No. _____

In The

Supreme Court of the United States

IN RE: ALAN GIORDANI, AS PROPOSED EXECUTOR FOR THE ESTATE OF DECEDENT NANCY GIORDANI, AND ALAN GIORDANI, INDIVIDUALLY,

Petitioner,

v.

UNITED STATES SOUTHERN DISTRICT COURT OF NEW YORK,

Respondent.

On Petition For Leave Of An Extraordinary Writ To The Second Circuit

PETITION FOR AN EXTRAORDINARY WRIT

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QUESTIONS PRESENTED FOR REVIEW

1) Whether the failure of the District Court to appoint a federal monitor, or special master to review the matter was error.

2) Whether the District Court's failure to inform and put petitioner on notice, that it intended to undertake a sua sponte summary review of issues presented, without providing the petitioner an opportunity to formally rebut or reply to the res judicata issue, constituted a violation of due process, and was an abuse of discretion, authority and a violation of the First Amendment and the right to petition government for a redress of grievances.

3) Whether the failure of the District Court to recognize that in failing to read or comprehend the survey maps and metes and bounds descriptions within the subject title deed presented, it also failed to recognize that the matters pertained to two separate and distinct parcels of land, and that the Court's unilateral confusion was an error, in which it proceeded to summarily dismiss the petition.

4) Whether the District Court's continued failure to further comprehend that its reliance on the 1997 Queens County Court Decision by Judge David Goldstein, addressing an adjoining property tract involving an adverse possession and abandonment claim, resulted in its unconstitutional misapplication of the Rooker-Feldman doctrine.

5) Whether the District Court's error included the failure to recognize that the disposal of the underlying private property claim was not inherently

QUESTIONS PRESENTED FOR REVIEW
– Continued

dispositive of the other issues presented in the petition, and was an unconstitutional preemption.

6) Whether the District Court's complete failure to review that part of the petition for pre-action relief, included an application to prescribe a protective order, including measures to safeguard against expected anticipated harassment, threats, intimidation, menacing and violent reprisal, was a matter under the Court's legitimate jurisdiction, and that its, failure was a preemption of those Constitutional rights articulated within the Petition before it.

7) Whether the District Court's failure to review or refer the Second Amendment and Heller-McDonald cases presented, and those involving the New York State Rifle & Pistol Assoc. v. N.Y.S. and N.Y.P.D., was error.

8) Whether the Second Circuit's failure and refusal to upload the underlying petition into the Courts E.C.F. System, maliciously intended to avoid and evade further review on the merits, and thereby compounded the error, together with those of the District Court.

9) Whether the facts and circumstances described in the underlying April 9, 2018 pre-action petition, together with the errors of New York's Federal Courts, requires this Supreme Court to undertake a review, and consider the need to recognize, acknowledge and proscribe measures that pertain to the issue dealing with an individual right to

QUESTIONS PRESENTED FOR REVIEW
– Continued

self-defense, contains the Constitutional implication under the Supremacy Clause, that a national right to keep and bear arms exists, superior New York's unconstitutionally narrow licensing scheme.

10) Whether the failure of the District Court and Second Circuit were unconstitutional attempts to suppress this petition and manipulate this Court's own review standards pertaining to the aforementioned inter-related Second Amendment matter, that was granted Certiorari on January 22, 2019 and was captioned as New York State Rifle & Pistol Assoc. v. New York and N.Y.P.D. Licensing.

11) Whether this Court's Jurisprudence would be best served by granting the Petitioner the opportunity and leave to draft and serve an enlarged brief on this Second Amendment issue, previously presented in the underlying application.

12) Whether the District Court and Second Circuit further unconstitutionally ignored matters raising questions as to whether the failure of New York State and City authorities lack of capacity to perform its Fourteenth Amendment duties, was the result of a pervasive corrupt political influence, and a compromised law enforcement regime which under Color of Authority now requires Qui Tam proceeding(s).

13) Whether the corruption of these New York officials, political operatives and individuals described in the underlying petition, acting in concert perpetrated

QUESTIONS PRESENTED FOR REVIEW
– Continued

a Fifth and Fourteenth Amendment violation of the "Takings Clause," with respect to private property related to the decedent's Estate.

14) Whether the Second Circuit's failure and denial of an order directing the E.C.F. uploading of the April 9, 2018 pre-action petition, that included Documents designated as "1", "2" and "3" intended to obstruct the filing of the appeal that had already been drafted for a timely review and submission on the underlying substantive merits, was intended to frustrate a review that violated Due Process, and Equal Protection, was an inherent error, that appears to be a significant impropriety that now requires this Supreme Court to take affirmative remedial measures, including those exercised in U.S. v. Tom Manton, et al., 107 F.2d 834 (2d Cir. 1938).

15) Whether any part of the underlying government failure to undertake the protection of our Constitutional Rights, that are ordinarily available to Americans, was a part of a coordinated effort by New York officials, intending to deprive fundamental civil rights to constituents, was based on suspect motives, and classifications, which was part of an effort at unconstitutional extra-judicial gerrymandering, that sought to re-engineer its electoral demographic by any means necessary.

16) Whether the District Court and Second Circuit departed from the Article III duty that requires "good behavior."

QUESTIONS PRESENTED FOR REVIEW
– Continued

17) Whether remedial mitigation of the underlying matter requires this Supreme Court to appoint a Special Master or Magistrate sufficiently independent and beyond New York's political influence.

18) Whether political "dark money" derived from illicit proceeds is subject to civil forfeiture laws under Qui Tam or other Common Law Fraud proceedings.

LIST OF PARTIES

Petitioner

Alan Giordani, as proposed executor of the Estate of Nancy Giordani, and Alan Giordani, Individually, is a Pro Se litigant and N.Y.S. attorney who at all relevant times was in good standing and no history of discipline or censure.

