

IRNewswires Public Corruption Investigations **BREAKING NEWS**

New York Federal Judges Kearse, Sack, Hall, Taylor-Swain, DeArcy-Hall, Ramos, Cabranes, and McMahon have been Implicated in a Massive Judicial Bribery and Corruption Conspiracy



IRNewswires Public Corruption Investigations
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Exposing Judicial and Prosecutorial Misconduct: Unveiling Corruption in New York and Georgia Federal Courts

Introduction

In a damning court filing dated July 10, 2024, (see the complete filing at the end) Ulysses T. Ware, a beleaguered appellant-defendant, exposes a web of judicial and prosecutorial misconduct that suggests massive corruption within the New York and Georgia federal courts, and the USAO (SDNY) federal prosecutor's office led by Damian Williams. The allegations, supported by detailed legal arguments and exhibits, paint a troubling picture of a justice system compromised by racial bias, retaliatory actions, and systemic fraud.

The Core Allegations

Ware's memorandum of law contends that the punitive leave-to-file sanction imposed on him on November 5, 2010, was unconstitutional, vindictive, and retaliatory. He asserts that this sanction was a direct response to his refusal to issue fraudulent Rule 144(k) legal opinions, a move that pitted him against powerful *unregistered broker-dealers* and *statutory insiders* involved in illegal securities trading. The sanction effectively barred Ware from making any future court filings without prior approval, severely restricting his access to justice.

Judicial Misconduct and Racial Bias

The memorandum highlights the involvement of multiple judges, including Circuit Judges **Amalya L. Kearse**, Robert D. Sack, Jose A. Cabranes, and Peter W. Hall (deceased), in imposing the leave-to-file sanction. Ware alleges that these judges, along with others named in the filing, engaged in a racially motivated conspiracy to obstruct justice and commit fraud. He references *In re Martin-Trigona*, 737 F.2d 1254 (2d Cir. 1984), which provides exceptions for certain appeals from

leave-to-file sanctions, pointing out that no such exceptions were made for his cases despite their monetary and liberty significance.

Suppression of Exculpatory Evidence

A critical aspect of Ware's argument is the government's suppression of key exculpatory and impeachment evidence. *He alleges that the USAO (SDNY), under Damian Williams, deliberately withheld Jeremy Jones' Rule 11 guilty plea and USSG 5K1.1 cooperation contracts.* These documents, if disclosed, would have been instrumental in impeaching Jones' credibility during Ware's trial. The suppression of such material evidence, Ware argues, constitutes a violation of his Sixth Amendment rights, as it impeded his ability to conduct effective cross-examination and challenge the prosecution's case.

Fabricated Evidence and Fraudulent Actions

The filing also accuses the **State Bar of Georgia** of fabricating a fraudulent affidavit of service, claiming that Ware was served with disbarment process while **he was not** in the custody of the U.S. Bureau of Prisons on the alleged date. This fraudulent service, according to Ware, was orchestrated under the corrupt influence of deceased Judge William H. Pauley III and former AUSA Alexander H. Southwell, now a partner at Gibson, Dunn & Crutcher LLP. The fraudulent actions extended to the concealment of the true registration status of unregistered broker-dealers by Atlanta, GA law firm Kilpatrick, Townsend & Stockton, LLP, further complicating Ware's legal battles.

Systemic Retaliation and Abuse of Power

Ware's memorandum meticulously documents the retaliatory and vindictive nature of the sanctions imposed on him. The timing and breadth of these sanctions *suggest a coordinated effort to punish Ware* for his persistence in challenging judicial and prosecutorial misconduct. He cites multiple instances where the court's

actions lacked specific and detailed justification, reflecting a broader pattern of abuse of power and arbitrary decision-making.

Legal Precedents and Constitutional Violations

In support of his arguments, Ware references key legal precedents, including *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), which establishes the requirement for specific and detailed notice in judicial proceedings, and *Brady v. Maryland*, 373 U.S. 83 (1963), which mandates the disclosure of exculpatory evidence. The failure to adhere to these constitutional requirements, Ware argues, renders the sanctions against him null and void ab initio.

Conclusion

The extensive and well-documented allegations in Ulysses T. Ware's memorandum of law raise serious questions about the integrity and impartiality of the New York and Georgia federal courts, and the USAO (SDNY) federal prosecutor's office. The purported judicial misconduct, racial bias, and systemic corruption highlighted in this filing demand immediate and thorough investigation. For the sake of justice and the rule of law, it is imperative that these allegations are addressed transparently and decisively.

As this story unfolds, IRNewswires Public Corruption Reports will continue to monitor developments closely, providing updates and in-depth analysis on this significant case of judicial and prosecutorial misconduct.

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

United States of America,
Respondent-Plaintiff,

v.

Ulysses T. Ware,
Appellant-Defendant.

Case No. 07-5222cr (L) (09.6-3)

Re: The Court of Appeals and the State Bar of Georgia, et al. Collusion, Racketeering to Obstruct Justice, Conspiracy, Crimes, and Frauds with Respect to Vindictive, Retaliatory, and Punitive Sanctions Designed to Professionally Destroy Ulysses T. Ware, Esq. in Retaliation for Mr. Ware’s Refusal to Issue Fraudulent and Bogus Rule 144(k) Legal Opinions to the 02cv2219 (SDNY) Plaintiffs, unregistered broker-dealers, Section 2(a)(11) Statutory Underwriters, and 15 USC 78p(b) Statutory Insiders of the Issuer, GPMT.¹

Appellant-Defendant Ulysses T. Ware’s Supplemental Memorandum of Law (re: **Jeremy Jones’ Judicial Court Records--Part VII (9.6-3) Ongoing Judicial Conspiracy to Obstruct Justice and Commit Fraud on the Court by Federal Judges Kearse, Sack, Hall, Ramos, Pauley, Sweet, Taylor-Swain, DeArcy-Hall, Hagenau, Dawson, McMahon, and Cabranes; and the State Bar of GA**) in Support of the Requested

¹ Atlanta, GA law firm Kilpatrick, Townsend, & Stockton, LLP and its partners, Dennis S. Meir, John W. Mills, III, and J. Henry Walker, IV knowingly aided, abetted, enabled, and facilitated a conspiracy to commit bankruptcy fraud, 18 USC 2, 156-57, 371, 924(c), 1951, 1956-57, 1958-59, 1961(6)(b), and 1962(a-d), during the *In re Group Management Corp.*, 03-93031 (BC NDGA) Chapter 11 proceedings; and KTS and its partners knowing, in bad faith, and recklessly lied and committed fraud on GPMT, Mr. Ware, and the Bankruptcy Court by concealing the fact that its clients, the 02cv2219 (SDNY) plaintiffs, before, during, and after the time of the Chapter 11 case **had never lawfully registered with the SEC or FINRA, or NYS as 15 USC 78o(a)(1) broker-dealers**, (see Ex. 18, *infra*) and therefore, ipso facto, as a matter of law and fact KTS and its client lacked a lawful claim and thus, lacked Article III standing to have appeared in the Chapter 11 case and obstructed GPMT’s right to reorganize and recoup +\$522 million in illegal Section 16(b) short-swing profits concealed by KTS’ clients--realized from illegal insider trading in the equity securities of GPMT—that is, the collection of criminal usury unlawful debts, GX 1, GX 2, GX 3, and GX4, in violation of 18 USC 1961(6)(B) and *Grote*, 921 F.3d at 115-17.

