

ORIGINAL

IN THE SUPREME COURT OF OHIO

Verlean E. Macon	:	Case No. 2014-1492
Relator,	:	
	:	
v.	:	Original Action
	:	
Toledo Municipal Court	:	
James Keisser	:	
Progressive Insurance	:	
USAA Insurance Co.	:	
Rotary Man LTD,	:	
Respondents,	:	

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RELATOR VERLEAN E. MACON RESPONSE IN OPPOSITION TO RESPONDANT  
MOTION TO DISMISS

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September 18, 2014

Toledo Municipal Court  
City of Toledo, Department of Law  
One Government Center, Suite 2250  
Toledo, Ohio 43604

Rotary Man LTD.  
Attorney Matthew L. Weisenberger  
300 Madison Avenue, Suite 300  
Toledo, Ohio 43604

Verlean Everett Macon  
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Relator in Pro Se

Progressive Insurance and James Keisser  
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USAA Insurance  
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San Antonio Texas 78288

FILED  
SEP 19 2014  
CLERK OF COURT  
SUPREME COURT OF OHIO

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SUPREME COURT OF OHIO

Now comes Relator, Verlean Everett Macon Pro Se and in Opposition to the Respondent's Motion to Dismiss asks the Honorable Supreme Court to continue the proceedings.

### MEMORANDUM IN SUPPORT

#### I. FACTS

The original action filed by Relator complaint presents a prima facie case of "race and gender bias discrimination" in the Toledo Municipal Court system.

1. Relator is not an Attorney, as a Pro Se Litigant she has brought into question the court's impartiality; merits of allegation. *Williams v. New York City Housing Authority, S.D.N.Y. 2003 287 F. Supp. 2d 247*

2. Relator complaints allegations were stated plainly to show the systematic approach to its continual mind bent race gender bias in the Toledo Municipal Court.

3. The Toledo Municipal Court allowance of continual race gender biases deprived Relator of her constitutional rights and took away remedy to the underlying cases.

4. The Relator appeal to the Court of Appeal's and its decision showed the trial court failure to follow rules and guidelines to supply final appealable orders.

5. Relator was unable to obtain remedy to underlying cases do to the courts continued failure to supply final appealable order by following rule 54 A.

### ARGUMENT

*Federal Standards of review §5.01 suggests Rule of Civil Procedure 12(b)(6) authorizes a pretrial motion to dismiss a claim for relief from pleadings for "failure to state a claim upon which relief can be granted."*

The Supreme Court limits itself by defining for itself what a “justifiable question.” The Court requires a “personal interest,” not one generally held, and a legally protected right must be immediately threatened by government action. Cases are not taken up if the litigant has no standing to sue.

*Mulberry v. Madison* 5 U.S. (1 Cr.) 137(1803) looks to the nature of the written Constitution, there would be no point of having a written constitution if the courts could just ignore it. The United States government, as created by the Constitution is a limited government, and a statute contrary to it is not law. The Constitution enumerates powers of the judiciary to extend to cases arising “under the Constitution.” Courts were required to choose the Constitution over Congressional law. Further, justices take a Constitutional oath to uphold it as “Supreme law of the land.”

If in fact The Toledo Municipal Court cannot be sued this does not make it above the law and above judicial review.

Standing concerns the issue of who may sue. First, the plaintiff must suffer and “injury in fact.” Second the interests asserted by the plaintiff must be “arguably within the zone of interests to be protected or regulated by the statute or constitutional guarantee in question.” It must be shown that the plaintiff’s injury was caused by the challenged governmental action. Third, it must be shown that it is likely that the injury will be redressed by a favorable decision. Relator has a spiritual stake in *First Amendment* 5 U.S.C. §702 (1964 ed., Supp. IV)

Judges are absolutely immune for judicial acts. All acts that are part of the judicial function, even if wrongly taken, are within the reach of judicial immunity. Nevertheless, if a judge or judges act in the “clear absence of jurisdiction,” there may be no immunity. Judges are not

absolutely immune for acts which are administrative, rather than judicial, in nature. Judges are not protected by qualified immunity, not absolute immunity, for personnel decisions.

Any violation of a constitutionally protected right may give rise to a 42 U.S.C. § 1983 action may be maintained to seek compensation. *Color of law*, action which caused the deprivation of due process under the *Fourteenth Amendment* must have been taken under authority of the state. Plaintiff must establish: (1) that the defendant, while acting under “color of law,” (2) caused (3) the plaintiff to be deprived of a right protected by the Constitution or laws of the United States.

### CONCLUSION

The Supreme Court has original jurisdiction in the case Mandamus and Admission to the practice of law, the discipline of persons admitted to the practice of laws and all other matters relating to the practice of law. For the reasons of facts, argument and conclusion the Court should not grant the Toledo Municipal Court dismissal or motions to dismiss this action by the other respondents.

s/ Verlean Everett Macon

Verlean Everett Macon

CERTIFICATE OF SERVICE

This is to certify that a copy of the forgoing Opposition to Motion to Dismiss was served by regular U.S. mail to Respondents Toledo Municipal Court c/o John T. Madigan, One Government Center, Suite 2250 Toledo, Ohio 43604 and Respondent Progressive Insurance and James Keisser, c/o Attorney Douglas Spidel, 2270 Levis Commons Blvd., Perrysburg, Ohio 43551-7142 and Respondent USAA Insurance, 9800 Fredericksburg Rd., San Antonio, Texas 78288 and Respondent Rotary Man LTD., c/o Attorney Matthew L. Weisenberger, 300 Madison Ave., Suite 300, Toledo Ohio 43604 this 18<sup>th</sup> day of September, 2014

s/ Verlean Everett Macon

Verlean Everett Macon Pro Se