
No. 701
3709 San Pablo Road South
Jacksonville, Florida 32224

For Respondent: Carmen Rodriguez, Esquire
Law Offices of Carmen Rodriguez, P.A.
Suite 411
15715 South Dixie Highway
Miami, Florida 33157

STATEMENT OF THE ISSUE

Whether Petitioner, Elias Makere, was subject to an unlawful employment practice by Respondent, Allstate Insurance

Company ("Respondent" or "Allstate"), on account of his race or due to retaliation for his opposition to an unlawful employment practice in violation of section 760.10, Florida Statutes.

PRELIMINARY STATEMENT

On June 30, 2017, Petitioner filed an eight-page complaint of discrimination ("Complaint of Discrimination") with the Florida Commission on Human Relations ("FCHR") which alleged that Respondent violated section 760.10 of the Florida Civil Rights Act of 1992 ("FCRA"), by discriminating against him on the basis of his race or as retaliation.

On December 15, 2017, the FCHR issued a Determination: No Cause, and a Notice of Determination: No Cause, by which the FCHR determined that reasonable cause did not exist to believe that an unlawful employment practice occurred.

On January 19, 2018, Petitioner filed a 231-page Petition for Relief (the "Petition") with the FCHR. The Petition included allegations of racial discrimination for which there is no evidence of their having been presented to FCHR or having been part of the FCHR investigation. The Petition also, for the first identifiable time, alleged that Allstate, and in particular Lisa Henry, engaged in sexually provocative and inappropriate behaviors, which Petitioner alleged to be "sexual harassment and discrimination." He alleged that "[t]he FCHR ignored these events."

EXHIBIT G

Recommended Order

From: Defendant
To: State Agency (FCHR)
4/19/2019

[marked]

(2nd page only)

{defendant's perjury}

Company ("Respondent" or "Allstate"), on account of his race or due to retaliation for his opposition to an unlawful employment practice in violation of section 760.10, Florida Statutes.

PRELIMINARY STATEMENT

On June 30, 2017, Petitioner filed an eight-page complaint of discrimination ("Complaint of Discrimination") with the Florida Commission on Human Relations ("FCHR") which alleged that Respondent violated section 760.10 of the Florida Civil Rights Act of 1992 ("FCRA"), by discriminating against him on the basis of his race or as retaliation.

On December 15, 2017, the FCHR issued a Determination: No Cause, and a Notice of Determination: No Cause, by which the FCHR determined that reasonable cause did not exist to believe that an unlawful employment practice occurred.

On January 19, 2018, Petitioner filed a 231-page Petition for Relief (the "Petition") with the FCHR. The Petition included allegations of racial discrimination for which there is no evidence of their having been presented to FCHR or having been part of the FCHR investigation. The Petition also, for the first identifiable time, alleged that Allstate, and in particular Lisa Henry, engaged in sexually provocative and inappropriate behaviors, which Petitioner alleged to be "sexual harassment and discrimination." He alleged that "[t]he FCHR ignored these events."

EXHIBIT H

FCHR Final Order
Exclusion of Sex Discrimination Complaint

From: State Agency (FCHR)
To: Defendant/Plaintiff/Allstate
6/27/2019

[marked]

(first page only)

{end result of Defendant's 'big lie'}

STATE OF FLORIDA
COMMISSION ON HUMAN RELATIONS

ELIAS MAKERE,

Petitioner,

v.

ALLSTATE INSURANCE COMPANY

Respondent.

EEOC Case No. None

FCHR Case No. 2017-01432

DOAH Case No. 18-0373

FCHR Order No. 19-044

**FINAL ORDER DISMISSING PETITION FOR
RELIEF FROM AN UNLAWFUL EMPLOYMENT PRACTICE**

Preliminary Matters

Petitioner Elias Makere filed a complaint of discrimination pursuant to the Florida Civil Rights Act of 1992, Sections 760.01 - 760.11, Florida Statutes (2016), alleging that Respondent, Allstate Insurance Company, committed unlawful employment practices by harassing and terminating Petitioner on the basis of Petitioner's race (Black). Petitioner also alleged that Respondent unlawfully retaliated against Petitioner.

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME SR
ITEM 03
PAGES 0210 - 0228

SHORT TITLE: Memorandum of Law Regarding Equitable Tolling

DATE ENTERED: 11/9/2021

DOC TYPE: Party Motion (Appellant/Plaintiff)

TRIBUNAL: US District Court, Florida, Middle District

CASE NO: 3:20-cv-00905-MMH-LLL

CASE CAPTION: *Makere v Allstate*

LINK: <https://ecf.flmd.uscourts.gov/>

DOC NO: 74

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA

Plaintiff

v.

ALLSTATE INSURANCE COMPANY,

Defendant

)

)

)

)

)

)

)

Case No (LT)

3:20-cv-00905-MMH-JRK

****{Duplicate Filing}**

**PLAINTIFF'S MEMORANDUM OF LAW
REGARDING EQUITABLE TOLLING ON
PLAINTIFF'S FULL VERIFIED COMPLAINT****

Plaintiff, ELIAS MAKERE, on this 9th day of March 2021, hereby files this memorandum of law in support of Plaintiff's "*Verified Complaint*" (hereinafter "This Complaint"). Pursuant to Local Rule 5.7 USFLND, a complaint may be filed together with any memorandum of law^{1/}.

Key Points:

- A.) Grounds Equitable Tolling – Extraordinary Circumstances.
B.) Points Phantom Notice. Government Impropriety. COVID19.

Table of Contents:

Context	2 nd Page
Memorandum	3 rd Page
Certificates	12 th Page
Exhibits	14 th Page

**** This is a duplicate of the *Memorandum of Law* that Plaintiff filed in 3:21-00242-MMH-JBT (Doc No 3; 3/11/21). Duplicated here only to keep the record intact. Plaintiff believes this memorandum discusses a **MOOT** point.**

Note: ~~strikethroughs~~ were added to minimize confusion (due to mootness).

Background:	Plaintiff filed suit upon receipt of the EEOC's RTS Letter
Problem:	The RTS Letter had a confounding date
Request:	This Court recognizes that equity applies

5.7(b) | Local Rules USFLND | Pro Se Civil-Rights Cases...

"A party may, but need not, also file a memorandum with the petition, motion, or complaint."