Respondent

U.S. Department of Justice/U.S. Attorney for S.D.N.Y., was designated by the Second Circuit upon petitioner filing a Notice of Appeal in August 2018, and appears completely nominal. Respondent has not submitted opposition or reply papers to the underlying motions to direct uploading the E.C.F. Filing System, or raise any objection to the proposed appendix and brief attached in support of these underlying motions.

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PETITION FOR AN EXTRAORDINARY WRIT

Alan Giordani petitions for an extraordinary writ of mandamus and prohibition, directing the Second Circuit to stay the docketing of its strike order dated February 20, 2019 and reinstate the appeal, together with further directions that require the intake clerks of the District Court to properly, upload the E.C.F. System with the April 9, 2018 submission, and further, compel the physical transfer of this file making these documents available for this Court's immediate review, together with such prescriptive measures and directives including remand and reassignment, and further, to grant leave to Alan Giordani as a pro hac vice litigant, enabling the filing of a petition for a writ of certiorari, including an expanded brief on the Second Amendment issues described within, which appears to be a case of first impression, and which implicates significant other fundamental rights.

OPINIONS BELOW

The District Court dismissed the pre-action petition filed April 9, 2018 that sought protective relief on June 25, 2018 in a "sua sponte" decision, and the Second Circuit denied motions that sought to remediate the existing defect in the Court docket, on January 29, 2019 and again on February 13, 2019, leaving the petitioner unable to file an appellate brief with a joint appendix by February 19, 2019.

STATEMENT OF JURISDICTION

The matter was struck on February 20, 2019 and a default is expected to be docketed within 14 days. Jurisdiction is conferred by 28 U.S.C. Section 1254 and 2101.

INTRODUCTION

The Supreme Court should grant review of this procedurally bizarre matter, in that it is completely antithetical of all notions of what we deem to be Constitutionally fair, just and right. The petitioner sought a pre-action application for relief concerning a matter, seeking protective measures in civil litigation, that the petitioner anticipated would be forthcoming once the matter had a federal monitor or some other entity in place, so that any appearance of ex parte contact could be alleviated. The matters involve an illicit scheme engineered by political bosses and N.Y.P.D. trained operatives, who in 1997 controlled Queens County. The matter involved an illegal expansion of commercial property through privately owned curtilage, without a waiver, consent or variance. Instead, coercive threats were made, and families proximately situated were intimidated by bar room thugs and their assertions that they maintained political and organized crime influence. Despite, all administrative efforts undertaken and exhausted, these efforts were at all times thwarted and obstructed, by those, petitioner believes were under the command and control of New York political

bosses. The troubling aspect is raised and remains whether any part of the underlying anomalies and irregularities involves improper influence on the judicial bench, and further whether there has been a blurring of the lines of checks and balances, through what appears to have been the consolidation and merger of Constitutional powers. The petitioner is convinced that the only justice left, may be in the form of this anticipated civil litigation, against those elements who were causally responsible and participated in the scheme, or received resulting benefits in the form of "contributions," and bartered and exchanged valuable "favors." Proper adjustments are now required, as part of the petitioner's effort to settle petitioner's late mother's estate.

STATEMENT OF THE CASE

This action has been part of a long string of failed efforts to have the matters reviewed on the underlying substantive facts and merits, that have all failed as what appears to be a coordinated effort to avoid and evade a genuine review. This now appears to require this Court to determine whether the District Court and Second Circuit, are in any way conflicted by the scope or depth of the political influence, and network involved. The Petitioner had initially sought to remediate the underlying tortious and repugnant conditions, created and maintained during the course of the scheme, that persists to date, in its current form, and has remained unresolved. This damaged the decedent's quality of life, during her final twenty years.

Upon her passing, Petitioner recognized that the damage is now irreparable and requires appropriate and fair compensation, through civil proceedings.

ARGUMENT FOR PROPOSED ORDER

As part of the Pro Se issues raised by this Petitioner, in S.D.N.Y., through a petition duly filed on April 9, 2018 (dismissed "sua sponte" on June 25, 2018), Petitioner believes that a necessary and immediate review is required, and which is the basis of this extraordinary writ. The unusual procedural circumstances described within, has been fraught with anomalies and irregularities resulting in a series of unconstitutional Due Process and Equal Protection violations.

The "sua sponte" dismissal order remained completely silent on significant federal issues raised and presented to the District Court. The petition sought pre-action relief in the form of a protective order, so that civil litigation on the central issue, that involves graft and corruption could be safely commenced. This case includes a taking of private property rights, in violation of the "takings clause," and required the extraordinary relief that was sought in the underlying New York Federal Court(s), and which is presently needed from this Court.

This matter requires an immediate stay, so that a proper review can be conducted. Necessary directions from this Court are required, regarding the passing of

the scheduled brief submission date, February 19, 2019 and the strike order and docketing of the default by the Second Circuit, that will irreparably prejudice the petitioner's rights, and deprive justice in the absence of this Court's immediate intervention that requires an injunctive stay, and other significant remedial directions.

In spite of the fact, that this Petitioner had drafted a timely brief, and was at all relevant times ready, willing and able to file it, the Second Circuit's case manager "Jason," indicated that he is unable to accept it, due to the unresolved internal administrative issues that will be described in further detail below. This filing process required a joint appendix, that cannot be completed, until the District Court's intake part uploaded, docketed and scanned the underlying filed submissions, dated April 9, 2018, into its "E.C.F. System."

