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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA)
)
Plaintiff) Case No (LT)
) **3:20-cv-00905-MMH-JRK**
)
v.)
)
ALLSTATE INSURANCE COMPANY,)
)
Defendant)

PLAINTIFF'S MOTION FOR SANCTIONS

Plaintiff, ELIAS MAKERE, on this 11th day of June 2021, respectfully asks this Honorable Court to levy sanctions against Defendant, ALLSTATE INSURANCE COMPANY, pursuant to Rule 11 Fed. R. Civ. P..

Key Points:

- A.) Points demonstrable lie of material fact
B.) Grounds extrinsic fraud, bad faith

Table of Contents:

Context	2 nd Page
Motion	3 rd Page
Certificates	11 th Page
Exhibits	12 th Page
Transcripts	40 th Page
Affidavits	45 th Page

Background: Defendant knowingly made a false statement of material fact
Problem: Defendant's actions have ushered a fraud upon this Court
Request: Court sanctions Defendant for defiling the judiciary

Rule 11(c) (1) | Fed. R. Civ. P. | Sanctions | (highlights added)

"If... the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule..."

Rule 37(b) (2) (A) | Fed. R. Civ. P. | Sanctions... | (highlights added)

"the court where the action is pending may issue further just orders [which may include]:

(ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;

(iii) striking pleadings in whole or in part;

(vi) rendering a default judgment against the disobedient party;"

Local Rule 2.01(e) | USFLMD | Conduct

"(e) CONDUCT. A lawyer appearing in the Middle District must remain familiar with, and is bound by, the rules governing the professional conduct of a member of The Florida Bar."

Rule 3-4.3 | Rules Regulating the Florida Bar | Misconduct

"The commission by a lawyer of any act that is unlawful or contrary to honesty and justice may constitute a cause for discipline"

Precedence

- 5:20-cv-00227-JSM-PRL - USFLMD (4/21/21)
- 2:19-cv-00248-JLB-MRM - USFLMD (1/19/21)
- 8:19-cv-01962-SDM-AEP - USFLMD (1/14/21)
- 8:20-cv-00309-CEH-AAS - USFLMD (12/17/20)
- 2:18-mc-00019-JES-NPM - USFLMD (12/4/20)
- 6:14-cv-01539-ACC-EJK - USFLMD (11/9/20)
- 6:19-cv-01252-GAP-DCI - USFLMD (10/29/20)
- 5:19-cv-00591-JSM-PRL - USFLMD (10/8/20)

USFLMD recently granted motions for sanctions

Abbreviations

FCHR - Florida Commission on Human Relations
 USFLMD - US District Court, Florida, Middle District
 USFLSD - US District Court, Florida, Southern District

MOTION

I. Immediate Pertinent History

1. On September 8, 2017, Defendant filed its official position statement with a state agency of Florida (the FCHR). Therein, the company acknowledged that Plaintiff charged it with race **and** sex discrimination.
2. On May 21, 2021, however, Defendant submitted a filing in this Honorable Court to the contrary. The document was titled "*Defendant's Response in Opposition to Plaintiff's Motion for Leave to Amend Complaint and Supporting Memorandum of Law*" (hereinafter "That Response", Doc No 53).
 - a) That Response said that Plaintiff's employment discrimination complaint was on the basis of race only.
3. On May 27, 2021, Plaintiff moved this Honorable Court to take judicial notice of the facts underlying Defendant's unlawful change-of-tune. The paper was titled "*Plaintiff's Motion for Judicial Notice of Defendant's Official Position Statement to the Florida Commission on Human Relations*" (hereinafter "That Motion", Doc No 54).

II. Analysis

4. The acknowledgement which Defendant gave in 2017 read as follows (highlights added):

"As outlined below, the allegations of discrimination upon **race and sex** discrimination from [Plaintiff] (hereinafter "Ms. Makere" or "Complainant") are without merit."

- Allstate Insurance Company | 9/8/2017

5. The 180° false statement that Defendant proffered in 2021 was this (highlights added & underlines added):

"On June 30, 2017, Plaintiff filed a Charge of Discrimination ("First Charge") with the FCHR, which alleged racial discrimination, as well as retaliation, in violation of the FCRA. See Exhibit A."

- Allstate Insurance Company | 5/21/2021

*"On January 19, 2018, Plaintiff filed a 231-page Petition for Relief ("First Petition") with the FCHR. See Exhibit C. The First Petition included allegations of race discrimination not previously presented to the FCHR and therefore not part of the FCHR investigation. Plaintiff also, **for the first time**, alleged sex discrimination and/or sexual harassment"*

- Allstate Insurance Company | 5/21/2021

Please take note at how the first quoted passage omitted Plaintiff's sex charge, while the second **intentionally excluded it**.

6. Moreover, Defendant referenced an exhibit when making its false statement. That exhibit contradicted Defendant's claim.

a) To be exact, the exhibit showed that Plaintiff charged Defendant with race and sex discrimination. Please see **Exhibit A**.

b) Notwithstanding, government records establish that Plaintiff charged Defendant with race and sex discrimination (**Exhibit B**).

7. This simple review shows that Defendant was **conscious** of its falsehoods (also see **Exhibit C**). This is even more clear upon witnessing Defendant's (a) reaction to the prospects of That Motion; and (b) its response to That Motion.

a) Leading up to That Motion, Plaintiff asked Defendant to state whether or not Plaintiff's copy of Defendant's official position statement was a true and correct copy. Defendant, however, **dodged the question** (see Exhibit D). Thereby never giving an answer; and necessitating Plaintiff's motion to this Court (Doc No 54).

b) In responding to That Motion (see Doc No. 57 - 6/9/21), Defendant neither (a) professed to a mistake; (b) took responsibility for its falsehoods; nor (c) vowed to make corrections. Thereby requiring this Court to intervene on a matter of patent clarity.

8. Defendant's actions show bad faith, and - importantly - they perpetrate a fraud upon this Court. A transgression that this tribunal has the power to punish.

III. Argument in Support of Sanctions

9. Sanctions of this nature fall under Rule 11(b)-(c) Fed. R. Civ. P. which states that court filings must not:

a) be "*presented for any improper purpose [such as to unnecessarily expend resources]*";

b) erect defenses on "*frivolous argument*"; or

c) make factual contentions without "*evidentiary support*".

