

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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**JOHN GREGORY LAMBROS,**  
**Plaintiff - Appellant**

**Vs.**

**Federative Republic of Brazil and State of Rio  
De Janeiro of the Federative Republic of Brazil,**  
**Defendant - Appellees.**

**CASE NO.**  
**21-7121**

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**On Appeal from the United States District Court  
For the District of Columbia  
Case No. 19-cv-01929-TSC**

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**BRIEF OF APPELLANT**

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**John Gregory Lambros  
Appellant - Pro-Se**

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**ISSUE TWO (2):**

Whether the District Court erred in failing to ORDER Appellees to “SHOW CAUSE” why this case should not be remanded for failure to file a timely “Notice of Removal”, when the Court should of clearly understood that removal to federal court was inappropriately invoked under the circumstances presented in this case and Appellees Brazil et al. own court’s docket sheets proving service of complaint and summons on September 13, 2017? Six hundred and fifty-two (652) days too late! 28 U.S.C. 1446(b)(1). Appellant Lambros was PREJUDICED without the “SHOW CAUSE” ORDER and response explaining why Appellees’ notice of removal is timely and the Court must enforce 28 U.S.C. 1446(b) strictly so that this pro se Appellant may proceed with this action in his chosen forum. The “strong presumption” against removal places the burden of establishing that removal is appropriate on the Appellees.....**26.**

**ISSUE THREE (3):**

Whether the District Court erred in granting Appellees Brazil, et al. motion to vacate the Superior Court’s entry of default. The District Court erred in determining whether to remand, the district court should construe the removal statute strictly against removal and in favor of remand and give weight to the extent to which the action had progressed before the Superior Court. See, [Shamrock Oil & Gas Corp. v. Sheets, 313 U. S. 100, 108-09 \(1941\)](#). Appellee's petition for removal was improvidently filed and the District court erred in granting Appellee's motion to vacate the Superior Court’s entry of default.....**33.**

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confines of the foreign state’s territory, as the determining factor is where the act comes to fruition. Appellant Lambros' extradition - both before and after - occurred within the District of Columbia, Minnesota and Brazil. However, the actual act of Appellees vacating counts within Appellant Lambros criminal indictment had their situs in Minnesota, thus fruition was not completed in Brazil. Please note: Treaty of Extraditions are SELF- EXECUTING. "Extradition treaties by their nature are DEEMED SELF-EXECUTING.." See, United States of America vs. Rafael CARO-QUINTERO, et al, 745 F.Supp. 599, 607 (C.D. Calif. 1990). Brazil has WAIVED its sovereign immunity when it signed the Extradition Treaty with the US and performed “commercial activity carried on in the United States” in the manner of a private citizen or corporation. See, Republic of Argentina v. Weltover, Inc., 504 U.S. 607, 614 (1992).....**36.**

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**e. EXHIBIT E: July 5, 2019:** Appellant Lambros “MOTION TO REMAND” is nine (9) pages in length. PLEASE NOTE: Only Exhibits A & D of the “MOTION TO REMAND” are attached to the Motion, Celeste Ingalls, Director of Operations for Crowe Foreign Services letters to the Honorable Florence Y. Pan, dated: November 5, 2018 and January 16, 2019. ....**Page 6,7,29,30,34.**

**f. EXHIBIT F: January 16, 2019:** Celiste Ingalls, Director of Operations, Crowe Foreign Services, letter to the Honorable Florence Y. Pan outlining the current status of the process service in this above entitled action. Attached is the April 18, 2018, document from State Prosecutor Marcelo Mello Martins, State of Rio de Janeiro, Brazil, stating “The letter serving PROCESS on the Federal Government is number 12540; and that of the State is number 12537.” - Docket Sheet Numbers). .... **Page 3,4,14,15,27.**

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## **SUPPLEMENTAL STATEMENT**

Appellant is requesting this Court to review the electronic record of the District Court and all portions of the original record which are not available in an electronic format through PACER, including any documents maintained in paper format, etc. See, ORDER, U.S. Court of Appeals for the Eighth Circuit, No. 20-3672, Lambros vs. U.S. America and U.S. Bureau of Prisons. Dated: December 23, 2020.

**STATEMENT OF ISSUES:**

**ISSUE ONE (1):**

**Whether the District Court erred in denying Appellant Lambros' "Motion to Remand" by failing to apply this Circuit's and the Supreme Court holding in *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (construed that thirty-day (30) removal clock to begin counting down only after the defendant has received the complaint and formal service) when Appellees Brazil et al. were served with the complaint and summons on September 13, 2017, and they did not file for REMOVAL until June 27, 2019 -- SIX HUNDRED AND FIFTY TWO (652) DAYS TOO LATE. The statute requires that the Appellees' file a notice of removal within 30 days of being served. 28 U.S.C. 1446(b)(1). In addition to the 30-day time limits, diversity cases must be removed within "1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." 28 U.S.C. § 1446(c)(1). See, *Home Depot U.S.A., Inc. v. Jackson* - 139 S. Ct. 1743, 1746 (2019). Also see, Federal Rules of Civil Procedure, Rule 81(c)(2)(C) ("7 days after notice of removal is filed - Appellee's where one day to late - See Paragraphs 16 and 17 below). Appellee's defenses or objections are not valid in this action.**

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Caterpillar Inc. v. Lewis, 519 U.S. 61, 69 (1996).

28 U.S.C. 1446(b)(1) and (c)(1).

Federal Rules of Civil Procedure, Rule 81(c)(2)(C)

## **ISSUE TWO (2):**

**Whether the District Court erred in failing to ORDER Appellees to “SHOW CAUSE” why this case should not be remanded for failure to file a timely “Notice of Removal”, when the Court should of clearly understood that removal to federal court was inappropriately invoked under the circumstances presented in this case and Appellees Brazil et al. own court’s docket sheets proving service of complaint and summons on September 13, 2017? Six hundred and fifty-two (652) days too late! 28 U.S.C. 1446(b)(1). Appellant Lambros was PREJUDICED without the “SHOW CAUSE” ORDER and response explaining why Appellees’ notice of removal is timely and the Court must enforce 28 U.S.C. 1446(b) strictly so that this pro se Appellant may proceed with this action in his chosen forum. The “strong presumption” against removal places the burden of establishing that removal is appropriate on the Appellees.**

Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

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### **ISSUE THREE (3):**

**Whether the District Court erred in granting Appellees Brazil, et al. motion to vacate the Superior Court's entry of default. The District Court erred in determining whether to remand, the district court should construe the removal statute strictly against removal and in favor of remand and give weight to the extent to which the action had progressed before the Superior Court. See, [Shamrock Oil & Gas Corp. v. Sheets, 313 U. S. 100, 108-09 \(1941\)](#). Appellee's petition for removal was improvidently filed and the District court erred in granting Appellee's motion to vacate the Superior Court's entry of default.**

[Shamrock Oil & Gas Corp. v. Sheets, 313 U. S. 100, 108-09 \(1941\)](#).

Lazarus v. KARIZAD, LLC, Case No. 1:20-cv-1787-RCL (D.D.C. Feb. 26, 2021).

LOCKHART vs. CADE, 728 A.2d 65 (Dist.of Columbia Court of Appeals, March 4, 1999)

28 U.S.C. 1446(b) et al.



## **ISSUE FOUR (4):**

**Whether the District Court erred in granting Appellees Brazil, et al. Motion to Dismiss this action for Want of Jurisdiction, as the “Commercial Activity Exception” of the Foreign Sovereign Immunities Act (FSIA) was not considered as to District of Columbia Consumer Protection Act (“DCCPPA”) codified under D.C. Code 28-3901 et seq.. Also, Appellee's petition for removal was improvidently filed. The “Act of State Doctrine” does not preclude this action when the act in question concerns a thing or interest located beyond the confines of the foreign state’s territory, as the determining factor is where the act comes to fruition. Appellant Lambros' extradition - both before and after - occurred within the District of Columbia, Minnesota and Brazil. However, the actual act of Appellees vacating counts within Appellant Lambros criminal indictment had their situs in Minnesota, thus fruition was not completed in Brazil. Please note: Treaty of Extraditions are SELF- EXECUTING. "Extradition treaties by their nature are DEEMED SELF-EXECUTING.." See, United States of America vs. Rafael CARO-QUINTERO, et al, 745 F.Supp. 599, 607 (C.D. Calif. 1990). Brazil has WAIVED its sovereign immunity when it signed the Extradition Treaty with the US and performed “commercial activity carried on in the United States” in the manner of a private citizen or corporation. See, Republic of Argentina v. Weltover, Inc., 504 U.S. 607, 614 (1992)**

District of Columbia Consumer Protection Act (“DCCPPA”) codified under D.C. Code 28-3901 et seq..

D.C. Code 28-3904(a), (d), (e), (e-1), (f), (f-1), (g), (h), (u), and (v). Appellees violations.

Republic of Argentina v. Weltover, Inc., 504 U.S. 607, 614 (1992).

