18-6779

No. 18 - _____

IN THE
SUPREME COURT OF THE UNITED STATES

GUY W. HEFFINGTON,

Petitioner,

v.

PAMELA PULEO; FREDERICK G. SUNDHEIM, JR.;
OUGHTERSON SUNDHEIM & ASSOCIATES, P.A.,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

Guy W. Heffington, *Petitioner, Pro Se*
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Questions Presented For Review

1. Whether Guy Heffington, the son of Joan Farr f/k/a Joan Heffington, was denied due process of law under the Fifth Amendment, the right to an attorney under the Sixth Amendment, the right to a jury trial under the Seventh Amendment and equal protection under the Fourteenth Amendment to the United States Constitution, since the courts knew his mother not been able to acquire legal representation for 18 years.

2. Whether the Court of Appeals erred in its decision after Guy Heffington showed sufficient evidence to prove conspiracy by respondents to deny him the right to his property - diversity jurisdiction applied and personal jurisdiction was moot.

3. Whether Amendment XXVIII should be added to the U.S. Constitution to give everyone the right to be represented in a civil matter the same as a criminal one, or should the words "and justice for *all*" be removed from the Pledge of Allegiance.

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition are as follows:

(1) Guy W. Heffington
(2) Grant I. Heffington
(3) Pamela Puleo, Trustee in New York
(4) Frederick G. Sundheim, Jr., Attorney & Estate Executor in Florida
(5) Oughterson Sundheim & Associates, P.A., law firm in Florida
(6) Estate of Nyla "June" Heffington
(7) Justin N. Lite, Attorney in New York
(8) Other unknown actors/state actors

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, there is no parent or publicly held company that owns 10% or more of the stock in any of the above entities.

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PETITION FOR A WRIT OF CERTIORARI

The petitioner in this case is Guy W. Heffington who is a 25-year old man in Kansas and an individual filing pro se with the help of his mother, Joan E. Farr f/k/a Joan Heffington. Petitioner respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit in this case.

OPINIONS BELOW

The October 12, 2018 opinion of the United States Court of Appeals for the Tenth Circuit whose judgment is herein sought to be reviewed, is reported in Case No. 18-3034 which is Appendix A of this petition. The United States District Court for the District of Kansas issued a Memorandum and Order granting dismissal in favor of the defendants on February 2, 2018 in Case No. 17-1192-EFM which is Appendix C of this petition. Petitioner filed a motion for reconsideration that was denied on March 26, 2018 which is Appendix B of this petition.

STATEMENT OF JURISDICTION

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. @ 1254(1) and 28 U.S.C. @ 1651(a). The relief sought is not available in any other court because manifest injustice in the legal system has been continuing toward petitioner's mother for the past 18 years. During this time, she has been denied legal representation, due process of law and other rights because she was discriminated against as a homebuilder and then harassed for starting a non-profit organization called the Association for Honest Attorneys (A.H.A!). The continued harassment has affected three of her sons, including

the petitioner in this case, Guy Heffington.

Pursuant to Supreme Court Rule 20(3)(a), the names and functions of every person against whom relief is sought are as follows:

Pamela Puleo, Estate Trustee in New York
Frederick G. Sundheim, Jr., Attorney & Estate Executor in Florida
Oughterson Sundheim & Associates, P.A., his law firm in Florida
Estate of Nyla "June" Heffington, Guy's grandmother (deceased)
Justin N. Lite, Attorney in New York
Other unknown actors/state actors

As this matter relates to Supreme Court Rule 10(a) & (c), the opinion of the Tenth Circuit Court of Appeals should be reviewed for the compelling reasons that: (1) a United States court of appeals has so far departed from the accepted and usual course of judicial proceedings, and sanctioned such a departure by a lower court, as to call for an exercise of this court's supervisory power; and (2) a United States court of appeals has decided important federal questions in ways that conflict with relevant decisions of this Court. This case is of considerable national importance as it relates to the rights of beneficiaries in estate matters. Exceptional circumstances warrant the exercise of the Court's discretionary powers and adequate relief cannot be obtained in any other form or from any other court. The Solicitor General is being served a copy of this writ pursuant to 28 U.S.C. 2403(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Constit. Amendment V: *"Nor shall any person ... be deprived of life, liberty, or property without due process of law."*

