

**IN THE SUPREME COURT OF OHIO
COLUMBUS, OHIO**

RRL Holding Company of Ohio, LLC, et al.,	:	CASE NO.
	:	
Appellees,	:	2022-0575
v	:	
	:	On Appeal from Tenth District
	:	Court of Appeals
Merrilee Stewart, et al.,	:	Case No. 20-AP-493
	:	
Appellants.	:	(C.P.C. 15-CV-1842)

**MOTION FOR RECONSIDERATION
OF APPELLANT MERRILEE STEWART**

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Furthermore, if these same officers act as trespassers of the law and do not follow the law then shall not that Judge lose jurisdiction and the judges’ orders become void and of no legal force or effect?

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Of uppermost importance to all people is the guarantee of civil rights and liberties to the individual, that the individual may stand upon their Constitutional Rights as a citizen and that the judiciary and officers of the courts would protect those individual rights.

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Ms. Stewart stands before this Supreme Court of Ohio upon her Constitution Right as a Citizen under the First Amendment of the Constitution of the United States of America. This constitutional right is such that has existed by law of our land long antecedent the organization of the State and can only be taken from her by due process of law, and in accordance with the Constitution.

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Entries that are directly related to the case in this Court

- In the Tenth District Court of Appeals, the panel's dispositive decision of March 29, 2022, leave to file denied, by Mentel, Dorrian & Blunt in 20AP493 on a timely filed application for En banc consideration under Ohio App. R. 26(b)(A)(1)(a) and 26(b)(A)(2)(a). RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al. On appeal from C.P.C. 15CV1842, Judge Kim J. Brown.
- In the Tenth District Court of Appeals, the original panel's dispositive decision of September 27, 2018, confirmation of the Award, by Track, Brunner & Horton in 18AP118 confirmed the RRL Buy/Sell Agreement terms in its entirety in accordance with the Final Arbitration Award of December 8, 2017. RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al. On appeal from C.P.C. 15CV1842, Judge Kim J. Brown (R. OA331, U5).

“Therefore, it is ORDERED, ADJUDGED AND DECREED as follows: This Court hereby confirms the December 11, 2017 Final Award in American Arbitration Association Case No. 01-16-0003-9163 in all respects, pursuant to Ohio Rev. Code § 2711.09. The terms of the Final Award (filed with the Motion as Exhibit C) are specifically incorporated by reference into this Judgment Entry. The terms of the Final Award shall be binding on the parties.” EMPHASIS.
- **In The Supreme Court of the United States**, decision May 31, 2022 decision rehearing denied. Petition for Rehearing and Supplemental Appendix filed on April 29, 2022, on petition for Writ of Certiorari to the Supreme Court of Ohio (lower court 19AP674) *Merrilee Stewart, Petitioner v. RRL Holding Company of Ohio, LLC, et al., Respondents* Case No. 21-1069
- **In The Supreme Court of the United States**, decision April 4, 2022 declined, The Supreme Court of the United States, on petition for Writ of Certiorari to the Supreme Court of Ohio (lower court 19AP674) *Merrilee Stewart, Petitioner v. RRL Holding Company of Ohio, LLC, et al., Respondents* Case No. 21-1069
- The Supreme Court of Ohio, Judgment entry August 17, 2021, Motion to leave to proceed under R.C. 2323.52(F)(2) to file the motion for reconsideration denied. RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al, Case No. 2021-0385, on Appeal from Tenth District Court of Appeals Case 19AP674, from lower court C.P.C. Case 15CV1842, Judge Kim J. Brown, Decision was on June 21, 2021 Motion to leave to proceed under R.C. 2323.52(F)(2) to file the accompanying Motion for Reconsideration.
- The Supreme Court of Ohio, decided June 8, 2021, Supreme Court of Ohio's Jurisdiction Decline using Ohio S.Ct.Prac.R. 7.08(B)(4) as the reason. Decision was on the March 26, 2021, Memorandum in support of jurisdiction, lower court decision, notice of appeal. RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al, Case No. 2021-0385, on Appeal from Tenth District Court of Appeals Case 19AP674.