Atwater v. District of Columbia Dep't of Consumer & Reg. Affairs, 566 A.2d 462, 465 (D.C.1989).

Osbourne v. Capital City Mortg. Corp., 727 A.2d 322, 325-26 (D.C.1999).

District Cablevision Ltd. P'ship v. Bassin, 828 A.2d 714, 723 (D.C.2003).

“Commercial Activity Exception” of the Foreign Sovereign Immunities Act (FSIA)

## STATEMENT OF THE CASE

The Plaintiff - Appellant herein, John Gregory Lambros, was indicted by a United States Grand Jury for the District of Minnesota on May 17, 1989, which is not at issue here. See, U.S. District Court for the District of Minnesota, USA vs. Lambros, CR-4-89-82.

February 10, 2017: Appellant Lambros filed - Pro Se - a Foreign Sovereign Immunities Act ("FSIA") complaint against Brazil and the State of Rio de Janeiro, Brazil. Appellant Lambros' request for forma pauperis status was granted. See, John Gregory Lambros vs. Federative Republic of Brazil, et al., Case No. 2017-CA-929-B, Superior Court of the District of Columbia, Civil Division. Judge: Florence Y. Pan.

Appellant Lambros' complaint includes the following causes/areas of law:

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

## **FACTS OF THE CASE**

1. **June 27, 2017:** The Honorable Judge F. Pan issued an “ORDER” stating that she signed all necessary material to effectuate service under applicable international law, including the Inter-American Convention on Letters Rogatory and the Additional Protocol to the Inter-American Convention on Letters Rogatory and “ORDERED” the Clerk to affix the seal of the Court and mailed the forms to Appellant Lambros and Crowe Foreign Service, the agent for service of process, acting in Appellant’s behalf. Both Appellant Lambros and Crowe Foreign Service received the mailing. **See, EXHIBIT H. (February 10, 2017, SUMMONS to Appellees - Defendant Brazil, et al.)**
  
2. **August 18, 2017,** the documents in this case, with signed Inter-American Convention forms and Portuguese translations of all, were forwarded to the U.S. Central Authority for final transmission to the Central Authority for Brazil, to be served upon the **Federative Republic of Brazil** and the **State of Rio de Janeiro of the Federative Republic of Brazil** in accordance with the Inter-American Convention and the laws of Brazil. See, **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”) - that were established when Appellees - Defendants received service of the complaint and summons in this action - **September 13, 2017.**)

3. **September 13, 2017:** Appellees - Defendants received a copy of Plaintiff's **complaint and summons** in this action, according to the current **Brazilian court docket sheets that are attached.** Two (2) docket sheets are attached, one verifying process on the State of Rio de Janeiro - **Letter Rogatory 12537** and one verifying process on the Federal Government of Brazil - **Letter Rogatory 12540.** See, **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)("attached is a copy of the Brazilian court docket reports for each service").

4. **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. Ms. Ingalls stated:

"On January 11, 2019, I received thousands of pages of returned 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).”

**See, EXHIBIT F. (Please note:** Appellant Lambros has included the April 18, 2018, document from State Prosecutor Marcelo Mello Martins, State of Rio de Janeiro, Brazil, stating “The letter serving **PROCESS on the Federal Government is number 12540; and that of the State is number 12537.**” - Docket Sheet Numbers)(emphasis added)

**5. 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).” See, **EXHIBIT B.**

**6. May 15, 2019: “ORDER”** by Judge Pan stating “the status hearing scheduled for July 5, 2019, is converted to an **ex parte proof hearing;**”. See, **EXHIBIT C.**

**7. June 27, 2019:** Appellees - 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.** Appellees Brazil stated:

**“PLEASE TAKE NOTE 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: ...” See, EXHIBIT D. (NOTICE OF REMOVAL filed as document 1 within the United States District Court for the District of Columbia, in this action)”**

See, *Martinez vs. Republic of Cuba*, 708 F. Supp. 2d 1298, 1302 (S.D. Fla. 2010)(“Congress intended that 1441(d) be the exclusive basis for removal in actions against foreign states.”)(citing *Dole Food Co. vs. Patrickson*, 538 U.S. 468, 473 (2003)). Title 28 U.S.C. 1441(d) (“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.”); see also 28 U.S.C. 1446(b) (“The notice of removal of a civil action or proceeding shall be **filed within 30 days** after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has been filed in court and is not required to be served on the defendant, whichever period is shorter ...”). Also, 28 U.S.C. 1446 **contains a time limitation of one (1) year for removal to the district court after commencement of the action.**

8. **June 27, 2019:** Appellees - Defendant Brazil, et al. filed **CIVIL COVER SHEET** at the Clerk's office of the United States District Court for the District of Columbia in this action. Attorney Clara B. Brillembourg, FOLEY HOAG LLP filed the **Civil Cover Sheet** in this action - Document 1-1, two pages in length, which offered the following information:

- A. Case No. 1:19-cv-01929.
- B. Plaintiff: John Gregory Lambros
- C. Defendants: Federative Republic of Brazil; and State of Rio de Janeiro.
- D. REQUESTED IN COMPLAINT: DEMAND \$301,700,000,000.00 (Three Hundred One Billion, Seven-Hundred Million Dollars.)

9. **June 27, 2019:** Appellees - Defendant Brazil, et al. filed "NOTICE OF REMOVAL" at the Clerk's office of the United States District Court for the District of Columbia in this action.

10. **July 5, 2019:** Appellant Lambros mailed via U.S. Certified Mail to 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, See, 28 USC 1447(c); 1446(b)". 28 U.S. Code 1447(c) states:

"(c) A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction **must be made within 30 days after the filing of the notice of removal under section 1446(a).**" (emphasis added)



Appellant Lambros filed his MOTION TO REMAND within 30 days after the filing of Appellees Brazil, et al. Notice of Removal.

**See, EXHIBIT E. (Appellant Lambros "MOTION TO REMAND" is nine (9) pages in length. PLEASE NOTE: Only Exhibits**

**A & D of the "MOTION TO REMAND" are attached to the Motion, Celeste Ingalls, Director of Operations for Crowe Foreign Services letters to the Honorable Florence Y. Pan, dated: November 5, 2018 and January 16, 2019.)**

**11. 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**". Honorable Judge Chutkan stated:

"(28 U.S.C.) 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 limit "at any time for cause shown. Id. **Plaintiff has identified no plausible defect to support remanding the case.** Although the removal deprives Superior Court of "all jurisdiction over the case," ... the entry of default remains "in full force and effect until dissolved or modified by the district court," 28 U.S.C. 1450 Paragraph 3, applying federal law. See, Granny Goose Foods, Inc. vs. 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.”) (emphasis added)

**“ORDERED** that Plaintiff’s **motion for remand**, ECF No. 10 is **DENIED;**” (emphasis added)

**“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;**” (emphasis added)  
**See, EXHIBIT G.**

**12. MAY 06, 2021:** U.S. District Court Judge Tanya S. Chutkan issued a “MEMORANDUM OPINION” AND “ORDER” TO “GRANT DEFENDANTS’ MOTION TO DISMISS THIS ACTION FOR WANT OF JURISDICTION”. Judge Chutkan stated, “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.” Defendants requested dismissal under Federal Rule of Civil Procedure 12(b)(1) for lack of subject-matter jurisdiction. The Court ORDERED this case DISMISSED and CLOSED. Also,

- A. ORDERED that Defendants’ Motion to Dismiss for Lack of Jurisdiction, is GRANTED; it is further
- B. ORDERED that Plaintiff’s Motion for Counsel is DENIED.
- C.. This is a final appealable Order.

13. **MAY 25, 2021:** Appellant Lambros shipped via United Parcel Service to the Clerk of the U.S. District Court for the District of Columbia his “MOTION TO ALTER OR AMEND JUDGMENT UNDER FEDERAL RULES OF CIVIL PROCEDURE RULE 59(e)”.

14. **OCTOBER 8, 2021:** “**ORDER**” by the Honorable Tanya S. Chutkan, stated:

“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.”

“Plaintiff has asserted nothing to overcome the jurisdictional bar to this action against a foreign state. ... **ORDERED** that Plaintiff’s Motion to Alter or Amend judgment is **DENIED**.”

**PLEASE NOTE:** Judge Chutkan did not respond to Appellant Lambros first issue within his 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:

**"ISSUE ONE: (1)**

WHETHER THIS COURT HAD JURISDICTION AND/OR PLAINTIFF LAMBROS WAS PREJUDICED WHEN DEFENDANTS FILED NOTICE OF REMOVAL SIX HUNDRED AND TWENTY THREE (623) DAYS TOO LATE TO THIS COURT - TO SET ASIDE THE HONORABLE JUDGE FLORENCE YU PAN'S - SUPERIOR COURT OF THE DISTRICT OF COLUMBIA - ORDER OF DEFAULT AND OPPORTUNITY FOR PLAINTIFF TO ATTEND AN EX PARTE PROOF HEARING ON JULY 5, 2019. See, 28 U.S.C. 1446(b) (30-DAY TIME LIMIT)"

**15. OCTOBER 26, 2021:** Clerk of the U.S. District Court for the District of Columbia received Appellant Lambros' **NOTICE OF APPEAL** in this action and forwarded the docket sheet and all records to this Court for appeal.

