No._____

IN THE

SUPREME COURT OF THE UNITED STATES

DeAndre' Russell, *Petitioner pro se'*

v.

Redstone Federal Credit Union/Anthony Ingegneri, et. Al., *Respondent*

Re-Submitted

August 11, 2018

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

DeAndre' Russell, Petitioner pro se'

4882 James Street

Huntsville, Alabama 35811

(256) 851-6658

QUESTIONS PRESENTED FOR REVIEW

I.

ON JANUARY 10, 2018 THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT DENIED PETITIONER'S REQUEST FOR EN BANC REHEARING STATING THAT; THE JUSTICES DID NOT TAKE A VOTE. **THE QUESTION(S) PRESENTED FOR REVIEW ARE FOUR-FOLD: FIRST, HAS THE REFUSAL TO PROPERLY ADJUDICATE THIS CASE, WITH A FINDING OF FACTS AND A CONCLUSION OF LAW, BY THE ELEVENTH CIRCUIT, ON (4) DIFFERENT APPEAL(S), CONCERNING THIS (2011) BANKRUPTCY, PRESENTED A PREJUDICE AND BIAS AGAINST PETITIONER PRO SE'? SECOND, IF THERE WAS A BIAS, WOULD THEY THEN BE DISQUALIFIED IN GRANTING OR DENYING EN BANC CONSIDERATION, OF THIS CASE? THIRD, IF SO, WOULD THESE ACTIONS HAVE VIOLATED PETITIONER PRO SE' 1ST 5TH AND 14TH AMENDMENT RIGHTS? FOURTH, WOULD THIS REQUIRE A CHANGE IN RULE 46(C).**

II.

ON OCTOBER 3, 2017 THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT RULED TO DENY PETITIONER PRO SE' (DEC. 2013) FILED LAWSUIT OF CASE NO. 16-15117, ON GROUNDS OF THE (2011) CONFIRMED BANKRUPTCY HAVING RES JUDICATA EFFECT AND PETITIONER'S CASE DID NOT MEETING THE LEVEL OF 28§1331 ADJUDICATION, DESPITE THERE BEING NEW FACTS AND EVIDENCE THAT WAS PRESENTED IN AN AMENDED WITH ADDITIONAL FINDINGS, RULE 52(B) OF THE FILED LAWSUIT BY PETITIONER PRO SE, THAT CONTAINED A DISCOVERY OF A FALSE CLAIM THAT WAS INSERTED BY STATE OFFICIALS FROM THE ALABAMA

DEPT. OF REVENUE FOR WHICH PETITIONER WAS DENIED DUE PROCESS IN THAT (2011) BANKRUPTCY, OF PROVING THAT HE DID NOT OWE THIS DEBT, ALONG WITH THE FACT THAT THESE NEW FACTS AND EVIDENCE WAS NOT MADE KNOWN IN ANY OF THE APPEALS FROM THE (2011) BANKRUPTCY THAT STARTED FROM THE DISTRICT COURT AND ESCALATED TO THIS U.S. SUPREME COURT, WHEREBY THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT HAS MADE NO MENTION OF THESE NEW FACTS AND EVIDENCE IN THEIR RULING. **THE QUESTIION PRESENTED FOR REVIEW ARE THREE-FOLD; FIRST, DID THE ELEVENTH CIRCUIT GREATLY ERR IN NOT ADJUDICATING THESE FACTS, WHEN IT WAS BROUGHT TO THEIR ATTENTION? SECOND, DID THESE NEW FACTS AND EVIDENCE SPOIL THE RES JUDICATA EFFECT OF THE (2011) BANKRUPTCY AND ALL APPEALS THERE AFTER, PRIOR TO THE FILING OF THE DECEMBER 31,2013 FILED LAWSUIT? AND THIRD, DID THESE ACTIONS VIOLATE PETITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS.**

III.

ON FEBRUARY 21, 2018, THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT RULED IN CASE NO. 16-16943 THAT THE ADVERSARY PROCEEDING THAT PETITONER PRO SE' FILED IN HIS (2014) BANKRUPTCY AGAINST STATE OFFICIALS OF THE ALABAMA DEPT. OF REVENUE, FOR VIOLATIONS OF HIS PROPERTY RIGHTS (14TH AMENDMENT) (NON-CORE ISSUE), FOR A PATTERN OF FILING A FALSE CLAIM, IN NOW TWO SEPARATE BANKRUPTCY PROCEEDING(S), WAS PROPERLY DISMISSED BY THE BANKRUPTCY JUDGE AND THE DISMISSAL, BY THE BANKRUPTCY JUDGE WAS PROPERLY

AFFIRMED BY THE DISTRICT COURT. **THE QUESTION(S) PRESENTED FOR REVIEW ARE THREE-FOLD: FIRST, DID THE ELEVENTH CIRCUIT GREATLY ERR IN ITS DECISION TO AFFIRM THE DECISION BY THE DISTRICT COURT TO ALLOW A BANKRUPTCY JUDGE TO DISMISS A NON-CORE CASE? SECOND, DID THE COMPLAINT FILED, BY PETITIONER PRO SE' AGAINST STATE OFFICIAL(S) FOR FILING A FALSE CLAIM IN TWO SEPARATE BANKRUPTCY(S), MEET THE REQUIREMENTS FOR FILING A TORT CLAIM, AGAINST STATE OFFICIALS CONTINUAL PATTERN OF IMPROPER CONDUCT, IN FEDERAL COURT? AND THIRD, DID THESE ACTIONS VIOLATE PETITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?**

IV.

ON AUGUST 17, 2016, THE HON. KAREN O' BOWDRE, CHIEF DISTRICT JUDGE STATED IN HER MEMORANDUM OPINION THAT PETITIONER DID NOT APPEAL THE DENIAL OF CONFORMATION IN THE (2014-2015) BANKRUPTCY. SHE FURTHER STATED THAT PETITIONER ALLEGED DISTRICT COURT COMMITTED ERROR IN SEPARATE COURT, FOR WHICH SHE DID NOT HAVE JURISDICTION TO REVIEW, **THE QUESTION(S) PRESENTED FOR REVIEW ARE FOUR-FOLD, FIRST, DID THE HON. KAREN O' BOWDRE GREATLY ERR, IN STATING THAT THE DENIAL OF THE CONFIRMATION WAS NOT APPEALED WHEN THE EVIDENCE IS IRREFUTABLE THAT AN INTERLOCUTORY APPEAL WAS MADE AND PAID FOR, IN FULL TO THE FEDERAL DISTRICT COURT? SECOND, WAS IT IMPROPER FOR THE HON. KAREN O' BOWDRE AND OTHER DISTRICT COURT**

JUDGES, WHO WAS PRESENTED WITH THIS APPEAL TO IGNORE THE 28 SECTION 1631 JURISDICTION REQUESTS BY PETITIONER WHEN PETITIONER PRO SE' MADE KNOWN IN HIS BANKRUPTCY INTERLOCUTORY APPEAL, THAT HE HELD THE HON. C. LYNNWOOD SMITH'S JANUARY 17, 2014 ORDER, RESPONSIBLE FOR THE 2014-15 BANKRUPTCY AND THAT HE WANTED HIS BANKRUPTCY APPEAL TO BE PLACED IN THE COURT THAT COULD ADJUDICATE THIS SUBJECT MATTER? AND THIRD, DID THE HON. KAREN O' BOWDRE, GREATLY ERR IN ALLOWING A BANKRUPTCY JUDGE, THE HON. CLIFFORD R. JESSUP TO DISMISS A NON-CORE CASE THAT CONTAINED A COMPLAINT OF CONSTITUTIONAL VIOLATIONS? AND FOURTH, DID THESE ACTIONS VIOLATE PETITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?

V.

ON MAY 20, 2016 THE HON. HARWELL G. DAVIS MAGISTRATE JUDGE, FOR THE NORTHEASTERN DISTRICT OF ALABAMA, PRESENTED A REPORT AND RECOMMENDATION TO DISMISS PETITIONER PRO SE' DEC. 31, 2013 LAWSUIT ON GROUNDS OF RES JUDICATA TO THE HON. ABDUL K. KULLON, WHO ON JUNE 6, 2016, AFFIRMED IN HIS MEMORANDUM OPINION, THE MAGISTRATE JUDGE'S RECOMMENDATION AND DISMISSED THE DEC. 31, 2013 LAWSUIT ON GROUNDS OF RES JUDICATA. ON JUNE 23, 2016, THE HON. ABDUL K. KULLON ALSO DENIED PETITIONER PRO SE' MOTION TO AMEND OR MAKE ADDITIONAL FACTUAL FINDINGS UNDER RULE 52(B) THAT PRESENTED NEW FACTS AND A WORSENING OF THE EARLIER CONDITIONS, CONCERNING THE NAMED PARTIES OF THE DEC. 31,

v.

2013 FILED LAWSUIT THAT WENT TO THE HEART OF THE ISSUE OF RES JUDICATA. **THE QUESTIONS PRESENTED FOR REVIEW ARE THREE-FOLD: FIRST, DID THE HON. ABDUL K. KULLON GREATLY ERR IN REFUSING TO ADJUDICATE THE EVIDENCE PRESENTED OF NEW FACTS AND A WORSENING OF THE EARLIER CONDITIONS, NAMELY THAT OF THE DISCOVERED FALSE CLAIM THAT WAS FILED IN THE 2011 BANKRUPTCY, FOR WHICH PETITIONER WAS FORCED TO PAY THAT FALSE CLAIM IN THE CONFIRMED (2011) BANKRUPTCY? SECOND, DID THE DISCOVERED FALSE CLAIM THAT WAS FILED IN THE 2011 AND NOW THE 2014 BANKRUPTCY PRESENT NEW FACTS AND EVIDENCE AND A WORSENING OF THE EARLIER CONDITIONS? AND THIRD, DID THESE ACTIONS VIOLATE PETITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?**

VI.

ON JANUARY 17, 2014, THE HON. C. LYNNWOOD SMITH DISTRICT COURT JUDGE, DISMISSED PETITIONER PRO SE' DEC. 31, 2013 COMPLAINT AND SUMMONS, MOTION TO AMEND, AND REQUEST FOR A STAY, ON GROUND OF RES JUDICATA, AND PRESENTED THIS ORDER ON A DAY WHEREBY PETITIONER PRO SE, WAS DENIED THE RIGHT TO APPEAL HIS ORDERS, WITHOUT FIRST LOSING EVERYTHING THAT HE OWNED, FOR WHICH PETITIONER CLAIMS THAT THESE ACTIONS FORCED HIM TO FILE ANOTHER CHAPTER 13 REORGANIZATION, IN ORDER TO SAVE HIS HOME FROM THE VERY DEFENDANT(S) OF THE FILED LAWSUIT THAT CAUSED HIM TO BE IN THE POSITION TO LOSE HIS HOME, IN THE FIRST PLACE. **THE QUESTION(S) PRESENTED FOR REVIEW ARE: FIRST, WERE THE ABOVE ACTIONS BY THE HON. C.**

LYNNWOOD SMITH IMPROPER? SECOND, DID PETITIONER PRO SE' HAVE THE RIGHT TO PRESENT THESE ACTIONS ON APPEAL FOR APPELLATE REVIEW? THIRD, WAS RES JUDICATA PROPER, IN THIS CASE? FOURTH, WERE THESE ACTIONS A MAJOR FACTOR IN PETITIONER PRO SE' HAVING TO FILE AGAIN FOR CHAPTER 13? AND FINALLY, FIVE, DID THESE ACTIONS VIOLATE PETITITONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?