U.S. Constit. Amendment VI: *"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial... and to have the assistance of counsel for his defense."*

U.S. Constit. Amendment VII: *"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."*

U.S. Constit. Amendment XIV: *"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.'*

STATEMENT OF THE CASE

Introduction

This case is about discrimination and ongoing harassment of a woman that has lasted for 18 years and which continues to affect her children, including petitioner Guy W. Heffington. It began when Joan Farr (formerly known as Joan Heffington) became the first female builder to join the local builders association in Wichita, Kansas in 1999. After she received front-page publicity, male builders were afraid she would take away their business.[1] So the 'good ole boys' pursued an opportunity to drive her under, and when she hired a lawyer to try and save her company, they influenced him and then 44 other lawyers not to represent her. Farr was forced to legally represent herself against six corporate attorneys who had her in court every week for five months. She suffered a break-down which was the beginning of numerous health problems. Even with over 500 pieces of evidence and 150 laws broken, they influenced the judge to dismiss her case (#01C0771). She then contacted 15 more lawyers to help her file an appeal (#02-88617-A). After she did so, false charges were brought against her 14-year old son Garrison Moore in retaliation. She took the case all the way up through the Kansas state courts, but it was not heard by this court (#03-1051)).

As a result in 2003, Farr began a non-profit organization with three other directors called the Association for Honest Attorneys (A.H.A!) and wrote a book called *TEN SECRETS You Must Know Before Hiring a Lawyer* (Doc. 128, Att. A,

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[1] Article by Stan Finger, "*Wife, mother, general contractor...*", The Wichita Eagle, Oct. 2, 1999, at 1a, is mentioned in Farr's book *TEN SECRETS You Must Know Before Hiring a Lawyer*, Sept. 2003, pp. 15-16, as well as the other facts in this paragraph. This information has also been available since that time on Farr's non-profit website at www.assocforhonestattys.com under an article written by her entitled: "Legal Abuse: Has It Happened to You?"

Para. 2). She wanted to discourage litigation, educate the public, and help people find honest lawyers. She filed Case #05-4028 on her son's behalf as a *pro se* litigant since no lawyer would represent them. However, it was also dismissed by the Kansas District Court and the Tenth Circuit (#05-3372), and this Court declined to hear it (#07-5). The A.H.A! could not get any publicity and Farr later realized that a National Security Letter had been issued against her which put her on the terrorist watch list (*Id.*, Doc. 119, Ex. L). The 'good ole boys' had ruined her business, kept her from getting a job, ran her out of money, persecuted her sons with frivolous charges and caused her serious health problems. In 2006, the continued stress caused her 50-year old husband to die from a sudden heart attack. Farr filed a wrongful death suit again *pro se* (Case #08-CV-4097) which was also dismissed by the Kansas District Court (and affirmed by the Tenth Circuit (#09-3052), and was not heard by this court (#09-6744).

Farr began drawing Social Security to care for her sons and kept trying to help people find justice through the A.H.A! They had started a newsletter in 2004 that caused them to evolve into an independent government watchdog agency which began to reach millions. Farr's younger son was then discriminated against by the school system which caused her to file another pro se federal suit (Case #07-CV-4095). This was also dismissed and her appeal denied by the Tenth Circuit (Case #08-3045). Farr's research led her to discover that her father had suffered wrongful death in Viet Nam, so she filed a federal suit on his behalf in 2006 (#06-CV-4081). This case was also dismissed by the Kansas District Court and appeal denied by the Tenth Circuit (#07-3096).

As Farr continued trying to help innocent people who were being falsely targeted with National Security Letters, the government didn't like it. So in December 2009, the

State of Kansas brought a false lawsuit against her for practicing law without a license and violating consumers (Case #09-CV-4757). They knew there were at least 16 cases ruled on by this court that say anyone can help a person in a legal matter as long as they don't present themselves as a lawyer and don't take a fee, and Farr had done neither. This was the last straw, so she ran for governor of Kansas in 2010 against Senator Brownback. Farr was forced to again proceed pro se throughout since the state court would not appoint her an attorney. Even though there was no evidence against her and no complaints, she was found guilty by the same judge, fined $120,000 and ordered not to help anyone again. Farr appealed and the $120,000+ judgment was lifted by the Kansas Court of Appeals, but she was legally advised that she still needed to clear her name.