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Entries that are directly related to the case in this Court

● The Ohio Tenth District Court of Appeals decided: February 9, 2021 Motion for reconsideration denied after sitting for over a year. This decision was on the February 3, 2020 Motion to leave to file the accompanying Motion for reconsideration and exhibits, on appeal from C.P.C. 15CV1842, Judge Kim J. Brown. RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al, 19AP674.

● The Tenth District Court of Appeals decision of January 21, 2020, Dismissal for failure to comply with R.C. 2323.52 despite the fully-briefed appeal predated (emphasis) the “Vexatious Litigator” judgment. Decision was on the October 4, 2019 Notice of Appeal and Docketing Statement, On appeal from C.P.C. 15CV1842, Judge Kim J. Brown. RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al, 19AP674.

● The Tenth District Court of Appeals decision January 23, 2020, “On remand, the court shall hold a hearing” “On remand, the trial court shall vacate that finding and any award of sanctions or attorney fees pertaining thereto.” RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al., Case 19AP202 On appeal from Franklin County Ohio C.P.C. 15CV1842, Judge Kim J. Brown. Note: The Opinion, to vacate and remand for hearing of the Tenth District Court of Appeals 19AP202 entered on January 23, 2020 from the Appeal of Franklin County Ohio C.P.C. 15CV1842 special proceedings are being ignored (emphasis) by Judge Kim J Brown. This Judge refuses to comply with the order of the higher court and refuses to afford the Petitioner a hearing on the Crime Reports involving Respondents.

● The Franklin County Ohio Common Pleas Court, 18CV7212, RRL Holding Company of OH LLC, et al v. Merrilee Stewart, Original Complaint, filed August 23, 2018, Judge Kim J. Brown.

● The Franklin County Ohio Common Pleas Court, 18CV7212, RRL Holding Company of OH LLC, et al v. Merrilee Stewart, Decision: Judgement entry granting Plaintiffs Motion for Summary Judgement rendered on December 20, 2019, Judge Kim J. Brown.

● The Franklin County Ohio Common Pleas Court Civil Division decision of November 10, 2015 to Stay the Case pending arbitration. This Case was stayed on November 10, 2015 pending Arbitration. However, Arbitration ended December 8, 2017 and yet Judge Kim J. Brown refuses to lift the stay. See ¶40, footnote 13, Tenth District Court of Appeals 19AP202 quoted:

“The exact wording of this order refers to a stay of claims and defenses involving TRG, [...]. However, the parties and the court all seem to understand it to also refer to a stay of the claims and defenses between the parties while the arbitration was pending. Such understanding is consistent with R.C. 2711.02(B).”

RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al., 15CV1842 case of March 2, 2015.

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MEMORANDUM IN SUPPORT OF MOTION FOR RECONSIDERATION

Now comes Appellant Merrilee Stewart (“Ms. Stewart”) with this timely filed Motion for Reconsideration pursuant to S.Ct.Prac.R. 18.02(A) stemming from the Jurisdiction Decision emailed by the clerk on Tuesday, August 2, 2022 at 9:05 AM. The forgoing Motion is filed with respect to the decision to refuse to accept the jurisdictional appeal and the basis for filing is not a re-argument of the case in accordance with S.Ct.Prac.R. 18.02(B).

INTRODUCTION

Despite the ultimate August 2, 2022 jurisdictional decline, Ms. Stewart’s May 12, 2022 Memorandum in Support of jurisdiction single question presented for review, accompanied by four propositions of law, were compelling enough to bypass initial rejection and advance forward in the process of review by this Supreme Court of Ohio.

The net effect of this Supreme Court’s review process has rendered a heightened attention to this newsworthy case with far reaching national implications within the legal community, federal enforcement agencies and now most importantly the public.