VII.

IN APPROX. APRIL OF 2015, THE HON. CLIFFORD R. JESSUP WAS APPOINTED BANKRUPTCY JUDGE TO THE NORTHERN DISTRICT OF ALABAMA IN ORDER TO REPLACE THE HON. JACK CADELL. IN APRIL OF 2015, THE HON. TAMARA O' MITCHELL, TO WHOM THIS CASE WAS ORIGINALLY TRANSFERRED TO, IN JANUARY 17, 2014, (BECAUSE PETITIONER PRO SE' MOTIONED THE COURT TO HAVE THE HON. JACK CADELL, (BANKRUPTCY JUDGE) PHILLIP A. GEDDES AND MICHAEL FORD (BANKRUPTCY TRUSTEES) RECUSED FROM THIS BANKRUPTCY, WHICH WAS GRANTED ON JANUARY 17, 2014), HAS NOW TRANSFERRED THE CASE BACK TO THE BANKRUPTCY COURT IN THE NORTHERN DISTRICT OF DECATUR, ALABAMA. THE CASE WAS NOW RE-ASSIGNED TO THE HON. CLIFFORD R. JESSUP WHO, ON JUNE 1, 2015, SCHEDULED AND CONDUCTED HIS FIRST HEARING, ON THESE MATTERS, FOR WHICH PETITITIONER PRO SE' ACCUSED HIM OF BIAS, BECAUSE HE STATED SEVERAL TIMES IN OPEN COURT THAT THE DEFENDANTS, OFFICIALS OF THE ALA. DEPT. OF REVENUE MADE A MISTAKE, IN FILING THE FALSE CLAIM, AND REFUSED TO ALLOW THE DEFENDANTS TO ACCOUNT FOR THEIR

ACTIONS THEMSELVES. IN JULY OF 2015, THE HON. CLIFFORD R. JESSUP ORDERED PETITIONER AND ATTORNEY FOR THE STATE OFFICIALS TO PRESENT HIM WITH AN ARGUMENT ON THE CASE OF STERN V. MARSHALL AND WELLNESS INT. BY AUG. 24, 2015 TO DETERMINE WHETHER THE PARTIES WOULD EXCEPT HIM ADJUDICATICATING A TORT CLAIM WITH A DEMAND FOR JURY OF A NON-CORE CASE. ON AUG. 3, 2015 THE HON. CLIFFORD R. JESSUP DISMISSED PETITIONER PRO SE' BANKRUPTCY, PURSUANT TO SECTION 1325, STATING THAT; PETITITIONER DID NOT FILE HIS ALABAMA TAX RETURNS WITH THE STATE ON TIME, (EVEN THOUGH HE HAD JUST COMPLETED THESE SAME TAX RETURNS, FOR THE IRS, AND REQUESTED A LITTLE MORE TIME TO TRANSFER THESE RETURNS TO STATE FORMS) ALONG WITH GROUNDS THAT PETITIIONER DID NOT FILE THE BANKRUPTCY IN GOOD FAITH. ON AUG. 24, 2015 THE HON. CLIFFORD R. JESSUP THEN DISMISSED THE ADVERSARY PROCEEDING, BASED ON THE DENIAL OF THE CONFIRMATION. **THE QUESTION(S) PRESENTED FOR REVIEW ARE: FIRST, WAS IT PROPER FOR THE HON. CLIFFORD R. JESSUP TO DENY CONFIRMATION BASED ON UNFILED TAX RETURNS FROM A CREDITOR, (STATE OF ALA. DEPT. OF REVENUE) FOR WHICH STATE OFFICIALS OF THIS VERY TAX AGENCY, WAS BEING SUED FOR PRESENTING FALSE TAX CLAIMS IN THIS VERY COURT? SECOND, BASED ON THE FILED COMPLAINT BY PETITIONER PRO SE', WAS THERE A NEED TO PRESENT THE BANKRUPTCY JUDGE WITH AN ARGUMENT OF STERN V. MARSHALL AND WELLNESS INT.? IN OTHER WORDS, DID PETITIONER PRO SE' CASE MEET THE REQUIREMENTS OF SUA SPONTE REFERENCE TO THE DISTRICT COURT?**

THIRD, WAS IT PROPER FOR THE BANKRUPTCY JUDGE TO DISMISS A NON-CORE CASE, WITH A DEMAND FOR A JURY TRIAL AND A TORT CLAIM? FOURTH, DID THE BANKRUPTCY JUDGE HAVE AUTHORITY AND JURISDICTION OVER THE CLAIM OF REDSTONE FEDERAL CREDIT UNION, WHEN THE DEC. 31, 2013 FILED LAWSUIT, FOR WHICH THEY WERE PARTIES TO, WAS JUST REMANDED BY THE U.S. COURT OF APPEALS FOR THE ELEVENTH CIRCUIT, BACK TO THE FEDERAL DISTRICT COURT, ON A COMPLAINT OF VIOLATIONS CONCERNING THE TWO-CLAIMS THAT THEY HAD INJECTED INTO THIS BANKRUPTCY? AND FIFTH, DID THESE ACTIONS VIOLATE PETITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?

VIII.

ON JANUARY 17, 2014, THE HON. TAMARA O' MITCHELL ACCEPTED JURISDICTION OF THIS CASE. IN MARCH OF 2014 PETITIONER PRO SE' FILED OBJECTIONS TO THE CLAIMS OF REDSTONE FEDERAL CREDIT UNION IN ORDER TO REMOVE THEIR CLAIMS FOR RIGHT TO PAYMENT, DUE TO ALLEGED INTRINSIC/EXTRINSIC FRAUD, FOR WHICH DEBTOR AND THE CREDITOR WERE BOTH TOLD BY THE BANKRUPTCY JUDGE, NOT TO ASK HER FOR NOTHING CONCERNING THESE INSERTED CLAIMS. IN JULY AND AUG. OF 2014, PETITIONER ALSO MADE KNOWN HIS OBJECTION OF NOT OWING CLAIM NO. 6, THAT WAS INSERTED BY STATE OFFICIALS OF THE ALA. DEPT. OF REVENUE AND FURTHER STATED THAT HE WAS PREPARED TO IMMEDIATELY PROVE IT. IN AUGUST OF 2014 THE HON. TAMARA O' MITCHELL INSTRUCTED PETITIONER PRO SE' TO GO AND SEE IF HE COULD WORK SOMETHING OUT WITH THIS CREDITOR CONCERNING

ix.

THIS CLAIM OF FALSE DEBT, THAT HE DID NOT OWE, FOR WHICH THIS CREDITOR (AFTER PETITIONER FINALLY HAD A MEETING WITH AT THEIR OFFICE, ON DEC. 31, 2014) IMMEDIATELY ON (JAN. 5, 2015) WITHDREW THE CLAIM. IN JANUARY 28, 2015, PETITIONER OBJECTED TO THE WITHDRAW OF CLAIM NO. 6, AND REQUESTED A HEARING TO PRESENT HIS ARGUMENT WHY THE WITHDRAW WAS IMPROPER, FOR WHICH HE WAS NEVER GIVEN A HEARING. **THE QUESTIONS PRESENTED FOR REVIEW ARE: FIRST, DID THE HON. TAMARA O' MITCHELL HAVE THE AUTHORITY GIVEN TO HER PURSUANT TO SECTION 105(a) TO PROPERLY CONDUCT THIS BANKRUPTCY? SECOND, WAS THE OBJECTION TO CLAIM 6, FILED BY THE ALA. DEPT. OF REVENUE AND THAT WAS MADE BY PETITIONER IN JULY AND AUG. OF 2014, SUFFICIENT FOR PREVENTING A WITHDRAW (4) MONTHS LATER, BY CREDITOR? THIRD, WAS IT IMPROPER FOR THE HON. TAMARA O' MITCHELL TO ADVISE PETITIONER PRO SE' IN THE AUG. OF 2014 HEARING TO GO AND SEE IF HE COULD WORK OUT THE CLAIM OF FALSE DEBT WITH A CREDITOR, WHO WAS NOT PRESENT, AT THE HEARING? AND FOURTH, DID THESE ACTIONS VIOLATE PTITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?**

ix

ON DECEMBER 20, 2011, THE HON. JACK CADELL PRESENTED AN ORDER REFUSING TO ALLOW DEBTOR/ PETITIONER AN ADVERSARY PROCEEDING CONCERNING THE ALLEGED DISCOVERED INTRINSIC/EXTRINSIC FRAUD, COMMITTED BY THE CREDITOR REDSTONE FEDERAL CREDIT UNION AND THEIR COLLECTION AGENTS ON GROUNDS THAT THE STATE COURT DEFAULT JUDGMENT

WAS PARAMOUNT AND THAT RES JUDICATA APPLIED, TO A DEFAULT JUDGEMENT, (YOU HAD YOUR CHANCE, NO RELITIGATING)? THE RECORD ON APPEAL WILL FURTHER DISPLAY THAT PETITIONER HAD TO REPRESENT HIMSELF AND HIS ESTATE, IN THIS (2011) BANKRUPTCY, BECAUSE NEITHER HIS ATTORNEY(S) NOR THE TRUSTEE(S) WOULD INQUIRE INTO THE VALIDITY OF THE CONTRACTS, CONCERNING THESE CONSUMER DEBTS. ON JANUARY 17, 2012, THE HON. JACK CADELL PRESENTED AN ORDER TO CONFIRM THE (2011) BANKRUPTCY AND ORDERED THAT DEBTOR/PETITIONER WAS TO PAY AN APPROX. TOTAL AMOUNT IN CLAIMS OF 55-60K, IN CLAIMS TO REDSTONE FEDERAL CREDIT UNION AND THEIR COLLECTION AGENTS, THE I.R.S., AND THE ALABAMA DEPT. OF REVENUE. PETITIONER WAS ALSO ORDERED TO STAY CURRENT ON HIS MORTGAGE, FROM THE FILED CLAIM BY WELLS FARGO HOME MORTGAGE, (FOR WHICH HE WAS CURRENT AT THE TIME OF THE FILING OF THIS BANKRUPTCY AND ABOUT 6-12 MONTHS AFTER THE FILING). THE ORDER ALSO INCLUDED PAYMENTS FOR SERVICES TO PETITIONER'S BANKRUPTCY COUNSELS AND THE TRUSTEE ADMINISTRATION. IN APRIL 30, 2012, PETITIONER PRO SE' BEGAN A JOURNEY OF APPEALS FROM THE FEDERAL DISTRICT COURT, ALL THE WAY UP TO THIS HON. U.S. SUPREME COURT, IN ORDER TO MAKE KNOWN OF THE WRONG-DOING OF A (2011) BANKRUPTCY, FOR WHICH TO THIS DAY, THERE HAS YET TO HAVE BEEN ANY ADJUDICATION ON RECORD OF THIS SUBJECT MATTER. IN DECEMBER 31, 2013, PETITIONER FILED FOR THE FIRST TIME, A COMPLAINT OF INJURIES BY THOSE NAMED IN THE FILED LAWSUIT, FOR THEIR ACTIONS IN THIS (2011) BANKRUPTCY, IN WHICH THE RECORD ON

