

Case No. 2D24 - ####

IN THE
DISTRICT COURT OF APPEAL
SECOND DISTRICT, FLORIDA

FAITH ELYZABETH ANTONIO

Petitioner,

v.

JUDGE KIMBERLY SHARPE BYRD

Respondent.

ON REVIEW FROM THE SIXTH JUDICIAL CIRCUIT COURT,
IN AND FOR PASCO COUNTY, FLORIDA

IN RE: DGP PRODUCTS, INC. V. FAITH ELYZABETH ANTONIO
L.T. NO.: 20-CA-000889

**PETITION FOR WRITS OF CERTIORARI, PROHIBITION, AND
MANDAMUS WITH EMERGENCY RELIEF**

FAITH ELYZABETH ANTONIO
Pro Se Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

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Faith Elyzabeth Antonio, as Petitioner, seeks a writ of *mandamus* compelling Judge Kimberly Sharpe Byrd to perform a clear, ministerial duty required by law. The Circuit Court has acted without jurisdiction and failed to follow essential procedural rules, causing substantial prejudice and serious physical, psychological and financial injury to Petitioner.

This Petition further seeks a writ of *prohibition* to prevent Judge Kimberly Sharpe Byrd from exercising jurisdiction it does not possess. This Petition also requests a writ of *certiorari* as the lower court's action constitutes a departure from the essential requirements of law that may result in irreparable harm for which there is no adequate remedy on appeal. Petitioner seeks to correct multiple violations of state and federal law, including violations of the automatic stay under 11 U.S.C. § 362, failures in case management, and denials of due process and civil rights violations including judge shopping.

This Petition will cite to the Appendix as "App." followed by the page number.

BASIS FOR INVOKING JURISDICTION

Article V, Section 4(b)(3) of the Florida Constitution, which grants district courts of appeal the authority to issue writs of *mandamus*, *prohibition*, and *certiorari* to ensure compliance with legal duties, to prevent lower courts from exceeding their jurisdiction, and to review certain non-final orders of lower courts for legal errors.

Rule 9.030(b)(2)(A) and Rule 9.030(b)(3) of the Florida Rules of Appellate Procedure, which provide the Second District Court of Appeal with the power to issue writs of *mandamus*, *prohibition*, and *certiorari* in circumstances where a lower court has departed from the essential requirements of law, exceeded its jurisdiction, or failed to fulfill a ministerial duty.

STATEMENT OF THE CASE AND FACTS

Background of the Parties

In November 2019, Petitioner ended a volatile five-and-a-half-year relationship with Daniel Geberth, owner of DGP Products, Inc. (dba Numeric Racing) in Odessa, Florida. Following the breakup, Geberth launched a smear campaign against Petitioner, publicly accusing her of embezzling funds from his business, claiming he had “all the evidence” and was “deciding on what to do.” As part of this campaign, Geberth alleged ongoing discoveries of financial wrongdoing, stating he would involve the police, thereby implying Petitioner’s criminal liability without substantiating these claims.

[App. 1-4]

Simultaneously, Geberth altered DGP’s QuickBooks entries, reclassifying financial records and adding Petitioner as an employee on November 13, 2019, to create a false basis for tax and legal claims [App. 2, p 15-16, 13-14] (Fla. Stat. § 817.034). This was followed by a second round of alterations on November 29, 2019, where he modified entries under the Numeric Racing username to remove his own name, in a deliberate effort to fabricate evidence for claims of embezzlement. [App. 2, p 11-12].

On December 24, 2019, Geberth accessed accounts belonging to Petitioner and her family, including Geico, JCPenney, Merrick Bank, Cricut, Spotify, and Macy's, without permission, with the intent to financially harm Petitioner. Geberth later admitted to accessing the Macy's account, including purchasing a pair of diamond earrings, during the injunction hearing. (see Fla. Stat. § 815.06). At the same time, Geberth sent emails to Petitioner containing ***explicit threats of jail time*** and other direct threats to her physical, psychological, and financial well-being, including ***threats to contact her "fake rapist," Juan Miranda***, which was the subject matter of several cases, including this appellate court. [2D23-258 AR 669-671, 676, 678-693, 702]

Incorporated by reference is Geberth v. Antonio, No. 2D23-258 (Fla. 2d DCA 2023), a related case w appearance by the Plaintiff's counsel the Solomon Law Group. The Initial Brief, Answer Brief, record on appeal and addendum record on appeal in this case, which form part of the appellate filings, include critical evidence of

fraud and misconduct that was not appropriately addressed by the lower court.¹

On December 26, 2019, Geberth, with the assistance of his accountant Ashana Ramdial from Cohen & Grieb, began altering DGP’s QuickBooks records by reclassifying previously altered purchases—initially labeled to support his embezzlement claims—under “Contract Labor.” [App. 2, p 10] This reclassification was the continuation of fabricating financial records to falsely implicate Petitioner, which is fraud under Florida law. [App. 2, p 8-9] (Fla. Stat. § 817.15, Fla. Stat. § 817.02).

