

IN THE SUPERIOR COURT  
OF THE  
COMMONWEALTH OF THE NORTHERN MARSHALL ISLANDS



**E-FILED**  
**CNMI SUPERIOR COURT**  
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Filing ID: 68757463  
Case Number: 22-0298-CV

Dear

CIVIL ACTION NO. \_\_\_\_\_

**ROBERT MANG,**  
*Pro Se*

Plaintiff,

10 || VS.

**ROBERTO NARAJA, in his official capacity as the Presiding Judge of THE SUPERIOR COURT OF THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.**

Defendant.

**COMPLAINT SEEKING DAMAGES,  
AMONG OTHER THINGS, UNDER  
THE AMERICANS WITH  
DISABILITIES ACT.**

## **Jurisdiction and Venue**

1. The Superior Court of the Commonwealth of the Northern Mariana Islands (“Superior Court”) likely has jurisdiction over this matter because of a forum selection clause in the Plaintiff’s employment contract.

## Timeliness

2. Plaintiff timely filed a complaint on March 14, 2022 with the U.S. Equal Employment Opportunity Commission (“EEOC”) within six months of the Americans with Disabilities Act (“ADA”) violation.
3. After excessive delay, the EEOC issued the Plaintiff a “right to sue” letter at 4:14 p.m. Eastern Time (ET) on Friday, September 30, 2022.
4. The “right-to-sue” letter gave the Plaintiff 90 days to sue and specified the 90 days began on the date the letter was read for the first time. The Plaintiff had to log into the EEOC’s online portal to read the letter. The e-mail received only said a new a document was added to the file.

5. The afternoon of Friday, September 30, 2022 the Plaintiff traveled over two hours roundtrip for a one-hour hair cutting appointment. In the evening, he celebrated his father's birthday and second retirement from the National Security Agency which is part of the United States federal government.
6. The Plaintiff read the letter for the first time on the morning of Saturday, October 1, 2022.
7. This lawsuit is being filed prematurely due to the unreasonable timing requirements imposed by the EEOC process (due to various laws and regulations) in the Plaintiff's hope here that discovery will produce additional information and the lack of an alternative.
8. This lawsuit is limited in scope to the ADA violation due to the above-mentioned timing requirements.
9. The statute of limitations for some of the other causes of actions made with this lawsuit is two or three years if not longer. Additional causes of actions may apply to the overall scheme whose statute of limitations are at least two years in length.

## **The EEOC's handling of the Complaint**

1. The EEOC's case file, obtained using a Section 83 (from the EEOC's compliance manual) request is a little hard to follow likely because the clerical staff inputting information used insufficient care in recording information.
2. However, it says the Plaintiff was informed on March 28, 2022 as follows: "CP [charging party] was made aware of the disposition of complaint at intake and was advised of right to file charge, but EEOC will not pursue further investigation."
3. That generally matches the Plaintiff's best recollection of the telephone conversation. However, it omits that the EEOC expressed skepticism on March 28 that a violation of law had been alleged instead thinking the Genetic Information Nondiscrimination Act of 2008 represented the best possibility for the complaint.
4. At the time and also in a follow-up e-mail, the Plaintiff clarified that the Defendant(s) had made an unpermitted inquiry as to whether the Plaintiff has or had a disability. *See e.g.* 42 U.S.C. § 12112.
5. The Plaintiff followed up a few times and the parties mutually had difficulty reaching each other before the EEOC asked the Plaintiff to file a (second) amended charge and clarified by e-mail that no position statement from the Defendant would be requested on April 19, 2022.
6. A position statement or any indication that one was requested does not appear to be included in the 258 pages of documents that EEOC provided under Section 83.

1           7. A September 12, 2022 EEOC request for information to the Defendant refers to “if not  
2           included in the Position Statement” but that appears to be boilerplate. Typically, the  
3           Charging Party is given the opportunity to submit a rebuttal to the Employer’s Position  
4           Statement.

5           8. The Section 83 documents also include a September 21, 2022 letter the Plaintiff sent to  
6           the Acting District Director of Los Angeles District Office complaining about the Hawaii  
7           Local Office’s handling of the complaint. It referenced the failure to request a position  
8           statement.