10. Rule 11(c) Fed. R. Civ. P. goes on to say that motions for sanctions "*must be made separately*" and must specify the opponent's violations. Plaintiff has hereby satisfied the first element by requesting this relief separate from That Motion. Thus, he will meet the second requirement via case law on Defendant's **bad faith extrinsic fraud**.

11. The 11th Circuit Court of Appeals established that fraud upon the court is sanctionable (highlights added):

"Courts have the inherent authority to control the proceedings before them, which includes the authority to impose "reasonable and appropriate" sanctions. See Malautea v. Suzuki Motor Co., Ltd., 987 F.2d 1536, 1545 (11th Cir. 1993). A court also has the power to conduct an independent investigation to determine whether it has been the victim of fraud."

- Martin v. Automobili 307 F.3d 1332 (11th Cir. 2002).

12. Extrinsic Fraud is defined as:

"fraud that prevents a party...from having a fair opportunity to present or litigate [his rights] at a trial."

- *Barron's Dictionary of Legal Terms, 5th Edition*

13. Defendant's lie about [not] being charged with sex discrimination is aimed at preventing Plaintiff from ever having a *full & fair opportunity* to litigate his case.

14. In McDonnell-Douglas v Green, 411 US 792 (1973) ("The Seminal Case"), the US Supreme Court held that excluding a charged basis of discrimination equates to a violation of due process:

"We cannot agree that the dismissal of [employee's race] claim was harmless error... [Employee] should have been accorded the right to prepare his case and plan the strategy of trial with the knowledge that the [race] cause of action was properly before the [Lower Tribunal]. Accordingly, we remand the case for trial of [employee]'s claim of racial discrimination consistent with the views set forth below."

- McDonnell-Douglas v Green, 411 US 792 (1973)

15. In Martin, USFLSD found the transgressor to have perpetrated a fraud upon the court because he lied about possessing the property which he claimed was a *lemon*^{1/}. Here - in the instant case - Defendant is lying about [not] being charged with sex discrimination. In fact, its arguments of *res judicata* are based on this lie. Thus, case law dictates that **Defendant has perpetrated a fraud** upon this court.

16. Furthermore, In Re Mroz, 65 F.3d 1567 (11th Cir. 1995), the 11th Circuit held that a court must find that the transgressor's actions were made in **bad faith**:

"a court's inherent power [to sanction] requires a finding of bad faith."

- In Re Mroz, 65 F.3d 1567, 1575 (11th Cir. 1995)

The appellate court goes on to detail that the determination of bad faith is founded on **dishonesty** (highlights added):

"The text of Rule 11 permits sanctions only if the objectionable court paper is "signed in violation of this rule." Id. at 1507. Accordingly, the court's inquiry focuses only on the merits of the pleading gleaned from facts and law known or available to the attorney at the time of filing."

- Jones v International, 49 F.3d 692, 694 (11th Cir. 1995)

The 11th Circuit further directs district courts to focus sanction reviews on the transgressor's **dishonest** conscience:

"The court is expected to avoid using the wisdom of hindsight and should test the signer's conduct by inquiring what was reasonable to believe at the time the pleading, motion, or other paper was submitted."

- Souran v Travelers, 982 F.2d 1497 (11th Cir. 1993)

17.Plus, the textbook definition of **bad faith** continues to harp on **dishonesty** (highlights added):

"breach of faith; willful failure to respond to plain, well-understood statutory or contractual obligations; dishonesty in fact in the conduct or transaction concerned."

- *Barron's Dictionary of Legal Terms, 5th Edition*

18.Defendant was dishonest. It is indisputable that the underlying '*fact known/available*' to Defendant at the time it submitted That Response was the very first exhibit it attached. An exhibit which contradicted its "*factual contention*". Defendant lied. The Courts say so. The textbooks say so.

19.So, given Defendant's continued lack of self-correction, this tribunal should say so, too. And should punish Defendant with appropriate sanctions.

IV. Appropriate Sanctions | Nature of Relief Sought

20.Rule 37(b)(2)(A) Fed. R. Civ. P. outlines several types of sanctions that a district court can impose on a transgressor. Plaintiff proffers (ii) and (iii) to be the most appropriate; and believes that (vi) should be applied only if a hearing to show cause reveals Defendant's continued defiance/dishonesty.

21.Plaintiff hereby asks this Honorable Court to **prohibit** Defendant from arguing *res judicata/collateral estoppel*. Its own submitted documentation has proven the argument to be based on a massive lie.

a) Rule 37(b)(2)(A)(ii) Fed. R. Civ. P. authorizes this remedy.

"sanctions are warranted when the [transgressor] exhibits a deliberate indifference to obvious facts"

- Baker v. Alderman, 158 F.3d 516 (11th Cir. 1998)

22. Plaintiff also asks this Honorable Court to **strike** Defendant's first motion to dismiss (Doc No 4; 8/21/20), Defendant's second motion to dismiss (Doc No 49; 3/12/21), and That Response (Doc No 53; 5/21/21).

a) Rule 37(b)(2)(A)(iii) Fed. R. Civ. P. authorizes this remedy.

23. Lastly, Plaintiff asks this Honorable Court to **conduct a show-cause hearing** to allow Defendant to (a) answer for its lie; and (b) explain why default judgment should not be entered against it.

a) Rule 37(b)(2)(A)(vi) Fed. R. Civ. P. authorizes this remedy.

"the decision to enter a default judgment ought to be the last resort – ordered only if non-compliance is due to willful or bad faith disregard of court orders."

- Coors v. M.A.R. and the Klan, 777 F.2d 1538, (11th Cir. 1985)

CONFERRAL

Given the nature of this request, Plaintiff has communicated with Defendant several times. The first communications were emails on May 27th, and the most recent were phone call[s] & emails on June 11th.^{2/}

During that call, Defendant refused to (a) acknowledge its lie; or even (b) answer direct questions (please see **Transcript A**). Soon thereafter, Defendant decided to stand in opposition to this motion.

Pursuant to Local Rule 3.01(g)(3) (*Duty to Confer in Good Faith*) and Rule 11(c)(2) Fed. R. Civ. P. (*21 days to self-correct*), Plaintiff has no other option but to ask for relief from Defendant's lawlessness.