Petitioner believes that the underlying petition and supporting documents are essentially a road map and Rosetta Stone to New York's pervasive systemic graft, and "rent seeking" by a network of corrupt officials, political operatives and scoundrels, who have maintained power, control and influence at all relevant times, and were the causal result, through affirmative acts and omissions of duty. See attached letter from ex-U.S. Congressman Anthony Wiener dated 1999, which was submitted in the 260 page petition, as a part of its "Exhibit 5" that the Second Circuit refused to upload into its E.C.F. System. This Court should take notice that Mr. Wiener was at that time, a member of the U.S. House Judiciary Committee, and the Petitioner's

papers present a question throughout this case as to the extent political and judicial favors have been exchanged, including in the underlying case involving the illicit scheme also referred to as "da fix."

A full, fair and complete review on the substantive merits of the federal issue matters raised, is required. The rights of this petitioner are currently being prejudiced, by what appears to be the New York Federal Court maintaining certain policy preferences, that are adverse to the Constitution and this petitioner's rights, denying an opportunity to be heard of the merits.

In as much as the "Right to Petition" for redress of grievances includes the inherent right to do so, without the threat from menace, intimidation or reprisal, this petitioner's underlying application sought prescriptive measures, including those individual rights to self-protection and defense, as cited by this Court in its *District of Columbia v. Heller*, 554 U.S. 570 (2008), and *McDonald v. City of Chicago*, 561 U.S. 742 (2010) decisions.

These matters requested remedial measures that required an expansion of Law, and to recognize an inherent need providing for an alternative form of access to firearms, as a means to preserve other fundamental rights, that includes the right to proceed with civil litigation and remain free, from the threat of dangerous self-interested adversaries.

The Petitioner, in his underlying petition asserted that the hyper-restrictive firearms licensing and regulatory policy maintained by N.Y.P.D., precluded and

preempted the access needed, resulting adversely upon the right to petition, or engage in political discourse and the free exercise of matters of conscience.

This matter is substantially related to the above referenced New York State Rifle & Pistol v. New York State and N.Y.P.D. Licensing Division, which was granted a writ of certiorari for a review on January 22, 2019. This Court must now determine whether the Second Circuit and Southern District of New York, are in any manner, attempting to preempt a review, of this additional and necessary Second Amendment issue, that significantly relates to all of our fundamental rights. The subjective hyper-regulatory firearms licensing scheme is inherently inter-connected to New York's systemic graft and corruption, and unlawful.

This Court must review a series of omissions, that questionably raises whether there has been an attempt to suppress the Constitutional development on the "right to keep and bear arms". By refusing to review this part of the Petitioner's April 9, 2018 filing, seeking measures, as a part of the pre-action protective remedy required, the District Court, and thereafter the Second Circuit have left this matter to this Supreme Court for necessary review, directives and instructions, and is a case of first impression.

Petitioner maintains a sincere belief that the N.Y.S. Licensing regime, is hopelessly compromised, and requires a Federal Monitor, or appointment of some other official sufficiently independent of the corrupt politics in New York, and the District Court's

dismissal "sua sponte" in the absence of any bona fide review, or input, was an inherent abuse of power.

Despite the fact, that the Second Circuit appeared to recognize the ex-parte problem contained in the filing by appointing the U.S. Department of Justice/U.S. Attorney for S.D.N.Y., no further action or contact has been made or undertaken.

It is the position of this petitioner that the improper political influence that has created and maintained an anti-second amendment culture and atmosphere in New York, has been to the detriment of those New Yorker's who lack "inside" influence, so that they can enjoy the benefits of this right. Politically connected insiders, who can safely advance their policy objectives, goals and agendas, but do so at the detriment of those maintaining opposing views, due to the policies that result in a disparate issuance of firearms permits and licensure.

Gear, equipment with features and training suitable for successful individual self- defense, required, to be or become "well regulated" in 2019, is simply unavailable in New York, due to its hyper regulatory licensing scheme, that has been employed to suppress essential fundamental constitutional rights.

The current standards, set out by N.Y.P.D.'s own protocols, as well as those determined by most other, American Law Enforcement Agencies, Bureaus and Departments, calculates requirements, as to how to successfully mount and conduct self-defensive measures, when they are required. Most important however, is

that these existing protocols and regulatory measures, offer a societal good, through the protective deterrence, provided.

There is an existing standard of care, and model within these national common denominators. They reflect certain firearms, training and gear which is already in "common use," but unavailable to average law-abiding New Yorkers. Under the guise of "gun-control," and the regime that irrationally fails to recognize that Firearms can and do save and protect, more often than their misuse results in harm, or that pre-existing Law, rules and regulations, together with the government failure to enforce, or maintain sufficient oversight, has been the root of any problem, not a need for new or hyper restrictive measures.

Existing privatized professional security, further indicates an existing disparity involving constitutional rights, of insiders with access, punctuating and underscoring an unequal treatment of ordinary New Yorkers.

The dismissed April 9, 2018 petition, sought pre-action relief that included protective mechanisms against reprisal or retaliation for bringing a civil action, or otherwise seeking relief afforded under the U.S. Constitution.

In as much as adversely affected families in the matter, had already been exposed, and subjected to, and experienced harassment, menacing and intimidation, by brutish bar-room elements, containing former members of N.Y.P.D., and who appear to have been

illegally protected over the course of years, by the local political and police establishment, then the relief sought in the underlying petition, required some meaningful federal intervention.

The proposed appellate brief was submitted as an exhibit, during last month's motion practice, before the Second Circuit. It contained a 1972 New York Times cover page article, involving the arrest of eight members of N.Y.P.D., by N.Y.S. Organized Crime Task Force, for stealing drug money and the framing of addicts. (One of these offenders, was a ringleader, responsible for the 1997 scheme that misappropriated the underlying private property involved in this instant case), and a 2004 N.Y. Post story about a murder at "Kelly's Pub."

Rather than sufficiently terminate the N.Y.P.D. relationship, "Kelly" instead enjoyed a "special relationship," that circumvented the alleged "Knapp Commission" reforms. Special privileges and protection, appears to have been exchanged for a return in "contributions," and apparent political "bundling."

