

September 02, 2025

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-001754-24T1

TANNIA WINSTON,

Plaintiff-Appellant,

CIVIL ACTION

v.

ON APPEAL FROM
SUPERIOR COURT, LAW DIV.
ESSEX COUNTY

COTTON TEMPLE COGIC/MARIO MOODY

Defendant-Respondents,

Honorable Judge Joshua D. Sanders, J.S.C.
Sat below

TANNIA WINSTON V. COTTON TEMPLE COGIC/MARIO MOODY
Docket No. A-001754-24T1

OPENING BRIEF
FOR
APPELLANT TANNIA WINSTON
Brief Pages: Pbi -Pbxvii
Brief Pages: Pb1 – Pb20
Brief Total Pages: 37

RECEIVED
APPELLATE DIVISION

AUG 29 2025

SUPERIOR COURT
OF NEW JERSEY

TANNIA WINSTON
APPELLANT
1995 JOHN F. KENNEDY BLVD
APT #16
JERSEY CITY, NEW JERSEY 07305
(201) 360-2477
keeperofjoy@yahoo.com
(R.2:9-6(a))

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470 Dr Martin Luther King Jr Blvd
Newark, New Jersey 07102

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1.) Cotton Temple Cogic Church/Mario Moody

381 Bergen Ave

Jersey City, New Jersey 07304

2.) Judge Joshua D. Sanders, J.S.C.

470 Dr Martin Luther King Jr Blvd

Newark, New Jersey 07102

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Designated as "1T"

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Requested and Available
TANNIA M. WINSTON V. COTTON TEMPLE COGIC CHURSH/MARIO MOODY

Newark Superior Court Docket No. **ESX-L-000906-20**

Court Proof Hearing Date: **December 05, 2024**

Trial Court Judge: Joshua D. Sanders, J.S.C.

Newark Superior Court

470 Dr Martin Luther King Jr Blvd

Newark, New Jersey 07102

Brief Page#

Judge Joshua D. Sanders, J.S.C. Oral Order:

Transcribed Ruling during Court Proof Hearing on **December 05, 2024,**

Recorded by Court Telephone {**Transcript 1T**}
"Dismissed without Prejudice"

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Table of Parties

Plaintiff(s):

- 1.) Tannia Winston

1995 John F. Kennedy Blvd

Apt #16

Jersey City, New Jersey 07305

(201)-360-2477

Plaintiff's Attorney:

- 1.) Tannia Winston- Pro Se

1995 John F. Kennedy Blvd

Apt #16

Jersey City, New Jersey 07305

(201)-360-2477

Defendants/Respondents:

- 1.) Cotton Temple Cogic Chursh/Mario Moody (**Adversaries**)

381 Bergen Ave

Jersey City, NJ 07304

Defendant's/Respondent's Attorney:

- 1.) Cotton Temple Cogic Chursh/Mario Moody

381 Bergen Ave

Jersey City, NJ 07304

Judge(s)/Respondent(s):

- 1.) Judge Joshua D. Sanders, J.S.C.

Newark Superior Court (Essex County)

470 Dr Martin Luther King Jr Blvd

Newark, New Jersey 07102

Preliminary Statement

This appeal is premised from a “Dismissal without Prejudice” Court Order of a Civil Claim Court Hearing on December 05, 2024, Winston v. Cotton Temple Cogie Church/Mario Moody. Newark Super. Court. New Jersey (Civ. Div.). Dismissed. 2024 (Pa5), decreed in lower court by Judge Joshua D. Sanders, J.S.C., in the Newark Superior Court (Essex County), 470 Dr Martin Luther King Jr Blvd, Newark, New Jersey 07102.

On November 07, 2019, Plaintiff/Tannia Winston filed the **four count** civil claim for: ***Harassment N.J.S.A, 2C:.33-4, Defamation of Character, Public Humiliation, and Clergy Abuse*** against the Defendant/Cotton Temple Cogie Church/Mario Moody (**Pa16-17)(Pa18-21**) who deliberately attempted to physically grab Plaintiff with both his hands three (3) different times by trying to force unwanted body contact unto Plaintiff without Plaintiff's permission or consent. {1TP24:L19-21} Who also demonstrated malicious prosecution against Plaintiff for being a “Whistleblower”, by wrongfully dismissing Plaintiff from the Church grounds as the Defendant/Mario Moody deliberately followed and verbally harassed and taunted Plaintiff outside of the Church front stairs with Defendant's/Mario Moody both fists up in front of Plaintiff's face, threatening physical assault of Plaintiff with the intent to do body harm trying to provoke a physical altercation to entrap Plaintiff by threatening Plaintiff with bodily harm. {1TP23:L1-5} In addition, Defendant also filed false criminal charges against Plaintiff in the Jersey City Municipal Court{1TP34:L13-15} to cause intentional harm towards Plaintiff's Ministry. Moreover, all false criminal charges against Plaintiff were dismissed with prejudice by Judge Carlos Abad, J.M.C. on May 07. 2019.(**Pa29)(Pa30)(Pa-31**); however this intentional infliction caused Plaintiff Emotional Distress. John C. Depp, II vs. Amber Laura Heard-