Reliefs Regarding the May 12, 2024, and June 10, 2024, Rule 27-1 Motion to Recall the August 18, 2009, 07-5222cr mandate, and (2) The immediate access to all judicial court records used in or a part of ***U.S. v. Ware***, 05cr1115 (SDNY) and used in or by this Court to reach its decision in its August 18, 2009, 07-5222cr mandate, reported at ***U.S. v. Ware***, 577 F.3d 442 (2d Cir. 2009) (Kearse, J.) **not later than Friday, May 31, 2024, time of the essence.**

Respectfully Submitted by:

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Date: Filed on Wednesday, July 10, 2024

/s/ Ulysses T. Ware (Appellant-Defendant)

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A Opening statement

The Court has never been, and will never be, interested in impartial and unbiased justice. Instead, it has revealed itself, showing its true color (**whiteness**), to be ***driven by a vile racial judicial ideology***, manifesting criminal **judicial Apartheid** and radical **Jim Crow jurisprudence**.² The Court's actions are nothing short of duplicitous, strictly (racially) partisan, vindictive, and ***pathetically petty***. ***It is blatantly obvious that its sole purpose is to obstruct the rule of law and thwart the due administration of impartial and unbiased justice***. See Ex. 15 and Ex. 16, *infra*.

This Court's conduct is an egregious affront to judicial ethics and an indelible stain on the federal judiciary.³ It operates under a disgraceful guise of legality, **using its power not to serve**

² Cf., ***Martin-Trigona v. Cohen***, 876 F.2d 307, 308 (2d Cir. 1989) (permitting a white sanctioned litigant (the plaintiffs or petitioner in a bankruptcy matter) an exception to leave to file sanctions where significant monetary (\$13,000) and “substantial matters” are presented to the court regardless of the merits of the issues in the white litigant’s papers the court is obligated pursuant to due process to review the merits of the claims). The Court of Appeals uses duplicitous legal standards depending upon a strict racial hierarchy concerning litigants’ racial identity, cf., Ex. 15 and Ex. 16 *infra*, where no exception was made for Mr. Ware to litigate his meritorious and monetarily significant (+\$275,000) and liberty interest actual innocent claims, see Ex. 16 (Dec. 4, 2023, summary denial (Cabranes, J.) of Mr. Ware’s 2241 actual innocent claims supported by newly discovered actual innocent Brady exculpatory and impeachment evidence concealed and suppressed by the USAO (SDNY) and this Court’s judges (Kearse, Sack, Hall, and Cabranes).

³ This Court (Kearse, Sack a former partner at Gibson, Dunn, et al., LLP, the same NYC law firm where former AUSA Alexander H. Southwell (04cr1224 and 05cr1115) is a current partner), Hall (deceased), and Cabranes, J.), a purported Article III United States Court of Appeals, in actuality acts and functions as the judicial arm of the Office of the United States Attorney (SDNY)—that is, ***a member of the Government’s trial team***. This Court, allegedly an Article III United States Court of Appeals, ***is nothing more than a puppet*** for the Office of the United States Attorney (SDNY), serving as *an integral part* of the Government’s trial team and ***acting in concert with the Government to violate the rights of nonwhite litigants***. Far from being an ***independent*** arbiter of justice, this Court operates as a mere extension of the prosecution, blatantly disregarding its duty to ***act independently*** and uphold impartiality and fairness. It has abandoned its judicial integrity, preferring to march in lockstep with the Government’s nefarious agenda. The Court’s

justice but to perpetuate systemic bias and inequality. *The Court's decisions are animated by a deep-seated contempt for fairness and equity, reflecting an institution corrupted by racial prejudice and political spite.*

This Court's manifestly frivolous rulings, see Ex. 15 and Ex. 16,⁴ *infra*, are not grounded in the principles of law but are instead motivated by a pernicious agenda to sustain **an imperial radical racial hierarchy agenda of whiteness** and suppress any semblance of true justice. This Court has weaponized its (prosecutorial) authority to silence dissent and **prosecute, penalize, and imprison** those who dare challenge its tyrannical racial ethos. Its *vindictive and petty nature* and its use of racially-coded language (see Ex. 15 and Ex. 16, *infra*) is evident in every decision, revealing a judiciary that is more concerned with maintaining power than with upholding the Constitution.

decisions, see Ex. 15 and Ex. 16, *infra*, are a mockery of justice, rooted not in law or evidence, but in a blind allegiance to the prosecutorial objectives of the United States Attorney's office. **Every ruling, every opinion, reeks of a deep-seated bias and a predisposition to favor the Government, regardless of the merits of the case before it.** See *U.S. v. Ware*, 577 F.3d 442 (2d Cir. 2009) (Kearse, J.) for the epitome of racially-motivated Jim Crow judicial incongruent duplicity, fraud, and conspiracy to obstruct justice. The constitutional "separation of powers" is a mere fiction—empty words on a piece of paper, to this purported federal Court.

⁴ Mr. Ware's actual innocent habeas corpus claims (see 22cv3409 (SDNY)/22cv10566 (SDNY) (Ramos, J.)) have never been reviewed on the merits by the District Court (SDNY) (Ramos, J.) nor by the Court of Appeals (Cabranes, J.) despite being meritorious, concerning significant monetary (+\$275,000) and significant actual innocent liberty issues as authorized by *Martin-Trigona*, *Id.* at 308—instead, the courts have acted and functioned not as **independent** Article III judicial entities, but have functioned as auxiliary Article II prosecutorial entities undertaking executive functions as a prosecutorial agency **under the complete control** of Andre Damian Williams, Jr. of the United States Attorney's Office (SDNY) despite knowing the Nov. 5, 2010, leave-to-file sanctions, see Ex. 15, *infra*, **is null and void ab initio on its face entered in complete violation of due process of law, i.e., the lack of adequate and proper notice and a meaningful opportunity to be heard.** *Cf., with Hagenau, C.J. bogus, retaliatory, and punitive leave-to-file sanction, 03-93031 (BC NDGA), Dkt. 256, 274, 275; also see McMahon, J., 02cv2219 (SDNY) punitive, retaliatory, and vindictive moot leave-to-file sanctions, Dkt. 120, 137, 141, and 151, jointly, (the "Racketeering Leave To File Sanctions").*

