18-1557
No.

FILED
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SUPREME COURT, U.S.

In The
Supreme Court of the United States

WILLIAM JAMES and TERRI TUCKER,
Petitioner(s)

v.

BARBARA HUNT, HARPO, LIONSGATE ENTERTAINMENT. OPRAH WINFREY, OPRAH WINFREY NETWORK (OWN), TYLER PERRY, TYLER PERRY COMPANY, TYLER PERRY STUDIOS, LLC. and CHIEF JUDGE THOMAS W. THRASH, JR.,
Respondent(s)

On Petition For Writ Of Certiorari
To The U.S. Eleventh Circuit Court of Appeals

JOINT PETITION FOR WRIT OF CERTIORARI

WILLIAM JAMES
ProSe Petitioner of Record
3058 Fresno Lane
Homewood, Il 60430
Phone: 773-990-9373

TERRI TUCKER
ProSe Petitioner of Record
1136 Joslin Path
Douglasville, Ga 30134
Phone: 678-822-4593

QUESTION PRESENTED RULE 14.1(a)

A. Whether the U.S. Copyright Act and Clause 17 U.S.C. 501, the Copyright Act Clause and the First Amendment of the U.S. Const., Art. 1, Sec. 8, equally provide protection for film use of literary writers' rights to how music writers' rights.

(1) Whether literary works are protected under the law for "plagiarism" similarly positioned to "snippets or sampling" use of music as to Authors ideas to create a new body of work unfairly not compensating both protected under the Copyright Act for owners' rights.

(2) Whether under federal law does film and music corporations provide to writer's credits and compensation to both music and film industry equally. The copyright infringement laws under the federal copyright act currently does not protect samples of writer's works in film as in compared to writers works used in samples of music, yet film and music fall under the same protections, the companies compensate music owners for scoring and soundtracks in films, but not sampled film scripts and manuscripts.

(3) Whether major and minor film production studios should properly license literary copyright owners for works of creative ideas or samples that plaigerize Owners' works protected under the First Amendment, when profiting on two or more predicate acts of the same nature for a pattern of more than ten years by the same company injuring different copyright owners and violating their federally protected intellectual property.

(4) Whether federal laws for plagiarism for education hold stiffer penalties than corporations that make huge profits from plagiarism and keep all profits without crediting or compensating original creator and copyright owners.

(5) Whether the victims of plagiarism be afforded equal access to justice and protections of the law under the U.S. Constitution as copyright infringed victims.

B. Whether the abuse of discretion was fraud upon the court Fed.R. Civ.P 60 by the court(s) a violation of the petitioner's U.S. Constitutional rights, First, Fifth, Seventh, Eleventh and Fourteenth Amendment(s).

(1) Whether respondents erroneously filed reassignment document 31 (*intra*,191a-193a) stating petitioners filed two (2) prior Civil RICO 18 U.S.C. 1961-1964 cases (intra, 191a-192a), yet using two copyright infringement case numbers.

a. Whether the orders document 138 ruling for a 54(b) (*intra*,288a) abuse of discretion by district judge by ruling on Civil RICO Case not properly asserted as a counterclaim for copyright infringement by the respondents, who stated they did not request a counterclaim on the motion ruled on as a counterclaim.

(2) Whether the petitioner's summary judgment Fed.R.Civ.P. 56, 12(c) on document 61 (*intra*,112a,114a,115a,116a,209a,) should have ended litigation, rather than respondents Rule 12(c) motion for copyright infringement not considered a counterclaim, yet done under Civil RICO where the copyright infringement were predicate acts failed to defend Civil RICO.

(3) Whether respondents of Civil RICO can request to stay or modify discovery (*intra*,224a#1-2), then ignore district judge's orders to provide discovery, (*intra*,225a) document 124 (*intra*,273a) did this violation prejudice petitioners due process, if they failed to rule on the 54(b) abuse of discretion issue.

a. Whether the Eleventh Circuit, erred when they said, "judge did not abuse his discretion making discovery rulings." Violating petitioners due process fifth and fourteenth amendment.

b. Whether all of the respondents and Judge violated the Eleventh Circuit Court's subject-matter- jurisdiction when placing an all writs injunction, Rule 56 summary judgment and second counterclaim and injunction on the record Feb. 5, 2018, document 157 (*intra*,321a) and the district court issuing orders on document 168 (*intra*,326a-335), during the appeal process meanwhile awaiting a decision on all brief(s). Did the Eleventh Circuit Court fail to protect petitioners' constitutional rights of due process.

c. Whether petitioners had were denied discovery since the district judge ordered "Orders Document 124" in the Civil RICO case, prior to second final orders document 168 the Eleventh Circuit Court had not remanded the case back to the district court and stated, "probable jurisdiction" on Mar. 29, 2018 orders (*intra*,176a-177a); (*intra*,10a-11a,108a,112a(c),113a,220a).

(4) Whether after supported allegations of the clerks of the court being used to remove information from petitioners' documents that when supporting documentation presented did

the Eleventh Circuit Court have a "duty of care" to intervene to protect petitioners' constitutional rights of due process of the fifth and fourteenth amendment.

(5) Whether the district court judge abused his discretion ruling on a second interlocutory order with an unwarranted *Fed.R. Civ.P* 54(b) *sua sponte* without a motion not a and on a second 1292(b) interlocutory order should be final and a 54(b) is not a final ruling.

a. Whether the district court ruling properly a counterclaim against Civil RICO if in the motion the counterclaim was reserved and a judgement on the pleading 12(c) adversely to petitioners done as a favor to counsel. (*intra*,146a,149a) and a violation of due process.

(6) Whether the Eleventh Circuit clerk posed an injurious and perjurous jurisdictional question stating there were a remaining counterclaim/injunction when it was non-existent until twelve (12 days after the question, fraud upon the court by the court, by officers of the court, (*intra*,123a-124a, 133a-134a,321a)

a. Whether the Eleventh Circuit Court stated there was a "counterclaim" and whether the district court judge admitted the counterclaim for injunction could have been brought for sanctions (*intra*,173a), when the counterclaim was only plead in answer not included in respondents 12(c) motion reserved within motion and filed as Rule 12(c) (*intra*,163a) a miscarriage of justice for petitioners causing prejudice.

(7) Whether respondents filed a new counterclaim twelve (12) days after jurisdictional

question on Feb. 5, 2018 and four months after appeal filed by petitioners to decide jurisdiction for abuse of discretion on rule 54(b)(intra,321a-324a).

C. Whether the two district court judges on the same cease can disagree if copyright infringement was plead as a predicate for Civil RICO on orders that contradict merits of same case orders 15 and 138, (intra,198a-302a) prejudice petitioners.

(1) Whether first judge on the case have precedent in stating the precedent in stating the predicates were copyright infringement and the second judge ended litigation stating the predicates of copyright infringement were not plead; did the Eleventh Circuit court have a duty of care to address *stare decisis*.

(2) Whether the Chief District Judge properly dismissed himself from the amended complaint first providing an answer with Assistant United States Attorney's (AUSA) office, should the Eleventh Circuit court decide the responsive of motion and respondents failing to answer and defaulted the case on Fed.R. Civ.P 14(a) and petitioners document 99 50(a) (*intra*,145a,150a,229a,274a,324a,325a).

D. Whether the Appellate court erred for not amending 17-14866 and 18-13553 or consolidating the two open appeals on the same terminated district court cases where subject matter jurisdiction is violated. *Fed.R. Civ.P* 60(b)(3)(4)(6); (d)(3) for abuse of discretion

E. Whether the district courts first 28 U.S.C. § 1292(b); *Fed.R.Civ.P.* 54(b) have limited the judge to a final judgment decision and if so,

should the second 28 U.S.C. § 1292(b); *Fed.R.Civ.P.* 54(b) have caused the Eleventh Circuit to rescind orders for abuse of discretion.