APPEAL WILL FURTHER DISPLAY THAT HE HAS NOW RECEIVED NOTHING BUT ORDERS OF DENIALS, OF THIS LAWSUIT, WITH ALL ORDERS BASED ON THE DOCTRINE OF RES JUDICATA. IN JANUARY OF 2015 PETITIONER PRO SE' DISCOVERED IN HIS JAN. OF (2014) BANKRUPTCY, NEW FACTS AND EVIDENCE THAT PRESENTED A WORSENING OF THE EARLIER CONDITONS OF THIS (2011) BANKRUPTCY, WHEN HE DISCOVERED NOT ONLY DID STATE OFFICIALS OF THE ALABAMA DEPT. OF REVENUE FILE A FALSE CLAIM IN THIS (2011) BANKRUPTCY WHICH WAS CONFIRMED, THAT PETITIONER HAD TO PAY, AND WHICH HAD NOT BEEN MADE KNOWN IN ANY OF THE APPEALS FROM 2012-2013, TO INCLUDE THE ORIGINAL FILING OF THE DEC. 31, 2013 LAWSUIT. HE ALSO DISCOVERED THAT THE SAME FALSE CLAIM HAD NOW BEEN INSERTED, ONCE AGAIN, INTO THE NOW (2014) BANKRUPTCY, FOR A CLAIM FOR A RIGHT TO PAYMENT. **THE QUESTIONS PRESENTED FOR REVIEW ARE: FIRST, DOES PETITIONER HAVE THE RIGHT TO BE ALLOWED TO FILE A COMPLAINT AND SUMMONS ON THE DEFENDANT(S) OF THIS (2011) BANKRUPTCY AND WAIT FOR THEIR (21) DAY RESPONSE? SECOND, DOES THIS SUIT MEET THE REQUIREMENTS OF 28 SECTION 1331 ADJUDICATION, SINCE ALL ALLEGED VIOLATIONS CARRY FEDERAL LAWS AND CONSTITUTIONAL IMPLICATIONS? THIRD, DID THE NEW FACTS AND EVIDENCE PRESENT A WORSENING OF THE EARLIER CONDITIONS OF THE (2011) BANKRUPTCY? AND IF SO, WOULD THESE NEW FACTS AND WORSENING OF THE EARLIER CONDITIONS MEET THE REQUIREMENT OF RES JUDICATA HAVING NO EFFECT ON THE FILED SUIT? FOURTH, DID THE (2011) BANKRUPTCY, FAIL TO FOLLOW THE RULES AND**

PROCEDURES, IN ACCORDANCE WITH BANKRUPTCY LAW? AND IF SO, DOES THIS ALSO GIVE RISE TO RES JUDICATA HAVING NO EFFECT ON A LATER FILED SUIT? FIFTH AND FINALLY, DID THESE ACTIONS VIOLATE PETITIONER PRO SE' 1ST, 5TH, AND 14TH AMENDMENT RIGHTS?

X.

THE (2011) BANKRUPTCY TOOK PLACE BECAUSE A CREDITOR WAS ABLE TO SELL A DEBT, FOR WHICH IS LIKELY TO HAVE BEEN INSURED, AND WRITTEN OFF OF THEIR TAXES, AND THEN SOLD FOR PENNIES ON THE DOLLAR, TO A LAW FIRM, WHO WAS ALLOWED TO KEEP THE DEBT DORMANT, (NO PERIODIC NOTIFICATION) IN ORDER FOR INTEREST TO QUIETLY ACCUMULATE. **THE QUESTION FOR REVIEW IS: IS THE BUYING AND SELLING OF DEBT TO LAWFIRMS UNCONSTITUIONAL?**

XI.

THE APPEALS THAT PETITONER MADE FROM THE (2011) BANKRUPTCY THAT STARTED AT THE DISTRICT COURT AND PROCEEDED ALL THE WAY UP TO THIS U.S SUPREME COURT WAS ALLOWED TO TAKE PLACE BECAUSE PETITIONER'S BANKRUPTCY COUNSEL(S) REFUSED TO EXAMINE AND ADVISE ON THE VALIDITY OF THE DEBTS AND CONTRACTS OF THOSE DEBTS. **THE QUESTION PRESENTED FOR REVIEW IS: IS THE REPRESENTATION IN STATE AND BANKRUPTCY COURTS, CONCERNING CONSUMER DEBT BETWEEN THE ATTORNEY AND CLIENTS WHO ARE POOR, UNEDUCATED AND LESS FORTUNATE, ETC, UNCONSTITUTIONAL?**

XII.

ON SEVERAL OCCASSIONS THROUGHOUT THESE SEVEN YEARS OF PETITIONER PRO SE' ATTEMPT AT RECEIVING EQUITY AND JUSTICE, IN THESE MATTERS, HE HAS REQUESTED APPOINTMENT OF COUNSEL, IN ORDER TO PROTECT HIS CONSTITUTIONAL RIGHTS FROM THOSE WHO ARE IN THE GREATEST POSITION TO VIOLATE THEM, FOR WHICH HE HAS BEEN DENIED BY EVERY COURT THAT HE HAS MADE THIS REQUEST TO? **THE QUESTION PRESENTED FOR REVIEW IS: HAS PETITIONER PRO SE' BEEN PRESENTED WITH EQUITY AND JUSTICE BY THE LOWER COURTS, IN THESE MATTERS? AND IF HE HAS NOT, DOES THE LAWS GOVERNING THE EQUAL PROTECTION UNDER THE LAW FOR THE AVERAGE AND LESS FORTUNATE LITIGANT NEED TO BE BETTER EXPANDED, TO PROTECT THEIR RIGHTS, FROM THOSE WHO ARE MOST CAPABLE AND SUSEPTIBLE OF VIOLATING THEM, AND THAT WOULD BE, THOSE OF THE LEGAL PROFESSION, (LAWYERS, CLERKS, JUDGES, POLITICIANS, ETC,). AND FINALLY, ARE THE LAWS AND RULES GOVERNING THE APPLICATION OF RES JUDICATA, AS IT PERTAINS TO DEFAULT JUDGMENT AND JUDICIAL ECONOMY, UNCONSTITUTIONAL? AND IF SO, ARE THESE LAWS AND RULES VIOLATING THE POOR, SICK, UNEDUCATED, ALONG WITH THE AVERAGE WORKING-CLASS CITIZENS 1ST, 5TH, AND 14TH AMENDMENT RIGHTS, IN THE ARENA OF CONSUMER LAW?**

LIST OF PARTIES PURSUANT TO RULES 14.1(B) AND 29.1

Petitioner pro se' DeAndre' Russell filed suit for injuries caused by those of his (2011) bankruptcy, in these matters, on December 31, 2013 and March 27, 2015. Redstone Federal Credit Union, attorney(s) for Redstone Federal Credit Union, C. Howard Grisham and Jeffery L. Cook, John Larsen and Melissa Larsen (2011) bankruptcy attorney(s) for debtor/petitioner, Philip A. Geddes and Michael Ford Federal Bankruptcy Trustees, in the (2011) bankruptcy, Anthony Ingegneri, Revenue Officer for the Alabama Dept. of Revenue, Mark Petterson, Revenue Officer for Alabama Dept. of Revenue, Mark Griffin, attorney for the Alabama Dept. of Revenue, Kelley Askew Gillikin, assistant Attorney General/attorney for the Dept. of Revenue and the UNITED STATES OF AMERICA are all Respondent(s).

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CORPORATE DISCLOSURE STATEMENT

DeAndre' Russell is an owner/master mechanic, who closed his Automotive shop in (July of 2007) and now services a select group of (loyal customers only) at their home and/or place of business. He has no parent or publicly held companies owning 10 percent or more of its stock.

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APPENDIX

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IN THE

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On Petition for a Writ of Certiorari

To the United States Court of Appeals for the Eleventh Circuit

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Petitioner pro se' DeAndre' Russell respectfully petition For a Writ of Certiorari to review the Judgment of the United States Court of Appeals for the Eleventh Circuit, in this case.

OPINIONS BELOW

The Opinion and Orders of the Court of Appeals is Unpublished and appears in Appendices A-1 thru F-4

The Opinion and Orders of the District Court(s) is unpublished and appears in Appendices G-1 thru J-10

The Opinion and Orders of the Bankruptcy Court(s) is published and appears in Appendices K-1 thru M-8.

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STATEMENT OF JURISDICTION

The Judgment of the Eleventh Circuit Court of Appeals was entered on October 3, 2017 in case no. 16-15117 and on February 21, 2018 in case no. 16-16943. The Petition for Rehearing En banc for case no. 16-15117 was denied by the Eleventh Circuit Court of Appeals on January 10, 2018. The Hon. Justice Thomas extended the time for filing a Petition for Certiorari to and including June 9, 2018, for case no. 16-15117, Application No. 17A925, and May 22, 2018 for case no. 16-16943, Application No. 17A1282. The Jurisdiction of this Court is invoked under **28 U.S.C. § 1254(1).** It is furthermore petitioner pro se' request that this Hon. U.S. Supreme Court would allow Consolidation of these (2) cases, pursuant to **Rule 12.4** of the Rules of the Supreme Court, because the parties to both of these cases, were mainly all parties to the (2011) bankruptcy proceeding, for which consolidation is needed, in order that this Honorable Court would be able to consider the full context of this case and present a proper conclusion of law, based on a complete finding of facts, from the evidence, of both cases, ***In The Interest Of Justice.***

Finally, petitioner pro se,' did not know that he was supposed to request permission for an extension of words within (15) days of the filing of this brief and request that this Hon. Court would allow him the additional words, under "excusable neglect" for reasons of combining the (2) cases into one.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. The First Amendment to the Constitution provides freedom of speech, religion, press, a peaceable assembly and **the right to petition for a redress of grievance.**
2. The Fifth Amendment to the Constitution provides that a person cannot be deprived of life, liberty, or property without **due-process of law.**
3. The **Equal Protection Clause of Section 1 of the 14th Amendment** provides that no state shall deny to any person within its jurisdiction the equal protection of the laws.
4. **28 §455 (a)(b)(1)** states; Any Justice, Judge or Magistrate Judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. He shall also disqualify himself in the following circumstances**: Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;**
5. The Eleventh Amendment

INTRODUCTION

Rule 10(a) and (c) of the Rules of the U.S. Supreme Court states that, a Writ of Certiorari may be considered by this Hon. Court when; a) a United States Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, and c) a United States Court of Appeals has decided an important question of federal law that has not been, but should be, settled by this Court.