It is, after all, our citizens who suffer when White-Collar Criminal Activity flourishes, with the willfully granted unfettered pathway of continuance by and through the actions of a handful of state actors who are trespassers of the law.

Essentially incorporated into this Motion includes a prayer for Jurisdiction and Injunctive relief from these officers of the court who, under color of law, continue to interfere, obstruct and egregiously punish Ms. Stewart for the protected activity and free exercise thereof to petition the government and the court for redress of grievances in direct violation of the First Amendment to the United States Constitution, the Petition Clause.

Now therefore, Ms. Stewart heretofore presents this new compelling question and propositions of law to further advance and move forward this 7-year-old stayed case, which has been afforded no discovery, with the forgoing constitutional argument.

NEW QUESTION PRESENTED

Is the direct violation of the First Amendment to the United States Constitution, the Petition Clause, by officers of the court, worthy of review by this Supreme Court of Ohio?

Furthermore, if these same officers act as trespassers of the law and do not follow the law then shall not that Judge lose jurisdiction and the judges' orders become void and of no legal force or effect?

APROPOS JURISDICTION

Of uppermost importance to all people is the guarantee of civil rights and liberties to the individual, that the individual may stand upon their Constitutional Rights as a citizen and that the judiciary and officers of the courts would protect those individual rights.

However, *what if* officers of the court by way of their actions, decisions, sanctions, punishment, threats and harassment against Appellant would chill a person of ordinary firmness from continuing to engage in the protected activity of reporting White Collar Criminal Activity; *what if* these officers of the courts participated in Obstruction of Justice involving multiple felonies; *what if* the reporting of White Collar Crimes to the government and the courts is protected by the First Amendment to the Constitution of the United States; *what if* the Crime Reporting was also a duty under law involving felonies; *what if* the officers of the court fail to enforce federal law; and what if the officers of the court committed fraud.

Now therefore, the Supreme Court of Ohio's authority in all courts of the state and over officers of the courts shall intervene to ensure Judicial Integrity and Justice for All.

PRECURSORY DECLARATION

Ms. Stewart stands before this Supreme Court of Ohio upon her Constitution Right as a Citizen under the first Amendment of the Constitution of the United States of America. This constitutional right is such that has existed by law of our land long antecedent the organization of the State and can only be taken from her by due process of law, and in accordance with the Constitution. *Hale v. Henkel*, 201 U.S. 43 at 47.

Ms. Stewart did not waive her constitutional rights in this case and as such there exists no restrictions (emphasis) on the exercising of her protected activity and fulfillment of her duty and obligation to petition the government and the courts as is guaranteed under the First Amendment. "The rights of the individuals are restricted only to the extent that they have been voluntarily surrendered by the "citizenship" to the agencies of government." *City of Dallas v Mitchell*, 245 S.W. 944.

FACTS RELEVANT

Ms. Stewart is a Federal Whistleblower who initially reported White-Collar Criminal Activity ("the Crime Reports") to local authorities in the State of Ohio.

The Franklin County Ohio Common Pleas Civil Court Judge defied the higher court by refusing to hold the ordered hearing on the Crime Reports and failed to open this seven-year-old stayed case for finalization of all claims and defenses.

In further noncompliance of the higher court, without jurisdictional authority and to twice inflict punishment for the same White-Collar Crime Reports, this same lower court Judge conspired with Appellee's attorney to obstruct justice and retaliate via a sham masquerade that fraudulently labeled these same Crime Reports as Vexatious Litigation and inflicted a lifetime sentence upon Ms. Stewart for fulfilling her duty to report.

Then in blatant disregard for the laws of the State of Ohio, the higher court's judgement, and once again lacking jurisdictional authority, this same lower court Judge in concert of effort with counsel for the Appellees crafts fraudulent and altered documents and inflicts further punishment upon Ms. Stewart for not agreeing to participate in this Fraud. The 7th Circuit stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final." Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23 and "Officers of the court have no immunity, when violating a Constitutional right, from liability for they are deemed to know the law." *Owen v. Independence*, 100 S.C.T. 1398, 445 US 622.

