

24A244

No. 24A17

IN THE SUPREME COURT OF UNITED STATES

RICHARD RYNN,
Applicant Petitioner

V.

FIRST TRANSIT INC, AN Ohio
Corporation, ABC CORPORATION
I-X; AND BLACK AND WHITE
PARTNERSHIPS, AND/OR SOLE
PROPRIETORSHIPS I-X

Respondents

APPLICATION UNDER RULE 60(b)-(d), 60(d)(3), and per 28
U.S.C. 1651 TO VACATE WORKPLACE INJUNCTION, VACATE
INJUNCTION ENTERED BY DISTRICT COURT, VOID
JUDGEMENTS BASED ON NEW EVIDENCE, FRAUD,
VIOLATION OF CONSTITUTIONAL RIGHTS, VIOLATION OF
LABOR PROTECTION LAWS, INSUFFICIENT SERVICE OF
PROCESS, FILED IN THE NINTH CIRCUIT WHICH
DECLINED TO RESPOND DUE TO CLERK SAID CASE
CLOSED REFUSAL TO ACCEPT FURTHER FILINGS ON THIS
CASE APPLICATION TO THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT

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Pro Se

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PARTIES TO PROCEEDING

Defendant First Transit

DIRECTLY RELATED CASES

Rynn V Mckay Arizona District Court Case No. 2:18-cv-00414 JJT pending under appeal to Ninth Circuit Court Case No. Case No.: 23-15607

Rynn V Avondale court, First Transit, Et Al Avondale city court case No. P02019000235 Superior Court case No. LC2022-000265 and No.CV-2022-011208 Arizona Court of Appeals Case No. 1 CA-CV 23-0092 Arizona Supreme Court Case No. CV-24-0017, and CV-24-0032 pending under appeal to U.S. Supreme Court Case No. 23A1101

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Opinions Below

Arizona Supreme Court Case No. Cv-24-0032-SA
 Decision filed May 14, 2024

Decision of Ninth Circuit Court of Appeals
 Denial of rehearing, April. 22, 2024

Ninth Circuit Court of Appeals
 Summary Affirmance on October 23, 2023.

District Court Order Filed May 26, 2023
 Docket No. 176

District Court Order Filed April 14, 2023
 Docket No. 174

Issues Presented

1. EEOC Protections from discrimination and harassment at the workplace under Title VII of the Civil Rights Act of 1964.
2. **Denial of Further Pleadings:** Can a judge deny the filing of further pleadings for new trial while refusing to address critical new evidence state court decision at the workplace and fraud?
3. **Employer's Responsibility for Void Injunction:** Is the employer responsible for a workplace ex parte injunction issued without notice and void for insufficient service of process?
4. **Critical New discovered evidence** Arizona Supreme court Case No. CV-24-0017 May 14, 2024 decision Avondale court injunction based on the “*workplace*” under direction of First Transit.
5. **Conflict between** Arizona Supreme court decision Avondale court injunction based on employees at the workplace and district court decision injunction not based on employees at the workplace.

Jurisdiction

Petitioner timely mailed application for injunctive relief to the United States Supreme Court on May 23, 2024, On May 29, 2024, the Supreme Court requested the Appellant to refile the pleadings to comply with the Court's rules. The Appellant mailed a second application to vacate on June 7, 2024. The Supreme Court Clerk informed the Appellant on June 11, 2024, that the application to vacate needed to be first filed in the Ninth Circuit. Petitioner then filed motion to vacate in the Ninth Circuit due to district court refusal to accept further filings on this case. The Ninth Circuit Court of Appeals denied the Appellant's rehearing on April 22, 2024.

The Petitioner timely filed this application to vacate the Avondale court injunction and district court injunction refusing to accept **conflicting critical new evidence** from Arizona Supreme courts Case No. CV-24-0017 May 14, 2024 decision May 13, 2019 ex parte injunction based on the “*workplace*” of First Transit employees under direction of employer in Febraury 2019.

This Court has jurisdiction under 28 U.S.C. § 1253 and 28 U.S.C. § 1651 (All Writs Act) for a direct appeal from the denial of motion to vacate a defective workplace injunction, the denial of due process rights, and the District Court's refusal to accept further pleadings without addressing all critical new facts related to fraud and the unresolved issue of labor rights, deprivation of constitutional rights, insufficient service of process.

Statement of Case

Petitioner originally filed case in state court seeking injunctive relief and asserting state and federal claims against the employer, First Transit. The Appellee/Defendant subsequently transferred the case to the District Court. (Doc. 1)

The District Court's and Ninth Circuit court's decisions have been rendered void based on new evidence and state court decisions that district court responsible for Avondale court injunction based on employees actions under direction of employer First Transit that contradict this court's prior rulings that injunction was based outside of employment substantiating fraud on the court and failure of courts not certifying a clarification to correct, vacate falsification of facts of this case.

In 2020, the U.S. Supreme Court issued two decisions (McKesson v. Doe, 141 S. Ct. 48, 49 (2020) (per curiam), and Carney v. Adams, 141 S. Ct. 493, 504 (2020) **discussing the importance of certification**

Petitioner claims require transfer to state court for **certification** for contradictions between Arizona Supreme court decisions and district court's decisions. Petitioner filed the following motions and notes:

1. Motion to vacate and stay proceedings June 12, 2024. Dk 28
2. Motion to recall the mandate June 13, 2024. Dk 29
3. Supplement to Application to Vacate June 18, 2024. Dk 30
4. Notice on June 20, 2024. Dk 31
5. Motion to expedite ruling June 28, 2024. Dk 32
6. Revised application under Rule 60(b)-(d) and 60(d)(3) to vacate void judgments based on fraud, filed July 30, 2024. Dk 35
7. Notice lower state court decision voiding district court's decisions due to injunction based on employment directed by First Transit, state court subpoena to district court John Tuchi and response from John Tuchi August 1, 2024. Dk 36 and August 13, 2024 entanglement recusal. see Appendix
8. Motion for Clarification filed August 8, 2024

Petitioner submitted an application to the U.S. Supreme Court to vacate the injunctions issued by the Avondale Court and the District Court, seeking permission to file additional briefs based on newly

discovered evidence and allegations of fraud. The U.S. Supreme Court directed Rynn to first seek relief from the Ninth Circuit regarding the injunctions.

Petitioner subsequently filed a motion for new trial under Rule 60 in the District Court, requesting the vacatur of the injunction based on fraud and newly discovered evidence (Doc. 170). However, the District Court denied the Plaintiff's motion for a new trial (Doc. 176) without addressing the issues of fraud and the new evidence, and further denied the Plaintiff's requests for judicial notice of evidentiary facts, summary judgment, recusal, and the submission of additional filings related to the workplace injunction (Doc. 176). Additionally, the District Court denied the Plaintiff's motion to set aside the judgment (Doc. 170), summary judgment (Doc. 171), and a change of venue (Doc. 1). The Plaintiff subsequently filed an appeal (Doc. 177).

The Ninth Circuit Court of Appeals denied the Appellant's Opening Brief, granted the Defendant's motion to dismiss through summary affirmance (Ninth Circuit Docs. 6, 15), denied the Plaintiff's motion for reconsideration of the summary affirmance (Ninth Circuit Docs. 16, 25),

and failed to address the Plaintiff's notice of errata, motion for summary reversal, and motion to amend to include additional parties and claims for damages (Ninth Circuit Docs. 18, 19, 23).

Newly discovered evidence, as detailed in the Arizona Supreme Court Case No. Cv-24-0032-SA, with an order filed on May 14, 2024, substantiates that the workplace injunction was indeed a result of actions occurring at the workplace of First Transit (Ninth Circuit Doc. 24). The State Court referenced this case in addressing the Avondale Court injunction. Both the District Court and the Ninth Circuit failed to consider this newly discovered evidence, which revealed that the injunction was based on workplace actions of which Rynn was unaware until 2023, as disclosed in the Arizona Court of Appeals Case No. 1 CA-CV 23-0092 (Doc. 175, pg. 33) and the Arizona Supreme Court Case No. Cv-24-0032-SA order filed on May 14, 2024.

Two significant issues have emerged following court's recent decision:

1. **Exhibit A: Determination of right to sue.** The Equal Employment Opportunity Commission (EEOC) issued a Determination of Right to Sue on July 15, 2024, based on new accusations stemming from the Arizona Supreme Court's decision on May 14, 2024. This decision pertains to district courts responsibility over an injunction related to actions by employees under the

direction of employer First Transit, occurring within the scope of employment at the workplace. These workplace actions were not disclosed to the Applicant until the period of 2023 to 2024.

- **Charges of Discrimination:** The attached EEOC Determination grants Applicant Richard Rynn the right to sue defendants for workplace discrimination and the defendant's failure to disclose workplace accusations. Previous court decisions are rendered void as they failed to consider the protections afforded to Mr. Rynn under the EEOC.
- **EEOC's Role:** The EEOC is the federal agency tasked with enforcing laws against job discrimination and harassment, including discrimination based on race, color, religion, sex and harassment.
- **Jurisdictional Issues:** The Avondale court lacks jurisdiction over workplace discrimination claims that were not first reported to the EEOC. The court's failure to adhere to legal statutory workplace protections, as outlined in the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act, P.L. 107-174), is problematic.
- **No FEAR Act Requirements:**
 - Timely and appropriate disciplinary actions against employees involved in discrimination or reprisal.
 - The Avondale court has no record of disciplinary or discrimination reports as mandated by the No FEAR Act.
 - **Legal Statutes:** Relevant statutes include Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 (ADEA). The Avondale court cannot assert jurisdiction over Mr. Rynn's workplace-related claims without proper notification and a prior complaint filed with the EEOC.
- 2. **Application to Vacate the Avondale Court Injunction**
 - **Filing History:** Applicant Rynn has submitted a renewal application to vacate the Avondale court injunction in U.S. Supreme Court. Renewal Application in Richard Rynn v. Craig Jennings, Avondale City Court, First Transit, Et Al Application 23A1101 and referred that case to the filing of this case.
 - Supreme Court's decision dated May 14, 2024, and pursuant to RULE 60(b)-(d) and 60(d)(3) regarding the vacation of void judgments due to fraud, constitutional rights violations, and insufficient service of process or request

- **Arizona Supreme Court Decision:** The Arizona Supreme Court (Case No. CV-24-0032) concluded that the Avondale court's injunction pertains to workplace issues and concluded in its May 14, 2024 decision that the Ninth Circuit Case No. 23-15869 and district court must resolve the Avondale Court's workplace injunction, which contradicts the District Court's prior decision that the injunction was unrelated to the workplace and should be resolved by the state court.
- **Decision required** The Ninth Circuit failed to issue a decision on this matter, despite the Arizona Supreme Court's ruling on May 14, 2024, which conflicts with the District Court's refusal to address the injunction based on a lack of jurisdiction over non-workplace-related matters.
- Avondale Court's emergency ex parte order of May 13, 2019, without notice, without disclosure of accusations, did not meet the requirements of ARPOP, Rule 38(g) was based on statements that were completely unverified requiring addressing by the court. (First Transit Memorandum Doc. 121, Ex. BB, pg. 15).

