

No. _____

IN THE

SUPREME COURT OF UNITED STATES

KIMBERLY BALTIMORE,

Petitioner

v.

FRANK STEVEN BUCK, individual,

FRANK STEVEN BUCK, et al

Respondent(s)

On Petition For Writ of Certiorari
To The Supreme Court of Alabama

PETITION FOR WRIT OF CERTIORARI

Kimberly Baltimore/ Pro Se
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June 4, 2018

QUESTIONS PRESENTED FOR REVIEW

1. Whether this court continue to let the appellee, Frank S. Buck hereinafter Buck, (or the defense) continue the "Because I said so" defense even with expert (Curt Baggett) testimony, and without Buck's sworn testimony?
2. Whether any person that represents the court in any capacity above the law?
3. Whether the kangaroo (district) court's procedural and evidentiary rulings constituted an abuse of discretion requiring reversal of the judgment?
4. Whether the petitioner, Baltimore's "new evidence" and confirmation (by Curt Baggett) of Baltimore's forged signature require reversal of the Judgment or set aside the judgement in Kimberly Baltimore v. Jon Byron Nelson et al (hereinafter case 2013-900993)?
5. Whether Buck is getting rich on the back of his clients and have all of Jefferson County, AL attorneys and judges and others on his payroll?
6. Whether the kangaroo (district court) in this case, and kangaroo (district court) judge and the attorneys for the defense in case 2013-900993 conspire with Buck to cover up the fraud in this case and have both cases dismissed?
7. Whether Baltimore's original complaint includes basic facts underlying actions that are relatively uncontroverted?
8. Whether, Buck is under violation of **2015 Ala. code fraud 8, Section 6-5-104 Deceit - Fraudulent deceit.**
9. Whether the district court erred and in violation of **28 U.S. Code § 1746** **when** Buck did not offer any sworn testimony in this case?
10. Whether Baltimore will ever receive a fair case of any kind in Jefferson County, Alabama?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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IN THE SUPREME COURT OF UNITED STATES

PETITON FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below:

OPINIONS BELOW

For cases from **state courts**:

The judgments and orders of the Alabama Supreme Court is reported at (App A-F) to the petition and is not published. The final judgment is reported (App F) and is not published

The judgments and orders and Notice of Subpoena of the District Court is reported at (App G-K) to the petition and is not published.

The findings of facts, Motion showing where defense filed after 79 days after Baltimore filed her Motion to Reconsider & how much the jury was paid is reported (App L); excerpts and affidavits from the hearing are reported (at App M); subpoenaed documents from State Farm(including forged instrument) are reported (at App N); Affidavit of forgery Confirmation of forgery by Curt Baggett(New Evidence) are reported (at App O) and Documents(New Evidence) to confirm conspiracy reported (at App P).

JURISDICTION

This case arises from Baltimore being in two accidents and hired Frank S. Buck as her attorney in doing so, a suit was filed against the defendants' in The Circuit Court of Jefferson County, Birmingham, Alabama Division in 2013. The accidents were on or around January 19, 2012, and another accident on or around May 6, 2013 where Buck failed or failed to tell that he settled within its primary policy limits of \$6 million dollars or more (2013-900993) and \$50,000 in (the one he forged her signature on). See:

Levin, Middlebrooks v. US Fire Ins. Co., 639 So. 2d 606 - Fla: Supreme Court 1994 639 So.2d 606 (1994). LEVIN, MIDDLEBROOKS, MABIE, THOMAS, MAYES & MITCHELL, P.A., et al., Appellants, v. UNITED STATES FIRE INSURANCE COMPANY, Appellee. No. 82649. Supreme Court of Florida. Where United, the insurance company for Daniel Ornamental failed to settle the case within its primary policy limits of \$500,000, and the case proceeded to trial, which resulted in a judgment against Daniel Ornamental in the amount of \$863,287.

That's all Baltimore asked Buck to do was fight for policy limits.

Buck forged Baltimore's signature in the later and conspired to get both cases dismissed (including this case) to hide the forgery committed by him and his law firm.