29 CFR §1601.76 | Right of a Party to Request Review (highlights added)

"The [EEOC] shall notify the parties whose cases are to be processed by the designated, certified FEP agency of their right, if aggrieved by the agency's final action, to request review by the [EEOC] within 15 days of that action."

Precedence

- 2:17-cv-00400-SPC-MRM - USFLMD (9/28/20)
- 2:19-cv-00182-JES-PDB - USFLMD (11/18/20)
- 2:20-cv-00920-JLB-NPM - USFLMD (11/24/20)
- 6:20-cv-01757-RBD-DCI - USFLMD (1/26/21)
- 6:19-cv-00861-RBD-DCi - USFLMD (1/27/21)
- 8:18-cv-02244-TPB-AEP - USFLMD (2/12/21)
- 8:19-cv-02410-CEH-TGW - USFLMD (2/25/21)
- 8:20-cv-02215-TPB-AAS - USFLMD (2/18/21)

USFLMD recently accepted supporting memoranda

Abbreviations

- 1DCA - Florida's First District Court of Appeal
- 4DCA - Florida's Fourth District Court of Appeal
- DOAH - Division of Administrative Hearings
- FAC - Florida Administrative Code
- FCHR - Florida Commission on Human Relations
- FEPA - Fair Employment Practices Agency
- FS - Florida Statute
- USFLMD - US District Court, Florida, Middle District
- USFLND - US District Court, Florida, Northern District

PROCEDURAL HISTORY

I. Administrative

1. On April 10, 2019, Plaintiff sent the FCHR his employment discrimination complaint via email (please see **Exhibit A**).
2. The first attachment was EEOC Form 5.
3. The second was a document detailing his complaint. Which the FCHR received immediately; blessing it with a 2:35PM timestamp (**Exhibit B**). Also, in accordance with the workshare agreement^{2/}, Plaintiff's charge was dual-filed with the EEOC (FCHR 2019-019238, EEOC 15D-2019-00685).
4. The FCHR failed to make a determination within the 180-day statutory window (see §760.11(3) FS). Despite that (as Plaintiff later discovered^{3/}) the FCHR still issued a notice of determination (on the 191st day).
 - a. The state agency mailed Plaintiff's notice ("Phantom Notice") to an attorney in Orlando, FL. Plaintiff has never had an attorney for the instant action. Plus, Plaintiff has never lived in Orlando.
5. After some diligence (calls, emails, formal motions), Plaintiff filed charges in state court (Florida, Duval County; 16-2020-CA-3770-XXXX-MA) on June 30, 2020.

6. Out of an abundance of caution (pertaining to the 35-day window prescribed by §760.11(6) FS), Plaintiff filed a *Petition for Relief* with DOAH on July 6, 2020. That state agency relinquished jurisdiction back to the FCHR the following day. Whereby Plaintiff renewed his efforts to cut administrative ties in exchange for:
 - a. an FCHR **Election of Rights** form (“ER”); and
 - b. an EEOC **Right to Sue** Letter (“RTS”; EEOC Form 161).
7. Given the FEPA’s track record (lost federal funding, delay, phantom notices, reluctance to relinquish jurisdiction, etc.)^{4/}, Plaintiff filed a *Petition for Writ of Prohibition* at 1DCA on September 11, 2020 (1D20-2658).
8. On November 25, 2020 – while that extraordinary writ was still pending – the FCHR issued an administrative dismissal of Plaintiff’s charge (ie, 2019-19238). This constituted the ‘*final agency action*’ that Plaintiff was seeking (see ¶5 *supra*).
9. Thus, pursuant to 29 CFR §1601.76, Plaintiff mailed the EEOC his request for a **Substantial Weight Review** (“SWR”) on December 7, 2020. He followed up the next month; in which he learned that the EEOC was being hampered by the ongoing global pandemic (COVID19).
 - a. Specifically, the agency’s employees could not pick up mail because they were not in the office. This meant further delay on the SWR.

- b. A phone operator advised Plaintiff to request his charge file in the meantime.
10. ~~Last Tuesday~~, March 2, 2021, Plaintiff received those documents. Whereby he contacted his designated representative and asked for his RTS Letter. It arrived ~~today~~ (March 9, 2021).

II. Judicial

11. Running parallel to this activity was Plaintiff's federal complaint at USFLMD ("Original Complaint"). On August 12, 2020, Plaintiff sued Defendant in this Honorable Court (3:20-cv-00905-MMH-JRK). His cause was under 42 USC §1981 and §760 FS. Soon thereafter, Defendant attached/consolidated Plaintiff's state complaint (§5).
12. On February 8, 2021, this Court ordered Plaintiff to file an amended complaint ("That Complaint"). Plaintiff obliged (2/26/21)^{5/}.
13. ~~On March 9, 2021, Plaintiff filed the instant lawsuit (ie, This Complaint).~~
~~This Complaint and That Complaint are identical in both substantive fact and intent. The only difference is that This Complaint is filed under Title VII of the Civil Rights Act of 1964 ("Title VII"; 42 USC §2000e et seq.).~~
14. Plaintiff had not [previously] been able to attach Title VII because of the aforementioned episodes with the FCHR (§4-7).^{6/}

15. It must be emphasized that Defendant was involved in all of this activity.

In fact, ~~just yesterday~~ (3/8/21) Defendant filed a document in the federal case (3:20-cv-00905-MMH-JRK).

III. Legal Application

16. The RTS Letter states that Plaintiff has ninety (90) days to file suit.

Pursuant to 29 CFR §1603.106 (*Computation of Time*), Plaintiff would have until June 8, 2021 to commence action. With This Complaint already in tow, Plaintiff has thus filed a timely complaint.

17. First glance of the RTS Letter, however, may lead someone to think otherwise. The date affixed to it is January 23, 2020. It also has a certified mail receipt – linked to a delivery date of January 27, 2020.

18. Further analysis, though, will show that Plaintiff never received the letter. The EEOC mailed it to an attorney in Orlando, FL. The same person that the FCHR mailed Plaintiff's Phantom Notice to (§4a).

19. So, equitable tolling must be applied to prevent Plaintiff from falling victim to the improprieties of the government (specifically, the FCHR).

Equitable Tolling

20. Of course, Equitable Tolling is the remedy that is based on the principles of essential justice:

“The doctrine of equitable tolling abates the harsh operation of the statute of limitations under certain circumstances in which barring a plaintiff’s potentially meritorious action would be unjust.”