Petitioner, has sought a more complete examination and review, that includes a need for the Court to appreciate and understand that the underlying N.Y.C. "gun control" policy, and its pre-emptive misuse of hyper-restrictive licensing-measures, is not a Constitutionally legitimate use of State power.

The petitioner believes that the Second Circuit's failure to grant appropriate relief to the NYSR&P

Petitioners, is merely a small part of the improper motives.

The same unconstitutional patterns, practices and hyper-restrictive licensing-policies, exist in both cases, and are motivated by graft and corruption.

The underlying issues raised in the April 9, 2018 petition, provided in great detail, described such matters, so that ultimately a civil law suit, intending to seek redress of underlying multiple grievances, could then be filed and maintained.

This petitioner, contemplated civil action(s), as a necessary measure to adjust and settle issues that arose as a part of this illicit protection scheme, engineered in violation of 18 U.S.C. Section 242, which, deprived valuable private property rights, that included quiet enjoyment, privacy and security, to the decedent (petitioner's late mother, Nancy Giordani (died May 13, 2017)).

Important civil rights claims needed to be advanced, and adjudicated as a necessary and proper element toward settlement of her proposed estate.

The illicit scheme was also adverse, to the rights of other proximately situated families. Political bosses knew and intended to deprive our rights, related to our respective homes, and properties as a part of the illegal favors and influence bestowed or peddled through its "pay to play" policy, exchanged with political supporters, cronies, and "contributors."

The Petitioner's appellate brief, could not be filed on or before the scheduled February 19, 2019 date, without the Second Circuit's issuance of an appropriate order, containing, sufficient language that would have required ministerial directives to its court personnel, including a direction to upload the April 9, 2018 documents, so that a joint appendix could have been created.

This appellant, questions whether the Second Circuit's apparent lack of "comprehension," is a malicious effort or improper manner to dispose of this appeal, or to conceal the underlying issues. This motion denial frustrated a proper review on the underlying substantive merits, including New York City's existing firearms licensing scheme, and its overlapping political and police graft.

Two motions seeking this relief were made and decided on January 29, 2019 without properly directing the clerks to upload the necessary documents, required to file and submit the brief. An additional motion for "reconsideration" seeking the appropriate language and directions was thereafter submitted on February 1, 2019, and denied, dated February 13, 2019, again, signed by Hon. Ralph Winter, without an explanation, or apparent reasoning. This denial appears completely, arbitrary and capricious, and is prejudicial to the rights of this petitioner.

This Petitioner believes that the failure to grant appropriate relief, will also impede this Court's own ability to fully scope and determine the appropriate

applicable review standards, involving the issuance of firearms licenses in New York, or to apply prescriptive measures or alternate remedies to the problem. In as much as the existing problem impairs other significant fundamental rights, this Supreme Court should strictly scrutinize these matters.

Petitioner questions the underlying improper motives existing, as an attempt to obstruct a full, fair and complete review of the issues presented. New York promotes its policy preferences against gun ownership, and is unduly burdensome on our rights, and is inconsistent with the U.S. Constitution. This includes New York licensing officials misuse and abuse of its subjective "may issue" standard, rather than implement and adapt an objective, "shall issue" standard, resulting in a negative impact of our other fundamental rights.

The petitioner asserts that N.Y.P.D., improperly utilizes this subjective standard, that has been the result of N.Y.P.D.'s continued ongoing corrupt patterns and practices with respect to this issuance of firearms licensing, and is further implicative of a larger scheme that supports the illicit protection of sites throughout this city, as part of its systemic "rent seeking."

This underlying civil litigation is necessary, to marshall assets and claims, toward the settlement of decedent's estate. This Court should be mindful that the private property of the estate, included the home, that was a part of decedent's matrimonial abode, that she shared with the petitioner's late father (died 1983), and that this property was derived as a part of his

Veterans benefits. Petitioner, and both decedents, viewed this home as sacrosanct, in as much as the purchase price was paid, in part with blood spilled during his W.W. II combat.

The underlying scheme deprived the petitioner's mother from quietly enjoying her home. The drunken beer parties and amplified music, into early morning hours, during her last twenty years of her life, was part of the illicit protection provided by local authorities, and which was, at all times in violation of local zoning ordinances, that local government refused to enforce as part of the illicitly exchanged favors. Civil proceedings are now required to justly settle or adjudicate this matter, which was the result of a fraudulent arrangement under color of authority between government officials, political operatives and cronies.

In the absence of appropriate safeguards, Petitioner believes any civil proceedings, will be further marred and result in witness tampering together with necessary statements that will be coerced and extorted, or suppresssed through the application of illegal extrinsic pressures. A Special Master needs to be appointed from beyond the gravitational pull of New York's corrupt illicit political influence.

Only through the preservation and safeguarding of witness testimony can this matter proceed in an orderly manner, so that a prima facie case may be adequately set out. The pre-action relief that was sought on April 9, 2018 and dismissed "sua sponte" on June 25, 2018, and appeal dismissed February 20, 2019 is

indicative of irregularities and anomalies that now requires intervention.

The relief sought, in the underlying filing, included a request for an appointment of a federal monitor, or some other appropriate court personnel or representative, so that a full fair and completely proper judicial review could have been conducted.

This application should have been granted, and further, should have been advanced, so that the case could be scheduled for a preliminary conference and further scheduled for all necessary disclosure, discovery, investigation and other necessary proceedings, as a condition precedent to a law suit, including a N.Y.C. Municipal 50(h) hearing, and a New York State Notice of Claim hearing. Petitioner feared that in the absence of a necessary protective order, the filing would trigger a violent response from the criminal elements involved, who would undertake attempts at further repressive measures, as a means of suppression.