**16. OCTOBER 28, 2021:** The Clerk of the United States Court of Appeals for the District of Columbia Circuit filed and docketed this action under Case No. 21-7121.

## ISSUE ONE\_1:

**Whether the District Court erred in denying Appellant Lambros' "Motion to Remand" by failing to apply this Circuit's and the Supreme Court holding in *Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344 (1999) (construed that thirty-day (30) removal clock to begin counting down only after the defendant has received the complaint and formal service) when Appellees Brazil et al. were served with the complaint and summons on September 13, 2017, and they did not file for REMOVAL until June 27, 2019 -- SIX HUNDRED AND FIFTY TWO (652) DAYS TOO LATE. The statute requires that the Appellees' file a notice of removal within 30 days of being served. 28 U.S.C. 1446(b)(1). In addition to the 30-day time limits, diversity cases must be removed within "1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." 28 U.S.C. § 1446(c)(1). See, *Home Depot U.S.A., Inc. v. Jackson* - 139 S. Ct. 1743, 1746 (2019). Also see, Federal Rules of Civil Procedure, Rule 81(c)(2)(C) ("7 days after notice of removal is filed - Appellee's where one day to late - See Paragraphs 16 and 17 below). Appellee's defenses or objections are not valid in this action.**

**Jurisdiction - Standard of Review:** This Court has jurisdiction under 28 U.S.C. 1291. Review of the district court's legal conclusions regarding denial of a motion to remand is de novo. See, Capitol Hill Group v. Pillsbury, Winthrop, Shaw, Pittman, LLC, 569 F.3d 485, 488-489 (D.C.Cir.2009). Also see, Pierce v. Underwood, 487 U.S. 552, 558 (1988). (For purposes of standard of review, decisions by judges are traditionally divided into three categories, denominated questions of law (reviewable *de novo*), questions of fact (reviewable for clear error), and matters of discretion (reviewable for "abuse of discretion").

## **INTRODUCTION:**

Title 28 U.S.C. § 1441 and 1446 of the Judicial Code were enacted to allow defendants to remove a federal claim from state court to federal court. Congress seemed to believe that the defendant's right to remove a case is at least as important as the plaintiff's right to the forum of his choice. While the plaintiff has the right to choose the initial forum, § 1446 provides the defendant with an opportunity to remove a claim with proper federal jurisdiction to a federal court. This statutory right protects the defendant from any unfairness a state forum may create, such as local state prejudice. As such, the removal statute's purpose is and always has been focused on fairness and equity of forum choice to all parties. Section 1446(b) grants the defendant a thirty-day (30) time limitation for removal. The wording of § 1446(b), however, has caused confusion over the years and has resulted in a sharp split among courts as to when the

thirty-day limitation begins. A twenty-three (23) year old Supreme Court case, Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999) clarified the issue of removal. Appellant Lambros asserts the legal standards within this Circuit and Murphy Bros. v. Michetti Pipe Stringing, Inc.. “Court’s in this Circuit have construed removal jurisdiction strictly, favoring remand where the propriety of removal is unclear.” See, Patterson v. HANSES, Civil Action No. 19-392 (BAH) (Dist. Court, Dist. of Columbia 2019)(listing cases)(BERYL A. HOWELL, Chief District Judge.) In addition to the 30-day time limits, diversity cases must be removed within "1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." 28 U.S.C. § 1446(c)(1). See, Home Depot U.S.A., Inc. v. Jackson - 139 S. Ct. 1743, 1746 (2019):

## **FACTS:**

1. Appellant Lambros incorporates and restates the “Statement of the Case” and “Facts of the Case” within this appeal issue.
2. **September 13, 2017:** Appellees - Defendants received a copy of Plaintiff’s **complaint and summons** in this action, according to the current **Brazilian court docket sheets that are attached.** Two (2) docket sheets are attached, one verifying process on the State of Rio de Janeiro - **Letter Rogatory 12537** and one verifying process on the Federal Government of Brazil - **Letter Rogatory 12540.** See, **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)(“attached is a copy of the Brazilian court docket reports for each service”).

**Also see, EXHIBIT F.** (Please note: Appellant Lambros has included the April 18, 2018, document from State Prosecutor Marcelo Mello Martins, State of Rio de Janeiro, Brazil, stating “The letter serving **PROCESS on the Federal Government is number 12540; and that of the State is number 12537.**” - (Docket Sheet Numbers)(emphasis added)

**3. June 27, 2019:** Appellees - 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**. Appellees Brazil stated:

“**PLEASE TAKE NOTE 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: ...” See, **EXHIBIT D. (NOTICE OF REMOVAL** filed as document 1 within the United States District Court for the District of Columbia, in this action)”



4. **Perjury - Lying - False statement of material fact to the District Court: (ABA, Model Rules of Professional Conduct Rule 3.3: Candor Toward the Tribunal)**

Appellees - Defendant Brazil, et. al., Attorneys Clara Brillembourg, Janis Brennan, Nicholas Renzler and Andrew B. Loewenstein, Foley Hoag LLP, Boston, MA and Washington, DC, made the following false statement of material fact within the “**NOTICE OF REMOVAL**”, filed on June 27, 2019, to the United States District Court for the District of Columbia, in this action:

“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)” (emphasis added) **See, Page 2 of 7, Paragraph 3 within EXHIBIT D.**

**Proof of Perjury - Lying - False statement of material fact** is offered within the April 18, 2018, document from State Prosecutor Marcelo Mello Martins, State of Rio de Janeiro, Brazil, stating “The letter serving **PROCESS on the Federal Government is number 12540; and that of the State is number 12537.**” - (Docket Sheet Numbers)(emphasis added). **See, EXHIBIT F. and Paragraph two (2) above.**

**5. 28 U.S. Code § 1446 - Procedure for removal of civil actions:**

**Requirements; Removal Based on Diversity of Citizenship.—**

**(c)(1)**A case **may not be removed** under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 **more than 1 year after commencement of the action**, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action. **28 U.S.C. § 1446(c)(1)**. (emphasis added)

**6.** Appellees - Defendants Brazil, et al. did not file its notice of removal until June 27, 2019, nine months, fifteen days past the one-year limit in § 1446(c)(1). Appellees - Defendants Brazil, et al. first attempts to circumvent the limit, which only applies to diversity jurisdiction, by invoking federal question jurisdiction.

**BOTTOM LINE:** In addition to the 30-day time limits, diversity cases must be removed within "1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." 28 U.S.C. § 1446(c)(1). The statute's text is clear, the one-year limitation bars removal "more than 1 year after commencement of the action." See, Home Depot U.S.A., Inc. v. Jackson - 139 S. Ct. 1743, 1746 (2019):

“In addition to granting federal courts jurisdiction over certain types of cases, Congress has enacted provisions that permit parties to remove cases originally filed in state court to federal court. Section 1441(a), the general removal statute, permits "the defendant or the defendants" in a

state-court action over which the federal courts would have original jurisdiction to remove that action to federal court. To remove under this provision, a party must meet the requirements for removal detailed in other provisions. For one, a defendant cannot remove unilaterally. Instead, "all defendants who have been properly joined and served must join in or consent to the removal of the action." § 1446(b)(2)(A). **Moreover, when federal jurisdiction is based on diversity jurisdiction, the case generally must be removed within "1 year after commencement of the action," § 1446(c)(1)**, and the case may not be removed if any defendant is "a citizen of the State in which such action is brought," § 1441(b)(2)." (emphasis added) **See**, 139 S. Ct. 1743, 1746 (2019)

## **DISCUSSION - LEGAL CASES TO SUPPORT ISSUE ONE (1):**

7. The Murphy Brothers, Inc. vs. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999) decision is the leading United States Supreme Court decision concerning the time within which a defendant named in a state-court action may remove the action to a federal court. In making the judgment, the Supreme Court stated:

"This case concerns the time within which a defendant named in a state-court action may remove the action to a federal court. The governing provision is 28 U.S.C. § 1446(b), which specifies, in relevant part, that the removal notice "shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the [complaint]." The question presented is whether the named defendant must be officially summoned to appear in the action before the time to remove begins to run. Or, may the 30-day period start earlier, on the named defendant's

receipt, before service of official process, of a “courtesy copy” of the filed complaint faxed by counsel for the plaintiff?