In essence, ***this Court is a total disgrace to the federal judiciary***, e.g., see *U.S. v. Ware*, 577 F.3d 442 (2d Cir. 2009) (Kearse, J.) (incomprehensible and risible purported judicial opinion). It has abandoned and abdicated its Article III functions, and instead kneeled and subordinated itself to the irrational whims of the USAO (SDNY)'s Damian Williams and DOJ's executives, and completely abandoned its duty to uphold justice and has instead chosen to be a tool of Government oppression and injustice. This reprehensible behavior not only undermines public trust in the judicial system but also erodes the very foundation of democracy. The Court's actions are a blight on the American legal landscape, and its legacy will be one of shame and dishonor.⁵

I. Introduction

This memorandum provides an in-depth and detailed analysis of (1) the lack of proper and adequate constitutional notice and (2) the right to be heard in a meaningful way—that is, a hearing on the record, related to the Jim Crow racially-motivated ***vindictive, bad faith, punitive leave-to-file sanction***, (the “**Jim Crow Sanction**”), unconstitutionally imposed on Ulysses T. Ware on November 5, 2010, Ex. 15, *infra*. Specifically, it discusses the deliberate, and execrable

⁵ The Court was certainly and has been made aware on numerous occasions by Mr. Ware that judicial public records associated with *U.S. v. Ware*, 05cr1115 (SDNY) have gone missing and unaccounted for—that is, the Rule 11 allocution transcript, the Rule 11 plea contract, and the USSG 5k1.1 substantial assistance contract, jointly, (the “**Perjury Contracts**”), regarding the undocumented and unverified alleged Sept. 22, 2006, Rule 11 proceedings of Jeremy Jones, “the government’s principal witness” (cf., *Ware*, 577 F.3d at 445 (Kearse, J.)) with respect to 05cr1115 (SDNY) are missing, being suppressed, and concealed by its boss Damian Williams of the USAO (SDNY); the Court is aware that the Perjury Contracts have been deliberately and intentionally not disclosed and produced to Mr. Ware by the Government as required by and pursuant to the May 19, 2006, Dkt. 17, Brady court order, Pauley, J. (deceased) entered in 05cr1115 (SDNY). ***Ipso facto civil and criminal contempt, 18 USC 401(3), of the Brady court order by the Government’s white prosecutors.***

inadequacies and ***fatal flaws*** in the purported notice and the resulting horrendous due process violations, referencing the October 8, 2010, ***defective show cause order*** and relevant case law.

II. Lack of Proper Notice and No Meaningful Opportunity to be Heard

A. Unconstitutional Inadequate Notice

1. October 8, 2010, Show Cause Order's Fatal Constitutional Deficiencies

- The October 8, 2010, defective show cause order instructed Ware to show cause why he should not be required to obtain permission from the court before making future filings. However, the order failed to ***provide specific and detailed reasons*** for the proposed sanction. It mentioned "past frivolous motions" **but did not identify these alleged "frivolous" motions with particularity** or with specificity as required by due process of law to enable Mr. Ware to adequately respond to the risible charges.
- **Lack of Specificity:** The order did not (1) specify which motions were considered frivolous, (2) the legal or factual basis for deeming them frivolous, or (3) how they disrupted judicial proceedings. Without such details, Ware was unable to understand the exact nature of the accusations against him and adequately respond to the bogus charges.⁶

⁶ The Court conceded in its Nov. 5, 2010, leave-to-file sanction order that Mr. Ware requested that the Court comply with procedural due process of law (proper and adequate notice) and specify the alleged frivolous motion(s) and with particularity comply with due process of law and disclose the Court's reasoning why Mr. Ware's motions were deemed frivolous to enable Mr. Ware to adequately respond to the Court's defective show cause order.

2. Mr. Ware's Response to the October 8, 2010, Constitutionally Defective Show Cause Order

- Mr. Ware's only available rational response lacking specificity of the alleged vague and unspecific infractions was to demand that the Court in compliance with procedural notice due process of law identify with particularity the frivolous motions he had filed.⁷ This response indicates that Ware did not comprehend the specific allegations against him due to the vagueness of the order.

⁷ See Ex. 17, *infra*, the State Bar of Georgia, fraudulent and fabricated purported Affidavit of Service allegedly a judicial record of Mr. Ware's **personal service** with disbarment process on January 15, 2007, at the U.S. BOP's Brooklyn, NY MDC federal prison. However, the BOP's records confirm that Mr. Ware **was not** in the custody of the BOP on January 15, 2007, in Brooklyn, NY or any place in the Universe. Thus, how was the State Bar of GA able to comply with notice due process of law and **personally serve** Mr. Ware on January 15, 2007, at the Brooklyn, NY MDC? That is a question the State Bar's executive and employees have refused to answer; however Ex. 17 speaks for itself—that is, the judicial court record confirms that **Mr. Ware was not personally served** by the State Bar of GA with notice of the 2008 fraudulent, retaliatory, vindictive, and punitive disbarment action predicated on known to be moot and void ab initio 04cr1224 and 05cr1115 criminal proceedings which had been nullified by the USAO (SDNY)'s actual innocent exculpatory Article II affirmative defenses pleaded on the face of the indictments or in affiliated judicial pleadings (see ¶133 in the July 14, 2003, unsigned SEC-DOJ complaint in the retaliatory, vindictive, racially-motivated, punitive, and moot Las Vegas 03-0831 (D. NV) Bootleg Grand Jury Proceedings). The State Bar of GA and its employees and agents were knowing and willing participants in the USAO's Hobbs Act racially-motivated retaliatory, vindictive conspiracy to steal Mr. Ware's personal and business property (his license to practice law in Georgia) as the criminal means to force, using threats of violence with firearms, Mr. Ware to issue bogus and fraudulent Rule 144(k) legal opinions to KTS' clients, the 02cv2219(SDNY) plaintiffs—(i) **Section 2(a)(11) statutory underwriters**, (ii) **unregistered broker-dealers**, and (iii) **15 USC 78p(b) statutory insiders of the issuer (GPMT), legally ineligible for Rule 144(k) see U.S. v. Wolfson, 405 F.2d 779 (2d Cir. 1968) (aff'd conviction and sentence of statutory underwriters transacting in unregistered securities) and SEC Release 33-7190 n. 17 (1995) ("Section 2(a)(11) statutory underwriters required to register [with the SEC] all distribution of securities.")**. (emphasis added).

Cf., gov't 04cr1224 (SDNY) trial exhibit GX 5, ¶10.1(iv)—the USAO (see 04cr1224 indictment ¶¶9-25), the District Court (SDNY) (Sand, J.), and KTS' clients, the 02cv2219 plaintiffs (see 02cv2219 complaint's ¶¶ 12-14), all conceded, judicially admitted (**actual innocent affirmative defenses**), the plaintiffs were, in fact, 15 USC 77b(a)(11) **statutory underwriters** of GPMT's criminal usury unregistered securities, GX 1, GX 2, GX 3, and GX 4, which violated **Wolfson, Id.**, and also violated 18 USC 1961(6)(B) see **U.S. v. Grote, 921 F.3d 105, 115-17 (2d Cir. 2020) (aff'd conviction, sentence, and +\$3.5 billion forfeiture judgment for unlawful debt collection activities)**.