9           9. The EEOC did not respond to the letter but the next page in the Section 83 documents is a  
10           copy of a letter dated March 21, 2022 to Defendant(s) stating “Due to an administrative  
11           error, the service of the enclosed Notice of Charge of Discrimination was delayed. The  
12           Charging Party did file a timely amended charge with the Equal Employment  
13           Opportunity Commission, Honolulu Local Office of the alleged unlawful employment  
14           practice as required by the statutes enforced by the Commission. Should you have any  
15           questions regarding this notice, please contact our office at 808-800-2350.”

16           10. It is unclear if the EEOC is trying to suggest the administrative error in the March 21  
17           letter was responsible for the delays also complained about in the Plaintiff’s September  
18           21 letter or something else. The March 21 letter should have come much earlier in the  
19           Section 83 documents based on its date. The EEOC wrote “[n]o position will be  
20           requested” on April 19, 2022 which would leave no reason to believe the March 21 letter  
21           was somehow supposed to represent notice that a position statement had been requested  
22           especially when the EEOC did not request a rebuttal or provide it in the Section 83  
23           documents.

24           11. The Plaintiff does not know what documents are typically provided in the Section 83  
25           documents but believes that a position statement is always requested for a timely  
26           complaint alleging a violation of law, and the charging party is always given the  
27           opportunity to provide a rebuttal. The Hawaii Local Office did cite its discretion in how  
28           to use its limited resources as a reason for not pursuing the complaint in a March and/or  
         April 2022 telephone conversation.

12           12. Despite earlier promising not to investigate, the EEOC on September 12 requested the  
13           Plaintiff’s personnel file and all employee handbooks. The EEOC’s investigation  
14           produced mostly copies of forms that the Plaintiff had completed and were already  
15           known to him. The Defendant also appeared to provide more exhaustive information than  
16           requested about its policies which were likely available to anyone who asked if not  
17           already accessible on the Internet.

26           **Parties**

27           13. Roberto Camacho Naraja (“Defendant”) is the Presiding Judge of the Superior Court. In  
28           that role, he serves as both the chief judge and functional head of the CNMI’s trial court.  
         He serves as the second or third level Supervisor for many of the trial court’s employees.

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2 14. Defendant undoubtedly utilized numerous underlings as his “agents” in carrying out the  
3 alleged scheme. The Defendant is only being sued in his official capacity. Discovery may  
4 produce additional information about which person(s) assisted him with various tasks,  
including providing the necessary computer knowledge to facilitate the alleged scheme.

5 15. Robert Edward Mang III (“Plaintiff”) was Presiding Judge Roberto Naraja’s law clerk  
6 from October 2020 to October 2021. He currently resides in Maryland and is not licensed  
7 to practice law in any jurisdiction.

8 **Special Duty to *Pro Se* Litigants**

9 16. Generally, despite the adversarial nature of litigation, Courts in the United States owe a  
10 special duty to *Pro Se* plaintiffs. Consider *McLeod v. Jewish Guild for the Blind*, 864  
11 F.3d 154 (2d Cir. 2017): “[a]s we have repeatedly stated, “[w]e liberally construe  
12 pleadings and briefs submitted by *pro se* litigants, reading such submissions to raise the  
13 strongest arguments they suggest.” *Bertin v. United States*, 478 F.3d 489, 491 (2d Cir.  
14 2007) (internal citation and quotation marks omitted) (emphasis added). “The policy of  
15 liberally construing *pro se* submissions is driven by the understanding that implicit in the  
right to self-representation is an obligation on the part of the court to make reasonable  
allowances to protect *pro se* litigants from inadvertent forfeiture of important rights  
because of their lack of legal training.” *Abbas v. Dixon*, 480 F.3d 636, 639 (2d Cir. 2007)  
(alterations and internal quotation marks omitted). “[F]actual allegations alone are what  
matters,” versus legal arguments, in evaluating a *pro se* complaint. *McLeod v. Jewish  
Guild* at 157-58 (emphasis added). In other words, the standard is substance over form.

16 17. Whatever legal training the Plaintiff has is overcome by him being deemed legally  
17 incompetent to practice law by failing the bar exam three times.

18 **Plaintiff’s *Pro Se* Status**

19 18. It has often been said that a lawyer who has themselves as a client, has a fool for a client.  
20 The Plaintiff is not a lawyer, but is proceeding *pro se* because there is little reason to  
21 believe any attorney in the relatively tiny CNMI bar association is willing to sue the  
22 Superior Court.

23 19. The Plaintiff contacted four of the most prominent attorneys on the island.