Baltimore discovered fraud, forgery by the very attorney that she hired to represent her. This litigation is now a federal question because of the fraud-against-the-court denying Baltimore's 14th amendment rights under the U.S. Constitution The judgment of a dismissal with prejudice was entered in the kangaroo (circuit) court on August 25, 2015, alleging Baltimore had agreed to have her case dismissed. Baltimore filed a Motion to reconsider from Judgment and it was denied by an Order denying the Motion and was entered on November 19, 2015. (At App.H p25A).. Baltimore Also filed a motion for relief from judgment on September 2, 2015 and an Order was entered on January 4, 2016 for scheduled hearing on January 6, 2016. An Order changing the hearing to January 15, 2016. (At App J p.29A). A

motion to Reconsider was denied again on January 15, 2016 (**At AppKp 31A**). Baltimore was told by the kangaroo (circuit) court that a decision would be made, and it would be mailed out, but Baltimore never received the Order in the mail.

A notice of Appeal was filed on November 27, 2017 (**At App G p.22A**) and docketed in the Alabama Supreme Court on January 12, 2018 (No, 1170296) (**At App. A p 2A**). The Alabama Supreme Court denied Baltimore's rehearing on April 4, 2018 and ordered Baltimore to pay \$4,013.98 in sanctions for defending a frivolous appeal. (**At App.F pp. 18A and 19A**). Baltimore, filed a petition of writ of certiorari on June 4, 2018. The jurisdiction, pursuant to **rule 12.4 of this Court** to review the Judgment and the dismissal of the Circuit Court of Jefferson County, Birmingham, AL and the judgment and the opinion of the Alabama Supreme Court is invoked under **28 U.S.C. § 1257**.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The Equal Protection Clause of Section 1 of the Fourteenth (XIV)

Amendment provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws."

2. Fed. Rule Civ. Proc. Rule 60(b)sought to establish a new system to govern requests to reopen judgments. The original **Rule 60(b) provided:**

"(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the

judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Title 28, U. S. C., § 1655, or to set aside a judgment for fraud upon the court. Writs of Coram Nobis, Coram vobis, audit querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed 45*45 in these rules or by an independent action." Fed. Rule Civ. Proc. 60(b).

3. Ala. Const. of 1901, § 10 & 13, which states: Right to prosecute civil cause. That no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, any civil cause to which he is a party Courts to be open; remedies for all injuries; impartiality of justice. §13 That all courts shall be open; and that very person, for any injury done him, in his lands, goods, person, or reputation shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay.
4. 2015 Ala. code fraud 8. Fraudulent misrepresentation and deceit. 5-100 (AL Code § 6-2015) Fraud –

Right of action generally. Fraud by one, accompanied with damage to The party defrauded, in all cases gives a right of action.

Section 6-5-101 Fraud - Misrepresentations of material facts.

Misrepresentations of a material fact made willfully to deceive, or recklessly without knowledge, and acted on by the opposite party, or if made by mistake and innocently and acted on by the opposite party constitute legal fraud.

Section 6-5-102 Suppression of material facts.

Suppression of a material fact which the party is under an obligation to communicate constitutes fraud. The obligation to communicate may arise from the confidential relations of the parties or from the circumstances of the case.

Section 6-5-103 Deceit - Right of action generally.

Willful misrepresentation of a material fact made to induce another to act, and upon which he does act to his injury, will give a right of action. Mere concealment of such a fact, unless done in such a

manner as to deceive and mislead, will not support an action. In all cases, knowledge of a of deceit falsehood constitutes an essential element. A fraudulent or reckless representation of facts as true, which the party may not know to be false, if intended to deceive, is equivalent to a knowledge of the falsehood.

Section 6-5-104 Deceit - Fraudulent deceit.

- (a) One who willfully deceives another with intent to induce him to alter his position to his injury or risk is liable for any damage which he thereby suffers.
- (b) A deceit within the meaning of this section is either:
 - (1) The suggestion as a fact of that which is not true by one who does not believe it to be true;
 - (2) The assertion as a fact of that which is not true by one who has no reasonable ground for believing it to be true;
 - (3) The suppression of a fact by one who is bound to disclose it or who gives information of other facts which are likely to mislead for want of communication of that fact; or
 - (4) A promise made without any intention of performing it.