Furthermore, on the same date, Geberth’s attorney, Derek Bernstein, requested Petitioner’s social security number “**for tax purposes for the year 2019**,” violating Rule 4-8.4(b) of the Florida Bar’s Rules of Professional Conduct. [App. 3, p 18-19] [2D23-258 AR 1176]. This request was with the intent to misuse of Petitioner’s

¹ Citations to the Record in Case No. 2D23-0258 will be identified as Initial Brief [2D23-258 IB__]; Answer Brief [2D23-258 AB __]; Record on Appeal [2D23-258 R__]; Addendum Record on Appeal [2D23-258 AR__]

personal identifying information to generate falsified tax documents, stealing Petitioner's identity (Fla. Stat. § 817.568, 817.5685).

On December 30, 2019, Petitioner filed her first petition seeking injunctive relief against Geberth. *Faith Elyzabeth Antonio v. Daniel Alan Hilton Geberth*, Pinellas County Circuit Court Case No. 19-011577-FD due to the increased threats of violence by Geberth. [2D23-258 AR 623-630, 632-3]

On January 7, 2020, Geberth filed a criminal complaint with the Pasco County Sheriff's Office, accusing Petitioner of using QuickBooks entries to conceal fraudulent activity, and provided altered records as evidence. [App. 4, p 21-24] (*Fla. Stat. § 837.05*). Geberth lodged several criminal complaints against Petitioner's in Pasco and Pinellas counties, using the fabricated evidence. 2D23-258 AR 1218-19, 1221-23]

At a February 6, 2020 injunction hearing, Geberth and his attorney, Derek Bernstein, argued that Petitioner had no genuine fear of Geberth, questioning her about her Social Security Disability status and finances—irrelevant to the restraining order request. [2D23-258 AR 645-765] Bernstein further pursued irrelevant and

traumatic questioning regarding Petitioner's "fake" rapist from over 20 years ago, including:

BERNSTEIN: Is it your belief that if -- if, indeed, Juan Miranda did not rape Ms. Antonio, that he should have the opportunity to be in his child's life?

GEBERTH: I believe so, yes. I would want to be in my child's life. Absolutely.

[2D23-258 AR 760]

Judge Hamilton allowed this conduct, admitting exhibits of threats and harassment against Petitioner [2D23-258 AR 793-794] but denying her request for protection, which further emboldened Geberth's misuse of legal processes to inflict harm. [*id.* at 762].

Geberth and his accountant, Ashana Ramdial, continued altering DGP's QuickBooks accounts and amended his and DGP's tax returns, sending Petitioner 1099 forms for 2018-2019 without her social security number. [App. 2, p 5-7] [2D23-258 AR 1178]. Attorney Derek Bernstein advanced Geberth's threat to expose Petitioner's contact information by filing her phone number and e-mail addresses on civil theft demand letters. [2D23-258 AR 1182-1185]

On March 16, 2020, Petitioner filed a second Petition for Injunction for Protection Against Dating Violence (Case No. 20-2405-FD) [2D23-258 R. 623-30, 1074-93], as Geberth increased his harassment by filing numerous criminal complaints, hiring private investigators, and tracking her movements. [App. 6, 44-45, 387], [2D23-258 AR 632-637]

DV Injunction and Misconduct in Judge Byrd's Court

On April 2, 2020, Geberth, through DGP Products, Inc., filed a civil complaint in Pasco County against Petitioner, alleging civil theft, breach of fiduciary duty, and fraudulent misrepresentation. The claims lacked the specificity required under Florida Rule of Civil Procedure 1.120(b), relying instead on QuickBooks screenshots as evidence. [App. 5, p 22-39]

Later, at the April 22, 2020, injunction hearing before Honorable Judge Peter Ramsberger, Geberth and his attorney Derek Bernstein repeated the embezzlement allegations, arguing that Petitioner was not disabled based on altered business records. [2D23-258 AR 767-885, 863]

During the hearing, Geberth admitted to altering DGP's accounts with Ramdial, describing efforts to "clean up" his records by identifying "fraudulent" entries [2D23-0258 AR 0833]. He also confirmed sending Petitioner 1099s for prior years, including one for 2017 that contained her social security number, despite lacking any employment records. [2D23-0258 AR 0863-64, 0873, 1122]

Following Judge Ramsberger's reprimand of Geberth and his attorney, Geberth retaliated by serving the civil complaint on Petitioner's family member, forcing Petitioner to find an attorney.

On July 1, 2020, Petitioner filed a Verified Motion to Dismiss Failure to State a Cause of Action, Failure to Comply with Conditions Precedent, Lack of Standing, and a Motion to Strike Sham Pleading. This motion included reference to the active Injunction Against Dating Violence granted against Daniel Geberth on April 22, 2020, and was supported by Exhibit A. [App. 6, p 41-49].

There is no record that the court addressed, ruled on, or scheduled a hearing for it. The lack of a ruling on this dispositive motion left the case in limbo, in violation of due process and

judicial case management standards. *McKay v. McElhiney*, 205 So. 3d 845 (Fla. 2d DCA 2016); *Donn v. Donn*, 733 So. 2d 581 (Fla. 4th DCA 1999).

Moreover, no Answer has been filed by Petitioner, as Florida Rule of Civil Procedure 1.140(a)(3) requires a responsive pleading only after the resolution of pending motions, such as the Motion to Dismiss. As a result, the case has been stalled in its initial pleading stage, ***remaining active on the docket for over four years.***

On July 17, 2020, attorney Stanford Solomon of the Solomon Law Group filed a notice of appearance in this case, immediately failing to comply with Florida Rule of Judicial Admin 2.505(e). [Doc. 20, 21]. Mr. Solomon contradicted DGP's allegations by admitting that Cohen & Grieb, a CPA firm, provided accounting services to DGP/Geberth for all relevant years. [App. 7, p 53-54] [2D23-258 AR 1206-1212].