(1) Whether the Eleventh Circuit Court denied the five (5) motions to transfer to new appeal 18-13553 filed by the Appellants on Aug. 20, 2018 for document tampering, violations belonged to current appeal no. 17-14866, whether addressing issues have changed the outcome, petitioners argued in the rehearing enbanc.

(2) Whether changing the petitioners amended notice of appeal to a new notice of appeal on Aug. 28, 2018, removed liability of second appeal no. 17-14866 to act accordingly on subject matter jurisdiction violation and document tampering.

(3) Whether when a notice of an Appeal has been filed is it true the trial or district court no longer has jurisdiction and should all transactions for filings and rulings have ceased.

E. Whether the Eleventh Circuit Court is a fact-finding court when a 3- panel judge ruled Civil RICO case was not plead with specifity; no party to the proceedings asserted that claim.

F. Whether Lionsgate Entertainment committed perjury on service of process stating they received service by mail when a counter affidavit was filed by the petitioners ACS Service of process company that verified, they met and conversed upon service.

(1) Whether the district court failed to rule for respondent Lionsgate Entertainment in the entirety of the case on order document 138 that only states as to the respondents Oprah and Tyler and their privities which Lionsgate is not a

privity of any of the companies for Tyler and Oprah and ended litigation on Rule 12(c).

G. Whether all respondents abandoned their argument by not answering any of the petitioners appeal brief issues and arguments.

INTRODUCTION

(1) Congress enacted the Civil Racketeering, Influenced, and Corrupt Organization (RICO) Act laws, generally to prohibit major corporations from acting as an illegal business enterprise and from participating in racketeering activity in their day to day business affairs. Congress enacted the Civil RICO Act 18 U.S.C. § 1964 to allow the injured people of normal businesses injured by the enterprises operating under RICO to assert a Civil RICO claim.

(2) The issues are of exceptional importance because it involves an important question of Federal Copyright law 17 U.S.C. § 506(a); 1201; 1202; 1203 and 18 U.S.C. § 2319 (*intra*,92a) and Federal Competition Law of the Sherman Anti-trust Act 15 U.S.C. § 1-7 undecided by the U.S. Supreme Court as it relates to the protections of copyright owners works under the First Amendment of the U.S. *Const., Art.* 1, *Sec.* 8, as it relates to the general public on a national level and issues are unresolved in the U.S. Supreme and appellate courts.

(3) This current case concerns fraudulent court proceedings under the Statutes of 18 U.S.C. § 1961 – 1964 Civil RICO Act for jurisprudence processes in the matter of abusive litigation

practices, enlisting district and appellate courts operations, violating the petitioners and other victims "Equal Access to Justice" and violating the First, Fifth, Seventh, Eleventh and Fourteenth Amendment of the US Constitution. See, *Dasher v. Housing Authority of City of Atlanta, Ga., D.C.Ga., 64 F.R.D.* 720, 722. (Fifth Cir. 1975) See also, Equal Access to Justice Act.

(4) In the current case fraud upon the court in the district court and appellate court prohibited the courts from issuing a decision with a full and fair opportunity as to litigation of the laws of citations went missing from court documents by obstruction of justice and prose prejudice when the petitioners presented a plausible claim for Civil RICO that presented a remedy at law and issues to survives a motion to dismiss to enter into trial court, see *Herring v. United States, 555 U.S.* 135, 129 S. Ct. 695; 172 L. Ed. 2d 496; (2009). Another objective of Civil RICO is to turn victims into prosecutors, "private attorneys general", dedicated to eliminating racketeering activity. See *Rotella V. Wood*, 528 U.S. 549, 554 n.2 (2000).

(5) The companies enlist lawyers to going on a smear campaign discredit writer's and their ability to recognize their own plagiarized works by going to the popular media to blacklist the copyright writers/owners from procuring work and a smear campaign is recoverable under Civil RICO as a plausible claim. See, *Formax, Inc. v. Hostert,* 841 F.2d 388, 389-390 (Fed. Cir. 1988).

PARTIES TO THE PROCEEDING

(1) The petitioners are William James and Terri Tucker aka Tlo-Redness, Prose Litigants.

(2) The Respondents are Barbara Hunt, HARPO, Lionsgate Entertainment, Oprah Winfrey, Oprah Winfrey Network (OWN), Tyler Perry aka Emmett Perry and all other aliases, Tyler Perry Company, Tyler Perry Studios, LLC, Thomas W. Thrash, Jr., Pryor Cashman, LLC Tom Ferber, Lead Attorney, Richard Gordon, P.C., Lori Beranek, Assistant United States Attorney (AUSA), Noel Francisco, Solicitor General.

PETITIONERS WILLIAM JAMES AND TERRI TUCKER JOINT CERTIORARI OF CORPORATE DISCLOSURE & CORPORATE DISCLOSURE

Pursuant to Rule 14.1(c) of the U.S. Supreme Court, Petitioners William James and Terri V. Tucker, hereinafter referred to as "Petitioners", hereby makes and files their Certificate of Interested Persons and Corporate Disclosure Statement as follows:

(1) The undersigned and Prose Litigants" and "Private Attorney Generals" of record to this action William James and Terri V. Tucker, certify that the following is a full and complete list of all parties in this action, including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party as well as attorneys and Judges:

(a) Barbara Hunt – Defendant / Appellee/ Respondent

(b) aka Emmett M. Perry, Jr. aka (Buddy) Defendant / Appellee / Respondent

(c) aka Emmett T. Perry, Jr. – Defendant / Appellee / Respondent

(d) HARPO 10% or more owned by a party - Defendant/Appellee / Respondent

(e) John Ivory-Defendant/Appellee / Respondent

(f) Lions Gate Entertainment – Defendant/ Appellee / Respondent

(g) Oprah Winfrey – Defendant/ Appellee / Respondent

(h) Oprah Winfrey Network (OWN) 10% or more owned by a party Defendant/ Appellee / Respondent

(i) Pryor and Cashman, Defendants Attorney

(j) Richard A. Gordon P.C. – Defendants Attorney

(k) Richard W. Story, Jr. – Prior Presiding Judge

(l) Thomas W. Thrash, Jr – Chief U.S. District Judge Defendant/ Appellee / Respondent

(m) Tom J. Ferber Attorney – Defendants Attorney

(n) Tyler Perry – Defendant / Appellant / Respondent

(o) Tyler Perry Company 10% or more owned by party Defendant/Appellee/ Respondent

(p) Tyler Perry Studios 10% or more owned by a party Defendant /Appellee / Respondent

(q) William James – Plaintiff / Appellant / Respondent

(r) David Zaslav – 10% or more owned Oprah Winfrey Network (OWN) by a Non-Party interested person Respondent

(s) Discovery Communications – 10% or more Owner of Oprah Winfrey Network (OWN) Stock Market Symbol (DISCA) Respondent

(2) The undersigned further certifies that the following is a full and complete list of all other persons, associations, firms, partnerships, or corporations neither a financial interest in or other interest which could be substantially affected by the outcome of this particular case:

(a) HARPO - Private

(b) Lions Gate Entertainment, Ticker - RG-a NYSE – LG-Fa

(c) Oprah Winfrey Network (OWN) – DISCA - Public

(d) Discovery Communications – DISCA - Public

(e) The Tyler Perry Company, Private

(f) The Tyler Perry Studios, Inc. Private

(3) The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding.

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TABLE OF AUTHORITIES

Cases:

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Respondent(s)

On Petition For Writ Of Certiorari To The U.S. Eleventh Circuit Court of Appeals

JOINT PETITION FOR WRIT OF CERTIORARI

(1) Petitioner(s) William James and Terri Tucker, ProSe Litigants, respectfully petition for a Joint Writ of Certiorari to review the judgment on 2nd Appeal Case No. 17-14866 of the United States Court of Appeals for the Eleventh Circuit.

I. OPINIONS BELOW

(1) The opinion of the court of appeals (App., *Infra*, 1a-14a) is reported at 3547 F.3d 3553. The order of the district court (App., Infra.,14a-17a) reported at 3547.

