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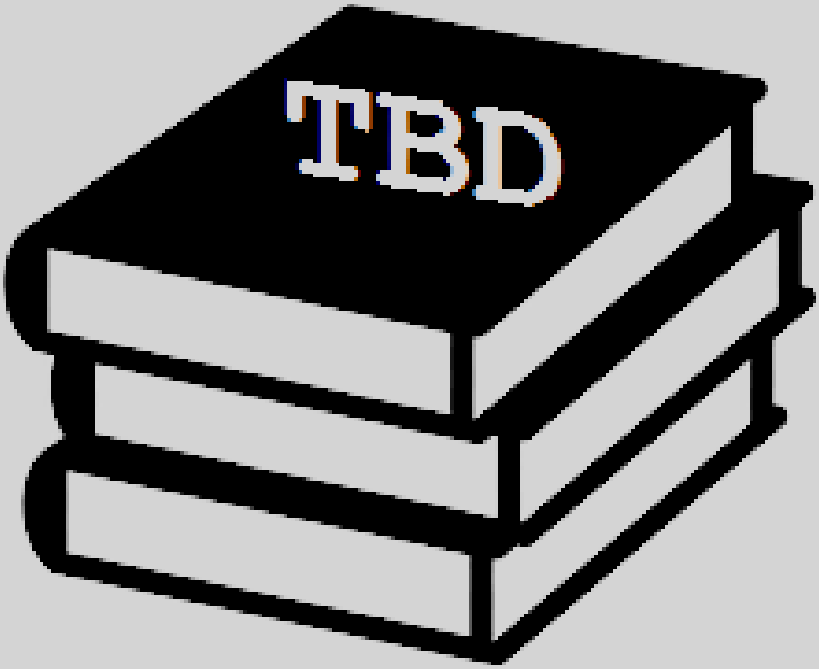

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA	)	Case No (LT)
Plaintiff	)	**3:24-cv-000189**
v.	)	
STANDARD INSURANCE COMPANY, UNNAMED DEFENDANT #2, BEN WACKER	)	
Defendant	)	

PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO UTILIZE ELECTRONIC FILING

Plaintiff, ELIAS MAKERE, on this 28th day of March 2024, respectfully asks this Court to grant Plaintiff permission to file/retrieve his case documents electronically.

Key Points:

A.) Grounds equitable, greater good, not for sale, limited time

B.) Grounds save judicial resources; 14th amendment

C.) Conferral 100% of served Defendants do not object to this request

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Background: Plaintiff is a *pro se* litigant in this court
Problem: Permission for *pro se* eFiling is by Court order only
Request: The Court gives Plaintiff permission to eFile Court papers

---

Local Rule 1.01(c) USFLMD | Electronic Filing

"By administrative order, the court can prescribe procedures governing electronic filing."

Rule 1 Fed. R. Civ. P. | Scope

"[These rules] should be... administered... by the court... to secure the just, speedy, and inexpensive determination of every action..."

14th Amendment | US Constitution

"No state shall... deny to any person within its jurisdiction the equal protections of the laws."

Precedence

- 6:07-cv-06247-DGL-JWF - USNYWD (3/23/10)
- 3:20-cv-00905-MMH-LLL - USFLMD (11/6/20)
- 21-10847-HH - USCA11 (3/23/21)

Federal courts have granted similar requests

Abbreviations:

DOAH	-	Division of Administrative Hearings (Florida)
JCUS	-	Judicial Conference of the United States
USCA11	-	US Court of Appeals, 11th Circuit
USFLMD	-	US District Court, Florida, Middle District
USNYWD	-	US District Court, New York, Western District

MOTION

I. Relevant History

1. PACER (Public Access to Court Electronic Records) is a third-party service of the federal Judiciary; funded through user fees set by JCUS. It houses case dockets for federal district courts (including USFLMD).
2. USFLMD's relationship with PACER, however, forbids electronic filing ("eFiling") from non-attorney participants.
3. On-or-around January 17, 2024, Plaintiff initiated this lawsuit against Defendants; doing so within this Court's territorial jurisdiction (ie, Duval County – a state court). He also did so without an attorney (ie, *pro se*).
4. Soon thereafter – and upon appearance – Defendants-X (ie, Standard Insurance Company and Mr. Ben Wacker) removed this case to this Court.