HISTORICAL

This case has little to do about the narrow issue to buy or sell membership interest in Appellee RRL Holding Company of Ohio, LLC ("RRL") as Appellants' interest was seized eight (8) years ago, by controlling members. Ms. Stewart's interest remains unredeemed today and she is the sole remaining member of RRL. RRL wholly (100%) owns IHT Insurance Agency Group, LLC ("IHT"). IHT holds numerous insurance company contracts which authorizes the selling of insurance products thru contracted producers in multiple states.

This case is about Ms. Stewart's attempts to internally correct White-Collar criminal activity witnessed first-hand while in her position as President of IHT in 2013-2014 (R.0C472, U40-V34 *Id.* U75) and the subsequent scorching, retaliation, Identity Theft, Mail Fraud and employment law violations. Ms. Stewart is a Whistleblower with a Federal Right to sue. However, the lower court Judge refuses to lift the stay or enforce Federal law.

This seven-year-old stayed case of March 2, 2015 documents and collaborates a criminal enterprise, who in the lower court filed a perjured affidavit (R.0D178, C17-C19), subordinated by their attorney James R. Carnes, with intent to halt a police investigation and

two insurance company investigations (R.0D178, B96-C53). The perjured affidavit, supported by a culpable attorney, was successful on all counts, stopping three investigations.

This case also documents the scorching, harassment, intimidation and defamation of collaborating witnesses and claimants, predominantly targeted at Ms. Stewart. (R. 0D958, H86-H95) (0D822, I94-I95) (R.0D822, H80-I15) (R. 0D822, I16-I13) (R. 0D822, I47-I56)

Then in blatant violation of the Laws of the State of Ohio and the judgement of the higher court on December 31, 2018, the controlling members, aided by their counsel merged RRL out of existence for the benefit of themselves and additional family members creating a new set of owners under a new entity named Firefly Agency LLC.

These controlling former RRL members aided by their attorney seized all of the assets of RRL by fraudulently presenting themselves to the courts and insurance carriers as a name change only. The misleading announcement of a name change only went out to all the contracted producers falsely assuring no contract changes were required. Finally, this fraud was used to change the beneficiary on the multiple million-dollar life insurance contracts.

Deposition testimony in the United State District Court case involving Hartford confirmed the contractually required notification of ownership change, as is consistent with other insured carrier contracts and the associated commissions which rightfully belong to IHT.

Numerous unknown/orphan transactions were written without appointed authority pursuant to the requirement of Ohio Revised Code §3905.20 “An insurance agent shall not act as an agent of an insurer unless the insurance agent is appointed as an agent of the insurer” *Id.* at § (B) and “By appointing an insurance agent, an insurer certifies to the superintendent that the person is competent, financially responsible, and suitable to represent the insurer.” *Id.* at § (2).

At no time prior to RRL merging out of existence into Firefly was Ms. Stewart or any of the known creditors provided with the statutory notice required pursuant to Ohio Revised Code § 1701.87(A) and at no to prior to RRL becoming a dead entity were any of the insurance carriers notified of this ownership change.

All assets seized do not belong to Firefly Agency LLC and must be returned in order to abide by the law designed to protect creditors identified in the Crime Reports. These are the very Crime Reports which the lower court Judge Kim J. Brown was order to have a hearing on. See the outcome of the 19AP202 appeal where Judge Kim J Brown abused her discretion, "acted unreasonably, arbitrarily, or unconscionably" (R.0F028, J78 and Judgement Entry R.0F029, T47), remanded for a hearing and vacated the finding and any award of sanctions and attorney fees associated with Appellant's White Collar crime reports filed against IHT to: The Columbus Police, The Ohio Civil Rights Commission and Hartford and Liberty Mutual Insurance. However, the Judge refuses to hold the hearing ordered by the higher court.