24 20. The first thing the Plaintiff said to one is that he wanted to sue the Superior Court under  
25 the ADA. In response, without hearing anything else, the attorney either said he was  
26 “going to pass on” or was “not interested” in suing the Superior Court. He encouraged the  
27 Plaintiff to still “call around.” When asked if he could suggest any Guam attorneys, that  
28 attorney said he thought that was a good idea but could not think of anyone.

21. The first thing the Plaintiff said to another attorney was that he wanted to sue the  
Superior Court under the ADA and for breach of contract. To the best of the Plaintiff’s

1 recollection, that attorney first asked to be told about the breach of contract. The Plaintiff  
2 said that the case really had more to do with the ADA. That attorney then said (this  
3 comment possibly came earlier in the conversation) that he was reluctant to sue the  
4 Superior Court because of how many cases he has in the Superior Court but would take a  
5 look. He also asked about exhausting administrative rights and asked the Plaintiff to e-  
6 mail him some information. The Plaintiff did but the attorney did not respond. He had  
7 earlier indicated he might be able to suggest some Guam attorneys but could not  
8 immediately think of any.

9

10 22. The people who answered the phone for another attorney expressed skepticism about  
11 suing the Superior Court. When the Plaintiff first called, the person asked why he wanted  
12 to sue the Superior Court and said someone would return his call after being told because  
13 that it is where the Plaintiff worked. The Plaintiff later called back and the person he  
14 spoke to that time provided an e-mail address where the Plaintiff could send additional  
15 information. The e-mail did not receive a response.

16 23. Another attorney the Plaintiff spoke with cited time constraints to end the conversation  
17 after hearing a few substantive facts of the case. The conversation had not gone very far.  
18 The next day, that attorney declined the case without providing a reason. He did,  
19 however, when asked, suggest a couple of Guam attorneys. He also explained the  
20 somewhat elaborate requirements to efficiently practice law in the CNMI while based in  
21 Guam before providing who he could think of who met those requirements off the top of  
22 his head. The Plaintiff is very grateful for the help he was able to provide.

23 24. The Plaintiff contacted those Guam attorneys but the persons who answered their phones  
24 did not follow-up as they said they would. In all cases, it also may have worked against  
25 the Plaintiff that he resides off-island.

26 25. That said, it would not be surprising to struggle to find an attorney in the CNMI who  
27 lacks any sort of personal or business related conflict of interest with someone  
28 meaningfully employed by the Judiciary. The CNMI, does after all, cite the small  
population of the Commonwealth as a justification for limiting the right to an unbiased  
jury trial.

29 26. It is also understandable for an attorney to be concerned about an even unconscious bias  
30 forming against him which would harm his other clients and rightfully believing  
31 themselves obliged to prioritize those other clients' rights over any benefit the attorney  
32 could receive from taking this case.

33 27. It is more difficult to overcome a personal or business related conflict of interest but the  
34 Plaintiff would not expect in the rest of the United States for it to be overly difficult to  
35 find an attorney, especially among highly competent attorneys, willing and able to sue the  
36 Courthouse.

37 **General Scheme**

1 28. In brief, the general scheme allegedly involves extensive spying against the Plaintiff ("I" or "my") by the Defendant(s) ("my judge" or "they" or "employer" or "Superior Court" or "CNMI"). It started as work-from-home monitoring in or about June 2021 and is still on-going despite my clerkship concluding in October 2021. The CNMI overlooked the need to disclose the lack of expectation of privacy in their personal manual, my contract, or on the laptop itself. They gained access to my Internet in Maryland by duping my elderly parents into joining the scheme. For a variety of reasons, mostly related to their terrible poker faces which gives me some indication of what is going on, I still live with them.

2 29. As odd coincidences and more overt computer issues started piling up in Summer 2021, I started watching for some sort of notice on my work computer but saw nothing. Both my Federal Deposit Insurance Corporation ("FDIC") computer and computer from a short stint at the Small Business Administration display such a warning on startup. Those agencies are both part of the federal government. There is nothing in the Judiciary's personnel policies or my contact on the subject. *See* <https://cnmilaw.org/pdf/courtrules/R24.pdf> Would any employer knowingly not retain the right to monitor work computer usage, especially a legal employer which must safeguard sensitive information?

3 30. The Superior Court allegedly has mostly used the spying to contact 22 other judges I interviewed with during and after my clerkship. I can only speculate about their motives, but it appears the Superior Court is offended that I overlooked disclosing that I had failed the bar exam to Presiding Judge Naraja and by my desire to cut the clerkship short. It is difficult to even speculate about why they continued for so long or why they would believe that to be a lawful means of redressing their issues with me.