   [1] Notably, all served defendants have lawyers.

II. Standard for Review

5. Pursuant to Local Rule 1.01(c), this Court governs the procedures behind eFiling.[1/]
6. Although directly concerning PACER fees (instead of PACER eFiling), JCUS created a standard which courts can use when reviewing requests to use PACER [in an acceptable manner] (highlights added):

> "*that those seeking an exemption have demonstrated that an exemption is necessary in order to avoid unreasonable burdens and to promote public access to information... the user receiving the exemption must agree not to sell [or transfer] the data obtained... the exemption should be granted for a definite period of time [and] should be limited in scope.*"
>
> – JCUS | USCourts.gov[2/]

7. In short, Plaintiff must show that:

   (a) granting eFiling is necessary to avoid unreasonable burdens;

   (b) granting eFiling will promote public access to information;

   (c) he will not sell/transfer the functionality obtained; and

   (d) functionality will only be needed for a specific time period.

8. Plaintiff can satisfy all four items, as follows.

III. Analysis

Quell an Unreasonable Burden

9. Plaintiff contends that USFLMD's current eFiling prohibition is too costly (and thus unreasonable) for Plaintiff's set of circumstances.

10. For starters, printing & shipping court papers is time consuming and costly.

    [1] Plaintiff's printer cartridges cost $48 per 600 sheets

    [2] Plaintiff's printer papers cost $11 per 600 sheets

        i. $6 per 500 white sheets; and

ii. $5 per 100 color sheets

[3] Plaintiff's weight-based shipping costs come to $2 per 10 pages

i. $1 for the material

ii. $1 for the stamps

[4] Plaintiff's repair & replacement policy equals $50 per event

[5] Plaintiff's printing & shipping accommodations require two (2) hours of work

i. 0.50 hours printing; and

ii. 1.50 hours shipping

11. Secondly, the post office transit times hamper Plaintiff's litigative effectiveness.

[1] Plaintiff loses 3-5 days for postal receipt of docketed filings

[2] Plaintiff **must allocate** 5 days for postal delivery of his papers

[3] Rule 6 Fed. R. Civ. P. only amends 3 of those days

[4] So, out of the 17 days this Court allows for requisite responses[3/], Plaintiff only enjoys 7-12 of them.

12. Altogether, filing-by-mail would equate to $213 in excess money spent, 254 excess hours used, and 569 potential days lost (please see **Exhibit A**). Amounts that operate as deterrents to justice. Especially considering how Defendants will not face any of these burdens.

13. With these factors in tow, Plaintiff states that it would be unreasonable to require him – and him only (¶3-4) – to suffer the detriments of an eFiling restriction. As such, Plaintiff asserts that he has satisfied the first prong in the 4-part test for eFiling.

Promote Public Access to Public Information

14. Plaintiff avers that leave to eFile at PACER will: (a) enhance public access; and (b) benefit all parties.

15. For starters, Plaintiff – a state/federal taxpayer – is a member of the public. And as a member of the public Plaintiff is afforded the right to petition the government for redress (1st Amendment US Constitution).

16. However, due to the current unilateral prohibition on eFiling (¶2-4, *supra*), Plaintiff is not enjoying equal access to justice (14th Amendment, US Constitution).

17. In several ways, this Court will benefit from a more-responsive version of Plaintiff. For one, it will experience a reduced workload on account of better motions/responses/notices. Plus, this Court's involvement in discovery disputes will likely decrease if Plaintiff's abilities were more rapid. And, of course, the record [and potential appellate proceeding] will be much cleaner without the potential snafus from woebegone deliveries (see Tobin v Taylor, 4:20-cv-00292-MW-HTC).

18. Defendants-X – via conferral – recognized these same benefits.

19. In short, eFiling will promote public access and benefit all case participants. Thus, Plaintiff has satisfied the 2nd prong in the 4-part test for electronic filing.