CONCLUSION

WHEREFORE, Plaintiff respectfully asks this Honorable Court to levy sanctions against Defendant for its violation of Rule 11(b) Fed. R. Civ. P..

Dated this 11th day of June 2021.

Respectfully submitted,

/s/ Elias Makere

ELIAS MAKERE, FSA, MAAA, Plaintiff

3709 San Pablo Rd. S # 701

Jacksonville, FL 32224

P: (904) 294-0026

E: justice.actuarial@gmail.com

W: TextBookDiscrimination.com

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CERTIFICATE OF COMPLIANCE

I certify that the size and style of type used in this document is Times New Roman 14-point Font (caption) and Courier New 12-point Font (contents); thus complying with the font requirements of Local Rule 1.05(a).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 11th day of June 2021, I electronically filed the foregoing with the Clerk of Courts by using its online filing page. I also emailed it to the attached service list.

/s/ Elias Makere

Endnotes:

1/ "Lemon" in the sense of a substandard car 2/ Pursuant to the 'Safe-Harbor' provision of Rule 11(c)(2), Defendant's 21-day window began on 5/27/21 (also see **Exhibit D, Transcript A** at 33).

SERVICE LIST

Kimberly J. Doud, Esquire (0523771)
Heather A. Johnson, Esquire (*pro hac vice*)
Michele A. Ramos, Esquire (1008119)

E: kdoud@littler.com
E: hajohnson@littler.com
E: mramos@littler.com
P: 407.393.2900
F: 407.393.2929

Littler Mendleson, PC
111 North Orange Avenue, Suite 1750
Orlando, FL 32801-2366

(*defendant's trial lawyers*)

Doc No 53-1
Page 8 of 16
Page ID 1653
5/21/2021
3:20-cv-00905-MMH-JRK

EXHIBIT A

Charge of Discrimination

From: Plaintiff
To: State Agency (FCHR)
6/30/2017

[marked]

(first page only)

201701432

RACIAL DISCRIMINATION | ALLSTATE CORPORATION | FLORIDA | 6/30/2017

Elias Makere, ASA

Phone

Fax

Email inquiry.allstate@gmail.com



EMPLOYEMENT DISCRIMINATION

Racial Discrimination, Sex Discrimination

This document introduces the racial discrimination of a former Allstate employee. The discrimination involved racist dolls, epithets, hostility, ostracism, discrimination of terms/conditions/compensation, and termination. I am looking for justice, an examination of the facts, and an eradication of Allstate's racial discrimination.

RECEIVED
FLORIDA COMMISSION ON
HUMAN RELATIONS
2017 JUN 30 PM 12:32

EXHIBIT B

Notice of Determination

From: State Agency (FCHR)

To: Plaintiff/Defendant

12/15/2017

[marked]



Rick Scott
Governor

State of Florida
Florida Commission on Human Relations

An Equal Opportunity Employer • Affirmative Action Employer

4075 Esplanade Way • Room 110 • Tallahassee, Florida 32399-7020
(850) 488-7082 / FAX: (850) 487-1007

<http://fchr.state.fl.us>

United in One Goal: Equal Opportunity and Mutual Respect



Rebecca Steele
Chair
Michelle Wilson
Executive Director

FCHR No. 201701432

Mr. Elias Makere
3709 San Pable Road S., #701
Jacksonville, FL 32224

COMPLAINANT

Allstate Corporation
c/o Ms. Charmaine Neal, HR-Workforce Relations Lead Consultant
2775 Sanders Rd. F5
Northbrook, IL 60062

RESPONDENT

DETERMINATION: NO REASONABLE CAUSE

Complainant filed a complaint of discrimination alleging that Respondent violated the Florida Civil Rights Act of 1992. The Florida Commission on Human Relations has completed its investigation of this matter.

Complainant worked for Respondent as an Actuary. Complainant alleged that Respondent discriminated against him based on his race and sex. However, the investigation did not support Complainant's allegations. The investigation did not reveal enough evidence to establish that Complainant reported discriminatory harassment to Respondent. Complainant alleged that Respondent graded his required exams so that he would fail as an excuse to terminate him based on his race. However, the investigation revealed that the required exams were administered and graded anonymously by "The Society of Actuaries" and not Respondent. Therefore, the Respondent could not have been responsible for Complainant failing his exams. Complainant was terminated for failing his exam and not securing a non-actuarial position. The investigation did not reveal evidence of discrimination.

On the basis of the report from the Commission's Office of Employment Investigations and recommendation from the Commission's Office of General Counsel, pursuant to the authority delegated to me as Executive Director of the Florida Commission on Human Relations, I have determined that no reasonable cause exists to believe that an unlawful practice occurred.

Michelle Wilson

Dated: Dec. 15, 2017

EXHIBIT C

Position Statement

From: Defendant
To: State Agency (FCHR)
9/8/2017

[marked]

(first page only)



Charmaine Neal
Lead Consultant
Workforce Relations Team
Human Resources

September 8, 2017

Alicia Maxwell
Employment Investigator
Florida Commission on Human Relations
4075 Esplanade Way, Room 110
Tallahassee, FL 32399

Re: Charge No.: FCHR 201701432
Complainant: Elias Makere
Respondent: Allstate Insurance Company

Investigator Maxwell,

This letter sets forth the position of Respondent, Allstate Insurance Company (“Allstate”), regarding the above-referenced charge of discrimination. I am serving as the contact person; therefore, please address all communications to my attention.

The facts set forth in this letter are based upon a preliminary investigation of the circumstances of the allegations against Allstate.¹ It is Allstate’s policy not to discriminate with regard to race, sex, age, national origin, sexual orientation, gender identity/gender expression, citizenship, disability, and status as a veteran with a disability or veteran of the Vietnam Era (Exhibit 1-Policy Guide). As outlined below, the allegations of discrimination based upon race and sex discrimination from Elias Makere (hereinafter “Ms. Makere” or “Complainant”) are without merit.

FACTS

EXHIBIT D

Plaintiff's Good Faith Efforts to Allow Defendant to Correct Conduct

Emails

5/27/2021 - 6/11/2021

Between: Plaintiff, Defendant, Defendant's Attorney

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Thursday, May 27, 2021 8:37 AM
To: KDoud@littler.com;
Cc: MRamos@littler.com; HAJohnson@littler.com
Subject: Judicial Notice (?) | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Defendant's Official Position Statement

Hello Allstate,

Do you have any objection to my upcoming "Motion for Judicial Notice of Defendant's Official Position Statement"?