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### **ADA Allegation**

29 31. In terms of the ADA, on Monday, September 13, 2021, I was informed by Presiding Judge Naraja that my contract would not be renewed. Around 11 p.m. local time on September 15, I was disconnected three times from a Zoom call with friends from Maryland. I cannot recall even one zoom disconnection before or since. This Zoom call with friends has still occurred just about every week since the pandemic started. Before the first disconnection, I had reached a grey zone both in terms of respect to the judge and confidentiality. I was discussing an incident with a hot mic and how I wished I could have muted my judge but didn't have that ability. I don't recall the second time but the third time I had just incorrectly questioned a friend's statement that the island of Saipan in the Northern Marianas is connected by an underwater fiberoptic cable to Los Angeles. I had attributed the disconnections to "the Internet here," to make it seem like I did not suspect anything when the opposite was the case due to indications of a larger spying scheme against me.

32. Section 504 of the Rehabilitation Act is also implicated because all judiciary employees, including the Plaintiff, received 10 percent of the salaries through the American Rescue Plan Act (ARPA) beginning in July 2021 and that is probably still the case.

1       33. The spying may not have occurred but, for the ARPA funding but given the considerable  
2       austerity days and layoffs which occurred prior to ARPA's passage on or about March  
3       11, 2021 it is even harder to believe the Judiciary would have had the manpower to  
4       facilitate the alleged spying.

5       34. To the best of the Plaintiff's recollection, the austerity days ended in April 2021.

6       35. To be clear, there was no possibility that I would have actually crossed any line had I  
7       been allowed to continue speaking. It appears that confidence was not shared, however,  
8       because I was initially connected to an empty Zoom room. It appears my bookmark was  
9       changed because I connected after receiving the same link from a friend a few minutes  
10      after first trying. The bookmark worked fine the next week and all weeks after. The link  
11      had been the same every week for almost a year. I still have both e-mails and the link my  
12      friend sent on September 15 is identical to one in an e-mail from January 2021.

13      36. Notably, as I was trying to reconnect, I heard Special Assistant to Presiding Judge  
14      Rochelle Vazquez singing to herself on Instagram about how jet-lagged she was when in  
15      a government quarantine facility and how she will be up at 2:30 a.m. Just a few hours  
16      earlier, I had expressed concern by e-mail to another friend about having scheduled an  
17      interview for 2:30 a.m. local time which was 12:30 p.m. in New York City. This could be  
18      quite a coincidence, of course, but picking 2:30, instead of on the hour at 2 or 3 a.m., was  
19      a departure from normal modes of speech. She could have reacted differently had she not  
20      been jet lagged and trapped in a government quarantine facility which played  
21      announcements over the loudspeakers like some sort of sitcom.

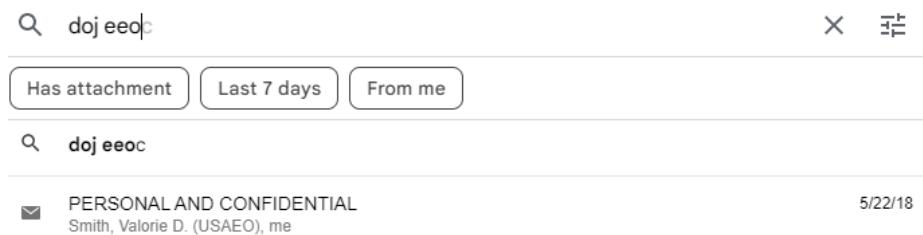
22      37. When I returned from work the next evening my laptop was updating itself automatically  
23      without giving me any advance warning. It was still, or maybe had just started, updating  
24      when I opened it. It should have been powered down. The night before I tried to install  
25      antivirus software in-case something was causing the disconnections and also to seem  
26      unsuspecting. However, when I tried to install Super Anti-Spyware, a popular antivirus  
27      program, the computer told me it could not install the common program which was very  
28      odd. Maybe it would have detected the spyware because I didn't previously have any  
      antivirus software installed. When windows finished updating, Super Anti-Spyware could  
      now be installed, it may even have already been installed despite previously being  
      uninstallable.