Not for Sale

20. Plaintiff will neither sell nor transfer any of the functionality obtained by the electronic filing apparatus (please see **Affidavit**). He will only need eFiling for functional reasons. Prong three satisfied.

Specific Purpose

21. Plaintiff only needs PACER's eFiling portal for the duration of his case. He defines that period as follows:

    [1] Starting Date = Now (ie, March 2024)

    [2] Ending Date = [a], [b], or [c] (whichever is later)

        [a] = the end of the immediate case {USFLMD}

        [b] = the end of an appellate case {11th Circuit}

        [c] = the end of a supreme court case {US Supreme Court}

22. Therefore, Plaintiff has satisfied the fourth prong in the four-prong test for eFiling.

IV. Designated Email Address

23. If approved, Plaintiff would like this Court to designate the following email address for receipt of all electronic case filings:

    Justice.Actuarial@gmail.com

V. Constitution

24. Plus – from a constitutional standpoint – subjecting Plaintiff to unnecessary burdens (time, money) without doing the same to Defendant would disregard the 14th Amendment. Especially considering Plaintiff's membership in a long-disfavored demographic group. And the disparate impact that such an imposition has on that specific group.[4/]

> "*[To prove 14th Amendment infringement], a plaintiff can show that the law is applied in a discriminatory manner or imposes different burdens on different classes of people.*"
>
> – Freeman v. Santa Ana, 68 F.3d 1180 (9th Cir. 1995)

25. Plaintiff has not found any appellate case law stating that non-prisoner *pro se* litigants deserve unreasonable burdens (financial {$213}, time-wise {254 hours}, and/or tactical {569 days}). Nor has he found any appellate case law stating that a local rule which disproportionately impacts a specific demographic is rational on its face.[5/]

26. Moreover, USFLMD's Local Rules fail to rationalize the disparity in treatment (no statistical evidence, no anecdotal evidence, etc.). Nor has

this Court articulated any connection between electronic filing and impropriety. In effect, the rule is punitive, and only works to abridge a class of people's 1st amendment right (*access to the court*).

27. Simply put, this Court's *pro se* eFiling restriction discriminates against Plaintiff while failing to serve any legitimate purpose.

VI. Summary

28. In all, this Court has good reason to grant Plaintiff permission to electronically file his court documents, because: (a) it will alleviate him of an unreasonable burden; (b) it will serve the greater good; (c) it will be used properly; (d) it will only be needed for the duration of Plaintiff's case; and (e) it will afford equal protections for both parties.

NATURE OF RELIEF SOUGHT

29. Plaintiff seeks the [equal] **ability to file *and* receive court documents electronically**.

CONFERRAL

Today – Thursday, March 28, 2024 – Defendants-X told Plaintiff (via email) that they do not oppose this motion.

Thus, Plaintiff believes the foregoing presents a compelling (ie, *equal protection*) and important (ie, *save time & resources*) reason for obtaining the requested relief.

CONCLUSION

WHEREFORE, Plaintiff respectfully asks this Court to enter an Order Granting Plaintiff Leave to Utilize Electronic Filing. Such an order will save time, resources, and it will support the "*just, speedy, and inexpensive*" determination of this action (see Rule 1 Fed. R. Civ. P.). Plus, it will comport with the equal protection clause of the US Constitution (14th Amendment).

Dated this 28th day of August 2024.

Respectfully submitted,

/s/ Elias Makere
ELIAS MAKERE, FSA, MAAA, Plaintiff
PO Box 324
Hobart, IN 46342
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 Century Schoolbook 13-point Font (contents); thus complying with the font requirements of Local Rule 1.08.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of March 2024, I electronically filed the foregoing with the Clerk of Courts by using its online filing page. A notice – via CM/ECF – will be sent to the attached service list.

/s/ Elias Makere (3/28/24)

Endnotes:

[1/] Circa 2020, USFLMD created a COVID19-inspired eFiling portal. At any time, this Court can remove that portal, though, and subject pro se litigants to the full brunt of the eFiling restriction.
[2/] source = https://www.uscourts.gov/services-forms/fees/electronic-public-access-fee-schedule

[3/] 17 = 14 + 3 {Local Rule 3.01(c) plus Rule 6(d) Fed. R. Civ. P.).

