

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**Docket 24-6787  
Case 1:24-CV-1300-MC**

**David White, Pro Se  
18965 NW Illahe St,  
Portland OR.  
5036087611**

**[dave@salmonprotectiondevice.com](mailto:dave@salmonprotectiondevice.com)**

**OPENING APPEAL BRIEF  
BY FRCP 60(b)(1)**

**vs.**

**Scott Ashford, in his personal capacity.  
Jeff Nason in his personal capacity.  
Philip Mote in his personal capacity.  
Edward Feser in his personal capacity.  
Defendants.**

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Legal Counsel for Defendants  
Michael Porter, P.C. (DLC) [mike.porter@millernash.com](mailto:mike.porter@millernash.com)  
Miller Nash LLP  
1140 SW Washington St, Ste 700 |  
Portland, OR 97205  
Direct: 503.205.2330

**TABLE OF AUTHORITIES**

- 1) 18 U.S.C. § 1001 False Statements, Concealment.
- 2) 28 U.S.C. §191 Proceedings in Forma Pauperis.
- 3) 8 U.S. Code § 1324c - Penalties for document fraud.
- 4) Rule 5. Serving and Filing Pleadings and Other Papers.

1 5) Rule 11. Signing Pleadings.

2  
3 6) 18 U.S.C. 1621 Perjury.

4  
5 7) Rule 21 Writ of Mandamus.

6  
7  
8 Federal Case Law

9 8) Pagtalunan v. Galaza, 291 F.3d 639, 642 (9th Cir. 2002): Pagtalunan  
10 was Pro Se and made numerous mistakes in filing his complaint  
11 resulting in the case being dismissed. However, upon appeal, the  
12 higher Court ruled that the lower Court was in error because they did  
13 not give allowance for Pagtalunan's lack of legal training.

14 9) 20-1199 Loper Bright Enterprises v. Raimondo and Relentless, Inc. v.  
15 Department of Commerce. US Supreme Court Ruled on 6/28/2024  
16 that courts can no longer function as Administrative Law courts. They  
17 must convene as Article III, Section 2 of the US Constitution Courts,  
18 in compliance with the judge's sworn oath of office. Therefore,  
19 Administrative Law shall no longer be used to override Federal Case  
20 Law or Statutory Law, per the U.S. Constitution.

21  
22 10) STUDENTS FOR FAIR ADMISSIONS, INC. v. PRESIDENT  
23 AND FELLOWS OF HARVARD COLLEGE

24 CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE  
25 FIRST CIRCUIT.

26 [https://www.supremecourt.gov/opinions/22pdf/20-1199\\_hgdj.pdf](https://www.supremecourt.gov/opinions/22pdf/20-1199_hgdj.pdf)

27  
28  
29 11) WEST VIRGINIA ET AL. v. ENVIRONMENTAL PROTECTION  
30 AGENCY ET AL. [https://www.hsph.harvard.edu/news/features/the-  
31 supreme-court-curbed-epas-power-to-regulate-carbon-emissions-  
32 from-power-plants-what-comes-next/](https://www.hsph.harvard.edu/news/features/the-supreme-court-curbed-epas-power-to-regulate-carbon-emissions-from-power-plants-what-comes-next/)

33  
34 12) The Clean Air Act of 1967 directed the EPA to tackle issues like  
35 Acid Rain and other environmental dangers. The Act instructs the  
36 EPA to make a "toxic chemicals" list. Anything the EPA wants to  
37 regulate must be on that list, Section 111, subsection D. In 2015, the

1 EPA illegally began to regulate “greenhouse gases” without including  
2 them on the toxic chemicals list as prescribed by The Clean Air Act.  
3 That’s because Carbon Dioxide and Methane, to name a few, are not  
4 toxic chemicals. In fact, every living animal and human being on  
5 Earth exhales Carbon Dioxide. It is not a toxic chemical. This was so  
6 ruled by the U.S. Supreme Court in 2022.

7  
8 13) 28 U.S. Code § 455 (b), (1)- Disqualification of justice, judge, or  
9 magistrate judge. In this case obstruction of justice by unnecessary  
10 delay of Proceedings in Forma Pauperis.

11  
12 14) Judges Code of Conduct, Canons 2 and 3, which require  
13 officers of the Court to refrain from even the appearance of judicial  
14 bias or impropriety. [https://www.uscourts.gov/judges-](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)  
15 [judgeships/code-conduct-united-states-judges,](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)

16  
17 15) 18 U.S. Code § 1621 – Perjury.

18  
19 16) 28 U.S. Code § 455 (b), (1) which says, “Where he (The Judge)  
20 has a personal bias or prejudice concerning a party, or personal  
21 knowledge of disputed evidentiary facts concerning the proceeding.”

22  
23 17) 18 U.S.C. 4 requires, “Whoever, having knowledge of the actual  
24 commission of a felony cognizable by a court of the United States,  
25 conceals and does not as soon as possible make known the same to  
26 some judge or other person in civil or military authority under the  
27 United States, shall be fined under this title or imprisoned not more  
28 than three years, or both.”

29  
30 This is further defined in law as Misprision of Felony to identify and  
31 prevent a crime in progress Proceedings in Forma Pauperis. There are  
32 two elements required to prove Misprision of Felony. For example,  
33 misprision exists when someone has knowledge that a crime is about to  
34 occur, and yet does nothing to stop it. In the instant case it would include

1 knowledge about use of a college textbook that has violated copyright  
2 laws.

3  
4 18) 17 USC § 101-810 US Copyright law.

5  
6 19) FRCP 60

7  
8 20) 10 Judges explain how they must be impartial.

9 [https://www.uscourts.gov/news/2021/09/14/what-judicial-impartiality-](https://www.uscourts.gov/news/2021/09/14/what-judicial-impartiality-judges-explain-how-they-apply-law)  
10 [judges-explain-how-they-apply-law](https://www.uscourts.gov/news/2021/09/14/what-judicial-impartiality-judges-explain-how-they-apply-law) 7 minute video.

11  
12 21) FRCP 55 [https://www.law.cornell.edu/rules/frcp/rule\\_55](https://www.law.cornell.edu/rules/frcp/rule_55)

### 13 14 15 **BACKGROUND**

16  
17 Plaintiff filed a Complaint against Defendants who violated Federal law  
18 and US Supreme Court Rulings in 2) 3) and 4) above. The second Claim  
19 for Relief requested below is the same in the Amended Complaint filed.  
20

21 Had the judge ordered it then, what plaintiff said in ECF 21 would have  
22  
23 been obviously found to be true.  
24

25  
26 In addition, Defendants didn't dispute anything in ECF 21 or the  
27  
28 Original Complaint ECF 1. To date no Defendant has filed anything in the  
29  
30 case even though they were duly served with the Complaint and Amended  
31  
32 Complaint. All Defendants did was file three pleadings having to do with  
33  
34 procedure, based on unlawful Administrative Law and said nothing about  
35  
36 the contents of ECF1 or ECF 21.  
37  
38

1 Appellants Team noticed this exact same “modus operandi” in several  
2  
3 other cases we’ve filed in completely separate courts for corporate  
4  
5 malfeasance or criminal activity. It is very suspicious, as if some kind of a  
6  
7 signal is being sent to somebody known only to “insiders.”

8  
9 Plaintiff also requested a hearing and the judge did not fulfill the request.

10  
11 The necessary legal implication is that the Judge must have accepted the  
12  
13 allegations in ECF 21 to be true. Either that, or the Judge displayed illegal  
14  
15 bias in refusing to schedule the requested hearing and instead proceeding  
16  
17 immediately to an illegal dismissal, in blatant violation of federal law  
18  
19 regarding summary judgment.