These issues highlight significant jurisdictional and procedural inconsistencies that need resolution and corrections based on the the Arizona Supreme court May 14, 2024 decision. The adherence to statutory requirements and proper jurisdiction is essential for the equitable handling of discrimination claims and related legal proceedings.

Petitioner denied due process by the District Court, which rejected the Petitioner's motion for a new trial and failed to address legal protections of the workplace, allegations of fraud and newly discovered

evidence and decisions from the Arizona Supreme court requiring district court to resolve work place injunction. The Ninth Circuit also failed to rectify these issues. The Petitioner provided a basis for the court's subject matter jurisdiction over the workplace injunction and related claims that remain in dispute without a court review in violation of due process.

The Avondale city court workplace injunction (Doc. 175, pg. 9) is based on a workplace report caused by the workplace of First Transit that authorized and directed employees to work under direction of First Transit. First Transit is responsible for the control of the employee actions and failed to protect Rynn from the Avondale court injunction substantiated by fraud and new evidence discovered in year 2023 to 2024 by the decision of the Arizona Supreme court. The workplace injunction was not authorized by the Defendant workplace and is void, based on unverified workplace accusations. (8/16/2021 Doc. 121, Ex. BB, pg. 15).

"The court failed to address the constitutional due process rights violated by the nondisclosure of the employer memorandum provided to employee Mathews and the February 2019 report submitted to the employer by Defendant employee Mathews. The defective workplace injunction unlawfully granted ex parte, without notice, by the

Defendant employees without disclosure, through fraud, and without workplace authorization, for actions occurring at the workplace. The court did not address the employer's liability and the request for declaratory relief, thereby compromising the integrity and reputation of the courts and violating Petitioners constitutional right to a fair trial.

The court failed to provide an evidentiary hearing, failed to review relevant evidence from Rynn affecting substantial constitutional rights, and dismissed the case by summary judgment without reviewing evidence of interrogatories, Mclean's letter, and Mathews's memorandum provided by Rynn. The case appealed to the Ninth Circuit and by certiorari to the U.S. Supreme Court with errors in law and falsification of facts by the Defendant.

New evidence of fraud from the Defendant's declaration during summary judgment not addressed, denial of a fair trial, and new evidence discovered in 2023 changes the final judgment to actions at the workplace of the Defendant not addressed. Errors in facts and law were not corrected, and the court failed to provide declaratory relief for the defective workplace injunction that was not legally authorized by the workplace. A brief is required to be filed in the District Court to address new evidence of the injunction from actions at the workplace (see Arizona Supreme Court order Case No. CV-24-0032).

Procedural History of Case

The case arises from February 2019 at the workplace of Defendant First Transit, where Defendant First Transit failed to disclose grossly false accusations made by an employee about Rynn and his family. The accusations were made after a normal consensual conversation about Rynn's District Court case No. 2:18-cv-00414 JJT Rynn v. McKay, assigned to the same judge John Tuchi (Doc. 140, pg. 8, line 13-23; pg. 11, line 11-24; Doc. 175, pg. 3). First Transit hired employee Shayley Mathews in December 2018 to work at the Tempe facility (Doc. 175, pg. 2). Mathews directed by First Transit supervisor Cris Hamm to work and talk to coworker Richard Rynn at the Tempe facility from December 2018 to February 2019.

Mathews wrote a report of false workplace accusations to First Transit HR around February 20, 2019, about Appellant and his wife without any disclosure to Rynn (Doc. 140, pg. 15-16). First Transit manager Lynn Mclean informed Appellant Rynn about a report of a complaint but did not disclose the specifics of what was reported (Doc. 121, Ex. CC; Doc. 140, pg. 3, line 14-24). Despite multiple requests, First Transit failed to disclose Mathews's February 2019 accusations to Rynn.

On May 13, 2019, Mathews filed false accusations ex parte to the Avondale court for a workplace injunction based on her February 2019 accusations without notifying Rynn. The court failed to address Rynn's complaints about discrimination and negligence in failing to disclose what on Mathews's report of accusations.

Mathews erroneously listed First Transit as her employer and herself as an agent for First Transit in her report of accusations filed in Avondale court on May 13, 2019. Mathews was not authorized as an agent for First Transit (Doc. 175, Ex. D, pg. 9; Doc. 140, pg. 15-16). Mathews also had illegal ex parte communication with Avondale court judge Craig Jennings on May 13, 2019, based on her February 2019 workplace accusations without notice or service to Rynn, violating due process.

The Avondale court judge Craig Jennings granted a workplace injunction by engaged prohibited ex parte communication on May 13, 2019, without First Transit's authorization, based on Mathews's February 2019 accusations, without notice and disclosure of the accusations, violating ARS 12-1810 (A) and due process by insufficient service of process.

Rynn first learned of Mathews's February 2019 accusations and the memorandum given to Mathews by First Transit on June 3, 2019. The memorandum indicated First Transit could not verify Mathews's report of accusations (Doc. 121, Ex. BB,

pg. 15). The court failed to address the Defendant's failure to disclose and the lack of credibility of Mathews's accusations. The District Court conceded that Mathews's memorandum was different from the one given to Rynn, but did not address these differences, violating Rynn's due process rights and the right to a fair trial (Doc. 121, Ex. CC).

See below Rynn contract with employer First Transit.

First Transit employment policy says:

“Dishonesty giving knowingly or maliciously false testimony in a work related investigation or proceeding. Making false statements concerning employees of the company, any form of retaliation, for speaking up about perceived bias, harassment or discrimination, or retaliation for providing information related to any investigation into such matters is a separate violation of the companys harassment free workplace policy such conduct may also be unlawful. If complaint cannot be substantiated the company may take appropriate action providing a work environment free from harassment.

Summary: Legal Argument on First Transit and Court Errors

The employer, First Transit, is liable for workplace injunctions issued without following statutory requirements, including the necessity of employer authorization (ID 175 Ex. G, pg. 28-30; doc. 121 #5, Ex. BB pg. 1-2). The court did not address that First Transit breached the employment contract by violating its policies regarding accusations made against the plaintiff, Rynn. False accusations were made by Mathews against Rynn, repeated in Avondale court without disclosure,

despite First Transit's knowledge of their lack of verification (doc. 121 Ex.BB pg. 12; doc. 175 pg.4).

First Transit is responsible for damages resulting from its employees' misuse of the process to obtain an ex parte workplace injunction without informing Rynn of Mathews report of accusations. Mathews and Rynn directed to work together by First Transit within the scope of employment, and Mathews report including memorandum to Mathews filed for a workplace injunction in Avondale court without disclosure to Rynn. (doc. 116 pg. 1, line 26-28).

An official under § 1983 is personally liable by act with deliberate or reckless disregard for constitutional rights or if the constitutional deprivation occurs at their direction or with their knowledge and consent (Smith v. Rowe, 761 F.2d 360, 369 (7th Cir.1985)).

1. **Workplace Injunction without Authorization:** Under ARS 12-1810 (A), a workplace injunction issued without employer authorization is void and fraudulent. The Avondale court failed to obtain such authorization or provide evidence justifying the injunction. First Transit denied any workplace actions necessitating the injunction, and there is no record of such authorization or disclosure to Rynn, nor any indication of a threat justifying engaging in a prohibited ex parte injunction (doc. 175 pg.9).
2. **Failure to Disclose Accusations:** First Transit did not disclose Mathews' February 2019 written accusations to Rynn, who only learned of them in

Avondale court on June 3, 2019 (doc. 175 pg.9 line 20-25; doc. 175, pg. 3).

Rynn was denied due process as the accusations were entered ex parte on May 13, 2019, without prior disclosure. (doc. 175 Ex. A, pg. 5-6; doc. 175 pg.4).

- 3. Fraud in Summary Judgment Motion:** The District Court failed to explain the specifics of what Lynn Mclean informed Rynn about in February 2019. The court did not address relevant evidence, including Mclean's letter and answers to interrogatories, which substantiate the failure to disclose Mathews' accusations (doc. 121 #6 Ex. CC; doc. 175 pg.11; doc.121 Ex.BB pg. 12). This omission is a prejudicial error requiring correction, reversal, and remand (doc. 116, 174, 176, 175 pg. 4).

The District Court's summary judgment was based on the false assertion that Rynn was informed of Mathews' complaint. This misrepresentation, repeated in court orders, contradicts the evidence that Mclean did not disclose the accusations of the reported complaint from Mathews (doc. 83 pg. 2, line 23-24; doc. 121 #6 Ex. CC; doc. 175 pg.11; doc.121 Ex.BB pg. 12). Consequently, Rynn denied due process and the right to know the accusations against him, constituting a breach of contract by First Transit and the Union of Operating Engineers. The newly discovered Mclean letter during the 2021 discovery process substantiates these claims (doc. 121 #6 Ex. CC; doc. 175 Ex. A, pg. 5-6; doc.121 Ex.BB pg. 12).

See below: (doc. 121 #6 Ex. CC)

“Lynn McLean AGM- I first thanked Richard for his temporary help in the Tempe shop over the past month. I asked Richard if he was aware of the First Transit Harassment Policy? His response was "yes I am". I then stated that I am placing you on notice that an employee in the Tempe shop has filed a written complaint regarding his actions towards them. I stated that if he was initiating contact with any of the employees in Tempe he needs to cease and desist immediately. I also instructed him to not enter the Tempe property for any reason. He was informed that First Transit Human Resources would be in contact with him regarding this complaint in the near future. This is a serious accusation towards him and could result in some kind of discipline up to termination. Richard responded that he understood. He also stated he didn't think there was any issue. I also offered to give him a written copy of our harassment policy, and he responded that he was aware of its content. At no time during this discussion did Richard request any union representation.” (doc. 121 #6 Ex. CC)

Under Title VII, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA) the accused has the right to know what specifically they are being accused of. The right to fully respond to allegations and defend themselves. This includes providing witnesses, evidence, and their full side of the story.

Sixth Amendment guarantees right to public trial, right to lawyer, right to impartial jury, **right to know who accusers are, nature of charges, and evidence against you.**

Rynn not provided rights under Title VII, sixth and fourth amendment. Case arises out of factual multiple violations of Rynn employment rights, civil and constitutional rights of due process by Defendants failure to disclose Mathews accusations. (doc.121 Ex.BB pg. 1-2)

The fifth amendment, fourteenth amendment guarantee right to due process and ex parte motions due to their exclusion of one party (Rynn) violate Rynn

right to due process.

It is well known where Defendant falsification of facts comes to lite after a final judgement such as a lie about informed knowing Rynn was not informed of what Defendants employee Mathews wrote on Febraury 2019, to Defendant. (doc.121 Ex.BB pg. 12) The falsification provides a basis for reopening case under Rule 60(b) and 60 (d) of federal rules of procedure and vacating workplace injunction. (doc. 170) Rule 60(d) Other Powers to Grant Relief. This rule does not limit court's power to: (1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) the judgment is void;

(6) any other reason that justifies relief.