Stander/Defamation. Settlement. 2022-Court" 'Depp v. Heard, 107 va.'cir. 80, 90 (va circuit court 2021), a Virginia circuit court.

Plaintiff sought relief, **Rule 4:5-2**, from the lower civil Courts by filing a civil complaint that provided factual details of all incidents and charges (**Pa16-17**)(**Pa18-21**); in addition, to giving the Defendant fair notice of the claim in a timely manner, (**Pa20**)(**Pa21**) according to the Statute of Limitations for each of the four Counts within the civil complaint.

Procedural History**(R. 2:6-2(a)(4)****(R. 2:6-8)**

Tannia Winston, Pro Se, 1995 John F. Kennedy Blvd, Apt #16, Jersey City, New Jersey 07305, filed a **Four Count** Civil Complaint(**Pa16-17**)(**Pa18-21**) on the behalf of Plaintiff/Tannia Winston against Defendant/Cotton Temple Cogic Church/Embria Sconiers and Mario Moody in the Jersey City Superior Court, 595 Newark Ave, Jersey City, New Jersey 07306, on November 07, 2019. **Winston v. Cotton Temple Cogic/Mario Moody Newark Super, Court. New Jersey (Civ. Div.). Dismissed. 2024. (Pa5)**

Plaintiff filed a Civil Action Summons, **Rule 4:4** on December 30, 2019 (**Pa20**) with the Jersey City Superior Court Sheriff's Office and Plaintiff received Affidavit of Defendant being served on January 09, 2020.(**Pa21**) Moreover, Defendant did not/never Responded/Answered or replied back to Plaintiff's Civil Complaint filed in the Jersey City Superior Court (Hudson County), nor did Defendant ever responded/answered or reply back to Plaintiff's Civil Complaint transferred/Change of Venue on January 24, 2020(**Pbvii**)(**Pa1**), to the Newark Superior Court (Essex County), 470 Dr. Martin Luther King Jr Blvd, Newark, New Jersey 07102.

Furthermore, although the Defendant never responded/answered or replied to Plaintiff's Civil Complaint **Rule 4:6-1** filed in a timely manner according to the **New Jersey Court Rules (Title 4), Rule 4:2-2, and Rule 4:5-1**, and even though the Defendant/Cotton Temple Cogic/Mario Moody **never appeared** in the Newark Superior Court, Court Hearing by Telephone, neither was the Defendant/Mario Moody ever recorded as verbally speaking on the recorded Literary written **Transcript {1T}** during the Court Proof Hearing **Rule 4:43-2(b)** on December 05, 2024, in which implies that the Defendant was not present in Court for the Hearing.

Not to fail to mention, that Judge Joshua D. Sanders, J.S.C., of the Newark Superior Court did not acknowledge the Defendant's presence or announced that the Defendant was ever present in the court hearing. In which Judge Joshua D. Sanders, J.S.C., continued to dismiss Plaintiff's/Tannia Winston's filed Civil Complaint without Prejudice that had been in the Civil Courts since year 2019, instead of Entering Default/Summary Judgment? **Rule 4:43-1**

Procedural History Timeline:

- 1.) Plaintiff/Tannia Winston, Pro Se, 1995 John F. Kennedy Blvd, Apt #16, Jersey City, New Jersey 07305, filed an Original Civil Complaint/CIS on the behalf of Plaintiff/Tannia Winston against Defendant/Cotton Temple Cogie Chursh/Embria Sconiers and Mario Moody in the Jersey City Superior Court (Hudson County) **HUD-L-004410-19**, 595 Newark Ave, Jersey City, New Jersey 07306, on November 07, 2019. **(Pa16-17)**
- 2.) Plaintiff's Civil Action Summon HUD-L-004410-19, filed on December 30, 2019. **(Pa20)**
- 3.) Plaintiff's Affidavit **HUD-L-004410-19**, Served on January 09, 2020(01/09/2020). **(Pa21)**
- 4.) Plaintiff's Application for Fee Waiver, "Granted" by Judge Thomas M. Moore, PJ Civil Division on December 07, 2020. **(Pa19)**
- 5.) Plaintiff's Civil Complaint transferred with a Change of Venue by Judge Peter F. Brasio, A.J.S.C. from Jersey City Superior Court to Newark Superior Court (Essex County) on January 24, 2020. **(Pa1)**
- 6.) Plaintiff's Civil Complaint, Jersey City Superior Court JEDS eCourt Tracking transfer from **HUD-L-004410-19** to Newark Superior Court **ESX-L-000906-20** filed on February 03, 2020. **(Pa2)**

- 7.) Plaintiff's Newark/Essex Superior Court eCourt Assignment of Civil Complaint to Newark/Essex Superior Court **ESX-L-000906-20** on February 03, 2020. **(Pa3)**
- 8.) Plaintiff's Application for Fee Waiver, "Granted" by Judge Stephen L. Petrillo, J.S.C. on December 20, 2023. **(Pa32)**
- 9.) Plaintiff's Motion to Reinstate **Rule 1:13-7** Civil Complaint, filed on May 03, 2024. **(Pa22-26)(Pa27-34)**
- 10.) Plaintiff's Civil Complaint was **reinstated** by Judge Stephen L. Petrillo, J.S.C. on May 24, 2024. **(Pa4)**
- 11.) Newark Superior Court eCourt Tracking "Dismissal Notice" of one of the Parties/Respondents, Defendant's/**Embria Sconiers** (deceased in July 2021) was removed from Civil Complaint due to physical death/deceased on July 26, 2024. **(Pa35)**
- 12.) Plaintiff's Motion for Civil Complaint to Enter Default Judgment, filed on August 03, 2024, scheduled Proof hearing **Rule 4:43-2(b)** on December 05, 2024. **(Pa36)(Pa37)(Pa38)**
- 13.) Plaintiff's Motion for Civil Complaint Enter Final Judgment, filed on August 28, scheduled Proof hearing **Rule 4:43-2(b)** on December 05, 2024. **(Pa39-40)(Pa41-61)**
- 14.) Plaintiff's Motion requesting Proof Hearing **Rule 4:43-2(b)**, filed on November 04, 2024, scheduled on December 05, 2024. **(Pa62)**
- 15.) 6 Plaintiff's Court Order 5: Civil Complaint Dismissed without Prejudice by Judge Joshua D. Sanders, J.S.C. at Proof Hearing **Rule 4:43-2(b)** on December 05, 2024. **(Pa5)**
- 16.) Plaintiff filed Motion for **Reconsideration, Rule 4:49-2** of Court Order: Dismissal of Civil Complaint on December 14, 2024. **(Pa70-74)**

- 17.) Judge Joshua D. Sanders, J.S.C. **Denied** Plaintiff's Motion for Reconsideration, filed on January 17, 2025. **(Pa6)**
- 18.) Plaintiff filed Motion to **Reinstate Rule 1:13-7** Civil Complaint on December 14, 2024. **(Pa75-79)**
- 19.) Judge Joshua D. Sanders, J.S.C. **Denied** Plaintiff's Motion to Reinstate on January 17, 2025. **(Pa7)**
- 20.) Plaintiff filed Motion to **Amend Rule 4:9-1** Civil Complaint on December 14, 2024. **(Pa80-84)**
- 21.) Judge Joshua D. Sanders, J.S.C. **Denied** Plaintiff's Motion to Amend Civil Complaint on January 17, 2025. **(Pa8)**
- 22.) Plaintiff filed Motion to resume **Proof Hearing Rule 4:43-2(b)** on December 14, 2024. **(Pa85-89)**
- 23.) Judge Joshua D. Sanders, J.S.C. **Denied** Plaintiff's Motion to resume Proof Hearing on January 17, 2025. **(Pa9)**

Statement of Facts**(R. 2:6-2(a)(5))**

TANNIA M. WINSTON V. COTTON TEMPLE COGIC/MARIO MOODY, Court Case Docket# **ESX-L-000906-20**, *Winston v. Cotton Temple Cogic Church/Mario Moody. Newark Super. Court. New Jersey (Civ. Div.). Dismissed. 2024 (Pbvii)(Pa5){1TP36:L5-6}*