5. 29 U.S. Code § 1109 - Liability for breach of fiduciary duty

- (a) Any person who is a fiduciary with respect to a plan who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this subchapter shall be personally liable to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits of such fiduciary which have been made through use of assets of the plan by the fiduciary, and shall be subject to such other equitable or remedial relief as the court may deem appropriate, including removal of such fiduciary. A fiduciary may also be removed for a violation of section 1111 of this title.

6. Alabama Code Title 13A. Criminal Code § 13A-9-2

- (a) A person commits the crime of forgery in the first degree if, with intent to defraud, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed.

7. Alabama Rules of Professional Conduct Maintaining the Integrity of the Profession Rule 8.4. Misconduct.

It is professional misconduct for a lawyer to:

- (a) Violate or attempt to violate the Rules of Professional Conduct, Knowingly assist or induce another to do so, or do so through the acts of another;**
- (b) Commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;**
- (c) Engage in conduct involving dishonesty, fraud, deceit or misrepresentation;**
- (d) Engage in conduct that is prejudicial to the administration of justice;**
- (e) State or imply an ability to influence improperly a government agency or official;**
- (f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable Canons of Judicial Ethics or other law; or**
- (g) Engage in any other conduct that adversely reflects on his fitness to practice law.**

8. Alabama Rules of Professional Conduct Client-Lawyer Relationship Rule 1.2. Scope of Representation.

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (d) and shall consult with the client as to how they are to be pursued. A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

9. Alabama Rules of Professional Conduct Client-Lawyer Relationship Rule 1.3. Diligence.

A lawyer shall not willfully neglect a legal matter entrusted to him. Comment With respect to the standard of care imposed by this rule, a lawyer is only subject to discipline for the willful neglect of a legal matter entrusted to him. This standard has been applied in the courts of this state. The mere failure of the lawyer to act with reasonable diligence and promptness are regrettable but does not necessarily provide a basis for lawyer discipline under these rules. The failure of a lawyer to act with reasonable diligence and promptness may, however, provide a reason for a client to seek another lawyer, or, when the

client is damaged, to consider a civil action against the lawyer for negligence, breach of contract, or other remedy. A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and may take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer should act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf.

10. The Ethical Guidelines for Settlement Negotiations of the American Bar Association Model Rule 1.2

(a) "A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter." If a mutually agreeable and proper course of action does not result from the consultation, the lawyer must withdraw from representing the client in accordance with Model Rule 1.16, for the lawyer may not pursue a course of action that would, on the one hand, violate the duties required of counsel by Model Rule 3.3, or, on the other hand, defy the client's directives or wishes". 3.3.1 Adherence to Ethical and Legal Rules A lawyer must comply with the rules of professional conduct and the applicable law during settlement negotiations and in concluding a settlement, and must not knowingly assist or counsel the client to violate the law or the client's fiduciary or other legal duties owed to others.

11. MBA Model Code of Professional Responsibility:

EC 7-1 The duty of a lawyer, both to his client: 1. and to the legal system, is to represent his client zealously 2. within the bounds of the law,
EC 7-7 In certain areas of legal representation not affecting the merits of the cause or substantially prejudicing the rights of a client, a lawyer is entitled to make decisions on his own. But otherwise the authority to make decisions is exclusively that of the client and, if made within the framework of the law, such decisions are binding on his lawyer. As typical examples in civil cases, it is for the client to decide whether he will accept a settlement offer or whether he will waive his right to plead an affirmative defense.

STATEMENT OF THE CASE

Petitioner, Baltimore, hereinafter Baltimore request this Court to exercise its power and discretion under **Rule 11 of its rules** to grant a writ of certiorari before judgment to the Alabama Supreme Court, which has entered a judgment of No Opinion, and an Order for petitioner to pay respective costs and attorney fees for filing of a frivolous appeal. Baltimore hired Buck to represent her in two personal injury cases. The representations made by Buck were false (and Buck knew they were false) and were made by mistake, malice, fraud heretofore denominated intrinsic or extrinsic, misrepresentation and misconduct, that Baltimore should rely upon them. Baltimore suffered damages as a result.