- Justice v US, 6 F. 3d 1474, 1480 (11th Cir. 1993)

21. Appellate decisions have instituted this doctrine on the pillars of extraordinary circumstances and lack of prejudice:

“Generally, the tolling doctrine has been applied when the plaintiff has been misled or lulled into inaction, has in some extraordinary way been prevented from asserting his rights, or has timely asserted his rights mistakenly in the wrong forum.”

- Machules v. Dept of Admin, 523 So. 2d 1132 (Fla. 1988)

22. Pursuant to the US Supreme Court, EEOC filing deadlines are not jurisdictional; and non-jurisdictional matters are open for Equitable Tolling:

“Filing a timely charge of discrimination with the EEOC is not a jurisdictional prerequisite to suit in federal court, but a requirement that, like a statute of limitations, is subject to waiver, estoppel, and equitable tolling. The structure of Title VII, the congressional policy underlying it, and the reasoning of this Court’s prior cases all lead to this conclusion.”

- Zipes v Trans World Airlines, Inc., 455 US 385 (1982)

23. Importantly, Equitable Tolling can be used to address the government's conduct:

“For instance, equitable tolling may be appropriate where a plaintiff has been "lulled into inaction by her past employer, state or federal agencies, or the courts.”

– Martinez v Orr, 738 F.2d 1107, 1112 (10th Cir. 1984)

24. As outlined in Machules – and repeated many times thereafter – there are three reasons to apply Equitable Tolling:

“[it applies] when the plaintiff has:

“(1) been misled or lulled into inaction;

“(2) in some extraordinary way been prevented from asserting his rights; or

“(3) timely asserted his rights mistakenly in the wrong forum.”

– Machules v. Dept of Admin, 523 So. 2d 1132 (Fla. 1988)

Appellant proffers reason “(2)” to justify the application of Equitable Tolling to his circumstances.

25. The FCHR's conduct was extraordinary in three ways.

26. First, the Phantom Notice was null & void; Florida's Supreme Court says so:

"...whenever the FCHR fails to make its determination within 180 days, even if the untimely determination is made before the filing of the lawsuit, the claimant may proceed to file a lawsuit under [§760.11(4) FS]."

- Woodham v BCBSFL, 829 So. 2d 891 (Fla. 2002)

But-for the FCHR's impropriety, Plaintiff would have retrieved his ER, notified the EEOC, obtained his subsequent RTS (with a non-confounding date), and attached Title VII to the Original Complaint. Thereby foregoing this memorandum-and ~~This Complaint~~ altogether.

27. Second, the FCHR's continued activity (§8) was improper because it had already lost jurisdiction.

a. §760.11(3) FS states that The FCHR's determination must occur within the 180-day window (ie, "shall determine"). According to 4DCA, no administrative agency (including the FCHR) can contravene a Florida statute:

"An administrative agency may not enlarge, modify, or contravene the provisions of a statute."

- DeMario v Franklin, 648 So. 2d 210, 213-214

Thus, the FCHR was not permitted to evade the legal operations of §760.11(3).

b. In fact, §760.11(5) FS is more direct:

“The commencement of [a civil suit] shall divest the [FCHR] of jurisdiction of the complaint”

Thus, once Plaintiff filed his complaint in state court (§5), the agency lost all authority to act. It was improper and extraordinary for the FCHR to have done anything besides send Plaintiff his ER.

28. Third, the global pandemic created exigent circumstances. The EEOC cited an order from the US President when it explained its inability to perform Plaintiff's SWR immediately upon receipt.

a. But-for COVID19, the EEOC would have already performed an SWR by now. Thereby yielding actionable results that would have rendered the date on the attached RTS obsolete.

b. In other words, the potential confusion regarding the inoperable date on the RTS would not exist.

Lack of Prejudice

29. Moreover, Defendant will not be prejudiced by This Complaint. The two parties are actively involved in litigating the same cause of action.

“Finally, the Employer, as the party relying on the time limitation, clearly was not prejudiced by the delay since the Employer obviously was on notice that petitioner intended to appeal its determination of abandonment. We conclude that equity requires relief from the twenty-day appeal period in this case”

– Machules v. Dept of Admin, 523 So. 2d 1132 (Fla. 1988).

Likewise. In the instant case, equity requires relief from any potential confusion surrounding the RTS’ date (1/23/20), because the EEOC did not send it to Plaintiff until ~~today~~ (3/9/21).

CONCLUSION

WHEREFORE, Plaintiff respectfully asks this Honorable Court to consider this memorandum of law while analyzing Plaintiff’s Verified Complaint (specifically, the “*Statutory Prerequisites*” section).

Dated this 9th day of March 2021.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA, Plaintiff

3709 San Pablo Rd. S # 701

Jacksonville, FL 32224

P: (904) 294-0026

E: justice.actuarial@gmail.com

W: TextBookDiscrimination.com

Get ***Booked Up*** on Justice!

CERTIFICATE OF COMPLIANCE

I certify that the size and style of type used in this document is Times New Roman 14-point Font (caption) and ~~Courier New 12-point Font (contents)~~; thus complying with the font requirements of Local Rule ~~1.05(a)~~.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of March 2021, I electronically filed the foregoing with the Clerk of Courts by using its online filing page.

/s/ Elias Makere

Endnotes:

^{1/} Plaintiff acknowledges that the rule comes from a different district court (Northern vs Middle). Thus, in lieu of a direct rule, he offers it mainly as persuasive authority.

^{2/} 29 CFR 1626.10 (“*Agreements with State or Local Fair Employment Practices Agencies*”).

^{3/} The FCHR “inexplicably” mailed the late notice to an attorney in Orlando, FL. Plaintiff has never lived in that city; nor has he ever had an attorney for this action. Plaintiff discovered this errant notification in May/June 2020.

^{4/} In June 2019, HUD ceased funding the FCHR, and ordered it to repay \$200,000.

^{5/} The amended complaint was not proofread. So, Plaintiff submitted a corrected version the next business day (≈ 8:08am 3/1/21).