20  
21 Therefore, the following exhibits and discussion are presented not to retry  
22  
23 the case, but to demonstrate the abundance of evidence of criminal activity  
24  
25 which the judge completely ignored in his dismissal. How can failure to  
26  
27 refer these matters to adjudication be anything other than misprision of  
28  
29 felony, per 17) above. Especially since defendants failed to respond to  
30  
31 allegations, apparently relying on the assumption that the Court would rule  
32  
33 in violation of Loper-Bright. Is this not a flagrant disregard and flaunting of  
34  
35 the authority of the Supreme Court and the U.S. Constitution, including  
36  
37 Article VI, Section 3, not to mention the 9<sup>th</sup> Circuit Court of Appeals:

38  
39 In addition, Article VI, Section 3 says, This Constitution, and the Laws of

1  
2 the United States which shall be made in Pursuance thereof; and all  
3  
4 Treaties made, or which shall be made, under the Authority of the United  
5  
6 States, shall be the supreme Law of the Land; and the Judges in every  
7  
8 State shall be bound thereby, any Thing in the Constitution or Laws of any  
9  
10 State to the Contrary notwithstanding

11  
12 Regardless, the main issue in everything the lower court says below is that  
13  
14 Defendants' made no legal or substantive response to Plaintiff's Complaint;  
15  
16 they simply did not respond in the allotted time.

17  
18 So the lower Court has no right to argue on behalf of the Defendants. To  
19  
20 reinforce what we stated above, as a neutral judicial referee the judge must  
21  
22 assume that Plaintiff's arguments are the truth, especially in the absence of  
23  
24 Discovery. The lower court has no authority to violate Federal law and start  
25  
26 arguing for the Defense. What he is doing is like only one basketball team  
27  
28 showing up to play, and the referee awarding a win to the team that didn't  
29  
30 show up.

31  
32  
33 Exhibit 1 is the Perjury final dismissal.

34  
35 Page 1 Exhibit 1.

36 First perjury: Because Plaintiff's Amended Complaint still fails to state a  
37 cognizable legal claim, the Court cannot grant leave to proceed IFP.  
38

1 ECF 21 page 6 starting at line 20 through Page 8 line 11 are several  
2 cognizable legal claims.

3  
4 Exhibit 1 bottom of page 2 to top of page 3.

5 “Without providing the selection criteria or an insight into the evaluation  
6 process that selected someone over Plaintiff for improper reasons,  
7 Plaintiff’s allegations are merely opinions—not facts—that he is vaguely  
8 superior to the other candidates. It is not a “well-documented fact” that  
9 “prospective students in a Zoom meeting [sic] and in a separate graduate  
10 school bullpen were all ‘Black,’” as Plaintiff contends. Id. Nor is it, as he  
11 claims, “common knowledge that the University receives more  
12 compensation for selecting foreign students.” Id. Finally, Defendants’  
13 disagreement with Plaintiff’s answer regarding affirmative action is not  
14 tantamount to Defendants deploying inappropriate affirmative action in their  
15 selection process. Plaintiff has no legal entitlement to admission into  
16 anyone’s graduate program. He has a right to have his application  
17 evaluated free of discrimination, but simply being white and not admitted  
18 while applicants of color were, does not mean he was discriminated  
19 against.”

20  
21 Plaintiff’s Response: In the opinion above, the judge did not allow for  
22  
23 requested discovery of the past 5 years of enrollment history. The Court is  
24  
25 making an impossible demand in the very first sentence, indicating that he  
26  
27 did not read key elements of our complaint.

28  
29  
30 Exhibit 1 middle of page 3. “As to his fraudulent misrepresentation claim,  
31 Plaintiff alleges that Defendants represented their “main textbook for  
32 Environmental Science...[was] an Environmental Sciences text.” Id. at 10.  
33 “However, a careful review of the book by Plaintiff revealed that the only  
34 place the phrase ‘Environmental Sciences’ was mentioned in the entire  
35 book is on the front cover, thus 2) making it a false representation.” Id.  
36 Plaintiff then conclusively states: “From all appearances, Defendants have  
37 4) been using a plagiarized version of the Welty, Wicks & Wilson book to  
38 teach a course in Chemical Engineering while conveying the false  
39 impression to prospective students, including Plaintiff, that they are

1 teaching Environmental Science.” Id. This does not make out a claim for  
2 fraudulent misrepresentation. Moreover, Plaintiff admits that he “was/is not  
3 the direct victim of [the textbook related] offenses,” and therefore, he has  
4 no standing to bring these claims. Id. at 7.”

5  
6 Plaintiff’s Response: Again, even if this were all true (which it is not), the  
7  
8 main issue here is that Defendants’ made no legal or substantive response  
9  
10 to Plaintiff’s Complaint, so the lower Court has no right to argue on behalf  
11  
12 of the Defendants. This is obvious bias.

13  
14 However, for the sake of argument we will respond further: The defendants  
15  
16 did not dispute the fact that their book is not an environmental textbook,  
17  
18 they chose to remain mute. As the most qualified candidate in all  
19  
20 categories (which is indisputable), Plaintiff is harmed by OSU not teaching  
21  
22 his book and not granting the right to finish his last 22 credits to earn a  
23  
24 PhD. This has cost him around \$180,000 per year. Plaintiff therefore has  
25  
26 multiple standing claims.

27  
28 The Judge’s refusal to recognize this is violation of Judges code of  
29  
30 conduct, 18 U.S. Code § 4 - Misprision of felony, 28 U.S. Code § 144 - Bias  
31  
32 or prejudice of judge. Moreover, the judge has no right to dismiss our  
33  
34 evidence since Defendants made no response. Because Defendants’  
35  
36 chose not to argue, the legal assumption must be that Appellant’s evidence  
37  
38 is correct. Are these not grounds for severe discipline to set an example  
39



1 and avoid future such miscarriages of justice in the future?  
2  
3

4 Exhibit 1 Page 4.

5 Even accepting Plaintiff's facts as stated, they do not illustrate that any  
6 legal harms occurred. Plaintiff has therefore failed to state a claim. The  
7 Amended Complaint, ECF No. 21, is accordingly DISMISSED with  
8 prejudice and without leave to amend. Plaintiff's IFP Application, ECF No.  
9 2, is DENIED.

10  
11 Plaintiff's Response: Plaintiff clearly stated and calculated in Causes of

12  
13 Action many legal harms from loss of revenue of our textbook to illegal  
14  
15 discrimination by unlawful Affirmative Action. If the judge actually read our  
16  
17 Brief, how could he have possibly missed this?

18  
19 In addition, the book OSU is teaching is in violation of Federal copyright law  
20  
21 which is a felony. The book is in the public domain, and (as an Applied  
22  
23 Physics textbook) furthermore misrepresents the subject matter of the  
24  
25 curriculum to Plaintiff and all applicants.

26  
27 Rule 60. Relief from a Judgment or Order

28  
29 Primary tabs

30  
31 (a) Corrections Based on Clerical Mistakes; Oversights and Omissions.

32 The court may correct a clerical mistake or a mistake arising from oversight  
33 or omission whenever one is found in a judgment, order, or other part of the  
34 record. The court may do so on motion or on its own, with or without notice.  
35 But after an appeal has been docketed in the appellate court and while it is  
36 pending, such a mistake may be corrected only with the appellate court's  
37 leave.  
38

1 (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On  
2 motion and just terms, the court may relieve a party or its legal  
3 representative from a final judgment, order, or proceeding for the following  
4 reasons:

5  
6 (1) mistake, inadvertence, surprise, or excusable neglect;

7  
8 The Judge made a mistake in FRCP 15 assuming it gives the Judge  
9  
10 additional time to evaluate an Amended Complaint or motion.

11  
12 However, it does not. It gives the opposing party 14 calendar days to  
13  
14 respond. A response could be a MOET or a schedule briefing  
15  
16 request, or many other things. None of these were filed by  
17  
18 defendants who were in default.

19  
20 FRCP 15 (3) Time to Respond. Unless the court orders otherwise,  
21  
22 any required response to an amended pleading must be made within  
23  
24 the time remaining to respond to the original pleading or within 14  
25  
26 days after service of the amended pleading, whichever is later.

27  
28 The court did not order otherwise, and is thus in error.

29  
30 Therefore, Because of these multiple Court legal errors, Appellant is  
31  
32 asking the Appeals court to vacate the final ruling in 1:24-CV-1300-  
33  
34 MC.

35  
36 But the most egregious Court violation of federal legal procedure  
37  
38 came after the 14-day deadline by FRCP 15 came and passed. A  
39

1  
2 Rule 55 default judgement and Rule 56 Summary Judgement were  
3  
4 filed.

