

18-6781

No. 18 - _____

Supreme Court, U.S.
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IN THE
SUPREME COURT OF THE UNITED STATES

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

Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

Joan E. Farr, *Petitioner, Pro Se*
7145 Blueberry Lane
Derby, Kansas 67037
E-mail: JoanFarr73@aol.com
Phone: (918) 698-3289

ORIGINAL



Questions Presented For Review

1. 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, excessive fines imposed under the Eighth Amendment and denied 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.
2. Whether the Court of Appeals erred in its decision after Farr showed sufficient evidence to prove conspiracy by respondent and the Trial Court to deny her due process of law and her rights pursuant to 42 U.S.C. 1983 & 18 U.S.C. 242.
3. 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!)

John Koskinen, IRS Commissioner of Internal Revenue

Internal Revenue Service

Thuan Phan, IRS auditor

Judge Carolyn Chiechi

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.

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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 discourage litigation, improve the legal system and seek “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 October 1, 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. 18-9002 which is Appendix A of this petition. The United States Tax Court for the District of Oklahoma issued a Memorandum Opinion granting judgment in favor of the defendant on January 9, 2018 in Case No. 2746-15 which is Appendix C of this petition. The Tax Court denied Farr’s motion to vacate (reconsider) on February 13, 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 is now 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) John Koskinen, IRS Commissioner
- (2) Internal Revenue Service
- (3) Thuan Phan, IRS auditor
- (4) Judge Carolyn Chiechi
- (5) 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 taxpayers and non-profit organizations with less than \$50,000 in annual donations. 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 VIII: *“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”*

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, regulation, 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. 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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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 continued when 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 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 when she was rushed to the emergency room, and her health continued to suffer.

Farr's persecution continues in this case which has resulted from the A.H.A! being targeted as a "Tea Party" Christian non-profit organization by the IRS in 2013. In January 2015, the IRS Commissioner sent a fraudulent letter to Farr advising her that he was imposing fines of \$88,864.51 against Farr for engaging in benefit transactions with the A.H.A! Petitioner called the IRS five times who told her each time that it was fraudulent and a scam and to ignore it. Then several weeks later, the IRS called to tell her it was real. Farr was told by the Tax Court in Washington, D.C. that she had to file two cases, this one and a separate one for her non-profit organization since she received a second fraudulent letter in February stating that the tax-exempt status for the Association for Honest Attorneys had been removed back in 2010.

Farr was inexperienced with tax court matters and could not acquire legal representation, so she struggled with the proceedings. Ultimately, whatever she filed in one case she filed in the other to avoid confusion. She had to delay the cases several times due to trying to find an attorney and became so distressed in June 2016, she had to undergo an emergency surgery and nearly died of sepsis (see Petitioner's Second Motion for Continuance filed Aug. 22, 2016). Judge Chiechi added to her stress by threatening several times to fine her up to \$25,000 if intentionally caused the delays or found that her case was frivolous (see Order dtd. August 7, 2017 and others). The Tax Court denied

Farr's request for appointment of counsel and on September 20, 2017, and refused to accept her stipulation of facts and evidence in this matter. She was dragged pro se through a trial in this case and in Case No. 18-9003. She was denied any opening statements, denied her request to plead the Fifth Amendment, and all of her evidence was denied and/or stricken by Judge Carolyn Chiechi, a retired judge who had traveled from Washington, D.C. for the week to hear cases. She also kept Farr's original evidence at the end of both trials and then ordered both her and the respondent to file findings of fact and conclusions of law. However, Farr was not physically able to do so due to her health issues and could not afford the court transcript.