Petitioner's former attorney, Brendan Riley, disregarded her Motion to Dismiss and failed to address Solomon Law Group's improper subpoena practice [App. 6, p 50-51], causing further harm

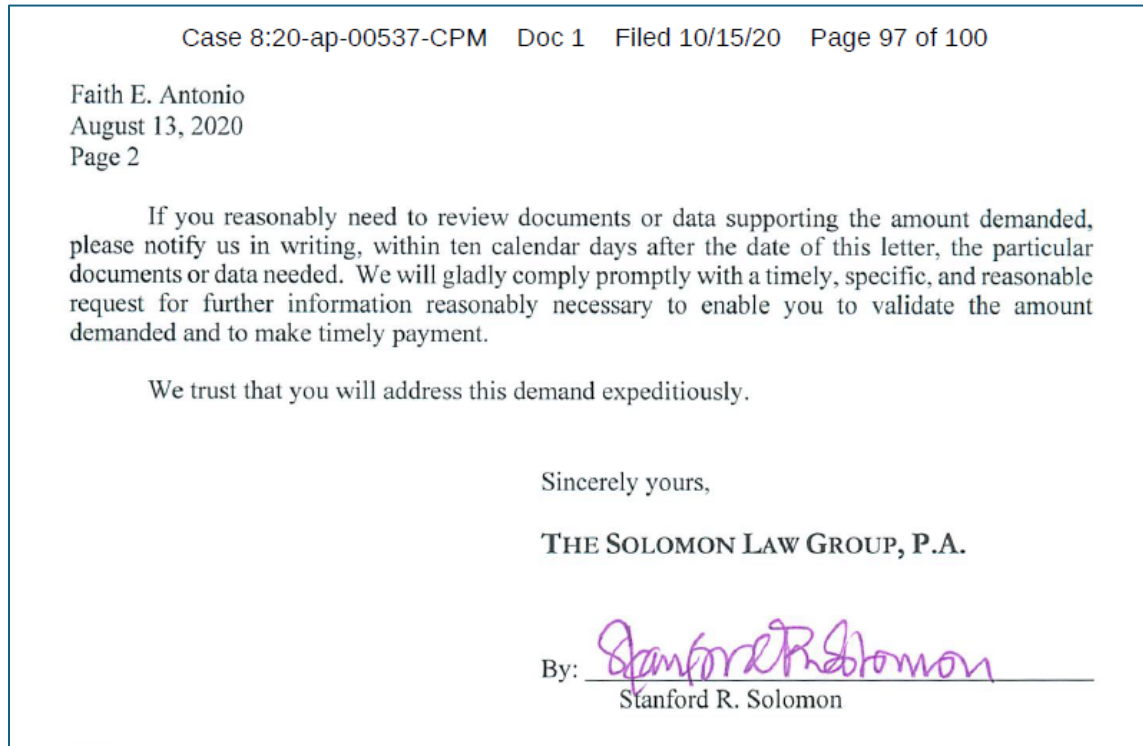
ignoring his own written statement found on the Verified Motion to Dismiss:

This behavior, bullying FAITH ANTONIO, is a manifestation of Mr. Geberth's intent in filing this lawsuit, **to use a court process for reasons other than for which it was intended** to harass FAITH ANTONIO **financially, psychologically, and physically**. [App. 6, p. 48]

Solomon Law Group repeatedly violated procedural rules by failing to properly notice subpoenas, using them to circumvent the active injunction against Geberth for stalking (Fla. R. Civ. P. 1.410). [Doc. 30-45]. Additionally, on September 15, 2020, Plaintiff scheduled depositions without coordinating with Defendant's counsel, violating Rule B.1. of the Rules of Professional Courtesy under Administrative Order 2008-077.

On September 25, 2020, judicial assistant Shannon McGrady scheduled a hearing on Defendant's objections to DGP's subpoenas ignoring the Motion to Dismiss and other misconduct reflected on the docket. [App. 16, p 193-197]. Judge Byrd's lack of supervision allowed Plaintiff's attorneys to manipulate the court schedule, further delaying Defendant's motions. As a result, Petitioner fired

Riley and retained Gino Megna of McGuire-Megna Law to represent her. [Doc. 49].



On October 7, 2020, Plaintiff filed an Amended Complaint without leave, violating Fla. Rule of Civil Procedure 1.190. [Doc. 51]. This amended complaint included an August 13, 2020, amended pre-suit demand letter from Plaintiff's attorney, Stanford Solomon, implying that Plaintiff possessed all evidence required—a claim Geberth initially made in November 2019. [App 1 p 2-3]

Ignoring Petitioner's repeated requests, her attorney, Gino Megna, on October 8, 2020, discouraged scheduling a hearing for the Motion to Dismiss, suggesting Plaintiff had a right to amend and refusing to set the motion for hearing. [App. 16 p. 198-199]. Then, on October 13, 2020, just minutes before the hearing, Megna filed a Suggestion of Bankruptcy to notify Judge Byrd of Defendant's Chapter 7 bankruptcy filing (case no. 8:20-bk-7637-CPM), effectively staying the proceedings. [Doc. 53].