I plan on filing it between **4pm and 5pm today (5/27/21)**, pursuant to Rule 1 Fed.R.Civ.P., Rule 10 Fed.R.App.P, and Rules 201/301/302 Fed.R.Evid.

Plaintiff:	Elias Makere, FSA, MAAA
Defendant:	Allstate Insurance Company
Case Number:	3:20-cv-00905-MMH-JRK
Court:	US Middle District – Jacksonville Division
Type:	Employment Discrimination (§1981 US, §760 FS)

Document:	<i>Plaintiff's Motion for Judicial Notice of Defendant's Official Position Statement</i>
------------------	--

Purpose = (1) judicial estoppel; (2) display Defendant's perjury; (3) supply factual framework surrounding discriminatory retaliation; (4) streamline federal appeal; (5) help supply the details for which the Court seeks; and more.

Please answer as soon as you can.

Note: Due to time constraints, I will follow-up with you by phone to get your answer.

Thank you,

Elias Makere, FSA, MAAA | Plaintiff
 Federal Case No.: 3:20-cv-00905-MMH-JRK | (Allstate, USFLMD)
 State Case No.: 2020-CA-003802-XXXX | (Allstate, Duval)
 FCHR Case No.: 2019-19238
 11th Cir. Case No.: 21-10847
 904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
 3709 San Pablo Rd. S. #701
 Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: Doud, Kimberly <kdoud@littler.com>
Sent: Thursday, May 27, 2021 10:11 AM
To: justice.actuarial@gmail.com
Cc: mramos@littler.com; mfilmore@littler.com; lshelnut@littler.com
Subject: RE: Judicial Notice (?) | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Defendant's Official Position Statement

Mr. Makere:

Allstate also opposes this proposed motion to take judicial notice because there is no basis to file any such motion at this time. Thank you.

Kimberly Doud
Office Managing Shareholder
407.393.2951 direct, 407.864.1852 mobile, 407.641.9263 fax
KDoud@littler.com

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Thursday, May 27, 2021 11:13 AM
To: KDoud@littler.com;
Cc: MRamos@littler.com; mfilmore@littler.com; lshelnut@littler.com
Subject: RE: Judicial Notice (?) | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Defendant's Official Position Statement

Hello Allstate,

I mentioned the basis (**judicial estoppel**, your **perjury**, etc.). I even cited the authoritative rules (Rule 1 Fed.R.Civ.P., Rule 10 Fed.R.App.P, and Rules 201/301/302 Fed.R.Evid.).

May you please tell me if the attached file is a **true and correct copy** of your Position Statement (sent to the Florida Commission on Human Relations on-or-around September 8, 2017)?

Thank you,

Elias Makere, FSA, MAAA | Plaintiff
Federal Case No.: 3:20-cv-00905-MMH-JRK | (Allstate, USFLMD)
State Case No.: 2020-CA-003802-XXXX | (Allstate, Duval)
FCHR Case No.: 2019-19238
11th Cir. Case No.: 21-10847
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Thursday, May 27, 2021 4:06 PM
To: KDoud@littler.com;
Cc: MRamos@littler.com; mfilmore@littler.com; lshelnut@littler.com
Subject: RE: Judicial Notice (?) | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Defendant's Official Position Statement

Hello Allstate,

May you please give me your answer?

Note: The first page of your **notarized position statement** is the key. Its second paragraph contains the following sentence (highlights added):

"As outlined below, the allegations of discrimination upon race and sex discrimination from Elias Makere (hereinafter "Ms. Makere" or "Complainant") are without merit."

Point blank: you acknowledged that my FCHR complaint was on the basis of race **and** sex. I must add, this was the **first page** of the **first document** that you submitted on the matter. The **first**.

A few days ago, you filed a document in USFLMD¹ stating that my FCHR complaint did **not** include a sex discrimination charge. Here it is (third page):

"On June 30, 2017, Plaintiff filed a Charge of Discrimination ("First Charge") with the FCHR, which alleged racial discrimination, as well as retaliation, in violation of the FCRA. See Exhibit A."

The above quote shows that you omitted my sex discrimination charge. The following quote – from the very next paragraph of that filing – reads as follows (highlights & emphasis added):

*"On January 19, 2018, Plaintiff filed a 231-page Petition for Relief ("First Petition") with the FCHR. See Exhibit C. The First Petition included allegations of race discrimination not previously presented to the FCHR and therefore not part of the FCHR investigation. Plaintiff also, **for the first time**, alleged sex discrimination and/or sexual harassment."*

In short, you just submitted a patently false statement to the government. You did so with the intent to influence an official government function. I must add, the exhibit that you referenced shows that I charged you with race **and** sex discrimination. In other words, **you knew** you were supplying the government with a false statement. Altogether, you just committed **perjury**.

This is serious. Your perjury is harming me severely; and infringing upon my constitutional rights.

My first step is to allow you to acknowledge your wrongdoing. My next step is to provide USFLMD with the requisite facts. There are more steps.

For now, please tell me whether you recognize the aforementioned document as a **true and correct copy** of your notarized position statement to the FCHR².

¹ USFLMD = United States District Court, Florida, Middle District

² FCHR = Florida Commission on Human Relations

Thank you,

Elias Makere, FSA, MAAA | Plaintiff

Federal Case No.: 3:20-cv-00905-MMH-JRK | (Allstate, USFLMD)

State Case No.: 2020-CA-003802-XXXX | (Allstate, Duval)

FCHR Case No.: 2019-19238

11th Cir. Case No.: 21-10847

904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com

3709 San Pablo Rd. S. #701

Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Thursday, May 27, 2021 5:36 PM
To: KDoud@littler.com;
Cc:
Subject: Perjury, Fraud | (¿?)

Hello Ms. Doud,

Question: Did Allstate Insurance Company instruct you to write “[Elias Makere] also, for the first time, alleged sex discrimination and/or sexual harassment.”

Question: Did Allstate Insurance Company instruct you to omit “, sexual discrimination,” from the following statement (which you authored)?