Petitioner filed her appellant brief with the Supreme Court of the State of Kansas on March 20, 2012 and waited for an answer, but it never came. So she filed a writ of mandamus with this Court on January 22, 2013 (#12-957). It was not heard and she was then brought back into district court later that year to reassess fines. Again without an attorney or a jury, another judge reinstated the $120,000 fines against her. Farr appealed and the judgment was affirmed by the appellate court who had vacated the fines prior. Her petition for review was denied by the Kansas Supreme Court, and her writ of mandamus was not heard (#15-745).

Farr's persecution continued when members of the Huckleberry Homeowners Association ("HOA") decided to join in the harassment and try and run her out of the affluent neighborhood where she had lived for over 20 years (the details are mentioned in Case # 18-3041 which is being appealed in conjunction with this case). Farr decided in 2013 that it would just be easier to move her business to Oklahoma since she couldn't sell her house. The following year, she ran for the U.S. Senate there to try and fight the

corruption in our legal system. However, over a six-month period in 2014-2015, the HOA stole her boat(s), stole her picnic table and bulldozed the beach she had paid for in the commons area in front of her home. Then when she filed a claim with the HOA insurance company, the HOA sent sheriffs' officers two days later to surround her house with guns drawn to try and arrest her son Moore on a fake warrant. The resulting stress nearly caused her death the next morning and her health continued to suffer.

This matter pertains to the continued persecution of Farr's children, including her two youngest sons, Guy Heffington and his brother Grant. After their father Mark Heffington passed away suddenly in 2006, his parents (Charles and Nyla "June" Heffington) blamed Farr for his death. Up until that time, they had driven almost every year from Florida to visit their grandchildren in Kansas because June didn't like to fly. But after their son's death, they never came to visit them again. Guy Heffington was 12 years old at the time and his brother was 11 when their father died. So in 2011, Farr traveled to Florida to pay their grandmother, June Heffington, a surprise visit after their grandfather had passed away. They made amends and before she left, June told her that she was leaving everything to Guy and Grant, and gave Farr contact information for her lawyer, Frederick Sundheim with Oughterson Sundheim & Associates, P.A. However, June then stopped talking to Farr again a couple weeks later being swayed not to by her best friend in New York, Helen Puleo and her daughter Pamela.

It was in 2012 that Pamela Puleo coerced Nyla June into naming her as trustee of her will and trust drawn up by Attorney Sundheim and moved her up to New York to be company for her mother, Helen Puleo, who was June's best friend. June did not keep in contact much except to call Guy occasionally and send him and his brother money on their birthdays and holidays. Farr tried to call her and to locate her several times but

was unable to reach her. When Helen passed away in 2012, June continued to live with her daughter Pamela as her caretaker in New York.

When June became seriously ill in early April, 2017, Pamela finally called Guy to let him know. At that time, Farr together with her sons Guy and Grant called Attorney Sundheim at his law firm in Florida since he was the executor of June's will. He told Heffington that Puleo as trustee had bought her own house with $439,000 of his inheritance money and was trying to sell it, that there was $123,000 in a certificate of deposit and $60-$80,000 in a bank account, and this was all that was left in the trust. He then e-mailed a copy of June's will and trust to Grant Heffington.

Puleo then sent a check so that Guy and his brother and mother could fly to New York to see June before she died. But she suddenly withdrew the invitation, and when Farr flew out to visit her anyway (because there was no refund on the tickets), Puleo sent her 36 text messages threatening to call the police if she came. Farr returned home to Kansas and a week later, used her own money to send Guy and Grant on a plane to see their grandmother one last time since Puleo had stopped payment on her check. June was on her deathbed and squeezed Guy's hand to let him know she knew who he was. She passed away two days after they returned home.