This was a coordinated effort among the attorneys and judges to obstruct Defendant's Motion to Dismiss and delay accountability for misconduct. Notably, Defendant's pending motion cited evidence of tax fraud involvement by attorney Derek Bernstein, including a 1099 form forwarded to Defendant's prior attorney for the year 2016, after he emailed Petitioner with his attempt to obtain her information for the year 2019. [App. 6, p. 47-48], 2D23-258 AR 1187-89]. Further, Geberth attempted to affect Defendant's disability status by contacting the Social Security Administration with the false tax returns. [232D-0258 AR 1124, 1401-1434]

This collective strategy aimed to financially devastate Defendant, intending to drive her into bankruptcy and build a case to implicate her in a fabricated embezzlement scheme exceeding \$100,000—a first-degree felony under Florida Statutes §§ 812.014, 775.082, and 775.083, carrying severe penalties including up to 30 years in prison, just as Geberth had threatened.

Petitioner’s former attorneys, John McGuire and Gino Megna of McGuire Megna Law, along with Brendan Riley of Stewart & Riley, were obligated to protect their client—who was disabled, financially distressed, and a victim of domestic violence—by taking reasonable actions to preserve her legal interests. Their duties included: (1) notifying the judge in the State Court case of her vulnerable circumstances, as required under professional conduct standards (*Fla. Bar R. 4-1.7; Fla. Stat. § 90.204*); (2) filing a timely objection to DGP’s procedurally improper Amended Complaint, per *Florida Rule of Civil Procedure 1.190(a)*; and (3) setting hearings for the pending Motion to Dismiss and Sanctions motions, as timely hearings are critical to protecting clients’ rights (*Ramos v. Lopez*,

305 So. 3d 7, 11 (Fla. 3d DCA 2020)). Their failure to act on these duties left Petitioner exposed to continued legal and financial abuse.

With full knowledge that Judge Kimberly Sharpe Byrd had never ruled on jurisdiction and venue, attorneys from the Solomon Law Group and McGuire-Megna Law (formerly McGuire Law Group) engaged in judge shopping by bringing the stayed action into the U.S. Bankruptcy Court for the Middle District of Florida, under Judge Catherine Peek McEwen. [App. 8, p 56, App. 16, p 209]

Megna listed both DGP Products, Inc. and Daniel Geberth as creditors with disputed debts, implying that a final judgment had been granted in DGP's favor, though none existed (*App. Adv. Doc. 131, Pg. 8*). This filing lacked Petitioner's signature, violating 11 U.S.C. § 110.

On October 15, 2020, attorney Stanford Solomon filed a Complaint to Determine Dischargeability as an adversary proceeding just days after Petitioner's Suggestion of Bankruptcy, in violation of the automatic stay under 11 U.S.C. § 362 and 18 U.S.C. § 152. [App. 16 p 200-215]. The complaint repeated allegations from

the amended complaint, asserting jurisdiction under 28 U.S.C. § 1334 although the case never being removed to District Court nor any motion for relief from stay being filed [*id.* at 200]

The complaint requested non-dischargeability under 11 U.S.C. §§ 727(a)(2)(A), 523(a)(4), and 523(a)(6), falsely alleging that “Debtor” misappropriated funds and delayed disclosure of her financial information. The complaint accused Defendant of exercising “complete control over DGP’s accounting,” contradicting prior filings acknowledging Cohen & Grieb as DGP’s accountants. [*id.* at 208, 211]. The filing’s misleading statements and tactics reflect a misuse of the court process to gain an unfair advantage and further harm Petitioner with the intention of assisting Geberth in his desire to frame Petitioner for crimes she did not commit.

Absentee Bankruptcy Trustee Herendeen

Bankruptcy Trustee Christine Herendeen neglected her duties under the Bankruptcy Code by failing to enforce the automatic stay (11 U.S.C. § 362), allowing ongoing litigation and access to Petitioner’s finances, which enabled the harassment through the bankruptcy process. She also failed to protect estate assets, permitting the sale of Petitioner’s vehicle to benefit Geberth, rather

than maximizing value for all creditors (11 U.S.C. §§ 541, 704(a)(1). [App. 8, p 59-60] [2D23-258 AR 1300-1302]. Herendeen's inaction enabled Plaintiff's misuse of the process and delay of discharge, causing financial and emotional harm to Petitioner by denying her a fresh start, even when attorney Victoria Cruz (Garcia) appeared at hearings when creditor Invitation Homes was trying to evict Petitioner from her home. [App. 8 p 61-79, 86 (doc 108)]

Bankruptcy Proceedings and Jurisdictional Violations

Judge Catherine Peek McEwen admitted multiple times, including on December 7, 2020, and May 24, 2021, that she lacked jurisdiction over the adversary proceeding, yet she permitted Plaintiff to continued litigating, in violation of 28 U.S.C. § 1334, and to the detriment of Petitioner's health, who never consented to her jurisdiction. [App. 8, p 62-63]. Petitioner contacted numerous attorneys, all refused to involve themselves or requested tens of thousands of dollars in retainers. [232D-258 AB p 10]

Knowing Judge McEwen and Byrd lacked jurisdiction, Plaintiff's attorneys, representing a corporate entity alleging an employment relationship, continued to use subpoenas for Petitioner's financial records, gaining unauthorized access to

Petitioner and her family's private information, violating Bankruptcy Rule 7026 (incorporating Fed. R. Civ. P. 26). [2D23-258 AR 1225-32]. None of these creditors made an appearance.