22      38. In an extremely alarming development when Microsoft Windows updated itself it  
23      reinstalled Google Chrome. That is quite unusual for Windows to reinstall Chrome,  
24      which competes with its own program Microsoft Edge. It was also significant in that I  
25      had uninstalled Chrome in August after I finished preparing for the bar exam. I had rarely  
26      studied for the exam, both in general and when I was supposed to be working. I was  
27      using Firefox rather than Chrome and only installed Chrome for the purposes of studying  
28      on Kaplan's website because by not being logged into distracting websites (i.e.  
      Facebook) it made it easier to avoid distractions. Perhaps my employer had realized that I  
      could not overlook the miscue with the zoom link especially after Vazquez panicked and  
      started disconnecting me. Drawing attention to the bar exam seemed like an overt act at  
      the time which caused me to panic. Perhaps they were really just trying to get me to  
      disclose the bar exam issue.

1  
2 39. The overt act caused me to panic. I realized I was not really thinking straight which in an  
3 effort to get more in that direction caused me to reach out to my judge and human  
4 resources on Friday, September 17 seeking a psychiatrist's contact information. I already  
5 suspected but wanted to confirm the island did not have one outside of the hospital  
6 context. I also felt generally justified in yelling-fire-in-a-crowded-room and was also  
7 seeking to expedite my departure from the island. I had considered just flying out that  
8 morning and leaving everything behind. That morning in a meeting with HR, I indicated I  
9 "might" be interested in the ADA when asked. I would have used my generic mental  
10 health rather than anything else but next week we reached an arrangement to use my  
11 vacation days and then work the last week of the contract from Maryland without having  
12 to reach the ADA.  
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14 40. However, that weekend I would see e-mails in my G-Mail suggested searches that I was  
15 not searching for (I had just typed a random letter or two, probably without even meaning  
16 to do so) related to a previous disability I had and an Equal Employment Opportunity  
17 complaint I filed against the U.S. Department of Justice ("DOJ") after failing a  
18 background check for an internship as a result of the disability, please see below  
19 example. I did not leave my apartment over the weekend (possibly not until Tuesday) and  
20 saw e-mails calling into question whether I had been cleared to drive afterwards (I was)  
21 to also appear in my suggested searches.  
22

23 41. Here is a recreated example:  
24



25 42. Notably, on or about Friday, September 21, 2021, over 1,000 files suddenly showed as  
26 having been restored to my Onedrive. I did not do anything to initiate this. That appeared  
27 to be all of the files on my personal laptop, which had (mostly) only been used in the last  
28 year. However, it also included just a few work files some of which had previously gone  
missing from that computer and been otherwise irreplaceable.  
29

30 43. Around 10 a.m., on October 22, 2021, I also looked away from the screen a second, to a  
31 look at another computer I was also using for work, only to see someone clicking me  
32 back to the perceived correct window on the first computer. In my final weeks on the  
33 island, I had seen similar clicking a few times on my work computer as well as my music  
34 stop playing when it appeared I was starting to zone out perhaps as an unrequested ADA  
35 accommodation. It seemed like they thought I forgot what I was doing or something.  
36

37 44. In February 2015, I fell and hit my head on the Metro's train tracks in Washington D.C.  
38 sustaining a Traumatic Brain Injury ("TBI") more commonly known as brain damage. I  
39 was in the regular hospital for roughly two weeks afterwards and transferred to inpatient  
40

1 rehabilitation afterwards for roughly another two weeks through a hallway to a different  
2 facility without actually going outside those buildings for a month. I continued weekly  
3 visits for outpatient rehabilitation for most of the summer.

4 45. The DOJ largely conceded the factual allegations in my complaint (including accepting  
5 that my history of a TBI constituted a disability) and argued a dubious construction of  
6 law. Generally, governments in the United States will concede facts which it knows to be  
7 true and strive for any permissible construction of law, no matter how dubious, especially  
8 in a civil rights case. I withdrew my DOJ complaint without exhausting my  
9 administrative rights mostly because the matter was distracting me from law school.

10 46. I telephoned Presiding Judge Naraja out of the blue on or about September 1, 2022 to  
11 express how upset I was at him for involving my parents. I had not spoken to him since  
12 around September 2021. He was surprised to hear from me but tried to be friendly  
13 discussing how Vazquez had secured a job as a public defender in Texas. He asked me  
14 how I was doing and said, “you’re in New York, right?” I said I was having a hard time  
15 and in Maryland.

