

ARGUMENT IN SUPPORT OF MOTION

I. Authority for Sanctions

Rule 34 of the North Carolina Rules of Appellate Procedure authorizes this Court to impose sanctions when filings in an appeal are "grossly lacking in the requirements of propriety, grossly violated appellate court rules, or grossly disregarded the requirements of a fair presentation of the issues to the appellate court." Defendants-Respondents' Response to Petition for Writ of Prohibition ("Response") meets this standard through deliberate misrepresentations of fact and law, improper characterizations, and material omissions intended to mislead this Court.

II. Factual Misrepresentations in the Response

The Response contains several material factual misrepresentations that grossly disregard the requirement of fair presentation:

1. The Response falsely characterizes Plaintiff-Petitioner's motion for default judgment as "entry of default judgment," erroneously conflating a request for judicial determination with a clerical entry to prejudice Plaintiff-Petitioner's position.
2. The Response misrepresents the Notice of Appeal filed on February 10, 2025, as merely "asking the district court to recognize a blanket automatic stay," when in fact it explicitly asserted violations of substantial rights as the basis for appeal.

3. The Response falsely implies Plaintiff-Petitioner improperly filed an amended complaint without leave of court, despite the trial court's denial of the motion to strike, which confirmed the filing's legitimacy.
4. The Response includes irrelevant procedural history regarding small claims and arbitration with no bearing on the jurisdictional question, serving only to prejudice this Court against Plaintiff-Petitioner.
5. The Response misleadingly suggests Plaintiff-Petitioner objected to "virtually every motion" without justification, when each objection addressed improper filings, delays, or misrepresentations requiring correction.

III. Legal Misrepresentations in the Response

The Response deliberately misapplies controlling legal precedent:

1. The Response misrepresents the standard for interlocutory appeals by suggesting the trial court retains authority to determine whether substantial rights are implicated after a Notice of Appeal is filed.
2. The Response improperly applies *Veazey v. Durham* and *RPR & Assoc. v. UNC-Chapel Hill* to wrongfully argue the trial court could continue proceedings despite a pending appeal asserting violations of substantial rights, ignoring the automatic stay provision of N.C. Gen. Stat. § 1-294.

IV. Improper Tone and Condescending Language

The Response employs inappropriate language that violates the requirements of propriety:

1. The Response uses gratuitous and dismissive terms such as "curiously," "ironically," and "simply protesting" to belittle Plaintiff-Petitioner rather than engaging in legitimate legal argument.
2. The Response includes condescending assertions that "Mainville erroneously argues" and "She is confused," which constitute personal attacks rather than substantive legal rebuttals.

V. Evidence of Bad Faith

Defendants-Respondents had full knowledge of the issues affecting Plaintiff-Petitioner's substantial rights before filing their Response:

1. Plaintiff-Petitioner sent the proposed Record on Appeal and Supplemental Filings under Rule 9(d) to Defendants for review on March 5, 2025, making them fully aware of the specific issues on appeal.
2. Despite this knowledge, Defendants-Respondents deliberately misrepresented the procedural history and legal standards to obscure the jurisdictional defect at issue.
3. Plaintiff-Petitioner previously warned opposing counsel that sanctions would be sought if they did not correct their misrepresentations, yet Defendants-Respondents proceeded to file the misleading Response.

VI. Prejudice to the Administration of Justice

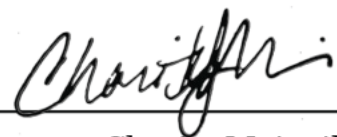
Defendants-Respondents' conduct has materially prejudiced both Plaintiff-Petitioner and this Court:

1. As a pro se litigant, Plaintiff-Petitioner faces additional burdens responding to baseless assertions and misrepresentations of law.
2. The Court's resources are wasted addressing misleading arguments designed to obscure rather than clarify the jurisdictional question.
3. The integrity of the appellate process is compromised when parties deliberately misrepresent the record and applicable legal standards.

WHEREFORE, Plaintiff-Petitioner respectfully requests that the Court grant the following relief:

1. Strike Defendants-Respondents' Response in its entirety as it is wholly meritless, fails to address the jurisdictional issue raised in the Writ of Prohibition, and constitutes an abuse of the appellate process;
2. Admonish Defendants-Respondents' counsel for knowingly misrepresenting the procedural history and applicable law; and
3. Award any other relief it deems just and proper.

Respectfully submitted this 11th day of March, 2025.



Charity Mainville
Plaintiff-Petitioner, Pro Se