II. JURISDICTION

(1) The judgment of the court of appeals were entered, Dec. 20, 2018. Petition for rehearing en banc denied on Feb. 14, 2019 (App., infra,1a-13a). Jurisdiction of this court is invoked under 28 U.S.C. § 1254, Civil RICO Act when Congress consciously patterned civil RICO after Clayton Act. 483 U. S., at 150-151 (comparing 15 U.S.C. § 15(a), and with 18 U.S.C. § 1964(c)); see, *Sedima, S. P. R. L.* v. *Imrex Co.*, 473 U.S. 479, 489 (1985).

(2) Civil RICO was enacted under Clayton Act's accrual rule. See, *Crummer Co.* v. *DuPont*, 223 F. 2d 238,247-248 (CA5), and cert. denied, 350 U.S. 848 (1955); *Foster & Kleiser Co.* v. *Special Site Sign Co.*, 85 F. 2d 742, 750-751 (CA9 1936), cert. denied, 299 U.S. 613(1937); *Bluefield's S. S. Co.* v. *United Fruit Co.*, 243 F. 1, 20 (CA3 1917).

III. STATUTORY PROVISIONS INVOLVED

(1) Pertinent provisions for this current case are Civil Racketeering, Influenced, Corrupt Organization Act (RICO), 18 U.S.C. § 1961-1964 (1970) et. seq., Hobbs Act-Civil Conspiracy, 18 U.S.C. § 371 (1946), Sherman Anti-Trust Act, 15 U.S.C. § 1-7; Criminal Copyright Infringement *17 U.S.C.* § 1201,

1202, 1203, *18 U.S.C.* § 2319; Obstruction of Justice (1948), 18 U.S.C. § 1341, Protection of Government Processes – Obstruction of Justice, Witness Protection Act (1992) 18 U.S.C. § 1503; Obstruction of Federal Criminal Investigation and the Witness Protection Act (1991) 18 U.S.C. § 1510, Tampering with Victims, Witnesses, or Informants (1980) 18 U.S.C. § 1512.

(2) Retaliating Against a Witness Victim or an Informant (1982) 18 U.S.C. § 1513, Fraud and False Statements or entries (1948), 18 U.S.C. § 1001, Official Certificates or Writings (1948), 18 U.S.C. §,1018 Ch. 47; Penalties for Document Fraud, 8 U.S.C § 1324(c), Frauds and Swindles *18 U.S.C.* § 1341; Subject Matter Jurisdiction 28 U.S.C. § 1331, Perjury Generally, 18 U.S.C. § 1621; Perjury 18 U.S.C. § 18 U.S.C. § 1623;

(3) False Statements Accountability Act (1996) 18 U.S.C. § 1001, Abuse of Discretion, 5 U.S.C. § 706(2)(a); Violation of Rules and Regulations (1976), *18 U.S.C.* § 47; Remedies for Infringement 17 U.S.C. § 502, Conspiracy Against Rights, 18 U.S.C. § 241 (1992), and Title 35 of United States Code are reproduced in appendix to petition.

IV. STATEMENT OF THE CASE

(1) This case presents a recurring question of great importance for decades of violations of Equal Access to Justice Act as it relates to copyright ownership violations of statutes 17 U.S.C. § 506(a); 18 U.S.C. § 2319; and federal and civil conspiracy laws which

were violated in this case when two individual enterprise business owners entered into an exclusive business agreement with one another publicly and plotted in an on-going scheme against multiple writers which violated 17 U.S.C. § 1201, 17 U.S.C. § 1202(a)(2)(b)(2)(3), 17 U.S.C. § 1203 Civil Remedies for Copyrights under First Amendment, U.S. *Const. art.* 1, Sec. 8 and copyright act laws for concealed infringement.

(2) The larger business enterprise and owner of television networks expands to smaller film studio business enterprise. In a successful effort to intentionally and criminally plagiarize the works by enlisting employees of the business enterprise companies to scout and sift through copyrighted works and prey on low income copyright owners without longstanding means to obtain expensive litigation attorney's for genre befitting within the scope of necessary works for production.

(3) The racketeers professionally avoid copyright infringement for decades and perpetuate these violations in an overarching scheme to defraud entire jurisprudence and legal system for decades. *United States v. Franks*, 511 F.2d 25,31 (6th Cir. 1975).

(4) In the Racketeering, Influenced, Corrupt Organization (RICO) 18 U.S.C. § 1961-1962, *et. seq.*, was enacted as Title IX of the Organized Crime Control Act of 1970, and signed into law by President Richard M. Nixon and provides for extended criminal penalties and a civil cause of action for acts

performed as part of an ongoing criminal organization and provision for treble damages. See, *Agency Holding Corp. v. Malley-Duff& Associates, Supreme Court Reporter* 2759. See also 483 U.S. 143 at page 151 (1987); See, *Rotella v. Wood* et al., 528 U.S. 549 (2000).

(5) The pattern of copyright infringement cases as predicates and pattern of using the court system as a vehicle to perpetuate this scheme was successful until recently discovered by the petitioners filed in this current case. The multitude of copyright infringement cases previously filed against the individuals and enterprise business corporations in federal court were treated by petitioners as predicates that took place in a pattern over a 10-year period.

(6) Violations of petitioners' First Amendment, U.S. Const., *art.* 1, *sec.* 8, petitioners exclusive copyrights when respondents committed plagiarism of respective writings and discoveries;

(7) Perpetuating conspiracies concerting to plagiarize and articulate how those works were going to be utilized without an agreement in a continual pattern of intentional copyright avoidance; pre-meditated over many years and corporations racketeering plan of mastering the art of plagiarism should be protected by Civil RICO 18 U.S.C. § 1962 pursuant to 18 U.S.C. § 2319 for criminal copyright infringement.
(*infra*,107a,108a)

(8) The petitioners' discovered the series of botched court proceedings to include their past cases against respondents which violated their amendment of the US Constitution that states "no one shall be deprived of life, liberty or property without due process of law", ratified in (1868) to "Due Process Clause."

(9) The over-arching scheme by petitioner's unsuspecting attorneys of past cases hired by injured parties faced hidden conspiracies of "court system proceeding deviations" from the normal "court system proceeding operations"; or "Scare and threaten injury" to both attorney and petitioners by calling "what appeared to be meetings on merits" used to issue threats or cause physical harm to petitioners attorneys who called to the court which went ignored.

(10) Process mirrored in duplicate across two or more proceedings as additional predicate acts violating liberties under the Hobbs Act, 18 U.S.C § 371 (1994) which prevents the commission of extortion and robbery without codified, 18 U.S.C. § 1951. (the *infra,*154a)

(11) Enterprise businesses and individuals current respondents use their attorneys with long standing tenure with district and appellate courts to ex-parte communicate with court officers in sabotaging the record, taking bribes, extracting citations of laws and issues, adding and removing orders, mislabeling petitioners documents filed, making notices of appeals into motions,

changing notice of motions to actual motions, permissions to file as motions that violate orders, deleting documents, changing titles of documents, taking ten days to file documents that are to be filed within 48 hours, (App., *infra*,219a).

(12) Informing respondents of petitioners motions to be filed, sending notice of appeals to closed cases in appellate court, generating false appeals, not transmitting district court record for four months, responding to jurisdictional questions with falsified information, and district judges simply issuing orders that violate Federal Rules of Civil Procedures (Rule) 1, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14(b), 15, 26(f), 33, 37, 41, 52, 54, 55, 56, 58, 59, 60, and Local Rules, 7.1, 11, 56.1.

(13) Including, U.S. Supreme Court and Appellate law, which violate submitting answers in a timely manner without motion to dismiss Fed.R.Civ.P. 12(b)(6), signing summons and waivers Rule 4, 5, 12, 55, court ordered answer deadlines Fed.R.Civ.P. 12, 55.