Only after these matters were properly attended to, should the District Court been readily able to think of itself as sufficiently or lawfully capable of making appropriate summary determinations, as to whether the matter contained sufficient merits to proceed.

The District Court's Chief Judge, dismissed the matter "sua sponte" on June 25, 2018 without any proceedings, or any bona fide address to significant issues that were duly raised and set out before her. These matters were completely ignored and raises an issue as to whether there exists an unconstitutional intake

system maintained in Southern District of New York, that screens out claims that may result in federal policy, contrary to the preferences of local policy makers. By maintaining, one solo intake judge on all pro se cases, the caselaw in Southern District, is inherently skewed and places the quality of the court's jurisprudence at risk or in question, especially if such an intake judge maintains any prejudice, bias or impairment that impedes a fair review.

This draconian dismissal is based upon an "error" in Judge McMahon's misreading of the matters that pertained to the private property rights issue, that was the central question presented. The appellant has completed a drafted brief that fully rebuts this error, and which was previously attached as an exhibit to the previous motions made in the Second Circuit, to demonstrate that this Appellant was ready and willing to submit, but required the docketing glitch corrected by Court directives. This writ is merely part of the extraordinary measures already undertaken to procure relief and ultimately justice.

The proposed appellate brief is indicative and demonstrated that the District Court failed to comprehend the metes and bounds description and failed to read the survey map(s), indicative that two separate and distinct property parcels were involved, and that no prior adjudication was ever made, on the curtilage premises of the Estate's title. Her failure to understand the underlying issues involving the zoning ordinances and the past decades of fraudulent history by

the politically connected operatives, likewise, was further "error."

This Court should be mindful, that the District Court was completely silent in the other federal issues raised in the dismissed petition, which included the contemplation of a Qui Tam proceeding. The petitioner believes such a claim is justified, in that New York officials appear to be engaged, in what appears to be wholesale racketeering through its illegal protection of illicit sites, and "rent seeking," that the petitioner believes is "income" as part of the definition construed by the Internal Revenue Code 26 U.S.C. Section 61. These illicit activities appear to be in the form of both political and police contributions, that was flaunted and raised questions as to the scope of existing political 'dark money and bundling', which appeared laundered through the adjacent commercial sites and those similarly situated through a course of dealing and those patterns and practices within New York, historically known as the "pad."

This petitioner, was obviously seeking an alternative remedial mechanism toward a lawful access to firearms, within New York City, beyond the command and control of its political machinery. Petitioner referenced the New York State Rifle & Pistol matter, and Second Circuit Judge Lynch's February 23, 2018 decision. Petitioner expressed the obvious constitutional errors in Judge Lynch's analysis, which ignores Justice Antonin Scalia's profound historicity in his *District of Columbia v. Heller*, 554 U.S. 570 (2008) opinion, which is indicative that the Second Amendment is written for

political dissidents and religious minorities endangered by hostile regimes, not "sportsmen," as suggested by Judge Lynch.

This requires the Court's review and evaluation that Second Amendment Law, in 2019, requires prescriptive measures, and expansion, especially where a nefarious and unconstitutional hyper-regulatory licensing scheme appears employed to maintain unconstitutional power and control in a jurisdiction.

Petitioner believes that these underlying matters involve the "identity politics" of those who are truly ruthless and dangerous, and who seek autocratic power and control by any means necessary. This application contains an obvious "intersectionality" between the "right to bear arms" and individual self-defense, with those other enumerated rights, and unenumerated within the Constitution.

New York's political authority appears tainted through its unconstitutional and unconscionable measures, and a full-throated advocacy of these underlying facts is mandated both by civic and filial duty, and oaths previously undertaken.

Petitioner has described and articulated in the underlying petition, that New York's hyper-regulatory gun control licensing scheme has been a part of a hopelessly corrupt Tammany Hall vestige, engineered, and improperly motivated by "Boss Tim Sullivan" more than a century ago. It has been a key part and component of the advancement and facilitation of N.Y.C.'s,

systemic graft and corruption, and further the growth of organized crime. Its continued effect(s) emanate into every aspect and facet of our lives. The irrationally based objectives and improper motives of New York's policy makers and elites is revealed by their improper unconstitutional motives, ambitions and visceral emotions that ignore the present reality and existing case law of this court.

In citing *U.S. v. Tom Manton, et al.*, 107 F.2d 834 (2d Cir. 1938), in the underlying matters, this petitioner intended to raise questions as to whether the years and decades of pervading New York City graft is still at play in this present matter. The petitioner asserts that the underlying coveting and converting of the subject private property was an unlawful misappropriation, and theft under Color of Authority and ongoing Fraud. This "beer garden" scheme was engineered in 1997, by political boss of Queens County and its Democratic Chairman, and then U.S. Congressman, "Tom Manton," who was a former member of N.Y.P.D. and partner in Manton, Sweeney, Crowley law firm. His protégé at that time was Joe Crowley, who was our N.Y.S. Assemblyman. This scheme was as a part of their efforts to acquire and maintain political power and support by any means necessary. The "beer garden" scheme intended to bestow "favors" and largesse upon their supporters, to the great detriment of those proximately located families, and their legal rights, and in exchange generated "contributions", favors and influence, including noisy "racketeering" events.

These matters raise issues, as to what extent we have an existing political dynamic involving intergenerational and perpetual corruption. This case appears to point to a need for a full fair and complete judicial review, and directions with intervention from outside, and beyond the Second Circuit. The above cited "*Manton*" matter in 1936, included a trial judge sent into New York from the Third Circuit. (It should be noted that prior to his appointment to the federal bench, "Judge" Tom Manton represented notorious criminal elements within N.Y.P.D., including Lt. Charles Becker, who controlled the corrupt police subculture and was ultimately executed in the electric chair).