1.This case presents this court with the above (2) issues and the need for such review as to call for an exercise of this Court's supervisory power to; a) restore Equity and Justice in the arena of Contract Law, as it pertains to the *Unconstitutionality of debt buying by law firms*, along with the *Unconstitutionality of the representation of the debtor*, in *State and Bankruptcy Court.* This, along with the need to resolve the issue of res judicata and the filing of a tort suit against State Officials, in bankruptcy court.

2.The primary cause of courts issuing default judgments is mainly for purposes of judicial economy. It is a logical understanding that courts cannot have eternal pending cases on their dockets, by defendants who, (for many reasons) did not show up for their hearing. But, has this so-called way of settling a case, in the interest of judicial economy, now interfering with settling a case in the interest of justice?

3.In the arena of Contract Law, creditors are filing suits against, often individual debtors in State Courts, because they have failed to carry out the terms of a signed contract. But, did the creditor present a lawful contract? And did the attorney(s) for the creditor, follow the State and Federal Rules, to receive judgment on that contract? And if they did not lawfully uphold the contract and the way in which they received judgment, on that contract, *d*oes that make their contract unenforceable? And more so, should res judicata now apply?

5.Petitioner pro se' raises this question because it is a known fact that the average client, who may be a litigant in state and/or bankruptcy court, that is represented by counsel, is rarely informed by his or her attorney of the validity of a creditor's contract (validity of the debt). Instead they (the debtors) are more so advised to pay the debt, fees, interest, etc., through some payment plan or liquidate their assets, **without ever knowing that if the creditor violated the contract, that contract becomes unenforceable.**[1]

6.These above facts now bring forth the truth of the default judgments that many of the debtors are often receiving, by state court(s), and these truths are; that these judgments debts that may contain intrinsic and/or extrinsic fraud are being sold by creditors to law firms, along with attorney(s) who are not making known the validity of the debt, i.e. contract, to clients of less

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[1] **The Alabama Deceptive Trade Practices Act** contains a catch-all provision which defines unlawful trade practices to include "engaging in any other unconscionable, false, misleading or deceptive act or practice in the conduct of trade or commerce." ALA. CODE § 8-19-5(23); see Chapter 3, Section IIII. **See generally** Annotation, "What Constitutes Fraudulent "Unconscionable' Agreement or Conduct Within Meaning of State Consumer Credit Protection Act," **42 A.L.R. 4th 293(1985)**

means along with the courts often improper use of the doctrine of res judicata. It is this cyclical process by which the courts are issuing "default judgments" in the name of "judicial economy", that petitioner pro se' states; who is being mainly affected by this unconstitutional process, of contract law? Is it not the poor, the uneducated, the sick, along with the average working -class citizen, who is not an attorney?

8.It is no secret that the Circuits are divided on this issue of default judgments, and res judicata, and rightly so. It is because every court in this country, from the lowest to this highest court in the land, (this Hon. U.S. Supreme Court) all know that a default judgment does not equate to a judgment on the merits? Furthermore, petitioner pro se' is prepared to argue that the court's use of the phrase, "all that could have" concerning the application of res judicata, is unconstitutional in its application of default judgments, and should legally, only apply to trial litigation on the merits.

It is Petitioner pro se' contention that this case presents this court with the ripe condition for the need to settle such issues, in the interest of justice.

10.This case also contains another important element that requires this Hon. U.S. Supreme Court's attention and supervisory powers, and that is, the lower courts, involved in these (2) cases has departed so far from the normal course of judicial proceeding, not only in the realm of res judicata, but also as it pertains to the settled

law of filing suit against State Officials, in bankruptcy court, involving *non-core matters, Stern v. Marshall.* [2]

11.These two cases present the need for this Hon. U.S. Supreme Court to instruct the lower courts and all parties involved, in these cases, along with all those who display improper power and authority over the average and less fortunate person, that Equal Justice under the Law will be upheld, and that wrong-doing will not be permitted, by this court, even if it involves those of higher position, prestige and authority.

STATEMENT OF THE CASE

With all due respect to all the Federal Courts and judges that has been involved in these cases, the Record for Review will display that these cases are about a pro se' litigant who filed suit against those defendants who caused injuries to him from his (2011) and (2014) bankruptcy, for which the facts and evidence will display overwhelmingly, that it has been the Federal Judges of the Bankruptcy, District and Court of Appeal Courts that has been preventing adjudication of these matters by refusing to issue rulings that contains a true finding facts

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[2] The U.S. Supreme Court held in Sanchez v. Ameriquest Mortg. Co. (In re Sanchez) 372 B.R. 289,302,304 (Bankr. S.D. Tex. 2007) Failure to follow the rules can also be a violation of a debtor's due process rights, thereby spoiling res judicata of the confirmed plan, in the creditors favor.

Lawlor v. National Screen Service, 349 U.S. 322 (1955), The U.S. Supreme Court ruled that; res judicata did not bar a suit, even if it involves the same course of wrongful conduct as alleged earlier, so long as the suit alleges new facts or a worsening of the earlier conditions.

and a conclusion of law, of the evidence that it has been presented with, 28 U.S.C. §752, Rule 52.[3]

The rulings that has been made by the lower courts involved in these cases has undoubtedly displayed that default judgments from state courts are final, and that there is nothing more than one can do, after it has been made. The judges of the lower courts in case no. 16-15117, have consistently used the statute of 1733, (full faith clause), for which has now been used in the Orders of the Hon. Jack Cadell, the Hon. C. Lynnwood smith and the Recommendation Report from the Hon. Harwell G. Davis to say, "no Mr. Russell you had your chance, you are not allowed to **relitigate this case,** (all that could have been).

*But is discovered fraud that was never litigated, considered relitigating? Is discovered fraud in a case that never received a judgment on the merits, but instead simply a default, (not showing up) considered relitigating. And most of all, does the law really say that, "no Mr. Russell, there is nothing more than you can do about it".

If this was true, then the Rules governing the bankruptcy judges authority to remove a debt for a right to payment would not exist, *fraudulent conveyances.*[4]

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[3] In re Scrap Disposal, Inc. 15 B.R. 296, Requirement of Federal Rule of Civil Procedure governing findings of court is mandatory, findings in part serving as necessary aid to appellate courts. Statement in bankruptcy rule and in Federal Rule of Civil Procedures that findings of facts and conclusion of law are unnecessary on decisions of motions is limited to motions decided on questions of law; if motion requires court to determine factual issues, then findings are necessary. Rules Bankr. Proc. Rule 752, 11 U.S.C.A.; Fed. Rule 52, 28 U.S.C.A.

[4] *Margolis v. Nazareth Fairgrounds, 249 F.2d 221, (2nd Cir. 1957)*Where claims filed in bankruptcy court, based upon notes executed by corporate bankrupt, had been reduced to judgment was susceptible to collateral attack on grounds

Also, case law makes clear, as it pertains to the subject of res judicata, (claim preclusion) that when there has been a worsening of the earlier conditions along with violation of due-process, in a previous proceeding, that the res judicata effect may be spoiled. It is these issue that Petitioner pro se' states that the evidence will overwhelmingly show that the judges, from the lower courts involved in these cases has completely ignored and have refused adjudication on these subject matters.

I.

STATUTORY FRAMEWORK

Title 11 §105(a) and 106(a) grants authority and jurisdiction to the bankruptcy judge to entertain all issues concerning the allowance and/or disallowance of all claims of debts. This authority and jurisdiction over claims of debts would include those held by not only creditors, who may have obtained state court judgments, but also tax agencies, such as the I.R.S. and, in this case, the Ala. Dept. of Revenue.[5]

Section 5 of the 14th Amendment grants authority and jurisdiction to all federal courts to entertain suits

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that it had been fraudulently obtained and not founded on any legally enforceable obligation, referee could inquire into validity of claims notwithstanding fact that they had been reduced to judgment in state court. Bankr. Act, § 101 et seq., 11 U.S.C.A. § 501 et seq.

[5] *11 U.S.C.A.§ 106(a)* Waiver of Sovereign Immunity, notwithstanding an assertion of sovereign immunity, sovereign immunity is abrogated as to a government unit to the extent set forth in this section with respect to the following; a governmental unit that has filed a proof of claim is deemed to have waived sovereign immunity with respect to a claim, in bankruptcy.

filed against any of these tax agencies, for injuries due to a ***continual pattern of Constitutional violations***.[6] And although a bankruptcy court is a federal court, authority and jurisdiction has been limited, because of the Article I power of a bankruptcy judge, granted by Congress.[7]The result of this Art. I and Art III difference of power, was finally settled in the case of *Stern v. Marshall, 131 S. Ct. 2594(2011) and Wellness Int'l Network, Ltd v. Sharif, WL 4441926, at *8(7th Cir. Aug 21, 2013).*[8]

In *stern*, this court concluded that the claim, in bankruptcy, must, "flow from a federal statutory scheme" or be "completely dependent upon adjudication of a claim created by federal law." *Id.* (quoting *Commodity Futures Trading Comm'n v. Schor*, 478 U.S. 833,856(1986); *see also id. at 2613* ("[W]hat makes a right 'public' rather than private is that the right is integrally related to particular federal government action").

This Honorable Court held that "Congress may not bypass Article III simply because a proceeding may have

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[6] *Ex Parte Young, 209 U.S. 123, 159-160,28 S. Ct. 441,454 (1908)*, the Supreme Court concluded that the Eleventh Amendment did not bar an action against a state officer to restrain unconstitutional conduct on his part under color of state law.

[7] ***The Bankruptcy Amendment and Federal Judgeship Act of 1984***, in 1984 Congress enacted this in response to the Supreme Court's holding *in Northern Pipeline v. Marathon Pipeline*, a case which held that the Bankruptcy Act of 1978 granted the bankruptcy courts unconstitutionally excessive subject matter jurisdiction. As a result, Congress was faced with amending the Bankruptcy Act to bring the powers delegated to the bankruptcy courts within constitutional limits.

[8] The question in *Stern* was whether a bankruptcy court had the authority under Article III, §1, to enter final judgment on a debtor's state law counterclaim that was not resolved in the process of ruling on a creditor's proof of claim. The Supreme Court has interpreted this language as prohibiting an Article I bankruptcy judge from ruling on "any matter, which from its nature, is the subject of a suit at the common law, or in equity, or admiralty," "unless it involves a "public right."

some bearing on a bankruptcy case; the question is "whether the action at issue stems from the bankruptcy itself or would necessarily be resolved in the claims allowance process."

In simple terms, this court was making clear to the bankruptcy court that; if Mr. or Mrs. XYZ has filed an Adversary Proceeding (lawsuit for tort) in bankruptcy court and it is at the common law, (can be handled in state court), then stay away from it. But, if the suit involves violations of a Federal and/or a Constitutional Right, you are conditionally allowed to entertain the suit.

Congress, through the House and Senate Judiciary Committees, along with this Hon. U.S. Supreme Court, has since developed guidelines of Rules and Procedures governing the bankruptcy court's authority and jurisdiction in non- core cases.

This case ultimately presents for review the issues of whether res judicata having no effect on a suit of worsening conditions was met and whether a bankruptcy judge can dismiss an Adversary Proceeding of a *non-core* case, that presented a Complaint of Federal and Constitutional Violations.