(14) Respondents erroneously demanding amended complaints without answers or motions to dismiss Rule 12(b)(6), or 15, prehearing conferences ambushed as merit hearings without notice or allowance for preparation Rule 12(c), 26(f), 30-33, 56(b); same day hearings and dismissals on cases as attorneys applications approvals for entering record for attorneys merit hearing ambushes Rule 9, 26(f); defaults of *ProSe Petitioners* without excusable neglect Rule 55, not

permitting or allowing discovery allowing defendants to ignore court ordered discovery without penalty.

(15) Rule 33, 37, improper responses to summary judgments 56(b) and 56.1, amending complaints Rule 14, to a Rule 15, writing erroneous and perjurous pleadings and motions Fed.R.Civ.P. 11, 37, 7.1, using a 54(b) as a favor to counsel, *James et. al. v. Hunt et. al., Ga., N.D.Ga.,* 1181, F.R.D. (2018). (*infra*,273a,305a)

(16) Under the Conspiracy Against Rights, 18 U.S.C. § 241 where two or more officers sought to violate US Constitutional rights of private individual seeking justice which are privileged secured to him by constitution or law of the United States would be if an officer conspires with other party(s) to overthrow the merits of case and create technical means to allow the would be racketeer to evade justice by using the color of their office to abuse the courts discretion.

(17) Where constitution dictates proper due process of judicial proceedings to secure right for equal access restricting access to justice creates a manifest of injustice and violations upheld to responsible officers of the court violating Code Conduct-Codes of Canons (1)(2)(3)(4)(5).

V. REASONS FOR GRANTING THE PETITION

(1) This case is a superior vehicle for resolving several major issues in one current case federal copyright act 17 U.S.C. § 506(a)

as it relates to the First Amendment, U.S. Const., art. 1, sec. 8., creative works and ideas, U.S. Copyright Clause and Civil RICO 18 U.S.C. § 2319 for protections from "plagiarism" for copyright owners and compensation, licensing and criminal copyright infringement avoidance, "fraud upon the court" the court committed in district and appellate court by officers of the court intentionally assisting with the conspiracy of perpetuating the scheme on multiple low income disenfranchised copyright owners.

(2) Billionaire enterprise corporations obtained their revenue through plagiarism and making it impossible for copyright owners to recover damages or to uncover the scheme then blacklisting them in the process.

(3) First Circuit Court which disagrees with the Eleventh Circuit court by addressing that the requisite fraud on the court occurs where "it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with judicial system's ability impartially to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of opposing party's claim or defense." *Aoude v. Mobil Oil Corp.,* 892 F.2d 1115, 1118, (First Cir. 1989).

(4) In the Tenth Circuit Court whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court. "See,

Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and "Fraud upon the court" defined by the Seventh Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968). (*infra*,282a)

(5) U.S. Supreme Court has ruled and has affirmed the principle that "justice" must satisfy the appearance of justice "*Levine v. United States*, 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S.Ct. 11, 13 (1954).

(6) In 1994, the U.S. Supreme Court held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality. If a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." [Emphasis added]. *Liteky v. U.S.*, 114 S.Ct. 1147, 1162 (1994). (App., *infra*,295a)

(7) The current case was brought pursuant to aiding and abetting of officers of the court while the current case was brought to Civil RICO 18 U.S.C. 1961-1964 to achieve justice against racketeers that violate private and businesses which are protected by the US

Constitution, the bill of rights and court in many areas other appellate courts disagreed with the eleventh circuit in various areas of law. Elements did not exist until after proceedings of petitioner William James first case which mirrored procedural violations in petitioner Terri Tucker's cases and discovered when the two met February 2017, it was further discovered injury to the business of their names as writers. (App., *infra,*316a).

> "A RICO cause of action cannot accrue until all the elements exist, no statute of limitations can begin to tick until a pattern exists") (citation omitted); *McCool v. Strata Oil Co.*, 972 F.2d 1452, 1465 (7th Cir. 1992) (though injury discovery rule applies, "[there must be a pattern of racketeering before the plaintiffs RICO claim accrues, this requirement delay accrual until after plaintiff discovers their injury")." See, US Supreme Court, *Klehr v. A. O. Smith Corp.*, 521 U.S. 179, 198 (1997). (citing Zenith Radio Corp. v. Hazeltine Research, Inc.,)

A. The Eleventh Circuit Court is in acknowledgment of a conflict of uniformity with the US Supreme Court and several other appellate circuit courts as it relates to "Fraud upon the Court" *Contra.* to standards.

1. Intentionally committing fraud; 2. by an officer of the court; 3. which is directed at court itself; 4. in fact deceives the court, and

the Civil RICO Act of 18 U.S.C. § 1961-1964 and the Fifth Circuit, the Seventh Circuit and the 9th Circuit in this case exists, the Eleventh being fully informed and did not act to protect the prose's-initiated U.S. Const. rights of the First, Fifth, Seventh, Eleventh, and Fourteenth Amendment since the Plausibility Standard for Pleading Civil RICO after the U.S. Supreme Court's decision in *Bell Atl. Corp v. Twombly*, 550 U.S. 544 (2007) and Frauds and Swindles *18 U.S.C.* § 1341.

2. Allegations of parallel conduct that could just as easily suggest independent, legitimate action, accompanied by nothing more than conclusory assertions of conspiracy, are insufficient to state RICO conspiracy claim. To survive a motion to dismiss, a plaintiff alleging a RICO conspiracy claim also must plausibly allege a "meeting of the minds." (App., *infra*,298a)

3. U.S. Supreme Court finally settled the issue in 1997 in *Salinas v. United States*. U.S. Supreme Court held that "[a] conspiracy may exist even if a conspirator does not agree to commit or facilitate each, every part of the substantive offense. "*United States v. Browne*, 505 F.3d 1229, 1264 (11th Cir. 2007). (recognizing that a defendant can be guilty of conspiracy even if he did not commit the substantive acts that would constitute violations of Sections 1962(a), (b), or (c)."

4. Yet, the Eleventh upheld copyright infringement as merits and not as a predicate act when both respondent District Judge and

the respondents admit the case is Civil RICO and not copyright infringement.

5. Fraud upon the court "refers to misrepresentation direct[ly] affecting the judicial process, not simply non-disclosure to one party of facts known by another") See, *Weese v. Schukman*, 98 F.3d 542,553 (10th Cir. 1996) which is endeavors to influence, obstruct, or impede, the due administration of justice, 18 U.S. Code 503 (App., *infra*, 61a, 62a, 65a, 66a, 70a, 395a, 312a)

6. Issues are of exceptional importance because it involves an important question of Federal Copyright law undecided by U.S. Supreme Court; as it relates to the protections of copyright owners works under the First Amendment of the U.S. Const., Article 1, Sec. 8; and as it relates to the Copyright Act Clause to protect works plagiarized by major corporations that make billions of dollars off of copyright owners respective creative works and ideas; not accrediting writer's, or compensating them.

7. "Copyright infringement"; does not protect the idea under "plagiarism" but is recognized in the Copyright clause as of the copyright owners protected works and protected under the First Amendment and Civil RICO 18 U.S.C. 1962 racketeering statute 18 U.S.C. 2319.

8. For example, in the infringement case, *Williams v. Crichton,* 860 F. *Supp.* 158 *(SONY* 1994) is where Jurassic Park the film and comparison to the book both had dinosaurs on confined islands for tourists to

visit and both have had to escape dinosaurs were seemingly same story however but ruled not as copyright infringement which is an exact or substantial replica of original.

9. In order to plagiarize and get away they can take an entire respective work and create enough subtle differences throughout the work like; changing falling through a glass table to a glass window; bathing in a train station bathroom to a gas station bathroom.

10. Plots stay the same characters but doing that throughout is criminally plagiarizing and not to be confused with copyright infringement. However, in plagiarism any quotations however small must give credit to the identifying author, title, place, ideas, facts borrowed.

11. The number of plagiarized works charged to respondents for intentional copyright infringement predicates and in a pattern of over 10 years was pursuant 18 U.S.C. 2319, 17 U.S.C. 506(a), 17 U.S.C. 1201-1203. There were multiple injuries See, *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 401 U.S. 321, 338 (1971); *Rotella v. Wood*, 528 U.S. 549, 554 n.2 (2000).