In what appears to be a continued failure and refusal to fully, fairly or completely conduct reviews, inspections or investigations, and pursuant to their respective official government and Constitutional duties during the past twenty two years, these matters raise questions as to whether the apparent continued pattern and practice of government "fumbling" of these matters, was the modus operandi, intentionally advancing this de-facto conspiracy under Color of Authority as part of an effort to cheat, disenfranchise, and deprive our most fundamental civil rights, in violation of 18 U.S.C. Section 242 and 42 U.S.C. Section 1983.

In these continued ongoing omissions of governmental duty to maintain a genuine rule of law, petitioner questions the extent that these matters reflect and describe continued acts and omissions, appearing

to be a concerted, coordinated effort to deprive civil rights.

The continued deprivation of government services by local political insiders, appears to have been and remain an ongoing effort to purge New York of that demography, who have been deemed to be "unworthy" of Equal Protection and Due Process of Law. The underlying petition describes a State and National political faction, and leadership that have previously made notorious remarks and comments indicative of an underlying bias, bigotry, and vitriolic anti-Catholic animosity. The petitioner sought to raise these issues in suit, as to whether the decision to target his devoutly Catholic mother, or those other neighboring families perceived as traditional, were improperly motivated by New York's invidious "identity politics," and was a form of unconstitutional extra judicial Gerrymandering in violation of 42 U.S.C. Section 1983.

As the "secular state" has "evolved" it has now appeared to have turned intolerant and anti-religious, which has resulted in a collision between these two world views, namely a godless state that demands worship and praise through its cults of personality, and materialism, and that world contained in revealed faith that remains sacred, to those who value tradition and heritage. New York State, and its satellites, seems more doctrinaire through a theocratic crusading, and is no longer religiously neutral. It became a State religion in and to itself, growing incrementally toward "Robespierre's enlightened" world view, and the worst twentieth century autocratic states, that existed

within their own beliefs, and in opposition to those other doctrinal faith systems that are caricaturized, and now openly scorned and attacked, by those who see religious faith as a problem and an obstacle, to political influence, and ambitious power.

In *Trinity Lutheran Church v. Comer*, 582 U.S. ___ (2017), this Court recognized that the denial of generally available benefits solely on account of religious identity, imposes an imposition on free exercise of religion. This Court pushed back against the imposition of the national "wall," imposed by Justice Hugo Black, in *Everson v. Board of Education*, 330 U.S. 855, 67 S.Ct. 962, through that Court's misinterpretation of Jefferson (see Justice Frankfurter's dissent).

Our lack of Due Process and Equal Protection rights, occurred through the failure to conduct a full, fair, complete and appropriate review. New York's underlying failure to inspect, investigate or enforce any of its laws, rules regulations and ordinances have, at all times, been the same policy and scheme, motivated by greed and animosity that was directed by those political insiders and ideologues, who knowingly implemented and maintained this practice, to the detriment of those inherent rights, involving our quality of "life," "liberty," (including a freedom from fear), and our pursuit of "happiness," (by an unlawful taking of private property).[1]

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[1] Petitioner cited James Madison's 1792 "Essay on property", in the proposed Appellate brief that could not be submitted due to the existing E.C.F. glitch.

New York's Federal Court has appeared to act in concert with this agenda, in a continued attempt to suppress this litigation. Its refusal to upload necessary documents, included those materials submitted, showing improper patterns and practices in our community, by local political officials. The publication(s) by our local Civic Organization, in its quarterly magazine(s) called the "Juniper Berry," advocating for a good transparent government, was a part of that petition, providing an additional road map of the political machine's corrupt patterns.

Due Process and Equal Protection are well beyond the concept of "any generally available benefit" and raises significant questions as to the extent the scheme invidiously targeted constituents deemed to be "unworthy," based upon algorithm data, and reporting(s) that were "suspect" classification(s).

The timeless wisdom that one's home is their castle, was ultimately expressed by the decedent, that a home was simultaneously a domestic church and chapel, and where the decedent prayed her rosary daily and maintained devotional objects in furtherance of this expression. Many of her Chinese neighbors, also adversely affected, maintained their concept of sacred space that included "Feng Shui" (the "Art of Placement)." These sensitive and sacred rights were damaged, degraded, diminished and violated through the implementation and imposition of the illicit "beer garden" scheme.

This petitioner hopes that in the recent appointment of U.S. Attorney General William Barr, notice of this petition will be taken, as part of an effort needed to restore some semblance of Constitutional balance and integrity, that has now been completely absent through our lack of access to legitimate law enforcement, and other civil government entities.

The Second Circuit's appointment of the U.S. Attorney for S.D.N.Y. in August 2018, at or about the time petitioner filed a Notice of Appeal in the instant matter, appears to have been little more than a nominal or perfunctory exercise. Petitioner has had no meaningful contact with this New York office, and believes a genuine review and investigation is now required from a viewpoint beyond New York power and influence.

There should also include an examination and investigation as to whether any part of the targeting of this family, stemmed from any sensitive government employment, of decedent's immediate family members, who executed their duties, faithfully and honorably. The Court should be mindful that freedom of religion includes the right to believe, and express moral precepts, every moment of every day, and which appears to be readily distinguishable from a current mindset, that involves a "freedom of worship", in which religious belief is tolerated one hour per week, provided that it is contained within a four walled boxed enclosure.

Discovery, disclosure and investigation that include F.O.I.A. demands, witness statements and deposition is required to root out the network of corrupt

politics, and needs to be undertaken, by this petitioner, especially with respect to evaluating the motives, involving, and behind this unconstitutional campaign. Petitioner in his April 9, 2018 petition suggested, that another Operation "Greylord" might be in order.

