

No. _____

IN THE
Supreme Court of the United States

SARA GONZÁLEZ FLAVELL, Pro Se Applicant,

v .

JIM YONG KIM, DAVID ROBERT MALPASS, SHAOLIN YANG, OTAVIANO
CANUTO, SOPHIE SIRTAINÉ, JENNY FUNES AND PHILIP BEAUREGARD
Respondents

APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI TO THE DISTRICT OF
COLUMBIA COURT OF APPEALS

To the Honorable John G. Roberts, Jr.,
Chief Justice of the United States Supreme Court
and Circuit Justice for the District of Columbia
and District of Columbia Courts

Sara Gonzalez Flavell, Pro Se Applicant,

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Pursuant to Rule 13.5 of the Rules of the Supreme Court of the United States, (“[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days”) and for good cause set forth herein, the Applicant, Sara González Flavell, respectfully requests a 40-day extension of time so that the Applicant may now seek a writ of certiorari for the District of Columbia court of appeals with respect to its panel decision in her case. Such a 40-day extension will, if granted, extend the 90-day period in which the Applicant may file a petition for writ of certiorari which currently is to Thursday, January 23, 2025 up to and including to the new date of Tuesday, March 4, 2025 by which to make such filing.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

1. The judgment for which review is sought is contained in a Memorandum of Judgment issued per curium by the highest court of the District of Columbia on October 25, 2024 in her case : *Sara González Flavell v. Jim Yong Kim, David Robert Malpass, Shaolin Yang, Otaviano Canuto, Sophie Sirtaine, Jenny Funes And Philip Beauregard (Respondents)* in District of Columbia court of appeal Case No. 22-cv-964 (a copy of the Memorandum of Judgment is attached as **App. A**). The Applicant is appealing the Memorandum of Judgment and the ruling by the District of Columbia court of appeal as a final judgment which both affects her constitutional rights and which denies her due process rights, wherein which judgment the three-judge panel affirmed the judgment of the District of Columbia superior court in Case No. 2020 CA 004944B.

2. The Applicant's case raises important questions regarding clearly established federal law as construed by this court, and District law as construed previously by the courts in the District of Columbia. The District of Columbia court of appeal has issued its judgement upholding a defense raised by the respondents and asserting that the court had no subject-matter jurisdiction to hear the appeal, or her case. In reaching its judgment the court of necessity made judgment on the applicability and interpretation of the functional immunity provision provided under federal law 22 U.S. Code § 288d(b) (carrying out of official functions by officials or staff of international organizations) and applicability or not in the courts of law of an international organization's 'articles of association' provisions.

3. The court in reaching its decision disregarded evidentiary requirements essential to be met prior to the valid raising of such defense as established by all other courts, and the decision significantly alters and expands the basis for an exception to a court's subject-matter jurisdiction. The judgement is at odds with interpretation and application by State supreme courts and federal courts.

4. The Memorandum of Judgment raises significant policy considerations, matters of public interest and issues of first impression. As her petition for certiorari will show, the District of Columbia court of appeal during the course of the appeal also denied the Applicant fundamental rights, including restricting her first amendment rights without any or good cause, and denying her right to be meaningfully heard.

5. The Applicant, Sara González Flavell, filed a timely motion for the District of Columbia court of appeal to stay its mandate pending her petition to this Court, however the court issued its mandate earlier than its own rules prescribe and next denied her motion. Before the District of Columbia court is a 'Motion to Publish the Memorandum of Judgment' filed by the Applicant on November 21, 2024, on which the Applicant has not yet received any copy court order (if one has now been issued) and does not know whether the court has yet ruled on the matter.

JURISDICTION

This Court's jurisdiction over a timely filed petition for certiorari will be invoked pursuant to 28 U.S.C. § 1254(1). Under this Court's Rules 13.1, 13.3, and 30.1, the current deadline for the Applicant, Sara González Flavell, to file a petition for certiorari is January 23, 2025. This Application is filed more than ten (10) days in advance of that date, in accordance with this Court's Rule 13.5.

REASONS JUSTIFYING AN EXTENSION OF TIME

In support of this application and in accordance with this Court's Rule 13.5, the Applicant, Sara González Flavell, states the "specific reasons why an extension of time is justified" which are:

I. Medical Illness and Surgeries Necessarily Delaying Progress of Preparation

1. One of the reasons for which the extension is requested is due to the Applicant's ongoing medical condition. Over this year the Applicant has experienced

increasing 'flashers' and 'floaters' of bright lights in her eyes, some painful, and was referred to Dr. Joshua Levinson M.D. of 'The Retina Group of Washington' at 8270 Willow Oaks Corporate Drive, Fairfax, VA 22031. Two episodes about a month apart evidenced posterior vitreous detachment (PVD) or a retinal tear/partial detachment. The Applicant has therefore been under specialist physicians care and supervision given her increased risk of retinal detachment, a more serious issue.

2. In turn she was referred by 'The Retina Group' to Dr. Faheem Ahmed M.D. of the specialist group 'Eye Physicians of Virginia' and in late October, coincidentally on the day she received a copy of the Memorandum of Judgment, she was advised that cataract surgery would assist her compromised sight.

3. Specifically, the Applicant last week underwent cataract surgery in her right eye and requires follow-up medical appointments and significant rest for proper recovery. Her vision is currently blurred and shimmery. On December 11, 2024, provided her right eye continues to improve, she will undergo cataract removal surgery on her left eye. She is advised to rest her eyes more than she would usually do, and has limited her screen computer use (achy) and exposure to public places while incisions heal as an extra precaution against possibility of incision infection.

4. These medical needs, as well as the time consumed by eye appointments and the surgery itself, have limited the Applicant's ability to carry out the extensive research necessary and to properly prepare the petition for a writ

of certiorari and so her present medical recovery/condition necessitates additional time to ensure that a thorough and well-supported petition is filed.

5. Some medical papers supporting the truth of the Applicant's statements are attached as **App. B**.

II. Intricacies of Legal Issues Raised Requiring Extensive Research and Review

The time granted by Supreme Court Rule 13 will be insufficient to allow the pro se Applicant to do justice to the issues at hand, which are of significance and importance to a just and fair legal system, and which the current judgment seeks to erode. And there are important questions that were determined adversely by the court below.

1. This case involves substantial questions under federal law and District common law, and the parameters, application and interpretation of any defense available to persons employed, or appointed to, an international organization, including under 22 U.S. Code § 288d(b). The court of appeals' decision determined and applied a defense under federal law that is of significant national importance and warrants this Court's review. The DC superior court before upholding a defense of immunity for the numerous defendants failed to hold any hearing at all, including status or evidentiary hearing, for over a year and made its determination based on suppositions, prejudice and bias and on information merely provided by the defendants' counsels in filings, without any affidavits or job descriptions ever being provided, or even the name of the exact juridical

entity/respective international organizations for which the defendants claimed to act in official capacity being ascertained, contrary to executive branch requirements to be met before the raising of such defense in any court. Its decision was affirmed by the court of appeal which in its own judgment describes matters which the lower court had stated to be ones of fact to now be questions of law.

2. The opinion and judgment of the District of Columbia court of appeal rests on significant mis-readings of both the provisions on which it based its determination of immunity depriving it of subject-matter jurisdiction and of Supreme Court and federal court precedent. Given the Constitution and the need for all individuals to comply with the laws of the United States, and in this instance also with the laws of the District of Columbia, this matter raises questions of exceptional importance. In addition multiple steps are required within the U.S. Government to authorize such a filing of a motion-to-dismiss on the grounds filed by the defendants, which the US Government, like the international organizations implicated, consider a very serious matter, and similarly multiple steps are required within the international organizations themselves, yet neither the U.S. Government nor any international organization has provided necessary confirmation.

3. Notwithstanding the Applicant's right to proceed under DC laws and relevant statutes and the conflicting factual statements made, the court accepted as true defendants' counsels statement of 'Counter-facts of the Case' in their filed motion-to-dismiss, rather than accepting, for the purposes of considering and ruling

upon the motion-to-dismiss, the Applicant's Complaint's 'Statement of Facts' (disputed by the defendants) as true.