5  
6 At that point, the Defendants' Legal Counsel sent an email to the  
7  
8 judge which said they didn't know they needed to respond.

9  
10 Defendants Legal Counsel has no reason not to know this because  
11  
12 he is a bar licensed attorney.

13  
14 Federal Rule 2 and 3 state clearly that if the deadline expires the  
15  
16 Court Clerk must review the case, then sign and forward it to the  
17  
18 judge for his signature. This Federal requirement was overruled, by  
19  
20 an unlawful appeal to Administrative Law.

21  
22 The following transaction was entered on 9/17/2024 at 9:45 AM PDT and filed on 9/17/2024

**Case Name:** White v. Ashford et al

**Case Number:** [1:24-cv-01300-MC](#)

**Filer:**

**Document Number:** 17

23 **Docket Text:**

24  
25 **ORDER:** Denying as moot Motions [9], [12], [14], [15] and [16] and staying all response  
26 times until the Court has resolved Plaintiff's IFP Application [2]. Per [6], Plaintiff's leave  
27 to proceed IFP was granted in error and stricken. The Court is still screening the  
28 Complaint and considering ruling on the IFP request. All pending motions are  
29 accordingly denied as moot. Ordered by Judge Michael J. McShane. (cp)

30  
31 Here, the unnecessary delay of Proceedings in Forma Pauperis

32  
33 demonstrated that the Judge is clearly biased against pro se litigant in the

1  
2 illegal perjury ruling of 1:24-cv-01301-MC. Many days were wasted  
3  
4 evaluating an IFP which had been confirmed by a professional accountant  
5  
6 and pre-approved in other recent cases and should have taken no more  
7  
8 than 15 minutes. This biased action thus interfered with timeliness of  
9  
10 Service, Charging, and other time-sensitive actions specified in the Order.  
11  
12 This is violation of 6) 28 U.S. Code § 455 (b), (1) which defines when the  
13  
14 judge has a personal bias or prejudice concerning a party, or personal  
15  
16 knowledge of disputed evidentiary facts concerning the proceeding;  
17  
18 It might even be construed as obstruction of Justice by means of  
19  
20 Administrative Law. Because of this clear bias on behalf of the lower  
21  
22 Court Judge, Plaintiff asks the Appeals Court to replace or severely  
23  
24 discipline this Judge.

25  
26 Exhibit 1 is the Court's Illegal Order based on illegal Administrative Law  
27  
28 10), also repeated here. Exhibit 1 is 15) Perjury of the Judge. Also, illegal  
29  
30 Administrative Law by 9) and 14). Also 13) and 16) should apply.

31  
32 Defendants' pleadings didn't debunk any science or law in the Amended  
33  
34 Complaint. Plaintiff filed it by FRCP 15. This gives 14 days for Defendants  
35  
36 to file a response. The defendants did not respond. Plaintiff filed a Rule 55  
37  
38 Default win and Rule 56 Summary Judgement.  
39

1

2 9/27/2024. But, the judge said:

3

09/27/2024	<a href="#">20</a>	Opinion and Order: Plaintiff's Complaint, ECF No. <a href="#">1</a> , is DISMISSED without prejudice and with leave to amend. The amended complaint, if any, is due 30 days from the issuance of this Opinion and Order. The Application, ECF No. <a href="#">2</a> , is held in abeyance pending the filing of an amended complaint. Signed on 9/27/2024 by Judge Michael J. McShane. (cp) (Entered: 09/27/2024)
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4

5 On 10/2/2024 Plaintiff filed the Amended Complaint, requested a hearing

6

7 thus restarting the case clock. By Federal Rule 15 Defendants had 14 days

8

9 to reply, but they did not.

10

11 Therefore, Plaintiff filed a Rule 55, Rule 56, and Writ of Mandamus.

10/02/2024	<a href="#">21</a>	AMENDED COMPLAINT by Federal Rule 15. Expedited Hearing requested. Filed by David White. (White, David) Modified on 10/17/2024 to correct document type from a motion to Amended Complaint, resent NEF (cp). (Entered: 10/02/2024)
10/17/2024	<a href="#">22</a>	Motion for Default Judgment. Filed by David White. (Attachments: # <a href="#">1</a> Proposed Order, # <a href="#">2</a> Proposed Order) (White, David) (Entered: 10/17/2024)

12

13 Federal Rule 15 for Amendments states that:

14

15 ([https://www.law.cornell.edu/rules/frcp/rule\\_15](https://www.law.cornell.edu/rules/frcp/rule_15)) "(3) Time to Respond.

16

17 Unless the Court orders otherwise, any required response to an amended

18

1 pleading must be made within the time remaining to respond to the original  
2  
3 pleading or within 14 days after service of the amended pleading,  
4  
5 whichever is later.”

6  
7 “Unless the Court orders otherwise” is a phrase that appears in almost  
8  
9 every federal and state law code to allow a Judge to make exceptions for a  
10  
11 law as circumstances may dictate. For example, in this case a judge  
12  
13 might rule to increase the time due to Christmas and New Year’s Holidays  
14  
15 when most of the world shuts down.

16  
17 The Court’s evaluation of an IFP has no bearing on this; The Judge also  
18  
19 must operate within this Federally imposed timeline, rather than penalize  
20  
21 Plaintiff for the judge’s own delinquency. At the very least, he should have  
22  
23 clarified and treated it as an  
24  
25 error to be corrected rather than imposing a procedural rule on Plaintiff that  
26

1 precludes considering the evidence. The Court is required to consider all  
2  
3 relevant evidence presented by both sides in its rulings, but no more. The  
4  
5 judge may not interject Administrative Law if one party abstains, as if he  
6  
7 were a third litigant, or a substitute litigant.

8  
9 Rule 15 does not give the Court extra time to evaluate the amended  
10  
11 complaint. However, the Judge stated contrary to law that:” The Motion for  
12  
13 Default Judgment 22 is DENIED. The Court is still evaluating Plaintiff's IFP  
14  
15 Application 2 and Amended Complaint 21.”

16  
17 Nonetheless, the Defendants were in default. It is not within Plaintiff's  
18  
19 purview to school Defendants' legal counsel in Federal Rules 3, 4 and 15,  
20  
21 which apply, or to compel the Court to perform its duty within the time  
22  
23 prescribed by Federal law.

24  
25 Defendants' legal counsel said this in an email to the court:

26  
27 Porter, Michael<Mike.Porter@MillerNash.com>

- 1  Reply
- 2  Reply all
- 3  Forward
- 4

5 To:mcshane\_crd@ord.uscourts.gov

6 Cc:You

7 Thu 10/17/2024 9:17 AM

8 Dear Courtroom Deputy for Chief Judge McShane,

9

10 We represent defendants in this case. Plaintiff David White is pro se and  
11 copied on this email.

12

13 We have received the October 17, 2024 filings by White (docket 22). Given  
14 the court's consideration of the IFP request described in the minute order of  
15 September 17, 2024 (docket 17), and defendants' position on service set  
16 forth in their motion to set a response date of August 26, 2024 (docket 9),  
17 our impression is the court does not expect any response from defendants.  
18 If that impression is incorrect, we will respond, but we did want to check in  
19 before expending the resources to do so.

20

21 Thank you,

22

23 Mike Porter

**Michael Porter, P.C.**

Partner

**Miller Nash LLP**

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*Direct: 503.205.2330 | Cell: 503.577.1325 | Office: 503.224.5858*



[Email](#) | [Bio](#) | [Insights](#) | [Website](#)

1  
2 Judge exhibited an unlawful, biased predisposition against Plaintiff's

3  
4 Complaint by the following words and actions

5

10/17/2024	23	<b>ORDER:</b> The Motion for Default Judgment <a href="#">22</a> is DENIED. The Court is still evaluating Plaintiff's IFP Application <a href="#">2</a> and Amended Complaint <a href="#">21</a> . <b>He has not been granted leave to proceed, this action has not yet formally commenced with service</b> , and therefore, Defendant does not yet have a duty to appear and defend. Plaintiff is reminded to heed this District's Local Rules as well as the Federal Rules of Civil Procedure prior to filing any other documents. Ordered by Judge Michael J. McShane. (cp) (Entered: 10/17/2024)
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6  
7 Many other state and federal and appeal courts have approved Plaintiff's

8  
9 IFP in a very short time. The amended complaint is easy to read and

10  
11 understand and takes less than two hours to read.

