18-6780

No. 18-_____

IN THE
SUPREME COURT OF THE UNITED STATES

JOAN E. FARR, f/k/a JOAN HEFFINGTON,

Petitioner,

v.

DARYL DAVIS, DENNIS MOON, DEANN COOTE, JOHN PATRICK HALL, HUCKLEBERRY HOMEOWNERS ASSOCIATION,

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

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10

Questions Presented For Review

1. Whether the Huckleberry Homeowners Association and its individual members denied Joan Farr her rights under 42 USC 1983 and retaliated against her to deny her freedom of speech under the First Amendment to the United States Constitution.

2. Whether Joan Farr 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 she had not been able to acquire legal representation for 18 years.

3. Whether the Court of Appeals erred in its decision after Joan Farr showed sufficient circumstantial evidence to prove a nexus for conspiracy by the defendants to deny her rights.

4. Whether Amendment XXVIII should be added to the U.S. Constitution which gives 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:

Joan E. Farr
Association for Honest Attorneys (A.H.A!)
Daryl Davis
Dennis Moon
DeAnn Coote
John Patrick Hall
Gina Lyons Hall
Huckleberry Homeowners Association
Garrison J. Moore
Sedgwick County Sheriffs Department
Sheriff Headings
Other unknown actors and 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.

TABLE OF CONTENTS

TABLE OF CITED AUTHORITIES

CASES: Page

TABLE OF CITED AUTHORITIES – Continued

STATUTES AND RULES

TABLE OF CITED AUTHORITIES – Continued

CONSTITUTIONAL PROVISIONS

OTHER AUTHORITIES

PETITION FOR A WRIT OF CERTIORARI

The petitioner in this case is Joan E. Farr, f/k/a Joan Heffington, who is an individual *pro se* and C.E.O./Founder of the Association for Honest Attorneys (A.H.A!) a non-profit organization which tries to improve the legal system and seeks "justice for all." Farr 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 August 9, 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. 18-3041 which is Appendix A of this petition. The United States District Court for the District of Kansas issued a Memorandum and Order granting summary judgment in favor of the defendants on January 26, 2018 in Case No. 16-CV-2180 which is Appendix C of this petition. Petitioner filed a motion for reconsideration that was denied on February 14, 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 Joan Farr for the past 18 years. During this time, she has been denied legal representation, was falsely charged with practicing law without a license and violating consumers, tried twice for the same quasi-criminal claims, denied the right to a trial by jury both

times, had excessive fines imposed, and was accused by the IRS of engaging in benefit transactions with her non-profit organization.

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

(1) Daryl Davis, former President of Huckleberry Homeowners Association

(2) Dennis Moon, Director of Huckleberry Homeowners Association

(3) DeAnn Coote, Director of Huckleberry Homeowners Association

(4) John Patrick Hall, Director of Huckleberry Homeowners Association

(5) Gina Lyons Hall, former Director of Huckleberry Homeowners Association

(6) Huckleberry Homeowners Association

(7) Sedgwick County Sheriff Department, Wichita, Kansas

(8) Sedgwick County Sheriff Deputy Headings

(9) 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 homeowners. 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 I: *"Congress shall make no law... abridging the freedom of speech."*

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.'*

42 USC 1983 - Denial of Rights Under Color of Law: "*Every person who, under color of statute, ordinance, regulat ion, custom, or usage, of any State or Territory...subjects, or causes to be subjected, any citizen of the United States... within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...*"

18 U.S.C. 242 - Deprivation of Rights Under Color of Law: "*Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such person being an alien, or by reason of his color, or race, than are prescribed for the punishment of citizens, shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both...*"