^{6/} On February 9, 2021, though, Plaintiff did indicate that he was “*preparing to*” attach Title VII to ‘That Complaint’ (see “*Plaintiff’s Motion for Judicial Notice...*”)

SERVICE LIST

Kimberly J. Doud, Esquire (523771)
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Littler Mendleson, PC
111 North Orange Avenue, Suite 1750
Orlando, FL 32801-2366

(defendant's trial lawyers)

EXHIBIT A

Plaintiff's Submission of Administrative Complaint
(pursuant to 60Y-5.001 FAC)

Email

4/10/2019

From: justice.actuarial@gmail.com
Sent: Wednesday, April 10, 2019, 8:00 AM
To: fchrinfo@fchr.myflorida.com
Subject: Complaint | Employment Discrimination | Makere v Allstate

Good Morning FCHR,

May you please investigate my employment discrimination complaint against Allstate Insurance Company?

Thank you,

Elias Makere, Complainant
904.294.0026 | justice.actuarial@gmail.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

EXHIBIT B

Plaintiff's Submission of Administrative Complaint
(pursuant to 60Y-5.001 FAC)

Certified/Stamped by State Agency (the FCHR)

4/10/2019

[first and last pages only]

[first page = officially stamped page]

[last page = acknowledgement of receipt]

Elias Makere, Complainant
3709 San Pablo Rd. S #701
Jacksonville, FL 32224

Phone: 904.294.0026
Fax:
Email: justice.actuarial@gmail.com

MAKERE
V
ALLSTATE

COMPLAINT ATTACHMENT

Employment Discrimination (Race, Sex, Retaliation)

Here is the attachment to the employment discrimination complaint.

Petitioner: Elias Makere
Dates: November 2013 – July 2018
Race: Black
Sex: Male
Retaliation: Yes

RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS
2019 APR 10 PM 2:35

Williams, DarLinda

From: justice.actuarial@gmail.com
Sent: Wednesday, April 10, 2019 8:00 AM
To: FCHR Website Email
Subject: Complaint | Employment Discrimination | Makere v Allstate
Attachments: EEOC-Form-5.pdf; 0a_Complaint_001_Employment.pdf

Good Morning FCHR,

May you please investigate my employment discrimination complaint against Allstate Insurance Company?

Thank you,

Elias Makere, Complainant
904.294.0026 | justice.actuarial@gmail.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

PUBLIC RECORDS

Pursuant to §119 FS

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME PR
ITEM 01
PAGES 0230-0236

SHORT TITLE: Proposed Order Granting Appellee's Motion to Set
 Aside Clerk's Default

DATE ENTERED: 9/29/2022

DOC TYPE: Proposed Order (Appellee's)

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: n/a

DOC NO: n/a

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

_____ /

ORDER DISCHARGING, SETTING ASIDE, AND
VACATING CLERK'S DEFAULT

THIS CAUSE came before this Court on September 28, 2022, on: (1) Defendant, Stanley G. Gorsica's Motion to Discharge, Set Aside, or Vacate Clerk's Default ... ; (2) Plaintiff's Verified Motion to Strike Defendant's Motion to Set Aside Default (as a Sham Pleading); and (3) Defendant Stanley G. Gorsica's Response Opposing Plaintiff's Motion to Strike His Motion to Set Aside Default. This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica ("Defendant Gorsica") attended the zoom

hearing.

On June 30, 2022, Plaintiff filed his Complaint for Violation of Civil Rights (“Complaint”). Plaintiff names Defendant Gorsica as a former staff attorney (FCHR) who he sues in an individual capacity. [Complaint at 1; 2, ¶I.B. No.1.] He alleged “Gorsica was a staff attorney at a state agency violating the constitution.” [Complaint at 4, ¶II., D.] The only way Plaintiff knows of Defendant Gorsica is because Defendant Gorsica at times material represented FCHR in prior litigation. Plaintiff’s Complaint did not include any causes of action under Chapter 768, Florida Statutes.

On July 27, 2022, Plaintiff served process of a summons and the Complaint on Defendant Gorsica.

On August 18, 2022, Plaintiff filed “Motion for Clerk Default” against Defendant Gorsica asserting that Defendant Gorsica failed to answer his Complaint or communicate an “intent to contest the charges” when time to do so expired on August 17, 2022.

On August 19, 2022, the Clerk entered a Clerk’s Default against Defendant Gorsica. It shows no service. The Clerk has not sent, and Defendant Gorsica has not received from the Clerk, notice that the Clerk entered a Clerk’s Default. Fla. R. Civ. P. 1.500(c).

On August 19, 2022, Plaintiff filed “Motion for Final Judgment after Default on Defendant Stanley Gorsica” asserting that Defendant Gorsica failed to answer his Complaint or communicate an “intent to contest the charges” when time to do so expired on August 17, 2022 (“Motion for Final Judgment after Default”).

On August 23, 2022, counsel for Defendant Gorsica and Plaintiff conferred telephonically. Plaintiff indicated he was not amenable to discharging, setting aside, or vacating the Clerk’s Default.

On August 23, 2022, Plaintiff moved the Court to set this case for trial (pursuant to Fla. R. Civ. P. 1.440).

On August 24, 2022, Defendant Gorsica moved to discharge, set aside, or vacate the Clerk’s Default (“Motion to Set Aside Default”). He filed the Motion to Set Aside Default before entry of a Final Judgment After Default.

On August 24, 2022, Defendant Gorsica moved to dismiss the Complaint (“Motion to Dismiss”). He filed the Motion to Dismiss within the time required by law pursuant to Fla. R. Civ. P. 1.140(a)(2)(A) and, in any event, before entry of a Final Judgment After Default. His Motion to Dismiss contains defenses to the Complaint.

On August 30, 2022, Plaintiff moved to strike the Motion to Set Aside Default as a sham pleading (“Motion to Strike”). On August 31, 2022, Defendant Gorsica responded in opposition to the Motion to Strike.

Even though Plaintiff appears *pro se*, he must comply with the rules of civil procedure. Under Florida law, Plaintiff’s Motion to Strike Defendant Gorsica’s Motion to Set Aside Default is improper and prohibited because one cannot move to strike another motion. Motzer v. Tanner, 561 So. 2d 1336, 1338 (Fla. 5th DCA 1990). Defendant Gorsica’s Motion to Set Aside Default is a motion not a pleading. The Motion to Strike is improper and prohibited, it will be denied.