On January 9, 2018, Judge Chiechi granted judgment in favor of the IRS. At this point, she was able to obtain a copy of the transcript for the proceedings in both Case No. 18-9002 & 18-9003, and this is when she learned that the transcripts had been altered. Farr filed a motion to vacate (or reconsider) and it was denied on February 13, 2018. She then appealed and requested appointment of counsel again, but it was denied by the Tenth Circuit Court. On October 1, 2018, the Court of Appeals affirmed the Tax Court's decision which prompted Farr's writ of certiorari. She now comes before this Court for the eighth 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: Related Tax Court Case No. 14562-15X involves the removal of the A.H.A!'s tax-exempt status in 2015 without any hearing or notice, 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. In addition to Case No. 18-3041 mentioned above, 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 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, excessive fines imposed under the Eighth Amendment and denied 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 abused their discretion to deny petitioner due process of law by affirming the tax court's decision in this case. It was more than apparent that determinations made by the IRS were erroneous. Judge Chiechi stated in her ruling that "all facts were established" per Rule 91(f)(3) when in fact, none of the facts were stipulated to prior to trial (App. C, p. 2). Farr had presented hers, but they were ignored. She also filed a response to the judge's order to show cause; however, the court abused its discretion by ignoring that, too. Pursuant to Rule 91(f)(4), Farr's evidence was "patently incredible" but the Trial Court struck it in related Case No. 18-9003.

Judge Chiechi went on to state that for the tax years 2010-2012, Farr did not file a Form 990-F as required for a "private foundation. However, this is in error since the A.H.A! was a 501(c)(3) public foundation set up for educational purposes (*Id.*, p. 4). The Trial Court further erred in stating that Farr failed to file a required Form 940 or 941 for the A.H.A! and that she filed to ask for a declaratory judgment in related Case No. 18-9003. Again, these forms did not apply and she never asked the court for a declaratory judgment when she filed Case No. 14562-15X / 18-9003 (Doc. 1). In fact, she initially filed citing fraud claims and violations of 42 U.S.C. 1983 and 18 U.S.C. 242.

The Trial Court further ignored Farr's testimony that the initial letters she received from the IRS in January and February 2015 were fraudulent, that there was no record of any letter assessing these taxes against her, no postmark of a letter showing she received notification that she owed such taxes so that she could be heard to try and dispute them. Also, prior to the trial, Farr had filed objections to respondent's documents and evidence and this was also ignored. There was never any agreement as to stipulation of facts, no pretrial conference, no pretrial order to govern the case and plaintiff was not allowed to make opening statements, ask any questions of the auditor, or plead the Fifth Amendment. Farr testified that all of the computations by respondent were based on speculation only, since she never had to file taxes for her organization, because the A.H.A! always averaged less than \$25,000 in donations annually and only a Form 990-N was required. Therefore, the auditor's numbers were fabricated, fictitious and fraudulent.

Farr had kept records for the A.H.A! for the first five years, but they always averaged \$25,000 or less and were usually in the hole. However, the Trial Court ignored her testimony that she did not keep records after this (only receipts) because she knew that "the income would never exceed the outgo." The Trial Court showed bias in favor of the respondent when they relied solely on the auditor's review of the A.H.A! checkbook showing two types of expenditures: business (some related to home improvements where her office was located in 2010-2012 and personal expenses that were denoted "owed to Joan" under A.H.A! contracts. Therefore, the lower court abused its discretion by twisting the facts and evidence to rule that Farr owed back taxes in any amount.

Computations by plaintiff for the auditor in 2013 were made for the purposes of the audit only as instructed by a former lawyer of 27 years who had been on the A.H.A! board of directors. Farr stated this toward the end of the trial, however, these comments are

missing from the transcript. Such evidence tampering is outrageous government conduct. The calculations Farr made showed that the A.H.A! still owed her in excess of \$387,000 for administrative work at \$25 per hour and paralegal work at \$35 per hour which she never received. These figures were requested by the auditor and made for purposes of the audit only. However, they were ignored since the Trial Court went on to assess her as owing a total of \$88,864.51 for engaging in benefit transactions with the A.H.A! Any reasonable person would deem these as “excessive fines imposed” in violation of the Eighth Amendment. *U.S. Constit. Amend. VIII.*

For the Court of Appeals to affirm this ruling is egregious, considering the fact that Farr never took a salary in 15 years, did all of the work to keep the organization going, and only took money out sparingly to pay herself back for out-of-pocket expenses, start-up costs and book royalties over the years. Therefore, fraud on the court occurred and plaintiff was clearly denied due process of law under the 5th, 6th, 7th, 8th & 14th Amendments. 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. Furthermore, 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.