(1) entertain independent action to relieve party from judgment, order, proceeding;

(2) grant relief to defendant as provided in Rule 59(g); or

(3) set aside judgment for fraud on the court.

In United States v. United States Gypsum Co. the Supreme Court stated that Federal Rule of Civil Procedure 52(a) provides that “a finding is ‘clearly erroneous’ when reviewing court on entire evidence is left with the definite and firm conviction that a mistake has been committed.” Essentially, appellate court must determine that a finding is unsupported by substantial, credible evidence in the record to meet this standard. Interstate Circuit v. United States, 306 U. S. 208, and United States v. Masonite Corp., 316 U. S. 265. When appellate court determines that lower court’s finding of fact is clearly erroneous, appellate court is required to reverse that finding. (doc. 170 pg. 2)

Rule 52 (a) FINDINGS AND CONCLUSIONS.

(1) an action tried on the facts without jury, court must find the facts specially and state its conclusions of law separately

(5) *Questioning Evidentiary Support.* Plaintiff may later question the sufficiency of the evidence supporting the findings, Plaintiff may object to them, and move to amend the findings.

(6) *Setting Aside the Findings.* Findings of fact, whether based on oral or other evidence, must be set aside when clearly erroneous.

Per Rule 52 (a)(1)(5)(6) Plaintiff objected to courts factual findings as unsubstantiated to the record and moved to amend the findings and filed an amended complaint. (doc. 177 Attach. #1, Ex. A, #2 Ex. B, doc. 140, doc. 175 pg. 1-18) Court must set aside findings of fact that contradict to clearly substantiated credible evidence to the record. Failing to set aside is an abuse of discretion required to be reversed on appeal. (doc. 173 pg. 1-18) (doc. 175 pg. 1-18) Its an abuse of discretion (doc. 116, 139, 117,174, 176, 177) failing to review new evidence substantiating fraud, failing to rule on amended complaint with additional claims, (doc. 175 pg. 17) motion for summary judgement (doc. 171) on the merits as required per rule 15(3)(b)(doc.. 140, 177) failing to resolve damages of negligence, defamation, false light, fraud, etc. caused from Defendant reckless disregard to disclose false accusations of “child abuser”, “stalking”. (doc. 175 Ex. A, pg. 5-6) (doc. 175 pg.4-5 pg. 17-18)

Court erred failed to consider substantial relevant evidence such as lack of disclosure of accusations from Mathews, and Rynn complaints. Because Rynn is pro se, court must consider as evidence Rynn opposition to summary judgment

(doc. 199, 100, 102, 108) all of Rynn contentions offered in motions and pleadings, (doc. 119, 121, 123, 127, 129, 137, 138, 140, 141, 142, 145, 152-157, 170-172, 175) where such contentions are based on personal knowledge and set forth facts that would be admissible in evidence, and where Rynn attested under penalty of perjury that the contents of the motions or pleadings are true and correct including motion for new trial, (doc. 170, 175) summary judgement, statement of facts, (doc. 171, 172) motion to change venue,(doc. 173) etc..

McElyea v. Babbitt, 833 F.2d 196, 197 (9th Cir.1987) (verified pleadings admissible to oppose summary judgment); Johnson v. Meltzer, 134 F.3d 1393, 1399-1400 (9th Cir.1998) (verified motions admissible to oppose summary judgment); Schroeder v. McDonald, 55 F.3d 454, 460 n. 10 (9th Cir.1995) pleading counts as “verified” if the drafter states under penalty of perjury that the contents are true and correct.

1. Declaratory relief to vacate defective workplace injunction, (doc. 175 Ex. B, pg. 9) and compensation required per ARS Rule 65 (5) (c) (1). Workplace Injunction (doc. 175 Ex. B, pg. 9) defective on its face, obtained ex parte without notice, without an affidavit of a threat of violence, (doc.172 pg. 4) in violation of state and federal requirements of ARS Rule 65(b) (1) (A)(B)(2). A threat of irreparable harm is required to obtain an injunction without notice. Defendant failed to produce an affidavit that is required to obtain an injunction without following rules of due process that requires notice. (doc.172 pg. 4)

2. Injunction based on hearsay from Shayley Mathews. (doc. 175 Ex. B, pg. 9)
Avondale court granted workplace injunction by ex parte without notice based on hearsay from First Transit employee Mathews February 2019 work place accusations without disclosing Mathews accusations to Rynn. On top of it all First Transit does not confirm or deny what Shayley Mathews wrote on February 2019. First Transit April 26, 2019 Memorandum to Shayley Mathews said ***“We could not confirm all of the details of your report” “kept it impartial and objective”*** (doc.121 #5, Ex. BB pg. 15) (doc. 117 pg. 16) First Transit confirmed Shayley Mathews on Febraury 2019 consented to working and talking to Richard Rynn. District court failed to address evidence of Memorandum confirming Mathews consented to working with Rynn that is in contradiction to District court summary judgement ruling. (doc. 116)

3. Not addressed perjury, Patrick Camunez not hired by First Transit until March 2019. (doc. 90 pg. 3 line 23-24) Patrick Camunez not qualified as a witness in Avondale court for work place accusations that occurred in February 2019 (doc. 175 Ex. A, pg. 5-6) one month before Camunez was hired by First Transit. (doc. 174, 176)

4. Recusal of judge required when judge has personal knowledge about workplace accusations *“court issues with his daughter”* (doc. 175 Ex. A, pg. 5-6) about

child abuse case Rynn v Mckay involving judge John Tuchi case. (doc. 175 EX. H, pg. 32) Judge John Tuchi failed to recuse himself showed bias by not addressing personal knowledge of Rynn and evidence from interrogatories, (doc. 172) (doc. 175 pg. 16) letter from Mclean showing **no disclosure** and not informed of what was written on Mathews February 2019 accusations (doc. 121 #6 Ex. CC) (doc. 175 pg.4) contradicting fraud on declaration from Mclean of informed (doc. 175 Ex. D, pg. 19) District Court error said “*due to the failure to timely inform*” contradicting no disclosure of accusations, substantiates fraud, prejudicial errors. (doc. 170 pg. 2-3) (doc. 121 #6 Exhibit CC) (doc. 175 EX. H, pg. 32) (doc.121 #5, Ex.BB pg. 12) Disputable facts not resolved Per Ariz. R. Civ. P. 54 (c) Judgment as to All Claims and Parties. Court failed to resolve disputable facts by denying Plaintiff motion for new trial (doc. 175, 176) is an abuse of discretion that requires reverse and remand for evidentiary hearing and a new trial. Court must address fraud, void judgements, defective injunction caused by the workplace, decisions containing erroneous determinations of fact and law.

District court concedes the foundation of the Avondale court workplace

injunction IAH is false (doc. 116 pg. 8 line 11-14) but failed to vacate injunction and failed to address liability and damages from employer First Transit caused from a false foundation of IAH workplace injunction and

Employers are vicariously liable under the doctrine of "respondeat superior" for negligent acts or omissions by their employees in the course of employment by failing to disclose workplace accusations. (doc. 175 pg.4) Violations of Act (ADEA). Title VII Civil Rights Act of 1964.

The foundation of Avondale court May 13, 2019 defective work place injunction based on unverified report of accusations on February 2019 from employee Mathews (doc.121 #5, Ex. BB pg. 15) about Rynn and Mathews acts in the course of employment that was directed by employer. The Defendant as employer is responsible for the damages to Rynn for Avondale court injunction based on actions at the control and direction of Defendant as employer.

Vicarious Liability.

Vicarious liability means one person is indirectly responsible, or liable, for the negligent acts of another. The person injured by such negligence, therefore, may seek damages from the person indirectly liable. Black's Law Dictionary, 1404 (5th ed. 1983).

Basis of Liability Related to Vicarious Liability. a. Respondeat Superior.

It is a rule of law that an employer is responsible for injuries inflicted by its employees acting within the "scope of employment," based on the theory that employer has the authority to supervise and control its employees. In addition, the

employer possesses the ultimate right to discharge disobedient employees and to hire more competent employees. b. “Scope of Employment.” “Scope of employment” means the employee was doing what the employer directed the employee to do, or what the employee could be expected to do from the nature of the employment, or that the employee acted in furtherance of the employer’s business.

Right to Notice Due Process

1. Right to Notice: Greene v. Lindsey (SC 1982) [eviction notices nailed to doors, never received them in building where notice were frequently torn down. If posted notice does not work, mail should be used instead]. Holding: Fundamental requisite of due process is the opportunity to be heard. Without proper notice, there is no opportunity to be heard. SC 1982) [eviction notices nailed to doors, never received them in building where notice were frequently torn down. If posted notice does not work, mail should be used instead]. Holding: Fundamental requisite of due process is the opportunity to be heard. Without proper notice, there is no opportunity to be heard.

District court judge John Tuchi showed prejudicial errors, and bias failed to correct errors, failed to review evidence provided by Rynn. court failed to address retaliation, defamation from grossly false work place accusations and Defendant failure to disclose accusations such as “*wife and him are considered child abusers*”, “*stalker*”, and damages from the abuse of process from an illegal ex parte work place injunction without notice without legal authority by not following rules of due process and disclosure required for work place accusations. (doc. 175 Ex. A, pg. 5-6) (doc. 172) (doc. 175 pg.4)

Rynn owed a duty of disclosure of accusations and employer First Transit by failing to disclose false accusations of “*him and his wife are considered child abusers*”, “*stalker,*” breached duty owed to Rynn. (doc. 175 Ex. A, pg. 5-6) (doc. 175 pg.4) Defendant has not shown any evidence to support defamation of character from false accusations of *child abuser* and *stalker*. (doc. 175 Ex. A, pg. 5-6)

Rynn raises triable facts of defamation of character from false accusations and First Transit breaching duty as employer by knowing of the accusations from its employee Mathews and failing to disclose false work place accusations (doc. 175 Ex. A, pg. 5-6) (doc. 175 pg.4) and First Transit's actions injured Rynn by the failure to disclose grossly false accusations that were entered illegally on a defective work place injunction (doc. 175 Ex. B, pg. 9) without disclosure to Rynn in violation of due process, obtained ex parte without notice, without an affidavit of a threat of violence, in violation of state and federal requirements of ARS Rule 65(b) (1) (A)(B)(2). Based on the foregoing Plaintiff has verified claims for negligence, defamation and false light including additional amended claims of discrimination.

Negligent infliction of emotional distress" (NEID) is a personal injury law concept that arises when one-person (the defendant) acts so carelessly that he or she must compensate the injured person (the Plaintiff) for

resulting mental or emotional injury. The tort is to be contrasted with intentional infliction of emotional distress in that there is no need to prove intent to inflict distress. That is, an accidental infliction, if negligent, is sufficient to support a cause of action. Constitutional rights violated under section 242 title 18.

