
FROM WAKE COUNTY
24CV-022933-910

MOTION TO STRIKE OR, IN THE ALTERNATIVE, MOTION FOR SANCTIONS

NOW COMES Plaintiff-Petitioner, Charity Mainville, and respectfully moves the Court to strike Respondents' Response to the Petition for Discretionary Review filed on April 30, 2025, or in the alternative, to impose sanctions pursuant to Rule 34 of the North Carolina Rules of Appellate Procedure and the Court's inherent authority. In support, Petitioner shows the following:

1. In their response, Respondents made multiple materially false and prejudicial statements that misrepresent the rulings of the North Carolina

Court of Appeals and falsely imply procedural findings that do not exist.

Specifically:

"The trial court and the Court of Appeals properly determined that Mainville's numerous interlocutory appeals are not immediately appealable and, therefore, the trial court is justified in continuing to exercise jurisdiction in this action." (Response to PDR, 107P25, at 5)

"But the Court of Appeals recognized what everyone except Mainville can see—her appeals from nonappealable interlocutory orders are legal nullities. That is why her PWS and PWP were denied." (Id.)

"Despite her eleven appellate filings before the record on appeal has been docketed, Mainville has not sufficiently argued how the appealed orders affect a substantial right that will be lost absent immediate review. She refuses to recognize the principles described above, but the district court and Court of Appeals properly applied them." (Id. at 7)

These statements falsely attribute findings and legal conclusions to the Court of Appeals, which has issued no written opinion or ruling that Plaintiff's appeal was a "legal nullity." The denials of Plaintiff's Petition for Writ of Prohibition and Motion for Sanctions were summary in nature and did not address the merits of the underlying appeal.

2. Respondents purposely omitted a key procedural fact when stating:

"Between 23 January and 30 January 2025, the district court entered five routine interlocutory orders: (1) continuing a hearing on Mainville's Rule 2.1 Motion;" (Response to PDR, 107P25, at 2)

This characterization is misleading. The January 23, 2025, hearing included not only Mainville's Rule 2.1 Motion—but also a pending Motion for Default Judgment. That motion was continued by a judge who was not authorized to rule on the Rule 2.1 request and who improperly treated the default judgment as a motion subject to continuation rather than the required motion to set aside, as mandated by procedural rules. This omission distorts the nature and legal consequence of the court's actions and prejudices the appellate review.

3. Counsel's repeated misrepresentations appear calculated to influence this Court's discretionary review by presenting facts not found in the record and attributing them to an appellate panel that has not spoken on the matter, while also omitting key procedural facts that support Petitioner's position. This conduct constitutes a violation of Rule 3.3(a)(1) of the North Carolina Rules of Professional Conduct, which prohibits knowingly making false statements to a tribunal.
4. Such conduct further qualifies under Rule 34(a)(3) of the Rules of Appellate Procedure as a "grossly misstated" argument, and constitutes abuse of the discretionary review process.
5. These tactics are not abstract or harmless—this is precisely why Plaintiff filed this Petition: to seek review of improper and retaliatory procedural manipulation by opposing counsel. As a direct result of opposing counsel's continued abuse of process, Plaintiff has been forced to file a federal lawsuit

for retaliation and seek emergency injunctive relief in the North Carolina District Court pursuant to Rule 65(b), to protect against further procedural harm. The integrity of the appellate process cannot be preserved unless this Court addresses and corrects these misrepresentations.

6. Petitioner is not requesting that the Court adjudicate the merits at this stage, only that the Court protect its review process by striking or sanctioning the improper response so that the Petition may be considered on an accurate and neutral record.

WHEREFORE, Petitioner respectfully requests that the Court:

1. Strike Respondents' Response to the Petition for Discretionary Review;
2. Alternatively, impose sanctions pursuant to Rule 34 and/or the Court's inherent authority;
3. And grant such other relief as the Court deems just and appropriate to preserve the integrity of these proceedings.

Respectfully submitted this 2nd day of May, 2025.



Charity Mainville
Plaintiff-Petitioner, Pro Se

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