Judge McEwen handled **state law tort** claims exceeding her jurisdiction under 28 U.S.C. § 157(b)(2) and is prohibited from entering final judgments in non-core proceedings, in contradiction to what Mr. Solomon is attempting to suggest in his recent ex parte contact to Judge McEwen. [App 19. p 343]

Judge McEwen repeatedly pressured Petitioner to sign a Confidentiality Agreement that would waive protections under HIPAA, the First Amendment, and the Video Privacy Protection Act (18 U.S.C.A. § 2710), as well as other Constitutional protections. [App 9. p 90-103].

Notably, paragraph 17 of the agreement acknowledged no prior judicial determination of jurisdiction. A clause titled "AGREEMENT TO BE BOUND" attempting to bind Petitioner to the jurisdiction of the U.S. District Court for the Middle District of Florida, knowing the state case not being removed to federal court or properly referred to bankruptcy. [*id.* at 102] Petitioner REFUSED

to sign this agreement, which appeared to serve as a covert attempt to establish jurisdiction where none existed (*In re Sayeh Rastegar*, 631 B.R. 729, 739 (Bankr. S.D. Fla. 2021)); *In re Bitman*, 631 B.R. 768 (Bankr. S.D. Fla. 2021).

Judge McEwen refused to acknowledge the Automatic Stay [2D23-258 AR 1348-59], did not enter in orders regarding the motions and conduct reflected on the adversary docket, [App 8, 80-81, App. 18, p 285-335] and fully participated in the harassment and abuse of Petitioner, including the presentation of fabricated W-2's for the tax years 2015-2019. [App. 10, p 106, 111]. The harassment, abuse, and stalking increased after moving for summary judgment, conduct that Petitioner would describe as being tortured in a one-sided attack on her [2D23-258 AR 1361-93, 1401-1433].

Petitioner's Closing Argument Brief filed in the proceeding thoroughly covers the bankruptcy fraud, collusion, tax fraud, and other crimes committed against her, citing to the evidence that sits on the record, [App. 15, p. 134-182] in an action that involved over a dozen legal professionals, including three attorneys from the

Region 21 U.S. Trustee's Program, Steven Pralle, Nicole Peair, and J. Steven Wilkes and the Chief Bankruptcy Judge Caryl Delano. [App. 8 p 83 (doc 82), App. 20 p 382 (doc 105)]. The DOJ, IRS, and SSA was absent from this public lynching masked as a court proceeding.

In *DGP Prods. Inc. v. Antonio (In re Antonio)*, 642 B.R. 337, 339 (Bankr. M.D. Fla. 2022), Judge McEwen agreed with Petitioner, finding that Geberth lacked First Amendment rights to access certain discovery materials, even though she permitted the access through her court underlying the civil rights violations committed against Petitioner. Judge McEwen also implied that Petitioner may have "brought about" the harm by refusing to sign the confidentiality agreement that would bind her to federal jurisdiction. Judge McEwen's order further suggested that Petitioner contact Geberth for a protective order, which would have violated a standing injunction later brought under appellate review.

Conduct as a result of Judge Byrd keeping this case in ACTIVE status. (emphasis added)

Judge McEwen also contacted Judge Holly Grissinger, who was overseeing Geberth's criminal stalking charges, [2D23-258 AR 1275] to enable Petitioner's harassment during depositions, with Geberth present (see *DGP Prods. v. Antonio (In re Antonio)*, 8:20-bk-07637-CPM (Bankr. M.D. Fla. Aug. 2, 2021)). This communication likely influenced the eventual *nolle prosequi* of Geberth's criminal case. The same case that Mr. Solomon listed Juan Miranda as a witness and referred to litigation in state and federal court. [AP]

Judge McEwen further threatened to strike Petitioner's pleadings if she did not produce medical records and submit her cell phone for forensic inspection [232D-258 IB 6-7, citing R 138-145], using subpoena process to harass Petitioner and her family members throughout the state, [2D23-258 AR 1242-53, 1266-73] eventually accusing many of her family members of being participants of the fabricated embezzlement. [App 18, p. 309-313].

The judges and attorneys began to attack Petitioner's TikTok account and GoFundMe, in an effort to silence her. [App. 299-300, 352, 622, 811 "TikTok Activity"], manipulating the proceedings by attorneys who served in the board of directors in the Tampa Bay

Bankruptcy Bar Association, including Barbara Hart [*id.* at 299], Nicole Pear, Donald Kirk [*id.* at 320], W. Keith Fendrick², never noticing Petitioner’s true creditors, and refused to provide real pro bono assistance, including Kristina Fehrer and Luigi Orengo, Jr.