By citing *Margarita Lopes Torres v. N.Y.S. Board of Elections*, 462 F.3d 161 (2d Cir. 2006), overruled at 552 U.S. 196 (2006), the petitioner sought to convey in the underlying submissions, that the scope of the New York political machine's influence, and patronage, triggered that particular litigation. It involved the imposition by N.Y. political bosses upon their judicial "nominees", and a judicial burden and obligation to return "favors," once elected to the bench.

This included the pressure to hire judicial clerks, as part of the N.Y. political "Jobs" doled out. The case however failed to answer the question as to the extent our judges are not truly independent, and whether those constitutional checks and balances are blurred in certain matters, especially through the consolidation and centralization of power, by "bosses," that include local political party officials who control the judicial nomination process, and "da fix."

These favors would appear to reflect unconstitutional dynamics in the exchange and barter of political and judicial favors, and more specifically, in the instant matters arising from the matters below, flowing into the Second Circuit. To the extent that this system, promotes and includes improper and illegal favors as its "currency," then the existing patronage system must be

evaluated. The petitioner questions whether these matters have been the causal factor and result of the underlying irregularities and anomalies in the instant case.

Further, whether the series of errors and blunders in the petitioner's underlying case has been the res gestae of the total inertia experienced in this case, that has never been resolved. Equal Protection and Due Process under the Bill of Rights, and Fourteenth Amendments, has been denied, and so has justice.

This petitioner questions the extent that government employment through the corrupt New York political machine, results in influence of its very "ambitious" policy makers, including their overtures onto the national landscape. In crossing state boundaries and attempting to impose its influence in "gun control" measures, New York policy makers have traded its State Right's arguments, for their national messaging and narrative. This "leadership," and "policy" deserves a coherent national firearms policy, consistent with any other nationalized prescriptive remedies this Supreme Court has provided in the past, and which is implicative with the existing Constitutional protections, and jurisdiction provided by the U.S. Constitution's Full Faith and Credit under Art. IV, section 1, together with Privileges and Immunities, the Supremacy Clause, under Article VI, all of which have been implicative within *Griswald v. Connecticut*, 381 U.S. 479, and *Obergefell v. Hodges*, 576 U.S. ___ and necessity to implement new national policy.

This Court should be mindful that the April 9, 2018 petition contains 260 pages, including 24 exhibits of supporting documents and materials, including N.Y.P.D. Guidelines, with respect to the issue of police corruption and "cooping," namely at sites that include off duty drinking, where N.Y.P.D. are known to congregate, and presents a Third Amendment issue, that pertains to a police department that evolved into what has now become a "quasi-military" organization. Through its use, misuse and participation in the "beer garden," these anti-corruption protocols, which were well established never enforced, and ignored, and a "*Monell*" violation. This represents New York's ubiquitous criminal and unconstitutional patterns and practices. The issue before this Court involving N.Y.P.D.'s hyper-regulatory firearms scheme, involves just one of its many scams.

This Court should be mindful that the underlying petition asserted that the individuals that instigated the illicit underlying scheme, included corrupt former cops, under the protection of New York's nefarious power structure.

The continued maintaining of the unconstitutional firearms licensing policy and the improper disparity related to those who can keep and carry arms, and those who cannot, inherently chills the scope of free political and religious discourse necessary to live in a "free state." A strict standard of scrutiny to determine who has received firearm permits in New York, and who was rejected, would help to better determine the scope and divide of the existing disparate, treatment, including the differentiation between political

insiders, and those outsiders, who were denied access to rights and benefits.

This Court should be mindful that at all relevant times, this petitioner was not a prohibited person prevented from owning firearms, but unable to acquire the carry-conceal licensing necessary, due to New York's unconstitutional licensing standards, that overvalues the daily receipts of commercial businesses, and simultaneously undervalues free speech, religious expression and other fundamental rights that need protection.

Open-expression, is the only sound basis to develop public policy, or Constitutional case law. It is axiomatic that the "right to keep and bear arms" exists at the intersection of these other fundamental rights, and the existing disparity suppresses the religious rights and political expressions of those not aligned to the existing inside political caste or regime.

The individual right to self-defense, pre-existed the Constitution and was inherent in the natural law. In the failure of the government to uphold the Rule of Law, and its inherent processes, then the existing social covenant has been breached. Accordingly, our natural rights need to revert back, to the individual, when the State, that was entrusted to protect these rights, demonstrates a lack of capacity to do so. When this inability to fulfill or maintain this primary duty, and has been an abject failure in preservation of such rights, then the right to self-help, together with citizen

assisting citizen, must be embraced and deemed to be part of the necessary solution.

Equal Protection must be viewed as equal access to the same firearms, gear and equipment, used by both criminals, and by those government forces and entities, who must squelch criminality, including its own. In as much as these government entities have already previously determined what the standards of due force are, or need to be, then a national policy in cognition of common denominators can be fashioned. Law Enforcement's protocols nationally, are maintained within a reasonable spectral range, to determine the scope of a national "common use" policy.

The underlying petition advocated the federalization of individual rights to firearms access, through the national "constitutional carry" trend, that is present and consistent within the State of Utah's firearms permit, in which 32 states, provide comity, and facilitates safe interstate travel. What has been referred to as the "Vermont Model," likewise offers a national solution, consistent with Heller and McDonald, that is a necessary Constitutional prescription, especially when local licensing provisions remain unconstitutionally ambiguous, burdensome, inconsistent, oppressive and motivated by greed and corruption. Furthermore, every jurisdiction already has existing criminal Law, that results in severe punishment in the event of the misuse of firearms.