STATEMENT OF THE CASE

Introduction

This case is about discrimination and ongoing harassment of a woman that has lasted for over 18 years. It began when petitioner 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 (Doc. 128, Att. A, Para. 2). 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 editorial 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 continues in this case where members of the Huckleberry Homeowners Association (collectively "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 HOA had a history of harassment after trying to run a couple out from 2000-2004 just because they were European, but the A.H.A! helped them threaten litigation in 2004 and they backed off (Doc. 119, Ex. L). This is when Farr discovered that the HOA was operating illegally because they had not rewritten their covenants and

restrictions in 2000 as required and their rules were null and void. Things settled down from 2004-2011 until a new HOA president took over and they began fining residents. So in 2012, several homeowners gathered with a lawyer to sue. He also told them that the HOA was operating illegally because they had not enforced the covenants and restrictions for over six years. The neighbors eventually gave up the fight for financial reasons, but the HOA had a vendetta against Farr after she had given a confidential letter to defendant Hall involving the indiscretions of his wife. They had also never liked her A.H.A! activities accusing them of fraud, Farr had become financially destitute since her husband died, and her sons had gone wild. In spite of their vendetta, she still kept trying not to sue the HOA since she had been close friends with the Halls for 10 years and their children had grown up together.

So in 2013, Farr decided it was just easier to move her business to Oklahoma since she couldn't sell her house. The following year, she ran for the U.S. Senate 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 when she was rushed to the emergency room, and her health continued to suffer. Farr now comes before this Court for the seventh time seeking "justice for *all*" to try and stop the retaliation and racketeering which has continued against her and her family for 18 years.

NOTE: 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. 18-9003 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. 18-9002 in which the IRS Commissioner imposed fines of $88,864.51 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.

Finally, this case is related to Case No. 18-3034 in which Farr's two younger sons' inheritance was stolen by a corrupt lawyer in Florida and a trustee in New York who figured their money was easy pickings. They both knew about Farr's activities as C.E.O. of A.H.A! through her mother-in-law prior to her death, and that Farr would not be able to acquire a lawyer to represent her sons. Case #17-1192 was also dismissed by the Kansas District Court and the decision affirmed by the Tenth Circuit where Farr's son has been proceeding pro se with his mother's help. Therefore, petitioner files all three cases in conjunction with one another and adopts, joins in and incorporates any of her arguments or laws stated in these or her past cases which might also apply in this case. **The statement of the case in all three writs is similar showing the same background.**

REASONS FOR GRANTING THE PETITION

I. Whether the Huckleberry Homeowners Association and its individual members denied Joan Farr her rights under 42 USC 1983 and retaliated against her to deny her freedom of speech under the First Amendment.

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. Farr tried to follow all court rules which she had knowledge of to the best of her ability without representation. Dismissal on the merits when the case was actually dismissed on technicalities because plaintiff did not have legal representation is an insufficient reason for the Court of Appeals to affirm the Trial Court's decision to dismiss her case as moot. 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.

Farr clearly met the requirements for succeeding on a First Amendment retaliation claim by demonstrating three things: (1) she engaged in protected conduct (her e-mails to

the HOA that Davis should resign); (2) an adverse action was taken against the plaintiff that would deter "a person of ordinary firmness" from continuing to engage in that speech or conduct (the HOA's repeated willful acts against her to steal her boats, picnic table, bulldoze the beach and have the sheriffs falsely surround her house to arrest her son); and (3) there is a cause-and-effect relationship between these two elements, i.e., the adverse action was motivated at least in part by the plaintiff's protected conduct (the resulting stress led to mental anguish and bodily injury which nearly caused Farr's death and caused her to incur enormous medical bills). 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. 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.

However, the Court of Appeals denied Farr due process of law by ignoring all of the facts, law and evidence and affirming the lower court's decision in this case. They went further by denying her timely motion to add claims of 18 U.S.C. 242, since bodily injury resulted from the HOA's malicious acts and deadly weapons were used to threaten her and her son. Under this statute, Farr wasn't even an alien or a different color or race; so how much more egregious were the acts of the defendants toward her as a widowed white woman. Discretion is abused when no reasonable person would agree with the trial court. *Foveaux v. Smith*, 843 P.2d 283, 17 Kan.App. 2d 685 (1992); *Rollins v. Department of Transp.*, 711 P.2d 1330, 238 Kan. 453, 1985.

Farr admits that she erred in citing a federal statute for conversion, 28 U.S.C.