In July 2017, Farr took Guy to see a local attorney who convinced them that Puleo, Attorney Sundheim and his law firm had been conspiring for years to breach their fiduciary duties and steal his inheritance for their own benefit and use. They figured their money was easy pickings since they all knew about Farr's activities as C.E.O. of A.H.A! through her newsletters, and that she would not be able to acquire a lawyer to represent her sons. Farr contacted 18 lawyers in New York and five in Wichita, to no avail. So on August 2, 2017, she helped her son file a federal suit and a notice of

pendency on Pamela's home she had purchased with $437,000 of his inheritance and was trying to flip so that they could all pocket the money. Heffington filed a motion for appointment of counsel, but the district court refused to appoint him an attorney.

Guy Heffington has been proceeding pro se in this matter with his mother's help. His case was dismissed by the Kansas District Court for lack of personal jurisdiction and his motion to reconsider was denied. Then before he could file an appeal, Puleo and her attorney Justin Lite in New York took the dismissal to a title company in February 2018 and sold the home anyway for $455,000 so that her attorney fees could get paid. Heffington filed his appeal on March 5, 2018 and on October 12, 2018, the Tenth Circuit Court affirmed the trial court's decision. Heffington now comes before this Court seeking justice and the recovery of his inheritance in this matter.

NOTE: In addition to Case # 18-3041 involving Farr's HOA which is also being appealed to this Court, this case is also related to two cases being appealed from the Tenth Circuit Court which resulted from the A.H.A! being targeted as a "Tea Party" Christian non-profit organization by the IRS in 2013. Case No. 18-9002 involves the removal of the A.H.A!'s tax-exempt status, and the Tenth Circuit recently dismissed Farr's appeal because she could not find an attorney to represent the A.H.A!. She did not appeal to this Court due to health issues, family problems and trying to move back to Oklahoma. This case is also related to Case No. 18-9003 in which the IRS Commissioner imposed fines of $88,800 against Farr for engaging in benefit transactions with the A.H.A! which she did not do. On October 1, 2018, the Tenth Circuit again affirmed the Kansas District Court's decision and Farr has filed an appeal with this court. Therefore, petitioner adopts, joins in and incorporates any of the arguments or laws stated in any of these cases or her past cases which might also apply in this case. **The statement of the cases in all three of these writs are very similar in order to show the background of these cases.**

REASONS FOR GRANTING THE PETITION

1. **Whether Guy Heffington, the son of Joan Farr f/k/a Joan Heffington, was denied due process of law under the Fifth Amendment, the right to an attorney under the Sixth Amendment, the right to a jury trial under the Seventh Amendment and equal protection under the Fourteenth Amendment to the United States Constitution, since the courts knew his mother not been able to acquire legal representation for 18 years.**

The Tenth Circuit Court and the Kansas District Court abused their discretion by ignoring the facts, laws and evidence presented by the petitioner in this matter. Petitioner tried to follow all court rules which he had knowledge of to the best of his ability without representation and with his mother's help. Dismissing this case on technicalities because Heffington did not have legal representation is an insufficient reason for the Court of Appeals to affirm the Trial Court's decision. They abused their discretion and denied him due process of law by failing to consider all of the facts, law and evidence he presented to show the merits in this case. Asserted denial of due process of law is to be tested by an appraisal of the totality of facts given in a case. *Betts v. Brady*, 1942, 62 S.Ct., 1252, 316 U.S. 455, 86 L. Ed. 1595.

The fact that people are able to represent themselves but the courts denied Heffington's appeal because he had no lawyer was a violation of his right to due process of law under the Fifth Amendment to the U.S. Constitution. *U.S. Constit. Amend. V.* A There was substantial evidence presented including a copy of the will and trust drawn up by Attorney Frederick Sundheim for Charles and June Heffington, the fraudulent deed to Puleo's own house that she had purchased with $439,000 of Guy's inheritance money three days before June died, and a document showing the transfer of this money into her own account instead of Guy's trust (Doc. 1, Exhibits A-G). Therefore, his right to be heard was violated and fundamental fairness was ignored when the court dismissed this case prior to any discovery. The merits were not considered and he was never given an opportunity to present his case before a tribunal or judicial proceeding as he had requested.