This civil complaint of **Four Counts (Pa16-17)** of stating a Claim for Relief, ***Rule 4:5-2***, was filed by Plaintiff/Tannia Winston against Defendant/Cotton Temple Cogic Church/Mario Moody on November 07, 2019, in the Jersey City Superior Court (Hudson County) (**HUD-L-004410-19**), 595 Newark Ave, Jersey City, New Jersey 07306. The civil complaint was then transferred by a **Change of Venue, *Rule 4:3-3*** by Court Order of Judge Peter F. Brasio, Jr., A.J.S.C. on January 24, 2020, (**Pa1**) to Newark Superior Court (Essex County) (**ESX-L-000906-20**), 470 Dr. Martin Luther King Jr Blvd, Newark, New Jersey 07102. (**Pa1**) -

Judge Joshua A. Sanders, J.S.C. dismissed Plaintiff's civil complaint without Prejudice without the Defendant/Cotton Temple Cogic Church/Mario Moody being present during the Court Hearing by "**telephone**" to address the Court on December 05, 2024, {1TP36:L5-6} Nor without the Defendant responding/answering to Plaintiff's filed civil complaint when Defendant was Served Civil Action Summons, ***Rule 4:4*** on January 09, 2020 by Jersey City Sheriff's Office. (**Pa20**)(**Pa21**) Plaintiff immediately filed four (4) Motions for Reconsideration, ***Rule 4:49-2 (Pa70-74)***, Motion to Reinstate Civil Claim, ***Rule 1:13-7 (Pa75-79)***, Motion to Amend Civil Complaint, ***Rule 4:9-1 (Pa80-84)***, and Motion to resume Proof Hearing, ***Rule 4:43-2(b) (Pa85-89)*** of the dismissal Order; however, all four (4) Motions that were heard by the Judge without a trial or hearing, were denied by Judge Sanders, J.S.C. (**Pa6**)(**Pa7**)(**Pa8**)(**Pa9**) Plaintiff was left with no other recourse than to file an Appeal with the New Jersey Appellate Division. The

Appellant/Plaintiff contends that the trial court erred in misapplying the standard for summary judgment/default judgment/final judgment. {1TP36:L5-6} This appeal seeks to reverse the lower trial court's decision and remand the further proceedings. *Shick v. Ferolito*, 167 N.J. 7, 20 (2001) Because this civil claim was filed in a timely manner, according to the Judicial Statute and was in court for six (6) years, since 2019. And because the Defendant/Cotton Temple Cogie/Mario Moody will *not* allow the Plaintiff/Tannia Winston to Serve them Civil Summons Actions of a new filed civil complaint by the Jersey City Sheriff's Office again to appear for a new civil hearing? {1TP37:L11-14}

Argument I
(Not raised below)

(The Newark Superior Court Civil Division erred with a Procedural error in dismissing Plaintiff's Civil Claim without Prejudice on 12/05/2024, *Rule 2:10-2 (Pa5)* because the Defendant/Cotton Temple Cogie/Mario Moody never Responded/Answered to Plaintiff's Civil Complaint filed on November 07, 2019, after being Served by Jersey City Sheriff's Office on January 09, 2020 and Plaintiff received Affidavit from Sheriff's office.) (Pa21) Moreover, Plaintiff was denied a fair hearing? *Rule 60, Under Rule 4:43-1*, "If a defendant fails to answer after being properly served, the Plaintiff may request: Entry of Default and or Default Judgment if damages are proven." *The City of New York v. Mickalis Pawn Shop, LL.08-4804-cv, 09-1345-cv. U.S. Court of Appeals, Second Circuit. 2011.* "The appellate court affirmed that the defendant's failure to respond constituted a waiver of defense."

At the Court's discretion, Plaintiff is requesting the Appellate Courts to correct the err/mistake that was overlooked; in which appeared to have undermined fairness in the judicial due process. *42 U.S.C. § 1983—civil rights*

Discovery 1: "Per CCP § 471.5, the defendant must respond to the amended complaint *Rule 4:9-1* within 30 days of service, or within any other time frame set by the court." The Defendant/Cotton Temple Cogie/Mario Moody never responded or Answered after being served civil summon action or responded to certified mail of Plaintiff's Amended Motion/Complaint.