We read Congress’ provisions for removal in light of a bedrock principle: An individual or entity named as a defendant is not obliged to engage in litigation unless notified of the action, and brought under a court’s authority, by formal process. Accordingly, we hold that a named defendant’s time to remove is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, “through service or otherwise,” after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service.” (emphasis added)

**See**, *Murphy Brothers, Inc. vs. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-348 (1999)

8. In 2019 the Supreme Court again offered an overview of the time within which a defendant named in a state-court action may remove the action to a federal court. See, *Home Depot U.S.A., Inc. v. Jackson* - 139 S. Ct. 1743, 1746 (2019). Justice THOMAS delivered the opinion of the Court:

“In addition to granting federal courts jurisdiction over certain types of cases, Congress has enacted provisions that permit parties to remove cases originally filed in state court to federal court. Section 1441(a), the general removal statute, permits “the defendant or the defendants” in a state-court action over which the federal courts would have original jurisdiction to remove that action to federal court. To remove under this

provision, a party must meet the requirements for removal detailed in other provisions. For one, a defendant cannot remove unilaterally. Instead, "all defendants who have been properly joined and served must join in or consent to the removal of the action." § 1446(b)(2)(A).

**Moreover, when federal jurisdiction is based on diversity jurisdiction, the case generally must be removed within "1 year after commencement of the action," § 1446(c)(1),** and the case may not be removed if any defendant is "a citizen of the State in which such action is brought," § 1441(b)(2)." (emphasis added)

**See, Home Depot U.S.A., Inc. v. Jackson - 139 S. Ct. 1743, 1746 (2019).**

**LEGAL OPINIONS FROM OTHER JUDGES IN THIS DISTRICT SUPPORTING THIRTY (30) DAY - TIME LIMIT - AFTER THE 30-DAY TIME LIMIT FOR REQUESTS SET FORTH IN 28 U.S.C. 1446(b).**

**9. Patterson v. HANSES, Civil Action No. 19-392 (BAH) (Dist. Court, Dist. of Columbia 2019). BERYL A. HOWELL, Chief District Judge, stated:**

*"Pro se* plaintiff Ronald Patterson brought this action in the Superior Court of the District of Columbia, alleging that defendants Steven Hanses and the Veterans' Administration Medical Center committed medical malpractice. See Notice of Removal, Supplement, ECF No. 1-1. The complaint and summons from Superior Court are both dated January 7, 2019. *Id.* On February 14, 2019, the defendants removed this case, under 28 U.S.C. §§ 1442(a)(1), 1446 from the plaintiff's chosen forum to this Court. See Notice of Removal, ECF No. 1. The notice of removal is the last docket entry from either party.

Under 28 U.S.C. § 1446(b)(1), the defendants had 30 days from "the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based" or 30 days from "the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter," to file the notice of removal. Section 1446 applies to cases such as this one removed under 28 U.S.C. § 1442. See 28 U.S.C. § 1446(b) (creating general rule that "[t]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant"); *id.* § 1446(g) (creating a carve out from 28 U.S.C. § 1446(b)'s 30-day requirement for the subset of cases "removable under section 1442(a) . . . in which a judicial order for testimony or documents is sought or issued or sought to be enforced"). **Thus, based on the supplement to the notice of removal, containing the documents from the Superior Court record, the defendants appeared to have until February 6, 2019 to file the notice of removal in this Court, making the February 14, 2019 notice of removal untimely.**

Section 1446's 30-day deadline is not jurisdictional. **Wasserman v. Rodacker, 557 F.3d 635, 638 n.2 (D.C. Cir. 2009); see also Brown v. Allied Home Mortgage Capital Corp., 588 B.R. 271, 276 (D.D.C. Aug. 8, 2018)** ("[A] procedural defect in removal . . . does not affect the federal court's subject matter jurisdiction."). Still, "[c]ourts in this circuit have construed removal jurisdiction strictly, favoring remand where the propriety of removal is unclear." **Ballard v. District of Columbia, 813 F. Supp. 2d 34, 38 (D.D.C. 2011); Peeters v. Mlotek, No. 15-cv-835 (RC), 2015 WL 3604609, at \*1 (D.D.C. June 9, 2015)** ("Because federal courts are courts of limited jurisdiction, the removal statute is to be strictly construed.").

10. Lazarus v. KARIZAD, LLC, Case No. 1:20-cv-1787-RCL. (Dist. Court, Dist. of Columbia 2021). ROYCE C. LAMBERTH, District Judge stated:

“Procedural aspects of removal are governed by 28 U.S.C. § 1446. That section provides that the "defendant or defendants desiring to remove any civil action from a State court" must file a notice of removal "containing a short and plain statement of the grounds for removal" in the federal district court. § 1446(a). The statute also explains that the "notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based[.]" *Id.* at (b)(1). The Supreme Court has construed that thirty-day removal clock to begin counting down only after the defendant has received the complaint *and* formal service. **Murphy Bros. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 350 (1999).**”

11. WELLS FARGO BANK, NA v. TOGGAS, Case No. 1:19-cv-03157 (TNM) (Dist. Court, Dist. of Columbia 2020). TREVOR N. McFADDEN, District Judge stated:

“Nearly four years ago, Wells Fargo Bank, N.A. filed a foreclosure lawsuit against Thomas and Kathryn Toggas in the Superior Court for the District of Columbia. The Toggases have been fighting the foreclosure ever since. But at the eleventh hour, with foreclosure imminent, they filed to remove the case here. U.S. Bank—which the Superior Court substituted as Plaintiff—immediately challenged the removal as untimely and has moved to remand to Superior Court. See Pl.'s Mot. to Remand, ECF No. 5-1. The Toggases filed an opposition. See Defs.' Opp'n, ECF No. 7. For the reasons explained below, the Court grants U.S. Bank's motion and remands

Remand is warranted for two independently sufficient reasons. *First*, the Toggases' removal was untimely. The statute requires that the defendants file a notice of removal within 30 days of being served. 28 U.S.C. § 1446(b)(1). But here the Toggases were served with the complaint in April 2016, and they did not file for removal until November 2019. Pl.'s Mot, Ex. A at 4; Not. of Removal. More, the Court rejects the Toggases' claim—raised in their affirmative lawsuit against the banks but relevant here—that they never filed an answer in Superior Court. See Pls.' Opp'n to MTD 11, *Toggas v. Wells Fargo*, Civ. A. No. 19-cv-03407 (TNM) (D.D.C. Dec. 20, 2019), ECF No. 7. The Superior Court docket shows that the Toggases answered the complaint and actively litigated this foreclosure case for years before filing removal here. See *generally* Pl.'s Mot, Ex. A; Defs.' Reply 4, *Toggas v. Wells Fargo*, Civ. A. No. 19-cv-03407 (TNM) (D.D.C. Jan. 3, 2020), ECF No. 10. The Court agrees with U.S. Bank that the Toggases' attempt to remove the case is barred by 28 U.S.C. § 1446(b)(1). This alone justifies remand.

**12.** In this action, the district court did not construe the removal statute strictly against removal and in favor of remand and give weight to the extent to which the action had progressed before the Superior Court of the District of Columbia, Civil Division. Furthermore, it is clear that Appellees - Defendants Brazil, et al. petition for removal should be rejected based on the extent to which this action had progressed in Superior Court. To maintain this suit in federal court after the extensive motion practice already conducted in the Superior Court court has promoted a duplicative and wasteful policy of judicial administration.



## CONCLUSION AND RELIEF REQUESTED FOR ISSUE ONE (1):

13. Appellees - Defendants Brazil, et al. lacked an objectively reasonable basis to seek removal. Appellant Lambros objective is to deter removals sought for the purpose of prolonging litigation and imposing costs to Appellant, not to discourage Appellees from seeking removal in all but the most obvious cases. In this present case Appellees - Defendants Brazil, et al. claim for removal is so weak it is unreasonable.

14. “No case, however, may be removed from state to federal court based on diversity of citizenship “more than 1 year after commencement of the action.” See, Caterpillar Inc. v. Lewis, 519 U.S. 61, 69 (1996).

“When a plaintiff files in state court a civil action over which the federal district courts would have original jurisdiction based on diversity of citizenship, the defendant or defendants may remove the action to federal court, 28 U. S. C. § 1441(a), provided that no defendant “is a citizen of the State in which such action is brought,” § 1441(b). In a case not originally removable, a defendant who receives a pleading or other paper indicating the post commencement satisfaction of federal jurisdictional requirements—for example, by reason of the dismissal of a nondiverse party—may remove the case to federal court within 30 days of receiving such information. § 1446(b). **No case, however, may be removed from state to federal court based on diversity of citizenship “more than 1 year after commencement of the action.”** (emphasis added)

**15.** The District Court **did not** issue a tolling or extension ORDER of the thirty-day (30) limit delineated in 28 U. S. C. § 1446(b) in this action. Appellees were required to file its petition for removal on or before **Friday, October 13, 2017** - Appellees were served the complaint and summons on September 13, 2017. It is also undisputed that Appellees Brazil, et al. did not file its petition for removal until June 27, 2019. (652 days too late).