II

PROCEEDING(S) BELOW

The proceedings below entail of a (2011) bankruptcy, No. 11-82514-JAC-13, that petitioner pro se' claims, did not follow the Rules and Procedures of Bankruptcy Law, whereby petitioner pro se' has set-

aside his friends, family and business, in order to properly learn how to approach and make known to the court(s) of the wrong-doing and injuries caused by those of this (2011) bankruptcy.

The proceedings below will further detail that when petitioner pro se' filed his complaint against the defendants, of case# 5:13-cv-02350-CLS, in federal court, on December 31, 2013, the filing of that suit began a process of opening the door to a discovery of ***new facts and evidence*** of that (2011) bankruptcy, that had not been made known in any of the appeals from the district court, (April 30, 2012) to this Honorable U.S. Supreme Court April 25, 2013), whereby to this date, every court that he has now since appealed these new facts and evidence to, has ignored and refused to adjudicate this evidence.

The proceeding(s) below will further detail that it has been the federal judges, in these cases, since the filing of the (Dec. 2013) suit, that has displayed a complete bias and prejudice against petitioner pro, in these matters. Petitioner pro se' is able to make this statement beginning with the fact that to this day, he has yet to have been allowed, by the lower court(s) the right to file a proper **Complaint and Summons on all defendant(s) of case no. 16-15117, of his Dec. 31,2013 lawsuit.** *1st Amend to the Const...*

A.

Background

The Record on Appeal presents a background of how Petitioner pro se' DeAndre' Russell was, forced into

a Chapter 13 Plan, over a default judgment from *Redstone Federal Credit Union and their collection agents,* that grew from approx. $4-5k in 1996-97, to over 35-40k, at the time of the filing of the (2011) bankruptcy. The case further display how, debtor DeAndre' Russell presented in this (2011) bankruptcy, evidence of ***discovered fraud***, that had never been litigated in state court, to his bankruptcy counsel(s), John and Melissa Larsen, of at the time, Larsen and Larsen, attorney at law, in an attempt that they would have the debt exempt from paying, due to *(intrinsic/extrinsic fraud).*

After discovering that his bankruptcy counsels would neither submit his evidence, nor inform him on the validity of the Contract, debtor made known to the bankruptcy judge, (the Hon. Jack Cadell) that he had evidence of discovered fraud, and that he (the bankruptcy judge) had authority and jurisdiction under Title 11 §105(a), to look behind the state-court judgment, to deny payment if found to be truthful, (over-coming res judicata), for which the Hon. Jack Cadell, instructed debtor to present him with a brief, detailing the issues, all while his bankruptcy counsels and the trustee (the Hon. Phillip A. Geddes and attorney for trustee Michael Ford, stood idle and allowed debtor to represent his estate and himself.

On Dec. 20, 2011 the Hon. Jack Cadell, denied debtor's brief and the adjudication of the discovered fraud, stating that; the full faith and credit statute of 28 U.S.C. §1733, makes a state-court judgment paramount and final. Furthermore, res judicata applies, you had your chance, (all that could have been), and on January

17, 2012, the Hon. Jack Cadell confirmed the bankruptcy plan, ***without having any Adversary Proceeding***, on these matters and ordered debtor to pay an approx. total of $55-60,000 in claims to Redstone Federal Credit Union, the I.R.S. and the Alabama Dept. of Revenue.

With no money to hire another attorney, as well as no attorney wanting to take this case, debtor DeAndre' Russell begin using the public legal library, to study on how to make known the injustice of the (2011) bankruptcy and on April 30, 2012 he then presented to the District Court, an Untimely Appeal, on these matters, claiming a Confirmation by Fraud, under Title 11§1330, along with a Request for a Stay and his motion to submit the appeal under, "excusable neglect", that was never properly answered, by the district court judge, the Hon. Abdul K. Kullon.[9]

This, cry for justice, by petitioner pro se' of the wrong-doing from the (2011) bankruptcy, continued with an appeal from the district court on (April 30, 2012/ 5:12-cv-01918-AKK) all the way up to this Hon. U.S. Supreme Court, (April 25, 2013/ case #12-9992).

While petitioning this Hon. U.S. Supreme Court in (2013), for which an order that the case was "DISTRIBUTED FOR CONFERENCE", was made, petitioner pro se' may have unwisely, but allowable under the law, presented in Sept. of 2013, an "Independent Action" to set-aside the Judgment of Redstone Federal Credit Union and their collection agents C. Howard Grisham

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[9] In Kontrick v. Ryan, 540 U.S. 443 (2004), This U.S. Supreme Court concluded in this case that; a) a wrong-doing cannot be overlooked, b) mandatory review of 9006(b)(3), "excusable neglect", c) subject matter jurisdiction, and d) this includes appeals.

and Jeffery L. Cook, in the Madison Co. Courthouse, pursuant to Rule 60(b)(5)(6), that was assigned to the Hon. Allison Austin, for which he claims, that these actions may have contributed to the DENIAL OF ADJUDICATION, by this Hon. U.S. Supreme Court, from the wrong-doing of the (2011) bankruptcy.

Upon a denial of his Rule 60(b), without any adjudication of the discovered evidence presented, ***(the fact that the creditor received a deficiency judgment without there being any record on file with the court of a deficiency)*** [10], along with a rush to end the hearing, by the Hon. Allison Austin, it became Petitioner pro se' argument, that the proceeding violated his due process rights, for which he attempted to appeal his case directly to the Alabama Supreme Court, and was denied his right to lawfully do so, by the Clerks of the Madison Co. Courthouse.

Petitioner then filed a request to remove the case from State Court to the Federal District Court, pursuant to 28§ 1441, and although the Hon. Lynnwood Smith denied and remanded back to the Madison Co. Court house, (Nov. 25, 2013) he did state, in his order that there was sufficient cause to file a complaint, for denying the right to appeal, by the clerks.

These are the indisputable events that took place from the time of petitioner's filing of his July 2011 bankruptcy, until approx., (30) days prior to the filing of

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[10] Ala. Code §7-9A-618 Requires a secured party in a consumer good transaction to provide a debtor with a notification of how it calculated a deficiency at the time it first undertakes to collect a deficiency.
§9-507 Provides for Judicial Review of the resale both before and after it has taken place.

his Dec. 31, 2013 filed lawsuit, in the Federal District Court.

B.

Proceeding in the District(s)/Bankruptcy Court

On December 31, 2013, Petitioner pro se' DeAndre' Russell filed, for the first time, in the U.S. District Court a Complaint of injuries, for federal violations, pursuant to 28§1331 and 42 §1983, in *forma pauper*, along with a Motion to Amend, a request for issuance of a summons and a request for a Stay, against the named defendant(s) from his (2011) bankruptcy, case no. 5:13-cv-02350-CLS. [11]

As noted, inserted in petitioner's Complaint was also the request for a Stay. The main purpose of the requested stay, was due to Petitioner's claim that the injustice of the (2011) bankruptcy is what caused him to not only greatly fall behind on his home mortgage, with Wells Fargo Home Mortgage, for which petitioner was holding the named defendant(s) of the Dec. 31, 2013 responsible, but that he would also now hold them responsible for now losing his home, which was now scheduled to be foreclosed, on Tuesday, January 21, 2014. [12]

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[11] The Dec. 31, 2013 filed lawsuit by Petitioner pro se' requested 28 §1331 jurisdiction and adjudication and presented claims under 42 §1983, The Due Process Clause), because federal trustee(s) of the (2011) bankruptcy, were named in the suit.

[12] The Record on Review of the (2011) Bankruptcy of Case No. 11-82514-JAC-13, will undoubtedly show that petitioner pro se' was not behind on his

Every day, for (15) days, after the filing of his complaint, petitioner went to the courthouse to see whether he was approved for the stay, only to be told, by the clerk of the court, different reasons why a decision had not been made.

On Friday afternoon, January 17, 2014, the Hon. C. Lynnwood Smith entered an Order to dismiss the lawsuit, on grounds of res judicata, along with a denial of the other request that was made, (stay and room to Amend). It should further be noted that this Order was made on a day whereby the court would be closed on Saturday thru Monday, because of the Martin Luther King Holiday.

It is petitioner pro se' contention that these actions, by the Hon. C. Lynnwood Smith, not only denied petitioner the right to appeal the decision of the stay, without first, losing his home and all his possessions, but also, have now forced petitioner pro se' to file another chapter 13 bankruptcy, to save his home, for which he did on Friday afternoon on January 17, 2014, in the Northern District of Alabama, Decatur, under the Hon. Jack Cadell.

Upon entering this bankruptcy, petitioner immediately requested recusal of the Hon. Jack Cadell, Phillip A. Geddes and Michael Ford, from this bankruptcy, which was granted on January 17, 2014, whereby the case was then transferred to the bankruptcy court in Birmingham, Alabama, under the Hon. Tamara O. Mitchell, case no. 14-80149-TOM-13.

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mortgage, with Wells Fargo Home Mortgage at the time of the filing of this (2011) bankruptcy and was within (11) years of having his home paid for.

On January 21, 2014, petitioner presented the Hon. C. Lynnwood Smith with a Motion to Reconsider, which was denied and on February 5, 2014, petitioner then appeal his decision to the U.S. Court of Appeals for the Eleventh Circuit, case no. 14-10498.

In the beginning stages of this bankruptcy, petitioner made known, in his schedules that he had filed suit against those of his (2011) bankruptcy, which included the creditor Redstone Federal Credit Union and their collection agents C. Howard Grisham and Jeffery L. Cook, who had now filed (2) claims in this 2014 bankruptcy, and that this suit was now on appeal in the U.S. Court of Appeals for the Eleventh Circuit. He also in the February (2014) hearings of this bankruptcy, made known of this suit and appeal, to the Hon. Tamara O. Mitchell.

In March of 2014, petitioner Objected to the Claims of Redstone Federal Credit Union, so that he could have an Adversary Proceeding, to remove these debts from payment for *intrinsic/extrinsic fraud*, for which the Hon. Tamara O' Mitchell made clear to both parties, "do not ask me for anything", concerning these matters, *see Petitioner's Exhibit # XY ,Copy of Objection to Redstone.*

In July of 2014, and because of transportation constraints, petitioner was allowed a phone conference hearing whereby he was told by the Hon. Tamara O. Mitchell that the Alabama Dept. of Revenue had filed a claim for Sales Tax, from Mar. of 97 in the amount of $4,200.54, for which he stated that, he did not owe this debt and that he can prove it, (his objection) in the next hearing.

In the August of 2014 hearing, petitioner made known that he was prepared to prove that he did not owe this ***false claim of taxes***, to the Alabama Dept. of Revenue, who was not present at this hearing, for which the Hon. Tamara O.' Mitchell stated, "why don't you go see if you all can work this out yourselves."[13]

At the end of this August 2014 hearing, the Hon. Tamara O' Mitchell made known that another hearing would not be schedule until, January 28, 2015. From September to December of 2014, petitioner attempted to follow the judge's instructions on discussing these matters of taxes, with the appropriate Dept. of Revenue officer, and on Dec. 31, 2014, petitioner pro se' finally made contact, at the Alabama Dept. of Revenue with an, Anthony Ingegneeri, revenue officer, and informed him on the instructions by the bankruptcy judge to try and work this out.