Violation of section 1983 title 42.

It was not by accident or coincidence that the rights to freedom of speech and press were coupled with the rights of the people to peaceably assemble and petition for redress of grievances. A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts. *Davis v. Burris*, 51 Ariz. 220, 75 P.2d 689 (1938)

When a judge knows that he/she lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him/her of jurisdiction, judicial immunity is lost. *Rankin v. Howard* (1980) 633 F.2d 844, cert den. *Zeller v. Rankin*, 101 S. Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326.

No judicial process whatever form it may assume can have any lawful authority outside of the limits of the jurisdiction of the court or judged by whom it is issued and an attempt to enforce it beyond these boundaries is nothing less than lawless violence. *Ableman v. Booth*, 21 Hoard 506 (1859)

Undoubtedly it (fourteenth amendment) forbids any arbitrary deprivation of life, liberty or property, and secures equal protection to all under like circumstances in the enjoyment of their rights... It is enough that there is no discrimination in favor of one as against another of the same class... and due process of law within the meaning of the fifth and fourteenth amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of the government. *Giozza v. Tiernan*, 148 U.S. 657, 662 (1893)

Legal Argument

Constitutional Basis

Under the Fifth and Fourteenth Amendments of the United States Constitution, no person shall be deprived of life, liberty, or property without due process of law, nor

deny any person within its jurisdiction the equal protection of the laws. In *Ingraham v. Wright*, 430 U.S. 651 (1977), the Supreme Court asserted that liberty includes “freedom from bodily restraint and punishment” and “a right to be free from and to obtain judicial relief for unjustified intrusions on personal security.”

Voiding Earlier Rulings

All earlier rulings are void based on fraud. Disputable legal and relevant facts remain unaddressed, as per ARS Rule 54(c). This rule stipulates that a judgment as to all claims and parties is not final unless the judgment recites that no further matters remain pending and that the judgment is entered under Rule 54(c).

Evidentiary Hearing Requirement

According to ARS Rule 27(2), the court must hold a hearing on the relief that the petition seeks. Plaintiff is entitled to an evidentiary hearing for new evidence and fraud.

Statute of Limitations and Fraud

Under the Discovery Rule, the statute of limitations does not begin until the person knows or should have reasonably known about an injury. Fraud is sufficient to toll the running of the statute of limitations until the plaintiff either knows, or through the exercise of due diligence should have known, of the fraud (*Lasley v. Helms*, 179 Ariz. 589, 880 P.2d 1135 (App. 1994)). A.R.S. Sec. 12-543 provides, in pertinent part, that actions for relief on the ground of fraud or mistake must be commenced within three years after the cause of action accrues, and not afterward. The cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

Independent Review

This case requires an independent review on the merits based on fraud and newly discovered evidence. New evidence of fraud that was concealed by the defendants voids earlier rulings.

Negligent Misrepresentation

According to the Restatement (Second) of Torts § 552, negligent misrepresentation occurs when “one who, in the course of his business, profession or employment, or in any other transaction in which he has a pecuniary interest, supplies false information for the guidance of others in their business transactions, is subject to liability for pecuniary loss caused to them by their justifiable reliance upon the information, if he fails to exercise reasonable care or competence in obtaining or communicating the information.”

Jurisdiction and Authority

The district court failed to address having jurisdiction to vacate a defective workplace injunction entered unconstitutionally *ex parte* without legal authority.

The court also failed to address the liability to the employer for a workplace injunction obtained by employees of First Transit without the authority of the workplace.

Vacating the Defective Workplace Injunction

The defective workplace injunction requires vacating by law for not meeting state and federal statutory requirements of disclosure, federal due process requirements, and for perjury from false workplace accusations (*doc. 175 Ex. A, pg. 5-6*) that were not disclosed to the appellant until after the injunction was filed in the Avondale City Court (*doc. 175 Ex. B, pg. 9; doc. 175 pg. 4*).

New evidence from Arizona Supreme Court Case No. CV-24-0032, dated May 14, 2024, ruled that the injunction was based on actions at the workplace, not addressed by any court, causing prejudicial errors and substantial denial of due

process rights. See Appendix for additional evidence presented under ARS Rule 56(d).

Fraud from defendant not addressed. The Arizona Supreme Court concluded that injunction at the workplace, **District Court must resolve** the Avondale Court's workplace injunction, which contradicts the District Court's prior decision that the **injunction not related to the workplace and must be resolved by the state court**

The workplace injunction, based on fraud, remains unresolved due to the courts' failure to address the basis of vacating injunction due to fraud from defendant.

Discovery Rule

The discovery rule is perhaps the most common exception to the statute of limitations, in Arizona and elsewhere. Under the discovery rule, a plaintiff's statute of limitations deadline will be extended if they are not aware of the injuries, they suffered due to the defendant's fault, and they could not have reasonably discovered the injury.

"Under the discovery rule, ... a cause of action does not accrue until the plaintiff knows or with reasonable diligence should know the facts underlying the cause [of action]." Doe v. Roe, 191 Ariz. 313, ¶ 29, 955 P.2d 951, 960 (App. 1998); see also Walk v. Ring, 202 Ariz. 310, 316, ¶ 22, 44 P.3d 990, 996 (2002); Little v. State, 225 Ariz. 466, ¶ 9, 240 P.3d 861, 864 (App. 2010).

Court must relieve a party from a judgment when, by fraud on the court, the other party has prevented a real contest before the court or has committed some intentional act or conduct that has prevented the unsuccessful party from having a fair submission of the controversy. See Alvarado v. Thomson, 240 Ariz. 12, 16–17 ¶¶ 17–23 (App. 2016). Fraud on the court "vitiates everything it touches" Damiano v. Damiano, 83 Ariz. 366, 369 (1958), and is "the most egregious conduct involving a corruption of the judicial process itself[.]" Lake v. Bonham, 148 Ariz. 599, 601 (App. 1986).

Courts therefore have inherent authority to take corrective measures at any time when a party commits or attempts to commit fraud upon them. See *Green v. Lisa Frank, Inc.*, 221 Ariz. 138, 151 ¶ 35 (App. 2009); *McNeil v. Hoskyns*, 236 Ariz. 173, 177 ¶ 15 (App. 2014) (“A judgment resulting from fraud on the court may be set aside by motion or by independent action.”).

Per Federal Rule 25(4) **clerk must not refuse** to accept for filing any paper.

Rule 27 (C) PERPETUATION BY AN ACTION. This rule does not limit a court's power to entertain an action to perpetuate testimony for fraud on the court.

Duty. The plaintiff will prove that the defendant owed them a duty of care.

A duty of care arises when the law recognizes a relationship between the plaintiff and defendant requiring the defendant to exercise a certain standard of care so as to avoid harming the plaintiff. The applicable standard of care is the degree of care that a “reasonable person” would exercise under the circumstances. Plaintiff(s) **claim** under **section 1983**, wo critical points: a person subjected the plaintiff to conduct that occurred under color of state law, and this conduct deprived the plaintiff of rights, privileges, or immunities guaranteed under federal law or the U.S. Constitution. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law,

Defendants violated Plaintiffs rights of Due Process there has been a deprivation of the plaintiff's liberty or property, and (2) the procedures used by the government to remedy the deprivation were constitutionally inadequate.

Brady Rule violation by failing to disclose evidence of non-disclosure.

This non-disclosure of injunction based on the workplace and non-disclosure of accusations from the workplace that the Avondale court injunction was based on violated Rynn's due process rights to evidence of disclosure, as established in *Giglio v. United States*, 405 U.S. 150 (1972).

Conclusion

The defendant failed to object to the plaintiff's newly discovered evidence of "***injunction at the workplace***" and the substantiated facts herein. For the foregoing reasons, Appellant respectfully requests that the court vacate the District Court unconstitutional injunction, which restricts the filing of further briefs on this matter while new facts and new evidence substantiating fraud remain in dispute. see cases below.

Rynn V Avondale court, First Transit, Et Al
Avondale city court case No. P02019000235 Superior Court case
No. LC2022-000265 and No.CV-2022-011208 Arizona Court of

Appeals Case No. 1 CA-CV 23-0092 Arizona Supreme Court Case No. CV-24-0017, and CV-24-0032 pending under appeal to U.S. Supreme Court Case No. 23A1101

Request for Declaratory Relief

Appellant respectfully requests this Court to grant declaratory relief vacating the District Court's injunction that restricts the filing of further briefs on this matter. Appellant requests that the workplace injunction be vacated. This request is based on the necessity to address fraud and to review newly discovered evidence on the merits. Appellant further seeks compensation, reversal of the lower court's decision, and a remand for additional briefing.

RESPECTFULLY SUBMITTED

this 31st day of August 2024

By: 
RICHARD RYNN

CERTIFICATE OF SERVICE

A copy of this application was served by U.S. mail to Defendants listed below in accordance with Supreme Court Rule 22.2 and 29.3, or 33.2.

R. Shawn Oller
Kimberly Marie Shappley
Littler Mendelson PC - Phoenix, AZ
2425 E Camelback Rd., Ste. 900
Phoenix, AZ 85016-2907
602-474-3600, 949-705-3000
Email: kshappley@littler.com
Attorney for Defendant First Transit

this 31st day of August 2024

By: 
RICHARD RYNN

APPENDIX

Arizona Supreme Court Case No. Cv-24-0032-SA
Decision filed May 14, 2024

Decision of Ninth Circuit Court of Appeals
Denial of rehearing, April. 22, 2024

Ninth Circuit Court of Appeals
Summary Affirmance on October 23, 2023.

District Court Order Filed May 26, 2023
Docket No. 176

District Court Order Filed April 14, 2023
Docket No. 174

District court John Tuchi response to two state court issued
subpoenas for John Tuchi personal involvement in Appellant
state court cases date August 13, 2024

U.S. Equal Employment Opportunity Commission EEOC
Determination of Right To Sue for workplace discrimination Issued
7/15/2024

APPENDIX

Arizona Supreme Court Case No. Cv-24-0032-SA
Decision filed May 14, 2024

Decision of Ninth Circuit Court of Appeals
Denial of rehearing, April. 22, 2024

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U.S. Equal Employment Opportunity Commission EEOC
Determination of Right To Sue for workplace discrimination Issued
7/15/2024

SUPREME COURT OF ARIZONA

RICHARD RYNN,) Arizona Supreme Court
) No. CV-24-0032-SA
 Petitioner,)
) Court of Appeals
 v.) Division One
) No. 1 CA-CV 23-0092
 HON. CRAIG JENNINGS, JUDGE OF)
 THE AVONDALE CITY COURT,) Maricopa County
) Superior Court
 Respondent Judge,) No. CV2022-011208
)
) Avondale Municipal Court
 CITY OF AVONDALE, et al.,) No. P02019000235
)
)
 Real Parties in Interest.) **FILED 5/14/2024**
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)

O R D E R

On May 2, 2024, a panel composed of Chief Justice Brutinel, Justice Bolick, Justice Lopez and Justice Montgomery denied Petitioner Rynn's petition for review in this proceeding. On May 13, 2024, Petitioner filed a motion for reconsideration, which the Court dismissed on May 13, 2024 under the Arizona Rules of Civil Appellate Procedure Rule 22(f). On May 13, 2024, Petitioner filed a Request for en banc review seeking an order vacating the trial court injunction.