In the light of Nancy Pelosi's February 14, 2019 implication and threat to declare a national emergency

and seize firearms, as soon as her faction regains the ability to do so, further amplifies the need to further recognize and acknowledge this imperative right. The citizens of Louisiana surely could have used the protection of a National Decree in the aftermath of Katrina, when the unlawful confiscation and seizure by authorities, of licensed firearms occurred.[2]

This petitioner raised the issue of federal "1033" grant money in the underlying filing, and believes this is a significant factor in the trend toward a militarized civilian law enforcement personnel, both in New York, and nationally. The petitioner cited N.Y.P.D. misconduct cases in the April 9, 2018 submission, that were brought federally in New York, and believes many more excessive force cases have arisen in other states, by federal and local law enforcement, as a result of the disparity created by excessive government power not being checked or counterbalanced, by civilian authority or by law abiding citizens. Some form of deterrent is required against these abuses of government power. An inherent contempt has arisen, through this government perception of a weak, defenseless disarmed citizenry, which fuels these abuses. The complacency of civilian government has been politically motivated and

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[2] This court should further consider KrisAnne Hall, J.D. internet Open Letter re "Gun Legislation" dated December 30, 2018, indicative that the problem within, is not just a New York issue. She is a former Florida A.D.A., and apparent anti-federalist, in a state containing much broader access to firearms licensing, but shares the same concern about despotic government.

demonstrates a willingness to tolerate constitutional abuses, through its proverbial willful blind eye.

The petitioner provided the District Court with evidence including training Certifications, representing dozens of hours of classes, including out of state tactical arms training and instruction. This remains unavailable and inaccessible to New Yorkers within their home State, due to New York's hyper-regulatory firearms licensing scheme. These certifications were part of the April 9, 2018 filing, provided to the District Court made under separate cover, and submitted in support and contemplation of the Commerce Clause issues raised in the New York Rifle and Pistol Assoc., matter, which is now pending before this Court.

New York, through its excessively narrow regulatory scheme, preempts nationally prominent firearms instructors and trainers from entry into New York, to apply their trade and vocation, and deprives New Yorkers the benefits of this instruction. These companies utilize gear and equipment in the ordinary course of their classes, but fear that the mis-application of New York Law will cause the seizure and confiscation of their property, by local New York governing authorities. This unconstitutionally preempts their travel into New York State to conduct their business.

These training certifications, were also part of the documents, that were ignored by the District Court, through its failure to effectuate a full, fair and complete review of the April 9, 2018 filing, within the designation of Documents "1" "2" and "3" that were also

not uploaded or scanned into the Court's E.C.F. System at that time. They were a part of the necessary materials provided to the District Court that refused to review them, and would have been further required for an Appellate Court to undertake a genuine review as to the extent the District Court decided to ignore the matters that were duly set out before it.

The underlying matters, miscellaneously cited *Arver v. U.S.*, 245 U.S. 366 (1918), because the petitioner has been raising objections with respect to being compelled to serve on a Queens County jury, which is service currently demanded by New York State of this petitioner. This matter has likewise been ignored by the lower federal court(s) requires a remand to the District Court, compelling the State of New York why it should not show cause that this compulsion, which is reprehensible and morally objectionable to the petitioner, and the exercise of this State power would be unconscionable in violation of the First Amendment, should not be permanently excused.

This matter was raised and ignored by the District Court, and now by the Second Circuit, in the most current February 13, 2019 decision, denying "reconsideration." Respectfully, the submission filed April 9, 2018, also included as part of this application prong, those materials that asserted that the Judicial reforms previously implemented by the New York State Chief Judge Judith Kaye, have been eroded and lapsed, since she left the bench and subsequently died. Further, that Joe Crowley, who subsequently replaced the late Tom Manton as County Boss and Democratic National

Committee Chairman of Queens County, has stacked the bench with his "nominees," and, also in a nepotistic manner, with his cousins, who have been provided with government "jobs" inside the Queens County courthouse's patronage system.

In the process of seeing something, and saying something, petitioner would be a "judas goat" not to raise objection to this "service," that smells of servitude. As a matter of conscience, New York State needs to be compelled to show cause why this jury service should be imposed upon the petitioner that compels the participation in dubious and questionable judicial processes. This Supreme Court should also evaluate whether in raising this issue, New York's Federal Court has in solidarity, engaged in an underlying unconstitutional exercise at the petitioner's expense and detriment.

CONCLUSION/PROPOSED ORDER

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

The Second Circuit and its clerks are immediately stayed from the docketing of its February 20, 2019 strike order, and default, and directed to immediately reinstate this appeal, so that this Supreme Court can undertake and conduct a full, fair and complete review, in these matter(s), including further, that appropriate directions be provided so that the Southern District

of New York, and its intake clerks are ordered to commence and complete uploading into its Electronic Court Filing System (E.C.F.) those materials and documents, and properly docket items enumerated as "1" "2" and "3", filed on April 9, 2018, by the petitioner, and captioned as Re: ALAN GIORDANI; and further that this Court will determine the underlying merits, to the extent that they require further remand, review or directions and instruction to the Second Circuit, or the District Court.

Furthermore, this Court remands to the District Court (S.D.N.Y.), directing a framed issue hearing, as to whether the State of New York can Show Cause as to why this jury service should be compelled, or is constitutionally warranted, and further; Granting a writ of certiorari, permitting Pro Se Appellant Alan Giordani, previously admitted Pro Hac Vice by order, dated November 2, 2018 to the Second Circuit, and in furtherance direct this applicant to draft, submit and argue before this Court, in an enlarged brief, and make determinations as to this Court's need to provide instruction and direction with respect to those issues pertaining to, this Court's Heller-McDonald determinations and decision as to whether a federal national licensing provision, should be recognized in the Constitution, and further that this Court will appoint or designate a Special Master or Magistrate, to maintain oversight of this litigation upon its remand, together

with all other relief this Court deems fair, appropriate and fair.

Dated: March 5, 2019

Respectfully submitted,

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