12. The corporations manipulate the justice system to remove other remedies of law that further aid in the Federal Copyright Law Act's Clause to assist victims of copyright ownership plagiarized are defeated before a trial by jury can decide and in multiple District Courts and Appellate Circuit Courts, Civil cases are heard on issues where

professors are being terminated and college students expelled at the graduate and Ph.D. level for plagiarizing for the same Federal violations where no currency involved or profit made he standards are higher for works.

13. The issues to be resolved are matters of intentional copyright violations and criminal copyright infringement where these corporations are before district courts with multiple different victims and copyright owners believing their works were infringed; when in fact works were not and in no court of law will any judge rule their works were infringed since it were criminal plagiarism that is the issue.

Corporations mastered the art of plagiarizing and have done so in a pattern for more than two (2) predicate acts for more than Ten (10) years.

14. The Individuals who are separate privities from one another own production studios, that in public view violate the federal competition laws by entering into exclusive public contract agreements with other individuals that own television studios and broadcast networks to further the conspiracy the enterprise corporations.

15. Enlisting distribution companies that form an alliance to move plagiarized goods across interstate lines through movie theaters and merchandise of violated works in retail stores, nationally/internationally and through mail through online ordering.
15 U.S.C. § 1-7. (App., *infra*,318a)

> "Plaintiffs' claims are civil RICO claims with predicate acts related to copyright infringement and counterfeit goods. The damages which would be awarded if these claims are successful would be monetary damages. Plaintiffs have not shown the Court an injury that could not be addressed with a monetary damages award or with a permanent injunction at the end of this litigation. As such, their Motion for Temporary Restraining Order [Doc. No. 3] and Emergency Motion for Permanent Injunction [Doc. No. 11] are DENIED."

16. Respondents accepts petitioner's Civil complaint Doc. 1, filed on April 3, 2017 as Civil RICO and established the predicates for the Copyright as predicates.

On May 11, 2017 the respondents Tyler Perry and Privities filed a motion in the district court for reassignment of the case to Chief Judge Thomas W. Thrash, Jr. by name with Doc. 31, stating on pages 1, False Statements 18 U.S.C. § 1001, 1513, Perjury Generally, 18 U.S.C. § 1621-3, 28 U.S.C. § 1746:

> "Defendants, The Tyler Perry Company, Inc., Tyler Perry Studios, LLC, and Tyler Perry hereby make and file their Motion for Reassignment of Case Based on Plaintiffs' Failure to Disclose Prior Related Cases, as follows:
>
> 1. Plaintiff, Terri V. Tucker, formerly known as Terry V. Strickland,

formerly known as Terri V. Donald has brought the within action for recovery of civil RICO damages, alleging predicate acts of copyright infringement and counterfeit goods. (See, Doc. 1,15), (App., infra,189a-190a).

2. Plaintiff, Terri V. Tucker has brought at least two prior civil actions based on allegations of the same facts as claimed in the within civil action: Terri V. Donald v. The Tyler Perry Company, Inc., Case No. 2:12-6629 (E. Dist. PA, Nov. 2012), transferred as: and most recently, Terri V. Strickland v. Tyler Perry, Case No. 1:15CV-3400 (N. Dist. GA, Sep't. 2015, J/Thomas W. Thrash), dismissal affirmed, Case No. 16-11601, USCA - 11TH Circuit, April, 2017.)

3. The filing of the within civil action, Plaintiffs failed to disclose in their Civil Cover Sheet, Section VIII, the related case of Strickland v. Tyler Perry, Case No. 1:15CV-3400 of this Court, Judge Thomas W. Thrash presiding, dismissal affirmed Case No. 16-11601, USCA 11th Circuit.

4. A true copy of the Civil Cover Sheet as filed by Plaintiffs is attached hereto as "Exhibit-A". 5.

17. The within civil action is deemed related to the prior case, No. 1:15CV-3400 of this Court because the pending case involves: (a) the same issue of fact or arises out of the

same event or transaction included in an earlier numbered suit; (b) the validity or infringement of the same patent, copyright, or trademark included in an earlier numbered suit; and (c) repetitive cases filed by pro se litigants."(App.,*infra*,190a-194a).

18. Respondents obtained their decision on this current Civil RICO claim by Fraud, because the claim was that the cases aforementioned in their motion to reassign the case to Judge Thrash was that the prior action was Civil RICO and copyright infringement in two prior cases and one that Chief Judge Thomas W. Thrash presided on the prior Civil RICO already decided adversely the petitioner Tucker on both cases and that the case was repetitive and she failed to mention. The Presiding Judge Story, Jr. then transferred the case to Chief Judge Thomas W. Thrash, Jr. on Jun. 22, 2017 Orders Doc. 71, with the same statement that the case is repetitive. (App., *infra*,213a-216a):

> "Reassignment of Case [Doc. 31]. The undersigned finds that this action is related to a prior case, Case No. 1 :15-CV-3400-TWT because the case involves: (a) a common issue of fact arising out of the same event or transaction included in the earlier suit; (b) the validity or infringement of the same copyright included in the earlier suit; and (c) this is a repetitive case filed by a pro se plaintiff. Accordingly, the motion is hereby GRANTED, and this case is

TRANSFERRED to Chief Judge Thomas W. Thrash. "

19. This case did not arise out of the same transaction Copyright Infringement was the predicate acts, since the petitioners discovered patterns of copyright infringement lawsuits that had patterns for Civil RICO which were the court room procedures, threats to petitioners attorney's, the violations of U.S. Constitutional rights, the blacklisting and name calling by the attorney to the media that injured the petitioners names as writers., etc.

20. The current case the very same patterns occurred as predicted in the complaint. Attorney submitted a fraudulent motion and admitted that the current case is Civil RICO by stating this is the third case of the same nature of the case. The respondents go as far as mentioning a second time in this case the case is Civil RICO on Doc. 87 on a motion to stay proceedings on page 1, 2. (App., *infra*,217a-220a):

STATEMENT OF FACTS

1. Plaintiffs Terri V. Tucker (formerly known as Terri V. Strickland and Terri V. Donald) and William James have brought the within action for recovery of civil RICO damages, alleging predicate acts of copyright infringement and counterfeit goods. (Docs. 1, 15 and 85.)

2. Plaintiff Terri V. Tucker has brought at least two prior civil actions based on allegations of the same facts

as claimed in the within civil action: *Terri V. Donald v. The Tyler Perry Company, Inc.,* Case No. 2:12-cv-06629 (E.D. Pa., Nov. 2012) (transfer of venue to the Southern District of New York, Case No. 13-CV-1655 (S.D.N.Y., Mar. 2013) and most recently, Terri V. Strickland v. Tyler Perry, Case No. 1:15-cv-03400-TWT (N.D. Ga., Sept. 2015) (Thrash, C.J.), dismissal affirmed, Case No. 16- 11601 (11th Cir., Apr. 2017).

3. Plaintiff James has brought at least one prior civil action based on the allegations of the same facts as claimed in the within civil action: *William James vs. Tyler Perry, Case No.* 2:13-cv-00139 (N.D. Ind., 2013), dismissed January 2, 2014. "

21. In the Motion to stay discovery the respondents request for protection from discovery in a Civil RICO Case Doc. 89. The Defendants now change the claim back to copyright infringement.