**16.** In addition, the Appellees Brazil, et al. **did not show cause** why they failed to comply with **Federal Rule of Civil Procedure 81(c)**, which dictates that, if the defendants in a removed action did not respond to the plaintiff's complaint prior to removal, the defendants must answer the plaintiff's complaint within the longest of three time periods: (1) "21 days after receiving—through service or otherwise—a copy of the initial pleading stating the claim for relief"; (2) "21 days after being served with the summons for an initial pleading on file at the time of service"; or (3) "7 days after the notice of removal is filed." **Under that rule, the defendants had until July 4, 2019 to answer the plaintiff's complaint, which would have been seven (7) days after the notice of removal was filed.** Appellant Lambros requests this Court to incorporate Issue Two (2) of this appeal "Whether the District Court erred in failing to ORDER Appellees to show cause why this case should not be remanded for failure to file a timely Notice of Removal ...." within this issue. (emphasis added) In addition. **Appellee's Brazil et al defenses and objection to this action are not valid.**

**17. JULY 5, 2019:** Appellees Brazil, et al. filed a Motion to Set Aside the Superior Court's Entry of a Default and Opposition to Appellant Lambros' Motion for Entry of a Default Judgment. This filing was one (1) day AFTER the July 4, 2019 deadline to comply with **Federal Rule of Civil Procedure 81(c)**. See, Paragraph 16 above.

Appellees appear to be playing “hot and loose” with the District Court! **Appellee’s Motions filed on July 5, 2019 and all other further motions are untimely and void.**

18. Appellant Lambros requests this Court to grant his Motion to Remand this action to the Superior Court of the District of Columbia, Civil Division, that was denied on November 16, 2021

19. Appellant Lambros requests this Court to deny and/or overturn the District Courts November 16, 2020 “MEMORANDUM OPINION AND ORDER” that DENIED Appellant Lambros’ **motion for remand and GRANTED** Appellees Brazil, et al **motion to vacate the Superior Court’s entry of default.** See, **Exhibit G**. Also see, Lazarus v. KARIZAD, LLC, Case No. 1:20-cv-1787-RCL (D.D.C. Feb. 26, 2021) (“Because the Court **must settle** the parties' dispute about the propriety of Wilmington's removal before it may contemplate other relief, the Court turns to Lazarus's motion to remand.) (emphasis added)(Judge Lamberth denied as moot all requests by defendants, since the case was improperly removed and granted Lazarus’s motion to remand)

## ISSUE TWO (2):

Whether the District Court erred in failing to ORDER Appellees to “SHOW CAUSE” why this case should not be remanded for failure to file a timely “Notice of Removal”, when the Court should of clearly understood that removal to federal court was inappropriately invoked under the circumstances presented in this case and Appellees Brazil et al. own court’s docket sheets proving service of complaint and summons on September 13, 2017? Six hundred and fifty-two (652) days too late! 28 U.S.C. 1446(b)(1). Appellant Lambros was PREJUDICED without the “SHOW CAUSE” ORDER and response explaining why Appellees’ notice of removal is timely and the Court must enforce 28 U.S.C. 1446(b) strictly so that this pro se Appellant may proceed with this action in his chosen forum. The “strong presumption” against removal places the burden of establishing that removal is appropriate on the Appellees.

**Jurisdiction - Standard of Review:** This Court has jurisdiction under 28 U.S.C. 1291. Review of the district court’s legal conclusions regarding denial of a motion to remand is de novo. See, Capitol Hill Group v. Pillsbury, Winthrop, Shaw, Pittman, LLC, 569 F.3d 485, 488-489 (D.C.Cir.2009). The error by the District Court affected the outcome of this action, thus prejudicial to Appellant Lambros. Appellant Lambros believes the standard of prejudice most appropriate is that there must be a high

probability - beyond a reasonable doubt that the error resulted in prejudice to the appellant.

**FACTS:**

1. Appellant Lambros incorporates and restates the “Statement of the Case”, “Facts of the Case” and “ISSUE ONE (1) within this appeal issue.

2. **September 13, 2017:** Appellees - Defendants received a copy of Plaintiff’s **complaint and summons** in this action, according to the current **Brazilian court docket sheets that are attached.** Two (2) docket sheets are attached, one verifying process on the State of Rio de Janeiro - **Letter Rogatory 12537** and one verifying process on the Federal Government of Brazil - **Letter Rogatory 12540.** See, **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)(“attached is a copy of the Brazilian court docket reports for each service”).

**Also see, EXHIBIT F.** (Please note: Appellant Lambros has included the April 18, 2018, document from State Prosecutor Marcelo Mello Martins, State of Rio de Janeiro, Brazil, stating “The letter serving **PROCESS on the Federal Government is number 12540; and that of the State is number 12537.**” - (Docket Sheet Numbers)(emphasis added)

3. **June 27, 2019:** Appellees - Defendant Brazil, et. al., 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.**

4. **July 5, 2019:** Appellant Lambros mailed via U.S. Certified Mail to 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, See, 28 USC 1447(c); 1446(b)”. 28 U.S. Code 1447(c) states:

“(c) A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction **must be made within 30 days after the filing of the notice of removal under section 1446(a).**” (emphasis added)

Please note: “ A motion to remand the case on the **basis of any defect** other than lack of subject matter jurisdiction.”

5. **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**”. Honorable Judge Chutkan stated, “**Plaintiff has identified no plausible defect to support remanding the case.**” The Court also ORDERED that Appellant Lambros’ “MOTION FOR REMAND” is denied and

Appellees Brazil, et al, "MOTION TO VACATE THE SUPERIOR COURT'S ENTRY OF DEFAULT" be granted. **See, EXHIBIT G.**

## **DISCUSSION - LEGAL CASES TO SUPPORT ISSUE TWO (2):**

6. The governing provision for this issue is 28 U.S.C. § 1446(b), which specifies, in relevant part, that the removal notice "shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the [complaint]." See. *Murphy Brothers*, 526 U.S. 344 (1999). In addition, when federal jurisdiction is based on diversity jurisdiction, the case generally must be removed within "1 year after commencement of the action," § 1446(c)(1). See, *Home Depot U.S.A.*, 139 S. Ct. 1743, 1746 (2019).

7. Appellant Lambros' July 5, 2019 "MOTION TO REMAND" to the district court **specifically raised** violations of 28 U.S.C. 1447(c) and 1446(b) - notice of removal shall be filed within 30 days after defendants receive an initial pleading - complaint and summons. See, 28 U.S.C. 1446(b). In addition, Appellant advised the district court that Judge Pan's ORDER on April 8, 2019 and May 15, 2019 **granted Appellant Lambros' "MOTION REQUESTING ENTRY OF DEFAULT"**. 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. Please note that the following exhibits were

attached to Appellant Lambros' July 5, 2019 "MOTION TO REMAND": (1) November 5, 2018; and (2) January 16, 2019, letters from Crowe Foreign Service, Celeste Ingalls, Director of Operation to Judge Pan, Superior Court of the District of Columbia, as to process followed in serving Appellees Brazil, et al.,. **See, EXHIBIT E. PLEASE NOTE:** The January 16, 2019, letters from Crowe Foreign Service, Celeste Ingalls, Director of Operation to Judge Pan **clearly outlined** Appellees Brazil, et al. receipt of service of the complaint and summons in this action and the twelve (12) plus months court process of review by Appellees. The thousands of pages returned by Appellees were in Portuguese. **Appellees chose not to submit the documents to the Superior Court of the District of Columbia in English or retain an attorney** to file the documents that were mailed to Crowe Foreign Services, **thus Appellees waived immunity** merely by failing to timely raise an immunity defense in the course of the legal proceedings. See, Phoenix Consulting, Inc. v. Republic of Angola, 216 F.3d 36, 39 (D.C.Cir.2000), (ruling that requirement of asserting immunity no later than filing of responsive pleading "holds even though FSIA immunity is jurisdictional because failure to assert the immunity after consciously deciding to participate in the litigation **may constitute an implied waiver of immunity**"). (emphasis added)

8. In Patterson v. HANSES, Civil Action No. 19-392 (BAH) (Dist. Court, Dist. of Columbia 2019). BERYL A. HOWELL, Chief District Judge, stated: "Thus, based on the supplement to the notice of removal, containing the documents from the Superior Court



record, the defendants appeared to have until February 6, 2019 to file the notice of removal in this Court, making the February 14, 2019 notice of removal untimely.”