2415(b) instead of a state statute. That is because she was only trying to include federal claims in this suit since in a prior case, the district court had tried to remove her federal case back to state court to resolve state claims. She feared that the state court would then drag her into hearings every week for five months and cause her to have another breakdown (which is what occurred in her first case in 2001), and she did not want her health to suffer further. So Farr tried to avoid state claims in this suit for this reason and did not fully research 28 U.S.C. 2415(b) before citing it. "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." *Puckett v. Cox*, 456 2nd 233 (1972).

However, in spite of this error, a "1983" lawsuit stands on its own and requires no other legal action. The Tenth Circuit Court still ignored clear and convincing evidence that each time Farr had e-mailed that defendant Davis should resign as president, the HOA acted against her to convert her property. These conspiratorial acts then led to them calling the sheriff to arrest her son after she filed a claim with their insurance company (Complaint, Exhibit A). "[A]s a general matter, the First Amendment prohibits government officials from subjecting an individual to retaliatory actions... for speaking out." *Mercado-Berrios v. Cancel Alegria*, 611 F.3d 18, 25-26 (1st Cir. 2010) quoting *Hartman v. Moore*, 547 U.S. 250, 256 (2006). And in regard to the Fourteenth Amendment, private individuals may be found guilty as principals if they aid and abet state officers in such violations. *U.S. v. Lynch*, N.D.Ga.1950, 94 F.Supp. 1011, affirmed 189 2d 476, certiorari denied, 72 S,Ct, 50, 342 U.S. 831, 96 L.Ed. 629.

II. **Whether Joan Farr 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 she had not been able to acquire legal representation for 18 years.

The Court of Appeals used technicalities to affirm the lower court's decision instead of looking at the merits in this case. The fact that people are able to represent themselves but the courts denied Farr's appeal because she had no lawyer was a violation of her right to due process of law under the Fifth Amendment to the U.S. Constitution. *U.S. Constit. Amend. V.* A totality of the facts and evidence was not even considered. Farr offered seven affidavits from credible witnesses, police reports and admissions by the defendants themselves that they had taken her picnic table and bulldozed the beach. Therefore, she was in no way afforded due process of law and equal protection and given her right to be heard under 42 USC 1983.

Farr was denied equal protection of the laws because she was not treated fairly and equally during the litigation. *U.S. Constit. Amend. XIV.* The Trial Court denied all of her timely motions filed to compel, to add violations of 18 U.S.C. 242, to add the Sedgwick County Sheriffs Department and Hall's wife as defendants, to add her son as a plaintiff, punitive damages, etc. This showed bias by the court against her in this matter. She was found guilty for acting pro se just like black people were deemed guilty during the civil rights era because they were black. 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, 50 F.2d 844, *certiorari denied* 95 S.Ct.835, 420 U.S. 912, 42 L.ed.2d 843, on remand 405 F.Supp. 447. The lower court also abused its discretion by denying her motion to reconsider seeking relief pursuant to Rule 60(b) and the Court of Appeals affirmed, knowing that she had met the requirement for "exceptional circumstances."

Van Skiver v. United States, 952 F.2d 1241, 1243 (10th Cir. 1991)(citation omitted).

The Court of Appeals denied Farr due process of law by ignoring the merits in this case, even though 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). They failed to consider violations of Farr's Constitutional rights under the 1st, 5th, 6th, 7th and 14th Amendments, and ignored the defendants' lack of any evidence to show that they were not guilty of her allegations against them. 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.

It was apparent by the evidence presented by the defendants in their motion for summary judgment that Sheriff Headings and his cohorts were government officials subjecting Farr to retaliatory actions. Considering the acts the HOA had already admitted to, the timing of Farr's e-mail filing her insurance claim and the fact that sheriffs surrounded her house within the next 48 hours, the court abused its discretion by not inferring that the HOA members had made the call. Therefore, they erred in stating that a jury would not have found the defendants guilty on this basis, and denied Farr due process of law by denying her motion to compel their phone records. This evidence would have been brought out in a trial if she had been allowed to be heard and a lawyer had been appointed to represent her under the Sixth Amendment. The lower court also abused their discretion by denying a jury trial under the Seventh Amendment which would have resulted in Farr's favor by a preponderance of the evidence. In order to establish due process denial based on "outrageous" conduct of government [agents], defendant must demonstrate that government's actions were shocking to universal sense of justice. *Kett v. U.S.*, C.A. Ga.1984, 722, F.2d 687. In this case, such conduct

was demonstrated by petitioner.