Since the Adversary Proceeding was not a genuine proceeding, this was in violation of the Final Injunction Against Dating Violence. [2D23-258 AR 1258-64]. The bankruptcy court with the attorneys completely obstructed production of documents in a case where Petitioner was alleged to have complete and total financial control., while Judge Byrd purposely sat on the case. [2D23-258 1275-1288]

The Malicious Use of Multiple Courts

The Solomon Law Group repeatedly asked judicial notice of Petitioner’s bankruptcy case and related adversary proceeding across multiple cases, including *Faith Elyzabeth Antonio v. Daniel Alan Hilton Geberth* (Case Nos. 20-002405-FD, 22-005774-FD) in the Sixth Judicial Circuit. These cases, involving stalking and

² *The Cramdown*, Tampa Bay Bankruptcy Bar Association, Fall 2002, pg. 2-3 <https://tbbba.wpengine.com/wp-content/uploads/2022/04/Fall-2002-The-Cramdown.pdf>.

repeat violence injunctions, were linked to the bankruptcy and adversary proceedings to misuse judicial processes.

By requesting judicial notice, the Solomon Law Group attempted to improperly influence case outcomes, using the bankruptcy forum as leverage to perpetuate harassment against Petitioner. This included Case No. 2D23-0258, where this Second District Court of Appeal ultimately upheld the Final Injunction Against Repeat Violence in October 2023.

In numerous filings, attorney Stanford Solomon asserted a “legitimate basis” for his conduct, claiming absolute privilege (*2D23-258 AR 898, 903, 904*), while falsely representing reasons for Petitioner’s attorneys’ withdrawal and accusing her of infidelity. Solomon also misrepresented when Geberth allegedly “learned of the embezzlement” and the filing date of Petitioner’s March 16, 2020, dating violence petition.

His statements were documented in the Initial Brief, which admits to forum shopping, violating the automatic stay under 11 U.S.C. § 362, and engaging in litigation abuse [*2D23-258 IB at p. 3*],

including litigating DGP's claims in the Motion to extend hearings under Circuit Judge Brian E. Gnage.

The Initial Brief further reveals admissions to intimidate Petitioner, such as contacting Juan Miranda and listing him as a witness [23D2-258 AB p 4-5; R 232-237], effectively weaponizing fears to inflict psychological harm on Petitioner [2D23-258 IB at, pg. 5]. Include admissions to creating falsified W-2s, evidence of bankruptcy and tax fraud. [*id.* at pg. 9, 38]

Conduct of the Trial Court

Judge Byrd delayed issuing an Order to Provide Status Update for nearly two years. The order, dated May 12, 2022, instructed the Plaintiff to provide a written submission of the status of the case within 30 days and encouraged the parties to draft an Agreed Mandatory Civil Case Management Order "when the stay is lifted," confirming her knowledge that DGP Products, Inc. was violating the automatic stay. [App. 11, 118, Doc 57]

Judge Byrd's Order, issued "upon [her] own motion" after reviewing the docket, suggests she identified several procedural deficiencies: (1) the Motion to Dismiss filed early in the case was

never scheduled for a hearing, denying Defendant the opportunity to address key issues (*Fleming v. Fleming*, 735 So. 2d 1161, 1163 (Fla. 1st DCA 1999)); (2) no Answer was filed, in violation of *Fla. R. Civ. P. 1.140(a)(3)*, which mandates an answer following the resolution of dispositive motions; (3) Plaintiff amended the complaint without court approval while the Motion to Dismiss was pending, (*Kohn v. City of Miami Beach*, 611 So. 2d 538, 539 (Fla. 3d DCA 1992)); and (4) no Notice of Removal was filed, indicating the court lacked jurisdiction over the Petitioner. DGP's response was not a legitimate reason to continue the case as ACTIVE status. [App. 12, p 120-122].

On April 25, 2023, attorney Stanford Solomon filed a response to the Notice of Lack of Prosecution, attaching the bankruptcy trustee's interim report. [App. 13, 14 p 123-131]. This report implicated his firm in assisting Daniel Geberth's misuse of DGP Products, Inc. to unlawfully control Petitioner's estate, violating the automatic stay under 11 U.S.C. § 362. [*id.* at 127-129]. Attempts to interfere with estate assets post-bankruptcy filing are void and represents serious misconduct. Moreover, on July 15, 2024, a

docket entry claimed a prior “Order of Stay” was entered, though no such order appears, questioning the integrity of the entire court system.

On September 19, 2024, Petitioner moved to Disqualify/Recuse Judge Kimberly Sharpe Byrd for Continued Due Process and Civil Rights Violations, Impropriety, and Failure to Address Severe Professional Misconduct, including Violations of Automatic Stay and Forum Shopping. (*42 U.S.C. § 1983*). [App 16. 184-192]. Judge Byrd declined. Her judicial assistant, Shannon McGrady, emailed the Order to Petitioner and attorney Stanford Solomon using bankrupcy@solomonlaw.com, misspelling ‘bankruptcy’, an e-mail address that is not listed on the service list for this case. [App. 17, 278, 283; 279-282].

Brazenly ignoring these allegations, Solomon improperly asked Judicial Notice of Petitioner’s Motion to Disqualify in the Adversary Proceeding on October 15, 2024, a tactic commonly used to communicate with judges and attorneys. [App. 19, p. 242-243]

On October 17, 2024, Petitioner notified the court of her June 2022 discharge and to document the ongoing improper ex parte

contacts by Solomon, in violation of *Fla. R. Jud. Admin. 2.545*. [App. 19, p. 337-341], including filing the July 25, 2022 Discharge Order that unjustly delayed Petitioner's discharge for nearly two years based on the unfounded § 727 complaints. [App. 19, p. 368].