12  
13 What does "held in abeyance pending the filing of an amended complaint."

14  
15 mean? It means the case clock stops only *until* the amended complaint is

16  
17 filed; it does *not* include the phrase "*and* until the judge evaluates the IFP."

18  
19 Also, **in** the Order Docket 23 the Judge said "Plaintiff is reminded to heed

20  
21 this District's Local Rules as well as the Federal Rules of Civil Procedure

1 prior to filing any other documents.”

2

3 Plaintiff has followed all the FRCP rules, which take precedence over

4

5 suspected illegal local administrative law 9) rules.

6

7 At the very least the Court should have simply treated it as an error to be

8

9 corrected, rather than dismissing the Default motion on an Administrative

10

11 Technicality. However, local rules are no longer (if they ever were)

12

13 permitted to cancel Federal rules and law by Loper Bright Enterprises.

14

15 Thus, the judge’s statement is categorically not true where he arbitrarily

16

17 decrees: “He has not been granted leave to proceed, this action has not yet

18

19 formally commenced with service.” Service was completed legally and

20

21 process began when the Amended Complaint ECF 21 was filed.

22

23 There is nothing legally wrong with ECF 22 and the judge has no legal

24

25 basis to deny it.

26

1 This is a violation of:

2 22–451 June 28th, 2024 Loper Bright Enterprises v. Raimondo and  
3 Relentless, Inc. v. Department of  
4 Commerce. [https://www.supremecourt.gov/opinions/23pdf/22-  
5 451\\_7m58.pdf](https://www.supremecourt.gov/opinions/23pdf/22-451_7m58.pdf)

6 18 U.S. Code § 4 - Misprision of felony

7 28 U.S. Code § 144 - Bias or prejudice of judge

8  
9 Judges Code of Conduct, Canons 2 and  
10 3; [https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-  
11 judges](https://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges)

## 14 **FACTS IN LAW**

## 16 **DISCUSSION**

17  
18 This is clearly not a frivolous case. The lower Court has committed many  
19 egregious violations of federal law and procedure to create for itself an  
20 illegitimate platform from which to interject a variety of hearsay “evidence”  
21 and unlawful procedural rules as justification for dismissal. The judge  
22 simply ignored this evidence, pretending that it did not exist  
23

24 This in itself is grounds to vacate the lower Court’s ruling. Nonetheless,  
25 evidence is presented on the next several pages to demonstrate the  
26 legitimacy and gravity of the bias, breach of contract, unjust enrichment,  
27 and suspected misrepresentation that the court simply ignored and swept  
28 under the rug.  
29

30 Plaintiff has demonstrated that the official narrative on climate change,  
31  
32  
33  
34  
35  
36  
37  
38

1 promoted for almost 40 years, is

2 misleading and extraordinarily destructive of human life and property.

3  
4 School textbooks are obviously a primary means of molding impressionable

5  
6 minds and DEI standards of selection are patently illegal.

7  
8  
9 Plaintiff filed a complaint against Oregon State University (Defendants) for

10 rejecting his enrollment to complete just 22 credits remaining for his PhD.

11  
12 For two consecutive years Defendants divulged that Plaintiff was excluded

13  
14 for failing to meet standards of Affirmative Action (Diversity, Equity and

15  
16 Inclusion (DEI)). However, DEI and Affirmative Action are now illegal

17  
18 enrollment criteria by 3) STUDENTS FOR FAIR ADMISSIONS, INC. v.

19  
20 PRESIDENT AND FELLOWS OF HARVARD COLLEGE in a recent United

21  
22 States Supreme Court Ruling.

23  
24 The Complaint also alleged that the primary textbook Oregon State

25  
26 University (OSU) uses for Environment Science or Environmental

27  
28 Engineering classes is only tangentially related to the topic, thus misleading

29  
30 students. The book being used is, in fact, a copyright violation of another

31  
32 popular Chemical Engineering book with a new name and cover to disguise

33  
34 the crime. The legal definition of Plagiarism requires at least 5 passages

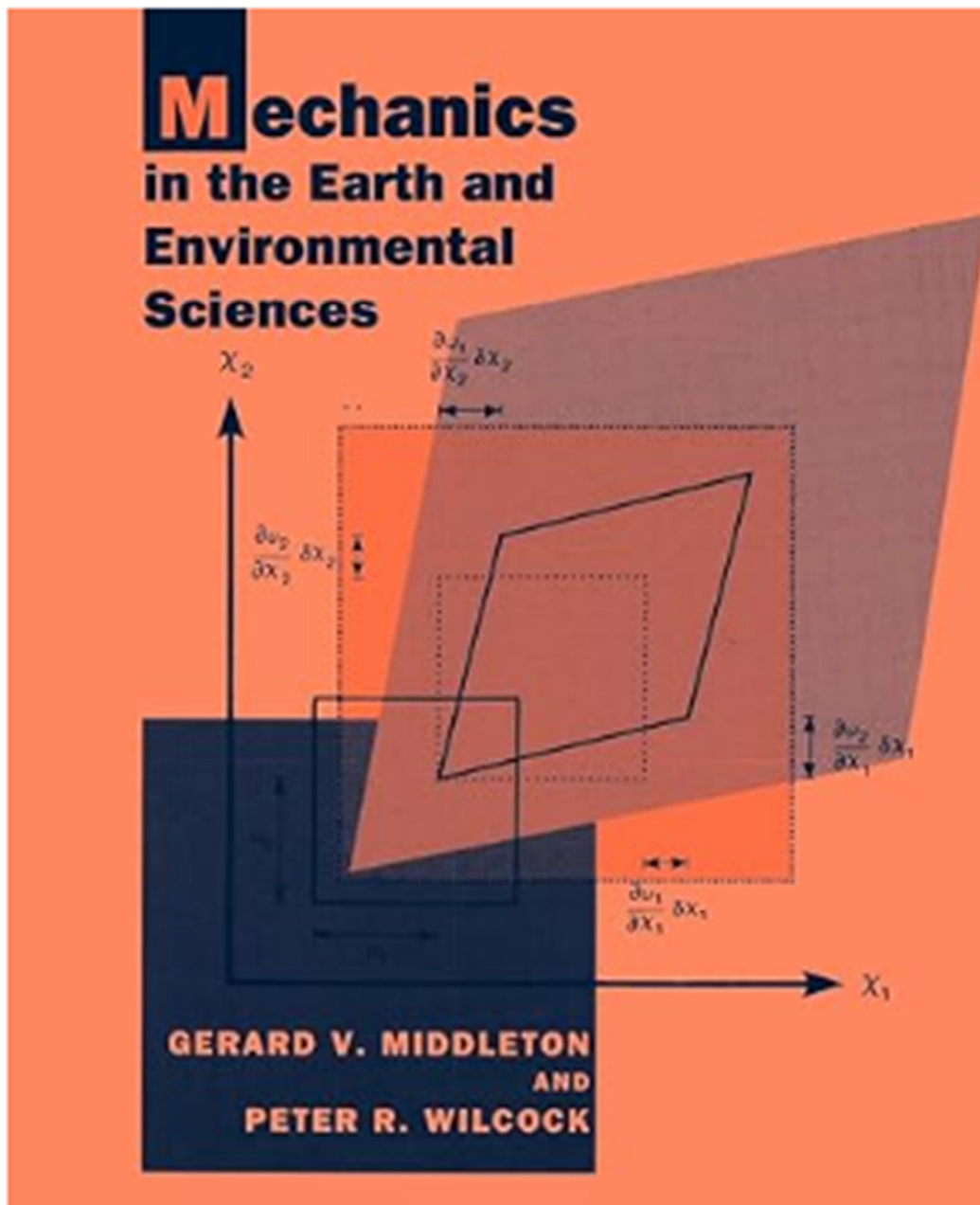
35  
36 with substantially identical wording, which we can easily demonstrate. The

37  
38 only location in the book which says Environment Sciences is on the cover,

39  
40  
41

1 as seen below.