FACTUAL BACKGROUND

A. Facts giving rise to this case

Baltimore was in an accident in or around January 19,2012 and another accident in or around May 1, 2013. Frank S. Buck, here in after Buck forged Baltimore's signature, because he failed to settle policy limits in Baltimore's case. Baltimore contends that Buck settled both cases for policy limits and (gave Baltimore what he wanted her to have) conspired with the defendants and the judge in case 2013-900993 to cover up the fraud in this case. Baltimore offered an affidavit stating that she did not sign a release form, in which she got from State Farm during discovery of case 2013-900993. Baltimore has since contacted Curt Baggett, (a handwriting expert) that confirms that the forged signature on a release form that Buck sent to State Farm is indeed a forgery. **(At App. O p.65A-68A)**

B. THE CIRCUIT COURT PROCEEDING

In Baltimore's original complaint filed on or near May 29, 2015. Buck et al named as defendant. The basic facts underlying the action are relatively uncontroverted.

Baltimore states as follows:

As stated above, Baltimore hired Buck to defend her in 2 personal injury cases. Baltimore failed to agree at mediation that was held in or around February 6, 2014. In which she was forced to terminate Buck because he enjoined or conspired with the defense in the (2013-900993) case to enforce settlement. Not only did he file to enforce settlement, he and his employee, Baron Houston testified against Baltimore on or around March 10, 2014 and stated that she settled her case. On or around March 24, 2014. Baltimore was granted to relieve Frank S. Buck of his duties and the Motion to enforce settlement was denied. Frank S. Buck had filed a lien against Baltimore, which was also granted at this hearing (**at app. M p.38A**) See: **Sarah Silver et al., Appellants-Respondents, v. Parkdale Bake Shop, Inc., Respondent-Appellant, and Dorothy Zenker, Respondent Appellate Division of the Supreme Court of the State of New York, First Department. April 21, 1959.** Plaintiffs should not have been required to secure an affidavit from their former attorney, for whom they have substituted other counsel. **Buck's is in violation of the following guidelines below, by his actions:**

The Ethical Guidelines for Settlement Negotiations of the American Bar Association states as follows:

Model Rule 1.2(a) "A lawyer shall abide by a client's decision whether to accept an offer of settlement of a matter." If a mutually agreeable and proper course of action does not result from the consultation, the lawyer must withdraw from representing the client in accordance with Model Rule 1.16, for the lawyer may not pursue a course of action that would, on the one hand, 7 violate the duties required of counsel by Model Rule 3.3, or, on the other hand, defy the client's directives or wishes". 3.3.1 Adherence to Ethical and Legal Rules A lawyer must comply with the rules of professional conduct and the applicable law during settlement negotiations and in concluding a settlement, and must not knowingly assist or counsel the client to violate the law or the client's fiduciary or other legal duties owed to others.

Baltimore will show later how all this was a conspiracy between the kangaroo(circuit) court and the attorneys. But right now, I will try to stay on course. Buck is also in violation of the MBA Code below, by his actions:

See **MBA Model Code of Professional Responsibility:**

EC 7-1 The duty of a lawyer, both to his client¹ and to the legal system, is to represent his client zealously ² within the bounds of the law, EC 7-7 In certain areas of legal representation not affecting the merits of the cause or substantially prejudicing the rights of a client, a lawyer is entitled to make decisions on his own. But otherwise the authority to make decisions is exclusively that of the client and, if made within the framework of the law, such decisions are binding on his lawyer. As typical examples in civil cases, it is for the client to decide whether he will accept a settlement offer or whether he will waive his right to plead an affirmative defense.

See also A940 So.2d 297 Court of Civil Appeals of Alabama, Anna LOVE v. R. Bruce HALL.2040834. April 14, 2006. Where a client terminated her counsel and the client retained other counsel at a reduced contingent-fee rate in October 2004, and the client ultimately received checks in the amount of the insurers' policy limits after new counsel had been retained.

During the litigation of case (2013-900993), during the discovery, Baltimore subpoenaed State Farm (The insurance company of the other accident that she was in on or around May 1, 2013.) When Baltimore, received the documents, I noticed that a release had been signed with my name on it. Baltimore knew that it was not her signature and she signed an affidavit stating that it was not her signature. Baltimore, then filed this litigation in the above styled case and it was dismissed. Buck filed a Motion to deny Baltimore's Motion to Reconsider, under **ARCP 12(b)(6)** 79 days after Baltimore filed the Motion to Reconsider (at **App.Lp33A**) In which the order (at **App.Jp.31A**) states that Baltimore filed her Motion to Reconsider on January 15, 2016, (at the hearing) in which she filed on September 2, 2015 (at **App.Lp.33A**). For failure to state a claim, but under **ARCP 12(b)(6)** it states as follows:

ARCP 12(b) (6) motion is untimely and some other vehicle, such as a motion for judgment on the pleadings or for summary judgment must be used to challenge the failure to state a claim for relief.