The Court will discharge, set aside, and vacate, the Clerk’s Default erroneously entered under the assumption that Defendant Gorsica had 20 days to respond to Plaintiff’s Complaint. At times material and as alleged by Plaintiff, Defendant Gorsica was an employee of FCHR an arm of the State of Florida. As such, Defendant Gorsica had 40 days to file and filed his Motion to Dismiss within the time required by law and before entry of a Final Judgment After Default. Fla. R. Civ. P. 1.140(a)(2)(A). Defendant Gorsica has been diligent in timely filing his Motion to Dismiss and Motion to Set Aside Default. The entry of the Clerk’s Default does not

automatically entitle Plaintiff to entry of a default judgment. There is and can be no prejudice to Plaintiff. Given the magnitude of the Clerk's Default and the lack of prejudice to Plaintiff, Defendant Gorsica should be given his day in court. Consequently, the Clerk's Default is premature, erroneous, and voidable or void and due to be discharged, set aside, or vacated.

Based on the foregoing, the Court will accept and deem timely filed Defendant Gorsica's Motion to Dismiss.

It is, therefore, ORDERED and ADJUDGED that:

Defendant Gorsica's Motion to Set Aside Clerk's Default is hereby GRANTED.

The Clerk's Default is hereby DISCHARGED, SET ASIDE, and VACATED.

Plaintiff's Motion to Strike Defendant's Motion to Set Aside Default (as a Sham Pleading) is hereby DENIED.

Defendant Gorsica's Motion to Dismiss is hereby ACCEPTED and DEEMED timely filed.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this ____ day of _____ 2022.

Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.
(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME PR
ITEM 02
PAGES 0237-0243

SHORT TITLE: Proposed Order Granting Appellee's Motion to
Dismiss

DATE ENTERED: 9/29/2022

DOC TYPE: Proposed Order (Appellee's)

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: n/a

DOC NO: n/a

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

**ORDER GRANTING DEFENDANT GORSICA'S MOTION TO
DISMISS, DENYING PLAINTIFF'S MOTION TO STRIKE, AND
DISMISSING COMPLAINT AND DROPPING DEFENDANT
GORSICA**

THIS CAUSE came before this Court on September 28, 2022, on: (1) Defendant Stanley G. Gorsica's Motion to Dismiss; (2) Plaintiff's Motion to Strike Defendant's Motion to Dismiss (as untimely); and (3) Defendant Stanley G. Gorsica's Response Opposing Plaintiff's Motion to Strike His Motion to Dismiss. This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica ("Defendant Gorsica") attended the zoom

hearing.

On June 30, 2022, Plaintiff filed his Complaint for Violation of Civil Rights (“Complaint”). Plaintiff names Defendant Gorsica as a former staff attorney (FCHR) who he sues in an individual capacity. [Complaint at 1; 2, ¶I.B. No.1.] He alleged “Gorsica was a staff attorney at a state agency violating the constitution.” [Complaint at 4, ¶II., D.] The only way Plaintiff knows of Defendant Gorsica is because Defendant Gorsica at times material represented FCHR. Plaintiff’s Complaint did not include any causes of action under Chapter 768, Florida Statutes.

On August 24, 2022, Defendant Gorsica moved to dismiss the Complaint (“Motion to Dismiss”).

On August 30, 2022, Plaintiff moved to strike the Motion to Dismiss as untimely (“Motion to Strike”). On August 31, 2022, Defendant Gorsica responded in opposition to the Motion to Strike.

Even though Plaintiff appears *pro se*, he must comply with the rules of civil procedure. Under Florida law, Plaintiff’s Motion to Strike Defendant Gorsica’s Motion to Dismiss is improper and prohibited because one cannot move to strike another motion. Motzer v. Tanner, 561 So. 2d 1336, 1338 (Fla. 5th DCA 1990) (reversing order striking motion to dismiss

because use of a motion to strike a motion to dismiss is improper). Since the Motion to Strike is improper and prohibited, it will be denied.

Plaintiff failed to state any claim or allege ultimate facts establishing any cause of action to entitle him to any relief sought against Defendant Gorsica. Instead, he states subjective beliefs, speculation, and conclusions legally insufficient to state a cause of action and his Complaint is an impermissible shotgun pleading.

No allegations show Defendant Gorsica owed Plaintiff a duty of care. By his Complaint, Plaintiff's contact with Defendant Gorsica was in a legal representative capacity for FCHR. Nowhere in the Complaint has Plaintiff pled compliance with the notice of claim requirements – a condition precedent to filing suit for a tort claim for money damages against Defendant Gorsica. Even if he did (he did not), claims against Defendant Gorsica are barred by sovereign immunity.

Even though Plaintiff sued Defendant Gorsica in an individual capacity, his allegations of bad faith, malicious purpose, or wanton and willful disregard of human rights, safety, or property must be but have not been sufficiently pled. Plaintiff's conclusory allegations do not overcome the presumption Defendant Gorsica properly performed his duties while

representing FCHR in accordance with the law. As pled, any claim by Plaintiff against Defendant Gorsica is barred by the litigation privilege.

The Complaint violates Fla. R. Civ. P. 1.120(c) and 1.130. Because Plaintiff has not pled his clean hands, he is not entitled to equitable declaratory or injunctive relief.

Based on the foregoing, the Motion Dismiss, and argument at hearing, the Court will grant Defendant Gorsica's Motion to Dismiss, deny Plaintiff's Motion to Strike, dismiss the Complaint against Defendant Gorsica, and drop him from this suit without prejudice.

For the reasons and based on the law Defendant Gorsica set forth in his Motion to Dismiss and at hearing, Plaintiff's claim for punitive damages is impermissible, barred as a matter of law at this point in the proceedings, and will be struck. Before a claim for punitive damages may be pled, (A) Plaintiff must establish a reasonable basis for the recovery of punitive damages by: (1) making a reasonable showing of evidence in the record; or (2) a proffer of sufficient evidence before the court; and (B) the Court must authorize it. § 768.72(1), Fla. Stat.; Globe Newspaper Co. v. King, 658 So. 2d 518, 519-20 (Fla. 1995); Simeon, Inc. v. Cox, 671 So. 2d 158, 160 (Fla. 1996); Leavins v. Crystal, 3 So. 3d 1270, 1272-73 (Fla. 1st DCA 2009).

It is, therefore, ORDERED and ADJUDGED that:

Defendant Gorsica's Motion to Dismiss is hereby GRANTED.

Plaintiff's claim for punitive damages is hereby STRICKEN without prejudice.

Plaintiff's Motion to Strike is hereby DENIED.

The Complaint as against Defendant Gorsica is hereby DISMISSED and Defendant Gorsica is DROPPED from this action without PREJUDICE.