2



3

4

5 Chapters in this textbook are Chemical Engineering subjects.

6

7 Table of Contents

8 1 Introduction

9 2 Review of elementary mechanics.

10 3 Dimensional analyses and the theory of models.

11 4 Stress (material stress)

12 5. Pressure, buoyancy, and consolidation

13 6. flow through porous media

- 1 7. Strain
- 2 8. Elasticity
- 3 9. Viscous Fluids
- 4 10. Flow of Natural Materials
- 5 11. Turbulence
- 6 12 Thermal convection

7

8 This is clearly not an Environmental Science textbook.

9

10

11 By contrast, Plaintiff's book is an Environment Science or Engineering  
12 textbook for college sophomores that addresses the issues of the day. It  
13 focuses on human interaction with the Environment, per the definition of  
14 Environmental Science. The second edition is  
15 soon to be released. The Publisher, Dorrance Publishing, is the oldest  
16 science book publisher in the United States, and Appellant's book has  
17 received their imprimatur.

24

25

26 Plaintiff is advised by a team of 3 professionals, also volunteering, pro  
27 se/pro bono.

29

30 One is a 40-year retired, Federal Attorney, expert in the application of  
31 Federal and Case law, environmental law in particular. Another is an  
32 investigative journalist, providing legal research and serving as Legal  
33 Editor for all Court Documents.

37

38 The defendants are in default in case 1:24-CV-1300-MC.

39

40 Climate Change is, of course, a controversial subject and OSU is denying

41

1 students the full range of information they need to evaluate the controversy.  
2  
3 It has been charged that government at almost all levels is using climate  
4  
5 change misinformation for the purpose of, in their words, “removing people  
6  
7 from the earth.”

8  
9 The following information is presented in support of this claim, thus  
10  
11 demonstrating the need for the informed and balanced perspective that  
12  
13 Plaintiff represents in the Dorrance-approved Environmental Science  
14  
15 textbook.

16  
17 It is common knowledge that the key figures perpetuating this agenda  
18  
19 include Bill Gates, Klaus Schwab, George Soros, and now Jane Goodall,  
20  
21 who are advocating for a drastic reduction in the world's population by  
22  
23 2030.

24  
25 At first blush, this sounds extreme, but it is well-documented by this video  
26  
27 in particular, which the Court is urged to view before it's taken down.

28  
29 <https://www.youtube.com/watch?v=MFV0QVO2T3U> or

30  
31 [https://cctruth.org/jane\\_goodall\\_remove\\_people.mp4](https://cctruth.org/jane_goodall_remove_people.mp4)

32  
33  
34 <https://www.youtube.com/watch?v=gdJ7wqJHbCo>

35  
36  
37 Bill Gates, Klaus Schwab and George Soros were recently “kicked out” of  
38  
39 the World Economic Forum (WEF) for saying these things.

40  
41 Climate change is also about fear mongering. The image below is recycled

1  
2 every year: "Just another 10 years"

3



4

5

6 It's the same lie that the United Nations repeats every year with no basis in

7

8 fact. It is sustained by nothing more than media hype and

9

10 misrepresentation.

11

12 Appellant's research has produced the only worldwide manuscript for

13

14 netzeroco2e presented at Plenary Addresses at Climate Change

15

16 conferences around the world. [https://cctruth.org/the-essential-role-of-](https://cctruth.org/the-essential-role-of-photosynthesis-in-defining-net-zero-carbon-dioxide-emissions-for-equilibrium-calculations.pdf)

17

18 [photosynthesis-in-defining-net-zero-carbon-dioxide-emissions-for-](https://cctruth.org/the-essential-role-of-photosynthesis-in-defining-net-zero-carbon-dioxide-emissions-for-equilibrium-calculations.pdf)

19

19 [equilibrium-calculations.pdf](https://cctruth.org/the-essential-role-of-photosynthesis-in-defining-net-zero-carbon-dioxide-emissions-for-equilibrium-calculations.pdf) cctruth.org



1 That means CO2 is back to normal in the Northern Hemisphere, thanks to  
 2 tree planting efforts of the U.S., China, India, Pakistan, and Peru, all of  
 3 which Appellant has instructed. Appellant has presented plenary  
 4 addresses at climate change conferences like the one in Dubai ahead of  
 5 the sham COP28.  
 6  
 7  
 8  
 9  
 10



11  
 12  
 13  
 14 Plaintiff also leads a watchdog team of thirty-five University Professors who  
 15 participate in Expert and Government Review of the Intergovernmental  
 16 Panel on Climate Change reports (IPCC). We have also reviewed the  
 17 NOAA and NASA reports and confirmed that they too are virtually all based  
 18 on fallacious base data sets and faulty measurement techniques. We have  
 19  
 20  
 21  
 22

1  
2 come to be known as the “junk science slayers.”

3  
4 Currently Appellant’s IPCC team are reviewing the First National Nature  
5  
6 Assessment’s Zero Order Draft for the Global Change Division of the  
7  
8 National Academy of Science.

9  
10 [https://globalchange.gov/our-work/national-nature-  
11 assessment?utm\\_source=Newsletter&utm\\_campaign=943c778f9f-  
12 EMAIL\\_CAMPAIGN\\_2018\\_10\\_26\\_01\\_38\\_COPY\\_01&utm\\_medium=email  
13 &utm\\_term=0\\_00fda1a12d-943c778f9f-294028517](https://globalchange.gov/our-work/national-nature-assessment?utm_source=Newsletter&utm_campaign=943c778f9f-EMAIL_CAMPAIGN_2018_10_26_01_38_COPY_01&utm_medium=email&utm_term=0_00fda1a12d-943c778f9f-294028517)

14  
15 As noted above, our College and High School textbooks at cctruth.org are  
16  
17 published by Dorrance Publishing. Dorrance is the oldest science book  
18  
19 publishing company in the USA, with a 100-year track record. They refuse  
20  
21 to publish junk science, such as the superstitious claim that forest fires  
22  
23 result from alleged climate change.

24  
25 We have also published a high school textbook covering the same scope of  
26  
27 material. The National Science Teachers Association has copies and The  
28  
29 National Education Association is expecting them to select it for the 2025-  
30  
31 2026 school year for Sophomores. [https://rosedogbookstore.com/climate-  
32 crisis-changed-the-intergovernmental-panel-on-climate-change-ipcc-  
33 reports-are-deliberate-science-fiction-1/?showHidden=true](https://rosedogbookstore.com/climate-crisis-changed-the-intergovernmental-panel-on-climate-change-ipcc-reports-are-deliberate-science-fiction-1/?showHidden=true)

34  
35 Please review “Then the Arson Fires Will Stop: <https://cctruth.org/wildfire/>

36  
37 Email from Dorrance Publishing on 10/31/2024

38  
39  
40 mmcintyre@dorrancepublishing.com

41

1 To:You

2

Thu 10/31/2024 2:00 PM

3 Hi Dave:

4

5 I just wanted to give you a status update for Climate Crisis Changed (2nd  
6 Edition). Your first copy is being printed.