The trial judge erred when she committed fraudulent suppression when dismissing this action. Acceptance by the court of a **12(b)(6)** motion after the close of the pleadings **[ARCP Rule 7(a)]** is technically and procedurally erroneous.

The trial court gives no real indication of the basis of the decision except that she relied upon Buck's "because I said so" defense and that she would make a "decision and mail it out". Because there were no arguments of counsel and pro se litigant (Baltimore); Baltimore was not allowed to get a word in." (Emphasis added.)

See: Garrett v. Hadden, 495 So.2d 616, 617 (Ala.1986); Hill v. Kraft, Inc., 496 So.2d 768, 769 (Ala. 1986) Dismissals under Rule 12(b)(6) should be granted sparingly, and such a dismissal is proper only when it appears beyond doubt that the plaintiff can prove no set of facts in support of the claim which would entitle him or her to relief. Committee Comments to Rule 8, Ala.R.Civ.P.; Roberts v. Meeks, 397 So. 2d 111 (Ala.1981)

The strong policy of resolving legal issues on the merits must yield when a defaulting party has committed intentional acts that are contrary to procedural rules.

Carlucci v. Piper Aircraft Corp., 102 F.R.D. 472 (S.D.Fla. 1984); Agio Industries, supra, at 342.

The greatest difficulty in deciding whether to grant or to deny a motion to set aside a default judgment arises in those cases, falling in the expansive area between the two extremes—one extreme characterized by the presentation of a clearly frivolous defense or no defense at all and by intentional and flagrant abuse of procedural rules, which come together to warrant disposition of the case by default judgment, and the other extreme characterized by inadvertent oversight coupled with an obviously meritorious defense, which come together to warrant disposition by trial. See: Kirtland v. Fort Morgan Auth. Sewer Serv., Inc., 524 So. 2d 600 – Ala: Supreme Court 1988 524 So.2d 600 (1988).

Baltimore also seeks relief from a default judgement from the appropriate standard of review under **Rule 12(b)(6)** [Ala. R. Civ. P.] is whether, when the allegations of the complaint are viewed most strongly in the pleader's favor, it appears that the pleader could prove any set of circumstances that would entitle her to relief. **Raley v. Citibanc of Alabama/Andalusia**, 474 So.2d 640, 641 (Ala.1985). In making this determination, this Court does not consider whether the plaintiff will ultimately prevail, but only whether she may possibly prevail. **Fontenot v. Bramlett**, 470 So.2d 669, 671 (Ala.1985).

Against an ARCP 12(b)(6) motion to dismiss, a complaint must be construed in favor of the pleader and should not be dismissed unless it appears beyond all doubt that the plaintiff can prove no facts in support of the claim which would entitle him to relief under some legally cognizable theory. **Conley v. Gibson**, 355 U.S. 41, 78 S. Ct. 99, 2 L. Ed. 2d 80 (1957).

Baltimore still contends that her complaint was sufficient, and she did not receive the notice of the order made to dismiss with prejudice. Baltimore offered an affidavit in both cases (this case and **2013-900993**) (about the forgery) but was sanctioned for filing frivolous claims. Baltimore, then notified, Curt Baggett and he perused the signatures and with his expertise, he confirmed that the signature was indeed a forgery. Also attached is a receipt, Notarized letter of opinion and exhibits and his credentials. (at App.Op.54A-70Aage). The court erred when they did not let Baltimore exercise her constitutional rights, which posed a federal question in this case.