Therefore, Heffington was found guilty for acting pro se just like black people were deemed guilty during the civil rights era because they were black. However, protection of

individuals against arbitrary government action is the great purpose of the due process clause. *Dent v. West Virginia*, 129 U.S. 114, 124, 9 S. Ct. 231, 32 L. Ed. 623 (1889); see also *Wilwording v. Swenson*, C.A.Mo. 1974, 502 F.2d 844, certiorari denied 95 S. Ct.835, 420 U.S.912, 42 L.ed.2d 843, on remand 405 F. Supp. 447. Furthermore, the due process clause of Amendment XIV and Amendment V are directed at the protection of the individual, who is entitled to the immunity thereof as much against the state as against the national government. *Curry v. McCanless, Tenn.* 1939, 59 S.Ct. 900, 307 U.S. 357, 83 L.Ed.1339.

Out of pure greed, the defendants willfully conspired to breach their fiduciary duties, engage in negligence and malpractice, and illegally convert plaintiff's property for their own use and benefit over a period of five years or more. They relied on the fact that Guy and his mother would not have the money to hire an attorney in New York to fight such a case and therefore, manifest injustice is clearly warranted in this case. Requirements of the due process clause under Amendment V apply only to denial of property or liberty rights protected by the Constitution. *National Ass'n for Advancement of Colored People (Atlanta Local) v. U.S. Postal Service,* D.C.Ga.1975, 398 F.Supp. 562. Guy had no choice but to represent himself with his mother's help and to try and seek justice from a higher court. Therefore, he was in no way afforded due process of law and equal protection and given his right to be heard. The Court of Appeals and the lower court denied him due process, since the guarantee of the right to counsel under Amendment VI is within the intendment of the due process clause. *Smith v. U.S.*, D.C.N.J.1966, 250 F.Supp. 803, appeal dismissed 377 F.2d 739.

Heffington was denied equal protection of the laws because he was not treated fairly and equally during the litigation. *U.S. Constit. Amend. XIV.* The Court of Appeals also

denied Heffington due process of law by reviewing this case de novo instead of abuse of discretion. The Trial Court was well aware that neither he nor his mother were attorneys and had no experience in cases involving diversity and/or personal jurisdiction. Therefore, dismissing this case on technicalities because Guy was unrepresented showed bias by the court against him. However, the judicial system has a strong predisposition to resolve cases on their merits. *Meade v. Grubbs*, 841 F.2d 1520 n.7 (10th Cir. 1988).

The Tenth Circuit Court and the Kansas District Court also abused their discretion and denied Heffington his due process of law rights by denying him appointment of counsel so he could not be heard before a trial of his peers. *U.S. Constit. Amend. VI.* Heffington's due process rights were clearly violated, since a jury trial was warranted on the factual issues involved. *U.S. Constit. Amend. VII.* The courts have abused their discretion to deny him due process of law by engaging in intentional fraud, misrepresentation, fraud on the court and breach of fiduciary duty just because neither he nor his mother could get a lawyer to represent him.

The Court of Appeals and the trial court failed to consider violations of Heffington's Constitutional rights under the 5th, 6th, 7th and 14th Amendments. However, the due process clause under Amendment V encompasses equal protection principles. *Mathews v. de Castro,* Ill. 1976, 97 S.Ct.431, 429 U.S.181, 50 L.Ed.2d 389. Diversity jurisdiction was a sufficient basis for filing in this court, since respondents were over 200 miles away in New York and Florida and petitioner lived in Kansas, but this law was ignored entirely. The fact that his case was dismissed without any discovery denied Heffington due process, since his facts with significant evidence attached to his lawsuit would convince any reasonable person that the defendants were guilty of the allegations against them. More evidence would have been brought out in a trial if he had been

allowed to be heard and a lawyer appointed to represent him. *U.S. Constit. Amend. VI.* However, the courts abused their discretion by denying a jury trial which would have proved in his favor by a preponderance of the evidence. *U.S. Constit. Amend. VII.*

Both lower courts were well aware of the previous cases Heffington's mother had brought before the Kansas District Court and the Tenth Circuit. Therefore, any reasonable person would believe they failed to appoint him an attorney so they could take advantage of their lack of knowledge and dismiss his case. Farr had tried to help her son by contacting more than 20 attorneys in New York and in Kansas, but to no avail. So it was an abuse of discretion and denial of due process for both courts to deny Heffington appointment of counsel, especially since he cited applicable cases where litigants had been appointed representation in past civil cases at the Tenth Circuit.