[4/] in addition to being a member of the class of *pro se* litigants, Plaintiff is also a member of a distinct race-sex demographic. A demographic, pertinently, that has lower income/wealth than the general population (please see US Bureau of Labor Statistics).
[5/] in Lewis v. Casey, 518 US 343 (1996), the US Supreme Court stressed "the right to equal access" between the parties.

Electronic Copy (text-searchable):
TextBookDiscrimination.com/Files/USFLMD/24000189_GRSP_20240328_1651.pdf

Link to State-Borne Cover Up (HTML, PDF, Video)

HTML	TextBookDiscrimination.com/Info/Misc/ALJPerjury/Complaint-Amended.html
PDF	TextBookDiscrimination.com/Files/USFLND/21000096_AAC_20211231_123954.pdf
Video	https://youtu.be/_RaJXFfXOCE

Link to Originating Case (HTML, PDF, Video) | *Makere v Allstate*

HTML	TextBookDiscrimination.com/Allstate/Complaint-Full.html
PDF	TextBookDiscrimination.com/Files/USFLMD/20000905_AAC_20211104_230439.pdf
Video	https://youtu.be/e3mgBPHesXg

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111 N. Orange Ave, Ste 1750
Orlando, FL 32801

(appearing for Defendants: Standard Insurance; and Mr. Wacker)

EXHIBIT A

Plaintiff's Rough Estimate of Expenses for Printing & Shipping

Author: Plaintiff

3/28/2024

ESTIMATED FINANCIAL COST TO PRINT & SHIP AN ENTIRE CASELOAD

$213

please see "Calculation A"

ESTIMATED TIME EXPENDITURE FOR PRINTING & SHIPPING AN ENTIRE CASELOAD

254 Hours

please see "Calculation B"

ESTIMATED PROSECUTORIAL DAYS LOST PRINTING & SHIPPING AN ENTIRE CASELOAD

569 Potential Days

please see "Calculation C"

CALCULATION A

$213

C	P	F	**R**
$179	0.308	3.87	**$213**

WHERE:

C = Printing & Shipping costs (per 600 sheets) (USD)

$179 = $48 + $11 + $120 (ink + paper + postage) (see ¶10, *supra*)

p = proportion of work load anticipated

0.308 = 5.65 x 32.76 ÷ 600.00

Where:

5.65 = average document size[1]

32.76 = average caseload[2]

600.00 = sheet load (see ¶10, *supra*)

F = plaintiff's endurance factor

"*endurance factor*" ≈ the force in which this litigant proceeds

3.87 = 19.36 x 0.20

Where:

19.36 = endurance multiplier

19.36 = 543.00 ÷ 28.05

Where:

543.00 = Plaintiff's last case[3]

28.05 = typical caseload of similar cases[4]

0.20 = conservative assumption for instant case's zest

R = final result

Final Calculation:	$179.00 x 0.308 x 3.87 = **$213**

Footnotes

[1] 5.65 = Average Page Count {source: random selection of 100 previously downloaded records from DOAH (civil rights cases only)}

[2] 32.76 = Average Caseload = average number of docket entries in a case {source: full selection of USNYWD's freely available docket (civil rights cases only (ie, NOS Code 442))}

[3] "Plaintiff's Last Case" a DOAH-domiciled lawsuit against Allstate Insurance Company

[4] 28.05 = Typical Caseload = average number of docket entries in a case {source: full selection of DOAH's freely available docket (civil rights cases only)}

CALCULATION B

254 hours

T	W	F	**R**
2	32.76	3.87	**254**

WHERE:

T = Printing & Shipping time expenditure (per docket entry) (in hours)

2 = 0.50 + 1.50 (printing time + shipping time) (see ¶10, *supra*)

W = work load anticipated

32.76 = average caseload[2]

F = plaintiff's endurance factor

"*endurance factor*" ≈ the force in which the litigant proceeds

3.87 = 19.36 x 0.20

Where:

19.36 = endurance multiplier

19.36 = 543.00 ÷ 28.05

Where:

543.00 = Plaintiff's last case[3]

28.05 = typical caseload of similar cases[4]

0.20 = conservative assumption for instant case's zest

R = final result

Final Calculation:	2.00 x 32.76 x 3.87 = **254**

Footnotes

[2] 32.76 = Average Caseload = average number of docket entries in a case {source: full selection of USNYWD's freely available docket (civil rights cases only (ie, NOS Code 442))}

[3] "Plaintiff's Last Case" a DOAH-domiciled lawsuit against Allstate Insurance Company

[4] 28.05 = Typical Caseload = average number of docket entries in a case {source: full selection of DOAH's freely available docket (civil rights cases only)}

CALCULATION C

569 days

D	F	**R**
147	3.87	**569**

WHERE:

D = Potential°° Days lost in a case

147 = 4.50 x 32.76 (median days-lost *times* avg caseload)

4.50 = median days-lost = (2+7)÷2

2 = minimum days lost (ie, 14 – 12; see ¶11[4] *supra*)

7 = maximum days lost (ie, 14 – 7; see ¶11[4] *supra*)

32.76 = average caseload[2]

F = plaintiff's endurance factor

"*endurance factor*" ≈ the force in which Plaintiff proceeds

3.87 = 19.36 x 0.20

Where:

19.36 = endurance multiplier

19.36 = 543.00 ÷ 28.05

Where:

543.00 = Plaintiff's last case[3]

28.05 = typical caseload of similar cases[4]

0.20 = conservative assumption for instant case's zest

R = final result

Final Calculation:	147.00 x 3.87 = **569**

Footnotes

[2] 32.76 = Average Caseload = average number of docket entries in a case {source: full selection of USNYWD's freely available docket (civil rights cases only (ie, NOS Code 442))}

[3] "Plaintiff's Last Case" a DOAH-domiciled lawsuit against Allstate Insurance Company

[4] 28.05 = Typical Caseload = average number of docket entries in a case {source: full selection of DOAH's freely available docket (civil rights cases only)}

°° Potential Days will often run concurrent (ie, when deadlines share many of the same calendar dates) (ex: '*Deadline A*' = 1/1/21 and '*Deadline B*' = 1/2/21 while '*Today*' = 12/24/20; so, most of the "potential days" will be double-counted; the impact of the lost days, of course, will still be felt)

Analysis Limitations

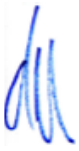
- Money. Plaintiff pulled this data from government sources which did not require financial payment. A better calculation would come from analyzing only USFLMD's discrimination cases. Which would cost thousands of dollars; and be prohibitive. If done, however, Plaintiff has reason to believe that Calculation A and Calculation B would yield larger numbers.
- Time. Calculation C should have a factor for overlapped deadlines. Such a factor would need additional data; data that would take too much time to mine. If done, however, Plaintiff has reason to believe that Calculation C would yield a smaller number.

note: This analysis is for the ***sole*** purpose of supporting the time-constrained civil case motion that it is attached to.

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing analysis is true and correct. Executed this 28th day of March 2024.

UNITED STATES OF AMERICA



3/28/2024

Elias Makere, Plaintiff

PLAINTIFF'S AFFIDAVIT

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

ELIAS MAKERE, FSA, MAAA	)	Case No (LT)
Plaintiff	)	**3:24-cv-000189**
v.	)	
STANDARD INSURANCE COMPANY, UNNAMED DEFENDANT #2, BEN WACKER	)	
Defendant	)	

PLAINTIFF'S AFFIDAVIT IN SUPPORT OF PLAINTIFF'S UNOPPOSED MOTION FOR LEAVE TO UTILIZE ELECTRONIC FILING

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 Federal Rules of Civil Procedure, the Local Rules of Court (USFLMD), USCA11's eFiling handbook; USFLMD's eFiling handbook, and many other rules & regulations pertinent to civil litigation in federal court.
5. I've gone through PACER's online tutorial; and have used PACER's demo site extensively.
6. I also have experience with PACER's eFiling apparatus; as I've used it in a successful federal appeal (USCA11; 21-11901).