Due to the previous cases Farr had brought before the lower court and the Tenth Circuit, they were well aware that she was not a lawyer, had never been through the discovery portion of a federal case and had no idea what to expect. They knew she could not acquire counsel and failed to appoint her an attorney so they could take advantage of her lack of knowledge and dismiss her case on technicalities. When Farr realized this case was going to discovery in February 2016, she tried again with due diligence to find an attorney once more. As C.E.O of the A.H.A!, she had been referring callers to about 25 Wichita attorneys for over 13 years. But even they would not represent her for fear of the same retaliation she had been through. So she filed a motion for appointment of counsel on May 12, 2017 which was denied and then a motion to reconsider, citing applicable cases where litigants had been appointed representation in past civil cases (Doc. 91).

The Court identifies 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). Her motion stated that 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, the affidavits of neighbors confirmed that Farr had "little money" and she cited a case in which "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). However, the lower court ignored these laws and still denied her appointment

of counsel. Farr included another request for appointment of counsel with her appeal to the Tenth Circuit Court, but it was also denied. Thus, the Court of Appeals and the lower court denied her 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.

Therefore, without legal representation, how would Farr have known if *res judicata* or collateral estoppel applied if she had never gotten this far in a case before? As a lay person, she could not possibly know every law that applied. Farr erred in not arguing conversion as a state claim but this was not her entire case. This should not have negated her claims of conversion (which the defendants admitted to in their request for admissions) and her other claims, especially Section 1983 denying her rights. Indeed, 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. 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;

Finally, the Court of Appeals states that "Farr fails to challenge the district court's refusal to exercise supplemental jurisdiction over her state-law claims. *See Exum v. U.S. Olympic Comm.*, 389 F.3d 1130, 1138 (10th Cir. 2004) (explaining that when a district court dismisses federal law claims, it "may decline to exercise supplemental jurisdiction over" remaining state-law claims). (App. A, p. 4). They

go on to state that "she has waived any argument that the district court abused its discretion in doing so. *See United States v. Almaraz*, 306 F.3d 1031, 1041 (10th Cir. 2002) (explaining that "arguments not briefed on appeal are waived")." (*Id*, pp. 4-5). However, without legal counsel, how could Farr know that she needed to challenge the lower court's refusal to exercise supplemental jurisdiction over her state law claims? They could have just as easily declined to exercise supplemental jurisdiction. Notwithstanding, *Exum* is a case about a black doctor who claimed discrimination because he didn't get a job working for the Olympics, but at least he was legally represented. The court granted summary judgment as to 42 USC 1981 claims (pertaining to a person's equal rights to make and enforce contracts) not Section 1983, and they then declined to take supplemental jurisdiction over plaintiff's state law claims. Also, *Almaraz* is a criminal case about whether a man running a cocaine operation supervised five people. He was also represented by a public defender but in any event, neither of these cases apply in this matter. Therefore, the Court of Appeals has denied Farr due process by dismissing all of her state law claims without a legal basis.

Farr proved a prima facie case according to the pretrial order issued by the Kansas District Court (Doc. 117) in her motion for summary judgment (Doc. 119) and again in her brief on appeal (Doc. 128, p. 1-4). However, the Tenth Circuit denied Farr her due process of law rights by affirming the lower court's decision to dismiss all of her motions, denying her motion for summary judgment as moot and denying her appointment of counsel to represent her so she could be heard before a trial of her peers since a jury trial was warranted on the factual issues involved. 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. 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). Furthermore, "when a judge acts as a trespasser of the law (as a private individual in his person), when a judge does not follow the law, the Judge loses subject matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect." *Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1697 (1974).