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 court denied her evidence and her right to plead the Fifth Amendment to refuse to answer on the grounds that it may incriminate her (see Farr’s Brief on Appeal for complete details as to what occurred in this case). This showed bias by the Tax Court against her. 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 in this case, and Farr's evidence to show she was innocent was either suppressed or stricken by the Tax Court. The Court of Appeals also abused their discretion by waiving certain issues in this case due to Farr's failure to dispute them (App. A, Footnote 2, p. 3). However, this was because she was unrepresented and didn't know she needed to do so. Therefore, she was in no way afforded due process of law and equal protection and given her right to be heard. Instead, she 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.

The Tax Court then abused its discretion further by denying Farr's motion to vacate (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 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). 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.*)] So without legal representation and no prior experience in tax cases, Farr could not possibly know how to conduct herself at such a trial. 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. 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.

Both courts 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). The IRS letters were fraudulent and they failed to consider violations of Farr's Constitutional rights while ignoring the defendants' lack of any true evidence against her. 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. A jury trial would have certainly proven in Farr's favor by a preponderance of the evidence, but she was denied this right as she had been in all of her other cases *U.S. Constit. Amend. VII*. Given the fact that the IRS apologized for targeting Tea Party groups such as hers back in 2015 and settled a \$3.5 million dollar lawsuit in 2018 with 400 conservative groups would cause any reasonable person to believe she was innocent. Indeed, Farr tried to bring out this evidence but it was stricken at her second trial.

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 find her guilty. When Farr realized this case was going to trial, she tried again with due diligence to find an attorney. 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 suffered.

In May 2017, Farr had filed a motion for appointment of counsel with the Tax Court. However, it was a clear abuse of discretion when the court clerk sent it back to her rather than file it with the Court. Farr continued to file objections to these proceedings which were repeatedly ignored. She then 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.

Farr's due process rights were violated in this regard by both the Tax Court and the Court of Appeals in this matter. 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 Farr did not exist. Furthermore, 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). In affirming the Tax Court's decision, the Tenth Circuit Court ignored all relevant laws, statutes, case law and the Constitutional rights of petitioner. They also erred in reviewing the lower court's legal conclusions de novo instead of abuse of discretion. 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 repeatedly denied Farr due process of law as a pro se litigant. The Tax Court knew that she was not an attorney, had no previous experience in tax matters and didn't have a clue as to what was needed to prove her innocence in this case. Therefore, the Tenth Circuit abused its discretion by affirming dismissal of her case by the Tax Court and denied her due process of law under the Fifth Amendment. They refused to appoint her an attorney to represent her to further deny her rights under the Sixth Amendment and then denied her right to a jury trial under the Seventh Amendment. They knew that a jury of her peers would find in her favor, and a jury trial was clearly warranted on the factual issues involved. As a result, she was denied equal protection under the Fourteenth Amendment and then excessive fines imposed against her to deny her rights under the Eighth Amendment. Farr's rights were denied 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...

II. Whether the Court of Appeals erred in its decision after Farr showed sufficient evidence to prove conspiracy by respondent and the Trial Court to deny her due process of law and her rights pursuant to 42 U.S.C. 1983 & 18 U.S.C. 242.

The Court of Appeals did not consider all of the facts, law and evidence in rendering their decision in this matter, and Farr was prevented by the Tax Court from presenting the evidence that she had. She never took a salary in 15 years since the A.H.A! formed and her non-profit organization averaged \$25,000 or less in donations in only three of those years. She testified to this and the fact that the rest of the time they were in the hole and petitioner used her own money if donations were low. The Tax Court would not

allow her evidence that she had kept records for five years from 2003 – 2008 after which she stated that it became apparent that “the income was never going to exceed the outgo,” so there was no need.