16 47. However, earlier in August I had received a tentative offer from the FDIC contingent on a  
17 background check. I also had e-mailed myself on July 19, 2022 about how the New York  
18 bar, I was about to have taken its bar exam 3 times, was the only body with jurisdiction to  
19 police my character and fitness. I included the New York bar’s contact information if  
20 they wished to make a compliant. I had become upset because it seemed they also had  
21 just reached out to Goldman Sachs to torpedo my Operations Associate interview.

22 48. When I told him about how inappropriate, I wish I had been more specific and said  
23 disgusting, it was for him to use my parents as informants against me he referenced my  
24 pending ADA complaint with the EEOC. I only referenced spying and not anything about  
25 the ADA before he did. He may or may not have been aware that we had EEOC  
26 Mediation on August 31, 2022.

27 49. In the rest of the United States, the elderly are often the victims of fraud from those who  
28 prey on the elderly, my mother is also very sick, and in the rest of the United States it  
would be highly unlikely for the government to involve someone’s family as a witness or  
informant against them regardless of age. Obviously, it would be different if family  
members were accused of a crime against each other, being involved in organized crime,  
national security were involved, or at least some sort of violent crime were alleged.

50. Suggesting that I was in New York only confirmed in my mind the still ongoing spying. I  
rarely saw or talked with the judge about anything let alone personal matters instead  
focusing on work. I have never lived or worked in New York. We never discussed  
anything even tangentially related to the bar or where I wanted to practice law/live. He  
should have associated me with the nation’s capital where I was born, worked from 2012-  
2020, and attended law school. I went to college in Maryland. My job with the FDIC is in  
D.C. but it may be easy to conflate that with New York for someone not interested in  
financial topics.

1 51. If Presiding Judge Naraja's comment regarding New York is not a clear enough  
2 admission; the CNMI seems to view a settlement offer they made during EEOC  
3 mediation as such an admission. That is because all of my EEOC e-mails from before  
4 November 1, 2022 temporarily disappeared from my Gmail app on my phone but  
5 fortunately they remained in my phone's web browser. Notably, the only e-mails I  
6 received November 1, 2022 were a copy of the "record" the EEOC had collected while  
7 wasting time. I also discussed the settlement offer when typing up additional information  
8 requested by the ACLU on this matter before they decide whether to undertake legal  
9 representation on Saturday, November 19, 2022 (they decided against).<sup>1</sup> I became locked  
10 out of my computer and unable to get back in over the weekend because I forgot my  
11 password. It may be true that I genuinely forgot the password. On Monday, November 21  
12 I tried without success to find the e-mail in my phone. On Tuesday, November 22, 2022 I  
13 tried the web browser on my phone and found it there. I recorded the following video  
14 documenting the disappearance on Tuesday, November 22. I have other copies of the  
15 youtube version should it disappear. Here is the link: [www.bit.ly/saipan3](http://www.bit.ly/saipan3)

16 52. The missing e-mails returned when I checked for them on December 28, 2022. I had not  
17 noticed the return sooner but had not been checking for them.

18 53. Although the unaccepted settlement offer did not contain a confidentiality provision even  
19 if accepted (I did receive a formal written offer from the CNMI after mediation  
20 concluded) it is unlikely the settlement offer itself could be admitted into evidence.  
21 However, the CNMI made the existence of the settlement offer material evidence when it  
22 allegedly tried to keep me from being able to find it. Even if it was all some sort of  
23 extremely bizarre technical issue, it is still material evidence. I am sure the Defendant  
24 will try to use it to attack my credibility.

25 54. I concede that absent the bizarre disappearance of the e-mails any settlement offer does  
26 not establish liability and could be made for any number of unrelated reasons.

## **Breach of Contract Allegation**

19 55. I traveled to Saipan in October 2020 and traveled back to Maryland in October 2021.  
20 Both times I did not receive my contractually promised reimbursement for airfare until  
21 the following March.

22 56. Defendant(s) will no doubt assert the fiscal operations of the CNMI treasury as a defense  
23 to the first breach. However, Chief Justice Castro, Presiding Judge Naraja, General  
24 Counsel Hyun Jae Lee, and Secretary Atalig all signed that contract in late October 2020.  
Secretary Atalig specifically certified the existence of sufficient funds to more than  
satisfy the contracted amount. The other parties are heavily involved in budgeting for the  
Judiciary even if they certified various other things.