After a long wait in their office, petitioner was then slipped a note by Mr. Ingegneeri, that stated, that they we're going to immediately withdraw the claim, for purposes of statute of limitations and on January 5, 2015 State Officials of the Alabama Dept. of Revenue withdrew Claim no. 6. *See Petitioner's Exhibit, XYZ, Note on (Dec. 31, 2013) from revenue officer.*

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[13] *28 § 455*, states in part that a judge is not to give advice. Also, the question here is whether it would have been appropriate for the Hon. Tamara o" Mitchell to instruct a pro se' debtor, who not only objected to a claim, but has proof that he did not owe, to attempt at resolving a "false claim" outside of the courtroom, ***18 U.S.C. § 152(4)***. It is a crime to file a false claim, in a bankruptcy court.

It is not necessary for creditors to present their objections to the allowance of a claim in writing in order to secure a review of the proceedings before the referee, where it appears that they reasonably appeared before the referee by counsel, and not only objected to the claim but also contested it and reserved exception to the ruling of the referee. ***Irwin v. Maple C.C.A.6 (Ohio) 1918, 252 F.10, 164***.

At the next hearing in January 28, 2015, and after a careful inquiry into the claim, petitioner pro se' DeAndre' Russell made known his objection to the filed withdraw of claim no. 6, to the temporary sit-in bankruptcy judge. Petitioner contend that it was improper for the Alabama Dept. of Revenue to be allowed to withdraw their claim for statute of limitations, first; because he had proof that the filed claim, had been paid back in the year of September of 2000 and second; because it had now been ***discovered*** that the withdrawn false claim was the exact same false claim that had been inserted into the (2011) bankruptcy, of case no. 11-82514-JAC-13, for which petitioner pro se' had been forced to pay in a Confirmed Plan, under the Hon. Jack Cadell.

The temporary sit in judge, stated that these matters would be passed on to the Hon. Tamara O' Mitchell and that we could discuss them more, at the next hearing when she would be present. On February 5, 2015, before the next hearing was scheduled, Petitioner pro se' DeAndre' Russell, filed a formal Motion to Address the court, concerning his objection to the Withdraw of Claim No. 6, by the Alabama Dept. of Revenue, for which to this day, he has yet to receive a hearing on this motion, [14], *also see petitioner's exhibit X, (Feb. 5, 2015 Motion to Address the Court concerning Withdraw of Claim #6).*

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[14] In re Barrett Refinig Corp., 221 B.R. 795 (Bkrtcy W.D. Okla. 1998), noted that the Fed. R. Bankr. P. 3006 allows a creditor to withdraw a proof of claim, as a matter of right, ***unless***, inter alia, an objection has been filed to the claim, the creditor has accepted or rejected the plan, or has otherwise significantly participated in the case. Here, The Ala._Dept. of Revenue would have significantly participated in this case, by presenting a continuous pattern of inserting the same false claim, in now (2) separate bankruptcy courts.

With the refusal of a hearing on the withdrawn claim, along with a denial of an omnibus motion that presented more violations, by officials of the Alabama Dept. of Revenue, Petitioner pro se' then filed on March 27, 2015 his Complaint for 14th Amendment Violations against the named State Officials of the Alabama Dept. of Revenue, for a continual pattern of filing a false claim, in bankruptcy courts.

The Record on review, will show that the filed Complaint against State Officials contained the following:

a) Demand for a Jury Trial
b) Tort Claim for injuries
c) Request that bankruptcy judge may hear case but request for Art. III Jurisdiction
d) Proof that the actual Mar. 97 Sales Tax, had been paid
e) Proof that the actual claim was from 96 and the amount had been paid in the year 2000, (11 years before the 2011 bankruptcy)
f) Proof that this false claim has now become a pattern of being inserted into (2) Federal Bankruptcy Courts

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The above Filed Complaint should have left no doubt to the bankruptcy judge(s), whether it was (The Hon. Tamara O' Mitchell or The Hon. Clifford R. Jessup), that the case should have been reference to the district court judge. [15]

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[15] In non-core proceedings, considerations of judicial economy and efficiency would normally call for withdrawal of the reference so that a jury trial can be

In approx. the end of April of 2015, The Hon. Tamara O' Mitchell, whom petitioner pro se' had not seen since the Aug. of 2014 hearing, has now issued an Order that the bankruptcy will now be transferred back to the Northern District, in Decatur, Alabama, because The Hon. Jack Cadell is no longer there and that a new judge, The Hon. Clifford R. Jessup has replaced him, and will now take over the bankruptcy.

It should be noted that during this entire time in the bankruptcy court of the Hon. Tamara O' Mitchell, debtor/petitioner pro se' exercised the following; first, a request for time to prepare unfiled tax returns, to the I.R.S. (for which he prepared himself with the help of the I.R.S.), submitted these returns to the court and had begun establishing payments to the court. Second, He began making payments for the rear age amount owed to Wells Fargo Home Mortgage, along with reestablishing his monthly payments. Third, he and his wife requested removal of all their currant holding credit cards, because they were all currant, along with the fact that they had continued making payments, to these cardholders for approx. (3-4) months after entry of the bankruptcy. Fourth, he was on appeal, in the U.S. Court of Appeals for which he was required to adhere to all the Rules of the Court. Fifth, he had filed

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held in the district court. *Accord Macon, 46 B.R. 727, 12 B.C.D. at 1286; Smith-Douglas, 43 B.R. 616, 12 B.C.D. at 427. Under* ***Tile 28 U.S.C. § 157 (b)(3), it is the bankruptcy judge's responsibility to "determine on the judge's own motion"*** *or on a timely motion of a party, whether a proceeding is a core proceeding. Therefore, If it is clear to the bankruptcy judge that (1) this proceeding is not a core proceeding, (2) that the jury demand is proper, and (3) that the parties have not consented to his conducting of a jury trial, then pursuant to the statute of 157(b)(3) he should then* ***sua spointe*** *request the District Court to withdraw the reference. Also see, "bankruptcy judge cannot hold a jury trial for a Constitutional tort claim."*

an objection to the claims held by Redstone Federal Credit Union. And sixth, he had now discovered, before he was able to transfer the same I.R.S. Returns to the Alabama Tax Returns, (for which he asked for an extension to do and was denied) that State Officials of the Alabama Dept. of Revenue had not only filed a false claim, in this (2014) bankruptcy, but that this same false claim, was the very claim that they had inserted, into the (2011) bankruptcy.

These issues and events are the indisputable facts on what transpired in the court room of the Hon. Tamara O' Mitchell from January 17, 2014 until approx. April of 2015 and are important to note about the upcoming issues that will now take place in the Hon. Clifford R. Jessup courtroom.

Upon receiving this case, the now, Hon. Clifford R. Jessup, immediately schedule a hearing for June 1, 2015. In this hearing petitioner made known (in his Motion to present additional testimony, (2) days later June 3, 2015)) that the Hon. Clifford R. Jessup created a bias when he repeated the statement that, ***"they made a mistake"*** (referencing the false claim submitted by the Ala. Dept. of Revenue) and refused to allow them to account for their actions, *(wittiness to these statements are available).*

Upon the next hearing, (July 24, 2015), approx. (10) days prior to the scheduled Confirmation Hearing, petitioner and attorney for the Defendants of the Alabama Dept. of Revenue were told by the Hon. Clifford R. Jessup to present him with a brief on the subject-matter of *Stern v. Marshall and Wellness Int.*, by

August 24, 2015, in order to determine whether the parties would consent to a bankruptcy judge adjudicating a non-core issue, that requested a jury demand and carried a tort claim for injuries, that involved constitutional violations of property rights, **and that petitioner pro se' had already stated in his March 27, 2015 filed Complaint that he wanted Article III Adjudication, of this case,** *see petitioner's exhibit X, (March 27, 2015 filed Complaint.*

On Aug. 3, 2015, at the Confirmation Hearing, The Hon. Clifford R. Jessup dismissed the bankruptcy on (2) grounds, first, he dismissed the Confirmation pursuant to section 1325, whereby he stated that petitioner did not file his Alabama Tax returns, which were the same years of unfiled returns that were filed with the I.R.S. for which petitioner was denied a postponement request of the Confirmation, so that he could have transferred the figures filed with the I.R.S. to State Forms and present to the Ala. Dept. of Revenue, *see petitioner's exhibit X, Motion to Postpone the Confirmation, (July 28, 2015).*

Second, the Hon. Clifford R. Jessup denied the Confirmation and dismissed the bankruptcy on grounds that the bankruptcy was filed in bad faith. Because petitioner and attorney for defendants of the Ala. Dept. of Revenue were order by the court to present the argument of *Stern v. Marshall*, by August 24, 2015, **Petitioner pro se' appealed the denial of the bankruptcy confirmation on August 6, 2015 with an Interlocutory Appeal, pursuant to 8001(a) to the District Court, along with a Motion for Leave to Appeal.**

Also, because the Interlocutory Appeal contained language that made known that he held the action by the Hon. Lynnwood Smith responsible for placing petitioner in this (2014) bankruptcy, ***Petitioner pro se' requested 28 § 1631 jurisdiction and adjudication, of this Interlocutory Bankruptcy Appeal.***[16]

On August 31, 2015, The Hon. Clifford R. Jessup held a hearing on the ordered arguments of *Stern v. Marshall and Wellness Int'l* whereby he then dismissed the Adversary Proceeding based on grounds of Lack of Consent, by the parties to hold jury trial and because the Confirmation of the Chapter 13 Plan was denied. On Sept. 3, 2015 Petitioner pro se' then appealed the decision of the Hon. Clifford R. Jessup's Order to dismiss the Adversary Proceeding to the District Court.

Immediately, upon entering the District Court, on the Interlocutory Appeal, Petitioner pro se' made know again that he requested that the U.S. Court of Appeals would assume jurisdiction of this appeal, pursuant to 28§ 1631, because he knew that the district court would be without jurisdiction to hear the appeal, due to "the alleged claim concerning the Hon C. Lynnwood Smith as being the cause of Petitioner having to file this bankruptcy." After this appeal was immediately tossed

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[16] *In re Apex Oil Co. 884 F.2d 343 (8th Cir. 1989),* Court of Appeals would assume jurisdiction over appeal transferred by district court contingent upon bankruptcy court order signed by district judge and then signed by bankruptcy judge being found appealable order; district court lacked jurisdiction over appeal from bankruptcy court order signed by district judge, dual signing of order by district judge and bankruptcy judge could have confused parties as to correct appellate procedure, so it was in interest of justice to transfer appeal, and appeal would have been timely filed if it had originally been file in the Court of Appeals. ***28 U.S.C.A. § 1631.***

28 U.S.C. 158(d)(2)(A), gives the Court of Appeals jurisdiction to hear certified, direct appeals from "final judgments, orders, and decrees," as well as certain interlocutory orders and decrees."

around to approx. (3-4) different district court judges, it was the Hon. Karen O Bowdre, who on September 2, 2015, dismissed the appeal for reasons that were unjust. *see Petitioner's exhibits x-thru z, Interlocutory appeal passed to the various district court(s) and dismissed, by the Chief Judge of the District Court.*

On Sept. 29, 2015, the Hon. Karen O Bowdre, Chief District Judge, accepted the appeal of the Adversary Proceeding that was dismissed by the Hon. Clifford R. Jessup. While in this appeal, Petitioner pro se' once again made known, in his brief, and motions of the new facts and evidence along with all other relevant facts pertaining to the improper dismissal, by the bankruptcy judge. And, on August 17, 2016, the Hon. Karen O Bowdre presented her Memorandum Opinion and Order **to affirm the decision, made by the Hon. Clifford R. Jessup, to dismiss the Adversary Proceeding.**

While the proceeding of case # 5:15-cv-01699-KOB was taking place, in the district court, Petitioner pro se was also, at the same time, in the Magistrate Court, of the Northeastern District, of Alabama, under the now Hon. Harwell G. Davis because of the now Remanded case by the U.S. Court of Appeals for the Eleventh Circuit of case# 14-10498, that was remanded back to the district court, under the Hon. C. Lynnwood Smith on April 15, 2015.