The Tenth Circuit Court has identified four factors in a motion to reconsider: (1) plaintiff's ability to afford counsel; (2) diligence in searching for counsel; (3) the merits of plaintiff's case and (4) plaintiff's capacity to prepare and present the case without the aid of counsel. *McCarthy v. Weinberg* and *Castner v. Colorado Springs Cablevision*, 979 F.2d 1417, 1421 (10th Cir. 1992)(Doc. 90, p. 1-2). In *Castner*, the *pro se* plaintiff had consulted ten attorneys to no avail and the case was dismissed; however, the judgment was vacated on appeal and remanded back for further consideration. (*Id.*) Furthermore, "appointment is proper when a party's retirement income... could not allow him to support his family of six and to hire counsel for his litigation." *Luna v. International Ass'n of Machinists & Aerospace Workers Local #36*, 614 F.2d 529, 531 (5th Cir. 1980). Both courts knew that Heffington was a struggling 25-year old man who met these factors, and yet they still denied him appointment of counsel. Therefore, abuse of discretion occurred to deny his motion to reconsider seeking relief pursuant to Rule 60(b)(6) and the Court of Appeals

affirmed, knowing that he had met the requirement for "exceptional circumstances." *Van Skiver v. United States*, 952 F.2d 1241, 1243 (10th Cir. 1991)(citation omitted).

A pro se litigant should not be held to the same standards as an attorney if they are unable to acquire a lawyer as a result of being denied due process of law. Due process is violated whenever the performance of counsel, whether retained or appointed, is so deficient as to render the proceedings fundamentally unfair. *U.S. v. Alvarez,* C.A.Ga.1978, 580 F.2d 1251. How much more so when counsel for Heffington did not exist. Furthermore, allegations such as those asserted by petitioner, however, inartfully pleaded, are sufficient... which we hold to less stringent standards than formal pleadings drafted by lawyers." *Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Picking v. Pennsylvania R. Co.,* 151 Fed 2nd 240; *Pucket v. Cox*, 456 2nd 233 ("Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standard of perfection as lawyers." And yet, the Court of Appeals had the audacity to cite a case which states that "only in those extreme cases where the lack of counsel results in fundamental unfairness will the district court's decision be overturned." *Hill v. SmithKline Beecham Corp.*, 393 F.3d 1111, 1115 (10th Cir. 2004) (App. A, p. 7). Clearly, this was an extreme case where fundamental unfairness occurred and this decision should be overturned.

In affirming the district court's decision to dismiss this case, the Tenth Circuit Court has ignored all relevant laws, statutes, case law and the Constitutional rights of petitioner in this matter. For this Court to allow them to make up erroneous rulings would give other courts standing to make up similar rulings without case precedence and thereby violate the constitutional rights of petitioners and others. The lower courts have denied Heffington due process of law as a *pro se* litigant by failing to appoint him an

attorney under the Sixth Amendment just like they did his mother, knowing that he couldn't get one due to the nature of her work and using this fact to dismiss his case on technicalities. They also denied him his right to a trial by jury in violation of the Seventh Amendment so that he could not be heard, just because his mother began an organization to help keep lawyers honest. What does this say about our legal system when Abraham Lincoln was our greatest president of all because he was so honest? He must be rolling over in his grave...

II. Whether the Court of Appeals erred in its decision after Guy Heffington showed sufficient evidence to prove conspiracy by respondents to deny him the right to his property - diversity jurisdiction applied & personal jurisdiction was moot.