LAW AND ARGUMENT

I. Proposition of Law 1: First Amendment to the United States Constitution, the Petition Clause

The right to petition government for redress of grievances is the right to make a complaint to, or seek the assistance of, one's government, without fear of punishment or reprisals.

"The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice." *Davis v. Wechler*, 263 U.S. 22, 24; *Stromberb v. California*, 283 U.S. 359; *NAACP v. Alabama*, 375 U.S. 449

Under the First Amendment, a citizen has the right to petition the government and the courts. "There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights." *Sherar v. Cullen*, 481 F. 2d 946 (1973).

The act(s) of Franklin County Common Pleas Court Judge Kim J. Brown (“Judge Brown”) in concert of effort with Appellees lead counsel James R. Carnes of Shumaker, Loop & Kendrick (“Mr. Carnes”), acting under color of law and as officers of the court, deprived Ms. Stewart of her First Amendment right to access the courts and interfered with her first amendment right to petition the government.

“Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason. *Cooper v. Aaron*, 358 U.S. 1, 78 S. Ct. 1401 (1958).

Ms. Stewart reported White Collar Criminal Activity (the “Crime Reports”) witnessed first-hand while employed as President of Appellee IHT Insurance Agency Group, LLC (“IHT”) to (1) the Ohio Civil Rights Commission; (2) the Columbus Police Department; (3) Hartford Insurance (“Hartford”); and (4) Liberty Mutual Insurance (“Liberty”) (collectively “insurance companies”).

Judge Brown and Mr. Carnes documented actions against Ms. Stewart would chill a person of ordinary firmness from continuing to engage in the protected activity and the protected activity was the motivating factor for the ensuing unconstitutional conduct including infliction of retribution, liable, slander, punishment, sanctions, attorney fees and a lifetime sentence of being labeled a vexatious litigator. “The claim and exercise of a constitutional right cannot be converted into a crime.” *Miranda v. Arizona*, 384 US 436, 491.

This violation of the Ms. Stewart’s rights to petition without retribution under the First Amendment to the United States Constitution, the Petition Clause, by officers of the court, is worthy of review by this Supreme Court of Ohio.

A. Punishment for reporting and the Chilling effect, behind a closed docket to violate all due process rights or discovery and the Fifth Amendment “Double Jeopardy”

The officers of the court by way of their actions, decisions, sanctions, punishment, threats and harassment against Appellant would chill a person of ordinary firmness from continuing to engage in the protected activity of reporting White Collar Criminal Activity.

The Chilling effect is the concept of deterring free speech and association rights protected by the First Amendment as a result of government actions that target expression. A chilling effect may be caused by legal actions such as the decisions of a court, e.g., Judge Brown, or any legal action that would cause people to hesitate to exercise a legitimate right (freedom of speech or otherwise) for fear of repercussions.

Franklin County Common Pleas Court Judge Brown in concert of effort with Appellees attorney Mr. Carnes subjected Ms. Stewart to multiple show cause hearings involving the reporting of the White-Collar Criminal Activity to local authorities. All while Judge Brown kept the case docket closed, denying any discovery and in violation due process rights.

Ms. Stewart’s fulfillment of her Duty to Report White-Collar Crimes, subjected her to prejudice, detriment, threat, discreditation, censorship and as in double jeopardy, she was endangered by the same Judge, drawn upon the same allegations, in two separate court cases, in violation of the Fifth Amendment to the Constitution of the United States of America, “nor shall any person be subject for the same offense to be twice put in jeopardy”.

The lower court Judge Brown in case 15CV1842 levied sanctions and attorney fees by alleging Ms. Stewart violated the agreed entry when she reported criminal activity witnessed firsthand while serving as President of IHT. The initial Crime Reports were made

to Ohio Department of Insurance, Columbus Ohio Police, Ohio Civil Rights Commission and the insurance companies Hartford and Liberty Mutual.