See: Amendment XIV Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

See also: Ala. Const. of 1901, §10 & 13, which states:

Right to prosecute civil cause. That no person shall be barred from prosecuting or defending before any tribunal in this state, by himself or counsel, any civil cause to which he is a party. §13 Courts to be open; remedies for all injuries; impartiality of justice. That all courts shall be open; and that every person, for any injury done him, in his lands, goods, person, or reputation, shall have a remedy by due process of law; and right and justice shall be administered without sale, denial, or delay. See: Kirtland v. Fort Morgan Auth. Sewer Serv., Inc., 524 So. 2d 600 –

Ala: Supreme Court 1988 524 So.2d 600 (1988) 86-1298. Supreme Court of Alabama. April 1, 1988. Article 1, §§ 6 and 13, Alabama Constitution of 1901, by guaranteeing the due process rights of citizens, and Article 1, § 10, by holding inviolate a person's right to defend himself in a civil action to which he is a party, elucidates this state's commitment to protect an individual's right to attain an adjudication on the merits and to afford litigants an opportunity to defend.

See also: TELLABS, INC., et al., Petitioners, v. MAKOR ISSUES & RIGHTS, LTD., et al. 127 S.Ct. 2499 (2007) 551 U.S. 308 No. 06-484. To determine whether the plaintiff has alleged facts giving rise to the requisite “strong inference,” a court must consider plausible nonculpable explanations for the defendant’s conduct, as well as inferences favoring the plaintiff. The inference that the defendant acted with scienter need not be irrefutable, but it must be more than merely “reasonable” or “permissible”—it must be cogent and compelling, thus strong in light of other explanations. A complaint will survive only if a reasonable person would deem the inference of scienter cogent and at least as compelling as any plausible opposing inference one could draw from the facts alleged. Pp. 11–13.

On or around August 11, 2015, Baltimore went to the kangaroo (circuit) court (2013-900993) for trial. During the trial Baltimore knew that the defense was conspiring with Buck but couldn't prove until now. The judge stated that he stated that **I think** she said ok.(at App.Mp.42A) The judge states my sons told him that Baltimore should settle the case.(at App.Mp.41A) Attached is an affidavit from my son, Roderick Baltimore (was there as my witness) stating that he did not have a power-of-attorney to make such of a decision. (at App.Mp.47A), where my nephew, (was there as my witness) Marcus Baltimore, states that he heard one of the attorney's asked Frank S. Buck, “**was he going to give Baltimore the check today or make her wait two weeks?**” (at App.Mp.46A) Baltimore contends that Buck had forged her signature, just like he did for the other accident in question.

Now why would they ask that, if the case had not already settled? Buck shouldn't even should have had the checks, because he was not Baltimore's attorney, and Baltimore did not settle while Buck was her attorney. The excerpt from transcript should confirm a conspiracy. Mr. Peddy (attorney for Jon Byron Nelson) tells the court,

We have got to figure out how to fund this settlement so do we send Ms. Baltimore her portion or what are we going to do? Buck began to talk It's my— then he is cut off by the court and states that Buck is not the attorney of record. (Now he was not the attorney, why throughout the hearing but Buck answered, the court as if, he was the attorney of record?) Mr. Peddy then states, that's right, that's why I am asking. The kangaroo (circuit) court then states fund it according to the terms, however, the settlement says it's funded. (This statement should confirm that this settlement was not done in court, but it was done fraudulently) (Also reported App L pg). The court also stated that the court is going to accept This agreement for whatever force is necessary.

TheLaw.Com Law Dictionary and Black's Law Dictionary 2ED. states that a kangaroo court is an unprofessional or biased court such as one where a trial or proceeding in court has a practically predetermined outcome. It is also referred to as a court that has abused the legal rights of one party, e.g. a judge who continues to overrule valid legal objections made by one party.

Baltimore contends that even if she had not gotten sick at the hearing in case (2013-900993) that the jury was paid \$750 (per transcript) (atApp.atLp36A) and Baltimore only struck the jury and the jury was not even in the courtroom.

Baltimore also contends that the jury was pre-picked by the court and attorneys to guarantee that Baltimore would lose. Buck's and all the attorneys involved advised, "Baltimore (at every hearing and almost daily by Buck) that if she did not settle, that she would receive nothing".

See: Chapman v. California, 386 US 18 - Supreme Court 1967 386 U.S. 18 (1967) CHAPMAN ET AL. v. CALIFORNIA. No. 95. Supreme Court of United States. Argued December 7-8, 1966. Decided February 20, 1967. CERTIORARI TO THE SUPREME COURT OF CALIFORNIA.