Should Plaintiff elect to continue suit against Defendant Gorsica, he shall file an amended complaint in compliance with this order within thirty (30) days of its rendition. If timely filed and served on Defendant Gorsica, Defendant Gorsica shall respond within thirty (30) days of the filing and service of that amended complaint.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this ____ day of _____ 2022.

Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA

(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)

(via e-mail: justice.actuarial@gmail.com)

Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.

(via e-mail: charles.schreiber@myfloridalegal.com)

Attorney for Defendant Stanley G. Gorsica

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME PR
ITEM 03
PAGES 0244-0247

SHORT TITLE: Order Denying Appellant's Motion for Final
 Judgment After Default

DATE ENTERED: 9/29/2022

DOC TYPE: Proposed Order (Appellee's)

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: n/a

DOC NO: n/a

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

_____ /

**ORDER DENYING PLAINTIFF'S MOTION
FOR FINAL JUDGMENT AFTER DEFAULT**

THIS CAUSE came before this Court on September 28, 2022, on: (1) Plaintiff's Motion for Final Judgment After Default ("Motion for Final Judgment after Default"); and (2) Defendant, Stanley G. Gorsica's ("Defendant Gorsica") ... Response Opposing Plaintiff's Motion for Final Judgment After Default ("Response"). This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica attended the zoom hearing.

On August 19, 2022, Plaintiff filed his Motion for Final Judgment after Default.

Based on the Response and argument at hearing and the findings and rulings in the Court's Order Discharging, Setting Aside, and Vacating the Clerk's Default, Plaintiff's Motion for Final Judgment after Default is moot. Plaintiff is not entitled to Final Judgment after Default.

It is, therefore, ORDERED and ADJUDGED that:

Plaintiff's Motion for Final Judgment after Default is hereby DENIED as moot and without prejudice.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this ____ day of _____ 2022.

Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.

(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME PR
ITEM 04
PAGES 0248-0250

SHORT TITLE: Order Denying Appellant's Motion to Set Case for
 Trial

DATE ENTERED: 9/29/2022

DOC TYPE: Proposed Order (Appellee's)

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: n/a

DOC NO: n/a

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

**ORDER DENYING PLAINTIFF'S MOTION TO SET CASE FOR
TRIAL**

THIS CAUSE came before this Court on September 28, 2022, on Plaintiff's Motion to Set Case for Trial. This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff, Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica ("Defendant Gorsica") attended the zoom hearing.

On August 23, 2022, Plaintiff filed his Motion to Set Case for Trial

(pursuant to Fla. R. Civ. P. 1.440).

This case is not at issue. Fla. R. Civ. P. 1.440.

It is, therefore, ORDERED and ADJUDGED that:

Plaintiff's Motion to Set Case for Trial is hereby DENIED without prejudice.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this ____ day of _____ 2022.

Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.
(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

APPEALED ORDERS

conformed copies
Rule 9.220(b) Fla. R. App. P.

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME AO

ITEM 01

PAGES 0252-0257

SHORT TITLE: Order Granting Appellee's Motion to Set Aside
Clerk's Default

DATE ENTERED: 10/17/2022

DOC TYPE: Court Order

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 33

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

_____/

**ORDER GRANTING DEFENDANT'S MOTION TO DISCHARGE, SET
ASIDE, OR VACATE CLERK'S DEFAULT AND DENYING PLAINTIFF'S
MOTION TO STRIKE DEFENDANT'S MOTION TO SET ASIDE
DEFAULT**

THIS CAUSE came before this Court on September 28, 2022, on: (1) Defendant, Stanley G. Gorsica's Motion to Discharge, Set Aside, or Vacate Clerk's Default ... ; (2) Plaintiff's Verified Motion to Strike Defendant's Motion to Set Aside Default (as a Sham Pleading); and (3) Defendant Stanley G. Gorsica's Response Opposing Plaintiff's Motion to Strike His Motion to Set Aside Default. This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica ("Defendant Gorsica") attended the zoom hearing.

On June 30, 2022, Plaintiff filed his Complaint for Violation of Civil Rights (“Complaint”). Plaintiff names Defendant Gorsica as a former staff attorney (FCHR) who he sues in an individual capacity.¹ [Complaint at 1; 2, ¶I.B. No.1.] He alleged “Gorsica was a staff attorney at a state agency violating the constitution.” [Complaint at 4, ¶II., D.] The only way Plaintiff knows of Defendant Gorsica is because Defendant Gorsica at times material represented FCHR in prior litigation. Plaintiff’s Complaint did not include any causes of action under Chapter 768, Florida Statutes.

On July 27, 2022, Plaintiff served process of a summons and the Complaint on Defendant Gorsica.

On August 18, 2022, Plaintiff filed “Motion for Clerk Default” against Defendant Gorsica asserting that Defendant Gorsica failed to answer his Complaint or communicate an “intent to contest the charges” when time to do so expired on August 17, 2022.

On August 19, 2022, the Clerk entered a Clerk’s Default against Defendant Gorsica. It shows no service. The Clerk has not sent, and Defendant Gorsica has not received from the Clerk, notice that the Clerk entered a Clerk’s Default. Fla. R. Civ. P. 1.500(c).

¹ FCHR is the Florida Commission on Human Relations.

On August 19, 2022, Plaintiff filed “Motion for Final Judgment after Default on Defendant Stanley Gorsica” asserting that Defendant Gorsica failed to answer his Complaint or communicate an “intent to contest the charges” when time to do so expired on August 17, 2022 (“Motion for Final Judgment after Default”).

On August 23, 2022, counsel for Defendant Gorsica and Plaintiff conferred telephonically. Plaintiff indicated he was not amenable to discharging, setting aside, or vacating the Clerk’s Default.

On August 23, 2022, Plaintiff moved the Court to set this case for trial (pursuant to Fla. R. Civ. P. 1.440).

On August 24, 2022, Defendant Gorsica moved to discharge, set aside, or vacate the Clerk’s Default (“Motion to Set Aside Default”). He filed the Motion to Set Aside Default before entry of a Final Judgment After Default.

On August 24, 2022, Defendant Gorsica moved to dismiss the Complaint (“Motion to Dismiss”). He filed the Motion to Dismiss within the time required by law pursuant to Fla. R. Civ. P. 1.140(a)(2)(A) and, in any event, before entry of a Final Judgment After Default. His Motion to Dismiss contains defenses to the Complaint.