The lower courts have repeatedly denied Farr due process of law as a pro se litigant by failing to appoint her an attorney under the Sixth Amendment, knowing that she couldn't get one due to the nature of her work and using this as a reason to continue dismissing her cases. They have denied her right to a trial by jury in violation of the Seventh Amendment for over 18 years so that she could not be heard, first because she was a woman and later because she 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...

III. Whether the Court of Appeals erred in its decision after Joan Farr showed sufficient circumstantial evidence to prove a nexus for conspiracy by the defendants to deny her rights.

The Court of Appeals errs in their beginning statement that "Farr and the HOA have been embroiled in a series of disagreements for much of the past two decades, the details of which aren't strictly relevant here." (App. A, p. 2). However, they simply glossed over all of the important facts and evidence in this case which prove the conspiracy by the HOA against Farr in this matter. They failed to relate the nexus of the HOA's actions since if there was no nexus at all, their actions in this case would not have existed.

Petitioner's "Statement of the Case" in this matter shows just how relevant the details are, since her issues began with the HOA because they were operating illegally. She had discovered in 2004 that they neglected to rewrite the covenants and restrictions as required and in 2012, their rules had not been enforced for over six years which made them null and void according to several attorneys. Yet the HOA continued to perpetuate a fraud on homeowners by pretending their actions were legal, and extorting money by raising the dues three times without letting homeowners vote. The fact that Farr took a stand in 2010 and refused to pay their increases is one of many relevant facts in this matter. The Court of Appeals was also aware of the past issues by the HOA to run another family out from the facts, evidence and affidavits presented in this matter. They also abused their discretion by reviewing this case *de novo* instead of abuse of discretion which Farr had requested in her brief on appeal.

The district court stated that "where the defendants are private citizens (as they are here), liability under 42 U.S.C. 1983 requires a showing that defendants conspired with state actors – persons acting under color of state law – to deprive the plaintiff of her civil rights. See *Dennis v. Sparks*, 449 U.S. 24, 27-28 (1980) ("Private persons, jointly engaged with state officials in the challenged action, are acting 'under color' of law for purposes of 1983 actions.") (App. C, p. 4). They previously held that plaintiff's claims are best reviewed under the joint action test which focuses on whether state officials and private parties acted in concert to effect a particular deprivation of constitutional rights, and that one of the ways to apply this test is to adopt the requirements for establishing a conspiracy under 1983 (*Id.*, pp. 4-5). Under the conspiracy approach, state action may be found if a state actor has participated in or influenced the challenged decision or action which was more than apparent here.

However, the district court states that "the record evidence indicates no connection between defendants and the appearance of Sedgwick County Sheriff's deputies at plaintiff's house on June 25." (App. C, p. 3). The district court denied Farr's motion to add 18 U.S.C. 242, and her motion to compel phone records and other evidence was also denied. But just because Sheriff Headings' report doesn't mention they were called by an HOA member doesn't mean it didn't happen. If phone records had not been suppressed to show that defendants lied in their requests for admissions, a jury would have certainly found them guilty at trial.

The Court of Appeals further errs in its decision by stating that "the district court not only found that Farr failed to present any evidence that the Sheriff's Office acted in concert with the HOA when it attempted to arrest Farr's son, the evidence was to the contrary." (App. A, p. 3). However, they ignored petitioner's evidence including three sheriffs' reports of the stolen boats, stolen picnic table and bulldozing the beach by the HOA, as well as five affidavits of those who also believed the HOA had called the sheriff on her son. They go on to state that "in particular, the district court cited a report from the Sheriff's Office indicating that the ex-spouse informed the Sheriff's Office that Farr's son violated a no-contact order. Notably, that report didn't even reference the HOA."(*Id.*) In fact, this report actually proves that the HOA acted in concert with state actors since he wrote it June 26, 2015, just **two days** after Farr filed her claim with the HOA insurance company. Their involvement without actual phone records is inferred and implied, so it was the defendants' own evidence shows that proves the HOA called their "buddy" Sheriff Headings and he then called Moore's ex-wife, Tawni. But where is Officer Headings' report from **June 25, 2015** when they surrounded Farr's house? This evidence is lacking, but Farr still proved the nexus for conspiracy by the HOA.