9. The District Court **did not** issue a tolling or extension ORDER of the thirty-day (30) limit delineated in 28 U. S. C. § 1446(b) in this action. Federal Rule of Civil Procedure 6(b) governs extensions of time for various filings with the trial court. See, *Smith v. District of Columbia*, 430 F. 3d 450, 457 (D.C.Cir.2005)(“Here, the District concedes that it never moved for an extension of the deadline. In the absence of any motion for an extension, the trial court had no basis on which to exercise its discretion. See *Lujan*, 497 U.S. at 896, 110 S.Ct. 3177 (stating that “any *post* deadline extension must be `upon motion made’”). Under these circumstances, then, we are compelled to conclude that the district court abused its discretion in entertaining the late motion for summary judgment on Smith's disability discrimination claim.”)(emphasis added)

10. This Court stated, “As to the specific procedure to follow, we are satisfied that issuance of an **order to show cause** is the most appropriate step prior to *sua sponte* transfer. This procedure will provide the habeas petitioner with both notice of the District Court's anticipated action and an opportunity to set forth reasons why the case can (and should) properly be heard in this jurisdiction. See, *Chatman-Bey v. Thornburgh*, 864 F. 2d 804, 814, Court of Appeals, Dist. of Columbia Circuit 1988.

**CONCLUSION AND RELIEF REQUESTED FOR ISSUE TWO (2):**

11. Appellees - Defendants Brazil, et al. lacked an objectively reasonable basis to seek removal. The error by the District Court affected the outcome of this action, thus **prejudicial** to Appellant Lambros. The district court **DID NOT** issue an **order to show cause** to Appellees why removal notice was not filed within thirty (30) days after the receipt by the Appellees, through service or otherwise, of a copy of the complaint and summons. See. Murphy Brothers, 526 U.S. 344 (1999).

12. 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;**
- 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.**

13. Appellant Lambros requests this Court to grant his Motion to Remand this action to the Superior Court of the District of Columbia, Civil Division, that was denied on November 16, 2021. Also, incorporating and restating Paragraph 19, Page 25 of Issue One (1) of this brief.

### ISSUE THREE (3):

Whether the District Court erred in granting Appellees Brazil, et al. motion to vacate the Superior Court's entry of default. The District Court erred in determining whether to remand, the district court should construe the removal statute strictly against removal and in favor of remand and give weight to the extent to which the action had progressed before the Superior Court. See, [Shamrock Oil & Gas Corp. v. Sheets, 313 U. S. 100, 108-09 \(1941\)](#), Appellee's petition for removal was improvidently filed and the District court erred in granting Appellee's motion to vacate the Superior Court's entry of default.

**Jurisdiction - Standard of Review:** This Court has jurisdiction under 28 U.S.C. 1291. Review of the district court's legal conclusions regarding denial of a motion to remand is de novo. See, [Capitol Hill Group v. Pillsbury, Winthrop, Shaw, Pittman, LLC, 569 F.3d 485, 488-489 \(D.C.Cir.2009\)](#).

#### **FACTS:**

1. Appellant Lambros incorporates and restates the "Statement of the Case", "Facts of the Case", "ISSUE ONE (1)" and "ISSUE TWO (2)" within this appeal issue.

2. **JULY 5, 2019:** Appellant Lambros' July 5, 2019 "**MOTION TO REMAND**" to the district court **specifically raised** violations of 28 U.S.C. 1447(c) and 1446(b) - notice of removal shall be filed within 30 days after defendants receive an initial pleading - complaint and summons. See, 28 U.S.C. 1446(b). In addition, Appellant advised the district court that Judge Pan's ORDER on April 8, 2019 and May 15, 2019 **granted Appellant Lambros' "MOTION REQUESTING ENTRY OF DEFAULT"**. 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") Appellant Lambros has no further obligation to prove Liability. Please note that the following exhibits were attached to Appellant Lambros' July 5, 2019 "MOTION TO REMAND": (1) November 5, 2018; and (2) January 16, 2019, letters from Crowe Foreign Service, Celeste Ingalls, Director of Operation to Judge Pan, Superior Court of the District of Columbia, as to process followed in serving Appellees Brazil, et al,. **See, EXHIBIT E.**

3. **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**". Honorable Judge Chutkan stated, "**Plaintiff has identified no plausible defect to support remanding the case.**" The Court also ORDERED that Appellant Lambros' "MOTION FOR REMAND" is denied and Appellees Brazil, et al, "**MOTION TO VACATE THE SUPERIOR COURT'S ENTRY OF DEFAULT**" **be granted.** See, **EXHIBIT G.**

### CONCLUSION AND RELIEF REQUESTED FOR ISSUE THREE (3):

4. Appellant Lambros requests this Court to deny and/or void the District Courts November 16, 2020 “MEMORANDUM OPINION AND ORDER” that DENIED Appellant Lambros’ **motion for remand and GRANTED** Appellees Brazil, et al **motion to vacate the Superior Court’s entry of default.** See, **Exhibit G**. Also see, Lazarus v. KARIZAD, LLC, Case No. 1:20-cv-1787-RCL (D.D.C. Feb. 26, 2021) (“Because the Court **must settle** the parties' dispute about the propriety of Wilmington's removal before it may contemplate other relief, the Court turns to Lazarus's motion to remand.) (emphasis added)(Judge Lamberth denied as moot all requests by defendants, since the case was improperly removed and granted Lazarus’s motion to remand)(emphasis added).

5. Appellant Lambros requests this Court to grant his Motion to Remand this action to the Superior Court of the District of Columbia, Civil Division, that was denied on November 16, 2021

## **ISSUE FOUR (4):**

**Whether the District Court erred in granting Appellees Brazil, et al. Motion to Dismiss this action for Want of Jurisdiction, as the “Commercial Activity Exception” of the Foreign Sovereign Immunities Act (FSIA) was not considered as to District of Columbia Consumer Protection Act (“DCCPPA”) codified under D.C. Code 28-3901 et seq.. Also, Appellee's petition for removal was improvidently filed. The “Act of State Doctrine” does not preclude this action when the act in question concerns a thing or interest located beyond the confines of the foreign state’s territory, as the determining factor is where the act comes to fruition. Appellant Lambros' extradition - both before and after - occurred within the District of Columbia, Minnesota and Brazil. However, the actual act of Appellees vacating counts within Appellant Lambros criminal indictment had their situs in Minnesota, thus fruition was not completed in Brazil. Please note: Treaty of Extraditions are SELF- EXECUTING. “Extradition treaties by their nature are DEEMED SELF-EXECUTING...” See, United States of America vs. Rafael CARO-QUINTERO, et al, 745 F.Supp. 599, 607 (C.D. Calif. 1990). Brazil has WAIVED its sovereign immunity when it signed the Extradition Treaty with the US and performed “commercial activity carried on in the United States” in the manner of a private citizen or corporation. See, Republic of Argentina v. Weltover, Inc., 504 U.S. 607, 614 (1992)**

**Jurisdiction - Standard of Review:** This Court has jurisdiction under 28 U.S.C. 1291. Review of the district court's legal conclusions regarding denial of a motion to remand is de novo. See, Capitol Hill Group v. Pillsbury, Winthrop, Shaw, Pittman, LLC, 569 F.3d 485, 488-489 (D.C.Cir.2009).

**FACTS:**

1. Appellant Lambros incorporates and restates the "Statement of the Case", "Facts of the Case", "ISSUE ONE (1)", "ISSUE TWO (2)" "ISSUE THREE (3)" within this appeal issue.

2. **MAY 06, 2021:** U.S. District Court Judge Tanya S. Chutkan issued a "MEMORANDUM OPINION" AND "ORDER" TO "GRANT DEFENDANTS' MOTION TO DISMISS THIS ACTION FOR WANT OF JURISDICTION". Judge Chutkan stated, "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."

3. **MAY 06, 2021:** Judge Chutkan did not address the commercial activity of the **District of Columbia Consumer Protection Act ("DCCPPA") codified under D.C. Code 28-3901 et seq.** and/or the other issues raised within Appellant Lambros' complaint under the umbrella of the "Act of State Doctrine" and other applicable laws.

4. Appellant Lambros' complaint includes the following causes/areas of law:

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

5. The following paragraphs referring to “DCCPPA” violations are included within Appellant Lambros’ complaint: (SUMMARY OF CLAIMS REGARDING UNLAWFUL TRADE PRACTICES, FRAUD AND ARTIFICES. See, Original Complaint filed in this action, Pages 26 thru 34, Paragraphs 80-134.) **PLEASE NOTE:** The claims arose before Appellant Lambros traveled to Brazil, while in Brazil and after returning to the United States from Brazil - continuing to this date:

From at least on or about January 1, 1989 and continuing through on or about February 15, 2022 or until this Court or another Court orders relief for Appellees Brazil et al. to correct the following Unlawful Trade Practices, Fraud and Artifices, in Washington D.C., the capital of the United States, within the larger area of the District of Columbia and elsewhere, the Appellees Brazil et al. engaged in a pervasive pattern of fraudulent, deceptive, and otherwise improper **marketing practices** through misrepresentations, omissions, and false innuendo, violating multiple subsections of the District of Columbia Consumer Protection Act (“DCCPPA”) codified under D.C. Code 28-3901 et seq.. See, Original Complaint filed in this action, Pages 26, Paragraph 80. (emphasis added)(marketing and/or public relations)

Based on the following claims, Appellant Lambros demands (a) a declaration that Appellee’s conduct is in violation of the “DCCPPA”, (b) an injunction ordering corrective advertising or revised editing of Brazilian laws and the



Brazilian Constitution, (c) relief for Appellant Lambros in the form of restitution, treble damages or statutory damages in the amount of \$1,500.00 per violation, whichever is greater - D.C. Code 28-3904 and 28-3905(k)(2) - , and (d) costs of prosecuting this action, including attorneys' fees and costs together with interest. See, Original Complaint filed in this action, Pages 26, Paragraph 81.