7

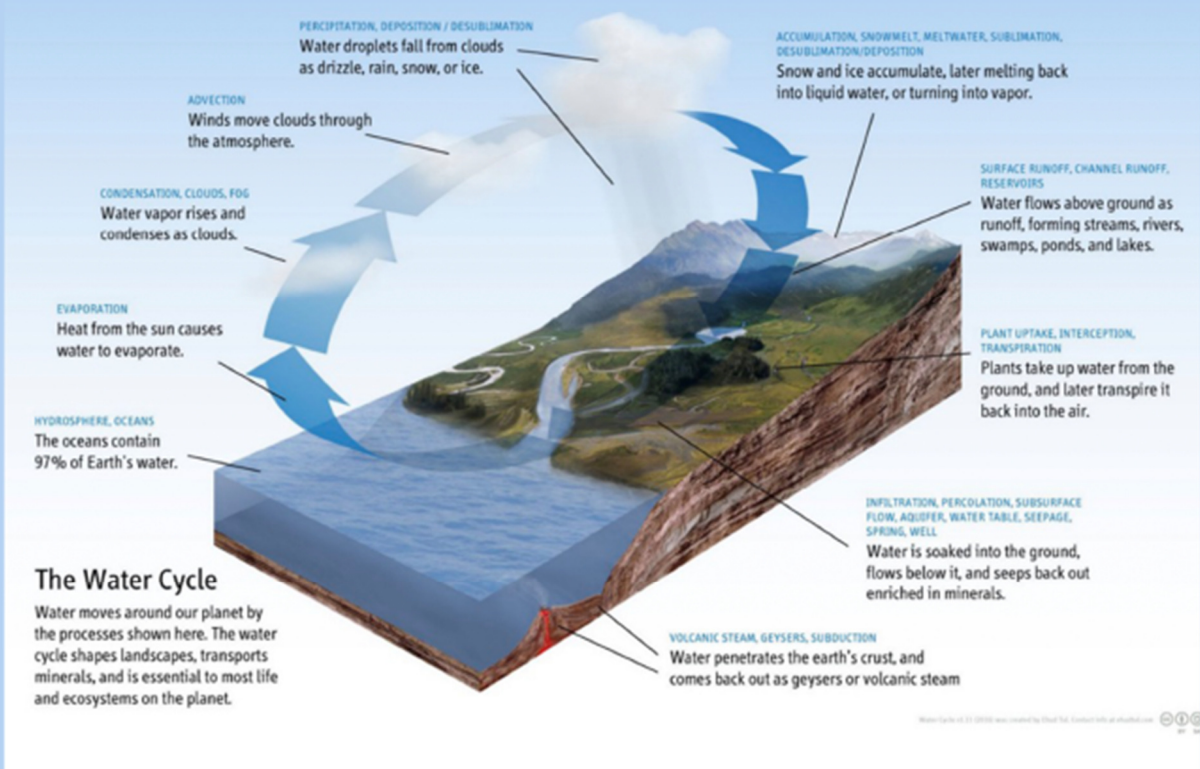
8 Upon completion of the finished book, we will mail it to you. I will email you  
9 tracking information.

10

11 As always, should you have any questions please feel free to be in touch.

12

# CLIMATE CRISIS CHANGED



The Intergovernmental Panel On Climate Change  
Reports are Deliberate Science fiction (IPCC).

*Cctruth.org*

College Textbook Second Edition

PROF DAVE WHITE

# Climate Crisis Changed

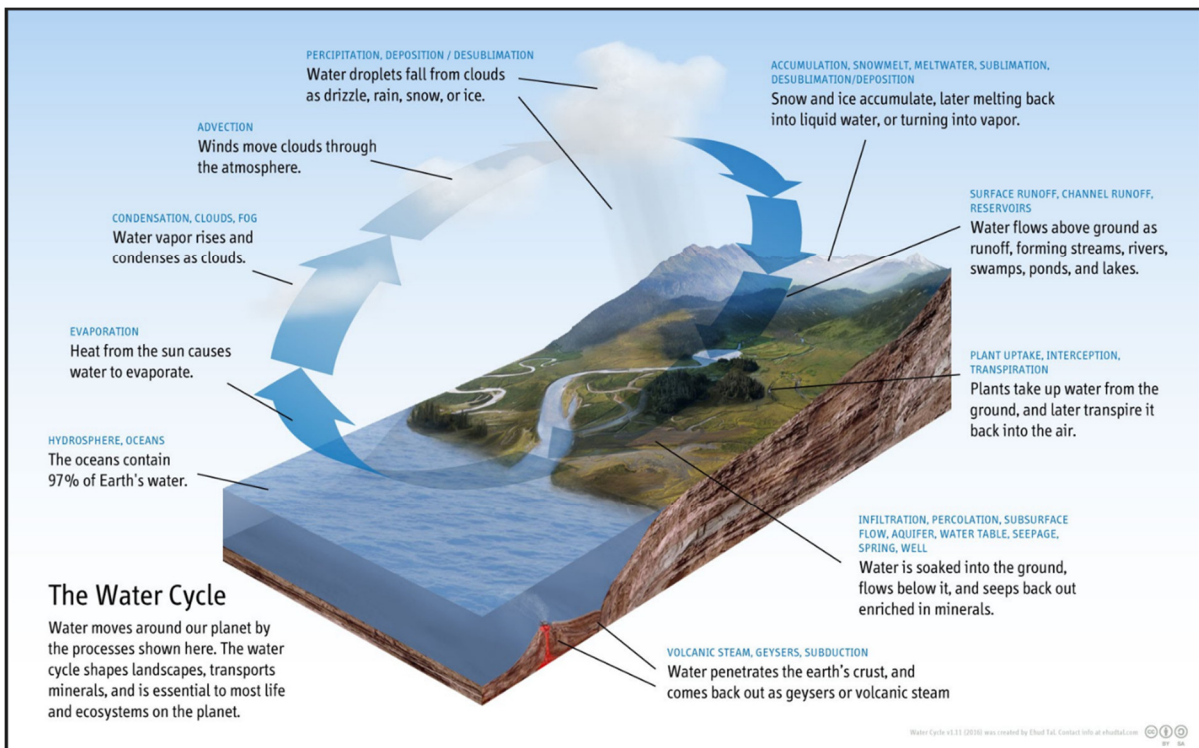
Cctruth.org

## The Intergovernmental Panel On Climate Change

### Reports are Deliberate Science fiction (IPCC).

### 2<sup>nd</sup> Edition College Textbook

### For Environmental Science



1  
2  
3  
4  
5  
6  
7  
8

9  
10  
11

1 The Table of Contents reveals the important topics that distinguish  
 2 Environmental Science from related, but unique subject components, such  
 3 as Physics, Biochemistry. Meteorology, Climatology, and more.

4  
 5 1.1: What is Environmental Science? - Biology LibreTexts

6  
 7 Environmental science is the interdisciplinary study of the interaction of  
 8 living and non-living parts of the environment, with special focus on the  
 9 impact of humans on the environment. Learn about the reasons,  
 10 challenges, and indicators of environmental science, and the tragedy of the  
 11 commons.

12  
 13 Thus, Oregon State is misrepresenting to students the true nature of  
 14 Environmental Science.

## 15 16 **TABLE OF CONTENTS**

17 Chapter 1. Statistical Analysis, The scientific method.

18 Chapter 2. Carbon Dioxide Equilibrium—NetZeroCO2E = 8.6 billion tons of  
 19 photosynthesis left in the world.

20 Chapter 3. Green House Gases—Methane is much less greenhouse gas.  
 21 Water vapor is the largest effect.

22 Chapter 4. Astrophysical Warming—Cooling in the southern hemisphere  
 23 and warming in the northern where 90% of people live.

24 Chapter 5. Residence Time of Atmospheric Carbon Dioxide—It takes 150  
 25 years for anything we do with emissions of carbon dioxide to have an  
 26 effect.

27 Chapter 6. NOAA Mauna Loa Data and Fraud.

28 Chapter 7. NiCE Fix for Southeast USA Storms—Storms stopped in 2022.

29 Chapter 8. Global Sea Rise—1.4 mm/yr. linear and not accelerating. No  
 30 reliability in NOAA Satellites.

31 Chapter 9. Photosynthesis Issues.

- 1 Chapter 10. Atmospheric Carbon Dioxide Doesn't Freeze in the  
2 Mesosphere.
- 3 Chapter 11. NIST and Photosynthesis Experiment—scientific method.
- 4 Chapter 12. Ocean is not a Sink for Atmospheric Carbon Dioxide
- 5 Chapter 13. The Intergovernmental Panel on Climate Change (IPCC)  
6 Reports are Deliberate Science Fiction
- 7 Chapter 14. Videos to Watch.
- 8 Chapter 15. Predatory Journals are a Fabrication.
- 9 Chapter 16 Antarctic Sea ice is Growing