22. This is no different from a criminal RICO proceeding denying requests to question witnesses. Respondents stated on page(s),1-2 in the aforementioned quote the cases decided on copyright infringement not the earlier claims of prior Civil RICO claims which altered the course of that case that prejudiced the petitioners to properly be heard on their Summary Judgment Civil RICO asserted for the first time in any court and the predicates being discovered in

February 2017 and pursuant these are the identical patterns in the prior actions pursuant to 18 U.S.C. 1512. (App., *infra*,219a-225a):

> **"PRELIMINARY STATEMENT**
>
> Through the filing of the instant action, Plaintiffs have blatantly disregarded the previous judgments of this Court and other federal courts. Plaintiffs' copyright infringement claims (now repackaged as a purported civil RICO claim) have previously been litigated and dismissed with prejudice (twice, for plaintiff Tucker's claim).
>
> Plaintiffs have now sought to initiate discovery by filing a purported "Joint Preliminary Report and Discovery Plan"1 and two "Notice[s] of Discovery Initiated by Plaintiffs." (See Doc. Nos. 63, 65, 66.)
>
> On June 27, 2017, Defendants filed a dispositive motion under Federal Rule of Civil Procedure 12(c) (see Doc. No. 74) because Plaintiffs' instant claims are barred by res judicata and/or collateral estoppel (as this Court so recently held)."

23. In the respondents Doc. 74 filed on June 27, 2017 pursuant to Fed.R.Civ.P. 12(c) for matters outside of the complaint of Copyright infringement whereas respondents already admitted the current case as merits of Civil RICO. The Chief Judge Thomas W.

Thrash had a duty of care to be forthright that he never ruled adversely on Civil RICO with Copyright Infringement as a predicate adversely to the petitioner Tucker.

24. Respondents take it a step further because on their answer and counterclaim response Doc. 33, 43, and 44 to the complaint Doc. 1. admit the case is Civil RICO as it relates to 18 U.S.C. 1961 et seq. but the counterclaim in the answer is copyright infringement and injunction in which they state in the motion for Judgment on the pleadings 12(c) they are not seeking a counterclaim at that time, page 1 in the footnotes. (App., *infra*,215a, #1):

> "Defendants seek no relief on this motion as to Defendants' Counterclaims, which are reserved."

25. The respondents had first-hand knowledge that the case was not previously ruled on based on Civil RICO with predicates of Copyright infringement and the respondent chief judge was going to file a Fed.R.Civ.P. 54(b) because if the intent to file a Fed.R.Civ.P. 12(c) to end litigation then reservation of a counterclaim is unnecessary since the judgment on the pleadings was a counterclaim for copyright infringement as merit over Civil RICO. Pursuant to 18 U.S.C. 1512.

26. (b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—(B)cause or

induce any person to—(i)withhold testimony, or withhold a record, document, or other object, from an official proceeding; (ii)alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

27. (k)Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy the Hobbs Act-Civil Conspiracy, 18 U.S.C. § 371. (App., *infra*,214a,217a,256a,318a-321a)

28. On orders in the district court Oct. 19, 2017 the district judge stated the case was Civil RICO and the plaintiffs failed to plead Copyright infringement as a predicate and went on to say the Civil RICO case was res judicata and collaterally estopped.

29. It was well established in the petitioner's complaint that the multitude of cases provided were used in the court case actions; dates and parties of the newly discovered Civil RICO violations was well established by the original district Judge Story.

30. The respondent's perjury and the judge's Res Judicata ruling cannot apply to Civil RICO cases where the pattern(s) are court room violations on Copyright infringement court cases used as predicates.

31. There was never prior action(s) as the respondents stated, the judge went along with committing perjury on orders and

motions filed to deceive the court by stating that to the Eleventh Circuit Court.

32. The judge admittedly gave the respondents a counterclaim they did not ask for because he felt the petitioners were vexatious litigants. See, 18 U.S. Code § 1621, perjury generally,

33. having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

34. in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. (App., *infra*,163a-164a)

35. This section is applicable whether the statement or subscription is made within or without the United States. On Feb. 6, 2018, during the district Judges response to the eleventh circuit posed jurisdictional answer he stated 28 U.S.C. § 1746:

> "The counterclaim filed by other defendants for injunctive relief to stop Plaintiffs from filing further pleadings was sufficiently separate to warrant certification under Rule 54(b).
>
> Admittedly, the relief sought in the counterclaim could have been brought in a motion for sanctions in light of Plaintiffs' litigiousness, but it was pled as a counterclaim. While its characterization as a pleading may not have bound the district court, it was within the district court's discretion to treat it as a separate claim.
>
> Thus, it was equally proper and within the district court's discretion to have treated it as a separate claim for purposes of considering and applying Rule 54(b)."

36. This constitutes fraud on the court because the respondents rule 12(c) was a judgment on the pleadings of their answer and counterclaim which is the only pleading made for the request and yet the state in the pleading 12 (c) they do not request it at the time. Since there was no separate request and the only pleading was abandoned, the judge admits to placing a 54(b) on the record as a place holder for the respondents abusing his discretion as a favor to counsel on page 7, and further perjury on page 8 as to the counterclaim stating:

> "The district court's determination, in this case, that there

was no justifiable reason for delay due to the remaining counterclaim was within its discretion."

37. The statement "there was no just reason for delay" is a certification statement to allow for a party to appeal a decision, not to implement motions for parties that did not assert the motion and knowingly quoted the case on page 7:

> "The determination of whether there was "no just reason for delay" is one left to the discretion of the district court. *Curtiss-Wright Corp. v. General Elec. Co.*, 446 U.S. 1, 8 (1980). When making this determination, a district court should exercise its discretion in light of "judicial administrative interests," the "historic federal policy against piecemeal appeals," and "the equities involved." *Barnett v. MacArthur*, 2017 WL 4876289 at *4 (11th Cir. Oct. 30, 2017) (quoting *Lloyd Noland Found, Inc. v. Tenet Health Care Corp.*, 483 F.3d 773, 777 (11th Cir. 2007)."

38. Where the real issue arises is when the district judge stated:

> "Should this Court find remand to be prudent given the outstanding counterclaim, there is no opposition to remand. See, generally Barnett v. MacArthur, No. 16-17179, 2017 WL 4876289, at *3 4 (11th Cir. Oct. 30, 2017)."

B. The Questions in this complex Civil RICO case are of exceptional importance

1. The issues are of exceptional importance because it involves an important question of Federal Copyright law 17 U.S.C. § 506(a); 1201; 1202; 1203 and 18 U.S.C. § 2319 and Federal Competition Law of the Sherman Anti-trust Act 15 U.S.C. § 1-7 undecided by the U.S. Supreme Court as it relates to the protections of copyright owners works under the First Amendment of the U.S. *Const., Art.* 1, *Sec.* 8.

2. As it relates to the copyright clause to protect works plagiarized by major corporations that make billions of dollars off of copyright owners respective creative works and ideas not accrediting the writer's, or compensating them simply because copyright infringement does not protect the idea of the copyrighted protected work.

3. The corporations mastered the art of violating unsuspecting writers by plagiarizing in a pattern for more than two predicate acts and for more than ten years.

4. The standard with the U.S. Supreme Court differs for musicians in that the copyrights of their respective works and the laws require compensation on snippets, composition, authoring, songwriting whereas as the copyright owners are compensated and protected with credits on the works the works are licensed versions of the works which paid accordingly.

5. This would assist with the national problem of the general public, where writers submit materials to corporations and producers that evade compensation to the writers which are hampering the economy due to the number of writers this issue effects and has been an epidemic for decades that needs redress.

6. This current case concerns fraudulent court proceedings under the Statutes of 18 U.S.C. § 1961-1964 Civil RICO Act for jurisprudence processes in the matter of abusive litigation practices, in the past case as these abusive patterns are predicates and in the current district and appellate courts operations, and thereby respondents have enlisted the courts to further in the conspiracy of racketeering.

7. This case exhibits obstruction of justice and thereby restricting the petitioners "Equal Access to Justice" and violating the First, Fifth, Seventh, Eleventh and Fourteenth Amendment of the US Constitution and further seeing other remedies of law for respective works when major companies are predicating the patterns of prior complaints during the current proceeding that restricts access to justice.