Notwithstanding, there were also comments in Sheriff Headings' report by Tawni that she knew nothing about a PFA (no-contact order). However, both lower courts ignored this fact as well as Tawni's affidavit from 2012 which was "smoking gun" evidence to prove there was no probable cause to arrest Moore (Doc. 128, Att. B) . Therefore, the Court of Appeals abused its discretion by not inferring that the HOA had made the call to the sheriff to prompt the attempted arrest which any jury would believe after everything they had already done to Farr. Indeed, the court was certainly aware that sheriff's officers do not act on hearsay (as to where Moore was staying) to raid a home with guns drawn to arrest someone on a misdemeanor. They also beat on Farr's door for almost an hour and threatened to come in and get him if he didn't come out, but then they just left and never came back? This would cause any jury to conclude that no actual warrant had been issued or sheriffs would have beat the door in. Furthermore, the defendants offered no evidence to dispute any of plaintiff's claims. 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).

Tawni's affidavit showed that the authorities in Sedgwick County had been persecuting Farr's son for years prior; in fact, his persecution was the very reason she had written a book and begun the A.H.A! in 2003. The HOA was well aware of how Moore had been falsely targeted since he was 14, because defendant Hall's wife was close friends with Farr from 2000-2006 and they knew everything that was going on with each other's children. Even so, 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.

The connection by the HOA to sheriffs was more than apparent to the Courts, especially after Farr pointed out that defendant Hall had close ties to them due to managing 30+ fireworks tents in Sedgwick County since 1999 (Doc. 128, Att. A, para. 2). Citing a case by the lower court, "courts have found state action when the private party was not a mere complainant, but possessed and exerted influence over the police, and conspired with them to have the plaintiff arrested and detained illegitimately. *Wagennmann v. Adams*, 829 F.2d 196, 211 (1st Cir. 1987); see also *Lusby v. T.G.& Y. Stores, Inc.*, 749 F.2d 1423, 1429 (10th Cir. 1984), vacated on other grounds, 474 U.S. 805 (1985). Furthermore, the lower court denied Farr due process of law by not allowing her to add the sheriff's office and specifically Officer Headings as a defendant. Thus, under the conspiracy approach, state action was found by a state actor who participated in or influenced the challenged decision or action. The evidence showed that the HOA members, acting as private persons, jointly engaged with Sheriff Headings in the challenged action and were acting 'under color' of law for purposes of 1983. "A conspiracy may be established by circumstantial evidence. *Nardyz v. Fulton Fire Ins. Co.*, 101 P.2d 1045, 151 Kan. 907 (1940).

Therefore, the Court of Appeals erred in affirming the district court's decision that Farr had no evidentiary support that the defendants conspired with the Sheriff's Office in order to retaliate against her and violate rights. Both courts are well aware that conspiracy can form the basis of a Section 1983 claim, and this Court has "repeatedly noted that 42 U.S.C. 1983 creates a species of tort liability." *Memphis Community School Dist. V. Stachura*, 477 U.S. 299, 305, 106 S.Ct. 2537, 2542, 91 L.Ed.2d 249 (1986). Furthermore, "(O)ver the centuries the common law of

torts has developed a set of rules to implement the principle that a person should be compensated fairly for injuries caused by the violation of his legal rights. These rules, defining the elements of damages and the prerequisites for their recovery, provide the appropriate starting point for the 1983 inquiry." *Carey v. Piphus*, 435 U.S. 247, 257-258, 98 S. Ct. 1042, 1048-1050, 55 L.Ed.2d 252(1978). The conspiratorial actions of the HOA were willful and with malice to cause bodily injury or death to Farr and her son, even "death by cop." For "outrageous government conduct" to succeed, it must be shown that challenged governmental conduct violated fundamental fairness and was shocking to a universal sense of justice mandated by the due process clause. *U.S. v. Haimowitz*, C.A.Fla.1984, 725 F.2d 1561, certiorari denied, 105 S. Ct. 563, 469 U.S. 1072, 83 L.Ed.2d.504. Indeed, this case is deemed "*in terrorem populi* – to the terror of the people."