4. In her petition the Applicant will urge the Supreme Court to grant review in this important case about the limits and use of limited functional immunity and its availability to persons claiming to act within their official functions for an international organization and for furtherance of such organization's own mission, and the need for such individuals to state, with some form of proof, what those functions are and for the factual dispute as to material facts underpinning such defense to be established prior to a ruling.

5. Particularly in a case like this one, which involves complex issues and requires the Applicant, Sara González Flavell, to weigh potential effects on the executive branch and international organizations throughout the United States, and the volume of law that points against the judgment reached, that deliberative process requires substantial time.

III. Federal And Religious Holidays In The 90-Day Period Shorten Research Time

The current deadline of January 23, 2024, falls shortly after several official holidays observed by both the United States, the courts and the Applicant, and being dates on which US Government and International Organizations and courts close to the public. Which official holidays, and their celebration (including religious observance by the Applicant) have extended the time needed to complete the Applicants review and preparation process.

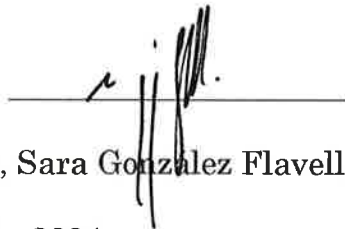
Finally, this requested extension is made in good faith and not for the purposes of delay. Indeed, the requested extension is made because of the vital importance associated with the issues at hand – the right to a fair and reliable reasoned judgment from a court without error as to law or fact. Therefore, in light of the Applicant’s current obligations and medical needs and the importance of the constitutional and legal and executive issues that will be presented in this case, the Applicant, Sara González Flavell, respectfully submits that a forty (40) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari.

The defendants and their counsel, have been notified of this request by copy sent today.

CONCLUSION

For the foregoing reasons, and in the interest of justice and for good cause shown, the Applicant, Sara González Flavell, respectfully requests that this Court grant this application for a 40-day extension, to March 4, 2025, of the time to file a petition for writ of certiorari in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Sara Gonzalez Flavell', is written over a horizontal line. The signature is somewhat stylized and includes a small flourish at the end.

The Applicant, Sara Gonzalez Flavell, pro se

November 27, 2024

APP. A

DISTRICT OF COLUMBIA COURT OF APPEALS

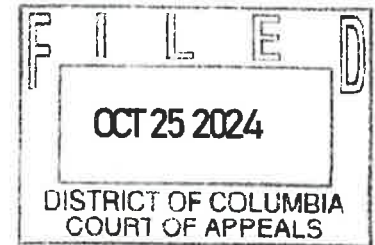
No. 22-CV-0964

SARA GONZÁLEZ FLAVELL, APPELLANT,

v.

JIM YONG KIM, *et al.*, APPELLEES.

Appeal from the Superior Court
of the District of Columbia
Civil Division
(2020-CA-004944-B)



(Hon. Yvonne M. Williams, Motion Judge)

(Submitted October 16, 2023)

Decided October 25, 2024)

Before BLACKBURNE-RIGSBY, *Chief Judge*,* BECKWITH, *Associate Judge*, and THOMPSON, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Appellant, Sara González Flavell, was employed by the International Bank for Reconstruction and Development (the “IBRD,” commonly known as the World Bank and sometimes referred to herein and in the record as the “Bank,” the “World Bank Group,” or the “WBG”) until she was terminated in December 2017.¹ In November 2020, she sued the defendants/appellees (“appellees”), all of whom were directors, officers, or other employees of the Bank during the relevant time periods, alleging in a seven-count complaint that, in their individual capacities, they variously interfered with her contract with the Bank, fraudulently claimed authority to declare her position redundant, misrepresented that

*Associate Judge AliKhan was originally assigned to this case. Following Judge AliKhan’s appointment to the U.S. District Court for the District of Columbia effective December 12, 2023, Chief Judge Blackburne-Rigsby has been assigned to take her place on the division.

¹ Appellant was a Special Assistant to the Bank’s Director General of Evaluation in the Bank’s Independent Evaluation Group (“IEG”).

they would remedy her situation when they actually were conspiring to end her employment with the Bank, and intentionally inflicted emotional distress. The Superior Court granted appellees' motion to dismiss for lack of subject matter jurisdiction and dismissed the complaint with prejudice, agreeing that the appellees are immune from appellant's suit under the Bank's Articles of Agreement.

Appellant contends that the Superior Court erred in dismissing the complaint because appellees were acting outside the scope of their official duties and functions and thus were not entitled to immunity from the instant lawsuit. Appellant also argues that the Superior Court abused its discretion in denying her the opportunity to conduct jurisdictional discovery and to amend her complaint and in denying her motion for reassignment of the case to a different judge. For the reasons that follow, we affirm the dismissal order.

I. Factual and Procedural Background

The complaint alleges the following: On July 1, 2015, appellant was issued a Notice of Redundancy. She subsequently was told that the Notice of Redundancy was "suspended" while she was on disability leave from the Bank. Appellant's actual termination came in December 2017, after she had been determined fit to return to work and afforded time to conduct a job search.

In the meantime, appellant appealed the redundancy notice to the World Bank Administrative Tribunal (the "WBAT"), contending that the notice violated World Bank rules and therefore was not valid.² In its decision, the WBAT found that "there was a legitimate basis for declaring [appellant's] position redundant," but also found that the Bank "ha[d] not convincingly demonstrated that the decision to declare [appellant's] position redundant was taken independently of the perception of her

² The WBAT is "an international employment arbitration court, to which employees of an international organization may take their claims or grievances that arise within the workplace, for a final determination that is binding on the organization." Robert A. Gorman, *The Development of International Employment Law: My Experience on International Administrative Tribunals at the World Bank and the Asian Development Bank*, 25 Comp. Lab. L. & Pol'y J. 423, 424 (2004). The establishment of the WBAT "represents a determination by the Bank that it should be held legally accountable for the decisions made by supervisors and officials in managing the Bank's workforce." *Park v. Brahmhatt*, 234 A.3d 1212, 1218 (D.C. 2020) (citing *id.*) (quotations omitted)

performance and [her difficult] working relationship with the [IEG] Director General.”³ The WBAT also determined that the notice of redundancy was procedurally defective in that “the redundancy decision was made and [appellant’s] functions [were] distributed to other staff prior to management obtaining the required approval of the [the WBG Severance and Redundancy Group (the “SRG”)].”⁴ The WBAT “awarded [appellant] compensation but did not order rescission of the Notice of Redundancy.”⁵ It stated that its decision was made “without prejudice to any decision that the Bank may make concerning the Notice of Redundancy.”⁶

After the WBAT issued Decision No. 553, appellant maintained that she could not be terminated based on the 2015 Notice of Redundancy. However, World Bank Human Resources (“HR”) staff informed her that the suspension of the Notice of Redundancy had been lifted and that appellant was not to return to work. After unsuccessfully seeking help from various appellees to avoid termination and to facilitate negotiation of a mutually agreeable separation, appellant filed her pro se complaint in the Superior Court. She alleged a conspiracy among Bank employees, directors, and officers to fraudulently terminate her employment. The complaint

³ The quoted language is from WBAT Decision No. 553, which is quoted in the record but not included in full. *See* González Flavell v. Int’l Bank for Reconst. and Dev., Decision No. 553, Judgment, ¶ 152 (Apr. 21, 2017), <https://tribunal.worldbank.org/judgments-orders-advanced-search/553>; <https://perma.cc/9MVS-U2F6>. Decision No. 553 is also quoted in WBAT Decision No. 597, which appellant fully included in her Supplemental Record. *See* González Flavell v. Int’l Bank for Reconst. and Dev., Decision No. 553, Judgment (Oct. 18, 2018), <https://tribunal.worldbank.org/sites/default/files/judgments-orders/Gonzalez%20Flavell%20%28No.%204%29%20v.%20IBRD%20-%20597.pdf>; <https://perma.cc/G3PR-KL26>.

⁴ Summary of González Flavell v. IBRD, WBAT 1 (Apr. 21, 2017), <https://tribunal.worldbank.org/sites/default/files/Summaries/Summary%20of%20Gonzalez%20Flavell%20v.%20IBRD%20553.pdf>; <https://perma.cc/BC2Z-F3R4>.