In their ruling the Court of Appeals identified two types of personal jurisdiction to satisfy due process: general jurisdiction and specific jurisdiction (App. A, p. 4). Heffington erred in showing general jurisdiction over the defendants since without counsel, he failed to realize that he needed to name his grandmother's estate as a defendant. However, if the Trial Court had appointed him an attorney, they would have certainly advised him to amend his complaint in this regard to show that he had "continuous and systematic" contacts with his grandmother. Heffington was not required to prove anything other than diversity jurisdiction, and specific jurisdiction could not be met due to fraud by commission and omission by the defendants. For over ten years, the respondents purposely never sent him or his mother as guardian an annual report of June's assets as required by the will and trust drawn up by Attorney Sundheim and Oughterson Sundheim & Associates, P.A. (Doc. 1, Ex. E). Direct evidence of a conspiracy is rarely available, and existence of a conspiracy must usually be inferred from the circumstances. *Fisher v. Shamburg*, 624 F.2d 156 (1980).

Indeed, the Court of Appeals erred in their decision when they failed to recognize that Heffington clearly met the requirements for personal jurisdiction in this matter. The affidavits presented by himself, his mother and his brother Grant, as well as the photos attached to his motion for reconsideration were not just "faxes and phone calls" showing "minimum contacts." The photos especially showed the visits over the years that June had made traveling all the way by car from Florida to Kansas to see Guy from the time he was born in 1993 (Doc. 35, Ex. A). They were evidence of the deep heartfelt connection June had for Guy as her first grandchild. Then after his father died in 2006, Heffington's contacts with the respondents would have been continuous and systematic if they had mailed an annual copy of trust assets to Guy as required according to June's will and trust. However, they intentionally breached their duties in anticipation of eventually "legally" stealing his inheritance when June passed away. The "minimum contacts" inquiry principally protects the liberty of the nonresident defendant, not the interests of the plaintiff. *World-Wide Volkswagen Corp. v. Woodson*, 444 U. S., 286, 291–292 (1980).

Therefore, contacts were sufficient to meet "specific jurisdiction" requirements as well according to the Tenth Circuit's application of a three-part test. Under (1) Sundheim and his law firm breached their fiduciary duty to plaintiff by drawing up and amending Nyla June's will & trust and then converting her assets for their enrichment which invoked the protection of laws; (2) plaintiff's claims are a result of the defendants' acts to violate Nyla June's will & trust which they created; and (3) jurisdiction is reasonable since they knew the law and figured they could get such a case dismissed for personal jurisdiction reasons if they failed to make "continuous and systematic contacts" with Kansas like sending an annual trust report to plaintiff or his mother. The Trial Court abused their discretion by dismissing the case, since Sundheim has been a lawyer for

over 40 years, and any reasonable person would believe that he, his law firm and Puleo "purposely availed" themselves of the privilege of conducting activities in Kansas so they could legally steal plaintiff's inheritance after June died. Even after Heffington revealed copies of the deeds to property that his grandmother owned in Kansas where she had lived when he was young, the district court and the Court of Appeals ignored this evidence as well (see Motion to Supplement Record on Appeal filed April 23, 2018). The existence of fraud is a fact question and must be proven by clear and convincing evidence. *Waxse v. Reserve Life Ins. Co.* 248 Kan. 582, 809 P.2d 533 (1991).

The Court of Appeals was also well aware of the past issues incurred by petitioner's mother in the court system due to the number of cases she had filed over a span of 18 years prior. It is manifest injustice for courts to continually ignore conspiracy/fraud cases having significant merit when the facts are obvious to any reasonable person and significant evidence is attached to a complaint as it was in this case. The elements of the crime of conspiracy are: (1) agreement with another person to violate the law; (2) knowledge of the central objective of the conspiracy; (3) knowing and voluntary involvement; and (4) interdependence among alleged coconspirators. *U.S. v. Johnson*, 12 F.3d 1540 (1993). However, both the lower court and the Court of Appeals ignored all of Heffington's "smoking gun" evidence in this matter. The Court of Appeals went along with the lower court and the defendants' conspiratorial acts which should not be tolerated, since "fair play is the essence of due process." *Galvan v. Press,* Cal.1954, 74 S.Ct. 737, 347 U.S. 522, 98 L.Ed. 911, rehearing denied.