Farr still kept all receipts but the Tax Court was not the least bit interested in any evidence she had to prove the truth in this matter. They relied solely on the computations made by the auditor Mr. Phan which were based only on speculation after he looked at the A.H.A! checkbook for 2010 – 2012. She testified that all of the personal entries she made clearly stated “owed to Joan” as amounts to be paid back per contracts she had with the other A.H.A! directors in 2003. These contracts clearly specified that she would be paid back for start-up costs, out-of-pocket expenses and \$20,000 in book royalties and were part of the evidence ignored by both courts in this case. The Tax Court was aware by her testimony that she had been always guided in conducting business legally by one director who had been a former lawyer of 27 years and had given up his law license to join them. However, both the Tax Court and the Court of Appeals ignored the facts and law in this case, and acted to suppress her evidence to prove the truth. 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).

Respondent presented no evidence or testimony at trial to show that Farr lawfully owed first or second tier taxes against her. The audit was based on speculation only since the A.H.A! never had to file taxes, and the auditor’s numbers were fabricated out of thin air. So when IRS counsel began asking her questions about the figures he had developed, Farr plead the Fifth Amendment (stating that she refused to answer on the grounds that it may incriminate her). At first, Judge Chiechi told her “Good answer!” (however, this comment is missing from the transcript.). After IRS counsel complained, then the judge

denied Farr's request to plead the Fifth and told her if she didn't answer his questions, she would hold Farr in contempt (these comments are also missing from the transcript). A conspiracy may be established by circumstantial evidence. *Nardyz v. Fulton Fire Ins. Co.*, 101 P.2d 1045, 151 Kan. 907 (1940).

The Tax Court further abused its discretion by refusing to allow Farr to ask the auditor any questions under oath after he appeared at the trial but was never called to the stand. Mr. Phan never even testified that he made his calculations for respondent, so these figures as evidence were hearsay. In contrast, Farr presented evidence of her contracts with A.H.A! board members that she was to be paid back for start-up costs, out of pocket expenses and \$20,000 in book royalties to prove that the non-profit owed her a lot of money. Respondent also failed to show how the money benefited Farr other than to legally pay her back what she was owed. He could not even show that money taken in went to Farr; there was not one witness to say that any portion of the donations went to her. Without testimony or evidence in this case to that effect, there can be no proven deficiencies or engagement in benefit transactions by the petitioner.

There was not even a preponderance of evidence that Farr engaged in benefit transactions and legal deficiencies of any kind to warrant such taxes owed. However, all of this was ignored by the Court, as was Farr's testimony that Mr. Phan told her she was spending \$28,000 annually of the A.H.A!'s money. This was impossible, since they had always only averaged less than \$25,000 annually in donations. The Tax Court and the Court of Appeals ruled against Farr regardless, which was a clear abuse of discretion to deny her due process of law. An abuse of discretion exists only when no reasonable man would take the view of the trial

court. *Foveaux v. Smith*, 843 P.2d 283, 17 Kan.App. 2d 685 (1992); *Rollins v. Dept. of Transportation*, 711 P. 2d 1330, 238 Kan. 453 (1985).

The Tax Court abruptly ended the first trial so they could quickly start the second one and get it over with, so Farr was unable to present her best evidence in this case which she had been unable to locate until just before the trial(s). So at the second trial held immediately after this one in Case No. 18-9003, she submitted an internet article stating that the IRS had admitted to targeting any non-profit groups from 2010 - 2013 that used the word "Tea Party" in their literature and a \$3.5 million dollar lawsuit was settled in their favor. Farr then tried to introduce the A.H.A! newsletter from October 2012 mentioning the word "Tea Party" as evidence to show the correlation, since the IRS audit was conducted in April 2013. However, the Tax Court struck these as evidence for no apparent reason. Judge Chiechi was certainly aware of this settlement as was the Tenth Circuit Court; yet, they still ruled in favor of the IRS.

The most egregious act in this case occurred when Farr offered a note as evidence that a former client had called her on January 9, 2016 and told her that a federal lawyer offered to settle his case for \$8.4 million dollars (he would take half) "if he would testify against her at the IRS trial." Judge Chiechi not only struck this evidence, but she kept the original note and the rest of petitioner's evidence! Pursuant to Fed. Rule Civ. Proc. 60(b), extraordinary circumstances are present under (6) as well as fraud and misconduct under (3). 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). 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).