⁵ González Flavell v. Int’l Bank for Reconst. and Dev., Decision No. 553, Judgment, ¶ 52 (Oct. 18, 2018), <https://tribunal.worldbank.org/sites/default/files/judgments-orders/Gonzalez%20Flavell%20%28No.%204%29%20v.%20IBRD%20-%20597.pdf>; <https://perma.cc/SR2X-M6XK>.

⁶ *Id.*

includes counts for fraud, promissory fraud, interference with contract rights, conspiracy to commit fraud, intentional infliction of emotional distress, and tort of another.⁷ The complaint named as defendants Jim Yong Kim and David Malpass, each of whom served for a period as president of the World Bank Group during the relevant time; Shaolin Yang, a Managing Director and Chief Administrative Officer of the World Bank Group; Otaviano Canuto, an Executive Director of the World Bank Group and Chair of a subcommittee of the World Bank board; Sophie Sirtaine, a WBG IEG staff member; Jenny Funes, a WBG HR staff member; Philip Beauregard, a WBG HR manager; and “John Does 1 through 4.”

Appellees filed a motion to dismiss for lack of subject matter jurisdiction pursuant to Super. Ct. Civ. R. 12(b)(1) and for failure to state a claim pursuant to Super. Ct. Civ. R. 12(b)(6). The Superior Court did not reach appellees’ Rule 12(b)(6) argument but agreed that it lacked subject matter jurisdiction, concluding that appellant’s allegations “relate to actions taken [by appellees] within their official capacities” and that appellees are “immune from the instant litigation under the [Bank’s] Articles of Agreement.” The court rejected appellant’s argument that the appellees waived their immunity by removing the case to federal court. The court did not resolve whether appellees have immunity from the instant litigation under the International Organizations Immunities Act of 1945, 22 U.S.C. §§ 288-288I (the “IOIA”).

Appellant challenges the Superior Court’s rulings, arguing that appellees’ actions and omissions were beyond the scope of their official duties and not covered by immunity because appellees contravened the Bank’s internal rules and procedures. Appellees argue that the acts alleged consist of ordinary personnel and business management actions they performed in the course of their official duties within the Bank and that enforcement of the notice of redundancy was “an action quintessentially falling within the ambit of [a]ppellees’ official responsibilities,” for which they are immune from suit under both the IOIA and the Bank’s Articles of Agreement.

⁷ Appellees removed the case to the United States District Court for the District of Columbia. On March 7, 2022, the district court granted appellant’s motion to remand the case to the Superior Court. Both the instant case and the companion case in which appellant sued the IBRD were assigned to the Honorable Yvonne Williams.

II. Applicable Law

It is undisputed that the IBRD is an international organization.⁸ See 22 U.S.C. § 288; Exec. Order No. 9751 of July 11, 1946, 11 Fed. Reg. 7713 (July 13, 1946). Section 7(b) of the IOIA (“§ 7(b)”) provides in relevant part that:

[O]fficers and employees of [international] organizations shall be immune from suit and legal process relating to acts performed by them in their official capacity and falling within their functions as such . . . officers, or employees except insofar as such immunity may be waived by the . . . international organization concerned.

22 U.S.C. § 288d(b).

The World Bank’s executive directors, officers, and employees also have immunity from suit under Article VII, Section 8 of the Bank’s Articles of Agreement (sometimes referred to herein as the Bank’s “Articles”)—the institution’s governing charter, incorporated in U.S. law under the Bretton Woods Agreements Act, 22 U.S.C. § 286h. See Articles of Agreement of the International Bank for Reconstruction and Development, art. VII, § 8, 60 Stat. 1440 (Dec. 27, 1945); 22 U.S.C. § 286h (providing that Article VII, sections 2 to 9 of the Bank’s Articles “shall have full force and effect in the United States and its Territories and possessions upon acceptance of membership by the United States in, and the establishment of . . . the Bank”); *AGS Int’l Servs. S.A. v. Newmont USA Ltd.*, 346 F. Supp. 2d 64, 82 (D.D.C. 2004) (noting that the United States is a member of the World Bank). Article VII, Section 8 of the Bank’s Articles provides that:

All governors, executive directors, alternates, officers and employees of the Bank . . . shall be immune from legal

⁸ The IOIA provides generally that international organizations “enjoy the same immunity from suit and every form of judicial process as is enjoyed by foreign governments, except to the extent that such organizations may expressly waive their immunity for the purpose of any proceedings or by the terms of any contract.” 22 U.S.C. § 288a(b); see also *Jam v. Int’l Fin. Corp.*, 586 U.S. 199, 207-08 (2019) (holding that the IOIA “make[s] international organization immunity . . . continuously equivalent” to the immunity that foreign sovereign states enjoy under the Foreign Sovereign Immunities Act of 1976, 28 U.S.C. § 1602 *et seq.*).

process with respect to acts performed by them in their official capacity except when the Bank waives this immunity.

Courts have reasoned that “one of the most important protections granted to international organizations is immunity from suits by employees of the organization in actions arising out of the employment relationship.” *Brzak v. United Nations*, 551 F. Supp. 2d 313, 319 (S.D.N.Y. 2008) (“*Brzak I*”). “For similar reasons, the courts have consistently found that functional immunity applies to employment-related suits against officials of international organizations.” *Id.* The immunity of officers and employees of international organizations applies so long as the challenged action was “within the outer perimeter of [the defendant’s] line of duty.” *Tuck v. Pan Am. Health Org.*, 668 F.2d 547, 550 n.7 (D.C. Cir. 1981) (quoting *Barr v. Matteo*, 360 U.S. 564, 575 (1959)); *id.* at 550 (“To the extent that the acts alleged in the complaint relate to Dr. Acuna’s functions a[s] PAHO Director, the provisions of 22 U.S.C. § 288d(b) (1976) protect him from suit.”). Immunity does not depend on whether the challenged action was proper or based on good “motives.” *See id.*; *see also Brzak I*, 551 F. Supp. 2d at 319 (“[O]fficial capacity is determined on the basis of whether the acts alleged occurred in the course of an official’s exercise of functions, and not on the nature of the underlying conduct.”), *aff’d*, 597 F.3d 107, 113 (2d Cir. 2010) (“*Brzak II*”) (“When a court attempts to determine whether a defendant is seeking immunity with respect to acts performed by such a person in the exercise of his functions, the court must do so without judging whether the underlying conduct actually occurred, or whether it was wrongful.” (internal quotation marks and citation omitted)); *Donald v. Orfila*, 788 F.2d 36, 37 (D.C. Cir. 1986) (dismissing complaint alleging that the Secretary General of the Organization of American States acted in bad faith in interfering with plaintiff’s employment contract, reasoning that the termination of plaintiff’s employment “unquestionably relates to [the defendant’s] official functions,” and rejecting the argument that if the motive for an official act was bad, the action must be characterized as “individual” rather than “official.”); *De Luca v. United Nations Org.*, 841 F. Supp. 531, 535 (S.D.N.Y. 1994) (“[T]he case law applying § 7(b) rejects the notion that a defendant’s immunity under IOIA can be defeated by allegations of illegal conduct.”); *Boimah v. United Nations General Assembly*, 664 F. Supp. 69, 72 (E.D.N.Y. 1987) (stating that “employment-related decisions by officers charged with such responsibilities fall within the scope of [§ 7(b)’s] immunity . . . even where the motives underlying the action are suspect,” and declining to reach “a stricter definition of ‘official capacity’ . . .” (citation omitted)).

A defendant's immunity under the IOIA deprives the trial court of subject matter jurisdiction. *Zuza v. Off. of the High Representative*, 107 F. Supp. 3d 90, 94 (D.D.C. 2015), *aff'd*, 857 F.3d 935 (D.C. Cir. 2017); *see Pardue v. Ctr. City Consortium Schs. of the Archdiocese of Wash., Inc.*, 875 A.2d 669, 674 (D.C. 2005) (noting that this court treats claims of immunity from suit as raising an issue of subject matter jurisdiction).