10

11

12 Below is another example, of official fearmongering in reporting on a

13

14 normal tropical storm that struck the SE coast of the United States on

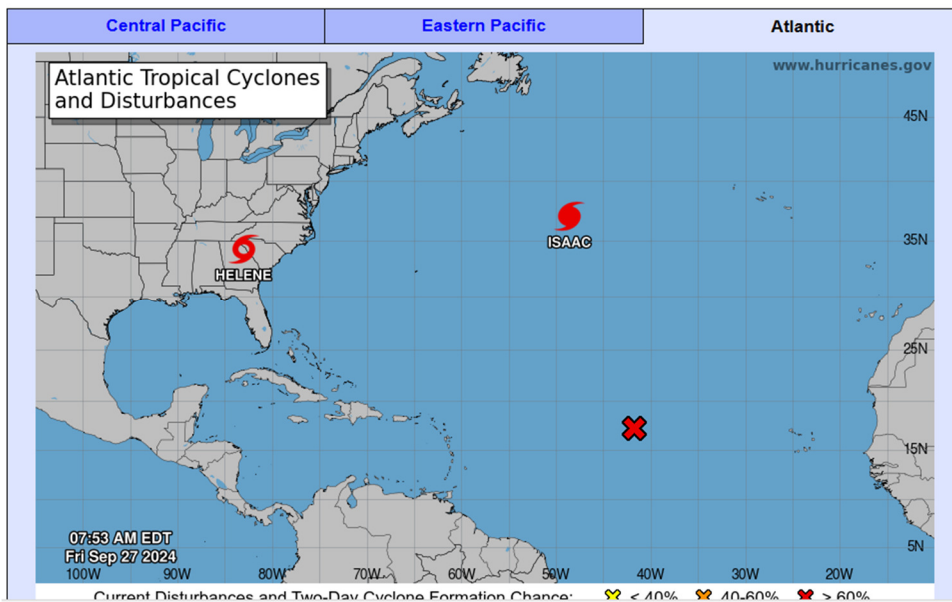
15

16 9/27/2024. Television news coverage showed violet winds blowing trees

17

18 and hurling debris before the storm even hit landfall.

19



20

21

22 Storm Helene came from South America. The

23

1 storms from West Africa have stopped because of dam construction on the  
2 Nile River. Current data as of 7am PDT 9/27/2024 indicates winds from this  
3 storm have peaked at only 60 mph and 972 millibar 1000 millibar is 29.92  
4 in mercury (normal weather). The Carolina's are getting some well-  
5 deserved rain.  
6  
7  
8  
9

### 10 **CONCLUSION**

11 These facts are evidence that the Trial Court Judge (TCJ) ruled based on  
12 bias and environmental mythos rather than true environmental science.  
13  
14

15 Environmental folly rather than environmental fact. This is not true  
16 “environmentalism.” It is a clown masquerading as a king. It is a king  
17 without clothes.  
18

19 It leads to nothing but environmental destruction in the name of  
20 environmental preservation. It is the stupidity of “destroying a forest to  
21 preserve a dead tree” or “destroying a 5 foot dam to “save” a salmon that  
22 can easily jump 6 feet. It leaves towns to drown, farmers to fume, forests  
23 to burn, and cities to starve. Is this what we want?  
24  
25

26 It is our colleges and universities who shelter the luddite’s who cling to this  
27 asininity. When will America wake up? Thus, the lower Court ignored the  
28 core nature of Environmental Science and denied the facts about climate  
29 change which Appellant seeks to defend.  
30  
31  
32

33 Again, these observations are presented not to retry the case, but to  
34  
35  
36  
37  
38  
39  
40  
41



1  
2 illustrate how the lower court ignored all of this material evidence in arriving  
3  
4 at a decision based exclusively on Administrative Law in violation of the  
5  
6 recent Loper Bright decision under Article III, of the U.S. Constitution.

7  
8 Is it not Misprision of felony, to be made aware of these crimes and then fail  
9  
10 to refer them for adjudication:

- 11  
12 1. breach of contract,  
13 2. misrepresentation,  
14 3. unjust enrichment,  
15 4. copyright infringement,  
16 5. affirmative action and DEI in student enrollment, and  
17 6. bias against pro se litigant?  
18

19 Is this not making excuse for criminal activity under Color of Law? How  
20  
21 and why is this tolerated in the United States of America? Now that we  
22  
23 know “how?” the only question remaining is -- “why?”  
24

25 **PRAYER FOR RELIEF**  
26

27 **Relief Sought**

28 Relief Sought

29  
30 **FIRST CLAIM FOR RELIEF**

31  
32 Provide all current Environmental Science students with a free copy of  
33  
34 Appellant’s textbook for the current year. Adopt it as the primary textbook  
35  
36 for the 2024-25 school year as a more accurate representation of the scope  
37

1 and interdisciplinary nature of the subject of Environmental Science. This  
2  
3 is what they paid for – **not** Chemical Engineering. Environmental Science,  
4  
5 by definition, has more to do with human interaction with the environment  
6  
7 than the current emphasis on just one narrow dimension of the subject -- a  
8  
9 legitimate subject that is being taught elsewhere in the University.

10  
11 Appellant re-alleges and incorporates by reference the foregoing  
12  
13 allegations as if fully set forth herein.

#### 14 15 16 SECOND CLAIM FOR RELIEF

17  
18 Discovery: Prior to any Hearing in this case; Plaintiff receives in discovery  
19  
20 procedure and details used in each year for the past five years to evaluate  
21  
22 graduate students selected. Plaintiff receives a table containing each of  
23  
24 the candidates for Environmental Engineering and their acceptance status  
25  
26 in a spreadsheet Appellant will provide after item a. is evaluated. No  
27  
28 names need be provided. Also, any other items needed to determine  
29  
30 malfeasance in the selection process that Appellant may request.

31  
32 Appellant re-alleges and incorporates by reference the foregoing  
33  
34 allegations as if fully set forth herein.

#### 35 36 37 THIRD CLAIM FOR RELIEF

38  
39 Replace Dr. Nason with Appellant as Head of Environmental Engineering

1 because Dr. Nason's expertise is better suited to other departments within  
2  
3 the College of Science or another university.

4  
5 Appellant re-alleges and incorporates by reference the foregoing  
6 allegations as if fully set forth herein.

7  
8 **FOURTH CLAIM FOR RELIEF**

9  
10 Install a low-cost Nucor, nuclear reactor at Oregon State as an aspect of  
11 reorganizing the Department of Environmental Science. This is technology  
12 developed on campus by a former Oregon State Nuclear Physicist to avert  
13 power disruptions this Fall. Student's will run experiments to demonstrate  
14 and explore the availability of cutting-edge cheap, clean, safe, and  
15  
16 incredibly efficient (only 18% typical waste) alternatives in accordance with  
17  
18 sound principles of Environmental Science. Thus, the alleged or real  
19  
20 deficiencies of other energy sources may be tested in the laboratory and  
21  
22 the crucible of real world applications as yet unknown.

23  
24 <https://nucor.com/madeforgood/nuscale-case-study>

25  
26 Appellant re-alleges and incorporates by reference the foregoing  
27  
28 allegations as if fully set forth herein.

29  
30  
31  
32  
33  
34  
35 **FIFTH CLAIM FOR RELIEF**

36  
37 Pay \$1 million to Plaintiff at Climate Change Truth Inc. (Cctruth.org) to  
38  
39 supervise reorganization of the Environmental Science Department,

1 including oversight implementation and transition of the Nucor energy  
2 technology on the OSU campus. This will include press releases and other  
3 public relations to promote this innovative energy alternative within the  
4 University network and beyond. Energy Savings realized are estimated to  
5 recoup this fee within 20 years and Oregon State's reputation for energy  
6 innovation will be cemented in the scientific community worldwide.  
7

8 Appellant re-alleges and incorporates by reference the foregoing  
9 allegations as if fully set forth herein.  
10  
11

## 12 INJUNCTION

13 Oregon State University must begin immediately to incorporate Appellant's  
14 Textbook as an alternative to the current UN, agenda-driven, perspective  
15 on climate change. A shorter Teacher's Guide will be prepared in due time.  
16 In addition to required study in Plaintiff's text, students will be given a  
17 syllabus, with a variety of optional exercises enabling teachers and  
18 students to compare the two perspectives side-by-side: Student debates,  
19 panels, forums, community projects, guest speakers and more will be  
20 included as options in the syllabus for 200 series environmental science  
21 and environmental engineering. Students will learn far more by a program  
22 that compares the two perspectives, and explores the frontiers of science,  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
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36  
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39

1  
2 than by suppressing either of them.