In an earlier proceeding, the Court of Appeals has, however, considered and rejected Petitioner's challenge to the injunction:

Judge Craig Jennings issued an injunction against harassment ("Injunction") against Rynn as a result of his harassment of a coworker at their mutual place of employment, First Transit. The Injunction was upheld after

a hearing on the merits and Rynn appealed to the Maricopa County Superior Court where he fully litigated the matter.

Rynn has fully litigated his claims related to the Injunction and each has been finally determined. See *Rynn v. First Transit*, 21-16836, 2022 WL 17176487 (9th Cir. 2022); *Rynn v. First Transit, Inc.*, 2:20-cv-01309-JJT, 2021 WL 3209665 (D. Ariz. 2021); *Rynn v. First Transit, Inc.*, 2:21-cv-01755-DWL, 2021 WL 6050312 (D. Ariz. 2021); *Rynn v. First Transit Inc.*, CV-21-01755-PHX-DWL, 2022 WL 287003 (D. Ariz. 2022).

Rynn v. Avondale Court, 1 CA-CV 23-0092, 2023 WL 8596484, at *2 (App. Dec. 12, 2023). This Court denied review on January 30, 2024 and denied Rynn's Motion for Reconsideration on January 31, 2024 in that proceeding. Therefore,

IT IS ORDERED denying the request for en banc review.

IT IS FURTHER ORDERED directing the Clerk to accept no further filings in this matter.

DATED this 14th day of May, 2024.

/s/
JOHN R. LOPEZ IV
Duty Justice

TO:
Richard Rynn
Stephen M Kemp
Lisa Maxie-Mullins
Brandon James Cartwright
R Shawn Oller
Kimberly Shappley
Hon. Craig L Jennings
Shayley Mathews

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

APR 22 2024

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RICHARD RYNN,

Plaintiff-Appellant,

v.

FIRST TRANSIT INCORPORATED, an
Ohio Corporation; UNKNOWN PARTIES,
named as: ABC Corporation I-X, and Black
and White Partnerships, and/or Sole
Proprietorships I-X,

Defendants-Appellees.

No. 23-15869

D.C. No. 2:20-cv-01309-JJT
District of Arizona,
Phoenix

ORDER

Before: W. FLETCHER, CALLAHAN, and BENNETT, Circuit Judges.

Appellant's motion for reconsideration (Docket Entry No. 16) is denied. *See*
9th Cir. R. 27-10.

All other pending motions are denied as moot.

No further filings will be entertained in this closed case.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 23 2023

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

RICHARD RYNN,

Plaintiff-Appellant,

v.

FIRST TRANSIT INCORPORATED, an
Ohio Corporation; UNKNOWN PARTIES,
named as: ABC Corporation I-X, and Black
and White Partnerships, and/or Sole
Proprietorships I-X,

Defendants-Appellees.

No. 23-15869

D.C. No. 2:20-cv-01309-JJT
District of Arizona,
Phoenix

ORDER

Before: W. FLETCHER, CALLAHAN, and BENNETT, Circuit Judges.

The motion to correct the opening brief (Docket Entry No. 8) is granted.

The motion for judicial notice (Docket Entry No. 5) is denied as unnecessary.

Appellant's motion for an extension of time (Docket Entry No. 7) to file a response to the motion to dismiss is granted. The response has been filed.

A review of the record, the opening brief submitted on September 12, 2023, and the parties' briefing on the motion to dismiss demonstrates that the questions raised in this appeal are so insubstantial as not to require further argument. See *United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (stating standard).

Accordingly, the motion to dismiss (Docket Entry No. 4) is treated as a motion for summary affirmance and is granted.

AFFIRMED.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Richard Rynn,
Plaintiff,
v.
First Transit Incorporated, *et al.*,
Defendants.

No. CV-20-01309-PHX-JJT
ORDER

At issue is *pro se* Plaintiff Richard Rynn's "Motion for New Trial and Material Evidentiary Facts In Support for Plaintiff Rule 60 Motion and Motion for Summary Judgment" (Doc. 175). Because the Court will deny the motion, it will not await a response from Defendants and will not hold oral argument. See F.R.Civ. 7.2(f).

As the Court has reiterated, judgment has been entered for Defendants in this case; the matter has been terminated; and the Ninth Circuit has affirmed. Plaintiff now requests—yet again—to set aside the judgment, for summary judgment, and for the undersigned to recuse. The Court has already addressed Plaintiff's arguments in its prior Orders, and Plaintiff has given the Court no basis in the new Motion to set aside the prior judgment—which has been affirmed on appeal—or to grant summary judgment in favor of Plaintiff, or for the undersigned to recuse from this case.

This matter has been and now remains closed. No further filings will be permitted.

1 **IT IS THEREFORE ORDERED** denying Plaintiff's "Motion for New Trial and
2 Material Evidentiary Facts In Support for Plaintiff Rule 60 Motion and Motion for
3 Summary Judgment" (Doc. 175). This case remains closed.

4 **IT IS FURTHER ORDERED** that the Clerk of Court shall not accept any further
5 filings in this matter.

6 Dated this 25th day of May, 2023.

7 
8 Honorable John J. Tuchi
United States District Judge

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Richard Rynn,
Plaintiff,
v.
First Transit Incorporated, *et al.*,
Defendants.

No. CV-20-01309-PHX-JJT
ORDER

On July 29, 2021, the Court granted Defendant First Transit Incorporated's Motion for Summary Judgment, denied Plaintiff Richard Rynn's multiple motions, and directed the Clerk of Court to terminate the matter. (Doc. 116.)¹ Since then, Plaintiff has continued to file numerous motions—including three now pending before the Court (Docs. 170, 171, 173)—containing frivolous allegations against the Court and Defendant that the Court has already addressed. These motions are without merit and will be denied.

The Court has reiterated that this matter is, and remains, closed and it has cautioned Plaintiff that "any misuse of the ECF system will result in immediate discontinuation of this privilege and disabling of the password assigned to [Plaintiff]." (Doc. 21.) In its Order of December 13, 2021, the Court expressly warned Plaintiff that any further filings in this matter will result in the termination of his ECF privilege (*id.*), an action the Court now takes. See Fed. R. Civ. P. 5(d)(3)(B)(i) (a *pro se* litigant "may file electronically only if

¹ The Ninth Circuit affirmed and issued its mandate on March 2, 2023. (Doc. 169.)

1 allowed by court order or by local rule"); LRCiv 5.5(d) ("Unless the Court orders
2 otherwise, parties appearing without an attorney shall not file documents electronically.").

3 **IT IS THEREFORE ORDERED** denying Plaintiff's Motion for Retrial and to Set
4 Aside Judgment (Doc. 170).


5 **IT IS FURTHER ORDERED** denying Plaintiff's Motion for Summary Judgment
6 (Doc. 171).

7 **IT IS FURTHER ORDERED** denying Plaintiff's Motion for Change of Venue for
8 Cause (Doc. 173).

9 **IT IS FURTHER ORDERED** discontinuing Plaintiff's electronic filing privilege,
10 which the Court previously granted on October 19, 2020 (Doc. 21). Plaintiff is no longer
11 permitted to electronically file documents in this matter.

12 **IT IS FURTHER ORDERED** that this matter remains closed.

13 Dated this 14th day of April, 2023.

14 
15 Honorable John J. Tuchi
16 United States District Judge
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1 **WO**

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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

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9 Richard Rynn,

10 Plaintiff,

11 v.

12 First Transit Incorporated, *et al.*,

13 Defendants.

No. CV-20-01309-PIIX-JJT

ORDER

14
15 At issue is Defendant First Transit Incorporated's Motion for Summary Judgment
16 (Doc. 82, "Def.'s MSJ") to which Plaintiff Richard Rynn filed a Response (Doc. 86, Pl.'s
17 Resp.), and Defendant filed a Reply (Doc. 91, "Def.'s Reply"). Also at issue is Plaintiff's
18 Motion for Summary Judgment (Doc. 81, "Pl.'s MSJ"). Defendant filed a Response
19 (Doc. 89, "Def.'s Resp."), and Plaintiff filed a Reply (Doc. 100, "Pl.'s Reply"). This Order
20 will also resolve Defendant's multiple Motions to Strike (Docs. 31, 107) and Motion to
21 Dismiss (Doc. 43) as well as Plaintiff's Motion to Supplement (Doc. 42), Motion for
22 Discovery (Doc. 76), Motion to Compel (Doc. 80), and Motion to Amend (Doc. 96). For
23 the following reasons, the Court will grant Defendant's Motion for Summary Judgment,
24 deny Plaintiff's Motion for Summary Judgment, and deny all remaining motions at issue.

25 **I. BACKGROUND**

26 This matter arises from Defendant First Transit Incorporated's ("First Transit")
27 handling of a third party's sexual harassment allegations against Plaintiff Richard Rynn.
28 Mr. Rynn started working for First Transit in 2016 at its Mesa location. In December 2018,

1 he temporarily worked at the Tempe facility, where he met Shayley Matthews. (DSOF
2 ¶¶ 3-4.) While working together, Mr. Rynn told Ms. Matthews she was beautiful.
3 commented on her Instagram page, and had other personal conversations with her. (DSOF
4 ¶¶ 9, 18, Exhibit B, Richard Rynn Deposition at 21:22-24:24, 77:8-79:20, 81:3-83:19.) In
5 February 2019, Ms. Matthews submitted an Incident Report form to First Transit
6 complaining about these interactions. (DSOF ¶¶ 12-13, 16, Ex. B at 54:2-9, 54:13-25,
7 59:24-60:11; Exhibit C, Declaration of Shayley Matthews ("Mathews Decl.") ¶¶ 4, 6-9.)
8 Ms. Matthews also stated that Mr. Rynn was "internet stalking" and "facebook stalk[ing]"
9 her. (DSOF ¶ 15; Mathews Decl., Ex. A.)