Statement in Question:

“On June 30, 2017, Plaintiff filed a Charge of Discrimination (“First Charge”) with the FCHR, which alleged racial discrimination, as well as retaliation, in violation of the FCRA. See Exhibit A.”

Thank you,

Elias Makere, FSA, MAAA | Plaintiff
Federal Case No.: 3:20-cv-00905-MMH-JRK | (Allstate, USFLMD)
State Case No.: 2020-CA-003802-XXXX | (Allstate, Duval)
FCHR Case No.: 2019-19238
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904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Thursday, May 27, 2021 8:37 PM
To: KDoud@littler.com;
Cc:
Subject: RE: Perjury, Fraud | (¿?)

Hello Ms. Doud,

I have evidence that **you have committed perjury**. Please understand that your unlawful conduct has harmed me; and my constitutional rights are in jeopardy of suffering further injury.

What you did was wrong.

Notwithstanding, I believe you **deserve a chance** to (a) acknowledge your wrongs; and (b) amend your wrongs. Sans your recognition and contrition, however, I will have to seek external intervention.

So, first, do you realize that the two statements that you submitted to USFLMD were false (please see below)?

Statement #1

“On June 30, 2017, Plaintiff filed a Charge of Discrimination (“First Charge”) with the FCHR, which alleged racial discrimination, as well as retaliation, in violation of the FCRA. See Exhibit A.”

Statement #2

*“On January 19, 2018, Plaintiff filed a 231-page Petition for Relief (“First Petition”) with the FCHR. See Exhibit C. The First Petition included allegations of race discrimination not previously presented to the FCHR and therefore not part of the FCHR investigation. Plaintiff also, **for the first time**, alleged sex discrimination and/or sexual harassment.”*

If you answer ‘yes’ to this obvious question, then part (b) will be very easy. In fact, I reckon it will be fair & amenable to everyone involved (you, your client, etc.)

Thank you,

Elias Makere, FSA, MAAA | Plaintiff
Federal Case No.: 3:20-cv-00905-MMH-JRK | (Allstate, USFLMD)
State Case No.: 2020-CA-003802-XXXX | (Allstate, Duval)
FCHR Case No.: 2019-19238
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904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, May 28, 2021 2:21 PM
To: KDoud@littler.com;
Cc:
Subject: RE: Perjury, Fraud | (¿?)

Good Afternoon Ms. Doud,

I haven't heard back from you. So, I'll have to move onto the next phase.

Thank you,

Elias Makere, FSA, MAAA | Plaintiff
Federal Case No.: 3:20-cv-00905-MMH-JRK | (Allstate, USFLMD)
State Case No.: 2020-CA-003802-XXXX | (Allstate, Duval)
FCHR Case No.: 2019-19238
11th Cir. Case No.: 21-10847
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Wednesday, June 09, 2021 4:40 PM
To: KDoud@littler.com; HAJohnson@littler.com; MRamos@littler.com
Cc:
Subject: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

Would you have 5-15 minutes to discuss 'This Motion' (and this motion only)?

Where: **This Motion** ≈ "Plaintiff's Motion for Sanctions" (to be filed on-or-before June 16, 2021)

Local Rule 3.01(g) states that civil litigants have a duty to confer. Considering the nature of this motion (ie, sanctions), I think it's particularly important to do so (please see Davis v Apfel, 6:98-cv-00651-ORL, 2000 WL 1658575 at no. 1 (MD Fla. Aug. 14, 2000)).

May you please tell me what your availability is for the following windows:

	Date	Period
Window A	Thu., June 10, 2021	1:30 – 4:30
Window B	Fri., June 11, 2021	8:00 – 11:00

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
 Federal Case No.: 3:20-cv-00905-MMH-JRK
 Duval Case No.: 2020-CA-003802-XXXX
 FCHR Case No.: 2019-19238
 904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
 3709 San Pablo Rd. S. #701
 Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: Doud, Kimberly <kdoud@littler.com>
Sent: Wednesday, June 09, 2021 4:49 PM
To: justice.actuarial@gmail.com
Cc: mfilmore@littler.com; lshelnut@littler.com; mramos@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Mr. Makere:

Please be advised I am available at 10:30 a.m. Friday June 11, 2021 for a call to discuss your proposed Motion for Sanctions. What number should I call?

Also, please be advised it is not necessary to copy Heather Johnson on communications regarding the federal court matters. I have moved her to bcc so she will be dropped from this email thread. Thank you.

Kimberly Doud
Office Managing Shareholder
407.393.2951 direct, 407.864.1852 mobile, 407.641.9263 fax
KDoud@littler.com

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Wednesday, June 09, 2021 5:26 PM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

You can reach me at 904.294.0026. Please only dial in from one of your listed numbers.

Also, yes, I'll remove "HAJohnson@Littler.com" from my emails.

Talk to you at 10:30 Fri (6/11),

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
Federal Case No.: 3:20-cv-00905-MMH-JRK
Duval Case No.: 2020-CA-003802-XXXX
FCHR Case No.: 2019-19238
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, June 11, 2021 9:16 AM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Good Morning Allstate,

May you please reference these three documents during our upcoming phone call (10:30am today, 6/11/21)?

	Description	Signature Date	Docket Entry	Filename
First Attachment	Plaintiff's First Administrative Complaint	6/30/2017	53-1	Call_20210611_1030-001-20000905_GRSP_20210521_190224_ExhA.pdf
Second Attachment	Defendant's Official Position Statement	9/8/2017	54-1	Call_20210611_1030-002-4h_Motion_007_JudNote-PositionStatement.pdf
Third Attachment	Defendant's Response in Opposition to...Motion to Amend	5/21/2017	53	Call_20210611_1030-001-20000905_GRSP_20210521_190224_ExhA.pdf

This pertains to Sanctions (under Rule 11(b) Fed. R. Civ. P.).

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
 Federal Case No.: 3:20-cv-00905-MMH-JRK
 Duval Case No.: 2020-CA-003802-XXXX
 FCHR Case No.: 2019-19238
 904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
 3709 San Pablo Rd. S. #701
 Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: Doud, Kimberly <kdoud@littler.com>
Sent: Friday, June 11, 2021 10:47 AM
To: justice.actuarial@gmail.com
Cc: mfilmore@littler.com; lshelnut@littler.com; mramos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Mr. Makere:

Please represent to the Court Allstate opposes your motion for sanctions. Thank you.