Our review of the Superior Court's dismissal of a complaint for lack of subject matter jurisdiction is *de novo*. *See Heard v. Johnson*, 810 A.2d 871, 877 (D.C. 2002). We review the court's decisions to deny discovery, to dismiss with prejudice, and not to recuse for abuse of discretion. *See Kay v. Pick*, 711 A.2d 1251, 1256 (D.C. 1998) (review of discovery order); *Crosby v. Brown*, 289 A.3d 696, 699 (D.C. 2023) (dismissal with prejudice); *Reese v. Newman*, 131 A.3d 880, 883 n.6 (D.C. 2016) (denial of recusal).

III. Analysis

A. No waiver of immunity

As the discussion above indicates, the World Bank can waive the immunity of its employees from suit. Appellant does not claim that the World Bank expressly waived appellees' immunity. However, she renews her argument that appellees waived their immunity by removing the litigation to the federal district court and by filing non-dispositive motions, including a motion to stay discovery. The Superior Court did not err in rejecting that argument. The express language of both the Bank's Articles and the IOIA permits only the international organization itself to waive immunity of directors, officers, and employees. Moreover, courts have routinely dismissed lawsuits for lack of subject matter jurisdiction based on immunity even where the defendants had removed the action to federal court. *See, e.g., Rodriguez v. Transnave, Inc.*, 8 F.3d 284, 289 & n.9 (5th Cir. 1993) (reasoning in a case involving immunity of an arm of the Ecuadorian government that "the very presence" of removed cases in which the immunity defense was upheld "refutes the accuracy of any . . . claim [that removal constitutes a waiver of immunity].") (citing cases); *Perisic v. Jim Yong Kim*, 2019 WL 5459048, *1, *10 (D.D.C. Oct. 24, 2019) (finding no waiver of immunity of World Bank officials despite World Bank consent to removal); *see also Keeton v. Wells Fargo Corp.*, 987 A.2d 1118, 1121 (D.C. 2010) ("[P]arties cannot waive subject matter jurisdiction by their conduct or confer it . . . by consent. . . ." (quoting *Chase v. Pub. Def. Serv.*, 956 A.2d 67, 75 (D.C. 2008))). Courts have also routinely held that the filing of non-dispositive "stay" motions does not waive immunity. *See Broidy Capital Mgmt. LLC v. Muzin*, 61

F.4th 984, 996-97 (D.C. Cir. 2023) (“[L]itigation conduct such as filing motions . . . to stay proceedings, or to object to discovery, are not responsive pleadings that result in waiver of immunity.”).

B. Whether appellees’ alleged actions were within the scope of their official duties and functions as World Bank officers or employees

Appellant further contends that appellees do not enjoy immunity from this suit because they “pursue[d] an independent course of actions wholly outside their official duties and functions,” including actions prohibited by the World Bank’s rules and actions “motivated purely by spite and personal considerations of malice” that “cannot and did not further the function of the Bank.”

Specifically, appellant alleges that appellee Funes, a “junior level” WBG HR staff member, directed appellant not to return to work; told appellant that her employment would terminate in December 2017 based on redundancy; and misrepresented that she had been designated as appellant’s sole contact person for communications with the Bank during the months leading up to appellant’s termination—actions Funes undertook without authority and even though she was not part of the SRG HR staff that handled redundancies. Appellant alleges that appellee Beauregard, who was manager of the HR unit in which Funes worked but had no supervisory authority over appellant, “prepared wrongful papers concerning the purported redundancy”; falsely claimed that he could effect a redundancy; falsely claimed that valid redundancy documents existed even though a redundancy had never been approved by the SRG; and denied appellant access to her personnel file to enable her to check whether a validly authorized redundancy had been declared. Appellant further alleges that appellee Sirtaine joined Funes and Beauregard “in the agreement to commit fraud,” thwarting appellant’s efforts to reach a mutually agreed settlement regarding her employment. All three, the complaint alleges, acted outside their official duties, “not having the duty or responsibility to make such decisions or communications and acting without any, and any proper, authority.”

Appellant alleges in addition that appellee Canuto misrepresented himself as being in appellant’s supervisory chain and promised that he would look into whether a valid redundancy existed, but instead “just stood by and became complicit” in the fraud. Appellant claims that appellee Kim failed to prevent Canuto from approving appellant’s termination and, by his refusal to step in and by claiming to have delegated his duty to appellee Canuto, colluded to defraud appellant and breached his “obligation to ensure that fraud did not occur in respect of a staff member[’]s employment.” Appellee Yang, the complaint alleges, breached his responsibility to

ensure that appellant would have access to a fair and unbiased grievance process, including by representing to the WBAT that *res judicata* barred appellant's further appeals to that body challenging her termination.⁹ Finally, the complaint alleges that appellee Malpass, who became WBG president in April 2019, failed to act after appellant reported the other appellees' wrongful actions to him, thereby breaching his duty "not to allow misconduct and fraud in the WBG."

Appellant contends that the Superior Court improperly relied on whether appellees' conduct "was taken during employment, without questioning whether each act was within each [a]ppellee[']s 'official duties.'" She faults the Superior Court for ruling without evidence of the "terms of each of their respective employment contracts and their official functions and duties/job description" and without HR documentation.

Appellant's argument appears to be premised on a narrow construction of the term "acts performed . . . in their official capacity" that we think would, if accepted, undermine the "important protections" granted to officials and employees of international organizations. *Brzak I*, 551 F. Supp. 2d at 319. The case law on the so-called "functional immunity"¹⁰ of officers and employees of international organizations is uniform in explaining that this immunity does not depend on "the nature of the underlying conduct" or on whether the complained-of conduct was "wrongful" in some way. *See id.*; *see also Brzak II*, 597 F.3d at 113. The relevant inquiry is whether the acts alleged "occurred in the course of an official's exercise of [work] functions[.]" *Brzak I*, 551 F. Supp. 2d at 319. This is so even where the plaintiff alleges that by participating in the claimed misconduct, defendants violated the international organization's "own internal regulations"; "[n]otwithstanding how improper any of these actions may have been, they represent precisely the type of official activity which § 7(b) of IOIA was intended to immunize." *De Luca*, 841 F. Supp. at 535 (agreeing that to fall outside immunity, the alleged misconduct must be not even "remotely related to the functions" of the defendant's employment by the international organization). As the D.C. Circuit has reasoned, if allegations of bad

⁹ The complaint states that appellant was "forced to protect her interests by bringing [before the WBAT] seventeen appeals against [her] wrongful dismissal and related irregularities and misconduct."

¹⁰ *Zuza*, 107 F. Supp. 3d at 99 (referring to the "'functional' immunity accorded to 'officers' of international organizations," i.e., immunity for acts that relate to their job functions).

faith, improper motives, or intentional infliction of emotional distress could defeat immunity, the “immunity shield, which Congress intended to afford solid protection, would indeed be evanescent.” *Donald*, 788 F.2d at 37.

Thus, taking as true appellant’s allegations that appellees declared appellant redundant without SRG approval and without adhering to WBG procedural rules; that WBG HR staff acted outside the supervisory chain and outside their usual job responsibilities and with “nefarious” or retaliatory motives; and that appellees who held WBG leadership positions failed to uphold the Bank’s personnel standards, we can find no error in the Superior Court’s ruling that appellees were immune from suit. All of appellant’s allegations describe “decisions made . . . in managing the Bank’s workforce,” *Park*, 234 A.3d at 1218, and “in implementing [the Bank’s] employment . . . policy,” *De Luca*, 841 F. Supp. at 535, and thus relate to actions within appellees’ immunity as international organization employees.¹¹ *Cf. id.*