**VIOLATIONS - PENALTIES - EACH OFFENSE - EACH DAY:** Appellant Lambros states that each Appellee is liable to Appellant Lambros for approximately nine (9) different violations of the "DCCPPA", for EVERY DAY the **Appellee's published, distributed, promoted, advertised, marketed, sold, and solicited** the new 1988 Brazilian Constitution (October 5, 1988), Treaty of Extradition between Brazil and the United States of America and the laws of Brazil, within the District of Columbia and the United States of America. Appellant Lambros states that each Appellee who violates a provision of the subsection of the Consumer Protection Procedures Code 28-3904 "UNLAWFUL TRADE PRACTICES" is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued, or permitted. See, Original Complaint filed in this action, Pages 26, Paragraph 82. (emphasis added)

6. The FSIA's legislative history also provides guidance as to what constitutes a commercial activity. A profit motive may not be necessary for an activity to have commercial character. FSIA's legislative history, **House Report at 6614-15**, mentions foreign government sales of services or products, leases of property, borrowing of money, employment or engagement of laborers, clerical staff, **PUBLIC RELATIONS** or **MARKETING AGENTS**, or investment in U.S. securities. Numerous U.S. court decisions have reflected this perspective, as the case annotations to the appropriate section of the U.S. Code (i.e., 28 U.S.C.. 1603(d)) illustrate. Appellee's Brazil, et al. published, distributed, promoted, advertised, marketed, sold, and solicited the new

1988 Brazilian Constitution (October 5, 1988), Treaty of Extradition between Brazil and the United States of America and the laws of Brazil, within the District of Columbia and the United States of America. Publishing, distributing, promoting, advertising, marketing, selling, and soliciting are all commercial activities in the United States.

## **DISCUSSION - LEGAL CASES TO SUPPORT ISSUE FOUR (4):**

### **District of Columbia**

#### **Unlawful Trade Practices, D.C. Consumer Protection Act (“DCCPPA”), codified under D.C. Code 28-3901 et seq.**

#### **THE STATUTORY SCHEME**

7. “The Consumer Protection Procedures Act is a comprehensive statute designed to provide procedures and remedies for a broad spectrum of practices which injure consumers.” [Atwater v. District of Columbia Dep’t of Consumer & Reg. Affairs, 566 A.2d 462, 465 \(D.C.1989\)](#). While the CPPA enumerates a number of specific unlawful trade practices, see **D.C.Code § 28-3904**, the enumeration is not exclusive. See [Atwater, 566 A.2d at 465](#). A main purpose of the CPPA is to “assure that a just mechanism exists to remedy **all improper trade practices**.” D.C.Code § 28-3901(b)(1) (emphasis added). **Trade practices that violate other laws, including the common law, also fall within the purview of the CPPA.** See [Atwater, 566 A.2d at 465-66](#) (citing D.C.Code § 28-3905(b)); accord, [Osbourne v. Capital City Mortg. Corp., 727 A.2d 322, 325-26 \(D.C.1999\)](#) (“[T]he CPPA’s extensive enforcement mechanisms apply not only to the unlawful trade practices proscribed by § 28-3904, but to all other statutory and

common law prohibitions."). See, [District Cablevision Ltd. P'ship v. Bassin, 828 A.2d 714, 723 \(D.C.2003\)](#). (emphasis added)

8. The Appeals Court also stated in [Atwater, 566 A.2d at 466 \(D.C.1989\)](#):

In addition to providing administrative procedures and remedies, the Act authorizes a consumer to bring a civil action for violations of the Act and of other statutes "within the jurisdiction of the Office." § 28-3905(k)(1)." (emphasis added)

The Act defines the term "trade practice" broadly, to embrace "any act which does or would create, alter, repair, furnish, make available, **PROVIDE INFORMATION ABOUT**, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services." § 28-3901(a)(6). "Goods and services" are defined to include "any and all parts of the economic output of society." § 28-3901(a)(7). (emphasis added)

Although § 28-3904 makes a host of consumer trade practices unlawful, its list of such practices was not designed to be exclusive. The remainder of the statute obviously contemplates that procedures and sanctions provided by the Act will be used to enforce trade practices made unlawful by other statutes. If the § 28-3904 listing were exclusive, the references in § 28-3905 to other laws and to the common law would serve no purpose. (emphasis added)

9. Appellant Lambros' complaint includes the following unlawful trade practices against Appellees Brazil et al., violations of D.C. Code 28-3904(a), (d), (e), (e-1), (f), (f-1), (g), (h), (u), and (v). See, complaint pages 26 thru 34, paragraphs 80 thru 134 and Pages 126 thru 127, paragraph 472.

## FSIA COMMERCIAL ACTIVITY EXCEPTION

**10.** FSIA's commercial activity exception remains "the most significant of the FSIA's exceptions". *Republic of Argentina v. Weltover, Inc.*, 504 U.S. 607, 611 (1992). The exception specifically encompasses (1) commercial activity in the United States; (2) acts in the United States connected to a foreign sovereign defendant's commercial activity elsewhere; and (3) acts abroad in connection with a foreign sovereign defendant's commercial activity elsewhere that causes a direct effect in the United States. Appellees Brazil et al., violations of Unlawful Trade Practices, D.C. Consumer Protection Act ("DCCPPA"), codified under D.C. Code 28-3901 et seq. - specifically - D.C. Code 28-3904(a), (d), (e), (e-1), (f), (f-1), (g), (h), (u), and (v), fits under FSIA's commercial activity exception. Appellees published, offered public relations and provided information about the new 1988 Brazilian Constitution (October 5, 1988), Treaty of Extradition between Brazil and the United States of America and the laws of Brazil, within the District of Columbia and the United States of America.

**11. PERTINENT STATUTORY TEXT:** 28 U.S.C. 1603(d), (e) and 28 U.S.C. 1605(a)(2) provides:

A "commercial activity" means either a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose. See, 28 U.S.C. 1603(d).

A “commercial activity carried on in the United States by a foreign state” means commercial activity carried on by such state and having substantial contact with the United States. See, 28 U.S.C. 1603(e).

A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case ..... in which the action is based upon a 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 .... See, 28 U.S.C. 1605(a)(2).

**12. WHAT IS A COMMERCIAL ACTIVITY:** In accordance with the restrictive approach to foreign sovereign immunity, an activity is commercial “when a foreign government acts, not as a regulator of a market, but in the manner of a private player within it.” Weltover, 504 U.S. at 614 (1992). The FSIA states that the “nature of the [regular commercial] course of conduct or particular [commercial] transaction or act,” rather than their purpose will determine their commercial character. 28 U.S.C. 1603(d) The Supreme Court has consequently provided that “the restrictive theory of foreign sovereign immunity would **NOT BAR** a suit based upon a foreign state’s participation in the marketplace in the manner of a private citizen or corporation.” Weltover, 504 U.S. at 614 (1992). What distinguishes a commercial activity from a government activity, the Court continued, was not “whether the foreign government is acting with a profit motive or instead with the aim of fulfilling uniquely sovereign objectives,” but “whether the particular actions that the foreign state performs (whatever the motive behind them) are the TYPE of actions by which a private party engages in ‘trade and traffic or commerce.’” Weltover, 504 U.S. at

614 (1992). Some conduct or transactions are even more straightforwardly commercial such as **PUBLIC RELATIONS**. See, House Report at 6615. (new 1988 Brazilian Constitution (October 5, 1988), Treaty of Extradition between Brazil and the United States of America and the laws of Brazil).

#### **CONCLUSION AND RELIEF REQUESTED FOR ISSUE FOUR (4):**

**13.** Appellant Lambros requests this Court to deny and/or void the District Courts May 06, 2021 “MEMORANDUM OPINION” AND “ORDER” TO “GRANT DEFENDANTS’ MOTION TO DISMISS THIS ACTION FOR WANT OF JURISDICTION”. Judge Chutkan stated, “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.”

**14.** Appellant Lambros requests this Court to rule that Appellant has met his burden of establishing jurisdiction under the Foreign Sovereign Immunities Act (FSIA).

**15.** Appellant Lambros requests this Court to grant his Motion to Remand this action to the Superior Court of the District of Columbia, Civil Division, that was denied on November 16, 2021

**CONCLUSION AND RELIEF REQUESTED WITHIN THIS APPEAL**

**16.** Appellant Lambros incorporates and restates the “conclusion and relief requested” within the above four (4) issues raised above. See, pages 23, 32, 35, and 44.