8. See, *Dasher v. Housing Authority of City of Atlanta, Ga., D.C.Ga., 64 F.R.D.* 720, 722. (Fifth Cir. 1975) See also, Equal Access to Justice Act. (App., *infra*,233a-244a)

C. The Court of Appeals' decision is incorrect:

1. During the posing of the Jurisdictional Question by the Eleventh Circuit on Jan. 24, 2018, there was no counterclaim on the district court record, and on Feb. 5, 2018 the respondents placed counterclaim and injunction on the record that not only violated subject matter jurisdiction of the Eleventh Circuit Court but the Eleventh Circuit court also stated in the question the only thing remaining in the lower court was a counterclaim and injunction which did not exist until twelve days later further showing the 54(b) being a favor to counsel and requesting remand. (App., *infra*,123a-125a)

2. The Eleventh Circuit court did not remand the case, but accepted jurisdiction on the 54(b) for claim of abuse of discretion on Mar. 29, 2018. Brief(s) for parties had begun and after all brief(s) were filed by Jun. 8, 2018, on Aug. 10, 2018 without direction from the Eleventh circuit court the chief district judge violated subject matter jurisdiction on the case before the Eleventh circuit court could rule.

3. *18 U.S.C.* § 1341, further abuse of discretion on the case to force a ruling for the respondents against the petitioners to show his extremely bias nature towards the prose's and further prejudiced the case. The Eleventh Circuit court failed to address this as the main issue for Ruling as abuse of discretion on 54(b) as a favor to counsel. See, 5 U.S.C. § 706(2)(a); 18 U.S.C. § 241.

4. The 54(b) was for two of eight defendants Oprah and Tyler for respondents Rule 12(c) judgment on the pleadings. See page 1, as Lionsgate entertainment has never made a pleading of any sort abandoning their right to defend claim, and a ruling given to them as a favor in both the 54(b) and orders document 168 on Aug. 10, 2018 that violated subject matter jurisdiction and on Dec. 20, 2018 when Eleventh Circuit court ruled to affirm the Judges Oct. 19, 2017 orders.

5. At that time there still was no pleading and yet dismissed all respondents shows impartiality and that pursuant to this ruling thereby setting precedent that defendants do not need to plead, file a motions participating in proceedings to have a case dismissed in their behalf which is further fraud upon the court by the court.

6. The eleventh could not identify where they looked all throughout the district court to see an open counterclaim and injunction because on Jan. 24, 2018 there was none, further fraud upon the court to deceive the court, document tampering and removing signatures and laws from the petitioner's motions and pleadings, were never addressed.

> "Based on a review of the parties' filings in the district court, it appears that the only matter remaining before the district court is the defendants' counterclaim for an injunction baning the plaintiffs from filing any more lawsuits based on the same subject matter as the instant lawsuit."

D. This case is a superior vehicle for addressing the questions presented.

1. The current case (1) fraud upon the court in the district court and appellate court prohibited the courts from issuing a decision with a full and fair opportunity as to litigation of the laws of citations went missing from documents to include issues and arguments pursuant *Herring v. United States, 555 U.S.* 135, 129 S. Ct. 695; 172 L. Ed. 2d 496; (2009) for fraud upon the court.

2. The premise of the Civil RICO complaint exhibited a large number of Civil complaints against enterprise companies, individuals involved which included case dates, times and charges to include outcomes of those cases.

3. Injured petitioners discovered the pattern of racketeering activity and predicates that involved the corporations prior copyright infringement cases to be used as predicates in a pattern of violating the First Amendment, U.S. *Const., art.* 1, *sec.* 8, to plagiarize and avoid copyright infringement criminally and because the district courts understand how the law pertains to plagiarism and copyright infringement and begin to violate the course of how court proceedings navigate and once the cases are dismissed or settled.

4. Then further the injury to the business of copyright owners names as writers using the media to blacklist the copyright writers/owners from procuring work that would demonstrate their value in the

profession of writing begin a smear campaign ensuring no future work in the industry which created a blacklisting effect which is recoverable under Civil RICO as a plausible claim. See, *Formax, Inc. v. Hostert,* 841 F.2d 388, 389-390 (Fed. Cir. 1988).

5. Whether the Copyright Act Clause and First Ame13ndment of the U.S. Const., Art. 1, Sec. 8, entitle literary copyright owners to equal protections as musicians and should the movie houses, major and minor film production studios properly license literary copyright owners works and charged with criminal plagiarism predicating the violations more than two times in a pattern consistent with copyright payment avoidance.

6. Whether all of the abuse of discretion and fraud upon the court by and in the district and appellate court; by the officers of the court violated the petitioner's U.S. Constitutional rights of the First, Fifth, Seventh, Eleventh and Fourteenth intentionally to harm the case, should these infractions vitiate all district and appellate court orders and restore the petitioners to make them whole again.

7. Whether the U.S. Supreme court should address questions of law that will assist in future areas of law for the general public that are copyright owners covered under the copyright act allow compensation for respective creative works protected specifically by the First Amendment, U.S. *Const., Art.* 1, *Sec.* 8 and the Copyright Clause of the U.S. Copyright Act for Plagiarism when

the scheme is perpetuated with 2 or more predicates in a pattern of 10 years or more, since the question does address a matter of public importance.

8. Whether the respondents and district judge intentionally violated the petitioners U.S. Constitutional rights aforementioned in (A) and when the respondents filed a motion before the response answer of the complaint that stated the petitioner's filed 2 prior Civil RICO complaints in a New York District Court.

9. The presiding respondent judge was to intentionally overthrow the case in favor of the respondents along with the statement the presiding and prior judge ruled on Civil RICO with Copyright infringement plead as a predicate act was decided against them therefore did the district court judge abused his discretion by ruling on a copyright infringement as a merit.

10. Respondents in the course of the case changed their pleading after admitting in several documents the current case is Civil RICO and the prior cases were copyright infringement, should the Eleventh Circuit and the District Court apply an analysis to the trier factors of the two cases.

11. Whether a respondent of Civil RICO can request to stay or modify discovery and a respondent be allowed to avoid participation in discovery stating they need protection from discovery on a Civil RICO case was to avoid he asserted charges of RICO and the respondents begged the Eleventh Circuit not

to charge their clients with RICO as it would devastate them.

12. Whether respondents' motions to avoid properly addressing the summary judgment in an omnibus motion was being properly addressed as it pertains to Civil RICO.

13. Whether the respondents mention of the petitioners amended complaint adding the district presiding judge and quoting the accusations of the petitioners stating that the clerks of the court were being used to remove information from their documents proves the clerks actually removed information from many motions and documents since the charges of the judge are missing from the amended complaint.

14. Whether the district court judge abused his discretion ruling on a second interlocutory order with an unwarranted *Fed.R.Civ.P* 54(b) *sua sponte;* stating they were separable and final, done as a favor to counsel, and when no ruling in the entirety of the case was made for the company Lionsgate Entertainment which is not a privity for any other party in the case.

15. The Jurisdictional Question posed by the eleventh was supposed to determine jurisdiction and if accepted it would be to address the 54(b) for abuse of discretion by the district Judge, did the Eleventh Circuit err when they failed to address the clearly supported 54(b) provided as a favor to counsel. *(intra,*14a-16a)

16. Whether the respondents violated a court ordered discovery request (See, 269a) when in two sets of district court orders outlined when discovery would be due to petitioners, although appealed respondents continued filing motions without the court ordered participation of discovery being answered.

17. Whether two district court judges same case disagree on orders that contradict the merits of the case by which one district court opinion was obtained through fraud upon the court violating federal rules of civil procedure (rule) 11 in a motion, should the case be overturned since the second district judge accepted the reassignment; by name knowing motion was erroneous since he did not rule on a previous Civil RICO case against petitioner.

18. Whether the first district judge on the case set an earlier precedent (*stare decisis)* on the merits of the predicates for Civil RICO complaint being established, and did the second district judge error when he stated in the second 28 U.S.C. § 1292(b) interlocutory *Fed.R.Civ.P.* 54(b) order the petitioners did not establish the same exact predicate for Civil RICO. (See, *intra*,124a., 137a, 142a, 150a 185a-186a, 288a, 292a, 313a).