3  
4 Appellant is a research scientist, with about 30 years' experience in  
5  
6 Semiconductors at Intel and elsewhere, who follows the data with no other  
7  
8 agenda. He leads a team of 35 PhD's, mostly College Professors, who  
9  
10 participate in the Expert and Government Review of the IPCC and NOAA  
11  
12 reports program for the Global Change Group of the National Academy of  
13  
14 Sciences.

15  
16 The Team just finished NCA6 NOAA review on June, 2024 and as usual, it  
17  
18 ignored the Scientific Method to serve as a propaganda piece for the UN's  
19  
20 political agenda. Students deserve to hear "the other side of the story," that  
21  
22 is endorsed by thousands of private-sector scientists worldwide, but who  
23  
24 have no voice.

25  
26  
27  
28 **CERTIFICATE OF SERVICE**

29 I hereby certify that on November 14th, 2024 a true and correct copy of the  
30 above document was electronically filed with the Clerk of the Court using  
31 CM/ECF. A copy of the document will be served upon interested parties via  
32 the Notices of Electronic Filing that are generated by CM/ECF. Additionally,  
33 a courtesy copy is being provided as follows:

34  
35 Attorneys for Defendants (DLC) mike.porter@millernash.com  
36 Miller Nash LLP  
37 1140 SW Washington St, Ste 700 |  
38 Portland, OR 97205  
39 Direct: 503.205.2330

- 1   \_\_\_ Via hand delivery
- 2   \_\_\_ Via U.S. Mail, 1st Class,
- 3   Postage Prepaid
- 4   \_\_\_ Via Overnight Delivery
- 5   \_\_\_ Via Facsimile
- 6   XX Via Email
- 7   XX Via CM/ECF notification
- 8   to the extent registered DATED: November 14th, 2024.
- 9   By: David White



David C. White Pro Se. 11/14/2024

Exhibit 1 Dismissal of Judge with Perjury

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

EUGENE DIVISION

DAVID WHITE,

Plaintiff,

Case No. 1:24-cv-01300-MC

v.

OPINION & ORDER

SCOTT ASHFORD, et al.,

Defendants.

---

MCSHANE, Judge:

After filing an Amended Complaint, self-represented Plaintiff David White again seeks leave to proceed *in forma pauperis* (“IFP”) in this action against various Oregon State University employees. *See* Pl.’s Am. Compl., ECF No. 21; Pl.’s Appl., ECF No. 2.

This Court has discretion in deciding whether to grant IFP. *See O’Loughlin v. Doe*, 920 F.2d 614, 616 (9th Cir. 1990). To qualify, a civil litigant must demonstrate both that the litigant is unable to pay court fees and that the claims the litigant seeks to pursue are not frivolous. 28

U.S.C. §§ 1915(a)(1), 1915(e)(2)(B)(i); *O'Loughlin*, 920 F.2d at 617. Because Plaintiff's Amended Complaint still fails to state a cognizable legal claim, the Court cannot grant leave to proceed IFP.

A complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). A complaint fails to state a claim when it



does not contain sufficient factual matter which, when accepted as true, gives rise to a plausible inference that the defendant violated a constitutional right. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* Under this standard, a plaintiff’s alleged facts must constitute “more than a sheer possibility that a defendant acted unlawfully.” *Id.* Although the court must take the allegations contained in the complaint as true, it is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Id.* (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)).

Plaintiff filed his Amended Complaint alleging three claims for relief: breach of contract, fraudulent misrepresentation, and unjust enrichment. Although the Amended Complaint provides additional rule statements and elaborates on Plaintiff’s grievances, it does not cure the legal deficiencies suffered by the original Complaint.

Plaintiff’s breach of contract claim fails to state a claim. Plaintiff alleges that because “Defendants charged a fee to submit an application for evaluation to the Environmental Science doctoral program,” he and Defendants had a legal contract, the performance of which prohibited Defendants from engaging in “any illegal DEI and Affirmative Action criteria.” Pl.’s Am. Compl. 8. He claims that Defendants failed to perform on this contract because they used “illegal Affirmative Action criteria.” *Id.* at 9. Plaintiff, however, provides no factual allegations to support these claims. He states that there were 20 openings, that he had “more than all the requirements needed to be selected,” and that the other applicants “had nowhere as many requirements.” *Id.* at 7. Without providing the selection criteria or an insight into the evaluation process that selected someone over Plaintiff for improper reasons, Plaintiff’s allegations are merely opinions—not facts—that he is vaguely superior to the other candidates. It is not a “well-

documented fact” that “prospective students in a Zoom meetings [sic] and in a sperate graduate school bullpen were all ‘Black,’” as Plaintiff contends. *Id.* Nor is it, as he claims, “common knowledge that the University receives more compensation for selecting foreign students.” *Id.* Finally, Defendants’ disagreement with Plaintiff’s answer regarding affirmative action is not tantamount to Defendants deploying inappropriate affirmative action in their selection process. Plaintiff has no legal entitlement to admission into anyone’s graduate program. He has a right to have his application evaluated free of discrimination, but simply being white and not admitted while applicants of color were, does not mean he was discriminated against.

As to his fraudulent misrepresentation claim, Plaintiff alleges that Defendants represented their “main textbook for Environmental Science...[was] an Environmental Sciences text.” *Id.* at 10. “However, a careful review of the book by Plaintiff revealed that the only place the phrase ‘Environmental Sciences’ was mentioned in the entire book is on the front cover, thus 2) making it a false representation.” *Id.* Plaintiff then conclusively states: “From all appearances, Defendants have 4) been using a plagiarized version of the Welty, Wicks & Wilson book to teach a course in Chemical Engineering while conveying the false impression to prospective students, including Plaintiff, that they are teaching Environmental Science.” *Id.* This does not make out a claim for fraudulent misrepresentation. Moreover, Plaintiff admits that he “was/is not the direct victim of [the textbook related] offenses,” and therefore, he has no standing to bring these claims. *Id.* at 7.

For the same reasons, Plaintiff’s unjust enrichment claim fails. He hinges it on the success of his fraudulent misrepresentation claim and asserts, without factual support, that Defendants “received the benefit of selling a Chemical Engineering book under the misleading title of “Environmental Sciences” which “came at Plaintiff's expense 2) because he was

1 proposing to teach from his textbook as part of his Doctoral Program requirements.” *Id.* at 11.  
 2 The Court is not required to accept Plaintiff’s conclusory allegations that Defendants received  
 3 a benefit absent any supporting factual allegations.

4 Even accepting Plaintiff’s facts as stated, they do not illustrate that any legal harms  
 5 occurred. Plaintiff has therefore failed to state a claim. The Amended Complaint, ECF No. 21,  
 6 is accordingly DISMISSED with prejudice and without leave to amend. Plaintiff’s IFP  
 7 Application, ECF No. 2, is DENIED.

8 IT IS SO ORDERED.

9 DATED this 30th day of October, 2024.

10  
 11  
 12  
 13 s/Michael J. McShane

14 Michael McShane  
 15 United States District Judge  
 16  
 17

18 Exhibit 2. Copy-write information for 2<sup>nd</sup> Edition of College Textbook  
 19 Published.

20  
 21 **User submitted data**  
 22

<b>Section</b>
<b>Book Title</b> Climate Crisis Changed The Intergovernmental Panel On Climate Change Reports are Deliberate Science fiction
<b>The Author's Legal Name</b> David White, Randy beers

<b>Pen Name</b> Dave White
<b>Author Email Address</b> research@cctruth.org
<b>Author's Year of Birth</b> 1957
<b>Author's Complete Address</b> 18965 NW ILLAHE ST., PORTLAND, OR, 97229, United States
<b>Author is a U.S. Citizen</b> Yes
<b>Year Manuscript was Completed</b> 4/7/2023
<b>Second Author's Legal Name</b>
<b>Second Author's Year of Birth</b>
<b>Second Author's Complete Address</b>
<b>Second Author is a U.S. Citizen</b>
<b>Check One Box That Applies</b> I, the author, created the artwork myself in addition to the text