On August 30, 2022, Plaintiff moved to strike the Motion to Set Aside Default as a sham pleading (“Motion to Strike”). On August 31, 2022, Defendant Gorsica responded in opposition to the Motion to Strike.

Even though Plaintiff appears *pro se*, he must comply with the rules of civil procedure. Under Florida law, Plaintiff's Motion to Strike Defendant Gorsica's Motion to Set Aside Default is improper and prohibited because one cannot move to strike another motion. Motzer v. Tanner, 561 So. 2d 1336, 1338 (Fla. 5th DCA 1990). Defendant Gorsica's Motion to Set Aside Default is a motion not a pleading. The Motion to Strike is improper and prohibited, it will be denied.

The Court will discharge, set aside, and vacate, the Clerk's Default erroneously entered under the assumption that Defendant Gorsica had 20 days to respond to Plaintiff's Complaint. At times material and as alleged by Plaintiff, Defendant Gorsica was an employee of FCHR an arm of the State of Florida. As such, Defendant Gorsica had 40 days to file and filed his Motion to Dismiss within the time required by law and before entry of a Final Judgment After Default. Fla. R. Civ. P. 1.140(a)(2)(A). Defendant Gorsica has been diligent in timely filing his Motion to Dismiss and Motion to Set Aside Default. The entry of the Clerk's Default does not automatically entitle Plaintiff to entry of a default judgment. There is and can be no prejudice to Plaintiff. Given the magnitude of the Clerk's Default and the lack of prejudice to Plaintiff, Defendant Gorsica should be given his day in court. Consequently, the Clerk's Default is premature, erroneous, and voidable or void and due to be discharged, set aside, or vacated.

Based on the foregoing, the Court will accept and deem timely filed Defendant Gorsica's Motion to Dismiss.

It is, therefore, ORDERED and ADJUDGED that:

Defendant Gorsica's Motion to Set Aside Clerk's Default is hereby GRANTED.

The Clerk's Default is hereby DISCHARGED, SET ASIDE, and VACATED.

Plaintiff's Motion to Strike Defendant's Motion to Set Aside Default (as a Sham Pleading) is hereby DENIED.

Defendant Gorsica's Motion to Dismiss is hereby ACCEPTED and DEEMED timely filed.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this 17th day of October 2022.


Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.
(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME AO
ITEM 02
PAGES 0258-0263

SHORT TITLE: Order Granting Appellee's Motion to Dismiss

DATE ENTERED: 10/17/2022

DOC TYPE: Court Order

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 34

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

**ORDER GRANTING DEFENDANT GORSICA'S MOTION TO DISMISS,
DENYING PLAINTIFF'S MOTION TO STRIKE, AND DISMISSING
COMPLAINT AND DROPPING DEFENDANT GORSICA**

THIS CAUSE came before this Court on September 28, 2022, on: (1) Defendant Stanley G. Gorsica's Motion to Dismiss; (2) Plaintiff's Motion to Strike Defendant's Motion to Dismiss (as untimely); and (3) Defendant Stanley G. Gorsica's Response Opposing Plaintiff's Motion to Strike His Motion to Dismiss. This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica ("Defendant Gorsica") attended the zoom hearing.

On June 30, 2022, Plaintiff filed his Complaint for Violation of Civil Rights (“Complaint”). Plaintiff names Defendant Gorsica as a former staff attorney (FCHR) who he sues in an individual capacity.¹ [Complaint at 1; 2, ¶I.B. No.1.] He alleged “Gorsica was a staff attorney at a state agency violating the constitution.” [Complaint at 4, ¶II., D.] The only way Plaintiff knows of Defendant Gorsica is because Defendant Gorsica at times material represented FCHR. Plaintiff’s Complaint did not include any causes of action under Chapter 768, Florida Statutes.

On August 24, 2022, Defendant Gorsica moved to dismiss the Complaint (“Motion to Dismiss”).

On August 30, 2022, Plaintiff moved to strike the Motion to Dismiss as untimely (“Motion to Strike”). On August 31, 2022, Defendant Gorsica responded in opposition to the Motion to Strike.

Even though Plaintiff appears *pro se*, he must comply with the rules of civil procedure. Under Florida law, Plaintiff’s Motion to Strike Defendant Gorsica’s Motion to Dismiss is improper and prohibited because one cannot move to strike another motion. Motzer v. Tanner, 561 So. 2d 1336, 1338 (Fla. 5th DCA 1990) (reversing order striking motion to dismiss because use of a motion to strike a motion to dismiss is improper). Since the Motion to Strike is improper and prohibited, it will be denied.

¹ FCHR is the Florida Commission on Human Relations.

Plaintiff failed to state any claim or allege ultimate facts establishing any cause of action to entitle him to any relief sought against Defendant Gorsica. Instead, he states subjective beliefs, speculation, and conclusions legally insufficient to state a cause of action and his Complaint is an impermissible shotgun pleading.

No allegations show Defendant Gorsica owed Plaintiff a duty of care. By his Complaint, Plaintiff's contact with Defendant Gorsica was in a legal representative capacity for FCHR. Nowhere in the Complaint has Plaintiff pled compliance with the notice of claim requirements – a condition precedent to filing suit for a tort claim for money damages against Defendant Gorsica. Even if he did (he did not), claims against Defendant Gorsica are barred by sovereign immunity.

Even though Plaintiff sued Defendant Gorsica in an individual capacity, his allegations of bad faith, malicious purpose, or wanton and willful disregard of human rights, safety, or property must be but have not been sufficiently pled. Plaintiff's conclusory allegations do not overcome the presumption Defendant Gorsica properly performed his duties while representing FCHR in accordance with the law. As pled, any claim by Plaintiff against Defendant Gorsica is barred by the litigation privilege.

The Complaint violates Fla. R. Civ. P. 1.120(c) and 1.130. Because Plaintiff has not pled his clean hands, he is not entitled to equitable declaratory or injunctive relief.

Based on the foregoing, the Motion Dismiss, and argument at hearing, the Court will grant Defendant Gorsica's Motion to Dismiss, deny Plaintiff's Motion to Strike, dismiss the Complaint against Defendant Gorsica, and drop him from this suit without prejudice.

