

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

BRIANNA BOE, <i>et al.</i> ,)	
)	
<i>Plaintiffs,</i>)	
)	
and)	
)	Case No. 2:22-CV-184-LCB
UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff-Intervenor,</i>)	
)	
v.)	
)	
STEVE MARSHALL, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	
)	

SUBMISSION BY SCOTT D. MCCOY ADDRESSING OTHER RESPONDENTS’ BRIEFS IN RESPONSE TO ORDERS TO SHOW CAUSE

This submission is made pursuant to the Court’s Supplemental Orders to Show Cause, which direct Mr. McCoy to, “[i]n a separate filing,” “identify those portions of all other Respondents’ briefs with which [he] agrees or disagrees.” Doc. 487 at 13.

On all material issues, the submissions by the *Ladinsky* Respondents are consistent with the submission made by McCoy. Docs. 513, 514, 515, 518, 520, and 521. The *Ladinsky* Respondents all agree, for example, that *Ladinsky* was voluntarily dismissed pursuant to Rule 41 not only because of concerns about Judge

Burke, but also because of a number of other factors, including the seemingly unusual and unexplained way in which the case was transferred by Judge Axon to Judge Burke and the fear that *Ladinsky* would lose its status as the first filed case. The *Ladinsky* Respondents all stated in their briefs that the transfer of *Ladinsky* seemed unusual to them and that they were concerned about the effects of the transfer for their clients. In addition, all the *Ladinsky* lawyers believed, in good faith, that they were acting permissibly under Rule 41 and that there was no rule or standard barring the dismissal of *Ladinsky* and the filing of *Eknes-Tucker*.

McCoy is not in a position to comment on particular *Ladinsky* Respondents' recollections of the events as set forth in their briefs. In McCoy's experience, people's memories naturally vary slightly, particularly over time, and, in any event, no variations, if there were any, were material.

McCoy's legal arguments are consistent with those made by the other *Ladinsky* Respondents with one exception: McCoy disagrees with Respondent Orr's brief to the extent that it references a "circuit split" or even any relevant disagreement among "out-of-circuit authority" with respect to the application of Rule 41. Doc. 513 at 20-21. McCoy addresses this at various places in his brief. *See* Doc. 516 at 37-44. McCoy also expects that Respondent Orr will correct what McCoy believes to be this misstatement of the law.

With respect to the *Walker* Respondents, various portions of their briefs, such as the arguments concerning related-case designations, client consent for dismissal, and the standards related to perjury, have no relevance to McCoy. The remainder of the *Walker* Respondents' legal arguments, *see* Docs. 518 and 521, are consistent, in general, with those made by McCoy. McCoy specifically agrees with, and adopts, Respondent Hartnett's description of the Northern and Middle District's Local Rules not requiring *pro hac vice* attorneys to take an oath of admission, *id.* at 11.¹

Because McCoy was on no calls with, or that included, *Walker* lawyers after the filing of *Ladinsky*, he has no personal knowledge of, and, therefore, cannot comment on, the *Walker* Respondents' description of facts relevant only to *Walker* counsel. He also cannot comment on particular *Walker* Respondents' recollections of events discussed in their briefs that involve or relate to *Ladinsky* counsel. As noted above, McCoy was on no calls that included *Walker* counsel, and in McCoy's experience, people's memories naturally vary slightly, particularly over time, and, in any event, no variations, if there were any, were material.

Respectfully submitted this 21st day of May, 2024.

¹ McCoy appeared *pro hac vice* in *Ladinsky* and *Eknes-Tucker*.

s/ Robert D. Segall

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CERTIFICATE OF SERVICE

I certify that on May 21, 2024, I filed the foregoing electronically with the Clerk of Court using the CM/ECF system, which will automatically serve all counsel of record.

/s/ Robert D. Segall

Of Counsel