It should be noted that the Hon. Harwell G. Davis took over this remand case, despite Petitioner's filed consent, because the Hon. C. Lynnwood Smith, was recused from the case because the facts revealed that the summons were served without petitioner's knowledge and authorization.

C.

Proceeding(s) in the Court of Appeals

The Record for Review now show that petitioner has now presented (3) appeals to the U.S. Court of Appeals for the Eleventh Circuit, between February 2014 to present day, seeking Equity and Justice, in these matters.

The Record for Review will further show that, in every appeal there has yet to have been a proper finding of facts and conclusion of law on the subject matter of every appeal.

In the 2014-2015 Appeal from the dismissal of the Dec. 31, 2013 Lawsuit, ***on grounds of res judicata*** by the Hon. C. Lynnwood Smith, the subject matter of this appeal was the conduct of the Hon. Lynnwood Smith and res judicata. Yet, the April 15, 2015 ruling, made by the Eleventh Circuit makes no mention of either one of these subject matters, case # 14-10498.

In the 2016-2017 Appeal from the dismissal of the Dec. 31, 2013 Lawsuit, ***on grounds of res judicata*** by the Hon. Abdul K. Kullon, based off the recommendation report of the Hon. Harwell G. Davis, the subject matter of this appeal was new facts and evidence from the 2011 bankruptcy, that presented a worsening of the earlier conditions, that spoils res judicata. Yet, the Oct. 3, 2017 ruling, made by the Eleventh Circuit makes no mention of this subject matter, case # 16-15117.

In the 2016-2018 Appeal from the affirmation, by the district court to allow a bankruptcy judge to dismiss a ***Complaint of Constitutional Violations of a non-core case***, that was made by the Hon. Chief Judge Karen O.

Bowdre, the subject matter of this appeal was, the lack of authority of the bankruptcy judge to dismiss a non-core issue along with the filed Complaint spoiling the res judicata effect of the (2011) bankruptcy. Yet, the February 21, 2018 ruling, made by the Eleventh Circuit makes no mention of this subject matter, case # 16-16943.

With all due respect to this Hon. U.S. Supreme Court, our Judicial System, the Justices of the Eleventh Circuit, and all Justices beneath their jurisdiction, in these matters, the injustice of these events and rulings, by this Eleventh Circuit Court of Appeals have not only cost petitioner his time, money, health, family and nearly his home, but also it has been this type of Lack of a proper Finding of Facts and Conclusion of Law, that the Record on Review will now show that every court beneath the jurisdiction of the Eleventh Circuit, has presented this same type of adjudication, in these matters. Finally, the Record on Review will now show that in the (7) years of seeking Equity and Justice, there has yet to have been any defendant, in these cases, who has stepped forward and shout to the court(s), "no your honor I(we) did not do what petitioner is claiming." Petitioner states that the refusal by the courts to allow the evasion of the true, violates the spirit of the filing of a Complaint and Summons, along with the (21) day response, from the Defendant(s).

If this Hon. Court, deems the above words untrue and offensive to the court(s), Petitioner apologizes and will except the punishment entered, by this court.

REASONS FOR GRANTING THE PETITION

Petitioner pro se' DeAndre' Russell states that the described events that he has now presented, (which is proven, by his filed complaints, motions, briefs and the Orders from all lower courts), should present sufficient cause for this Hon. U.S. Supreme Court, to exercise its supervisory powers, in these matters. The above events should leave no doubt that not only has the lower court(s), in these matters, so far depart from the usual course of the proceeding, but also, the Circuit has decided Question of Laws that has not been, but should be settled, by this court. The issues below present Questions of Law, that Petitioner pro se' contends, should be settled by this Hon. Court.

I.

The Circuits are divided over the issue of res judicata as it pertains to default judgments

So, why are the Circuits divided over this issue of res judicata, as it pertains to default judgments? Unlike the rulings that Petitioner pro se' has received from the Eleventh Circuit and all court(s) below its jurisdiction that have all stated; "no Mr. Russell you had your chance," case laws such as *Brown v. Felson, Pepper v. Litton, Margolis v. Nazareth, Heiser v. Woodruff* and many more see this issue differently.

What are the justices in these cases seeing different from the justices of the Eleventh Circuit and all court(s) below? In its simplest understanding, petitioner would argue that the justices from the cases mention are seeing first and foremost that a default judgment is merely a technicality. They understand fully and make known in their rulings that no issues were never actually litigated and decided on the merits.

Second, petitioner would argue that the justices of the mentioned cases would also understand, "the human element to res judicata and default judgments." They understand that the reasons that one may not show up to a hearing, only to later discover wrong-doing goes well beyond the phrase, "all that could have." In other words, they understand that the court(s), reasonably cannot truly say to a defendant, who at that time, is being sued by a powerful creditor, who may be afraid, who has no money to hire an attorney, who is sick and/or totally uneducated in the law, that may now have discovered, at a later date, evidence of intrinsic or extrinsic fraud" no you had your chance."

And third, the justices of the mentioned cases, unlike those of this Eleventh Circuit and all court(s) below understand that it is not uncommon, especially in today's society, that big businesses often prey off of the poor, the sick, the uneducated, as well as the average working-class citizen who is not an attorney, and that their deeds of wrong-doing should not go unpunished.

The argument that Petitioner is presenting is one that presents the need for the courts to focus more so on the front end of this issue rather than the rear, in the arena of default judgments. In other words, the focus of

this argument should not be merely on a litigant right at an attempt to set-aside a judgment, pursuant to the Rule 60(b) provisions, for which he contends, presents another set of issues, *(The unfair treatment by the courts, in exercising its discretion on Rule 60(b)*. **More so the primary issue, as he would argue, is the unconstitutionality of the court(s) issuing of default judgments, without making certain that a debtor's rights are better protected, upfront in a judicial proceeding, concerning contract law.**

The Writ should be granted because Congress and this Hon. Court, in the Interest of Justice, must develop a more consistent method of equity and justice, for all of the lower court(s) to apply, concerning this issue of res judicata as it pertains to default judgments.

The next (2) topics will discuss the importance of how these rights are being denied and why a greater protection is needed.

II

The buying and selling of debt to law firms is Unconstitutional

In Jan 9, 2009, Petitioner's wife answered the door at her home, upon which she was then served with a sheriff's notice, with an order to sell our home and its contents to pay for a judgment debt to Redstone Federal Credit union, for approx. $35,000.00. It should be noted that Petitioner has now been in the same home for over 17 years, and cannot recall any recent letter, phone call,

etc. from a court or Redstone Federal Credit Union or their attorney, concerning a 35K debt. Petitioner soon discovered that this debt was from a 1996-97 revived credit card default judgment that originated at an approx. 3-4K and was allowed, by a judicial system to sit dormant (without any weekly, monthly, yearly notification) and grow to the amount of 35K.

After, an attempt at deciding to pay this debt, through payments, at which petitioner paid nearly $9,000.00 in (19) months, Petitioner was forced to seek counsel because every time he would get little behind on payments, the creditor's attorney would send another sheriff out to our home.

In May of 2011, Petitioner met with attorney (John Larsen) to see if he could broker a deal to end this. At the time, he asks if he could give Redstone Federal Credit Union another $10,000.00, in (12) months, and end this harassment. On approx. June 20, 2011, Petitioner was told by his counsel, (John Larsen) that Redstone Federal Credit Union would not except his offer.

On June 29, 2011, Petitioner pro se' went to the main branch of Redstone Federal Credit Union and asks to speak to the management concerning these matters, for which he was finally told after a long wait that; "No Mr. Russell you don't owe us anything"

It is no secret as to what is now taking place with the vast number of the described class of litigants, who have received default judgments from state courts. The creditors, of these now default judgments are in many cases insuring the debt, writing it off their taxes and are

now selling the debt for pennies on the dollar, to law firms.

It is Petitioner pro se' contention that these acts of buying and selling of debt, that is being committed by creditors and their attorney(s), in the name of judicial economy, by the courts, that stems from a "default judgment" are unconstitutional and are in total violation of the consumer protection act. The described events that took place with petitioner pro se' is a common everyday event to the above described litigant, (the poor, sick, uneducated, etc.).

Petitioner pro se' states that no creditor should be allowed to sell a debt to a law firm. As to the simplest reason why, first and foremost, because the debt involves a consumer transaction that took place between that creditor and that consumer, which was bound by a signed contract between the two parties only, and no one else.

Second, of all people to sell a debt to, one must ask, why the lawyers? Petitioner pro se' reserve his right to expand more in depth, of this issue, if the Writ is Granted.

Third, the acts that are now coming forth from the procurement a default judgment, issued by the court(s), in the name of judicial economy, whereby creditor(s) are selling these debts to law firms, with all due respect, is a form of slavery and prostitution, especially to the now described litigant.

Petitioner pro se' makes this claim because the facts are clear and indisputable that the process involving the default judgments that are being issued by

the state court(s), in the name of judicial economy, are now displaying that, "we (the above named class) and our asset, are being bought and sold to the highest bidder, of a law firm, for pennies on the dollar, whereby the state court(s) have now become participants in shielding and rewarding the actions of the likely wrong-doer.

The Laws that Congress has put in place, along with the Rules and Procedures by which the courts are allowing these acts to take place, are Unconstitutional, because in its simplest form, it violates Equal Protection under the Law. Under these Laws Rules and Procedures, the courts are protecting the creditor, in the court room based off of a contract that (I/we) signed, but you are not protecting the consumer, in the same court room, from the possibility and likelihood, in many cases, of the fraudulent contract that the creditor may have presented).

The Hon. Senator Elizabeth Warren, has stated in many recent and past interviews, that out of all the campaign contributions given to our legislators, none is greater than those of the credit card industry. And the truth is, most if not all credit cards are issued by banks.

There is much more that petitioner pro se' is prepared to argue, on this subject matter including the fact that there is a reason why the only way to resolve this issue is by returning to a system, that comes from the Bible, for which this country once adopted and that is; the (7) year cancellation of debt.

Petitioner pro se' pray that this court would grant this Writ, so that he may present oral arguments to expand on this subject matter.