¹¹ Our citations in the text above to cases applying Section 288d(b) imply that appellees have immunity under the IOIA. However, like the Superior Court, we do not definitively decide whether appellees are immune from the instant litigation under the IOIA rather than (or in addition to) under the Bank’s Articles. As the Superior Court noted, Section 8(a) of the IOIA, codified at 22 U.S.C. § 288e, provides that “[n]o person shall be entitled to the benefits of this title unless he (1) shall have been duly notified to and accepted by the Secretary of State as a representative, officer, or employee.” The Superior Court determined that defendants/appellees had “not provided sufficient information to prove their positions were duly notified to and accepted by the Secretary of State.” Courts have routinely determined employees of international organizations to be immune from suit without citing proof of State Department acceptance. *See, e.g., Donald*, 788 F.2d at 37; *Smith v. World Bank Grp.*, 99 F. Supp. 3d 166, 170 (D.D.C. 2015), *aff’d*, 694 F. App’x 1 (D.C. Cir. 2017); *but see Zuza v. Off. of the High Representative*, 857 F.3d 935, 938 (D.C. Cir. 2017) (holding that defendant international-organization officers were entitled to immunity even though Section 8(a)’s requirements were not met until after the suit was filed); *cf. Samantar v. Yousuf*, 560 U.S. 305, 311-12 (2010) (citing cases holding that “in the absence of recognition of the immunity [of a diplomatic representative of a sovereign] by the Department of State,” a district court “had authority to decide for itself whether all the requisites for such immunity existed.” (internal quotation marks omitted)). Further, we are doubtful that any State Department substantiation was needed in this case, as appellees’ status as employees of the World Bank has never been in dispute; indeed, appellant alleged in her complaint that appellees are all current or former World Bank staff. Complaint ¶ 2. Nevertheless, upholding the Superior Court’s approach,

(concluding that immunity barred a suit against U.N. officials based on allegations that they issued a final pay statement containing plaintiff's forged signature with the intent of defrauding him of his remaining salary and compensatory time, singled him out for a tax audit, and denied continuation of his medical benefits after his resignation, in violation of federal law). Allowing this suit to proceed based on appellant's allegations that some of the appellees exceeded their assigned duties or deviated from the Bank's organization chart or permission structure would, like an employment-related suit against the World Bank itself, improperly "entangle th[e] court[] in the internal administration" of the Bank. *Broadbent v. Org. of Am. States*, 628 F.2d 27, 35 (D.C. Cir. 1980).¹²

C. Whether appellees' alleged actions were within the scope of their employment

Appellant suggests, however, that scope-of-employment case law is the most relevant in assisting the court to determine whether the complaint's allegations are about acts that appellees "performed . . . in their official capacity," Articles of Agreement VII, Section 8, such that they could fall within the immunity from suit that appellees enjoy as World Bank employees. Assuming without necessarily deciding that our scope-of-employment case law is controlling, we conclude that it supports rather than undermines the Superior Court's ruling.

Our scope-of-employment case law instructs that even if, as appellant alleges, appellees' actions were "prompted partially by personal motives, such as revenge,"

we rest our affirmance on the immunity afforded appellees under the Bank's Articles of Agreement. (Contrary to appellant's assertion, appellant's "Addendum B" does not state that State Department substantiation is required before a court may determine whether a complained-of action was an official act and may rely on a defendant's immunity under the Bank's Articles of Agreement.)

¹² Appellant analogizes to the federal Westfall Act to argue that appellees were required to join the Bank as an indispensable party to the extent they claim to have acted in their official capacities. See 28 U.S.C. § 2679(d)(1) (allowing the Attorney General to provide a certification that "the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose[,] with the result that "the United States shall be substituted as the party defendant.""). However, we are aware of no authority that requires an international organization to be substituted as a defendant when the plaintiff's claims are based on conduct of the organization's employees related to their official functions.

they were within the scope of appellees' employment if they were "actuated, at least in part, by a purpose to further the [employer's] business" and to "serve [the] employer's interest." *District of Columbia v. Bamidele*, 103 A.3d 516, 524-25 (D.C. 2014) (quoting *Hechinger v. Johnson*, 761 A.2d 15, 24 (D.C. 2000) (reasoning that it was reasonable to infer that the employee acted at least partially out of a desire to serve the employer's interest where he "acted on behalf of his employer to resolve a job-related dispute.")).¹³ We have explained that to determine whether a defendant's act fell "within the outer perimeter of the [defendant's] line of duty," *Barr*, 360 U.S. at 575, "it is unnecessary for the acts to be . . . performed at the specific direction of a superior; rather, it is sufficient if they are done . . . in *relation* to matters committed . . . to [the defendant's] control or supervision . . .; or that they have *more or less connection* with the general matters committed . . . to his control or supervision[.]" *Moss v. Stockard*, 580 A.2d 1011, 1020 (D.C. 1990) (quotation omitted).

Here, again taking as true appellant's allegations about appellees' conduct with respect to the notice of redundancy affecting appellant, we are satisfied as a matter of law that however much motivated by animus against appellant, appellees' actions were not for appellees' purposes only, but were in furtherance of the work of the Bank. To state the point differently, it is clear from the face of the complaint that the actions of which appellant complains "relate[d] to" appellees' functions at

¹³ See also, e.g., *Park Transfer Co. v. Lumbermens Mut. Casualty Co.*, 142 F.2d 100, 100 (D.C. Cir. 1944) (explaining that an employee's tortious conduct "is not within the scope of the employment if it is done for the agent's purposes only"); *Axman v. Washington Gaslight Co.*, 38 App. D.C. 150, 158 (D.C. Cir. 1912) (stating that an employee's work can be "done in the prosecution of the business either impliedly or expressly intrusted to the agent by the principal" even if the employee "acted wantonly, recklessly, or against orders" in the manner in which he executed his commission); *Houghton v. Forrest*, 989 A.2d 223, 231 (Md. 2010) ("[T]he test for determining whether acts were within the scope of employment is whether the challenged acts were in furtherance of the employer's business and could be fairly termed 'incident to the performance of duties entrusted to' the employee." (quoting *Ennis v. Crenca*, 587 A.2d 485, 489-90 (Md. 1991))); Restatement (Third) of Agency § 7.07 (Am. L. Inst. 2006) (excluding from the scope of employment conduct "not intended by the employee to serve any purpose of the employer"); Restatement (Second) of Agency § 236 cmt. b (Am. L. Inst. 1958) ("The fact that the predominant motive of the servant is to benefit himself or a third person does not prevent the act from being within the scope of employment. If the purpose of serving the master's business actuates the servant *to any appreciable extent*, the master is subject to liability if the act otherwise is within the service" (emphasis added)).

the Bank and were “more or less connected” to the type of work that appellees were employed to do for the Bank. Accordingly, the scope-of-employment analysis reinforces our conclusion that the Superior Court did not err in concluding that appellant’s complaint was barred by appellees’ immunity under the Bank’s Articles for conduct related to their functions as Bank employees.¹⁴

Appellant correctly notes that “whether an employee was acting within the scope of employment is ordinarily a fact-intensive question for the factfinder,” and thus ordinarily “is not subject to determination as a matter of law in resolving a motion to dismiss or a motion for summary judgment.” *Trump v. Carroll*, 292 A.3d 220, 230 (D.C. 2023) (en banc). However, courts “are able in appropriate cases to assess whether an officer acted within the scope of employment as a matter of law based on undisputed facts in the record.” *Johnson v. Francis*, 197 A.3d 582, 598 (Ct. Spec. Appeal Md. 2018) (citing *Houghton*, 989 A.2d at 231 (“Houghton’s arrest of Forrest was incident to his general authority as a police officer. His actions would therefore be within the scope of his employment . . .”)); *see also Brzak II*, 597 F.3d

¹⁴ We acknowledge that appellant’s complaint includes an allegation that she was physically abused and “bruise[d]” by an IEG manager. However, the complaint does not include that incident as the basis for any of the seven counts. We therefore need not address whether a claim of physical assault would have been within the scope of any of the defendants’ official functions or within the scope of employment. *Compare Hechinger*, 761 A.2d at 24, 25 (addressing claim alleging that a store supervisor, who had been summoned by cashier to deal with a customer who claimed that he need not pay for wood scraps, struck the customer in the chest during an altercation; stating that it was reasonable “to conclude that the man’s actions were motivated by a desire to require [customer] Johnson to pay for the wood which he presumed to be the property of his employer, Hechinger,” and that “the employee acted on behalf of his employer to resolve a job-related dispute,” and reasoning that the evidence “was adequate to support a finding that the man was responsible for handling disputes with customers and that he acted, at least partially, by a desire to serve Hechinger’s interests.”), *with Brzak II*, 597 F.3d at 113 (dismissing counts alleging discrimination and retaliation because they “involve[d] personnel management decisions falling within the ambit of the [U.N.-employee] defendants’ professional responsibilities,” but ruling that plaintiff was “free to re-file her battery claim in the state courts” and to seek a determination that the claim involved conduct outside the scope of the defendants’ immunity). Nothing in this opinion should be read to suggest that “no conduct could be outside [appellees’] ‘duties’ and employment scope.”

at 113 (upholding dismissal based on immunity of U.N. officials because plaintiffs' discrimination and retaliation claims all relate to "acts that the defendants performed in exercise of their official functions, namely, their management of the office in which the plaintiffs worked.").