<sup>27</sup> <sup>28</sup> <sup>1</sup> The ACLU declined due to resource constraints on December 1, 2022 only two days after confirming receipt although they had my e-mail longer due to the Thanksgiving holiday. They may have been concerned about the impending ADA deadline or wanted to devote resources to a case that would affect hundreds of thousands versus a unique set of facts here.

1 57. The contract was also silent of the timeframe for the CNMI to make the promised  
2 reimbursement.

3 58. On or about October 2, 2020, the Legislature had passed a budget of about \$101 million  
4 for the CNMI government in 2021. That was a drastic reduction from the 2020 budget of  
5 \$233 million and \$258 million in 2019. The signers of the contract at the time of  
6 signature had no reason to believe it was not dubious they would not struggle mightily to  
7 fulfil the obligations of the contract. Despite the numerous hardships the Judiciary  
8 endured, my delayed reimbursement being the least of which, the Judiciary actually did  
9 remarkably well under the circumstances.

10 59. Despite that, the CNMI never should have agreed to the contract it had me sign, as the  
11 delayed reimbursement showed.

12 60. In October 2021, I timely requested reimbursement before my contract ended (a  
13 requirement) and then forgot about it. I did not remember until I was submitting the  
14 EEOC complaint in March 2022. The Human Resources Officer Michelle Guerrero was  
15 the point-of-contact for both the ADA and reimbursement.

16 61. We had reached an arrangement in September 2021, to let me use all of my vacation days  
17 at the end of my contract (which is greatly disfavored and to make matters worse I had  
18 yet to take a vacation day) and then work the rest of the contract from Maryland. That  
19 arrangement helped prevent us from reaching the need to consider requesting an  
20 accommodation under the ADA and bias could have emerged from the psychiatrist  
21 request alone. I had reached out to Judge Naraja and also the General Counsel, Hyun Jae  
22 Lee, who also oversees HR, by e-mail in what could be viewed as a breach of protocol.  
23 Part of my reason for contacting Lee was to send a warning message and/or engage her in  
24 conversation about the unlawfulness of the spying which I was generally obliged to do  
25 given my oath to uphold the laws of the United States and the CNMI.

26 62. Without discovery, I can only speculate about the many possible motives for the delay. It  
27 may have been retaliation for raising the ADA. Like displaying the earlier e-mail  
28 messages in my search results, perhaps in an effort to intimidate me into silence, the  
29 CNMI taking its time in processing the reimbursement (despite having just been  
30 reminded of the first delay) could have been intended as a further intimidation measure.

21 **First Cause of Action: Violation of the Americans with Disabilities Act**

22 63. In *Contra*, the court began its analysis with the general language of subsection 12112(d)  
23 (1), which states: "The prohibition against discrimination as referred to in subsection (a)  
24 of this section shall include medical examinations and inquiries." 42 U.S.C. § 12112(d)  
25 (1). The Court then rejected that the argument that a Plaintiff must even show they are a  
26 "a qualified individual with a disability." Here, the Plaintiff has established a disability  
27 and his qualifications to do the job were not meaningfully at issue. The Court did not  
28 even require a showing that a Plaintiff be a qualified person with a disability because  
29 protecting only qualified individuals would defeat much of the usefulness of those  
30 sections. *Frederenburg v. Contra Cost*, 172 F.3d 1176, 1246 (9<sup>th</sup> Cir. 1999). *see also Roe*  
31 *v. Cheyenne Mountain Conference Resort, Inc.*, 124 F.3d 1221, 1229 (10th Cir. 1997).

32 64. Plaintiff realleges and incorporates paragraphs 1-63 as if fully set forth herein.

## **Second Cause of Action: Breach of Contract**

65. A breach of contract requires (1) a valid contract between the parties; (2) an obligation or duty arising out of the contract; (3) a breach of that duty; and (4) damages caused by breach.

### **Third Cause of Action: Violation of Section 504 of the Rehabilitation Act**

6       66. The Rehabilitation Act is generally considered to be an identical statute to the ADA. *See e.g.* 29 U.S.C § 791(f).

7

8       67. It contains similar limitations on disability-related inquiries. *See e.g.* 10 C.F.R. 1040.69

9

10      68. Section 504 of the Rehabilitation Act is an earlier version of the ADA. The key  
11       difference is that it primarily, if not exclusively, only applies to entities or governments  
12       receiving federal funds. The ADA, of course, has a very broad application including  
13       almost all, if not all, employers.