19. The Eleventh stated in error all respondents responded to complaint and was due by May 5, 2017 and the first response was due by respondents by May 5, 2017, the first response was provided on May 11, 19 and 22,

all were in default except Barbara Hunt who filed a motion to dismiss a Civil RICO complaint on personal jurisdiction when jurisdiction was met with one or more parties and 18 U.S.C.1965(b) (d) allows for Nationwide service. (*intra*,8a-9a).

20. Whether the district court chief judge properly dismiss himself from the district court amended complaint *Fed.R.Civ.P.* 15 when in fact it was Rule 14 the petitioners added the district judge as a defendant for being a co-conspirator and aiding and abetting in a Civil RICO complaint, further dismissing his own responsive pleading and not defaulting the other respondents by dismissing the amended complaint 4 months later.

21. If it were to be dismissed for being improper no pleading would have been necessary, it was the petitioners Judgment as a matter Fed.R.Civ.P. 50(a) of law that prompted the judge to dismiss since the respondents were in default for failing to answer the complaint as a chief judge does this dismissal go through the court of appeals. (see, *intra*,136a, 270a, 275a, 311a).

22. Whether the Appellate court erred for not amending or consolidating the two open appeals on the same terminated district court case;

23. Whether the second appeal was accepted for a case on the merits of fraud upon the court for relief from judgment for *Fed.R. Civ.P* 60(b)(3)(4)(6);(d)(3) for abuse of

discretion; was the issue of fraud properly addressed by the 3-panel judge.

24. Whether the subject matter jurisdiction violations of the second appeal and fabricated evidence in the jurisdictional question by the Eleventh circuit court officers have been acknowledged by the appellate court on the denied ruling on the second appeal and not have referred the petitioners to re-file motions for sanctions and four other documents outlining subject matter jurisdiction and other violations during the second appeal violate the petitioners U.S. Constitutional rights?

25. Whether the district courts first 28 U.S.C. § 1292(b); *Fed.R.Civ.P.* 54(b) have limited the judge to a final judgment decision and if so, should the second 28 U.S.C. § 1292(b); F*ed.R.Civ.P.* 54(b) have caused all orders to be rescinded for abuse of discretion.

26. Whether the first appeal was considered by the district court on acceptance of the case on a jurisdictional question as a separable and final judgment should there be a second summary judgment *Fed.R.Civ.P.* 56 by the same party for relief when they requested no relief on first summary judgment Rule 56 after the termination of the case.

27. Whether the Appellate Court has to apply to the relief from judgment or order *Fed.R.Civ.P* 60 invoked savings clause for fraud upon the court and if all elements are noted, that the Officers of the court (1) intentionally committed fraud; (2) by an

officer of the court; (3) which is directed at the court itself; (4) in fact deceives the court.

28. Whether when fraud upon the court was presented where proceedings were compromised during the appeal process, did the Eleventh Circuit Court have a duty of care to internally investigate the obstruction of justice perpetuated by their officers/clerks of Eleventh Circuit and District Court that caused miscarriage of justice to the appellants when the appeal brief was tampered with to remove relevant issues and laws belonging to the Appellants claims and document. Obstruction of Justice, see 18 U.S.C. § 1503.

29. Whether after the Eleventh Circuit was informed through motions and letters to the clerk of the court and presented further in the Rehearing Enbanc did the Eleventh Circuit court have a duty to protect the petitions US Constitutional rights and the US Supreme Court laws against fraud and due process.

30. Whether the Eleventh Circuit Court erred on not examining the Fraud Upon the Court that belonged to second interlocutory appeal No. 17-14866 filed on Oct. 26, 2017, which should have been a final judgment on orders, since there was a first interlocutory appeal no. 17-13294 filed on Jul. 21, 2017; whether the Eleventh Circuit Court denied the five (5) motions filed by the Appellants on Aug. 20, 2018 for document tampering, *18 U.S.C.* § 1510 violation of the district court subject matter jurisdiction.

31. Mislabeling permissions to file motions as actual motions where respondents sought sanctions should the Eleventh Circuit Court have addressed those infractions of law which occurred in the second interlocutory appeal no. 17-14866 and did the Eleventh circuit court further erred when ordering appellants to refile the five (5) motions pertaining issues that violated the second appeal no. 17-14866 even though the case briefed and awaiting a decision.

32. Rather than view the issues as motions to file in the Eleventh Circuit court on the third (3) appeal no. 18-13553 on orders on Sep. 21, 2018, stating the petitioners' needed to file the motion with the third (3) appeal no. 18-13533 originally obtained through district court fraudulently changing the amended notice of appeal to a new notice of appeal on Aug. 28, 2018, and by doing so does that negate the court from liability on the second appeal no. 17-14866.

33. Whether the issues of tampering had been addressed in the five (5) motions in the current appeal would it have changed the outcome of the decision of the case and given credence to the appellants argument on motion of tampering that appeal brief that was discovered to have been tampered with by omitting citations of laws and issues that was further ignored on rehearing enbanc violate the petitioners U.S. Constitutional rights to a fair tribunal. *18 U.S:C.* § 1512.

34. Whether the Eleventh Circuit Court is a fact-finding court. (2) Whether the

Eleventh Circuit Court acted to assist the Judge and appellees by asserting a claim in appellate court 3- panel judge orders that the appellants failed to plead their Civil RICO case with specifity; when no party to the proceedings or district court orders assert that claim and in doing so did the Eleventh circuit court violate the appellants Fifth and Fourteenth Amendment of the US Constitutional for due process for a claim that should have allowed the Appellants to defend.

35. Whether the district court erred on fraud upon the court when he ruled with a *Fed.R.Civ.P.* 54(b) under the statue 28 U.S.C. § 1292(b) for the second time; where he was limited to a final judgment "only" after the first 28 U.S.C. § 1292(b) and in that ruling he applied the laws of Res Judicata and Collateral Estoppel based on the erroneous respondents claim that there were two prior Civil RICO actions dismissed against the petitioner in prior Civil RICO cases and in favor of the respondents.

36. Ruled on by the current presiding judge, and (2) in another federal court of competent jurisdiction. The petitioners filed a *Fed.R.Civ.P.* 12(c); 56(b) Summary Judgment to expose the fraud of the court and erroneous pleadings made by the respondents, when the respondents filed a *Fed.R.Civ.P.* 12(c), that (3) proved the statement to be erroneous by their own exhibited documents, therefore should the case have been considered in favor of petitioners due to the fraud upon the court and should the Eleventh Circuit court have

intervened by overturning the district courts' frivolous orders due to the erroneous claim made by the respondents.

37. Whether when the presiding district court judge abused his discretion when ruling on the respondent's judgment on the pleadings *Fed.R.Civ.P.* 12(c) with matters presented outside of the merits of the current case, which would be considered as a counterclaim against the Civil RICO complaint.

38. However, the respondents stated in the same 12(c) judgment on the pleadings for copyright infringement which is a counterclaim against Civil RICO was the statement not seeking a counterclaim at that time grounds for dismissing that *Fed.R.Civ.P.* 12(c) motion was there a legal standing to rule on the entire case in favor of the respondents for a *Fed.R.Civ.P.* 12(c) judgment on the pleadings without extending the pleading to a *Fed.R.Civ.P.* 56(b).

39. Terminate the case and add a counterclaim to the case and the parties under *Fed.R.Civ.P.* 54(b), that should have been considered on the merits of the complaint since the respondents had no ruling for a plausible claim and since it were a second interlocutory order that should have been final and separable or should the petitioners *Fed.R.Civ.P.* 56 summary judgment have been decided on the case since it was on the merits Civil RICO.

VI. CONCLUSION

The petition for a Writ of Certiorari should be granted to petitioner(s).

Respectfully submitted.

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William James
Prose Petitioner
3058 Fresno Lane
Homewood, Illinois 60430
Email: BJ255758@yahoo.com
Phone 773-990-9373

Terri V. Tucker (aka)
Donald-Strickland
aka Tlo-Redness
Prose Petitioner
1136 Joslin Path
Douglasville, GA 3013
Email: terrilowe43@gmail.com
Phone: 678-822-4593