While the sanctions and attorney fees judgement in 15CV1842 was under appeal, in the jurisdiction of the Ohio Tenth District Court of Appeals (19AP202), this same lower court Judge Brown in case 18CV7212 inflicted a lifetime sentence with a Vexatious Litigator judgement (12/20/2019), against Ms. Stewart for the very same allegations of violation of the agreed entry when she fulfilled her duty to report these same Crime Reports to Ohio Department of Insurance, Columbus Ohio Police, Ohio Civil Rights Commission and the insurance companies Hartford and Liberty Mutual.

Ultimately, the Tenth District Court of Appeals 19AP202 (CPC15CV1842) determined Judge Brown acted unreasonably, arbitrarily, or unconscionably and reversed, remanded and ordered a hearing on the Crime Reports. However, Judge Brown refuses to abide by the order of the higher court.

B. The duty to Report under Law - misprision of felony codified in 18 U.S. Code § 4

The concerted efforts to retaliate and punish Ms. Stewart for reporting ensuring the cover-up and concealment of multiple felonies by Judge Brown and Mr. Carnes is a felony in violation of United States federal law, misprision of felony, codified in 18 U.S. Code § 4.

“Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

C. The deprivation of rights by officers of the court

Judge Brown in concert of effort with Mr. Carnes, as state actors, conspired to deprive Ms. Stewart of her constitutional rights. See “the individual who deprived the Plaintiff of the right must have been acting for or on behalf of a governmental entity at the time the right was denied. However, an agent of the government who is abusing his position or the power conferred upon him is still acting under the “color of law” and is thus subject to §1983 actions.” *Monroe v Pape*, 365 US 167, 172 (1960).

II. Proposition of Law 2: Trespassers of the law must lose jurisdiction and orders shall become void

If the Judge, as an officer of the court, acts as trespassers of the law and does not follow the law then that Judge shall lose jurisdiction and the judges’ orders shall become void and of no legal force or effect.

“By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect. The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States. *Scheuer v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974).

III. Proposition of Law 3: Fraud upon the court is cause for dismissal of Judge Kim J. Browns final appealable order

“Fraud destroys the validity of everything into which it enters,” *Nudd v. Burrows*, 91 U.S. 426. “Fraud vitiates everything,” *Boyce v. Grundy*, 3 Pet. 210. “Fraud vitiates the most solemn contracts, documents and even judgments,” *U.S. v. Throckmorton*, 98 U.S. 61. Therefore, Judge Brown’s commission of fraud with the fictitious document presented as authentic is just cause to dismiss this final appealable order.

CONCLUSION

Whereas, the violation of the Ms. Stewart’s rights to petition without retribution, under the First Amendment to the United States Constitution, the Petition Clause, by officers of the court, is worthy of review by this Supreme Court of Ohio.

Whereas, in the proceeding paragraphs Ms. Stewart incorporated new compelling questions and propositions of law to further advance and move forward this 7-year-old stayed case, which has been afforded no discovery, with law and constitutional arguments;

Whereas, Judge Brown and officers of the court have acted as trespassers of the law, did not follow the law and therefore must lose jurisdiction and the judges’ orders become void;

Whereas, Ms. Stewart and our citizens who suffer when White-Collar Criminal Activity flourishes, with the willfully granted unfettered pathway of continuance by and through the actions these state actors who are trespassers of the law;

Whereas, Fraud destroys the validity of everything;

Now therefore, Ms. Stewart moves and prays for Jurisdiction, Dismissal of Judge Brown’s final appealable order for Fraud and Injunctive relief from these officers of the court who, continue to interfere, obstruct and egregiously punish Ms. Stewart for the protected activity and free exercise thereof to petition the government and the court for redress of grievances in violation of the First Amendment to the United States Constitution.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of August 2022, this document was served via e-mail to James R. Carnes (jcarnes@shumaker.com) and Matthew T. Kemp (mkemp@shumaker.com).

On this 12th day of August 2022, this document was also electronically filed via the Court's authorized electronic filing system which will send notifications of this filing to the following:

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