10 On February 26, 2019, First Transit employee, Lynn McLean, met with Mr. Rynn
11 to inform him of Ms. Matthews's complaint. (DSOF ¶ 20; Exhibit A, Lynn McLean
12 Declaration ("McLean Decl." ¶ 8.) He instructed Mr. Rynn to stay away from the Tempe
13 facility and not speak with any of the Tempe employees. (DSOF ¶ 21; McLean Decl. ¶ 8.)
14 Subsequently, Ms. Matthews informed First Transit that Mr. Rynn had subscribed to her
15 Youtube account and attempted to contact her through Facebook. (DSOF ¶¶ 26-27;
16 Mathews Decl. ¶ 12.) On April 19, 2019, Mr. Rynn entered the Tempe location with his
17 daughter and provided a First Transit representative with an apology note for
18 Ms. Matthews. (DSOF ¶ 29.) On April 30, 2019, First Transit released a confidential memo
19 to Ms. Matthews concluding that "the investigation leads us to believe that inappropriate
20 conduct did occur." (DSOF ¶ 30, Ex. B at 108:20-109:22.) The next day, First Transit
21 provided Mr. Rynn with a different confidential memo that found "your unwanted
22 comments and remarks were inappropriate under the circumstances and provided a basis
23 for the employee to make allegations against you." It also instructed him to "not enter the
24 Tempe property without the approval of upper management." (DSOF ¶¶ 31-32, Ex. B,
25 103:10-104:15, 214:23-215:16; McLean Decl. ¶ 10.)

26 Less than two weeks later, Mr. Rynn sent Ms. Matthews flowers with a note
27 requesting to speak or meet up in order to "resolve all unresolved issues." (DSOF ¶¶ 34-
28 36, Ex. B at 111:7-9, 112:11-113:5; Mathews Decl. ¶ 13.) In response, Ms. Matthews

1 called the Avondale Police Department, who suggested that Ms. Matthews apply for an
2 Injunction against Harassment ("IAH") against Mr. Rynn. (DSOF ¶¶ 37-38, Matthews
3 Decl. ¶ 14; Plaintiff's Supplemental Response to Defendant's First Set of Interrogatories
4 and First Set of Production at 31-33.) Ms. Matthews immediately applied for the IAH,
5 which a Judge granted that day. (DSOF ¶¶ 43-45.) Additionally, both the responding
6 Officer and Ms. Matthews contacted Mr. Rynn to inform him that Ms. Matthews did not
7 wish to have further contact with him. (DSOF ¶¶ 39-41.)

8 After receiving service of the IAH, Mr. Rynn moved for its dismissal. (DSOF ¶ 53,
9 Ex. B at 148:14-150:4, 167:20-168:15.) The court held a hearing, where Ms. Matthews,
10 Mr. Camunez, and Mr. Rynn all testified, and ultimately upheld the IAH. (DSOF ¶¶ 48-
11 52; Matthews Decl. ¶¶ 19-21; Ex. B at 134:12-16.)

12 One day later, on June 4, 2019, Mr. Rynn filed a hotline complaint at work, alleging
13 that (1) he was wrongfully accused of sexual harassment; (2) Mr. Camunez provided false
14 information at the hearing; (3) and Mr. Rynn was not informed of certain relevant
15 information until the IAH hearing. (DSOF ¶ 53, Ex. B at 148:14-150:4, 167:20-168:15.)
16 First Transit investigated the allegations and found no violation of its policies or procedures.
17 (DSOF ¶ 54, Ex. B at 167:20-168:15; 170:18-171:2.)

18 Mr. Rynn subsequently filed his initial Complaint in this matter, which has since
19 been amended. The Complaint alleges (1) Defamation, (2) False Light, and (3) Negligence.
20 Both parties now move for summary judgment on all of Plaintiff's claims.

21 **II. LEGAL STANDARD**

22 Under Rule 56(c) of the Federal Rules of Civil Procedure, summary judgment is
23 appropriate when: (1) the movant shows that there is no genuine dispute as to any material
24 fact; and (2) after viewing the evidence most favorably to the non-moving party, the
25 movant is entitled to prevail as a matter of law. Fed. R. Civ. P. 56; *Celotex Corp. v. Catrett*,
26 477 U.S. 317, 322-23 (1986); *Eisenberg v. Ins. Co. of N. Am.*, 815 F.2d 1285, 1288-89 (9th
27 Cir. 1987). Under this standard, "[o]nly disputes over facts that might affect the outcome
28 of the suit under governing [substantive] law will properly preclude the entry of summary

1 judgment.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A “genuine issue”
2 of material fact arises only “if the evidence is such that a reasonable jury could return a
3 verdict for the nonmoving party.” *Id.*

4 In considering a motion for summary judgment, the court must regard as true the
5 non-moving party’s evidence, if it is supported by affidavits or other evidentiary material.
6 *Celotex*, 477 U.S. at 324; *Eisenberg*, 815 F.2d at 1289. However, the non-moving party
7 may not merely rest on its pleadings; it must produce some significant probative evidence
8 tending to contradict the moving party’s allegations, thereby creating a material question
9 of fact. *Anderson*, 477 U.S. at 256-57 (holding that the plaintiff must present affirmative
10 evidence in order to defeat a properly supported motion for summary judgment); *First Nat’l*
11 *Bank of Ariz. v. Cities Serv. Co.*, 391 U.S. 253, 289 (1968).

12 “A summary judgment motion cannot be defeated by relying solely on conclusory
13 allegations unsupported by factual data.” *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir.
14 1989). “Summary judgment must be entered ‘against a party who fails to make a showing
15 sufficient to establish the existence of an element essential to that party’s case, and on
16 which that party will bear the burden of proof at trial.’” *United States v. Carter*, 906 F.2d
17 1375, 1376 (9th Cir. 1990) (quoting *Celotex*, 477 U.S. at 322).

18 III. ANALYSIS

19 The Court must first address the multiple issues with Plaintiff’s filings. Plaintiff
20 failed to file a statement of facts in conjunction with his Response to Defendant’s Motion
21 for Summary Judgment as well as his own Motion for Summary Judgment. Rather, Plaintiff
22 inexplicably waited to file the statement of facts until after the motions were fully briefed
23 (Docs. 99, 102). Defendant moved to strike the untimely filings, contending that they
24 violate LRCiv 56.1. (Doc. 107). The Court agrees. However, after reviewing the untimely
25 filings, the Court determines that they do not impact its decision and thus there is no
26 prejudice to Defendant. Therefore, Defendant’s Motion to Strike is denied as moot.

27 Additionally, Plaintiff filed a Notice of Removal purporting to remove the IAH
28 Avondale proceeding to this Court. (Docs. 28 & 29). Defendant filed a Motion to Strike,

1 arguing that the motion failed to comply with multiple procedural requirements and that
2 the Court lacked subject-matter jurisdiction (Doc. 31). Rule 12(f) permits a court to “strike
3 from a pleading an insufficient defense or any redundant, immaterial, impertinent, or
4 scandalous matter.” Fed. R. Civ. P. 12(f). The purpose of a Rule 12(f) motion to strike is
5 “to avoid the expenditure of time and money that must arise from litigating spurious issues
6 by dispensing with those issues prior to trial.” *Sidney-Vinstein v. A.H. Robins Co.*, 697 F.2d
7 880, 885 (9th Cir. 1983).

8 The Court will grant the Motion to Strike. Plaintiff’s Notice was procedurally
9 improper and wholly inappropriate. Importantly, First Transit was not a party to the IAH
10 hearing. The Avondale court granted the IAH and after multiple appeals, the Arizona
11 Supreme Court denied Mr. Rynn’s amended petition for review. *See LeDuc v. Kentucky*
12 *Life Ins. Co.*, 814 F. Supp. 820, 830 (N.D. Cal. 1992) (stating motions to strike may be
13 granted if “it is clear that the subject matter to be stricken could have no possible bearing
14 on the subject matter of the litigation.”). Therefore, Documents 28 and 29 shall be stricken
15 from the record.

16 A. Defamation

17 It is unclear from Plaintiff’s filings which statements he contends to be defamatory.
18 Plaintiff’s motions identify certain First Transit statements as incorrect but fail to analyze
19 them in relation to his defamation claim. Defendant took the unusual but helpful step of
20 using Plaintiff’s deposition testimony to identify those statements Plaintiff potentially
21 considers defamatory. (DSOF ¶¶ 56-68.) The Court will analyze these statements as well
22 as others that Plaintiff discusses in his briefing and statement of facts.

23 To state a claim for defamation under Arizona law, Plaintiff must allege that (1)
24 Defendant made a false and unprivileged statement; (2) the statement was published or
25 communicated to someone other than Plaintiff; and (3) the statement tends to harm
26 Plaintiff’s reputation. *Godbehere v. Phoenix Newspapers, Inc.*, 783 P.2d 781, 787 (Ariz.
27 1989); *Lundin v. Discovery Commc’ns Inc.*, 352 F. Supp. 3d 949, 960 (D. Ariz. 2018).

28

1 The First Transit statements are not defamatory for numerous reasons. To simplify
2 the analysis, the Court will separate the statements into three categories and explain why
3 they do not constitute defamation: (1) privileged statements made at the IAH hearing; (2)
4 statements made only to Mr. Rynn;¹ and (3) statements made to other First Transit
5 employees that are truthful or merely state one's opinion. The first two categories can be
6 resolved quickly in favor of Defendants. Mr. Rynn contends that Mr. Camunez's testimony
7 at the IAH hearing was defamatory. However, statements made in judicial proceedings are
8 privileged as a matter of law and thus are not defamatory. *Bailey v. Superior Court*, 636
9 P.2d 144, 146 (Ariz. Ct. App. 1981) ("An absolute privilege against a defamation charge
10 arises in the context of judicial proceedings, legislative proceedings and administrative or
11 executive functions of the government."). Likewise, First Transit statements made only to
12 Mr. Rynn are not defamatory because they were not published to a third party. *Godbehere*,
13 783 P.2d at 787.

14 The third category, statements made to First Transit employees, requires slightly
15 more analysis but the Court similarly concludes that they are not defamatory. Plaintiff
16 contends that First Transit instructed Ms. Matthews to notify the police. This does not
17 constitute defamation because it was not a false statement about Mr. Rynn. *Id.*

18 Moreover, Mr. Rynn contends that First Transit defamed him by informing other
19 employees that he was, amongst other things, "untrustworthy, disloyal, difficult, radical,
20 incorrigible..." and a host of other unflattering adjectives. However, these are mere
21 opinions that are "not laden with any false factual content" and thus do not constitute
22 defamation. *MacConnell v. Mitten*, 638 P.2d 689, 692 (1981). Importantly, Mr. Rynn does
23 not identify any underlying factual statement that may have led First Transit to form such
24 opinions except that First Transit informed employees that Ms. Matthews requested an IAH
25 protective order, which is not defamatory because it is true. (Pl. Resp. at 12, 15.). *Id.*

26
27
28 ¹ First Transit Employee, Chris Dalton, told Mr. Rynn that he needed to transfer Mr. Rynn
back to Mesa because Mr. Rynn was in danger. This statement is not defamatory because
it was not spoken to a third party. *Godbehere*, 783 P.2d at 787.

1 Mr. Rynn additionally contends that the First Transit incident report regarding
2 Ms. Matthews's complaint is defamatory. (Pl. Resp. at 15.) However, Mr. Rynn provides
3 no evidence to support this assertion. He merely states that First Transit "falsely said
4 Matthews incident report was just a comment when it was an incident report about Rynn.
5 First Transit did not say the truth about Matthews incident report in which put Rynn in
6 danger." (Pl. Resp. at 15.)