14

15      69. The United States Supreme Court explained in *School Bd. Of Nassau County v. Airline*  
16       (1987) what must be shown to establish a Rehabilitation Act claim. A handicapped  
17       individual is "[A]ny person who (i) has a physical or mental impairment which  
18       substantially limits one or more of such person's major life activities, (ii) has a record of  
19       such an impairment, or (iii) is regarded as having such an impairment." 29 U.S.C.  
20       706(7)(B).

21

22      70. The Supreme Court cited Department of Health and Human Services regulations, drafted  
23       with the oversight and approval of Congress, as useful in determining what constitutes a  
24       physical impairment: "[A]ny physiological disorder or condition, cosmetic disfigurement,  
25       or anatomical loss affecting one or more of the following body systems: neurological;  
26       musculoskeletal; special sense organs; respiratory, including speech organs;  
27       cardiovascular; reproductive, digestive, genitourinary; hemic and lymphatic; skin; and  
28       endocrine." 45 CFR 84.3(j)(2)(i) (1985).

29

30      71. The Plaintiff in the 1987 *Airline* decision had been hospitalized 30-years earlier in 1957  
31       for Tuberculosis. The Supreme Court went on to hold, "this impairment was serious  
32       enough to require hospitalization, a fact more than sufficient to establish that one or more  
33       of her major life activities were substantially limited by her impairment. Thus, Arline's  
34       hospitalization for tuberculosis in 1957 suffices to establish that she has a "record of . . .  
35       impairment" within the meaning of 29 U.S.C. 706(7)(B)(ii), and is therefore a  
36       handicapped individual." *Airline*, 480 U.S. 273, 281 (1987).

37

38      72. Similar to *Airline*, the Plaintiff here was previously hospitalized for a neurological  
39       condition.

40

41      73. Plaintiff realleges and incorporates paragraphs 1-64 as if fully set forth herein.

## Fourth Cause of Action: Intentional Infliction of Emotional Distress

1       74. Intentional Infliction of Emotional Distress is (1) extreme and outrageous conduct on the  
2       part of the defendant which (2) intentionally or recklessly (3) causes the plaintiff severe  
3       emotional distress.

4       75. Plaintiff realleges and incorporates paragraphs 1-74 as if fully set forth herein.

5       **Fifth Cause of Action: Negligent Infliction of Emotional Distress**

6       76. The elements of Negligent Infliction of Emotion Distress vary significantly by state  
7       generally requiring the defendant must have been able to reasonably foresee that his or  
8       her actions would have caused emotional distress. Sometimes the Defendant's knowledge  
9       the Plaintiff was receiving psychiatric care and the Defendant still took negligent actions  
10      which caused the Defendant emotional distress will create near *per se* liability for the  
11      Negligent Infliction of Emotional Distress.

12      77. Plaintiff realleges and incorporates paragraphs 1-74 as if fully set forth herein.

13      **Relief Sought**

14      78. Award to Plaintiff actual damages, general damages, statutory damages, punitive  
15      damages, treble damages, and such other relief as is proven to be appropriate

16      79. Plaintiff seeks Compensatory Damages for his injuries, including, but not limited, a  
17      breach of fiduciary duties, mental agony, pain and suffering, loss of enjoyment of life,  
18      continued emotional distress, medical care, lost earnings, and diminished future earnings  
19      in an amount to be proven at trial.

20      80. The Plaintiff seeks Non-Economic Damages for lost wages, pain and suffering, mental  
21      agony, loss of enjoyment of life and diminished future earnings in an amount to be  
22      proven at trial.

23      81. The Plaintiff seeks Punitive Damages, in an amount to be proven at trial, for the  
24      Defendant's bad faith, intentional or negligent infliction of emotion distress, breach of  
25      contract, and displaying actual malice while acting recklessly. Defendant acted with  
26      malice, because his actions demonstrated that the Defendant had mischief in his heart,  
27      with culpable recklessness and a willful and wanton disregard for the effect his actions  
28      would have on the Plaintiff. He did not care if the Plaintiff were harmed by his actions.

29      82. Award pre-judgment and post-judgment interest on such monetary relief to the extent  
30      permitted by law.

31      83. Award to the Plaintiff its costs, including reasonable attorneys' fees to the extent  
32      permitted by law.

33      84. Order any additional relief the Court deems just and proper.

1 All allegations are believed to be true in accordance with NMI Rule of Civil Procedure 11.  
2

3 Respectfully submitted,

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