Judge Byrd's inaction was in aid of a scheme to frame an innocent person of crimes, as Solomon wrote: "***I have the responsibility for the prosecution of this action,***" [App. 370] and participating in hearings with Judge McEwen using language suggesting full knowledge that the allegations were frivolous. "Which ones do you think you had permission for? Or let's start with this. Which ones do you admit that you made? Do you have any documentary proof...," and "Maybe she doesn't really understand, and maybe I'm mistaken, but I think if she were represented by counsel, it would be fair to say: ***You can't defend the criminal case by saying you didn't prove beyond a reasonable doubt. You're going to have to come up with something to show that you didn't really do it.***" (App. 377-378). This was cruel, inhumane, and heartless.

Petitioner requested to recuse both Judge McEwen and Judge Byrd, filed judicial misconduct complaints, and civil rights complaints and is continually and unjustly ignored. The case must be set closed so Petitioner and her family may seek redress of their injuries in this truly horrific act.

LEGAL ARGUMENT

1. Writ of Prohibition

The writ of prohibition is appropriate to prevent an “inferior court or tribunal” from exceeding jurisdiction or usurping jurisdiction over matters not within its jurisdiction.’ *English v McCrary*, 348 So.2d 293, 296 (Fla. 1977). “A party may file a petition for writ of prohibition in an appellate court to prevent a lower tribunal from improper use of judicial power.” *Padovano*, Fl. Civ. Practice § 29:3 (2009); see also *Scaife v. State*, 764 So.2d 827 (Fla. 2d DCA 2000) (granting prohibition to prevent prosecution that would violate double jeopardy).

In this case, Judge Byrd’s refusal to close the case, recuse herself, or change its status despite the Notice of Lack of

Prosecution illustrates a clear departure from the essential requirements of law and warrants issuance of a writ of prohibition.

Judge Byrd's decision to keep the case active despite the Notice of Lack of Prosecution conflicts with the Florida Rules of Civil Procedure 1.420(e), which mandates dismissal if there is no record of activity for one year and no good cause shown to keep it open. Case law supports that refusal to dismiss a stagnant case is grounds for prohibition. *Fleming v. Fleming*, 735 So. 2d 1161 (Fla. 1st DCA 1999); see also, *Weiss v. Berkett*, 949 So.2d 1092 (Fla. 3d DCA 2007).

In *State ex rel. Shevin v. Schneider*, 303 So. 2d 386 (Fla. 3d DCA 1974), the court held that where impartiality is questioned, the judge should recuse themselves to uphold the integrity of the judicial process. Judge Byrd's refusal to disqualify herself despite repeated civil rights and procedural violations suggests partiality that impacts the case's fairness, further justifying prohibition.

2. Writ of Mandamus

A writ of mandamus compels a judge to perform a legally required act when they have failed to do so. Here, Judge Byrd's

refusal to rule on critical motions, including the Motion to Dismiss, and her failure to update the case's status reflect a lack of adherence to mandatory judicial duties, warranting mandamus relief.

Courts have consistently issued mandamus when a judge refuses to rule on a motion that affects case progression. *Donn v. Donn*, 733 So. 2d 581 (Fla. 4th DCA 1999). Similarly, Judge Byrd's inaction on the Motion to Dismiss has denied the Petitioner a timely adjudication, causing ongoing harm.

Mandamus can compel a court to address case management failures that materially harm a party. In *Haines City Community Development v. Heggs*, 658 So. 2d 523 (Fla. 1995), the court issued mandamus when delays and case management failures infringed upon a party's right to a timely hearing. Here, Judge Byrd's mismanagement in failing to update the case's status and not addressing the Notice of Lack of Prosecution aligns with this precedent, as her inaction is without just cause.

3. Writ of Certiorari

While a writ of prohibition, and or mandamus may be appropriate, Petitioner seeks a writ of certiorari. Given the facts and circumstances, this Court may find this mechanism ultimately provides the appropriate remedy. See *Kirchhoff v. South Fla. Water Mgmt. Dist.*, 805 So. 2d 848 (Fla. DCA 2001) (granting writ of certiorari to remedy due process violations in “quick-take” proceeding); *Martin v. Circuit Court*, Seventeenth Judicial Circuit, 627 So. 2d 1298 (Fla 4th DCA 1983).

Judge Byrd’s decision to continue proceedings while an automatic stay was in place violates 11 U.S.C. § 362 and represents a departure from established law, directly causing irreparable harm and serious injury upon Petitioner. As demonstrated in *In re Martinez*, 721 F.2d 262 (11th Cir. 1983), violation of an automatic stay is grounds for certiorari, as it disrupts the petitioner’s legal protections and subjects them to unauthorized legal action.

Permitting an amended complaint without court approval contradicts Fla. R. Civ. P. 1.190 and disregards due process

requirements. *Kohn v. City of Miami Beach*, 611 So. 2d 538 (Fla. 3d DCA 1992).

By neglecting case management duties and failing to address the Motion to Dismiss, Judge Byrd's actions have inflicted irreparable harm on the Petitioner, justifying certiorari intervention. Judge Byrd's continuation of the case is causing serious physical, financial, and psychological injury that may cause the death of Petitioner and/or one of her family members and is solely to protect/conceal serious criminal activity that was never handled by the bankruptcy court or the DOJ.