Sworn Statements

7. I believe USFLMD's eFiling prohibition places an unreasonable burden on me.
    a. In fact, the restriction has already injured me. I've had to spend 3+ hours re-writing/researching this motion.
        i. All while other important matters have been pending.
    b. Plus, the prohibition forces me to receive hardcopy orders. Hardcopies which are susceptible to unilateral omissions (eg, a page being excluded, etc.).
        i. Hardcopies, also, which arrive several weeks after entry. On March 21, 2024, I received a hardcopy of a Court order. That order was dated February 23, 2024. Put simply, it took this Court 27 days to deliver a court order to me. In contrast, it took this Court 0 days to deliver that same order to my civil opponent (**27 vs 0**). This disparity is material; and harmful.
8. Speaking of harm, USFLMD's eFiling prohibition has already caused – and will continue to cause – harm to my case.
    a. Just today, I discovered that there is an open motion awaiting my response. Here are the details:
        i. During my conferral call with Standard Insurance, I learned that my opponent filed a *Motion to Dismiss*. Doing so, notably, on March 1, 2024 (ie, **27 days ago**).
        ii. Of course, neither this Court nor any of my civil opponents ever forwarded me that motion (before today).

iii. *But for* this eFiling prohibition I would have already:

1. Received that motion; and
2. Filed my response.

9. I need permission to eFile to alleviate these burdens/harms.
10. I believe eFiling will promote public access of information.
11. I will not sell any of the obtained records (or eFiling functionality).
12. I will not transfer any of the obtained records (or eFiling functionality).
13. I only need eFiling access until the end of my civil dispute (after exhaustion of all trial and appellate remedies). At which point I will resume my *regularly scheduled programming*.

Declarations

14. I declare that all of my sworn statements are true.
15. I understand that a false statement may result in termination of my eFiling access.

Request

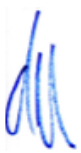
16. May you please grant me permission to electronically file ***and*** receive court documents? Thank You.

Verification Under Oath Pursuant to 28 USC §1746

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 28th day of March 2024.

UNITED STATES OF AMERICA



3/28/2024

Elias Makere, Plaintiff

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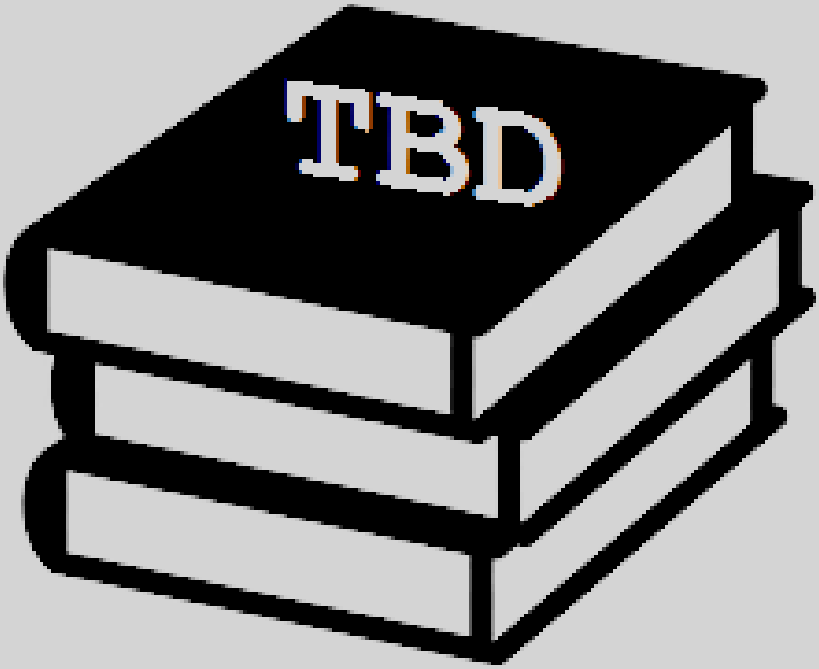

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