Finally, when Puleo did not answer Heffington's Complaint in time, the Trial Court abused its discretion further by failing to grant him default judgment against her and using another technicality to deny him due process. They went further when Farr found

out only recently that Attorney Justin Lite had sold the house in New York in March 2018 that was bought with her son's inheritance. Petitioner then filed a motion to add Attorney Lite as a defendant in this suit, and the Court of Appeals then dismissed the case with clear and convincing evidence attached to the motion. Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. *Gonzalez v. Commission of Judicial Performance,* 33 Cal. 3d.359, 371, 374 (1983).

The right of a litigant to be heard is one of the fundamental rights of due process of law. *Council of Federated Organizations v. Mize*, C.A. Miss. 1964, 339 F.2d 898. Furthermore, conspiracies to defraud are likely to be founded, not upon affirmative misrepresentations but upon the intentional omission or passive concealment of material facts. See *Governors Grove Condominium Association v. Hill Development Corp.*, 36 Conn. Supp. 144, 414 A2d 1177 (1980). It is more than apparent that the Court of Appeals has so far departed from the accepted and usual course of judicial proceedings, and sanctioned such departure by a lower court, as to call for an exercise of this Court's supervisory power. Their actions also conflict with relevant decisions in prior cases involving conspiracy and fraud which is apparent to any reasonable person. For a lower court in our country to not only allow, but engage in, such illegal acts is clearly outrageous government conduct. "A conspiracy may be established by circumstantial evidence. *Nardyz v. Fulton Fire Ins. Co.*, 101 P.2d 1045, 151 Kan. 907 (1940).

III. Whether Amendment XXVIII should be added to the U.S. Constitution to give everyone the right to be represented in a civil matter the same as a criminal one, or should the words "and justice for *all*" be removed from the Pledge of Allegiance.

All of the cases filed by petitioner's mother have been dismissed in the Kansas

courts and by the Tenth Circuit Court of Appeals for over 18 years, as well as cases involving others she has helped. These egregious cases were dismissed all the way up and never heard by this Court, even those involving wrongful death. Therefore, bias by the Kansas District Court and their misconduct as an adverse party has been apparent to the Court of Appeals for many years. And since they decided to "go along with the game," their continued dismissals are clear and convincing evidence of misconduct by an adverse party as well. This would cause any reasonable person to wonder... if Kansas is the only state where the governor is involved in the selection of all judges, has the state been under French Law since 1959 so that people don't really have any rights and pro se cases can be dismissed on a whim? Pursuant to Fed. Rule Civ. Proc. 60(b)(6), "extraordinary circumstances" are present, as well as fraud and misconduct under (3). Both courts have offended justice to deny Heffington any relief as his mother's son.

It is unfortunate that the high court only hears 1/3 of 1% of cases involving *pro se* litigants. However, this case should be heard and a review of the entire record is needed to determine justice in this matter. This case is further evidence that Amendment XXVIII to the United States Constitution should be passed that would give a person the right to be represented in a civil matter the same as a criminal one. For the high court to allow such prejudice against a son because his mother couldn't get a lawyer for 18 years is unconstitutional. A significant amount of taxpayer money has been wasted because an unjust court system refuses to grant "justice for *all.*" Indeed, if this case is not heard and our system continues to deny pro se litigants justice, these words should be removed from the Pledge of Allegiance.

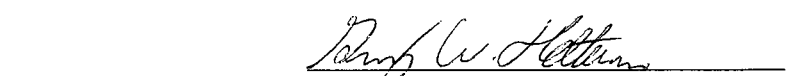
CONCLUSION

The legal system in America should be based on justice and not money. The

defendants in this matter conspired to breach their fiduciary duties and Heffington presented clear evidence that his inheritance was being stolen. He should not lose his case on technicalities because he was denied due process of law and the appointment of counsel. This case is *res ipsa loquitor* – "the matter speaks for itself."

This writ of certiorari should be granted because it will set precedence to ensure that lawyers and trustees can no longer steal money and property in estate matters. It will protect the basic rights of beneficiaries under the United States Constitution and will reassure people that their individual property rights are protected at a time when many do not trust the system. The defendants in this matter crossed the line, and granting this writ would ensure that our legal system does not allow lawyers and trustees to violate the rights of beneficiaries in the future. We cannot "Make America Great Again" by allowing such egregious behavior to continue.

Respectfully submitted,



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