**17.** For the reasons stated herein, Appellant Lambros respectfully requests this Honorable Court to grant his Motion to Remand this action to the Superior Court of the District of Columbia, Civil Division, that was denied on November 16, 2021, for a finding of damages.

Respectfully submitted,

---

John Gregory Lambros, Appellant - Pro Se

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY**

I, John Gregory Lambros, declare under penalty of perjury that the foregoing is true and correct, as are all the attached exhibits within this appeal brief. Title 28 U.S.C. 1746.

Executed: **February 3, 2022:**

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John Gregory Lambros, Pro Se



## **CERTIFICATE OF SERVICE**

I JOHN GREGORY LAMBROS, declare under penalty of perjury, pursuant to 28 USC 1746, that I SHIPPED copy of the enclosed above-entitled appeal and documents to the following clerk of the court and Brazil, et al. attorney's, by placing them in an envelope with correct shipping fees attached and shipping the envelopes from the **United Parcel Service Store - (Foley Hoag LLP, sent U.S. Mail) on February 3, 2022:**

2. Clerk, U.S. Court of Appeals for the District of Columbia, U.S. Court of Appeals for the District of Columbia, Room 5205, 333 Constitution Avenue, N.W., Washington, DC 20001-2866;

3. **Foley Hoag LLP, Attn:** Attorney Clara E. Brillemboug, 1717 K St NW, Washington, DC 20006 **(Sent U.S. Mail)**

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John Gregory Lambros, Pro Se

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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

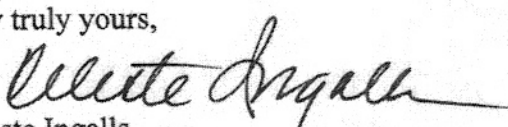
Dear Judge Pan:

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.

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 DISTRICTAL 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**

1,  
2,

13/04/201818:36 Protocolizada Petição 193378/2018 (ParMPF - PARECER DO MPF) em 13/04/2018 (118)  
13/10/201719:12 Disponibilizada cópia digital dos autos à(o) MINISTÉRIO PÚBLICO FEDERAL (300101)  
13/10/201715:01 Autos com vista ao Ministério Público Federal (30015)  
10/10/201716:36 Juntada de Petição de IMPUGNAÇÃO nº 528560/2017 (85)  
10/10/201710:21 Protocolizada Petição 528560/2017 (IMP - IMPUGNAÇÃO) em 10/10/2017 (118)  
26/09/201717:08 Juntada de Mandado de Intimação nº 000129/2017-CESP (581)  
22/09/201710:03 Juntada de Mandado de Intimação nº 000129/2017-CESP (581)  
19/09/201716:52 Recebidos os autos no(a) COORDENADORIA DA CORTE ESPECIAL(132)  
15/09/201714:06 Conclusos para decisão ao(à) Ministro(a) LAURITA VAZ (Presidente) - pela SJD (51)  
14/09/201716:30 Distribuído por competência exclusiva à Ministra PRESIDENTE DO STJ(26)  
14/09/201709:40 Remetidos os Autos (fisicamente) para SEÇÃO DE EXPEDIÇÃO (123)  
14/09/201706:25 Processo digitalizado e validado (30080)

**EXHIBIT A.**

①  
3.

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

24/09/2018 15:21 Remetidos os Autos (para devolução à justiça rogante) para **MINISTÉRIO DA JUSTIÇA(123)**

24/09/2018 10:25 Transitado em Julgado em 24/09/2018 (848)

10/09/2018 02:48 **ADVOCACIA-GERAL DA UNIÃO** intimado eletronicamente da(o) Despacho / Decisão em 10/09/2018 (300104)

31/08/2018 11:47 Juntada de Petição de CieMPF - **CIÊNCIA PELO MPF nº 487907/2018** (Juntada Automática) (85)

31/08/2018 11:47 Protocolizada Petição 487907/2018 (CieMPF - **CIÊNCIA PELO MPF**) em 31/08/2018(118)

31/08/2018 11:35 **MINISTÉRIO PÚBLICO FEDERAL** intimado eletronicamente da(o) Despacho / Decisão em 31/08/2018 (300104)

30/08/2018 06:16 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **MINISTÉRIO PÚBLICO FEDERAL** (300105)

30/08/2018 06:15 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **ADVOCACIA-GERAL DA UNIÃO** (300105)

30/08/2018 05:34 Publicado **DESPACHO / DECISÃO** em 30/08/2018 (92)

29/08/2018 19:12 Disponibilizado no DJ Eletrônico - **DESPACHO / DECISÃO (1061)**

29/08/2018 09:08 Não Concedido o Exequatur (Publicação prevista para **30/08/2018**) (12034)

28/08/2018 17:21 Recebidos os autos no(a) **COORDENADORIA DA CORTE ESPECIAL (132)**

16/04/2018 11:50 Conclusos para julgamento ao(à) Ministro(a) **PRESIDENTE DO STJ (Presidente) (51)**

**EXHIBIT A.**

3/4

13/04/201818:37 Juntada de Petição de ParMPF - PARECER DO MPF nº  
**193380/2018 (Juntada Automática)(85)**

13/04/201818:36 Protocolizada Petição 193380/2018 (ParMPF - PARECER  
**DO MPF) em 13/04/2018 (118)**

06/10/201720:34 Disponibilizada cópia digital dos autos à(o) **MINISTÉRIO  
PÚBLICO FEDERAL (300101)**

06/10/201717:07 Autos com vista ao Ministério Público Federal (30015)

06/10/201708:26 Juntada de Petição de **IMPUGNAÇÃO nº  
520916/2017 (85)**

05/10/201719:15 Protocolizada Petição 520916/2017 (IMP -  
**IMPUGNAÇÃO) em 05/10/2017 (118)**

22/09/201710:01 Juntada de Mandado de Intimação nº 000128/2017-  
**CESP (581)**

19/09/201716:52 Recebidos os autos no(a) **COORDENADORIA DA CORTE  
ESPECIAL (132)**

15/09/201714:05 Conclusos para decisão ao(à) Ministro(a) **LAURITA VAZ  
(Presidente) - pela SJD (51)**

14/09/201717:30 Distribuído por competência exclusiva à Ministra  
**PRESIDENTE DO STJ (26)**

14/09/201709:40 Remetidos os Autos (fisicamente) para **SEÇÃO DE  
EXPEDIÇÃO (123)**

14/09/201706:25 Processo digitalizado e validado (30080)

**EXHIBIT A**

01/51

**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 8<sup>th</sup> 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

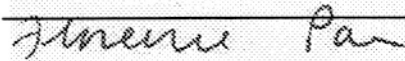
further

**EXHIBIT B.**

b.

**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.*



**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 6<sup>th</sup> 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 15<sup>th</sup> day of May, 2019, it is hereby

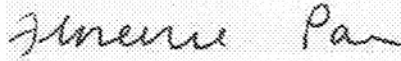
**ORDERED** that the status hearing scheduled for July 5, 2019, is converted to an *ex parte* proof hearing; and it is further

*EXHIBIT C.*

*§.*

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

**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 C.**

*a.*



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.<sup>2</sup> 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.

---

<sup>2</sup> 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](mailto:cbrillembourg@foleyhoag.com)  
Janis H. Brennan (DC Bar No. 412100)  
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Andrew B. Loewenstein (D.D.C. Bar No. MA0018)  
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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.

12.

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.**

131/

**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.*

*17*

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.*

*19.*

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.*

*20/*

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](http://www.Lambros.Name)

*Ex. E.*

*21.*

# CROWE FOREIGN SERVICES

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USA

Gary A. Crowe  
President

Celeste Ingalls  
Director of Operations  
[celeste@foreignservices.com](mailto: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. OF 221  
EX. E.

# CROWE FOREIGN SERVICES

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Gary A. Crowe  
President

Celeste Ingalls  
Director of Operations  
[celeste@foreignservices.com](mailto: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.



# CROWE FOREIGN SERVICES

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Gary A. Crowe  
President

Celeste Ingalls  
Director of Operations  
[celeste@foreignservices.com](mailto: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:

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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 F.

24

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

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.

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

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.**

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.

~~Brazil, April 18, 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

25/

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

MAILED: 11-17-2020  
RECEIVED: 11-24-2020

\_\_\_\_\_  
JOHN GREGORY LAMBROS,  
  
Plaintiff,  
  
v.  
  
FEDERATIVE REPUBLIC OF BRAZIL  
*et al.*,  
  
Defendants.  
\_\_\_\_\_

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.<sup>1</sup> 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

<sup>1</sup> 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.

1 Ex. G 26.

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.

27.

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. 6.**

281



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 LAMEROS;

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 LAMEROS, 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    ПАМ'ЯЦЬ НАЧІНЬ (202) 879-4828 Б.С.Д.А.

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 A

29.



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 17-0000929

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

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번역을 원하시면, (202) 879-4828 로 전화하십시오

Clerk of the Court  
By [Signature]  
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.

30/