As the en banc court recognized in *Trump v. Carroll*, "[the issue whether an act was in the scope of employment] becomes a question of law for the judge" if a reasonable mind could decide the issue only one way. 292 A.3d at 230 n.6; cf. *Schechter v. Merchs. Home Delivery, Inc.*, 892 A.2d 415, 428 (D.C. 2006) ("[W]hen all reasonable triers of fact must conclude that the servant's act was independent of the master's business, and solely for the servant's personal benefit, then the issue becomes a question of law . . .") (internal quotation marks and added emphasis omitted). That is the case here, where the allegations of the complaint, taken as true, establish that appellees' complained-of actions or omissions were employment-related actions taken in furtherance of World Bank personnel business. Cf. *See Perisic*, 2019 WL 5459048, at *10 (dismissing complaint against World Bank defendants "[b]ecause any involvement by Dr. Kim in the employment actions giving rise to [plaintiff's] claims would relate to 'acts performed by [him] in [his] official capacity and falling within [his] functions,' 22 U.S.C. § 288d(b), Dr. Kim is immune from suit.");¹⁵ *Nouinou v. Smith*, 2021 WL 4340952, *2, *4 (S.D.N.Y. Sept. 22, 2021) (dismissing suit alleging that defendant United Nations employee "launched [a] campaign to get rid of" plaintiff, "built a false image about [plaintiff]" among other employees, and wrongly restricted plaintiff's access to her office, computer, and email, because the claims against the defendant related to acts he performed as a U.N. employee "in connection with [plaintiff's] employment and . . . other UN matters"); *Van Aggelen v. United Nations*, 2007 WL 1121744, at *2 (S.D.N.Y. Apr. 11, 2007) (dismissing claims of discrimination because the claims covered employment-related decisions that were "in furtherance of U.N. business . . ."), *aff'd*, 311 F. App'x 407 (2d Cir. 2009). It is of no moment that some World Bank officers may have agreed that the actions by some of the appellees went beyond their job responsibilities (see the complaint's allegation that the Bank's HR vice president confirmed to appellant that the actions of appellees Funes and

¹⁵ Notably, similar to the facts here, the *Perisic* court dismissed the claims against the individual World Bank defendants even though the plaintiff had obtained a WBAT ruling that there were "procedural flaws" that entitled the plaintiff to some compensation. *See* 2019 WL 5459048 at *2. We similarly reject appellant's argument that "[a]ppellees could not have been acting to serve IBRD in 2017, since its Tribunal had already ruled in [a]ppellant's favor."

Beauregard were “outside any authority of HR”); the relevant and dispositive point is that appellees’ alleged actions were “an outgrowth of a job-related controversy.” *Trump v. Carroll*, 292 A.3d at 232. Appellant’s complaint alleged no facts that, if true, would demonstrate that appellees were acting outside the scope of their employment in pursuit of personal interests or private needs rather than in pursuit of Bank-related goals. *Cf. El-Fadl v. Cent. Bank of Jordan*, 75 F.3d 668, 671 (D.C. Cir. 1996) (dismissing claims against a deputy governor of the Central Bank on the basis of sovereign immunity because he had no personal interests at stake and his activities “were neither personal nor private, but were undertaken only on behalf of the Central Bank.”); *Swarna v. Al-Awadi*, 622 F.3d 123, 138 (2d Cir. 2010) (no immunity from suit based on consulate employee’s alleged physical and psychological abuse of household personal servant).

D. Whether the Superior Court abused its discretion in dismissing the complaint with prejudice without affording appellant the opportunity to conduct jurisdictional discovery

We recognize that appellant sought discovery (e.g., “State Dept. and IBRD letters and descriptions of each Defs. ‘official role’ and job description”) to test appellees’ claim of functional immunity and contends that the Superior Court abused its discretion in not permitting her to undertake jurisdictional discovery and giving her the opportunity to amend her complaint.¹⁶ However, given our agreement with the Superior Court that, in light of the detailed allegations of the complaint, there was no need for the development of evidence about whether appellees were acting in their official capacities, we cannot agree that the Superior Court abused its discretion by granting appellees’ dismissal motion before appellant could conduct discovery. Jurisdictional discovery “should be ordered circumspectly and only to verify allegations of specific facts crucial to an immunity determination.” *Nyambal v. Int’l Monetary Fund*, 772 F.3d 277, 281 (D.C. Cir. 2014) (quoting *First City, Texas-Houston, N.A. v. Rafidain Bank*, 150 F.3d 172, 176 (2d Cir. 1998)).¹⁷

¹⁶ The Superior Court reasonably concluded that there were “no conceivable facts that [appellant] could plead that would alter the legal conclusion that the [trial court] lacks subject-matter jurisdiction.”

¹⁷ *See also, e.g., Goodman Holdings v. Rafidain Bank*, 26 F.3d 1143, 1147 (D.C. Cir. 1994) (upholding denial of discovery because “we do not see what facts additional discovery could produce that would affect our jurisdictional analysis . . .”).

Moreover, functional immunity from suit and legal process shields employees of international organizations “not only from the consequences of litigation’s results but also from the burden of defending themselves” by responding to discovery. *Tuck*, 668 F.2d at 549 (D.C. Cir. 1981) (quoting *Dombrowski v. Eastland*, 387 U.S. 82, 85 (1967) (per curiam)). Courts do not abuse their discretion in declining to allow even jurisdictional discovery if it would “frustrate the significance and benefit of entitlement to immunity from suit.” *El-Fadl*, 75 F.3d at 671 (internal quotation marks omitted). The Superior Court could reasonably determine that that was the case here.

E. Whether the Superior Court abused its discretion in declining to reassign the case

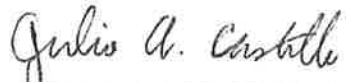
Finally, alleging “bias for the defendant[s],” appellant argues that the Superior Court abused its discretion in denying her motion for re-assignment of the instant case to another judge. We are not persuaded by this argument. Appellant does not dispute that she initially voiced no objection to defendant’s suggestion that appellant’s pending lawsuits be assigned to the same judge,¹⁸ a position that cut against appellant’s later argument that there would necessarily be a blurring or “confusion” of the issues if the same judge were to preside over both matters (each of which is premised on actions taken in connection with termination of appellant’s employment). Nor has appellant pointed to anything in the record demonstrating that the court had difficulty treating the two cases as separate matters. The allegedly unequal treatment appellant highlights, such as the court’s repeated postponement of a status conference (ordered, appellant suggests, to accommodate the completion of appellees’ dispositive motion filings, all the while appellees were failing to comply with appellant’s discovery requests), falls far short of the “exacting standard” we have set as warranting disqualification of a judge for bias. *Plummer v. United States*, 870 A.2d 539, 547 (D.C. 2005) (“[L]egal rulings against appellant[], of course, do not constitute grounds for recusal, for any prejudice must stem from an extrajudicial source,” except where “the circumstances are so extreme that a judge’s bias appears to have become overpowering.” (internal quotation marks omitted)).

¹⁸ According to appellees, appellant stated that she did not have an “initial objection [to consolidation], but left it that she would get back [to appellees and the court, presumably] on the point.”

For the foregoing reasons, we affirm the judgment of the Superior Court dismissing the complaint for lack of subject matter jurisdiction, based on appellees' functional immunity.

So ordered.