Argument II
(Not raised below)

(The Newark Superior Court Civil Division erred in dismissing Plaintiff's Civil Claim to Enter into Default Judgment without Prejudice on 12/05/2024 Proof Hearing,(Pa5) because there was no proof that the Defendant/Cotton Temple Cogic/Mario Moody was actually in the courtroom/on the Court telephone for the Court Proof Hearing on December 05, 2024) *R.4:5-2 Rule 2:10-2* "Plaintiff may request default under *Rule 4:43-1*. Courts are expected to enter default when the defendant does not participate." *Rule 4:6-1*

Plaintiff is requesting of the Appellate Court to allow Plaintiff to prove claim with admissible evidence of the already filed civil claim. **(Pa16-17)(Pa18)(Pa19)(Pa20)(Pa21)(Pa22-26)(Pa27-34)** "In which the Court will conduct a "**prove-up**" hearing where the plaintiff presents documents, affidavits, or testimony. Such a hearing would allow the Appellate Court/Trial Court to evaluate the merits of Plaintiff's claim and determine appropriate relief. Denial of this opportunity constitutes a procedural error under *Rule 2:10-2*, as it was clearly capable of producing an unjust result by depriving Plaintiff of a fair hearing." *Northland Ins. Co. v. Cailu Title Corp., 204 F.R.D. 327 (W.D. Mich. 2000)*

Discovery 1 of 2: "Risk of Default Judgment: If the defendant also failed to file any response or answer to the lawsuit, the plaintiff may request a default judgment under *Rule 55* of the Federal Rules of Civil Procedure. This allows the court to rule in favor of the plaintiff without further input from the defendant."

Discovery 2 of 2: Plaintiff never requested of the Newark Superior Court to have Court Proof Hearing by Court Telephone; this matter was decided by Courts. Moreover, Plaintiff is not aware of whether or not if Judge D. Sanders, J.S.C., is knowledgeable of who the Defendant/Mario Moody (Biological Person) is or whether or not if he/the Judge could recognize the Defendant/Mario Moody by the vocal sound of his voice if he/the Judge, would hear it by the Court's telephone? Plaintiff is aware of how the Defendant/Mario Moody, the Biological person looks and Plaintiff is aware of and can recognize the Defendant/Mario Moody by the vocal sound of his voice. Without the Defendant/Cotton Temple Cogic/Mario Moody verbally speaking during the Proof Hearing on December 05, 2024 while Plaintiff was present during the Proof hearing, there was no way that Plaintiff could have confirmed with the Newark Superior Courts or to Judge D. Sanders, J.S.C. that any person(s) who assumed being in the court Proof hearing "as" the Defendant/Cotton Temple Cogic/Mario Moody to the Judge was legitimate or not? (Anyone could have portrayed as the Defendant/Cotton Temple Cogic/Mario Moody over the Court's telephone without Judge D. Sanders, J.S.C., awareness. Furthermore, during the Court Proof hearing on December 05, 2024, Judge D. Sanders, J.S.C., never asked the Defendant/Cotton Temple Cogic/Mario Moody any questions as to never responding/answering Plaintiff's civil complaint when served by the Jersey City

Sheriff's Office nor did the Judge ever ask Defendant/Cotton Temple Cogic/Mario Moody in reference to the "charity" declaration of the organization in question. Nor was the Defendant/Cotton Temple Cogic/Mario Moody recorded on the Literary Transcript {1T} that was requested, available, and submitted by and with Plaintiff's Brief and Appendix as the Defendant/Cotton Temple Cogic/Mario Moody as **not** being present and or not verbally speaking in the Court Proof Hearing.

Argument III
(Not raised below)

(The Newark Superior Court Civil Division erred in dismissing Plaintiff's Civil claim on 12/05/2024 (Pa5) due to discovery that Defendant/Cotton Temple Cogie/Mario Moody did not state that Church in question: Cotton Temple Cogie was classified as "charitable institute", deeming it immunity from legal action; in which the Presiding Judge/Judge Joshua D. Sanders. J.S.C. alone without the Defendant's declaration testimony cannot classify the Church as charitable himself without the Defendant declaring it so on record and to the Plaintiff.) *Rule 2:10-2* {1TP33:L16-25}

N.J.S.A. 2A:53A-7.1b, "No person who provides volunteer service or assistance for any nonprofit corporation, society or association; however, this immunity does not apply if the volunteer's actions are willful, wanton, or grossly negligent."

The Defendant's misconduct involved intentional wrongdoing or reckless behavior of deliberate negligence by filing false criminal charges against the Plaintiff was of Harassment N.J.S.A, 2C:33-4, Defamation of Character, Public Humiliation, and Clergy Abuse (**Pa16-17**)(**Pa22-26**)(**Pa27-34**), these actions towards Plaintiff's Character as being a Public Figure was put in a False Light that damaged Plaintiffs reputation and Evangelist Ministry; with acts of malicious prosecution, public humiliation, that caused Plaintiff emotional distress, anxiety, and trauma.{1TP35:L16-21} Moreover, the Plaintiff suffered harm and damages in which Courts may deny or waive the immunity protection whereas immunity does not apply when the Defendants actions are of willful misconduct. *Ryan v. Holy Trinity Evangelical Lutheran Church.* (A-116/117-

01). February 11, 2003. O'Connell v. State. (1996).171 N.J. 484795 A.2D 857.September 2000.

Steinberg v. Sahara Sam's Oasis, LLC, 226 N.J. 344 (2016)

Discovery 1 of 2: “A Judge can rule on whether an organization meets the legal definition of a charitable institution based on evidence; however, the organization (defendant) must claim and prove its charitable status. Judges are ethically restricted from promoting or declaring charitable status outside of formal legal determinations.”{ITP33:L16-25}

The Defendant/Cotton Temple Cogic/Mario Moody was not present in the court Proof hearing on December 05, 2024 by telephone to make such declaration. Nor did anyone else on the Defendant's behalf spoke in the Courts to the Judge with the Plaintiff in Court hearing that the stated or declared that establishment or organization in question was of a “charitable” institution.

Discovery 2 of 2: Plaintiff requesting Appellate Division to refer to the only **Literary Transcript** {IT} of the Court hearing Winston v. Cotton Temple Cogic Chursh/Mario Moody. Newark Super. Court. New Jersey (Civ. Div.). Dismissed. 2024 (Pa5) to discover that the Defendant/Cotton Temple Cogic Chursh/Mario Moody was not present by Court telephone in the Proof hearing that was scheduled for December 05, 2024 by the Newark Superior Court. Nor was the Defendant/Cotton Temple Cogic Chursh/Mario Moody recorded on the literary transcript of the hearing. Judge Joshua D. Sanders, J.S.C., failed to disclose on the record to the Courts and to the Plaintiff that the Defendant/Cotton Temple Cogic Chursh/Mario Moody was present or in attendance during the court Proof hearing. Moreover, when Plaintiff filed initial civil complaint, Plaintiff disclosed all known person(s) in the Defendant's Party and certified all actions of the Defendant/Cotton Temple Cogic/Mario Moody based on the personal eye-witnessing of the

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Plaintiff of all incidents and damages that occurred against Plaintiff. Therefore, it was necessary for Plaintiff to be allowed to identify the presence of the Defendant/Cotton Temple Cogie/Mario Moody during the Proof Hearing as being the same known person(s) in the Defendant's Party/Cotton Temple Cogie/Mario Moody during the Court's Telephone Proof Hearing as the same responsible person/Party who Plaintiff referenced in the initial civil complaint that was the caused all incidents and damages.

Argument IV
(Not raised below)

(The Newark Superior Court Civil Division erred in dismissing Plaintiff's Motion to Reconsidered *Rule 4:49-2* (Pa70-74), Court Order decreed on December 5, 2024, because Defendant Cotton Temple Cogic/Mario Moody actions were of willful misconduct whereas immunity as a Charitable organization does not apply.) *Fitzgerald v. City of East Orange, 287 N.J. Super. 351 (App. Div. 1996)* *Alston v. City of Camden, 168 N.J. 170 (2001)*

“The statute does not protect volunteers in cases involving willful, wanton, or grossly negligent acts. Negligent operation of a motor vehicle So, if a volunteer's conduct rises above ordinary negligence—into reckless or intentional misconduct—they can still be held liable.”

“Plaintiff asserts that the trial court erred in dismissing the complaint without prejudice despite Defendant's failure to respond or answer following proper service. Pursuant to New Jersey Court ***Rule 4:43-2***, when a defendant fails to plead or otherwise defend, the plaintiff is entitled to seek default judgment upon submission of competent evidence.” Plaintiff filed a Civil Action Summons ***Rule 4:4*** on December 30, 2019 with the Jersey City Superior Court Sheriff's Office and Plaintiff received Affidavit of Defendant being served on January 09, 2020. The Defendant's/Cotton Temple Cogic Church/Mario Moody's Affidavit attests to service, damages, and liability of the civil claim. **(Pa20)(Pa21)**

Argument V
(Not raised below)

(Plaintiff requesting relief from Courts, for clerical error, *Rule 60*, in e-filing through JEDS a Motion/Amended Complaint (Pa22-26)(Pa27-28)(Pa29-34) *Rule 4:9-1* in (good faith and due diligence) on May 03, 2024), *Rule 4:6-2*, Plaintiff was not knowledgeable that permission from the courts were required to amend civil complaint; therefore, Plaintiff/Pro se amended the civil complaint upon filing Motions to reinstate, *Rule 1:13-7* the civil complaint on May 03, 2024 that had been dismissed due to “lack of prosecution,” as the civil case process was still being affected by the COVID-19 shutdown by the Courts and the death of one of the Defendants/Embria Sconiers. (Pa35) Moreover, it was *not* done with the intent to be “sneaky” of any sort; however, Plaintiff as a Pro se lack of knowledge of the judicial procedural was based merely on bringing clarity to the original filed civil complaint that Plaintiff initially filed in the Jersey City Superior civil division in year 2019; in which the Defendant/Cotton Temple Covic/Mario Moody never responded/Answered a reply upon being summoned. *Rule 4:4 Foman v. Davis, 371 U.S. 178 (1962)*

***Rule 15(a)*, “Amendments Before Trial. Amending *Rule 4:9-1* as a Matter of Course. A party may amend its pleading once without court permission, within 21 days after serving it, or within 21 days after receiving a responsive pleading or a motion under *Rule 12(b), (e), or (f)*—whichever is earlier.”**

Conclusion

“Mistrial: A Trial that is rendered void and of no legal effect because of some serious procedural error or irregularity or because of the inability of the jury to reach a verdict.”

“A fair trial is a trial which is "conducted fairly, justly, and with procedural regularity by an impartial judge.”

“The Fourteenth Amendment- The right to “equal protection of the laws.” Rule 2:10-2

“Rule 4. Appeal as of Right—When Taken (a) Appeal in a Civil Case. (1) *Time for Filing a Notice of Appeal.* “(A) In a civil case, except as provided in Rules 4(a)(1)(B), 4(a)(4), and 4(c), the notice of appeal required by Rule 3 must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.”

“Rule 5. Appeal by Permission (a) PETITION FOR PERMISSION TO APPEAL.(1) To request permission to appeal when an appeal is within the court of appeals’ discretion, a party must file a petition with the circuit clerk and serve it on all other parties to the district-court action.” “Despite the apparent limitations of the Eleventh Amendment, individuals may, under certain circumstances, bring constitutional and statutory cases against states. In some of these cases, the state’s sovereign immunity has either been waived by the state or abrogated by Congress. In other cases, the Eleventh Amendment does not apply because the procedural posture is such that the Court does not view them as being against a state.” *Belfond v Petosa, A.D.3d [1st Dept 2021] Appellate Division, First Department*

Stating Relief Sought:

“ArtIII.S2.C2.4 Supreme Court Appellate Jurisdiction Article III, Section 2, Clause 2:

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a

State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.”

While it would appear that Pro Se's are being held in the same high regards as Attorneys/Lawyers/Legal Representatives when it comes to presenting and representing the Laws, Statutes, Rights, Rules and Regulations, etc., that governs over our society in the State of New Jersey, as a reminder, Pro Se's are not Attorneys, Lawyers or Legal Representatives who have Degrees in Law nor studies the Law, but are Self Litigants that are often forced to have to defend themselves against law breakers of the State in the Court of Law.

While the Jersey City Superior Court Appellate Division is at liberty to decree or declare any judicial decision they deem is just and fair for all and all Court cases, Plaintiff/Tannia Winston/Pro Se would like the Appellate Court Division to take into consideration that Plaintiff still has the burden of Proof to present to the Lower Court and still is seeking relief from Plaintiff's Civil Complaint by the Jersey City Superior Court Appellate Division considering Plaintiff case for a retrial by a Reversal of The Court Order (**Pa**) of the Lower Court.

Moreover, this is not a demand on the ears of the Courts by any means, but simply a suggestion about relief sought.

Tannia Winston, Pro Se

/s/Tannia Winston