- **Demonstration of Confusion:** Ware’s request for detailed identification of the frivolous motions demonstrates his lack of understanding—the Court’s deliberate and nefarious confusion of the charges against him. **This vindictive, deliberate, and bad-faith confusion was a direct result of the inadequate notice provided by the court.**

B. Due Process Violation

1. Due Process Requirements

- **Mullane Standard:** According to *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), due process requires that **notice** must be reasonably calculated to apprise *interested parties* of the pendency of the action [the 2008 fraudulent and punitive State bar of GA’s punitive disbarment action and the Court of Appeals October 8, 2010, defective show cause order] and afford them an opportunity to present their objections. ***This standard ensures that individuals have adequate and sufficient information to prepare an adequate defense.***⁸
- **Specificity in Notice:** For a restriction as severe as a permanent leave-to-file punitive sanction (see Ex. 15, *infra*), **due process necessitates a detailed and specific notice of the grounds for the proposed sanction.** This includes identifying

⁸ Id. at 314: “An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of (i) the pendency of the action and (ii) afford them an opportunity to present their objections.” (emphasis added). Ergo, ipso facto, lacking the due process protection **prior to** imposing the sanction, **finality cannot and will not be accorded to the sanction** [the State Bar’s fraudulent 2008 vindictive and punitive disbarment and the Court of Appeals Nov. 5, 2008, fraudulent, frivolous, vindictive, and punitive leave-to-file sanction, as well as Hagenau’s (Dkt. 256, 274, 274, 03-93031 (BC NDGA) and McMahon’s (02cv2219) (SDNY), Dkt. 120, 137, 141, and 151, **fraudulent and bogus leave-to-file vindictive, retaliatory, and punitive sanctions, all are void ab initio**].

specific instances of alleged misconduct and the legal basis for considering these actions frivolous.

2. Inadequate Notice and Its Consequences

- **Failure to Provide Specific Information:** The October 8, 2010 order's general reference to "past frivolous motions" did not meet the specificity requirement. It failed to detail the motions in question, the reasons they were deemed frivolous, and the impact they had on judicial proceedings.
- **Impact on Ware's Defense:** Without specific information, Ware could not effectively contest the allegations. He was unable to address the specific motions or provide a reasoned defense against the accusations of frivolous conduct.

3. Violation of Procedural Due Process

- **Insufficient Information to Contest Sanction:** The lack of specific allegations knowingly and deliberately deprived Mr. Ware of a fair and meaningful opportunity to contest the sanction. Procedural due process mandates that individuals must be given adequate notice and a meaningful opportunity to be heard.⁹

⁹ The Court knew that it was going to impose the punitive and retaliatory sanction on Mr. Ware as the fraudulent criminal means, an overt act in furtherance of the conspiracy to obstruct justice and continue to conceal and suppress actual innocent Brady exculpatory and impeachment evidence. The Court knew and was aware the USAO (SDNY) intentionally and deliberately did not disclose and produce to Mr. Ware "all" Brady evidence in compliance with the 05cr1115 (SDNY) May 19, 2006, Dkt. 17, Brady court order, Pauley, J. (deceased) or the 04cr1224 (SDNY) August 10, 2007, Dkt. 32, Brady court order (Sweet, J.) (deceased). The Court knowing the USAO deliberately and intentionally withheld and suppressed actual innocent Brady exculpatory evidence joined its Boss, the USAO, and colluded and conspired with the USAO and entered the bogus, fraudulent, punitive and vindictive leave-to-file sanction in egregious violation of due process of law without any notice or opportunity to be heard. The entry of the risible leave-to-file punitive sanction was a foregone conclusion.

- **Arbitrary and Capricious Biased Decision-Making:** The absence of detailed notice raises concerns about the *arbitrariness and capriciousness* of the court's decision to impose the punitive and vindictive Nov. 5, 2010, Ex. 15, infra, leave-to-file sanction. It suggests and implies that the vindictive and punitive sanction was imposed **without a thorough examination of the facts and circumstances of Ware's filings.**

III. Detailed Discussion of the October 8, 2010 Order's Inadequacies

A. Specific and Detailed Reasons

1. Vagueness of Allegations

- **The sanctions' defective show cause order reference to "past frivolous motions" is vague and non-specific.** It did not provide Ware with adequate notice and a clear understanding of which motions were under scrutiny and why they were considered frivolous.¹⁰ Cf., Ex. 15 where the Court conceded that Mr. Ware requested the Court to provide specificity and particularity.
- **Example:** If the defective show cause order had stated, "Motion filed on March 24, 2008, to compel the Bureau of Prisons to provide a typing ribbon for a Swintec 7000 typewriter is deemed frivolous because it lacks a substantial legal basis," it would have provided Ware with a clear example to address.

¹⁰ *Mullane*, Id. at 315: "The notice [of the proposed sanctions] must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their appearance."

2. Lack of Context

- The defective show cause order did not contextualize the alleged frivolous motions within the broader judicial proceedings. *It failed to explain how these motions disrupted or burdened the court,* which is necessary for Ware to understand the severity of the allegations and *prepare a proper response in opposition.*¹¹
- **Example:** Providing context such as, "This motion was filed in the midst of critical pre-trial proceedings and diverted judicial resources from more pressing matters," would have helped Ware grasp the implications of his filings.¹²

B. Ware's Demand for Specificity See Ex. 15, infra.

1. Indicative of Confusion

- Mr. Ware's demand for the court to identify "with particularity" the alleged frivolous motions indicate the Court's confusion and lack of understanding of the

¹¹ The lack of context and specificity in the order not only failed to meet the due process standards but also reflected a concerning disregard for judicial ethics and fairness. By not providing detailed explanations and a thorough rationale, the court's actions could be perceived as arbitrary and retaliatory, further compromising the integrity of the judicial process, as evidenced in Ex. 15. This oversight highlights a systemic issue within the court's approach to handling purportedly frivolous filings, raising questions about the impartiality and fairness of the judicial proceedings against Ware.

¹² Moreover, the court's failure to provide this necessary context and specificity deprived Ware of his due process rights as established in *Mullane*, Id., which mandates that notice must be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." Without specific and detailed allegations, Ware was left without adequate information to contest the charges against him effectively, thereby failing the due process requirement of providing a reasonable opportunity to be heard. This deficiency in the show cause order is further highlighted by the precedents set in *Grayned v. City of Rockford*, 408 U.S. 104, 108-109 (1972), where the Supreme Court held that laws must provide "a person of ordinary intelligence a reasonable opportunity to know what is prohibited." Applying this principle to judicial orders, it is evident that the vague and generalized accusations in the October 8, 2010, order did not provide Ware with fair warning or a meaningful chance to prepare his defense.

procedural requirement of due process of law before entry of a punitive sanction.