Kimberly Doud
Office Managing Shareholder
407.393.2951 direct, 407.864.1852 mobile, 407.641.9263 fax
KDoud@littler.com

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, June 11, 2021 11:55 AM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

May you please answer either 'yes' or 'no' to the following question?

➤ *Did Elias Makere's 6/30/17 administrative complaint charge you with sex discrimination?*

During the call, you seemed to have said "yes", but your voice was **muffled**. Plus, you proffered a lot of personal interpretations. I followed up to clarify if you had indeed said "yes", but you refused to clarify.

I sincerely didn't hear whether it was a "yes". It sounded like a "yes", but I'm not sure.

Importance: the obvious facts show that the true answer is "yes". Yet – as you're well aware – I've got a prospective *motion for sanctions* against you for **perpetrating a fraud upon the court**. A fraud based on your lie about an "*obvious fact*" of material worth (see Baker v Alderman, 158 F. 3d 516 (11th Cir. 1998)).

I'm organizing my notes from the call, and this is a crucial component. Please clarify. Did you say "yes"? Perhaps, it'll just be easier if I re-ask the question:

➤ *Did Elias Makere's 6/30/17 administrative complaint charge you with sex discrimination?*

Please answer as soon as possible.

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
Federal Case No.: 3:20-cv-00905-MMH-JRK
Duval Case No.: 2020-CA-003802-XXXX
FCHR Case No.: 2019-19238
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: Doud, Kimberly <kdoud@littler.com>
Sent: Friday, June 11, 2021 12:09 PM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelnut@littler.com; mramos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Mr. Makere:

I did not say “yes” and disagree with the characterizations in your email below. I provided my response, which has been set forth in the pleadings. We have conferred regarding your proposed motion for sanctions. As set forth in my email from 10:47 a.m. this morning following our call, please represent to the Court Allstate opposes your motion for sanctions. Thank you.

Kimberly Doud
Office Managing Shareholder
407.393.2951 direct, 407.864.1852 mobile, 407.641.9263 fax
KDoud@littler.com

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, June 11, 2021 12:35 PM
To: KDoud@littler.com;
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

Your exact quote was *"Yes, that's the place where I'm saying that you did say "sex discrimination"."* Moreover, government records prove that "sex discrimination" was on the first page of my very first complaint.

Moving on. For **question number 2**, you answered *"I did not"*.

I need to be clear, my question was directed to Allstate (not its legal representative Kimberly Doud, Esq). Based on your voice inflection, you seemed to be stressing that *Kimberly Doud* didn't say it. That's not relevant here, and that's not who I was asking.

All of these questions are directed toward Allstate Insurance Company (the defendant in 3:20-cv-00905-MMH-JRK).

So, Allstate, may you please answer question number 2:

- *On September 8, 2017, did you acknowledge that Elias Makere's discrimination complaint was on the basis of race and sex?*

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
Federal Case No.: 3:20-cv-00905-MMH-JRK
Duval Case No.: 2020-CA-003802-XXXX
FCHR Case No.: 2019-19238
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, June 11, 2021 2:53 PM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelut@littler.com; MRamos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

Your answer to my second question is still outstanding. May you please answer it before **3:15 PM EST**?

- Question #2: *On September 8, 2017, did you acknowledge that Elias Makere's discrimination complaint was on the basis of race and sex?*

Moreover, you've had ample time to answer the question (most pertinently – dating back to May 27, 2021); see Rule 11(c) Fed. R. Civ. P.).

Undue delay is a factor in handing down sanctions (see Hutto v Finney, 437 US 678).

Your delay is harming me. May you please answer *Question #2* **by 3:15 PM EST** today (6/11/21)?

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
Federal Case No.: 3:20-cv-00905-MMH-JRK
Duval Case No.: 2020-CA-003802-XXXX
FCHR Case No.: 2019-19238
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, June 11, 2021 3:21 PM
To: KDoud@littler.com;
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

3:15 PM came & went, but I didn't get your answer. So, I'll have to move onto the **third** & final question of "*factual concern*".

➤ **Question #3:** *On May 21, 2021, did you lie about whether Elias Makere charged you with sex discrimination?*

May you please answer it before **3:45 PM EST**?

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
Federal Case No.: 3:20-cv-00905-MMH-JRK
Duval Case No.: 2020-CA-003802-XXXX
FCHR Case No.: 2019-19238
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

From: Doud, Kimberly <kdoud@littler.com>
Sent: Friday, June 11, 2021 3:16 PM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Mr. Makere:

We have conferred regarding your proposed motion for sanctions. As set forth in my email from 10:47 a.m. this morning following our call, please represent to the Court Allstate opposes your motion for sanctions. You do not need anything further from me to file your motion. Thank you.

Kimberly Doud
Office Managing Shareholder
407.393.2951 direct, 407.864.1852 mobile, 407.641.9263 fax
KDoud@littler.com

From: Doud, Kimberly <kdoud@littler.com>
Sent: Friday, June 11, 2021 3:23 PM
To: KDoud@littler.com;
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Mr. Makere:

As I responded to your last email, we have conferred regarding your proposed motion for sanctions. As set forth in my email from 10:47 a.m. this morning following our call, please represent to the Court Allstate opposes your motion for sanctions. You do not need anything further from me to file your motion. Thank you.

Kimberly Doud
Office Managing Shareholder
407.393.2951 direct, 407.864.1852 mobile, 407.641.9263 fax
KDoud@littler.com

From: justice.actuarial@gmail.com <justice.actuarial@gmail.com>
Sent: Friday, June 11, 2021 3:46 PM
To: KDoud@littler.com
Cc: mfilmore@littler.com; lshelnut@littler.com; MRamos@littler.com; njstorch@littler.com
Subject: RE: Conferral Phone Call | 3:20-cv-00905-MMH-JRK | Makere v Allstate | Employment Discrimination | Motion for Sanctions

Hello Allstate,

Please excuse the delay in transmission. When I checked at 3:15 – and didn't see any response – I began drafting my follow-up email. Your 3:16 email didn't land until after I hit send (≈ 3:22).

Well, there's just one matter remaining. So, with respect & caution, I'll just ask sending.