III

The representation by counsel as it pertains to Contract Law is Unconstitutional

Petitioner pro se' presents this question to this Hon. Court. How are the creditor(s) able to evade the consequences of this often and unknown fraudulent behavior, that may be imbedded in a contract or conduct by creditors and their collection agents, in a court room?

The answer, because it has now become common place for the attorney of the now described client, (poor, sick, uneducated, etc.) who is facing a court battle over a consumer debt, whether in state court or bankruptcy court, to focus primarily on the repayment of the debt, fees, interest, etc., without ever making known to their client of the validity of the debt, i.e. the contract.

These failure by the attorneys to make known to these types of clients on the validity of a contract, are presenting a representation that should be deemed Unconstitutional. This is because, the described type of representation is depriving a certain class of people, of their proper right to first, be allowed to possibly redress a grievance. Second, it is depriving them of their due-process rights. And third, in simple terms, it is violating equal protect under the law, *Title 11 § 329.*

In the simple equitable and just terms, no client has any business making arrangements, in a court, to pay a debt, fees, interest, etc., without first knowing from his counselor as to the validity of that debt, i.e. the contract. And why! Because the only reason that a

creditor can step into a court room concerning a consumer transaction of debt, and sue for breach of that debt, is due to a signed contract between the two parties. In sum, the contract always rests at the center, of every court proceeding, concerning a consumer debt.

It is petitioner's argument that without the ***mandatory requirements*** that a client must be inform by his counsel, as to the validity of a debt, upfront and on the record, before any arrangements are made to pay the debt, there can be no equal justice under the law, to the above described client, concerning consumer law.

Petitioner pro se' reserve the remaining issues of this argument, upon a decision, by this Hon. Court to grant the Writ. Petitioner pray that the Writ would be granted.

IV.

The law is settled on filing suit on State Officials in Bankruptcy Court

As earlier noted, in this petition, the landmark case of *Stern v. Marshall* has now settled the issue on how the bankruptcy judges are to handle tort claims in bankruptcy court. Congress and this Hon. U.S. Supreme Court, in its wisdom, has reached the proper conclusion in all aspects of presenting the proper Rules, Authority, Jurisdiction and Adjudication of a tort claim, that has been presented, in a bankruptcy court.

Petitioner will argue that the case of *Stern v. Marshall*, as it relates to his case, hinges on (5) key words, and they are; "Public Right and Private Right."

With that said, the question that the lower courts failed to first answer is, was the Filed Complaint that Petitioner alleged presented 14th Amendment Constitutional Violations of his Property Rights, committed by State Officials, for a continual pattern of filing a false claim, in a Federal Bankruptcy Court, a public right or a private. According Statute and Case Law it was a, "Public Right".

Answering the above question should have set the stage as to which court would now have the Authority and Jurisdiction to adjudicate the case. Finally, because the alleged violations, by State Officials were committed inside of a Federal Bankruptcy Court, was discovered inside of a Federal Bankruptcy Court along with the filed suit, for a tort claim for injuries with a Jury Demand being made, inside of a Federal Bankruptcy Court, there should have left no doubts to the lower courts that, a) this was not a State-Law Claim, and b) It was not ripe for Article I Jurisdiction, therefore withdraw of the reference to the district court, should have been a sua sponte response, by the bankruptcy judge.

For these reasons Petitioner pray that the Writ would be granted.

V.

The Case presented is a matter of Public important

This case is a matter of Public importance because it affects all who may be (poor, sick, uneducated, as well as an average working-class citizen) and has retained counsel, over the default of a consumer debt and now find themselves in court, over the contract of that debt.

This case also affects all the (above

described) litigants who have received a default judgment, in a state court.

The Eleventh Circuits decision(s) were incorrect

The decisions made by the Eleventh Circuit Court of Appeals in Case No. 16-15117 and 16-16943 should undoubtedly display that the Circuit has parted far from the usual course of judicial proceeding. The Record on Appeal will now show that Petitioner pro se' has now made (4) appeals to the U.S. Court of Appeals for the Eleventh Circuit, concerning the issues of his (2011) bankruptcy. In each case, the circuit has failed to base their decision on a complete finding of the facts that it has been presented with. Furthermore, it is Petitioner pro se' contention that the Eleventh Circuit failed in reigning in the conduct of the court(s) below its jurisdiction, and the true complexity of the issues involved, in this case.

As to the decisions that were made by the Eleventh Circuit Court of Appeals concerning the October 3, 2017 Order of Denial of Case # 16-15117 and the January 10, 2018 Denial of En Banc Considerations, along with the February 21, 2018 Order of Affirming the District Court's decision of Case #16-16943, the Eleventh Circuit's decision(s) in both cases stated that, a) res judicata applied, b) case did not meet 1331 adjudication and c) bankruptcy court was correct to dismiss non-core case. These decisions were incorrect for the following reasons:

[A]

As to Case No. 16-15117

The Eleventh Circuit greatly erred in its decision, first, because the cases should have been consolidated. The (2) filed suits, involved issues of injuries that originated from a (2011) bankruptcy and both cases involved parties from that bankruptcy.

Second, the Eleventh Circuit failed to adjudicate the issue of the new facts and evidence that petitioner pro se' claimed presented a worsening of the earlier condition of the (2011) bankruptcy, that would have determined whether the res judicata effect had been spoiled. These facts were especially important when it became abundantly clear that all the lower courts, beneath the Circuit, were using the issue of res judicata to prevent and deny adjudication of the December 31, 2013 filed lawsuit.

Third, the Eleventh Circuit not only ignored statute and case law from other Circuit(s), as well as from this Hon. U.S. Supreme Court, but more so it ignored rulings from its own court. In *Worley v. Bakst,* the Eleventh Circuit made crystal clear that a bankruptcy judge cannot dismiss a non-core case, and in that case, they remanded back to the district court for proper adjudication. *In Foremost Fin. Service Corp v. White (in re White) 908 F.3d 691,694 (11th Cir. 1990)*, the Eleventh Circuit agreed with this U.S. *Supreme Court in Mullane v. Cent. Hanover Bank & Trust Co., 339 U.S. 306,314 (1950)*, when it stated that; "res judicata has no bite if a litigant has been denied due process of law." They further stated; in the context of bankruptcy reorganization, therefore, any showing that notice of the confirmation hearing was unfair will destroy the res judicata worth of the plan.

And in *Pleming v. Universal Rundle Corp., No. 97-8170 (11th Cir. 1998)*, the Eleventh Circuit also agreed with this Hon. U.S. Supreme Court in the case of *Lawlor v. National Screen Service*, when this court stated that; res judicata has no effect on a second suit when there are, new facts and a worsening of the earlier conditions.

Also as to 1331 adjudication, case law is clear that the Federal Courts have jurisdiction to entertain complaints, involving bankruptcy matters, to include judgments, *In re Blackman, 55B.R. 437 (1985), In re Greenig, 152 F.3d 631,635(7th Cir. 1998), In re Sun Valley Food Co. 801 F.2d 186,189 (6th Cir. 1986).*

In sum, petitioner in these matters, contend that the decision made by the U.S. Court of Appeals for the Eleventh Circuit, in Case No. 16-15117 was incorrect because like the lower court(s) under its' jurisdiction, it chose to deny petitioner's (2013), filed lawsuit, ***on grounds of res judicata***, without adjudicating the facts and evidence that presented ***grounds for res judicata having no effect.*** Petitioner states, with all due respect that these actions and rulings have shown to have denied petitioner pro se' his right to redress a grievance, his right to due process, and his right to Equal Justice under the Law.

[B]

As to Case #16-16943

The decision made by the Eleventh Circuit Court of Appeals involving Case No. 16-16943, also presented great errors, that petitioner claims led to an incorrect decision that was made in February 21, 2018. The

Eleventh Circuit's decision not only ruled in contrary to the other Circuits and this Hon. U.S. Supreme Court, it also ruled against its' own rulings of cases of similar such kind.

First, the Record on Review will show that the Eleventh Circuit greatly failed in properly adjudicating the mismanagement of a (2011) and a (2014) bankruptcy for an abuse of discretion, and/or more, to the degree that these bankruptcies violated a litigant's right, *Chudasama v. Mazda Motor Corp. 123 F.3d 1353,1356 (11th Cir. 1997),*

An abuse of that discretion occurs only when the litigant's rights are materially prejudiced by the court's mismanagement of a case, Id at 1367.

Second, the decision was incorrect because the Eleventh Circuit bypassed adjudication of a complex case of controversy that Congress and this Hon. U.S. Supreme Court settled through Statute and Case law, and that is; filing a tort suit against officials of a state agency, in their (official and individual capacity) for Constitutional and Federal violations of a continual pattern of wrong-doing, which would make this a federal issue, not a state.

Furthermore, the Eleventh Circuit greatly failed to adjudicate the fact that the evidence from this filed lawsuit against state officials presented evidence of *spoiling the res judicata effect, of Case No. 16-15117.*

In sum, the Eleventh Circuits decision in Case No. 16-16943 was incorrect because Petitioner pro se' has presented Statute, Case Law, along with facts and evidence, supporting his claims, for which the Record on

Appeal will undoubtedly display that a finding of fact and a conclusion of law, concerning the subject-matter of the above issues are nowhere to be found in any Order that was made by this Circuit.

In closing this Petition to this Hon. U.S. Supreme Court, Petitioner pro se' DeAndre' Russell states that the above events that have now transpired over the past (7) years, has had its origins in the Madison Co. Courthouse in Huntsville, Alabama, over what petitioner would claim as an unnecessary default and deficiency judgment.

The Record will now show that these issues that have taken place with me and my wife are now once again taking place with my wife and me, *Petitioner's Appendix K, Exhibit.*

The Courts of this nation needs a better uniformity, and enforcement by this Hon. U.S. Supreme Court of the Rules and Procedures that it passes down.

Finally, I ask that however this Hon. Court decide on how it will handle this case, I simple ask that the decision, will not come from the view of the left or right, Conservative or Liberal, nor as a Republican or Democrat, but simple a decision that comes from the, "center" which was the true intent of our founders, which simple stands for what right, fair and just to all, ***Prov. 2: 1-8.***

Thank you for reading and considering this case.

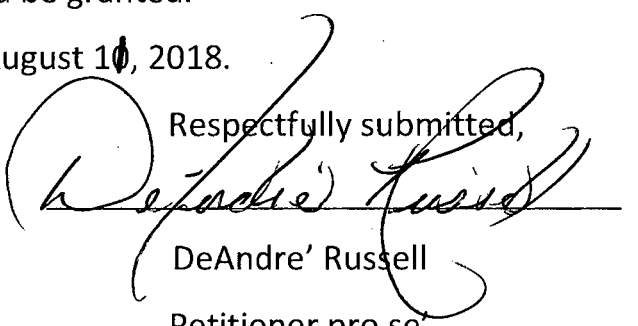
DeAndre' Russell

CONCLUSION

For the foregoing reasons, the petition for writ of certiorari should be granted.

DATED: August 10, 2018.

Respectfully submitted,



DeAndre' Russell

Petitioner pro se'

4882 James Street

Huntsville, Alabama 35811

(256) 851-6658