It is more than evident that judges on both courts were involved in the conspiracy against Farr to deprive her of her rights. When the lower court stated that "neither court would be more fair than the other," they were right – neither court was fair at all (Pet. App. C, p. 16a). However, 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. In addition, 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 egregious that both the Court of Appeals, the district court and also the state courts would affirm these actions toward Farr repeatedly for a span of 18 years. They have abused their discretion by engaging in intentional fraud, misrepresentation, fraud

on the court and breach of fiduciary duty against petitioner just because she could not get a lawyer to represent her. Their actions also conflict with relevant decisions in prior cases involving conspiracy. Consequently, "the innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury." *Owens v. The City of Independence*, 445 U.S. 662, 100 S.Ct. 1398 (1980).

Whether the lower court erred in denying Farr's request to proceed *informa pauperis*.

The Court of Appeals stated that petitioner was denied filing *in forma pauperis* "because she has sufficient assets to pay the filing fees on appeal. *See Treff v. Galetka*, 74 F.3d 191, 1997 (10th Cir. 1996)." (App. A, p. 5). However, *Treff* is about a former inmate who **agreed** to pay the filing fee because his financial condition had improved during litigation, but he didn't want to pay $47.50 in mileage and service fees ordered by the court. This case does not apply and the court has erred in this regard as well, since Farr's financial situation has only continued to deteriorate. In fact, the Court of Appeals granted her request to proceed *in forma pauperis* in Case #18-9002 on October 1, 2018.

IV. Whether Amendment XXVIII should be added to the U.S. Constitution which gives 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 Farr's cases have been dismissed in the Kansas courts and by the Tenth Circuit Court of Appeals for over 18 years, as well as cases involving people the A.H.A! has helped like John Sigg (#06-2436), his son Mitch (#11-CV-2625) and a man named T.W. Frank (#09-4146). 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. However, they decided to "go along with the game," and 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 Rule 60(b), extraordinary circumstances are present under (6) as well as fraud and misconduct under (3),and both courts have offended justice to deny Farr any relief.

It is unfortunate that the high court only hears 1/3 of 1% of cases involving *pro se* litigants. However, this case really needs to be heard and a review of the entire record is needed to determine justice in this matter. Farr was advised by the Kansas District Court at the pre-trial hearing that they had never heard a case like this one, nor had the Tenth Circuit. Indeed, if there was ever a reason to pass Amendment XXVIII to the United States Constitution that would give a person the right to be represented in a civil matter the same as a criminal one, this case is it. Lawyers become judges become politicians, and almost 60% of them are lawyers. It is clear that career politicians have retaliated against Farr for speaking out against them in A.H.A! newsletters and on the campaign trail when she ran for high office. In this case, the Court of Appeals was well aware that Farr had run for the United States Senate in 2014 (Doc. 133, Att. A).

It was a career politician who was prejudiced against Justice Kavanaugh and caused him to be unjustly harassed, smeared and defamed for three weeks. For the high court to allow the same prejudice against an innocent woman for 18 years because she couldn't get a lawyer is unconstitutional. "One's reputation or good name is an element of liberty protected by the Fifth Amendment." *Casey v. Roudebush*, D.C. Md.,

1975, 398 F.Supp.60. A significant amount of taxpayer money has been wasted by career politicians 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 well-to-do defendants in this matter had money or insurance to pay their attorney, and Farr should not lose her case yet again because she has been continually denied due process of law and the appointment of counsel. And in this matter, if the goal was to put her in the ground instead of finally giving her justice, the HOA nearly succeeded. This case is *res ipsa loquitor* – "the matter speaks for itself."

This writ of certiorari should be granted because it would ensure that HOAs across America guarantee homeowners their basic rights under the United States Constitution. It would also reassure them that their individual liberty and property rights are protected at a time when many people do not trust authorities. Members of the Huckleberry HOA crossed the line, and granting this writ would ensure that our legal system does not allow HOAs the authority to violate the rights of homeowners in the future. We cannot "Make America Great Again" by allowing such egregious behavior to continue.

Respectfully submitted,

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