ENTERED BY DIRECTION OF THE COURT:


JULIO A. CASTILLO
Clerk of the Court

Copies emailed to:

Honorable Yvonne M. Williams

Director, Civil Division
QMU

Copy mailed to:

Sara Gonzalez Flavell
1207 Alps Drive
McLean VA 22102

Copies e-served to:

Jeffrey T. Green, Esquire

Marissa S. West, Esquire

Anna C. Burke, Esquire

APP. B

View Patient Appointments

[Show all details](#) | [Show all provider groups](#) | [Print upcoming appointments](#)

Provider Group Privia - EPV - Eye Physicians of Virginia [Cancel multiple appointments](#)

Date/Time ▼	Status	Department	Provider	Type	
<u>December 17, 2024</u> 09:00 AM	f filled Audit history	PMG_EPV_Elm Street Office	PMG_EPV_Ahmed_F	Post Op Exam, 15 min Show details	cancel reschedule
<u>December 12, 2024</u> 11:15 AM	f filled Audit history	PMG_EPV_Reston Office	PMG_EPV_Ahmed_F	Post Op Exam, 15 min Show details	cancel reschedule
<u>December 11, 2024</u> 08:30 AM	f filled Audit history	PMG_EPV_Reston Surgical Center	PMG_EPV_Ahmed_F	Surgery, 30 min Show details	cancel reschedule
<u>November 26, 2024</u> 09:00 AM	2 checked in Audit history	PMG_EPV_Elm Street Office	PMG_EPV_Ahmed_F	Pre Op Exam, 15 min Show details	
<u>November 22, 2024</u> 08:30 AM	x cancelled: APPOINTMENT MOVED Audit history	PMG_EPV_Reston Surgical Center	PMG_EPV_Ahmed_F	Surgery, 30 min	reschedule
<u>November 22, 2024</u> 09:15 AM	4 claim created Audit history	PMG_EPV_Reston Office	PMG_EPV_Schwartz_A	Post Op Exam, 15 min Show details	
<u>November 22, 2024</u> 08:00 AM	4 claim created Audit history	PMG_EPV_Reston Surgical Center	PMG_EPV_Ahmed_F	Surgery, 30 min Show details	
<u>November 22, 2024</u> 09:00 AM	x cancelled: SCHEDULING ERROR Audit history	PMG_EPV_Reston Office	PMG_EPV_Siegel_J	Post Op Exam, 15 min Show details	reschedule
<u>November 12, 2024</u> 10:00 AM	4 claim created Audit history	PMG_EPV_Elm Street Office	PMG_EPV_Ahmed_F	Pre Op Exam, 15 min Show details	
<u>November 7, 2024</u> 02:45 PM	4 claim created Audit history	PMG_EPV_Reston Office	PMG_EPV_Ahmed_F	Pre Op Exam, 15 min Show details	
<u>October 29, 2024</u> 10:00 AM	4 claim created Audit history	PMG_EPV_Elm Street Office	PMG_EPV_Ahmed_F	Established Patient, 15 min Show details	

11x

4x

Vision Correction

Vision Correction Exam

Autorefracton

	Sph	Cyl	Axis	Distance Va	Near Va
Right	-0.50	+1.50	003		
Left	-0.25	+1.00	003		

OD: 41.50@161 42.00@71 OS: 41.75@175 43.25@85

Physical Exam

Eyes: Pupils normal pupil function. Motility normal motility. Confrontation Visual Field normal visual fields.

Anterior Segment: Eyelids and Lashes: Right Eye unremarkable. Eyelids and Lashes: Left Eye unremarkable. Conjunctiva/Sclera: Right Eye white and quiet. Conjunctiva/Sclera: Left Eye white and quiet. Cornea: Right Eye **abnormal (myopic LASIK)**. Cornea: Left Eye **abnormal (myopic LASIK)**. Anterior Chamber: Right Eye deep and quiet. Anterior Chamber: Left Eye deep and quiet. Iris: Right Eye unremarkable. Iris: Left Eye unremarkable. Lens: Right Eye clear and **nuclear sclerotic cataract 2+**. Lens: Left Eye clear and **nuclear sclerotic cataract 2+**.

Posterior Segment: Optic Disc: Right Eye normal 0.25 cup to disc ratio. Optic Disc: Left Eye normal 0.25 cup to disc ratio. Vitreous: Right Eye (normal) clear: right eye. Vitreous: Left Eye **posterior vitreous detachment**. Macula: Right Eye macula within normal limits, retinal vessels within normal limits, and foveal reflex is sharp. Macula: Left Eye macula within normal limits, retinal vessels within normal limits, and foveal reflex is sharp. Retina: Right Eye normal, healthy retina and flat, with no breaks, tears or holes. Retina: Left Eye normal, healthy retina and flat, with no breaks, tears or holes.

Intraocular Pressure

Method	Right	Left
ICare	18 mm Hg	17 mm Hg

Dilation

1% Tropicamide & 2.5% Phenylephrine administered to both eyes at 3:16 PM

Assessment / Plan

former MD Dr. Stopak just retired
grew up in Sussex, UK, retired lawyer (moved here in 1988)

has 6 kids (including triplets), 4 girls/2 boys

1. Bilateral age-related nuclear cataracts -
+EVS with night driving
h/o myopic LASIK OU in 2003

Procedure: Femto Eyhance OD, then OS (fine w/pricing)

Aim: plano OU. not a MFIOL candidate due to LASIK hx and glare/halo risk. fine w/readers. OS is the dom eye

Grade: 2+ NS OU, SOFT

Dil: EXC OU

BCVA: 20/30 SE: plano

Fellow eye: similar cat, SOFT BCVA: 20/30 SE: plano

Notes:

GONZALEZ FLAVELL, Sara C (id #27825003, dob: 12/14/1957)

- H25.13: Age-related nuclear cataract, bilateral
- OPTHALMIC BIOMETRY (PROC)

2. Posterior vitreous degeneration of bilateral eyes -

c/o PVD OS in August, was seen by retinal specialist (RGW Dr. Levinson in Fairfax)

DFE OU: No tobacco dust, no tears or detachments noted today on 360 degree scleral depressed exam.

I counseled the patient regarding the following:

Eye care: Posterior vitreous detachments usually diminish with time, but it may take several months. They rarely disappear entirely.

Expectations: Posterior vitreous detachments are a normal aging change due to the vitreous jelly pulling away from the retinal lining of the eye. They may accompany retinal tears, retinal holes, or retinal detachments, so a dilated retinal examination is important.

Contact Office if: Posterior vitreous detachments symptoms worsen, including an increase in number of floaters, you experience flashing lights, loss of vision, or a black curtain blocking your field of vision.

H43.813: Vitreous degeneration, bilateral

3. Tear film insufficiency of bilateral eyes -

h/o myopic LASIK OU in 2003

uses glasses for driving at night and reading

H04.123: Dry eye syndrome of bilateral lacrimal glands

4. Presbyopia -

mainly in readers

H52.4: Presbyopia

5. Hypercholesterolemia -

continue PO rosuvastatin as prescribed for strict cholesterol control

no retinopathy noted on dilated retina exam today

E78.00: Pure hypercholesterolemia, unspecified

OPHTHALMIC BIOMETRY (PROC)

- Result:

- OPTHALMIC BIOMETRY Procedure: see above

Return to Office

- Faheem Ahmed, MD for Pre Op Exam at PMG_EPV_Elm Street Office on 11/12/2024 at 10:00 AM
- Faheem Ahmed, MD for Surgery at PMG_EPV_Reston Surgical Center on 11/22/2024 at 08:00 AM
- Faheem Ahmed, MD for Surgery at PMG_EPV_Reston Surgical Center on 12/11/2024 at 08:30 AM

Encounter Sign-Off

Encounter signed-off by Faheem Ahmed, MD, 11/07/2024.

Encounter performed and documented by Faheem Ahmed, MD

Encounter reviewed & signed by Faheem Ahmed, MD on 11/07/2024 at 4:00pm

Activities of Daily Living Questionnaire

Patient Name: San Gonzalez Fina

Date: Nov. 12 2024

My vision problems or concerns are:
Difficulty, even with glasses, with the following activities:

- | | | |
|---|---|--|
| 1. Reading small print, such as labels on medicine bottles, telephone books or food labels? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Reading a newspaper or book? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Reading a large-print book, or large print newspaper, or large numbers on a telephone? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 4. Recognizing people when they are close to you? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 5. Seeing steps, stairs, or curbs? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 6. Reading traffic signs, street signs, or store signs? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 7. Doing fine handwork like sewing, knitting or crocheting? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 8. Writing checks or filling out forms? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 9. Playing games such as bingo, dominoes or card games? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 10. Taking part in sports like bowling, handball, tennis or golf? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 11. Cooking? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 12. Watching television? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

} do not play.