This unbelievable confusion is directly attributable to and evidenced by the inadequacies in the Court's **cryptic and defective** show cause notice provided.

- **Example:** If the court had merely specified, "Motion filed on June 2, 2009, is considered frivolous because it repeats arguments previously dismissed by the court without introducing new evidence," Mr. Ware could have and would have responded specifically to this allegation. However, the Court having already determined to vindictively and punitively sanction Mr. Ware for this refusal to issue fraudulent and bogus Rule 144(k) legal opinions to the 02cv2219 (SDNY) plaintiffs, unregistered broker-dealers, see Ex. 18, infra, the Court had no intentions of providing Mr. Ware with adequate procedural due process of law when its decision was already made regardless of what Mr. Ware said in any response to the defective and cryptic show cause order. **A perfect example of racial incongruent duplicity—one rule of law for whites and another rule of law for nonwhites.**¹³

2. Failure to Prepare a Defense

¹³ Cf., *Martin-Trigona*, 876 F.2d at 308 (an exception for a white sanctioned litigant, sanctioned more than +300 times as a plaintiff filing alleged frivolous civil actions) where here Mr. Ware was the defendant in 04cr1224 and 05cr1115 (SDNY) and had been prosecuted for criminal contempt in 04cr1224 (SDNY) on appeal on No. 09-0851-cr (2d Cir.) which was referenced in the Nov. 5, 2010, leave-to-file sanction order, Ex. 15, infra.

Also see *In re Martin-Trigona*, 737 F.2d 1254, 1263-64 (2d Cir. 1984) (Leave to file sanctions "**shall not apply to an appeal from a judgment rendered against Anthony R. Martin-Trigona as a defendant or adjudicating him in contempt** [cf., *U.S. v. Ware*, 04cr1224/09-0851-cr (2d Cir.) where Mr. Ware was adjudicated in criminal contempt and was the defendant in the 04cr1224 criminal matter]." (emphasis added))

- The vague nature of the order prevented Ware from preparing a meaningful defense. He could not refute specific allegations or provide context to the motions in question.
- **Example:** Without specific allegations, Ware could not argue, "The motion filed on May 26, 2009, was not frivolous because it sought to address ongoing securities violations by the Badian Gang, which had not been previously adjudicated."¹⁴

IV. Legal Precedents Supporting the Requirement for Specific Notice

A. Mullane v. Central Hanover Bank & Trust Co.

- **Case Summary:** *Mullane* established the requirement that notice must be reasonably calculated to inform interested parties of the action and allow them to present objections.
- **Relevance:** The October 8, 2010, order failed to meet this standard by providing a general and vague reference to "past frivolous motions" without specific details.

B. Grayned v. City of Rockford, 408 U.S. 104 (1972)

- **Case Summary:** In *Grayned v. City of Rockford*, 408 U.S. 104 (1972), the Supreme Court held that laws must provide a "person of ordinary intelligence a reasonable opportunity to know what is prohibited."
- **Relevance:** The principle from *Grayned* applies to judicial orders as well. The Nov. 5, 2010, vindictive, retaliatory, and punitive sanction order, Ex. 15, *infra*, entered against Ware **did**

¹⁴ See Ex. 18, *infra*, FINRA's **May 17, 2021**, unregistered broker-dealer certification for members of the Badian Gang.

not provide a reasonable opportunity for him to know which specific actions were considered frivolous, thus preventing him from defending himself adequately.

V. Punitive, retaliatory, and vindictive nature of the Nov. 5, 2010, unconstitutional leave-to file sanction with respect to 09-0851-cr (2d Cir.) concerning U.S. v. Ware, 04cr1224 (SDNY) and 02cv2219 (SDNY) unlawful debt collection lawsuit.

A. Context and Background

Ulysses T. Ware was involved in multiple legal proceedings, including:

1. **U.S. v. Ware (04cr1224, SDNY)**: A criminal case where Ware was the defendant, charged with securities fraud and related offenses.
2. **09-0851-cr (2d Cir.)**: An appeal concerning his adjudication for contempt in the 04cr1224 case.
3. **02cv2219 (SDNY)**: An unlawful debt collection lawsuit involving Ware.

The November 5, 2010, leave-to-file sanction, Ex. 15, *infra*, was imposed by the United States Court of Appeals for the Second Circuit, requiring Ware to obtain prior court approval before making any new filings.

B. Specific Factual Analysis of the Sanction's Punitive, Retaliatory, and Vindictive Nature

1. Punitive Nature

The leave-to-file sanction was ***excessively punitive***, as it imposed a severe restriction on Ware's ability to access the courts without addressing the specific context of his filings.

- **Unreasonable Scope:** The sanction ***applied broadly** to all future filings by Ware, irrespective of their merit or relevance to ongoing legal issues.* This broad application disregarded the principle of proportionality, which is fundamental to just punitive measures.
- **Example:** The court’s order did not differentiate between frivolous filings and legitimate appeals, such as those related to Ware’s contempt adjudication in 09-0851-cr, where Ware had a substantive right to challenge the contempt finding.

2. Retaliatory Nature

The sanction appeared retaliatory, intended to punish Mr. Ware for his persistent legal challenges rather than addressing any genuine need to curb frivolous litigation.

- **Pattern of Filing:** Mr. Ware’s history of litigation includes motions that, while numerous, often addressed substantive legal issues. The court’s response, rather than selectively addressing genuinely frivolous motions, imposed a blanket restriction.
- **Example:** In 09-0851-cr, 11-4181cv, 17-2214, and 23-865, Ware appealed his criminal contempt adjudication—a legitimate and significant legal challenge. **The imposition of a leave-to-file sanction in this context suggests retaliation against Ware for exercising his appellate rights. Cf., Appx. 1, infra, discussing Martin-Trigona’s exceptions.**

3. Vindictive Nature

The sanction’s inherent vindictive nature is evident from its timing and the court’s failure to provide detailed and specific reasoning for its imposition.

- **Timing of Sanction:** The sanction was imposed in Nov. 2010 shortly after Ware’s ongoing efforts to challenge his contempt adjudication and other adverse rulings. **This timing indicates a punitive response to his legal persistence.**
- **Example:** The court’s failure to specify which of Ware’s motions were frivolous and how they burdened the judicial system reflects a vindictive attitude. By not contextualizing the alleged frivolous motions, the court effectively punished Ware for his broader litigation strategy rather than addressing specific abuses.

C. Impact on Specific Legal Proceedings

1. U.S. v. Ware (04cr1224, SDNY)

- **Contempt Adjudication Appeal (09-0851-cr):** The leave-to-file sanction directly impacted Ware’s ability to challenge his contempt finding. The sanction required him to seek court approval for any new filings, including appeals related to his criminal case. Cf., Appx. 1, infra.
- **Due Process Violation:** This restriction violated due process by obstructing Ware’s ability to appeal a significant legal ruling. As established in *Mullane*, Id. adequate notice and the opportunity to be heard are fundamental rights. The court’s order failed to provide Ware with a fair chance to defend his motions.