For the reasons and based on the law Defendant Gorsica set forth in his Motion to Dismiss and at hearing, Plaintiff's claim for punitive damages is impermissible, barred as a matter of law at this point in the proceedings, and will be struck. Before a claim for punitive damages may be pled, (A) Plaintiff must establish a reasonable basis for the recovery of punitive damages by: (1) making a reasonable showing of evidence in the record; or (2) a proffer of sufficient evidence before the court; and (B) the Court must authorize it. § 768.72(1), Fla. Stat.; Globe Newspaper Co. v. King, 658 So. 2d 518, 519-20 (Fla. 1995); Simeon, Inc. v. Cox, 671 So. 2d 158, 160 (Fla. 1996); Leavins v. Crystal, 3 So. 3d 1270, 1272-73 (Fla. 1st DCA 2009).

It is, therefore, ORDERED and ADJUDGED that:

Defendant Gorsica's Motion to Dismiss is hereby GRANTED.

Plaintiff's claim for punitive damages is hereby STRICKEN without prejudice.

Plaintiff's Motion to Strike is hereby DENIED.

The Complaint as against Defendant Gorsica is hereby DISMISSED and Defendant Gorsica is DROPPED from this action without PREJUDICE.

Should Plaintiff elect to continue suit against Defendant Gorsica, he shall file an amended complaint in compliance with this order within thirty (30) days of its rendition. If timely filed and served on Defendant Gorsica, Defendant Gorsica shall respond within thirty (30) days of the filing and service of that amended complaint.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this 17th day of October 2022.

A handwritten signature in blue ink, appearing to read "Bruce R. Anderson, Jr.", written over a horizontal line.

Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.
(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME AO

ITEM 03

PAGES 0264-0266

SHORT TITLE: Order Denying Appellant's Motion for Final
Judgment After Default

DATE ENTERED: 10/17/2022

DOC TYPE: Court Order

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 35

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

_____ /

**ORDER DENYING PLAINTIFF'S MOTION
FOR FINAL JUDGMENT AFTER DEFAULT**

THIS CAUSE came before this Court on September 28, 2022, on: (1) Plaintiff's Motion for Final Judgment After Default ("Motion for Final Judgment after Default"); and (2) Defendant, Stanley G. Gorsica's ("Defendant Gorsica") ... Response Opposing Plaintiff's Motion for Final Judgment After Default ("Response"). This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica attended the zoom hearing.

On August 19, 2022, Plaintiff filed his Motion for Final Judgment after Default.

Based on the Response and argument at hearing and the findings and rulings in the Court's Order Discharging, Setting Aside, and Vacating the Clerk's Default, Plaintiff's Motion for Final Judgment after Default is moot. Plaintiff is not entitled to Final Judgment after Default.

It is, therefore, ORDERED and ADJUDGED that:

Plaintiff's Motion for Final Judgment after Default is hereby DENIED as moot and without prejudice.

DONE and ORDERED in Chambers, at the Duval County Courthouse, Jacksonville, Duval County, Florida, this 17th day of October 2022.



Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.
(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

APPENDIX

FLORIDA FIRST DISTRICT COURT OF APPEALS

1D22-3590

Appeal From

4th Judicial Circuit, Duval County (Florida)

16-2022-CA-003804-XXXX-MA

Makere v Gorsica, et al

VOLUME AO

ITEM 04

PAGES 0267-0269

SHORT TITLE: Order Denying Appellant's Motion to Set Case for
 Trial

DATE ENTERED: 10/17/2022

DOC TYPE: Court Order

TRIBUNAL: 4th Judicial Circuit Court, Duval County (FL)

CASE NO: 16-2022-CA-003804-XXXX-MA

CASE CAPTION: *Makere v Gorsica, et al*

LINK: <https://core.duvalclerk.com>

DOC NO: 36

IN THE CIRCUIT COURT
FOURTH JUDICIAL CIRCUIT
DUVAL COUNTY, FLORIDA

ELIAS MAKERE, FSA, MAAA,

Plaintiff,

vs.

Case No.: 2022-CA-3804

Division: CV-E

STANLEY GORSICA,
HON. E. GARY EARLY, ALJ, and
ALLSTATE INSURANCE COMPANY,

Defendants.

ORDER DENYING PLAINTIFF'S MOTION TO SET CASE FOR TRIAL

THIS CAUSE came before this Court on September 28, 2022, on Plaintiff's Motion to Set Case for Trial. This Court having reviewed the record, having heard argument, and being otherwise fully advised in the premises:

Plaintiff, Elias A. Makere ("Plaintiff") appeared *pro se* and counsel for Defendant Stanley G. Gorsica ("Defendant Gorsica") attended the zoom hearing.

On August 23, 2022, Plaintiff filed his Motion to Set Case for Trial (pursuant to Fla. R. Civ. P. 1.440).

This case is not at issue. Fla. R. Civ. P. 1.440.

It is, therefore, ORDERED and ADJUDGED that:

Plaintiff's Motion to Set Case for Trial is hereby DENIED without prejudice.

DONE and ORDERED in Chambers, at the Duval County Courthouse,
Jacksonville, Duval County, Florida, this 17th day of October 2022.



Bruce R. Anderson, Jr.
Circuit Judge

Copies to:

Elias A. Makere a/k/a Elias Makere, FSA, MAAA
(via U.S. Mail: 3709 San Pablo Road S #701, Jacksonville, Florida 32224-4809)
(via e-mail: justice.actuarial@gmail.com)
Plaintiff, *pro se*

Charles J. F. Schreiber, Jr.
(via e-mail: charles.schreiber@myfloridalegal.com)
Attorney for Defendant Stanley G. Gorsica

CERTIFICATE OF SERVICE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December 2022, I electronically filed the foregoing with the Clerk of Courts by using the Florida Courts e-Filing portal; which will send a notice of electronic filing to the attached service list.

/s/ Elias Makere

Link to Underlying Lawsuit ([HTML](#), [PDF](#), [Video](#))

HTML	TextBookDiscrimination.com/Allstate/Complaint-Full.html
PDF	TextBookDiscrimination.com/Files/USFLMD/20000905 AAC 20211104 230439.pdf
Video	https://youtu.be/e3mgBPHesXg

Electronic Copy: (text-searchable)

TextBookDiscrimination.com/Files/1DCA/22003590 ADD 20221207 091708.pdf

TextBookDiscrimination.com/Files/1DCA/22003590 IB 20221207 092617.pdf

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(appearing for appellee Gorsica)

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