Guaranteed rights is every bit as much of a federal question as what federal constitutional provisions themselves mean, what

they guarantee, and whether they have been denied. With faithfulness to the constitutional union of the States, we cannot leave to the States the formulation of the authoritative laws, rules, and remedies designed to protect people from infractions by the States of federally guaranteed rights.

C. THE APPELLATE COURT PROCEEDING

The Supreme Court of Alabama offered a judgment of no opinion on March 9, 2018 (at App.Ep.15A). The court-imposed sanctions and ordered Baltimore to pay Buck's law firm \$4000 for filing a frivolous claim. The judgment of no opinion overlooks. The defense stated that the appeal should be dismissed because it was untimely, which was filed approximately twenty-two (22) months after the order. Baltimore moves this Honorable Court to uphold Federal Rules of Civil Procedure FRCP 60(c)(1) that states as follows:

(c) TIMING AND EFFECT OF THE MOTION.

(1) *Timing.* A motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

And Alabama Rule of Civil Procedure (ARCP) 60B Motion for fraud, that states as follows:

Where a judgment is attacked by motion for fraud, newly discovered evidence, or mistake, etc., the motion must be made within a reasonable time and not more than four months after entry of the judgment. See 7 Moore's Federal Practice, ¶ 60.28(2) (2d ed. 1971), applying the Federal Rule which affords one year. Attack on the judgment by an independent proceeding, for whatever cause, must be made within three years after entry of the judgment; this limitation, which does not appear in the federal rule, has been added to conform to present Alabama practice, as codified in Equity

Code of Alabama 1975, § 6-2-3 contained in:
Code of Alabama 1975, § 6-2-3 which provides that in actions seeking relief on the ground of fraud where the statute has created a bar, the claim must not be considered as having accrued until the discovery by the aggrieved party of the fact constituting the fraud, after which he must have two years within which to prosecute his action. See, *Hammond v. City of Gadsden* 493 So. 2d 1374 - Ala: Supreme Court 1986 where: "Misrepresentations of a material fact made willfully to deceive, or recklessly without knowledge, and acted on by the opposite party, or if made by mistake and innocently and acted on by the opposite party, constitute legal fraud." Regardless of whether the representations were made willfully, recklessly, or mistakenly, it has been held: (1) that there must be a false representation; (2) that the false representation must concern a material existing fact; (3) that the plaintiff must rely upon the false representation; and (4) that the plaintiff must be damaged as a proximate result.

See Also: *Sophie RADACK and Charles Radack, Plaintiffs-Appellees, v. NORWEGIAN AMERICA LINE AGENCY, INC., and DeNorske Amerikalinje, A/S, Defendants-Appellants.* 3182d538 (1963) No.271, Docket 27954. After joinder of issue, the case was called on the Special Review Calendar and was dismissed on June 26, 1961, for lack of prosecution by order of the Hon. Walter Bruchhausen, pursuant to Rule 23 of the General Rules of that Court. On September 25, 1962, some fifteen months later, plaintiffs moved to vacate the order of dismissal and their motion was granted (opinion filed October 19, 1962) by the Hon. Jacob Mishler under Rule 60(b) (6). A subsequent order of Judge Mishler, dated November 16, 1962, ordered that the case be restored to the Court's docket and denied defendants' request that the case be certified for immediate appeal to this Court. 28 U.S.C. § 1292(b). The question for review involves the application of Rule 60(b), Fed.R.Civ. Pro., providing relief from judgments or orders. That rule in relevant part provides that:

"(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just; the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable 541*541 neglect; * * * or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a

reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken."

The lower court erred, ignoring the "new evidence" proving that Buck conspired with both attorneys, and the judge in case **(2013-900993)**. Instead, Baltimore was sanctioned for filing a frivolous case. The court relied on Buck's "because I said so" testimony without him offering **any** sworn testimony.