I have been bothered by:

- | | | |
|---|---|-----------------------------|
| 1. Poor night vision? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Seeing rings or halos around lights? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Glare caused by headlights or bright sunlight? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Hazy and/or blurry vision? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. Seeing well in poor or dim light? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 6. Poor color vision? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 7. Double vision? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Patient Signature: 



EYE PHYSICIANS OF VIRGINIA

Glaucoma Consultants • Cornea Consultants • Comprehensive Ophthalmology • Refractive Cataract Surgery

Faheem Ahmed, M.D. Andrew J. Siegel, M.D. Sylvia K. Casas de Leon, M.D. Dhillon B. Zaver, M.D. Brendan J. Tamm, M.D.

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Fax: 703-437-9426

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McLean, VA 22101
Tel: 703-356-6880
Fax: 703-893-7336

7617 Little River TnPk. Suite 400
Annandale, VA 22003
Tel: 703-712-7825
Fax: 703-712-7232

eyephysiciansofvirginia.com

PRE-OP CLEARANCE ORDER

12/14/57

PATIENT'S NAME/ DOB: GONZALEZ FLAVELL SARA C

SURGERY AND CPT: CATARACT - 66984
With MAC (Anesthesiologist / CRNA administered Sedation)

SURGERY DATE: 11/22/24

SURGEON: FAHEEM AHMED, MD

PLEASE PERFORM:

- MEDICAL EVALUATION (History and Physical Examination)
- EKG + CARDIAC CLEARANCE
- CBC (Complete Blood Count) + BMP (Basic Metabolic Panel)

PLEASE FAX IT TO: 703-437-9426 (ATTENTION: MARIAN OR BRIANNA)

FAX RESULTS AT LEAST 14-10 DAYS PRIOR SURGERY.
THANK YOU!

IF QUESTION CALL: 703-437-3900 OR 703-356-6880



EYE PHYSICIANS OF VIRGINIA

Glaucoma Consultants • Cornea Consultants • Comprehensive Ophthalmology • Refractive Cataract Surgery

Faheem Ahmed, M.D. Andrew J. Siegel, M.D. Sylvia K. Casas de Leon, M.D. Dhillon B. Zaver, M.D. Brendan J. Tamm, M.D.

Cataract surgery is one of the most common and safest procedures performed in the United States. Please read through these instructions carefully to ensure a safe and smooth surgical day. It is important that you **attend all appointments as scheduled** to achieve the best results from your eye surgery. We will see you the day after, 1 week after, and 1 month after surgery for post-operative exams.

* Medications

We order you a specialty medication designed to help improve compliance, alleviate discomfort and reduce out of pocket costs for required medications pre- and post-surgery. Your surgeon has selected this compounded eye drop: **PRED-MOXI-BROM (Prednisolone Sodium Phosphate 1% - Moxifloxacin 0.5% - Bromfenac 0.075%)** to protect you against infection and promote the rapid and complete healing of your eye. Always wash your hands before using your medications. Ask a friend or family member for assistance if you have difficulty taking the drops.

* 1 Month before Surgery

See your primary care doctor or cardiologist during the month leading up to your surgery for medical clearance. This visit typically cannot be less than 1 week or earlier than 30 days prior to your scheduled surgery date. Ask your doctor what medications you should hold the morning of surgery, if any.

* 3 Days before Surgery

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- **Compound Drop:** Apply PRED-MOXI-BROM 1 drop 3 times a day.
 - **Eye Drop Checklist:** Use the Checklist to track application of your required drops.

* Night before Surgery

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- Do not eat or drink anything after midnight. If your surgery is in the afternoon, you must finish eating 9 hours before surgery but are allowed clear liquids up to 4 hours before surgery.

Day of Surgery

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- **Instill the eye drop in the morning** and take your regular medications with a sip of water.
 - **Diabetics Only: No oral diabetic medications.** If you use insulin, take **ONE-HALF** your normal morning insulin dose before coming to the surgery center.
 - Please report to the surgery center one and half hours before your scheduled surgery. Please arrange for someone to drive you home from the surgery facility after surgery.

Eye Care after Your Cataract Surgery –What to Expect

- Typically, visual recovery is rapid, but blurriness is common for several days after surgery. It is normal to have blurry, fluctuating, shimmering vision and mild discomfort after surgery. This should rapidly improve over the course of four to six weeks
- Some redness, mild watering, irritation, glare, and slight drooping of the upper eyelid are normal after surgery. These symptoms will usually resolve over a few weeks after surgery.
- Initial sensitivity to light is common. Use protective sunglasses whenever outdoors as needed.
- **If you experience a significant decrease in your vision, increased pain/redness/pressure, headache, or nausea/vomiting, call DR. AHMED at 571-210-5415 immediately on the night of your surgery or at the office: 703-437-3900 or 703-356-6880.**
- If you require eyeglasses, your prescription will change after your cataract procedure. Once your eye has completely healed, you will receive your new prescription.

Eye Care & Activities

First Week after Surgery:

- * **Do not rub your eye!**
- * **Do not get any water directly into the eye when washing/showering!**
 - After surgery, you will have a shield over your eye. Please leave this on during the day of surgery except to use your eye drops. Replace the shield after each drop placement.
- * **Tape the provided shield over your eye while sleeping as protection for the first 5-7 nights.**
 - You may resume most normal daily activities immediately after your cataract surgery, including driving unless your surgeon says otherwise. Avoid heavy work or lifting over 20 lbs. for the first week.

Second Week after Surgery:

- You no longer need to wear a protective shield while sleeping. It is okay to resume normal washing/showering.
- Light to moderate activity is okay. Avoid vigorous exercise until 3 weeks after surgery.
- Do not swim or use a hot tub for 3 weeks after surgery.
- You may travel one week after surgery. There are no restrictions on air travel.

Medications

- Resume your eye drops and follow the checklist after your surgery.
- When using different drops at the same time of day, stagger their applications by 3-5 minutes.
- If you use glaucoma drops, continue them as you did before surgery.
- Resume all your usual medications without interruption following your cataract surgery.

Reston Surgery Center

Pre-procedural Requirements

- Complete the online registration with One Medical Passport as soon as possible. This website helps guide you to enter your medical history, which allows us to ensure that we can provide you with excellent care on the day of your procedure.
 - Go to www.restonsurgerycenter.com and click on the **Pre-Register Today!** button.
 - Click **Pre-Register Online**.
 - If this is the first time you've used One Medical Passport, click **Register** to create a user account. NOTE: During this process, you will create your choice of user name and password, which you will need if you ever use One Medical Passport for a future procedure.
 - If you've previously created an account in One Medical Passport, enter the user name and password you initially created, as prompted, to access and update your health history form.
 - You must answer every question on each page and click the **Finish** button to securely submit your information to us. (If you do not receive an email stating that all of your information was sent, something was left blank. Please complete any missing information and resubmit.)
- Ensure that any EKG (**REQUIRED FOR ANYONE AGED 50+, UNLESS THEY ARE HAVING LOCAL ANESTHESIA**) and Laboratory or Radiology testing ordered by your physician is completed and that results are forwarded to us as soon as possible. All results must be received no later than one business day prior to your procedure to avoid cancellation.
- Make arrangements for an adult to drive you home and ensure that your recovery is progressing smoothly. We can not discharge you to Uber, Lyft, or public transportation, unless you're having local anesthesia.
- Carefully review any pre-operative instructions from your physician and contact them directly, if you have any questions.

RESTON SURGERY CENTER
1860 TOWN CENTER DRIVE, SUITE G100 • RESTON, VIRGINIA 20190
(703) 639-3100

Certificate of Service

I certify that I have served a copy of the foregoing to

ANNA BURKE

by ~~HAND~~ FIRST CLASS MAIL (circle one) at

SIDNEY AUSTIN, 1501 K STREET N.W.,
WASHINGTON D.C. 20005.

on this 27th day of November, 2024.

Signature:

