

No. 22-5604

**IN THE
SUPREME COURT OF THE UNITED STATES**

John Gregory Lambros - PETITIONER, Pro Se

Vs.

**Federative Republic of Brazil and State of Rio
De Janeiro of the Federative Republic of Brazil**

RESPONDENT(S)

**ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT -
No. 21-7121**

**APPENDICES AND EXHIBITS
PETITION FOR WRIT OF CERTIORARI**

John Gregory Lambros, Pro Se

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EXHIBITS:

EXHIBIT A: November 5, 2018, Letter from Celeste Ingalls, Director of Operations, Crowe Foreign Services to the Honorable Florence Y. Pan, Superior Court of the District of Columbia, Civil Division. Please note that two (2) docket sheets from Brazil are attached. -(attached is a copy of the Brazilian court docket reports for each service" - Letter Rogatory 12537 and 12540) - that were established when Respondents - Defendants received service of the complaint and summons in this action and docketed receipt - September 13, 2017.).....6.

EXHIBIT B: April 8, 2019: "ORDER" by Judge Pan stating "Defendants have not filed a responsive pleading to the complaint nor have they filed an opposition to the instant motion. The Court therefore enters a default against defendants. See D.C. Super. Ct. R. 55(a).".....8.

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DATED this 14th day of September, 2022.

Respectfully submitted,

John Gregory Lambros, Petitioner - Pro Se

PROOF OF SERVICE

I, John Gregory Lambros, do swear or declare that on this date, dated this 14th day of September, 2022, as required by Supreme Court Rule 29 I have served this **Appendices and Exhibits** - for Petition for Writ of Certiorari on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

1. The Clerk of the U.S. Supreme Court, 1 First St NE, Washington, D.C., DC 20543.
2. **Foley Hoag LLP, Attn:** Attorney Clara E. Brillemboug, 1717 K St NW, Washington, DC 20006.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on this 14th day of September, 2022.

John Gregory Lambros, Pro Se

Appendix A

July 20, 2022: REHEARING en banc "ORDER" - U.S. Court of Appeal for the District of Columbia Circuit (Washington, DC) is unpublished.

.....**1,17.**

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-7121

September Term, 2021

1:19-cv-01929-TSC

Filed On: July 20, 2022

John Gregory Lambros,

Appellant

v.

Federative Republic of Brazil and State of Rio
De Janeiro of the Federative Republic of
Brazil,

Appellees

BEFORE: Srinivasan, Chief Judge, and Henderson, Rogers, Millett, Pillard,
Wilkins, Katsas, Rao, and Walker, Circuit Judges

ORDER

Upon consideration of the petition for rehearing en banc, and the absence of a request by any member of the court for a vote, it is

ORDERED that the petition be denied.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk

APPENDIX A.

Appendix B.

June 1, 2022: "JUDGMENT" U.S. Court of Appeals for the District of Columbia Circuit (Washington, DC) is unpublished.....1,16.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 21-7121

September Term, 2021

1:19-cv-01929-TSC

Filed On: June 1, 2022

John Gregory Lambros,

Appellant

v.

Federative Republic of Brazil and State of Rio
De Janeiro of the Federative Republic of
Brazil,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BEFORE: Katsas, Rao, and Walker, Circuit Judges

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). Upon consideration of the foregoing and the motion to appoint counsel and the opposition thereto, it is

ORDERED that the motion to appoint counsel be denied. In civil cases, appellants are not entitled to appointment of counsel when they have not demonstrated sufficient likelihood of success on the merits. It is

FURTHER ORDERED AND ADJUDGED that the district court's May 6, 2021 order be affirmed. The district court correctly dismissed this action for lack of subject matter jurisdiction because no exception to immunity under the Foreign Sovereign Immunities Act applies. See 28 U.S.C. §§ 1604, 1605(a)(1), 1605(a)(2); Saudi Arabia v. Nelson, 507 U.S. 349, 355 (1993); Argentine Republic v. Amerada Hess Shipping Corp., 488 U.S. 428, 442-43 (1989). Moreover, appellant has not shown that the district court committed any error in denying the motion to remand and vacating the entry of default.

APPENDIX B.

Appendix C.

October 8, 2021: U.S. District Court for the District of Columbia (Washington, DC), Civil Docket for Case #: 1:19-cv-01929-TSC. "ORDER" (Rule 59(e)). Honorable Judge Chutkan. Unpublished.1,13.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN GREGORY LAMBROS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 19-cv-1929 (TSC)
)	
FEDERATIVE REPUBLIC OF BRAZIL)	
<i>et al.</i> ,)	
)	
Defendants.)	
)	
)	

ORDER

Plaintiff has filed a timely motion under Rule 59(e) of the Federal Rules of Civil Procedure to alter or amend the May 6, 2021 Order, dismissing this case for lack of subject-matter jurisdiction. For the following reasons, the motion will be denied.

A court may exercise its discretion to grant a Rule 59(e) motion upon finding that “there is an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice.” *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996) (per curiam) (citation and internal quotation marks omitted). “A Rule 59(e) motion to reconsider is not simply an opportunity to reargue facts and theories upon which a court has already ruled,” *New York v. United States*, 880 F. Supp. 37, 38 (D.D.C. 1995), nor is it a means to raise new issues or to present new theories or arguments that could have been advanced during the course of litigation, *Patton Boggs LLP v. Chevron Corp.*, 683 F.3d 397, 403 (D.C. Cir. 2012) (citing *Fox v. Am. Airlines, Inc.*, 389 F.3d 1291, 1296 (D.C. Cir. 2004)).

APPENDIX¹ C.

Plaintiff has asserted nothing to overcome the jurisdictional bar to this action against a foreign state. See Mem. Op. at 4-7, ECF No. 36.

Accordingly, it is

ORDERED that Plaintiff's Motion to Alter or Amend Judgment, ECF No. 37, is **DENIED**.

Date: October 8, 2021

Tanya S. Chutkan
TANYA S. CHUTKAN
United States District Judge

APPENDIX ² C.

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Appendix D.

May 6, 2021: U.S. District Court for the District of Columbia (Washington, DC), Civil Docket for Case #: 1:19-cv-01929-TSC. "MEMORANDUM OPINION". Honorable Judge Chutkan. Unpublished.....1,12.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)
JOHN GREGORY LAMBROS,)
)
Plaintiff,)
)
v.) Civil Action No. 19-cv-1929 (TSC)
)
FEDERATIVE REPUBLIC OF BRAZIL)
et al.,)
)
Defendants.)
_____)

MEMORANDUM OPINION

This lawsuit, brought *pro se*, stems from Plaintiff’s extradition from Brazil to the United States, where he was convicted of federal drug offenses. Defendants Brazil and political sub-division Rio de Janeiro State have moved to dismiss. For the reasons explained below, Defendants’ motion will be GRANTED.

I. BACKGROUND

In May 1989, Plaintiff was indicted on four counts “stemming from a cocaine importing conspiracy.” *United States v. Lambros*, 65 F.3d 698, 699 (8th Cir. 1995). He “fled the country, and was arrested in Brazil in May 1991.” *Id.* In June 1992, after contesting extradition, Plaintiff was remanded to the United States’ custody. In January 1993, he was convicted of all counts in the United States District Court for the District of Minnesota. *Id.*

On February 10, 2017, Plaintiff filed the instant civil suit in the Superior Court of the District Columbia, which Defendants removed to this court on June 27, 2019.

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See Order, ECF No. 25 (denying motion for remand and vacating entry of default). The prolix Complaint, consisting of 491 paragraphs, is wide-ranging but essentially challenges Plaintiff's extradition proceedings in the Brazilian court and the conditions of his confinement in Brazil. Plaintiff alleges, among other things, that while awaiting extradition he was tortured and subjected to bizarre mind-control procedures by Brazilian authorities, apparently with the United States' consent, assistance, and/or indifference. See Compl. ¶¶ 4-17, ECF No. 1-3; cf. *Lambros*, 65 F.3d at 701 (referencing "persuasive indirect evidence that Lambros was not mistreated in Brazil").

Defendants identify the following claims and requests for relief: (1) unlawful trade practices, fraud and artifice, Compl. ¶¶ 80-134, 472; (2) fraud, *id.* ¶¶ 135-165, 473; (3) negligent misrepresentation, *id.* ¶¶ 166-171, 474; (4) negligence, *id.* ¶¶ 172-181, 475; (5) breach of contract, *id.* ¶¶ 182-192, 476; (6) breach of fiduciary duty, *id.* ¶¶ 193-218, 477; (7) intentional infliction of emotional distress, *id.* ¶¶ 219-228, 478; (8) false arrest and false imprisonment, *id.* ¶¶ 229-266, 479; (9) assault and/or battery, *id.* ¶¶ 267-298, 480; (10) civil conspiracy, *id.* ¶¶ 299-311, 481; (11) violations of the Racketeering Influence and Corrupt Organizations Act ("RICO Act"), *id.* ¶¶ 331-469, 483; (12) a request for a declaratory judgment, *id.* ¶¶ 312-330, 482; (13) a request for medical monitoring, *id.* ¶ 485; and (14) injunctive relief, *id.* 1-3 ¶¶ 488-489. Mem. of P. & A ("Mem.") at 16, ECF No. 26-1.

II. LEGAL STANDARD

Defendants seek dismissal first under Federal Rule of Civil Procedure 12(b)(1), for lack of subject-matter jurisdiction. "Federal district courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute, which is not to be expanded by judicial decree." *Kokkonen v. Guardian Life Ins. Co. of*

Am., 511 U.S. 375, 377 (1994) (internal citations omitted). “Subject-matter jurisdiction can never be waived or forfeited” because it “goes to the foundation of the court’s power to resolve a case.” *Gonzalez v. Thaler*, 565 U.S. 134,141 (2012); *Doe ex rel. Fein v. District of Columbia*, 93 F.3d 861, 871 (D.C. Cir. 1996). Before proceeding to the merits of a claim, a court must satisfy itself that it has subject-matter jurisdiction to consider the claim. *See Brown v. Jewell*, 134 F. Supp. 3d 170, 176 (D.D.C. 2015) (courts “have an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party”) (quoting *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006)).

In evaluating a motion to dismiss under Rule 12(b)(1) for lack of subject-matter jurisdiction, the court must “assume the truth of all material factual allegations in the complaint and ‘construe the complaint liberally, granting plaintiff the benefit of all inferences that can be derived from the facts alleged.’” *Am. Nat’l Ins. Co. v. FDIC*, 642 F.3d 1137, 1139 (D.C. Cir. 2011) (quoting *Thomas v. Principi*, 394 F.3d 970, 972 (D.C. Cir. 2005)). Nevertheless, “the court need not accept factual inferences drawn by plaintiffs if those inferences are not supported by facts alleged in the complaint, nor must the Court accept plaintiff’s legal conclusions.” *Disner v. United States*, 888 F. Supp. 2d 83, 87 (D.D.C. 2012) (quoting *Speelman v. United States*, 461 F. Supp. 2d 71, 73 (D.D.C. 2006)). And while courts construe *pro se* filings liberally, *see Richardson v. United States*, 193 F.3d 545, 548 (D.C. Cir. 1999), the non-justiciability of the case and the absence of jurisdiction cannot be overcome by liberal construction of the complaint.

III. ANALYSIS

Defendants argue that Plaintiff has not met his burden of establishing jurisdiction under the Foreign Sovereign Immunities Act (FSIA). Mem. at 17-27. The court agrees.

The FSIA “holds foreign states and their instrumentalities immune from the jurisdiction of federal and state courts,” save exceptions set out in the Act, *Opati v. Republic of Sudan*, 140 S. Ct. 1601, 1605 (2020), or where “an [existing] international agreement” to which the United States was a party at the time of the FSIA’s enactment in 1976 provides otherwise, *Peterson v. Royal Kingdom of Saudi Arabia*, 416 F.3d 83, 86 (D.C. Cir. 2005) (citations omitted); see *Roeder v. Islamic Republic of Iran*, 646 F.3d 56, 58 (D.C. Cir. 2011) (“The FSIA provides generally that a foreign state is immune from the jurisdiction of the United States courts unless one of the exceptions listed in 28 U.S.C. § 1605(a) applies”) (internal quotation marks and citation omitted)); *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428, 442 (1989) (exception under 28 U.S.C. § 1604 “applies when international agreements ‘expressly conflic[t]’ with the immunity provisions of the FSIA”). A foreign state cannot “waive its immunity under § 1605(a)(1) by signing an international agreement that contains no mention of a waiver of immunity to suit in United States courts or even the availability of a cause of action in the United States.” *Argentine Republic*, 488 U.S. at 442.

Plaintiff relies on Article XII of the Brazil/United States Treaty of Peace, Friendship, Commerce and Navigation, Dec. 12, 1828, 8 Stat. 390, T.S. 34, 5 Bevans 792 (“Amity Treaty”), available at http://avalon.law.yale.edu/19th_century/brazil01.asp., see Opp’n at 15 ¶ 40, ECF No. 34, and Article XI of the Treaty of Extradition between the United States and Brazil, Jan. 13, 1961, 15 U.S.T. 2093, T.I.A.S. 5691, 532 U.N.T.S. 177, see Compl. ¶¶ 22, 26.

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Article XII of the Amity Treaty states:

Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens and subjects of each other, of all occupations, who may be in their territories, *subject to the jurisdiction of the one or the other*, transient or dwelling therein, *leaving open and free to them the tribunals of justice for their judicial intercourse, on the same terms which are usual and customary with the natives or citizens and subjects of the country in which they may be*; for which they may employ, in defence of their rights, such advocates, solicitors, notaries, agents and factors, *as they may judge proper in all their trials at law.*

(Emphases added.) Article XI of the Extradition Treaty states:

The determination that extradition based upon the request therefor should or should not be granted shall be made in accordance with the domestic law of the requested State, and the person whose extradition is desired shall have the right to use such remedies and recourses as are authorized by such law.

Neither provision mentions immunity, and “treaties do not generally create rights that are privately enforceable in the federal courts.” *United States v. Li*, 206 F.3d 56, 60–61 (1st Cir. 2000) (citing *Head Money Cases*, 112 U.S. 580, 598 (1884) (other citations omitted)). In *Argentine Republic*, the Supreme Court examined similar reciprocity language in an amity treaty between the United States and Liberia providing that nationals of each country “shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws.” 488 U.S. at 443. The Court explained that because the FSIA “is clearly one of the ‘local laws’ to which respondents must ‘conform’ before bringing suit in United States courts,” no exception under the Act applied. *Id.* Plaintiff has asserted nothing to compel a different result here.

Plaintiff also suggests that immunity is waived under the FSIA’s commercial activity exception and its noncommercial tort exception. Neither exception applies

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here, however.

The FSIA waives immunity for claims based on

commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States;

28 U.S.C. § 1605(a)(2) (“commercial activity exception”), and claims

not otherwise encompassed in paragraph (2) above, in which money damages against a foreign state for personal injury or death, or damage to or loss of property, occurring in the United States and caused by the tortious act or omission of that foreign state or of any official or employee of that foreign state while acting within the scope of his office or employment; *except* this paragraph shall not apply to—

(A) any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function regardless of whether the discretion be abused, or

(B) any claim *arising out of* malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights[.]

28 U.S.C. § 1605(a)(5) (“tortious conduct exception”) (emphases added)).

A. Commercial Activity

“A state is immune from the jurisdiction of foreign courts as to its sovereign or public acts (*jure imperii*), but not as to those that are private or commercial in character (*jure gestionis*). *Saudi Arabia v. Nelson*, 507 U.S. 349, 359-60 (1993). Commercial activity occurs when a foreign state “acts ‘in the manner of a private player within’ the market.” *Id.* at 360 (citation omitted). Extradition, which is the overarching issue in this case, is a quintessential “sovereign act,” *United States v. Trabelsi*, 845 F. 3d 1181, 1187 (D.C. Cir. 2017) (internal quotation marks and citation

omitted), and the Supreme Court has explicitly held that allegations of “personal injury resulting from unlawful detention and torture by [a foreign government] is not ‘based upon a commercial activity’ within the meaning of the Act,” *Nelson*, 507 U.S. at 351.

B. Noncommercial Torts

Plaintiff’s Complaint fares no better under the tortious conduct exception for the simple reason that the behavior leading to Plaintiff’s injuries was allegedly undertaken in Brazil by Brazilian authorities, and “the law is clear that the entire tort—including not only the injury but also the act precipitating that injury—must occur in the United States.” *Jerez v. Republic of Cuba*, 775 F.3d 419, 424 (D.C. Cir. 2014); see *Argentine Republic*, 488 U.S. at 441 (“the exception in §1605(a)(5) covers only torts occurring within the territorial jurisdiction of the United States”). Furthermore, as set out above in subparagraph (B), Plaintiff’s claims of fraud, misrepresentation, breach of contract, breach of fiduciary duty, false arrest, and false imprisonment are explicitly excluded from the tortious conduct exception.

IV. CONCLUSION

For the foregoing reasons, Defendants’ motion to dismiss for want of jurisdiction will be GRANTED, and Plaintiff’s pending motion for an appointment of counsel will be denied as moot. A corresponding order will issue separately.

Date: May 6, 2021

Tanya S. Chutkan
TANYA S. CHUTKAN
United States District Judge

APPENDIX

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D.

20/

EXHIBIT A:

November 5, 2018, Letter from Celeste Ingalls, Director of Operations, Crowe Foreign Services to the Honorable Florence Y. Pan, Superior Court of the District of Columbia, Civil Division. Please note that two (2) docket sheets from Brazil are attached. -“(attached is a copy of the Brazilian court docket reports for each service” - Letter Rogatory 12537 and 12540) - that were established when Respondents - Defendants received service of the complaint and summons in this action and docketed receipt - September 13, 2017.).....6.

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Gary A. Crowe
President

Celeste Ingalls
Director of Operations
celeste@foreignservices.com

Phone: (503) 222-3085
Fax: (503) 352-1091

November 5, 2018


SENT VIA US MAIL

Honorable Florence Y. Pan
Superior Court of the District of Columbia, Civil Division
500 Indiana Avenue, N.W.
Washington, DC 20001

RE: JOHN GREGORY LAMBROS Vs. FEDERATIVE REPUBLIC OF BRAZIL, et. al.
Superior Court of D.C. Case No. 2017-CA-929-B

Dear Judge Pan:

At the request of John Gregory Lambros, I have outlined below the process followed, procedures performed to date, and current status of the services requested upon the Federative Republic of Brazil and the State of Rio de Janeiro in Brazil in accordance with the Inter-American Convention:

1. All documents to be served in the above case are required to comply with the Foreign Sovereign Immunities Act, which in Brazil means service in accordance with the Inter-American Convention.
2. On August 18, 2017, all documents in the above case, with the requisite Inter-American Convention documents and Portuguese translations of all, were forwarded to the designated Brazil Ministry of Justice (Central Authority for Brazil) for service upon the Federative Republic of Brazil and the State of Rio de Janeiro in accordance with the Inter-American Convention.
3. UPS International has confirmed that the above documents were received by the Ministry of Justice in Brasilia, Brazil on October 6, 2017.
4. According to the current Brazilian court docket (obtained from the Brazilian court today, November 8, 2018), it *appears* as though all Brazilian court processes have been completed  (attached is a copy of the Brazilian court docket reports for each service). We are now simply waiting for the Brazilian court to return the proof paperwork. This is returned in the form of a bound "book", containing dozens of pages of what occurred within the Brazilian court process. Unfortunately, this will be in Portuguese and we have no way of knowing exactly when it will be returned.

Please feel free to contact me directly regarding any questions you have in this matter.

Very truly yours,



Celeste Ingalls
Director of Operations
Crowe Foreign Services

EXHIBIT A

1.
22
11

CR nº 12537 / US (2017/0236039-3) autuado em 13/09/2017

26/09/201815:24 Remetidos os Autos (para devolução à justiça rogante) para **MINISTÉRIO DA JUSTIÇA (123)**

25/09/201806:53 Transitado em Julgado em 24/09/2018 (848)

24/09/201814:00 Desentranhamento de Certidão de Decurso nº 1313 VI 1 (30013)

24/09/201807:05 Decorrido prazo de JOHN GREGORY LAMBROS em 24/09/2018 para recurso (1051)

10/09/201802:48 **ADVOCACIA-GERAL DA UNIÃO** intimado eletronicamente da(o) Despacho / Decisão em 10/09/2018 (300104)

04/09/201813:20 Mandado devolvido entregue ao destinatário **ESTADO DO RIO DE JANEIRO (Mandado nº 000118-2018-CORDCE) (106)**

04/09/201813:20 Arquivamento de documento Mandado de Intimação das publicações nº 000118-2018-CORDCE (Decisões e Vistas) com ciente (30019)

31/08/201811:47 Juntada de Petição de CieMPF - **CIÊNCIA PELO MPF nº 487908/2018 (Juntada Automática) (85)**

31/08/201811:47 Protocolizada Petição 487908/2018 (CieMPF - **CIÊNCIA PELO MPF**) em 31/08/2018 (118)

31/08/201811:35 **MINISTÉRIO PÚBLICO FEDERAL** intimado eletronicamente da(o) Despacho / Decisão em 31/08/2018 (300104)

30/08/201806:16 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **MINISTÉRIO PÚBLICO FEDERAL (300105)**

30/08/201806:15 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **ADVOCACIA-GERAL DA UNIÃO (300105)**

30/08/201805:34 Publicado **DESPACHO / DECISÃO** em 30/08/2018 (92)

29/08/201819:12 Disponibilizado no DJ Eletrônico - **DESPACHO / DECISÃO (1061)**

29/08/201808:17 Negado seguimento ao pedido de **TRIBUNAL DISTRITAL DO DISTRITO DE COLUMBIA (negado exequatur) (Publicação prevista para 30/08/2018) (30098)**

28/08/201817:21 Recebidos os autos no(a) **COORDENADORIA DA CORTE ESPECIAL(132)**

23/04/201816:20 Conclusos para julgamento ao(à) Ministro(a) **PRESIDENTE DO STJ (Relatora) (51)**

23/04/201815:46 Juntada de Petição de nº 204511/2018 (85)

20/04/201819:00 Recebidos os autos no(a) **COORDENADORIA DA CORTE ESPECIAL(132)**

19/04/201812:27 Protocolizada Petição 204511/2018 (PET - **PETIÇÃO**) em 19/04/2018(118)

16/04/201818:25 Conclusos para julgamento ao(à) Ministro(a) **PRESIDENTE DO STJ (Relatora) (51)**

13/04/201818:36 Juntada de Petição de ParMPF - **PARECER DO MPF nº 193378/2018 (Juntada Automática) (85)**

EXHIBIT A

0.
2.
23
22
11

13/04/2018 18:36 Protocolizada Petição 193378/2018 (ParMPF - PARECER DO MPF) em 13/04/2018 (118)
13/10/2017 19:12 Disponibilizada cópia digital dos autos à(o) MINISTÉRIO PÚBLICO FEDERAL (300101)
13/10/2017 15:01 Autos com vista ao Ministério Público Federal (30015)
10/10/2017 16:36 Juntada de Petição de IMPUGNAÇÃO nº 528560/2017 (85)
10/10/2017 10:21 Protocolizada Petição 528560/2017 (IMP - IMPUGNAÇÃO) em 10/10/2017 (118)
26/09/2017 17:08 Juntada de Mandado de Intimação nº 000129/2017-CESP (581)
22/09/2017 10:03 Juntada de Mandado de Intimação nº 000129/2017-CESP (581)
19/09/2017 16:52 Recebidos os autos no(a) COORDENADORIA DA CORTE ESPECIAL(132)
15/09/2017 14:06 Conclusos para decisão ao(à) Ministro(a) LAURITA VAZ (Presidente) - pela SJD (51)
14/09/2017 16:30 Distribuído por competência exclusiva à Ministra PRESIDENTE DO STJ(26)
14/09/2017 09:40 Remetidos os Autos (fisicamente) para SEÇÃO DE EXPEDIÇÃO (123)
14/09/2017 06:25 Processo digitalizado e validado (30080)

EXHIBIT A.

0131
2017

CR nº 12540 / US (2017/0236054-6) autuado em 13/09/2017

Detalhes

PROCESSO: **CARTA ROGATÓRIA**

JUSROGANTE: **TRIBUNAL DISTRITAL DO DISTRITO DE COLUMBIA**

INTERES.: **MINISTERIO DA JUSTIÇA DO BRASIL**

PARTE: **JOHN GREGORY LAMBROS**

A.CENTRAL: **MINISTÉRIO DA JUSTIÇA E SEGURANÇA PÚBLICA**

LOCALIZAÇÃO: **Saída para MINISTÉRIO DA JUSTIÇA em 24/09/2018**

TIPO: **Processo eletrônico.**

AUTUAÇÃO: **13/09/2017**

NÚMERO ÚNICO: **0236054-31.2017.3.00.0000**

RELATOR(A): **Min. PRESIDENTE DO STJ**

RAMO DO DIREITO: **DIREITO PROCESSUAL CIVIL E DO TRABALHO**

ASSUNTO(S): **Objetos de cartas precatórias/de ordem, Diligências.**

TRIBUNAL DE ORIGEM: **SUPERIOR TRIBUNAL DE JUSTIÇA**

NÚMEROS

DE

ORIGEM: **08099013360201798, 201704034, 75152017, 8099013360201798**

1 volume, nenhum apenso.

ÚLTIMA FASE: **24/09/2018 (15:21) REMETIDOS OS AUTOS (PARA DEVOLUÇÃO À JUSTIÇA ROGANTE) PARA MINISTÉRIO DA JUSTIÇA**

Fases

24/09/201815:21 Remetidos os Autos (para devolução à justiça rogante) para **MINISTÉRIO DA JUSTIÇA(123)**

24/09/201810:25 Transitado em Julgado em 24/09/2018 (848)

10/09/201802:48 **ADVOCACIA-GERAL DA UNIÃO** intimado eletronicamente da(o) **Despacho / Decisão em 10/09/2018 (300104)**

31/08/201811:47 Juntada de Petição de CieMPF - **CIÊNCIA PELO MPF nº 487907/2018 (Juntada Automática) (85)**

31/08/201811:47 Protocolizada Petição 487907/2018 (CieMPF - **CIÊNCIA PELO MPF) em 31/08/2018(118)**

31/08/201811:35 **MINISTÉRIO PÚBLICO FEDERAL** intimado eletronicamente da(o) **Despacho / Decisão em 31/08/2018 (300104)**

30/08/201806:16 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **MINISTÉRIO PÚBLICO FEDERAL (300105)**

30/08/201806:15 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **ADVOCACIA-GERAL DA UNIÃO (300105)**

30/08/201805:34 Publicado **DESPACHO / DECISÃO em 30/08/2018 (92)**

29/08/201819:12 Disponibilizado no DJ Eletrônico - **DESPACHO / DECISÃO (1061)**

29/08/201809:08 Não Concedido o Exequatur (Publicação prevista para **30/08/2018) (12034)**

28/08/201817:21 Recebidos os autos no(a) **COORDENADORIA DA CORTE ESPECIAL (132)**

16/04/201811:50 Conclusos para julgamento ao(à) **Ministro(a) PRESIDENTE DO STJ (Presidente) (51)**

EXHIBIT A.

07/11/2018

13/04/2018 18:37 Juntada de Petição de ParMPF - PARECER DO MPF nº
193380/2018 (Juntada Automática)(85)

13/04/2018 18:36 Protocolizada Petição 193380/2018 (ParMPF - PARECER
DO MPF) em 13/04/2018 (118)

06/10/2017 20:34 Disponibilizada cópia digital dos autos à(o) MINISTÉRIO
PÚBLICO FEDERAL (300101)

06/10/2017 17:07 Autos com vista ao Ministério Público Federal (30015)

06/10/2017 08:26 Juntada de Petição de IMPUGNAÇÃO nº
520916/2017 (85)

05/10/2017 19:15 Protocolizada Petição 520916/2017 (IMP -
IMPUGNAÇÃO) em 05/10/2017 (118)

22/09/2017 10:01 Juntada de Mandado de Intimação nº 000128/2017-
CESP (581)

19/09/2017 16:52 Recebidos os autos no(a) COORDENADORIA DA CORTE
ESPECIAL (132)

15/09/2017 14:05 Conclusos para decisão ao(à) Ministro(a) LAURITA VAZ
(Presidente) - pela SJD (51)

14/09/2017 17:30 Distribuído por competência exclusiva à Ministra
PRESIDENTE DO STJ (26)

14/09/2017 09:40 Remetidos os Autos (fisicamente) para SEÇÃO DE
EXPEDIÇÃO (123)

14/09/2017 06:25 Processo digitalizado e validado (30080)

EXHIBIT A

01/5

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01/5

EXHIBIT B:

April 8, 2019: "ORDER" by Judge Pan stating "Defendants have not filed a responsive pleading to the complaint nor have they filed an opposition to the instant motion. The Court therefore enters a default against defendants. See D.C. Super. Ct. R. 55(a)."8.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JOHN GREGORY LAMBROS : Case Number: 2017 CA 929 B
v. : Judge: Florence Y. Pan
FEDERATIVE REPUBLIC OF BRAZIL, *et al.* : Next Hearing: July 5, 2019

ORDER

This matter comes before the Court upon the Motion Requesting Entry of Default, filed by plaintiff on March 18, 2019. Plaintiff filed his complaint on February 10, 2017. Plaintiff availed himself of the services of Crowe Foreign Services to effectuate service on defendants. Based on the documentation received by the Court from Crowe Foreign Services on November 14, 2018, January 18, 2019, and February 8, 2019, along with the representations made in court on February 8, 2019, by Crowe Foreign Services' director of operations, Celeste Ingalls, the Court finds that defendants were properly served. On March 18, 2019, plaintiff filed an amended certificate of service that states that he has served the instant motion on defendants by mailing it to the Ministry of Justice in Brasilia. Defendants have not filed a responsive pleading to the complaint nor have they filed an opposition to the instant motion. The Court therefore enters a default against defendants. *See* D.C. Super. Ct. Civ. R. 55(a) ("When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, the clerk or the court must enter the party's default."). Accordingly, this 8th day of April, 2019, it is hereby

ORDERED that the Motion Requesting Entry of Default is **GRANTED**; and it is further

ORDERED that default is entered against both defendants; and it is further

ORDERED that the status hearing scheduled for April 26, 2019, is vacated; and it is

further

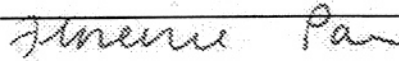
EXHIBIT B.

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ORDERED that the parties appear for a status hearing on Friday, July 5, 2019, at 10:30 a.m. in Courtroom 415. This hearing may be converted to an *ex parte* proof hearing upon the filing of a motion for default judgment by plaintiff.

SO ORDERED.



Judge Florence Y. Pan
Superior Court of the District of Columbia

Copies to:

John Gregory Lambros
1759 Van Buren Avenue
Saint Paul, MN 55104

Federative Republic of Brazil
c/o Ministerio da Justica
SCN-Quadra 6-Ed. Venancia 3.000
Bloco A-2° Andar
70716-900 Brasilia-DF
Brazil

State of Rio Janeiro
Federative Republic of Brazil
c/o Ministerio da Justica
SCN-Quadra 6-Ed. Venancia 3.000
Bloco A-2° Andar
70716-900 Brasilia-DF
Brazil

EXHIBIT B.

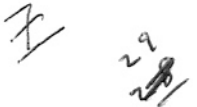


EXHIBIT C:

May 15, 2019: "ORDER" by Judge Pan stating "the status hearing scheduled for July 5, 2019, is converted to an ex parte proof hearing;"8.

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

JOHN GREGORY LAMBROS : Case Number: 2017 CA 929 B
v. : Judge: Florence Y. Pan
FEDERATIVE REPUBLIC OF BRAZIL, *et al.* : *Ex Parte* Proof Hearing: July 5, 2019

ORDER

This matter comes before the Court upon consideration of plaintiff's Motion for Entry of Default Judgment, filed on May 13, 2019. Plaintiff filed his complaint against defendants on February 10, 2017. The Court issued an order on April 8, 2019, ruling that defendants were properly served with process. Defendants have not filed responsive pleadings to the complaint. On April 8, 2019, the Court entered defaults against defendants.

As to plaintiff's request that an attorney be appointed, there is no right to appointment of counsel in civil cases. *See e.g., Cloutterbuck v. Cloutterbuck*, 556 A.2d 1082, 1084 (D.C. 1989) (explaining that the 6th Amendment right to counsel, bolstered by the Criminal Justice Act, is "confined to criminal proceedings"); *Williams v. Court Services & Offender Supervision Agency for D.C.*, 878 F.Supp.2d 263, 266 (D.D.C. 2012) (quoting *Brown v. Children's Nat'l Med. Ctr.*, 773 F.Supp.2d 125, 140 (D.D.C. 2011) ("no indigent civil litigant is guaranteed counsel"). Moreover, the Court does not have the resources to appoint attorneys to represent civil litigants.

Accordingly, this 15th day of May, 2019, it is hereby

ORDERED that the status hearing scheduled for July 5, 2019, is converted to an *ex parte* proof hearing; and it is further

EXHIBIT C.

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ORDERED that plaintiff's request for appointment of counsel is denied.

SO ORDERED.

Florence Pan

Judge Florence Y. Pan
Superior Court of the District of Columbia

Copies to:

John Gregory Lambros
1759 Van Buren Avenue
Saint Paul, MN 55104

Federative Republic of Brazil
c/o Ministerio da Justica
SCN-Quadra 6-Ed. Venancia 3.000
Bloco A-2° Andar
70716-900 Brasilia-DF
Brazil

State of Rio Janeiro
Federative Republic of Brazil
c/o Ministerio da Justica
SCN-Quadra 6-Ed. Venancia 3.000
Bloco A-2° Andar
70716-900 Brasilia-DF
Brazil

EXHIBIT C.

EXHIBIT D:

June 27, 2019: Respondent - Defendant Brazil, et. al., represented by Attorneys Clara Brillembourg, Janis Brennan, Nicholas Renzler and Andrew B. Loewenstein, Foley Hoag LLP, Boston, MA and Washington, DC, made their first appearance in this action and filed a "Notice of Removal" in this action within the Superior Court of the District of Columbia, Civil Division and the United States District Court for the District of Columbia.....8

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN GREGORY LAMBROS,

Plaintiff,

v.

FEDERATIVE REPUBLIC OF BRAZIL, et al.,

Defendants.

Civil Action No. 19-cv-1929

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441(a) and (d), and 28 U.S.C. § 1446, the Federative Republic of Brazil (“Brazil”) and the State of Rio de Janeiro of the Federative Republic of Brazil (“Rio de Janeiro State”) (collectively, the “Sovereign Defendants”) hereby remove to this Court the state court action described in paragraph 1 below, as follows:

1. The removed action is a *pro se* civil complaint filed in the Superior Court of the District of Columbia, Civil Division (“Superior Court”), on February 10, 2017, against two foreign states, 28 U.S.C. § 1603(a), Brazil and Rio de Janeiro State. The case has been assigned Case No. 2017 CA 000929 B by the Superior Court and is styled *John Gregory Lambros v. Federative Republic of Brazil, State of Rio DE Janeiro of the Federative Republic of Brazil, John & Jane Doe’s*.¹

2. The removed action is a civil action against the foreign state Brazil and its political sub-division Rio de Janeiro State. Compl. ¶ 1 (Ex. A at A-2). The action is thus removed to this Court pursuant to 28 U.S.C. § 1441(d), which provides:

¹ On June 5, 2017, the Superior Court granted Plaintiff’s motion to dismiss Defendants “John & Jane Doe’s” from this action without prejudice.

Ex. D.

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Any civil action brought in a State court against a foreign state as defined in section 1603(a) of this title may be removed by the foreign state to the district court of the United States for the district and division embracing the place where such action is pending. Upon removal the action shall be tried by the court without jury. Where removal is based upon this subsection, the time limitations of section 1446(b) of this chapter may be enlarged at any time for cause shown.

3. Neither of the Sovereign Defendants has been served process pursuant to 28 U.S.C. § 1608(a), the exclusive means of serving a foreign state. Accordingly, there are no copies “of all process, pleadings, and orders served upon” the Sovereign Defendants to file as required by 28 U.S.C. § 1446(a). For the Court’s convenience, as Exhibit A the Sovereign Defendants attach documents filed with the Superior Court and a copy of the Superior Court docket sheet.

4. The action is properly removed to this Court under 28 U.S.C. § 1441(a) because this District is the “the district and division embracing” the District of Columbia.² The Sovereign Defendants reserve, *inter alia*, their rights to move to dismiss this action under Fed. R. Civ. P. 12(b).

5. As required by 28 U.S.C. § 1446(d), written notice of the removal of this action will be given to Plaintiff forthwith. A copy of this Notice is also being filed with the Clerk of the Superior Court.

6. Nothing in this Notice of Removal shall be considered as consent to jurisdiction in the United States or a waiver of the Sovereign Defendants’ sovereign immunity under the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1602 *et seq.*, or of any other available immunity or defense. Nor shall anything in this Notice be considered a waiver of service on the Sovereign Defendants in accordance with 28 U.S.C. § 1608(a). The Sovereign Defendants hereby reserve all of their rights with regard to all such issues, immunities and defenses.

² Plaintiff acknowledges “[t]he U.S. District Court for the District of Columbia is a DEFAULT VENUE for suits against foreign states and their political subdivisions.” Compl. ¶ 55 (Ex. A at A-2).

WHEREFORE, Defendants the Federative Republic of Brazil and the State of Rio de Janeiro of the Federative Republic of Brazil hereby remove *John Gregory Lambros v. Federative Republic of Brazil, et al.* from the Superior Court of the District of Columbia, Civil Division, to this Court and requests that further proceedings be conducted in this Court as provided by law.

Dated: June 27, 2019

Respectfully submitted,

FEDERATIVE REPUBLIC OF BRAZIL and
STATE OF RIO DE JANEIRO OF THE
FEDERATIVE REPUBLIC OF BRAZIL

By their attorneys,

/s/ Clara E. Brillembourg

Clara E. Brillembourg (DC Bar No. 974377)

cbrillembourg@foleyhoag.com

Janis H. Brennan (DC Bar No. 412100)

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FOLEY HOAG LLP

1717 K Street, NW

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Tel: 202-223-1200

Fax: 202-785-6687

Andrew B. Loewenstein (D.D.C. Bar No. MA0018)

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FOLEY HOAG LLP

Seaport West

155 Seaport Boulevard

Boston, MA 02210-2600

Tel: 617-832-1000

Fax: 617-832-7000

*Attorneys for Defendants the Federative Republic of
Brazil and the State of Rio de Janeiro of the
Federative Republic of Brazil*

Ex. D.

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EXHIBIT E:

July 5, 2019: Petitioner Lambros mailed the Clerk of the U.S. District Court for the District of Columbia his "Motion to Remand this Action Back to the Superior Court of the District of Columbia." Filed July 11, 2019.....11,21.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN GREGORY LAMBROS,
Plaintiff,

CIVIL ACTION NO. 19-cv-1929

Removed from: Superior Court
Of the District of Columbia,
Case No. 2017-CA-000929-B
Judge: Florence Y. Pan

Vs.

FEDERATIVE REPUBLIC OF BRAZIL, et al.,
Defendants.

AFFIDAVIT FORM

MOTION TO REMAND THIS ACTION BACK TO THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA. See, 28 U.S.C. 1447(c); 1446(b).

Also, SUBJECT MATTER JURISDICTION QUESTION, AS THE SUPERIOR
COURT ENTERED DEFAULT AGAINST DEFENDANTS ON APRIL 8, 2019,
AND ORDERED AN "Ex Parte Proof Hearing" (Damage Hearing) ON
MAY 15, 2019. See, LOCKHART vs. CADE, 728 A.2d 65 (District of
Columbia Court of Appeals, March 4, 1999)("entry of default 'operates
as an admission by the defaulting party that there are no issues
of liability, but leaves the issue of damages unresolved until entry of
judgment'") Plaintiff Lambros has no further obligation to prove
Liability.

COMES NOW, Plaintiff JOHN GREGORY LAMBROS (Hereinafter "MOVANT"), Pro Se,
and requests this Honorable Court to order a "MOTION TO REMAND THIS ACTION
BACK TO THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. See, 28

EXHIBIT E.

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U.S.C. 1447(c); 1446(b), as defendants have failed to plead or otherwise defend, **after proof of service on OCTOBER 6, 2017 (UPS INTERNATIONAL CONFIRMED SERVICE OF PLEADINGS WERE RECEIVED BY THE MINISTRY OF JUSTICE IN BRASILIA, BRAZIL).** See, **EXHIBIT A.** (Notice of removal shall be filed within 30 days after defendants receive an **initial pleading - complaint.** See, 28 USC 1446(b)) Also, Judge Pan's ORDER on April 8, 2019 and May 15, 2019 granted Plaintiff's "Motion Requesting Entry of Default". See, Super.Ct.Civ.R. 55(b)(2), **an Ex Parte Proof Hearing on Damages.** that raises a question of **SUBJECT MATTER JURISDICTION.** See, **LOCKHART vs. CADE, 728 A.2d 65 (District of Columbia Court of Appeals, March 4, 1999)**("entry of default 'operates as an admission by the defaulting party that there are no issues of liability, but leaves the issue of damages unresolved until entry of judgment'") Plaintiff Lambros has no further obligation to prove Liability. See, **EXHIBIT B.** and **EXHIBIT C.**

In support of this request plaintiff relies upon the record in this case and the following facts that are submitted in affidavit form herein.

In support of this request, I state the following as true and correct pursuant to Title 28 USC 1746.

FACTS:

1. I John Gregory Lambros am the pro se Plaintiff in the above-entitled matter and I am familiar with the file, records and pleadings in this matter.

Ex. E.

14.

2. **November 5, 2018:** Celeste Ingalls, Director of Operations, Crowe Foreign Services, wrote the Honorable Florence Y. Pan, Superior Court of the District of Columbia, Civil Division regarding this action - LAMBROS vs. FEDERATIVE REPUBLIC OF BRAZIL, et al., Superior Court of D.C., Case No. 2017-CA-929-B, outlining the process followed, procedures performed to date and current status of the services requested upon the Federative Republic of Brazil and the State of Rio de Janeiro in Brazil in accordance with the Inter-American Convention. See, EXHIBIT A. (This Document states the complaint was shipped to defendants on August 18, 2017 and received on October 6, 2017)

3. **January 16, 2019:** Celeste Ingalls, Director of Operations, Crowe Foreign Services, wrote the Honorable Florence Y. Pan, Superior Court of the District of Columbia, Civil Division regarding this action - LAMBROS vs. FEDERATIVE REPUBLIC OF BRAZIL, et al., Superior Court of D.C., Case No. 2017-CA-929-B, outlining her receipt of thousands of pages of return documents from the Defendants on **JANUARY 11, 2019**, which included copy of what was served, representing the completion of the services requested upon the defendants in accordance with Title 28 USC 1608(a)(2). **"The main point of all these Documents is that Republic of Brazil and State of Rio de Janeiro received Mr. Lambros' complaint and attachments, read and reviewed all, and are refusing to recognize the Court's jurisdiction on the grounds of immunity."** See. EXHIBIT D.

4. **January 25, 2019:** ORDER by the Honorable Florence Y. Pan, Superior Court of the District of Columbia, Civil Division regarding this action - LAMBROS vs. FEDERATIVE REPUBLIC OF BRAZIL, et al., Superior Court of D.C., Case No. 2017-CA-929-B, requesting Ms. Ingalls, Director of Operations, Crowe Foreign Services, appear by phone at the February 8, 2019, status hearing in Courtroom 415, to explain to the court how she knows that defendants were served in this action. See, EXHIBIT E.

EX. E.

15.

5. **April 8, 2019:** The Honorable Judge F. Pan issued an **ORDER** stating that:
- A. Plaintiff's Motion Requesting Entry of Default is GRANTED.
 - B. The default is entered against both defendants.
 - C. The status hearing scheduled for April 26, 2019, is vacated.
 - D. That the parties appear for a status hearing on Friday, July 5, 2019, at 10:30 a.m. in Courtroom 415. **This hearing may be converted to an**

ex parte proof hearing upon the filing of a motion for default judgment by Plaintiff.

See, **EXHIBIT B.**

6. **May 15, 2019:** The Honorable Judge F. Pan issued an **ORDER** stating that:
- A. Status hearing scheduled for July 5, 2019, is converted to an **ex parte proof hearing.** See, **EXHIBIT C.**

DEFENDANTS FILED REMOVAL OF CLAIMS FROM STATE TO FEDERAL COURT

7. **June 27, 2019:** Defendants pursuant to 28 USC 1441(a) and (d), and 28 USC 1446, filed a "NOTICE OF REMOVAL" in this above action. Please note, 28 USC 1446(b)(1) states NOTICE OF REMOVAL will be filed within 30 days after defendants receive copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based. Defendants received service of process on **OCTOBER 6, 2017 (UPS INTERNATIONAL CONFIRMED SERVICE OF PLEADINGS WERE RECEIVED BY THE MINISTRY OF JUSTICE IN BRASILIA, BRAZIL).** See, **EXHIBIT A.**

Ex. E.

16.

8. June 27, 2019: Defendants Attorneys lied, uttering untruths knowingly, as with intent to **deceive this court STATING DEFENDANTS HAVE NEVER BEEN SERVED PROCESS IN THIS ACTION** within the "NOTICE OF REMOVAL", paragraph three (3), stating:

"Neither of the Sovereign Defendants has been served process pursuant To 28 USC 1608(a), the exclusive means of serving a foreign state. Accordingly, there are no copies "of all process, pleadings, and orders Served upon" the Sovereign Defendants to file as required by 28 USC 1446(a). For the Court's convenience, as Exhibit A the Sovereign Defendants attach Documents filed with the Superior Court and a copy of the Superior Court Docket Sheet." (Emphasis added)

9. It is clear that the attached Exhibits A thru E were available to Attorney's Clara E. Brillembourg, Janis H. Brennan, Nicholas M. Renzler, and Andrew B. Loewenstein that Represent the law firm FOLEY HOAG LLP and are the attorneys for the Defendants in this action.

10. Plaintiff requests this Court to consider **SANCTIONS** against all of the above attorney's representing the Defendants in this action.

11. Plaintiff also requests this court to note that copy of the June 27, 2019 "NOTICE OF REMOVAL" was filed within the Superior Court of the District of Columbia, Civil Division by Attorney Nicholas M. Renzler, Foley Hoag LLP on June 27, 2019, in an attempt to **obstruct justice** as to Defendant's **admission of liability and prevent Plaintiff Lambros from receiving damage awards on July 5, 2019.** **SUBJECT MATTER JURISDICTION QUESTION, AS THE SUPERIOR COURT ENTERED DEFAULT AGAINST DEFENDANTS ON APRIL 8, 2019, AND ORDERED AN "Ex Parte Proof Hearing" (Damage Hearing) ON MAY 15, 2019. See, LOCKHART vs. CADE, 728 A.2d 65 (District of Columbia Court of Appeals, March 4, 1999)**("entry

~~EX.~~ ~~E.~~

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of default 'operates as an admission by the defaulting party that there are no issues of liability, but leaves the issue of damages unresolved until entry of judgment'") Plaintiff Lambros has no further obligation to prove Liability.
STANDARD OF REVIEW:

12. A civil action filed in state court may only be removed to a United States district court if the case could originally have been brought in federal court. 28 U.S.C. § 1441(a). Upon a motion to remand a removed case to state court, the party opposing the motion "bears the burden of establishing that subject matter jurisdiction exists in federal court." RWN Dev. Grp., LLC v. Travelers Indem. Co., 540 F.Supp.2d 83, 86 (D.D.C.2008) (quoting Int'l Union of Bricklayers & Allied Craftworkers v. Ins. Co. of the West, 366 F.Supp.2d 33, 36 (D.D.C.2005)). Courts are to construe the removal statute narrowly in order to avoid federalism concerns, Shamrock Oil & Gas Corp. v. Sheets, 313 U.S. 100, 108, 61 S.Ct. 868, 85 L.Ed. 1214 (1941), and any doubts about the existence of subject matter jurisdiction are to be resolved in favor of remand. Hood v. F. Hoffman-La Roche, Ltd., 639 F.Supp.2d 25, 28 (D.D.C.2009) (citing Gasch v. Hartford Accident & Indem. Co., 491 F.3d 278, 281-82 (5th Cir. 2007)).

COURTS DO NOT AUTOMATICALLY ACCEPT EVERY REQUEST FOR REMOVAL TO TRY A FSIA CASE IN FEDERAL COURT:

13. This Court has discretion over whether to allow removal after the 30-day time limit for removal requests set forth in 28 USC 1446(b). Factors other courts have considered in that regard, applying a simple "cause shown" standard, include:

- A. the danger of prejudice to the nonmoving party:
- B. the length of a delay and its potential impact on the court:

Ex. E.

18,

- C. the reason for a delay;
- D. whether the movant acted in good faith;
- E. the purpose of the removal statute; and
- F. the extent of concurrent proceedings in state court.

14. In this action, Plaintiff served Defendants on October 6, 2017, via UPS International. See, EXHIBIT A, Paragraphs 2 and 3. Therefore, Defendants waited Twenty-one (21) months after receiving copy of the initial pleading setting forth the claims for relief, before filing Notice of Removal on June 27, 2019. This is 20 months more than 28 USC 1446(b) allows.

15. Plaintiff Lambros must admit that the actions of the Defendants can only be the work of a person trying to stay this process to avoid damages, as this court must apply the law of the state to Plaintiff Lambros' complaint, as to the following issues:

- A. Unlawful Trade Practices, D.C. Consumer Protection Act ("DCCPPA"), codified under D.C. Code 28-3901 et seq. See, Complaint pages 26 thru 34.
- B. Torts. See, Complaint pages 34 thru 80.
- C. Declaratory Judgment. See, Complaint pages 80-85.
- D. RICO. See, Complaint pages 85 thru 125.
- E. Medical Monitoring Damages due to torture., etc. See, Complaint page 130, Paragraph 485.
- F. Injunctive Relief. See, Complaint pages 130 thru 131.

See, Erie Railroad Co. vs. Tompkins, 304 US 64, 78 (1938)("Except in matters governed by the Federal Constitution or by acts of Congress, the law to be applied in any case is the law of the state.")

DIVERSITY JURISDICTION - SUBJECT MATTER JURISDICTION:

Ex. E.

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16. Again, this Plaintiff believes this court **DOES NOT** have jurisdiction, as the Superior Court entered **DEFAULT AGAINST DEFENDANTS ON APRIL 8, 2019, AND ORDERED AN "Ex Parte Proof Hearing" (Damage Hearing) ON MAY 15, 2019.** See, **LOCKHART vs. CADE, 728 A.2d 65 (District of Columbia Court of Appeals, March 4, 1999)**("entry of default 'operates as an admission by the defaulting party that there are no issues of liability, but leaves the issue of damages unresolved until entry of judgment'") **Plaintiff Lambros has no further obligation to prove Liability.**

17. Plaintiff Lambros has been proclaimed the winner of the "**CHICKEN DINNER**" by the **District of Columbia Court of Appeals [Lockhard vs. Cade]** and this Court wants to deny me the right to damages - Plaintiff Lambros fails to understand the legal reasoning behind this action?

CONCLUSION and RELIEF REQUESTED:

18. Plaintiff Lambros requests this Court to grant his Motion to Remand this action back to the Superior Court of the District of Columbia and direct the clerk to return this Case to the Superior Court of the District of Columbia.

19. **APPOINTMENT OF COUNSEL:** Plaintiff requests this Court to appoint counsel to Plaintiff Lambros, as he currently is living on a total income of \$1,123.00 a month including social security of \$868 and other income of \$255 a month. Plaintiff receives SNAP assistance plus Medical Assistance from the State. Also, Plaintiff believes he has presented a novel issue of first impression to this court regarding subject matter jurisdiction outlined within paragraph 16 above. Briefing of this issue would assist this Court. Again, Plaintiff was incarcerated for 27 years and only released from the halfway house on August 1, 1018.

Ex. E.

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20.. I JOHN GREGORY LAMBROS states the above information is true and correct under the penalty of perjury, as per Title 28 USC 1746.

EXECUTED ON: July 5, 2019

John Gregory Lambros, Pro Se

www.Lambros.Name

Ex. E.

21.

CROWE FOREIGN SERVICES

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USA

Phone: (503) 222-3085
Fax: (503) 352-1091

Gary A. Crowe
President

Celeste Ingalls
Director of Operations
celeste@foreignservices.com

November 5, 2018

SENT VIA US MAIL

Honorable Florence Y. Pan
Superior Court of the District of Columbia, Civil Division
500 Indiana Avenue, N.W.
Washington, DC 20001

RE: JOHN GREGORY LAMBROS Vs. FEDERATIVE REPUBLIC OF BRAZIL, et. al.
Superior Court of D.C. Case No. 2017-CA-929-B

Dear Judge Pan:

At the request of John Gregory Lambros, I have outlined below the process followed, procedures performed to date, and current status of the services requested upon the Federative Republic of Brazil and the State of Rio de Janeiro in Brazil in accordance with the Inter-American Convention:

1. All documents to be served in the above case are required to comply with the Foreign Sovereign Immunities Act, which in Brazil means service in accordance with the Inter-American Convention.
2. On August 18, 2017, all documents in the above case, with the requisite Inter-American Convention documents and Portuguese translations of all, were forwarded to the designated Brazil Ministry of Justice (Central Authority for Brazil) for service upon the Federative Republic of Brazil and the State of Rio de Janeiro in accordance with the Inter-American Convention.
3. UPS International has confirmed that the above documents were received by the Ministry of Justice in Brasilia, Brazil on October 6, 2017.
4. According to the current Brazilian court docket (obtained from the Brazilian court today, November 8, 2018), it *appears* as though all Brazilian court processes have been completed (attached is a copy of the Brazilian court docket reports for each service). We are now simply waiting for the Brazilian court to return the proof paperwork. This is returned in the form of a bound "book", containing dozens of pages of what occurred within the Brazilian court process. Unfortunately, this will be in Portuguese and we have no way of knowing exactly when it will be returned.

Please feel free to contact me directly regarding any questions you have in this matter.

Very truly yours,



Celeste Ingalls
Director of Operations
Crowe Foreign Services

EXHIBIT A OF
EX. E.
22.
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CROWE FOREIGN SERVICES

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Gary A. Crowe
President

Celeste Ingalls
Director of Operations
celeste@foreignservices.com

January 16, 2019

Honorable Florence Y. Pan
Superior Court of the District of Columbia, Civil Division
500 Indiana Avenue, N.W.
Washington, DC 20001

SENT VIA US PRIORITY MAIL

RE: JOHN GREGORY LAMBROS Vs. FEDERATIVE REPUBLIC OF BRAZIL, et. al.
Superior Court of D.C. Case No. 2017-CA-929-B

Dear Judge Pan:

At the request of John Gregory Lambros, I have outlined below the current status of the services in the above entitled action in Brazil in accordance with the Inter-American Convention and the Foreign Sovereign Immunities Act.

On January 11, 2019, I received thousands of pages of return documents from the Brazilian courts (which includes a copy of what was served, etc.) representing the completion of the services requested upon the 2 foreign sovereign defendants in accordance with Title 28 U.S.C. §1608 (a)(2). We call these the "proof books" because they are so large. The procedural practice of the Brazilian courts is that any person that touches the documents and forwards them on to the next step in the 12 month Brazilian court process, must complete a formal signed document and all are included in the documents returned because there isn't one independent page or documents representing the "proof of service". The entire "book" is considered the proof of service because unless all steps are followed, service was not properly performed.

That being said, the documents appear to have been served to the appropriate defendant entities but after completely reviewing them, they returned them with various other documents (such as the original extradition request issued by the federal government while Mr. Lambros was in prison in Brazil).

Attached are the "pertinent" pages of the volumes that represent the final decisions of the Brazilian government, the Rio de Janeiro government and the Brazilian courts. These are of course in Portuguese. The main point of all these documents is that Republic of Brazil and City of Rio de Janeiro received Mr. Lambros' complaint and attachments, read and reviewed all, and are refusing to recognize the court's jurisdiction on the grounds of immunity.

If you have any questions, please let me know.

Very truly yours,



Celeste Ingalls

EXHIBIT D. OF

EX. E.

23.
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EXHIBIT F:

January 16, 2019: Celiste Ingalls, Director of Operations, Crowe Foreign Services, wrote the Honorable Florence Y. Pan outlining the current status of the process service in this above entitled action.....7.

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Gary A. Crowe
President

Celeste Ingalls
Director of Operations
celeste@foreignservices.com

January 16, 2019

Honorable Florence Y. Pan
Superior Court of the District of Columbia, Civil Division
500 Indiana Avenue, N.W.
Washington, DC 20001

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If you have any questions, please let me know.

Very truly yours,



Celeste Ingalls

EXHIBIT

F.

24.

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STJ-Electronic Petition (PET) 00204511/2018 received on 4/19/2018 12:25:53



Her Excellency, Appellate Judge and Chair of the Superior Court of Justice

X → The State of Rio de Janeiro, in the case records of Letter Rogatory 12537, comes respectfully to request that the attached document be added to it and to reiterate the request for the exequatur to be denied. ←

In the same lawsuit filed in the United States, the State, now the applicant, and the Federal Government were indicated as defendants.

Given the defendant duplicity, two letters rogatory were issued, one serving process on the State, and the other serving process on the Federal Government. ← X

← The letter serving process on the Federal Government is number 12540; and that of the State is number 12537.

X → Both letters rogatory went for an opinion to be issued by the Attorney General's Office, and both merited an opinion as to the invalidity of the claim in view of the obvious JURISDICTIONAL IMMUNITY. ← X

The opinion of the Attorney General's Office on this letter rogatory, number 12537, in which the State is petitioned, stated that it declared the petition should be rejected, within the terms of the statement set out in letter rogatory number 12540.

It turns out that the opinion on Letter 12540, which in fact provides the reasoning [behind this rejection], was not attached to this letter rogatory, that is, to Letter Rogatory 12537.

Thus, in order to clarify the meaning and scope of the manifestation of the Public Prosecutor in this case, the State requests that the opinion referred to on pages e-STJ 1295, that is, the opinion set out in Letter Rogatory 12,540, be attached, and reiterates its request for this claim to be declared invalid, as in fact the Federal Prosecution Office did.

~~Brasilia, April 19, 2018~~ ←

Marcelo Mello Martins
State Prosecutor ←

Electronic document e-Pet No. 2971102 with a digital signature
Signed by MARCELO ROCHA DE MELLO MARTINS: 31760066168 No. Certified series:
66711628169767614916420117984630027312
Id time stamp: 3640229 Date and time: 19/04/2018 12:25:53hs.

Electronic petition attached to the case on 4/23/2018 at 15:46:25 by user: GABRIEL TORRES BRAGA

EXHIBIT F.

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EXHIBIT G:

NOVEMBER 16, 2020: "MEMORANDUM OPINION AND ORDER" by the Honorable Tanya S. Chutkan, U.S. District Judge, U.S. District Court for the District of Columbia, response to Appellant Lambros' "Motion to Remand"12.

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN GREGORY LAMBROS,

Plaintiff,

v.

FEDERATIVE REPUBLIC OF BRAZIL

et al.,

Defendants.

MAILED: 11-17-2020

RECEIVED: 11-24-2020

Civil Action No. 19-cv-1929 (TSC)

MEMORANDUM OPINION AND ORDER

On June 27, 2019, Defendants Brazil and political sub-division Rio de Janeiro State removed this action from the Superior Court of the District of Columbia pursuant to 28 U.S.C. § 1441(d). Not. of Removal ¶ 2, ECF No. 1. Prior to removal, on April 8, 2019, the Superior Court entered a default against Defendants and scheduled a hearing on July 5, 2019. Defendants have moved to set aside the Superior Court's entry of default, and Plaintiff has moved to remand the case.¹ For the following reasons, Defendants' motion will be GRANTED, and Plaintiff's motion will be DENIED.

Section 1441(d) explicitly authorizes foreign state defendants to remove a case to the federal district court embracing the State where the action is pending, and it permits enlarging the thirty-day time limit "at any time for cause shown." *Id.* Plaintiff has identified no plausible

¹ This case was dismissed on September 24, 2019, for lack of prosecution. *See* Order, ECF No. 21. Weeks later, the court granted Plaintiff's motion for relief from judgment and reopened the case and its attendant motions. *See* Oct. 18, 2019 Minute Order.

EX. G.

261/53

defect to support remanding the case. Although the removal deprives Superior Court of “all jurisdiction over the case,” *Roman Catholic Archdiocese of San Juan, Puerto Rico v. Acevedo Feliciano*, 140 S. Ct. 696, 700 (2020) (internal quotation marks and citation omitted), the entry of default remains “in full force and effect until dissolved or modified by the district court,” 28 U.S.C. § 1450 ¶ 3, applying federal law. See *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cty.*, 415 U.S. 423, 437 (1974) (“Once a case has been removed to federal court, it is settled that federal rather than state law governs the future course of proceedings, notwithstanding state court orders issued prior to removal.”).

At its discretion, the court may set aside a default “for good cause,” Fed. R. Civ. P. 55(c), taking into consideration whether (1) the default was willful, (2) a set-aside would prejudice plaintiff, and (3) the alleged defense was meritorious. *Keegel v. Key W. & Caribbean Trading Co.*, 627 F.2d 372, 373 (D.C. Cir. 1980). Defendants claim they have not “been served process pursuant to 28 U.S.C. § 1608(a), the exclusive means of serving a foreign state.” Removal Not. ¶ 3; see Mem. in Support of Mot. to Set Aside Entry of Default at 15-17, ECF No. 7-1; Reply at 8-9, ECF No. 12. This raises legitimate questions about whether there is jurisdiction under the Foreign Sovereign Immunities Act, see Mem. in Support of Anticipated Mot. to Dismiss, ECF No. 7-2, which is “the essential consideration for subject matter jurisdiction in an action against a foreign state,” *Jerez v. Republic of Cuba*, 964 F. Supp. 2d 52, 60 (D.D.C. 2013), *aff’d*, 775 F.3d 419 (D.C. Cir. 2014). In addition, a default “rendered in excess of a court’s jurisdiction is void.” *Jerez*, 775 F.3d at 422. Consequently, vacating the Superior Court’s entry of default is not only favored but necessary. See *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 351 (1999) (“Unless a named defendant agrees to waive service, the summons continues to function

Ex. G.

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as the *sine qua non* directing an individual or entity to participate in a civil action or forgo procedural or substantive rights.”).

Accordingly, it is

ORDERED that Plaintiff’s motion for remand, ECF No. 10, is **DENIED**; it is further —

ORDERED that Defendants’ motion to vacate the Superior Court’s entry of default, ECF No. 7, is **GRANTED**, and all other unresolved motions, ECF Nos. 14, 16, are **DENIED**; it is further —

ORDERED that pursuant to Local Civil Rule 16.3, the parties shall confer and file a joint status report and proposed schedule on or before **December 8, 2020**.

The parties are advised of their obligation under Local Civil Rule 7(m) to confer before filing a non-dispositive motion. Any such motion that does not include “a statement that the required discussion occurred” and “whether the motion is opposed,” *id.*, will be summarily denied. In addition, each motion and opposition “shall be accompanied by a proposed order.” LCvR 7(c).

Date: November 16, 2020

Tanya S. Chutkan
TANYA S. CHUTKAN
United States District Judge

Ex. G. 2/8/55

EXHIBIT H:

**February 10, 2017, SUMMONS to Respondents -
Defendant Brazil, et al.....5.**

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Superior Court of the District of Columbia
CIVIL DIVISION

500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

JOHN GREGORY LAMBROS;

Plaintiff

vs.

17-0000929
Case Number

FEDERATIVE REPUBLIC OF BRAZIL;

Defendant

SUMMONS

To the above named Defendant:


You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within five (5) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

JOHN GREGORY LAMBROS, Pro Se
Name of Plaintiff's Attorney
U.S. PENITENTIARY LEAVENWORTH
P.O. Box 1000
Address
Leavenworth, Kansas 66048-1000 USA

N/A - Incarcerated Person
Telephone

如需翻译, 请拨打电话 (202) 879-4828
Veuillez appeler au (202) 879-4828 pour une traduction
Để có một bản dịch, hãy gọi (202) 879-4828
번역을 원하시면, (202) 879-4828 로 전화하십시오
የአገልግሎት ቁጥር (202) 879-4828 ይደውሉ

Clerk of the Court
By 
Deputy Clerk
Date 2/10/17

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-682-2700) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
Vea al dorso la traducción al español

EXHIBIT H

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Superior Court of the District of Columbia
CIVIL DIVISION

500 Indiana Avenue, N.W., Suite 5000
Washington, D.C. 20001 Telephone: (202) 879-1133

JOHN GREGORY LAMBROS;

Plaintiff

vs.

STATE OF RIO DE JANEIRO OF THE
FEDERATIVE REPUBLIC OF BRAZIL.

Case Number 17-00000929

Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty (20) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the party plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

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JOHN GREGORY LAMBROS, Pro Se
Name of Plaintiff's Attorney
U.S. PENITENTIARY LEAVENWORTH
P.O. Box 1000
Address
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번역을 원하시면, (202) 879-4828 로 전화하십시오

Clerk of the Court
By [Signature]
Deputy Clerk
Date 2/10/19

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EXHIBIT H.

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