Petitioner has thoroughly outlined the jurisdiction requirements for certiorari jurisdiction. *Bd. of Trs. of Internal Improvement Trust Fund v. Am. Educ. Enters., LLC*, 99 So. 3d 450, 454 (Fla. 2012) [alteration in original] (quoting *Reeves v. Fleetwood Homes of Florida, Inc.*, 889 So. 2d 812, 822 (Fla. 2004)); *Varn v. State*, No. 1D19-1967, 2020 WL 5244807, at *2 n. 1 (Fla. 1st DCA Spt. 3, 2020); *Williams v. Oken*, 62 So. 3d 1129, 1132 (Fla. 2011).

CONCLUSION

On February 27, 2024, serving as the Chair of the Sixth Judicial Circuit Professionalism Committee, Chief Judge Shawn Crane entered in Administrative Order No. 2024-010 PA/PI-CIR appointing Judge Kimberly Byrd to serve as Executive Chair of this Committee and on June 10, 2024, attorney Andrew Sasso submitted the LPL Report Form.³ In his response to the question, “What are believed to be the causes of professionalism issues with your Circuit?” The response is very telling:

“That the definition of “**Unprofessional Conduct**” means a **violation** of the Standards of Professionalism found in the Oath of Admission to The Florida Bar, The Florida Bar Creed of Professionalism, the Professionalism Expectations, and the Rules Regulating The Florida Bar. Lack of knowledge about the existence of the Circuit’s Local Professionalism Panel and **great hesitation to use the Circuit’s Local Professionalism Panel due to fear of reprisal.**”

Stanford Solomon, member and former chair of the Florida Rules of Judicial Administration Committee, used his position to influence proceedings, manipulate the judicial process and harass

³ Sixth Judicial Circuit. *Local Professional Panel Report Form*. June 2024. <https://www.jud6.org/LegalCommunity/Professionalism/Local-Professional-Panel-Report-Form-6th-June-2024.pdf>.

the Petitioner, violating Canon 2A of the Florida Code of Judicial Conduct, while he sits on committees with judges, including Judge Byrd, throughout the State of Florida, reviewing and amending the same rules and procedures that are violated in these case.

This, as fear of reprisal, or a system that protects and allows attorneys to commit crimes without fear of referral for prosecution. Petitioner never received her exemptions, became homeless, had her property stolen, and has unresolved false tax documents on her record.

Judge Byrd's failure to act has perpetuated civil rights abuses and procedural breaches, obstructing justice and unlawfully binding Petitioner to her abuser without any legal basis, violating the Injunctions Against Dating Violence and Repeat Violence since Judge Byrd and Judge McEwen did not have jurisdiction over Petitioner, reflecting a systematic denial of due process and civil rights protections.

Solomon and Judge McEwen (with a U.S. Marshall in attendance) appeared at a third deposition, demanding Petitioner to confirm the information on a CLEAR report obtained during the

active injunction, including Petitioner's son's new home. Individuals started to appear at the home, harassing Petitioner's family members and their cars repeatedly being towed shortly thereafter, further financially burdening her sons and family with no resolution. *Lake Brandon Townhomes Homeowners Association, Inc. v. Antonio*, No. 24-CC-002667 (Fla. 13th Cir. Ct. Hillsborough Cnty.). *Cavalry SPV I, LLC as Assignee of Department Stores National Bank v. Antonio*, No. 2024-SC-002731 (Fla. 6th Cir. Ct. Pasco Cnty.). It seems every judge has a case management issue and a disregard for the law in the aforementioned cases or is a proponent of the abuse to further financial abuse.

Petitioner and her family is targeted, all publicly documented on Petitioner's TikTok platform @poetic.injustice and on www.stopthisabuse.com in an effort to raise awareness and security, as Petitioner continues to endure targeted harassment and stalking, not by Geberth, but believed by the attorneys who aided in these crimes. These actions align with *RICO* violations under 18 U.S.C. §§ 1961–1968, as they exhibit a pattern of ongoing

harassment, extortion, and witness intimidation through misuse of legal proceedings,

Geberth paid off “expert witness” Brad Kanter [App. 382-383], made unusual, and repeat large withdrawals of cash during the pendency of the case just [App. 384-386] just like he promised to “file a civil suit.. have (Petitioner) thrown in jail... playing fucking hardball,” guaranteeing to “fuck her over.” [2D23-258 AR 793].

Instead of investigating and prosecuting the criminals, the court decided to protect the criminal and target an entire innocent family⁴, violating the *Civil Rights Act of 1964*, (Pub. L. No. 88-352, 78 Stat. 241 (1964)), and stripping Petitioner and her family of every constitutionally afforded right and continues to do so by its inaction. The hope for the integrity of the judicial system is lost.

For the reasons stated above, Petitioner respectfully requests an immediate stay of the underlying litigation to prevent further harm and requests that the Court grant protective measures until the full Petition can be considered.

⁴ **Lang, Hannah, et al.** "The Color of Justice: Here are the people who lead Florida's criminal legal system." *Tampa Bay Times*, 2 June 2021, <https://projects.tampabay.com/projects/2021/special-report/diversity/color-of-justice/>.