7 Finally, Mr. Rynn argues that Human Resources falsely told Mr. McLean that
8 Ms. Matthews filed a sexual harassment complaint against him. This does not constitute
9 defamation because it is true. *Godbehere*, 783 P.2d at 787; *Read v. Phoenix Newspapers*
10 *Inc.*, 819 P.2d 939, 941 (1991).

11 For these reasons, the Court will grant Defendant's Motion for Summary Judgment
12 on Mr. Rynn's claim for defamation.

13 **B. False Light**

14 The Court will also grant Defendant's Motion for Summary Judgment on Plaintiff's
15 false light claim. Under Arizona law:

16 One who gives publicity to a matter concerning another that places
17 the other before the public in a false light is subject to liability to the other
for invasion of his privacy, if

18 (a) the false light in which the other was placed would be highly
19 offensive to a reasonable person, and

20 (b) the actor had knowledge of or acted in reckless disregard as to the
21 falsity of the publicized matter and the false light in which the other would
be placed.

22 *Godbehere*, 783 P.2d at 784 (quoting Restatement (Second) of Torts § 652(F) (1977)).

23 "Unlike defamation, false light does not protect reputation or good name, but rather
24 protects mental and emotional interests." *Reynolds v. Reynolds*, 294 P.3d 151, 156 (Ariz.
25 Ct. App. 2013) *Id.* at 341. 783 P.2d at 787. "To qualify as a false light invasion of privacy,
26 the publication must involve a major misrepresentation of the plaintiff's character, history,
27 activities or beliefs," not merely minor or unimportant inaccuracies." *Id.* The tort of false
28

1 light protects against a "narrow class of wrongful conduct that falls just short of outrage,"
2 *Lemon v. Harlem Globetrotters Intern., Inc.*, 437 F. Supp.2d 1089, 1108 (D. Ariz. 2006)

3 Plaintiff appears to contend that the same statements he alleges were defamatory
4 also constitute false light. Plaintiff again does not produce sufficient evidence to sustain
5 the claim. There is no evidence that the statements are false, let alone a "major
6 misrepresentation" of Mr. Rynn's character or activities. Nor do the statements constitute
7 conduct that "falls just short of outrage." *Id.* And Defendant produced substantial evidence,
8 through Mr. Rynn's deposition and Ms. Matthews's Declaration, that the statements are
9 true. Finally, Mr. Rynn has not provided evidence of harm to his mental or emotional
10 interests. *Reynolds*, 294 P.3d at 156.

11 Lastly, Mr. Rynn contends that the IAH put him in a false light as a matter of public
12 record "made up by First Transit." (DSOF 79, Ex. B at 216:20-217:25; 218:18-219:12.)
13 However, the existence of the IAH is not false. Mr. Rynn may assert that the foundation
14 for the IAH is false, but that does not change the fact of its existence. Therefore, the Court
15 will grant Defendant's Motion for Summary Judgment on Plaintiff's claim for false light.

16 C. Negligence

17 Finally, the Court will grant Defendant's Motion for Summary Judgment on
18 Plaintiff's negligence claim. To establish a *prima facie* negligence claim under Arizona
19 law, Plaintiff must demonstrate the following elements: "(1) a duty requiring the defendant
20 to conform to a certain standard of care; 2) a breach by the defendant of that standard; 3) a
21 causal connection between the defendant's conduct and the resulting injury; and 4) actual
22 damages." *Gipson v. Kasey*, 150 P.2d 228, 230 (Ariz. 2007).

23 Plaintiff appears to contend that First Transit was negligent due to (1) the
24 investigation of Matthews's internal complaint; (2) the investigation of Mr. Rynn's hotline
25 complaint; (3) the failure to properly and timely inform Mr. Rynn of Ms. Matthews's
26 complaint; (4) the failure to advise him to not have contact with Mathews after May 1,
27 2019; (5) hiring Mr. Camúnez; and (6) the failure to supervise Mr. Camunez at the IAH
28 hearing. (Doc. 41, Amended Complaint ¶¶ 8, 18, 108, 111; Pl.'s MSJ at 7-8; Def.'s MSJ

1 at 15.) However, Plaintiff failed to produce evidence of or even allege that First Transit
2 owed Mr. Rynn a duty. Accordingly, Mr. Rynn has also not shown that First Transit's
3 actions breached any duty. Even where Plaintiff could show a duty, he has failed to produce
4 evidence of actionable damages. It appears that Plaintiff's alleged damages are
5 embarrassment due to Ms. Matthews filing a sexual harassment complaint and First Transit
6 employees' knowledge of that complaint as well as the IAH protective order, which do not
7 constitute damages under Arizona law. *See Glaze v. Larsen*, 83 P.3d 26, 29 (Ariz. 2004)
8 (explaining "actual injury or damages must be sustained before a cause of action in
9 negligence is generated."). Because Mr. Rynn has not met his burden on multiple elements
10 of his negligence claim, the Court will grant Defendant's Motion for Summary Judgment.

11 **D. Plaintiff's Motions for Additional Discovery**

12 Plaintiff's Motion for Discovery (Doc. 76) and Motion to Compel (Doc. 80) are
13 denied. Both motions pertain to alleged relevant information in the possession of third-
14 party Union Operating Engineers Local 428. Plaintiff provides no basis for the relevance
15 of this additional evidence except that it will help clarify dates for various communications.
16 This explanation is insufficient to show the Court that Union Operating Engineers
17 possesses relevant evidence. To the extent Plaintiff contends that the evidence is relevant
18 because of Defendant's statute of limitations argument, the Court notes that it did not rely
19 on the statute of limitations in its granting of Defendant's Motion for Summary Judgment.
20 Moreover, the Motion for Discovery was filed on the last day of discovery, after Plaintiff
21 had already received a two-week extension, and the attached proposed subpoena merely
22 states "see Exhibit 1" when describing the information sought. Notably, Plaintiff did not
23 attach an Exhibit 1. For these reasons, the motions are denied.

24 **E. Plaintiff's Motion for Leave to Amend the Complaint**

25 The Court will also deny Plaintiff's Second Motion to Amend to add five additional
26 claims.² A party may amend a complaint once as a matter of course within 21 days after

27 ² The Court will also deny Plaintiff's Motion to Supplement filed on January 25, 2021 as
28 moot. The Motion, which was filed prior to the start of discovery and months before the
parties filed their Motions for Summary Judgment, requested leave to admit recordings of
the Avondale IAH hearing into evidence. Plaintiff did not specify for what purpose it

1 serving it, or within 21 days of service of, among others, a Rule 12(b)(6) motion. Fed. R.
2 Civ. P. 15(a). In all other circumstances, absent the opposing party's written consent, a
3 party must seek leave to amend from the court. Fed. R. Civ. P. 15(a)(2). Although the
4 decision whether to grant or deny a motion to amend is within the trial court's discretion.
5 "Rule 15(a) declares that leave to amend shall be freely given when justice so requires."
6 *Foman v. Davis*, 371 U.S. 178, 182 (1962) (citation and internal quotation marks omitted).
7 "In exercising its discretion with regard to the amendment of pleadings, a court must be
8 guided by the underlying purpose of Rule 15--to facilitate a decision on the merits rather
9 than on the pleadings or technicalities." *Eldridge v. Block*, 832 F.2d 1132, 1135 (9th Cir.
10 1987) (citation and internal quotation marks omitted).

11 However, the policy in favor of allowing amendments is subject to limitations. After
12 a defendant files a responsive pleading, leave to amend is not appropriate if the
13 "amendment would cause prejudice to the opposing party, is sought in bad faith, is futile,
14 or creates undue delay." *Madeja v. Olympic Packers*, 310 F.3d 628, 636 (9th Cir. 2002)
15 (citation and internal quotation marks omitted). "Futility alone can justify the denial of a
16 motion for leave to amend." *Nunes v. Ashcroft*, 375 F.3d 805, 808 (9th Cir. 2003).

17 Here, Plaintiff's proposed amendments would cause substantial prejudice to
18 Defendants. Plaintiff filed this request to add additional claims after all motions for
19 summary judgment were fully briefed and two and half months after the close of discovery.
20 If the Court were to grant Plaintiff's request, the case would essentially start from the
21 beginning for the added claims. At the least, Defendant would need to respond to an
22 amended complaint, re-take Mr. Rynn's deposition and participate in Discovery. Plaintiff
23 does not provide any reason why the Court should subject Defendant to such prejudice.
24 Nor does Plaintiff explain why it waited until the close of summary judgment to request to
25 amend. Because of the extreme prejudice and delay, the Court will deny Plaintiff's Motion
26 to Amend.

27
28 _____
wanted to admit the new evidence, but he had the opportunity to use the evidence in support
of his Motion for Summary Judgment, and in fact referenced the IAH hearing multiple
times.

1 **IT IS THEREFORE ORDERED** granting Defendant First Transit Inc.'s Motion
2 for Summary Judgment (Doc. 82).

3 **IT IS FURTHER ORDERED** denying Plaintiff Richard Rynn's Motion for
4 Summary Judgment (Doc. 81).

5 **IT IS FURTHER ORDERED** granting Defendant First Transit Inc.'s Motion to
6 Strike Plaintiff's Notice of Removal of Civil Action to Federal Court and Addendum to
7 Notice of Removal (Doc. 31). Accordingly, Documents 28 and 29 shall be stricken from
8 the record.

9 **IT IS FURTHER ORDERED** denying Plaintiff Richard Rynn's Motion to
10 Supplement as moot (Doc. 42).

11 **IT IS FURTHER ORDERED** denying Defendant First Transit Inc.'s Motion to
12 Dismiss as moot (Doc. 43).

13 **IT IS FURTHER ORDERED** denying Plaintiff Richard Rynn's Motion for
14 Discovery (Doc. 76).

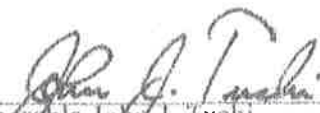
15 **IT IS FURTHER ORDERED** denying Plaintiff Richard Rynn's Motion to Compel
16 (Doc. 80).

17 **IT IS FURTHER ORDERED** denying Plaintiff Richard Rynn's Second Motion
18 to Amend (Doc. 96).

19 **IT IS FURTHER ORDERED** denying Defendant First Transit Inc.'s Motion to
20 Strike (Doc. 107).

21 **IT IS FURTHER ORDERED** directing the Clerk of Court to enter judgment
22 accordingly and terminate this action.

23 Dated this 28th day of July, 2021.

24 
25 Honorable John J. Tuchi
26 United States District Judge
27
28

INJUNCTION AGAINST HARASSMENT

Amended Order

Dating relationship, no law enforcement service fee

Case No. **M0780PO2018000235**

Court ORI No: **AZ007011**

County **MARICOPA** State **AZ**

Former Case No.

PLAINTIFF

PLAINTIFF IDENTIFIERS

SHAYLEY **MATHEWS**
 First Middle Last Suffix

Redacted
 Date of Birth of Plaintiff

And/or on behalf of minor family member(s) and other Protected Person(s): (List name and DOB.)