2. 02cv2219 (SDNY) Unlawful Debt Collection Lawsuit

- **Litigation Hurdles:** The leave-to-file sanction created additional and undue procedural barriers for Ware in pursuing his unlawful debt collection lawsuit. By requiring court approval for filings, the sanction hindered his ability to litigate effectively.

- **Substantive Legal Rights:** This sanction not only impeded Ware’s procedural rights but also affected his substantive legal claims. The inability to file motions or appeals without prior approval stymied his efforts to seek redress in the debt collection case.

D. Conclusion

The vindictive and punitive November 5, 2010, leave-to-file sanction, Ex. 15, *infra*, imposed on Ulysses T. Ware was punitive, retaliatory, and vindictive in nature. It excessively restricted Mr. Ware’s access to the courts, lacked specific and detailed justification, and was imposed in a manner that appeared retaliatory for his persistent legal challenges. The sanction’s impact on Ware’s ability to appeal 07-5222cr, 23-865/23-869, his contempt adjudication in 09-0851-cr, and litigate his unlawful debt collection lawsuit in 02cv2219 (11-4181cv and 17-2214) underscores its punitive and vindictive character. This unjust sanction violated Ware’s due process rights and should be vacated to restore his constitutional protections.

VI. Conclusion

The Nov. 5, 2010, Ex. 15, *infra*, punitive and vindictive leave-to-file sanction imposed on Ulysses T. Ware **was issued without proper and adequate constitutional notice**. The October 8, 2010, defective show order failed to provide specific and detailed reasons for the proposed sanction, violating due process requirements as established in *Mullane*. Mr. Ware was not given sufficient information to prepare an adequate defense or response, resulting in a significant procedural due process violation. **This lack of proper notice renders the leave-to-file sanction unconstitutional, and it should be vacated to uphold Ware’s constitutional rights.**

Respectfully Submitted by:

The Office of Ulysses T. Ware

123 Linden Blvd., Ste 9-L

Brooklyn, NY 11226

(718) 844-1260

utware007@gmail.com

Date: Filed on Wednesday, July 10, 2024

/s/ Ulysses T. Ware (Appellant-Defendant)

Exhibits

Exhibit 15--Nov. 5, 2010, U.S. v. Ware, 07-5222cr (L) (2d Cir.) Jim Crow racially-motivated, unconstitutional, retaliatory punitive leave-to-file sanction (Kearse, Sack, Hall).

Case 23-869, Document 7, 06/08/2023, 3526892, Page 1 of 2

Abrogated by the DOJ's EOUSA's March 20, 2023, In re Ware, 000907, FOIA response--that is, the DOJ's admitted and confessed the USAO (SDNY) and its prosecutors, aided and abetted by the district and court of appeals judges knowingly, deliberately, and intentionally, failed to conduct the required Brady search, disclosure, and production of actual innocent Brady exculpatory and impeachment evidence in the "over 15 boxes of records" that have not been searched then currently in the possession of the USAO (SDNY).

SDNY.
05-cr-1115
Pauloy, J.

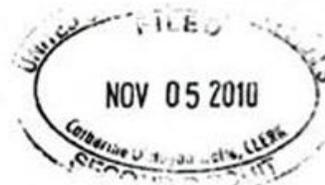
United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 5th day of November, two thousand ten,

Present:

Amalya L. Kearse,
Robert D. Sack,
Peter W. Hall,

Circuit Judges.



United States of America,

Appellee-Cross-Appellant,

v.

07-5222-cr(L),
07-5670-cr(Coa)

Ulysses Thomas Ware, also known as Thomas Ware,

Defendant-Appellant-Cross-Appellee.

By order dated October 8, 2010, we instructed Appellant Ulysses Thomas Ware to show cause why he should not be required to obtain permission of the Court before making future filings in this Court, in light of his past frivolous motions. Ware's only response was to demand that this Court identify with particularity the frivolous motions he has filed. Our procedure requires that we give a litigant an opportunity to show cause why a leave-to-file requirement should not be imposed. see *In re Martin-Trivona*. 9 F.3d 226. 229 (2d Cir.

A filing is frivolous if it lacks an arguable basis in law or fact — *i.e.*, if it is “based on an indisputably meritless legal theory” or presents “factual contentions [that] are clearly baseless.” *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989). As a former attorney, Ware knew or should have known that many of the motions he filed in this case were frivolous. *See, e.g.*, Mot. filed 3/24/2008 (to compel the Bureau of Prisons to, *inter alia*, provide a typing ribbon for a Swintec 7000 typewriter); Mot. filed 4/10/2008 (to dismiss the indictment and appoint a special prosecutor to investigate a district judge, the United States Attorney, and his own former counsel); Mot. filed 5/26/2009 (“for an Order of Referral to the Securities and Exchange Commission’s Enforcement Division and Referral to the Department of Justice’s Criminal Division of the Individuals, Proxies, Surrogates, and Alter-Egos of the Badian Gang”); Mot. filed 6/2/2009 (essentially the same); Let. filed 6/10/2009 (informing the Chief Judge of supposed judicial misconduct by certain district judges in failing to prevent his “illegal arrest”); Mot. filed 8/10/2009 (to hold Assistant United States Attorneys in criminal contempt); Mot. filed 9/7/2010 (to compel the United States to certify that a former SEC lawyer did not bribe a district judge to enter a certain order). Ware has continued to file frivolous motions in a more recent criminal appeal. *See, e.g.*, Mot. filed 5/20/2009 in No. 09-0851-cr (to compel a magistrate judge, via writ of mandamus, to issue arrest warrants for a number of judges, Assistant United States Attorneys, and other lawyers); Mot. filed 8/10/2009 in No. 09-0851-cr (to refer the members of this panel to the Department of Justice for misprision of felony).

Afforded an opportunity to explain his filings, Ware has elected not to do so. Because Appellant has failed to show cause why a leave-to-file sanction should not be imposed, it is hereby ORDERED that the Clerk of the Court refuse to accept for filing any further submissions from Appellant unless he first obtains leave of the Court to file such papers.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk

S.D.N.Y.
05-cr-1115
Pauley, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl St., in the City of New York, on the 5th day of November, two thousand ten,

Present:

Amalya L. Kearse
Robert D. Sack
Peter W. Hall

Circuit Judges.

United States of America,
Appellee-Cross-Appellant,

v.

07-5222-cr (L),
07-5670-cr (Con)

Ulysses Thomas Ware, also known as Thomas Ware,
Defendant-Appellant-Cross-Appellee.

By order dated October 8, 2010, we instructed Appellant Ulysses Thomas Ware to show cause why he should not be required to obtain permission of the Court before making future filings in this Court, in light of his past frivolous motions. Ware's only response was to demand that this Court identify with particularity the frivolous motions he has filed. Our procedure requires that we give a litigant an opportunity to show cause why a leave-to-file requirement should not be imposed, see *In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir.).