Would you like to **review** a copy of my **phone call recitation**? It's 5 pages. It's based on my contemporaneous notes + verbatim script.

Note: At the start of our call, I said I'd share this with you. So, this was a *long-time-coming*.

If you say no then I'll just proceed with my motion for sanctions.

Thank you,

Elias Makere, FSA, MAAA | Civil Litigant
Federal Case No.: 3:20-cv-00905-MMH-JRK
Duval Case No.: 2020-CA-003802-XXXX
FCHR Case No.: 2019-19238
904.294.0026 | justice.actuarial@gmail.com | www.TextBookDiscrimination.com
3709 San Pablo Rd. S. #701
Jacksonville, FL 32224

Ancient Proverb: For every wrong there is a right.

TRANSCRIPT A

Plaintiff's Good Faith Efforts to Allow Defendant to Correct Conduct

Phone Call
Written Recitation

6/11/2021
10:30 AM EST

Between: Plaintiff, Defendant

Source: Plaintiff's contemporaneous notes during conversation

Caller: 407.393.2951 | Defendant's Attorney (Kimberly Doud)
 Recipient: 904.294.0026 | Plaintiff (Elias Makere)
 Date: 6/11/2021
 Time: 10:30 AM EST
 Subject: Conferral Phone Call | Plaintiff's Motion for Sanctions
 Legend: "P:" = Plaintiff | "D:" = Defendant
 Note: "***" means that the transcriber could not decipher for sure

{phone ringing}

#	Spkr	Speech
01	P:	Hello, this is Elias
02	D:	Hi, Mr. Makere?
03	D:	Hi, this is Kimberly Doud on the line. At the outset of this call, I just want to make sure that you understand that we don't agree that this call is being recorded. So, it should not be recorded.
04	P:	Oh, yeah. I understand. But I want to add in that I'm going to be taking notes, and I'm probably going to share the notes with you after the phone call.
05	D:	Okay. So, let me - I know you sent me an email - and I have the three documents. I just need to pull them up.
06	P:	Okay, so, we are gathered here today to discuss a prospective motion for sanctions. I, Elias Makere, will be the movant; and you, Allstate Insurance Company, will be the non-movant.
07	P:	As you know, this is a case of employment discrimination; in which you damaged me, and the facts are crystal clear.
08	P:	The facts are also crystal clear regarding this prospective motion for sanctions. Yet your conduct has perpetrated a fraud upon the court. And, therefore, are damaging the judiciary.
09	P:	So, I just have three questions to ask you.
10	P:	Question Number One: Did Elias Makere's June 30th, 2017 administrative complaint charge you with sex discrimination?
11	D:	So, Mr. - am I saying your last name correctly? Is it <i>Muh-care-ee</i> ? Because I think I said it wrong before.
12	P:	Yes
13	D:	So, I just want to make sure I'm saying it right. I disagree and Allstate disagrees with the characterization that you just said.

...

#	Spkr	Speech
14	D:	Our position is set forth in the charge of discrimination. There's one use of the term "sex discrimination" on the first page. That's our position on the first charge. So, what's your second question.
15	P:	So, I just want to be clear: is it a 'yes' or is it a 'no'?
16	P:	Did Elias Makere's June 30th, 2017 administrative complaint charge you with sex discrimination? Yes or no, please.
17	D:	***, the only part that said sex discrimination was the first phrase.
18	P:	I didn't hear so good. Was that a yes, ma'am?

{...call disrupted | battery died...}

{...phone ringing...}

{...small talk, administrative considerations...}

#	Spkr	Speech
19	D:	I answered the question the way that I'm going to answer it. So, you said you have three questions. So, what were the other two questions?
20	P:	Okedoke. So, I'm going to move onto the next two questions.
21	P:	Let me just ask you - since you have those documents that I emailed to you. You have those in front of you, am I right?
22	D:	Yes
23	P:	Okedoke. So, for the first one (Docket 53-1, Exhibit A). May you go to the 8th page?
24	D:	Mr. Makere, I'm going to entertain these questions, but the purpose of the call is for you to tell me what the basis is for your motion for sanctions. And for us to let you know whether we're going to agree to it. So, I'm on page 8 of 16.
25	P:	Yeah, and I'm square on what this call is for. I was looking at Rule 11, and it says that you should have an opportunity to review what I am saying you have done wrong. And that's very specific for motions for sanctions under Rule 11c. I'm definitely giving you the full notice, as I've done throughout these last couple of weeks.

...

#	Spkr	Speech
26	P:	So, on there - you're looking at it - does it say "sex discrimination"?
27	D:	Yes, that's the place where I'm saying that you did say "sex discrimination". And I've answered the question, and it's in the paper what Allstate's position is on this. What's your next question?
28	P:	Question Number 2: on September 8th, 2017, did you acknowledge that Elias Makere's discrimination complaint was on the basis of race and sex?
29	D:	I did not. What's your next question?
30	P:	Okay, can you take a look at the second document that was in that attached email?
31	D:	Mr. Makere, this is not a deposition. So, what is the basis for your motion for sanctions? We're not going to agree. We're going to oppose a motion for sanctions. So, what are you going to put in your motion for a basis for your sanctions?
32	P:	So, no matter what the facts are, you're just going to disagree with it; is that what you're saying here?
33	D:	Well, you've submitted other documents that state your position that you believe that we've committed perjury and fraud upon the court. Is there some other basis for your allegation of perjury and fraud upon the court?
34	P:	Of course there is; and you know what it is, and it is bad faith. You are exhibiting bad faith by trying to continue and perpetuate this lie and now perpetrate this fraud upon the court.
35	P:	I asked you a simple question: did you acknowledge - on September 8th, 2017 - that Elias Makere's discrimination complaint was on the basis of race and sex?
36	P:	And it's right here on the paper. Right here on the paper that I sent you - which you notarized - and it says "race and sex". You acknowledged it in 2017, so I'm giving you a chance to acknowledge it now so that we can prevent a motion for sanctions. Rule 11 says you deserve an opportunity to correct yourself. So, I'm giving you this chance to correct yourself.
37	P:	Are you going to admit or are you going to continue showing bad faith?

...