The Court of Appeals went along with the Tax Court and the respondent's conspiratorial acts in this matter, even when Farr pointed out that the transcripts had been altered in her brief on appeal. It is more than evident that judges on both lower courts were involved in the conspiracy against Farr to deprive her of her rights by ignoring all of her pleadings and evidence in this matter. 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.

For the Tax Court to hold a trial to establish that Farr violated the law by engaging in benefit transactions when she clearly did not is fraud on the court and a clear abuse of discretion. Both courts have offended justice to deny Farr any relief since her conduct was not so contemptuous that she deserves judgment in this matter. A person who never took a salary as the head of a non-profit organization which never had to file taxes should not be made to pay taxes or fines for helping people. This 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.

It is manifest injustice that the courts would continue to affirm these actions toward Farr repeatedly for a span of 18 years. They have abused their discretion and denied her due process of law by engaging in intentional fraud, misrepresentation, fraud on the court and breach of fiduciary duty just because she could not get a lawyer to represent her. Their actions also conflict with relevant decisions in

prior cases involving conspiracy as well as the case recently settled involving 400 Tea Party groups targeted by the IRS. Indeed, both courts were 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). Even Judge Chiechi violated Farr’s rights under 18 U.S.C 242, since “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). Further proof of Farr’s innocence is shown in an IRS letter dated August 9, 2018 (App. D).

Farr is entitled to relief not judgment, since “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). Therefore, the ruling is void and the judgment of \$88,864.51 should be dismissed against Farr. “Where a party makes an unlawful demand against another and maliciously And oppressively uses machinery of the courts and process of the law as well as other measures in an endeavor to enforce payment of such demand, injured party is entitled to recover loss and damage resulting from such wrongdoing without necessity of proving existence of a conspiracy.” *Nelson v. Miller*, 607 P.2d 438, 227 Kan. 271, appeal after remand 660 P.2d 1361, 233 Kan. 122 (1980).

- III. 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.

If the IRS mission is to “provide America’s taxpayers top quality service by helping them understand and meet their tax responsibilities and by applying the tax law with integrity and fairness to all,” then they have failed miserably in this case. (See *IRS Publication 1*, Catalog No. 64731W (Rev. May 2005). All of Farr’s cases have been dismissed by the lower courts and by the Tenth Circuit Court for 18 years, 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 has now extended to the Oklahoma Tax Court.

Farr had hoped to get a fair trial by asking that her tax court cases be heard in Oklahoma, not realizing that the Tax Court judge comes from Washington, D.C. once a year to hear cases. She also thought that the Tenth Circuit did not include the state of Oklahoma, so this decision was to her detriment. Their continued dismissals are clear and convincing evidence of misconduct by an adverse party as well. Pursuant to Fed. Rule Civ. Proc. 60(b), fraud and misconduct are apparent under (3) and extraordinary circumstances are present under (6) and both courts have offended justice to deny Farr any relief. Indeed, the IRS professes to waive penalties when allowed by law if a person can show that they acted reasonably and in good faith. (*Id.*, Rule VIII.)

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. 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 all politicians are lawyers. 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 both Kansas and

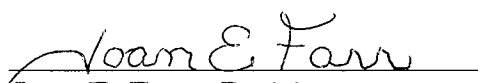
Oklahoma, and the Court of Appeals was well aware.

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. Farr should not lose her case yet again because she has been continually denied due process of law and the appointment of counsel. This writ of certiorari should be granted because it would ensure that taxpayers and small non-profit businesses across America are not denied their basic rights under the United States Constitution. Many people do not trust the system and granting this writ would ensure that our legal system does not allow the IRS to violate the rights of taxpayers and small non-profits in the future. We cannot "Make America Great Again" by allowing such egregious behavior to continue.

Respectfully submitted,


Joan E. Farr, *Petitioner, pro se*
7145 Blueberry Lane
Derby, Kansas 67037
(918) 698-3289

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