After, Baltimore lost the case in the Supreme Court, Baltimore received several documents that was supposed to come from the kangaroo (circuit) court case **(2013-900993)**. Now, after Baltimore lost, there was nothing from the Supreme Court stating to go back to the Circuit Court of Jefferson County. But Baltimore received documents that the check would be held by that court and remain there. Then she received Acknowledgment of Satisfaction, which came from Virginia F. Gambacurta's (attorney for Kellogg's) office. Right after, Baltimore signed for the check, (Baltimore states under penalty of perjury that the statements below are true and correct):

Virginia F. Gambacurta's stated and confirmed that Her, Peddy (Attorney for John Byron Nelson) and Buck was working together. She stated that, "I (Baltimore) gave them a run for their money." That, "I will never see her again." Virginia F. Gambacurta, also stated, how Frank called her to have Baltimore sign. She stated, it was all his idea. She said, you know how it gets when he gets an idea in his head, how he will call and/or text. And I agreed. (Baltimore had no idea what she was about to tell her, she just took notes every time she left the room).

Baltimore notes **(atAppPp.76A)** Keep in mind the wording on the Acknowledgment of Satisfaction, states that Baltimore was satisfied (with the settlement). Another one stated that the lien has been satisfied. All these documents have one thing in common, they have the court heading and they do not have a seal and/or a stamp where it was electronically filed with the court, nor have they been signed.**(AtAppPp72A-77A)** That's the only reason Baltimore had to jeopardize the

first case to show the collusion and/or fraud when signed this document. (It was notarized, but did not show any stamps from the court, and shows court heading). Baltimore contends that Buck settled that case and was given her what he wanted her to have just like the other case. It also, shows the conspiracy and fraud.

REASONS WHY CERTIORARI SHOULD BE GRANTED

- I. This case is consisting of extrinsic and intrinsic fraud under Rule **ARCP 60 (b)(3)** and **FRCP 60 (b)(3)** which should vacate the lower courts judgement, and writ of certiorari should be granted.

Fraud upon the court has been recognized for centuries as a basis for setting aside a final judgment, sometimes even years after it was entered.

See **Atlas Co. v. Hartford Co., 322 U.S. 238, 245 (1944)**

- II. The new evidence of **ARCP** and **FRCP 60(b)(2)**, should be enough to vacate the judgment and writ of certiorari should be granted.

Where Baltimore received documents that did not have any court stamps or electronically filed stamped, shows conspiracy and or collusion. Buck is in violation of **Alabama Code Title 13A. Criminal Code § 13A-9-2** The confirmation of forgery, by Curt Baggett shall grant a writ of certiorari all by itself.

- III. This case has a federal question, under rules of the **Supreme Court** of the United States, **10 (a)(c)** and states as follows:

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power; a state court or a United States court of appeals decided an important question of federal law that

**has not been, but should be, settled by this Court, or
has decided an important federal question in a way that
conflicts with relevant decisions of this Court.**

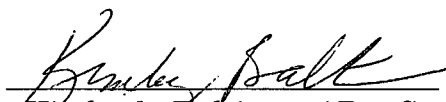
And is in violation of Baltimore's **XIV Amendment rights under
Section I.** and under violation of Baltimore's constitutional rights under
Ala. Const. of 1901, § 13. The fact that this is a federal question shall
grant Baltimore Writ of Certiorari.

- IV. Buck's. "because I said so" defense was accepting by both courts (this and
2013-90093), because They both were kangaroo courts and were in collusion
with Buck to cover up his (and their) fraudulent acts. The main reason a Writ
of Certiorari should be granted.
- V. Not only shall the Writ of Certiorari be granted, the judgment shall be reversed.
The Supreme Court of Alabama also offered a judgment for Baltimore to pay
attorney fees for filing a frivolous law suit. The simple fact that the respondents
are guilty of fraudulent deceit, and confirmation of a conspiracy and forgery (in
this case and in case **(2013-900993)** should be reversed and remanded with
instructions.

CONCLUSION

For the foregoing reason, Baltimore respectfully submit that this Petition for Writ of Certiorari should be granted. The Court may wish to consider reversal and remand with instructions of the decision and/or render judgment for Baltimore, and Baltimore further prays that this Honorable Court exercises its inherent power and, remand this case under Alabama Code 1975, § 6-3-21.1 and change the venue of said case and for such other relief as might be just. In the alternative, the court should clarify that the kangaroo (circuit) court must address how to litigate these individual issues and that the frivolous claims must be reversed if the process cannot be structured that accommodates and protects Baltimore's due process rights.

Respectfully Submitted,


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June 4, 2018