V.

DEFENDANT

DEFENDANT IDENTIFIERS

RICHARD **RYNN**
 First Middle Last Suffix

Defendant/Plaintiff Relationship: **OTHER - CO-WORKER**

Defendant's Address: Redacted
 Redacted **ARIZONA** Redacted

SEX	RACE	DOB	HT	WT
MALE	WHITE	Redacted	5'4"	180
EYES	HAIR	Arizona Prohibits Release of Social Security Numbers		
BROWN	BROWN			
DRIVER'S LICENSE #	STATE	EXP DATE		

CAUTION: Weapon Alleged in Petition
 Estimated Date of Birth

WARNINGS TO DEFENDANT: This Injunction shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. § 2265). Crossing state, territorial, or tribal boundaries to violate this Injunction may result in federal imprisonment (18 U.S.C. § 2262). Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. § 922(g)(B)). Only the Court, in writing, can change this Injunction.

This Injunction is effective for one year from date of service. **VERIFY VALIDITY (call Holder of Record):**

MARICOPA County Sheriff's office - 602-876-1061

THE COURT HEREBY FINDS:

That it has jurisdiction over the parties and subject matter.

Defendant received actual notice of this Hearing and had an opportunity to participate.

Additional findings of this Injunction and warnings are set forth on the next page(s).

THE COURT, FINDING REASONABLE CAUSE, HEREBY ORDERS:

NO CRIMES. Defendant shall not commit any act of "harassment" against Plaintiff or Protected Person(s).

NO CONTACT. Defendant shall have no contact with Plaintiff except through attorneys, legal process, court hearings, and as checked: Phone Email/Fax Mail Other:

NO CONTACT. Defendant shall have no contact with Protected Person(s) except through attorneys, legal process, court hearings and as checked: Phone Email/Fax Mail Other:

THE COURT FURTHER ORDERS:

PROTECTED LOCATIONS. Defendant shall not go to or near the Plaintiff's or other Protected Person's:

- Residence (leave blank if confidential):
- Workplace (leave blank if confidential):
- School / Other: UNIVERSAL TECHNIC INSTITUTE, AVONDALE AZ

OTHER ORDERS. NO THIRD PARTY CONTACT

05/13/2018

Date



HONORABLE CRAIG L. JENNINGS

Printed Name

ADDITIONAL WARNINGS TO DEFERDANT:

This is an official Court Order. If you disobey this injunction (even if the Plaintiff contacts you), you may be arrested and prosecuted for the crime of interfering with judicial proceedings and any other crime you may have committed in disobeying this injunction. Violations of this injunction should be reported to a law enforcement agency, not the Court. Both parties must notify this Court if an action for dissolution (divorce), separation, annulment or paternity/maternalty is filed. This is NOT a parenting time (visitation) or custody order. You must file those requests separately in Superior Court. If you disagree with this injunction, you have the right to request a hearing which will be held within 10 business days after your written request has been filed in the Court that issued this injunction. Nothing the Plaintiff does can stop, change, or undo this injunction without the court's written approval. You must appear in court to ask a judge to modify (change) or quash (dismiss) this injunction. Even if the Plaintiff initiates contact, you could be arrested and prosecuted for violating this protective order. If you do not want the Plaintiff to contact you, you have the right to request a protective order against the Plaintiff. However, orders are not automatically granted upon request. Legal requirements must be met.

PCO CODES - 1,2,4,6,8



UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

SANDRA DAY O'CONNOR UNITED STATES COURTHOUSE
401 WEST WASHINGTON STREET, SUITE 525, SPC 83
PHOENIX, ARIZONA 85003-2161

John J. Tuchi
United States District Judge

Chambers: (602) 322-7660
Fax: (602) 322-7669

August 13, 2024

Richard Rynn
1299 East Marlin Drive
Chandler, Arizona 85286

Re: Subpoena issued to Hon. John Tuchi in *David-Rynn, et al. v. UHS of Phoenix, LLC, et al.*, Case No. CV2020-094244 (Maricopa County Superior Court)

Dear Mr. Rynn:

I am in receipt of the subpoena you mailed to me at the Sandra Day O'Connor courthouse. The subpoena was issued in the matter of *Richard David-Rynn v. UHS of Phoenix, et al.*, No. CV2020-094244 (Maricopa County Superior Court). A final judgment dismissing all claims was entered in that matter, which was affirmed on appeal. See *David-Rynn v. UHS of Phoenix, LLC*, No. 1 CA-CV 21-0605, 2022 WL 4242261 (Ariz. Ct. App. Sept. 15, 2022) (mem. decision). The United States Supreme Court denied review. See *Rynn v. UHS of Phoenix, LLC*, 144 S. Ct. 329 (2023) (cert. denied). Thus, there is no basis to serve discovery requests or to have had a subpoena issued in this matter as the matter is closed.

The subpoena, which is very similar to the subpoena you served in *Rynn v. Mathews, et al.*, Case No. LC2022-000265 (Maricopa County Superior Court), directs me to provide written responses to interrogatories inquiring about the facts of, and reasons for, my judicial decisions in *Rynn v. McKay, et al.*, Case No. 2:18-cv-00414 (D. Ariz.) and *Rynn v. First Transit, Inc.*, Case No. 2:20-cv-01309 (D. Ariz.), federal district court cases over which I presided. The *McKay* action was dismissed on November 6, 2018. See Doc. 71 in Case No. 2:18-cv-00414. The dismissal was upheld on appeal. See Doc. 81-1 in Case No. 2:18-cv-00414. In the *First Transit* matter, summary judgment was granted in the defendant's favor on July 28, 2021. See Doc. 116 in Case No. 2:20-cv-01209. The decision was affirmed on appeal. See Doc. 168-1 in Case No. 2:20-cv-01209. The subpoena also seeks to have me to answer interrogatories regarding the employment status, financial interests, and professional activities of my household, as well as providing the source of my judicial authority.

The Guide to Judiciary Policy, Volume 20, Chapter 8, governs the production or disclosure of official information or records by the federal judiciary and the testimony of

present or former judiciary personnel relating to any official information acquired by any such individual as part of that individual's performance of official duties or by virtue of that individual's official status, in federal, state or other legal proceedings. You can access the portion of the Guide to Judiciary Policy relevant to subpoenas at <https://www.uscourts.gov/rules-policies/judiciary-policies/subpoena-regulations>. Anyone requesting testimony or production of official information must include with their request—in this case, the subpoena issued in CV2020-094244—a written statement that contains an explanation of the nature of the testimony or records sought, the relevance of the testimony or records sought to the legal proceedings, and the reasons why the testimony or records sought, or the information contained therein, is not readily available from other sources or by other means. See Guide to Judiciary Policy § 830(a). Where the request does not contain a sufficient explanation, the determining officer may deny the request or ask the requestor to provide additional information. *Id.* at § 830(a)(2). Since the request for testimony is directed to me, I am the determining officer. *Id.* at § 840(b)(1).

Your request is not accompanied by the written statement required by Section 830(a) of the Guide to Judiciary Policy. Nevertheless, I have reviewed the subpoena and have determined not to authorize disclosure of the federal judicial information sought in the subpoena. In coming to this decision, I have considered, among other things, the need to avoid spending the resources of the United States for private purposes, including conserving the time of federal judicial personnel for the performance of official duties and minimizing the federal judiciary's involvement in issues unrelated to its mission; whether the testimony would assist the federal judiciary in the performance of its official duties; whether the testimony is appropriate under the Arizona Rules of Civil Procedure and under the subsequent law of privilege; whether the request is within the proper authority of the party making it; whether the request meets the requirements of the Guide to Judiciary Policy; whether the testimony would violate a statute, regulation, or ethical rule; whether the testimony would disclose information regarding the exercise of my judicial responsibilities in the decisional or deliberative process; whether the testimony could reasonably be expected to result in the appearance of favoring one litigant over another or endorsing or supporting a position advocated by a litigant; and whether the request seeks personnel files, records or documents of a current judicial officer.

As noted above, your subpoena is inappropriate under the Arizona Rules of Civil Procedure. It is axiomatic that discovery can only be obtained in an open case. The subpoena was issued in Case No. CV2020-094244, in which a judgment has been issued against you, and all avenues of appeal have been exhausted. Because there is no pending case, the subpoena is improper and is not authorized by the Arizona Rules of Civil Procedure. Additionally, a subpoena issued pursuant to Rule 45 of the Arizona Rules of Civil Procedure can command the person to whom it is directed to attend and testify at a deposition, hearing or trial, produce and permit inspection of documents, information or tangible things, or permit the inspection of premises. A subpoena cannot compel a non-party to answer interrogatories. Finally, I note the subpoena was not properly served.


August 13, 2024

Page 3

Because the subpoena is not appropriate under or authorized by the Arizona Rules of Civil Procedure, as the determining officer, I decline to authorize disclosure of the requested information.

If you have questions, you may contact Katherine Branch at the United States Attorney's Office at (602) 514-7500.

Sincerely,



JOHN J. TUCHI
United States District Judge

JJT/meg



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Phoenix District Office
3300 North Central Avenue, Suite 690
Phoenix, AZ 85012
(602) 661-0002
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 07/15/2024

To: Richard Rynn
1299 East Marlin Drive
CHANDLER, AZ 85286

Charge No: 540-2024-05311

EEOC Representative and email: JEREMY YUBETA
Enforcement Manager
jeremy.yubeta@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign in to the EEOC Public Portal and upload the court complaint to charge 540-2024-05311.

On behalf of the Commission.

Melinda Caraballo
District Director

RE: case status

From: Questions CA09Operation (questions@ca9.uscourts.gov)
To: richardrynn@yahoo.com
Date: Thursday, August 29, 2024 at 09:13 AM MST

Hello,

The cases are now closed.

Thanks

From: richard rynn <richardrynn@yahoo.com>
Sent: Thursday, August 29, 2024 2:07 AM
To: Questions CA09Operation <questions@ca9.uscourts.gov>
Subject: case status

CAUTION - EXTERNAL:

Request for Status on Two Pending Cases Rynn V Mckay Case No.: 23-15607 Rynn V First Transit case No. 23-15869

According to the Notice from the United States Supreme Court, the Appellant has filed multiple motions in the Ninth Circuit and an application to vacate, which supersedes all court rules. The court's decision ordered that no further filings be accepted. The Ninth Circuit's order is rendered void pursuant to Appellant application to vacate under Rule 60 for fraud on the court.

Sincerely,

Richard Rynn

CAUTION - EXTERNAL EMAIL: This email originated outside the Judiciary. Exercise caution when opening attachments or clicking on links.

CERTIFICATE OF SERVICE

A copy of this application was served by U.S. mail to Defendants listed below in accordance with Supreme Court Rule 22.2 and 29.3, or 33.2.

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Attorneys for La Frontera Empact

this 31st day of August 2024

By: 
RICHARD RYNN