A filing is frivolous if it lacks an arguable basis in law or fact –i.e., if it is “based on an indisputably meritless legal theory” or presents “factual contentions [that] are clearly baseless.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). As a former attorney, Ware knew or should have known that many of the motions he filed in this case were frivolous. See e.g., Mot. Filed 3/24/2008 (to compel the Bureau of Prison to, inter alia, provide a typing ribbon for a Swintec 7000 typewriter); Mot. Filed 5/26/2009 (“for an Order of Referral to the Securities and Exchange Commission’s Enforcement Division and Referral to the Department of Justice’s Criminal Division of the Individuals, Proxies, Surrogates, and Alter-Egos of the Badian Gang”); Mot. Filed 6/2/2009 (essentially the same); Let. Filed 6/10/2009 (informing the Chief Judge of supposed judicial misconduct by certain district judges in failing to prevent his “illegal arrest”); Mot. Filed 8/10/2009 (to hold Assistant United States Attorneys in criminal contempt); Mot. Filed 9/7/2010 (to compel the United States to certify that a former SEC lawyer [Spencer C. Barasch and Jeffrey B. Norris] did not bribe a district judge [William H. Pauley, III] to enter a certain order [Dkt. 35 in 05cr1115 (SDNY)]). Ware has continued to file frivolous motions in a more recent criminal appeal. See e.g., Mot. Filed 5/20/2009 in No. 09-0851-cr (to compel a magistrate judge, via writ of mandamus, to issue arrest

warrants for a number of judges, Assistant United States Attorneys, and other lawyers); Mot. Filed 8/10/2009 in No. 09-0851-cr (to refer the members of this panel to the Department of Justice for misprison of a felony).

Afforded an opportunity to explain his filings, Ware has elected not to do so. Because Appellant has failed to show cause why a leave-to-file sanctions should not be imposed, it is hereby ORDERED that the Clerk of the Court refuse to accept to accept for filing any further submissions from Appellant unless he first obtains leave of the Court to file such papers.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

S.D.N.Y.-N.Y.C.
04-cr-1224
05-cr-1115
22-cv-3409
22-cv-10566
Ramos, J.

MANDATE

United States Court of Appeals FOR THE SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 4th day of December, two thousand twenty-three.

Ulysses T. Ware,
Petitioner,

v.

United States of America,
Respondent.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 12/4/2023

23-865 appeal of 22cv10566 (SDNY) regarding U.S> v. Ware, 04cr1224 (SDNY) (Ramos, J.).

Ulysses Thomas Ware,
Petitioner,

v.

United States of America, et al.,
Respondents.

23-869 appeal of 22cv3409 (SDNY) regarding the U.S. v. Ware, 05cr1115 (SDNY) proceedings) (Ramos, J.).

It is hereby ORDERED that these two proceedings are CONSOLIDATED for the purposes of this order. In November 2010, this Court entered a leave-to-file sanction against Petitioner. *See United States v. Ware*, 2d Cir. 07-5222 (Order dated 11/5/2010). Petitioner now moves for leave to file the above appeals and other relief. Upon due consideration, it is hereby ORDERED that the motions are DENIED because the appeals do not represent a departure from Appellant's pattern of vexatious litigation. *See In re Martin-Trigona*, 9 F.3d 226, 229 (2d Cir. 1993).

A True Copy
Catherine O'Hagan Wolfe, Clerk
United States Court of Appeals, Second Circuit

FOR THE COURT:
Catherine O'Hagan Wolfe, Clerk of Court

Catherine O'Hagan Wolfe

Catherine O'Hagan Wolfe

MANDATE ISSUED ON 12/04/2023

Exhibit 17—State Bar of GA’s fabricated and fraudulent affidavit of service. Mr. Ware was not in the custody of the U.S. Bureau of Prisons anywhere in the United States on Jan. 15, 2007. The State Bar fabricated the fraudulent Affidavit of Service while under the corrupt and criminal influence of William H. Pauley, III (deceased) and Alexander H. Southwell.

SUPREME COURT, , STATE OF GEORGIA

STATE OF GEORGIA
Plaintiff/Petitioner
Vs

SHERIFF'S AFFIDAVIT OF SERVICE
CPLR Section 306(d)

ULYSSES THOMAS WARE
Defendant/Respondent

Sheriff's Case # 08000590

FILED
1-24-08 cph

STATE OF NEW YORK }
COUNTY OF KINGS } SS:

Index/Docket # S08B0498 STATE DISCIPLINARY BOARD
STATE BAR OF GEORGIA

I C Palmieri Deputy Sheriff of the City and State of New York, authorized pursuant to my special duties to serve process, hereby certify that: I am not a party to this action or proceeding and over 18 years of age. I further certify that on the 15th day of January 2007, at approximately 10.42AM at 80 29th Street in the borough of Brooklyn, County of Kings, I served the annexed: summons, complaint, petition subpoena order/temporary order of protection order to show cause writ of habeas corpus property execution sheriff's sale notice sheriff's levy notice interrogatories financial disclosure affidavit Attached Documents , upon ULYSSES THOMAS WARE, the defendant/respondent, in the following manner:

PERSONAL DELIVERY By delivering to and leaving with the above named defendant/respondent personally a true copy thereof, said person being known as the person mentioned and described herein.

PERSONAL SERVICE ALTERNATE PERSON (RESIDENCE) By delivering to and leaving with, _____ a person of suitable age and discretion, who is _____ to the defendant/respondent. A true copy thereof. Said address is the dwelling place/usual place of abode of the party served.

PERSONAL SERVICE ALTERNATE PERSON (EMPLOYMENT) By delivering to and leaving with, _____ a person at the defendant's/respondent's place of employment: _____ (work title) _____ (name of place of employment)

MAILED On _____ I mailed the above mentioned process(es) by first class USPS mail to the defendant/respondent at his/her last known residence/actual place of business in an envelope bearing the legend "PERSONAL AND CONFIDENTIAL" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the defendant/respondent.

CORPORATION By delivering to and leaving with, _____ a true copy thereof. Said person stated he/she was _____ an agent authorized to accept service of legal process. (work title)

DESCRIPTION The person served is a Male Female, and approximately:
Age:48 Height: 6.4 Weight: 265lbs Skin: Black Hair: Black

NOTARY
Sworn to (affirmed) before me
this 15 day of January 2008
Ryael J. Lucas

cpl
DEPUTY SHERIFF Shield #180

RAFAEL J. LUCAS
NOTARY PUBLIC, State of New York
No. 01LU5066644
Qualified in Queens County
Commission Expires September 30, 2010

000017

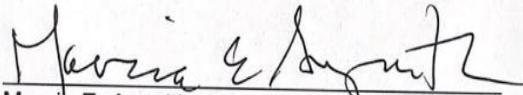
Exhibit 18—May 17, 2021, FINRA’s certification of unregistered broker-dealer for each of KTS’ clients, which KTS in bad faith, recklessly concealed, suppressed, and violated its duty of candor to the court and to GPMT—a fiduciary relationship given its clients’ 15 USC 78p(b) status, see August 13, 2003, Dkt. 65 order (Sand, J.) (deceased), 02cv2219 (SDNY).