#	Spkr	Speech
38	P:	So, let me just re-ask Question Number 2: did you acknowledge race and sex in 2017, ma'am?
39	D:	Mr. Makere, you can put in your motion that we had this conferral call, and that Allstate opposes the motion.
40	D:	Allstate's position is in its response to the judicial notice
41	P:	These are stone-cold facts, ma'am. 'Yes' or 'No' and we can move on.
42	D:	Mr. Makere, I'm ending this phone call. I don't like the way you're speaking to me.
43	P:	How am I speaking to you? I'm giving you this time to speak. Plus, there's a third question I need to ask.
44	D:	Goodbye, Mr. Makere, I'm ending this call.
45	P:	Question #3: Did you lie? On May 21, 2021, did you lie about whether Elias Makere charged you with sex discrimination?

{...call ended | ≈ 10:45 AM EST...}

Verification Under Oath Pursuant to 28 USC §1746

I am the plaintiff in this case, and I was present for the phone call in which these quotes came from. I drafted this recitation and asked the defendant if it wanted to review it (no answer). My recitation was based on my notes, and largely came from a script that I prepared beforehand. I would love an opportunity to have a quick hearing in which a full conversation can be recorded and/or transcribed.

Nevertheless, I declare under penalty of perjury that the foregoing is a true and correct recitation of the phone call I had with Allstate's attorney; and is based on my script and contemporaneous notes. Executed on this 11th day of June 2021.

UNITED STATES OF AMERICA

6/11/2021

Elias Makere, Plaintiff/Transcriber

PLAINTIFF'S AFFIDAVIT

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA)	Case No (LT)
Plaintiff)	3:20-cv-00905-MMH-JRK
)	
v.)	
)	
ALLSTATE INSURANCE COMPANY,)	
Defendant)	

**PLAINTIFF’S AFFIDAVIT IN SUPPORT OF
PLAINTIFF’S MOTION FOR SANCTIONS**

The affiant, Elias Makere, swears or affirms as follows:

Background

1. I am over the age of eighteen (18).
2. I am a plaintiff in the above-captioned case.
3. This affidavit is made in good faith.

Familiarity

4. I have read the Local Rules of Court, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, and the Middle District’s Discovery Handbook.
5. The information in this affidavit is based on my own personal knowledge.

Facts

6. Allstate has been operating in bad faith throughout this entire legal action.

7. It's done so and (if unchecked) will continue to do so by hurling lie after lie. This pattern dates back many years:

a. In 2015, when I worked for Allstate, **management knew** I didn't want to be around my harassers. Yet they forced me to be near them. They did so in the face of allowing everyone else to **work-from-home**.

i. They fibbed by saying 'sitting near my coworkers was a condition of my employment'.

ii. These same harassing coworkers responded by putting a racist doll on my desk, and accompanying it with racist characterizations.

b. In 2018, during the administrative phase, **Allstate knew** I suspected they were retaliating against me. And in wanton form they explicitly instructed the most outward retaliator to harass me further.

8. The lie that Allstate told on May 21, 2021, is perhaps its biggest lie.

a. As before (ie, ¶7a-7b), **Allstate knew** I would seek sanctions against it. Yet, the company continued its subterfuge (please see **Transcript A** at 29).

9. Allstate has continually lied about its unlawful discrimination, its enlisted others along the way (all of whom will get served; some already), and it's poised to do more lying in the future.

- a. During my call with Allstate today, the employer dodged my simple 'yes-or-no' questions. Although I only had three, Allstate ended the call before I could get to the last one. Doing so by invoking the stereotyped retreat of '*dark-guy-is-discomforting-me*' (eg, "I don't like the way you're speaking to me"—**Transcript A** at 45). It has done this before.
 - b. So, I put the same questions in writing; and emailed them. Yet, Allstate refused to give direct answers to the last two (which were the most important to this request).
10. Allstate's fear was fake, its presentation of integrity was fake, and its contentions of material fact were fake. The records prove it, and a short hearing should force the company to either fess up or receive stronger discipline.

Request

11. May you please penalize Allstate's lies with prohibitions and strikes?
12. Also, may you please hold a short hearing/conference to ask Allstate the following questions:
 - a. "*Did Elias Makere's 6/30/17 administrative complaint charge you with sex discrimination?*"
 - b. "*On September 8, 2017, did you acknowledge that Elias Makere's discrimination complaint was on the basis of race and sex?*"
 - c. "*On May 21, 2021, did you lie about whether Elias Makere charged you with sex discrimination?*"

13. Lastly, may you please enter default judgment against Allstate if it lies about either 11a or 11b.

Thank you.

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 11th day of June 2021.

UNITED STATES OF AMERICA



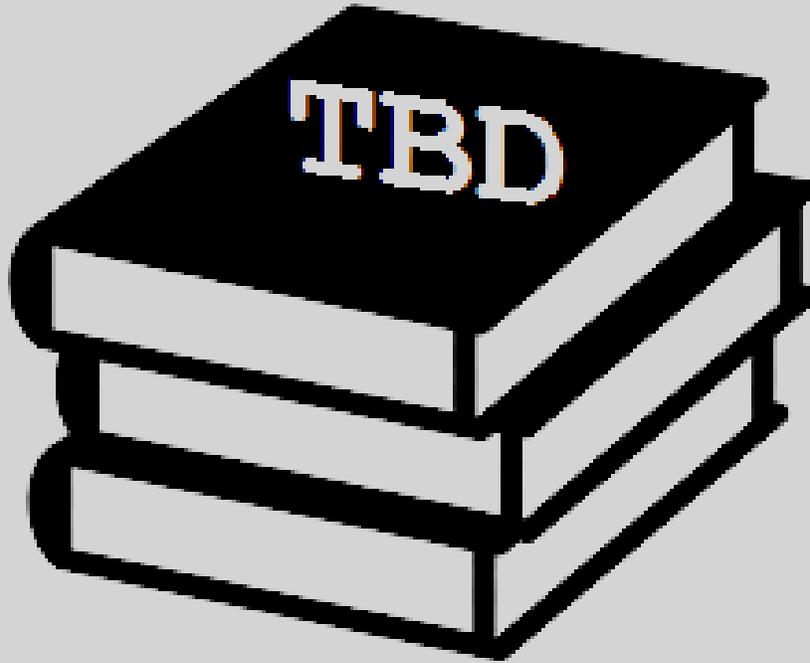
6/11/2021

Elias Makere, Plaintiff/Affiant

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