CERTIFICATION OF NO FINRA BUSINESS RECORDS

I, Marcia E. Asquith, being first duly sworn, depose and state as follows:

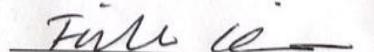
1. I am the Executive Vice President, Board and External Relations. In that capacity, I oversee the functions of the Office of the Corporate Secretary at the Financial Industry Regulatory Authority, Inc. (“FINRA”). I am familiar with and am a custodian of FINRA business records, including interpretations, policies and rules adopted by the FINRA Board of Governors.
2. No documents related to the firms listed below were prepared, kept and maintained in the ordinary course of FINRA’s business:

- a) Alpha Capital, AG
- b) Stonestreet, L.P.
- c) Markham Holdings, Ltd.
- d) Amro International, S.A.
- e) LH Financial Services



Marcia E. Asquith
Executive Vice President, Board and External
Relations and Corporate Secretary

Subscribed and sworn to before me this 17th day of May, 2021.


Notary Public, District of Columbia

My commission expires: 5/31/2024



Appendix 1—Analysis of Ex. 15, supra (Nov. 5, 2010, punitive leave-to-file sanction) in the Context of *In re Martin-Trigona* and *U.S. v. Ware*

I. Introduction

This analysis examines the unconstitutional vindictive, retaliatory, and punitive November 5, 2010, leave-to-file sanction imposed on Ulysses T. Ware (Ex. 15) within the context of Ware’s involvement in cases 04cr1224 and 05cr1115, and his adjudication for contempt in 04cr1224 on appeal in 09-0851-cr (2d Cir.).¹⁵ It further discusses the relevance of the precedent set in *In re Martin-Trigona*, 737 F.2d 1254, 1264 (2d Cir. 1984), and how it should have been applied in Ware’s case.

II. Background on the Leave-to-File Sanction (Ex. 15)

On November 5, 2010, the United States Court of Appeals for the Second Circuit in 07-5222cr issued a vindictive, retaliatory, and punitive leave-to-file sanction against Ware, preventing him from submitting any new filings without obtaining prior court approval. This order was based on Ware’s alleged and unsupported history of filing what the court deemed frivolous motions.

III. Relevant Facts, Cases, and Context

A. *U.S. v. Ware* (04cr1224 and 05cr1115) (SDNY)

¹⁵ By necessary implication the reasoning in *Martin-Trigona*, 737 F.2d at 1264 will also apply in 02cv2219 (SDNY) (see 11-4181cv and 17-2214 (2d Cir.)), McMahon, J., vindictive, retaliatory, punitive, and moot sanctions, Dkt. 105, 120, 137, 141, and 151; and also apply to Hagenau, C.J. 03-93031 (BC NDGA) fraudulent, void ab initio, moot, vindictive, retaliatory, and punitive overt acts, Dkt. 256, 274, and 275, in furtherance of the 18 USC 1961(6)(B) conspiracy to collection criminal usury unlawful debts, GX 1, GX 2, GX 3, and GX 4 (04cr1224)(SDNY) gov’t trial exhibits.

- Mr. Ware was the defendant in these (04cr1224 and 05cr1115) criminal cases. The charges involved complex financial and securities fraud, and criminal contempt.
- In 02cv2219 (SDNY) and 04cr1224 (SDNY), Mr. Ware was adjudicated in criminal contempt, which was later appealed in 09-0851-cr, 11-4181cr, and 17-2214 (2d Cir.).

B. In re Martin-Trigona (737 F.2d 1254) (2d Cir. 1984)

- The Second Circuit in *Martin-Trigona* dealt with a white litigant who had a history of frivolous filings. The court imposed a leave-to-file sanction but made an important exception: *such sanctions would not apply to appeals from judgments rendered against the individual as a defendant or in contempt proceedings.* Id. at 1263-64.
- **Key Quotation:** "The filing injunction **shall not apply** to an appeal from a judgment rendered against Anthony R. Martin-Trigona **as a defendant** or **adjudicating him in contempt.**"

IV. Analysis and Application to Ware's Case

A. Direct Comparison and Legal Implications

- The precedent in *In re Martin-Trigona* explicitly states that leave-to-file sanctions **shall not apply to appeals from judgments where the individual was a defendant or adjudicated in contempt.** This is directly relevant to Ware's situation in 05cr1115, 04cr1224, 07-5222cr, 09-0851-cr, 11-4181cr, and 17-2214 (2d Cir.).
- Ware, like Martin-Trigona, was both a defendant in the underlying criminal cases (04cr1224 and 05cr1115) and was adjudicated in contempt in 02cv2219 (SDNY) and 04cr1224 (SDNY), which he appealed (09-0851-cr).

B. Misapplication of Legal Standards in Ex. 15

- The November 5, 2010, order imposed **a blanket vindictive, retaliatory, and punitive leave-to-file sanction** on Ware did not consider the crucial exemption established in *Martin-Trigona*, Id. at 1264.
- **Violation of Established Precedent:** By not allowing Ware to file appeals related to his contempt adjudication and criminal cases *where he was the defendant* without prior court approval, the court contravened the specific protections outlined in *Martin-Trigona*.
- **This misapplication of legal standards deprived Ware of his right to appeal decisions rendered against him as a defendant and in contempt proceedings** without undue procedural barriers, thus impacting his ability to seek justice.

C. Contextual Inadequacies and Procedural Fairness

- The context of Ware’s filings, particularly those related to his contempt adjudication and criminal defense, was not adequately considered in the leave-to-file sanction. This lack of context further compounded the procedural unfairness.
- **Due Process Violations:** The *blanket nature* of the Nov. 5, 2010, Ex. 15, vindictive, punitive, and retaliatory leave-to-file sanction ignored the substantive and procedural rights afforded to *white* defendants and individuals in contempt proceedings, as highlighted in *Martin-Trigona*.

V. Conclusion

The November 5, 2010, leave-to-file sanction, Ex. 15, supra, imposed on Ulysses T. Ware failed to align with the established precedent set in *In re Martin-Trigona*. The Second Circuit in *Martin-Trigona* **clearly exempted appeals from judgments against a defendant or adjudications in contempt from such sanctions**. In ignoring this exemption, the court denied Ware essential

procedural protections, thereby infringing on his due process rights. This analysis underscores the necessity for judicial orders to adhere to established legal standards and consider the specific context and rights of the individuals involved. The leave-to-file sanction against Ware should be reconsidered and vacated to comply with the principles set forth in ***Martin-Trigona***, and given the Double Jeopardy Clause's absolute finality apropos 04cr1224 and 05cr1115 ensuring that Ware retains his right to appeal judgments rendered against him as a defendant and in contempt proceedings.

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