

ORIGINAL

18-7501

No.

FILED

JAN 16 2019

OFFICE OF THE CLERK  
SUPREME COURT U.S.

IN THE  
SUPREME COURT OF THE UNITED STATES

GWANJUN KIM

*Plaintiff-Appellant-Petitioner*

v.

GRAND VALLEY STATE UNIVERISTY;  
GRAND VALLEY STATE UNIVERISTY, COLLEGE OF EDUCATION;  
GRAND VALLEY STATE UNIVERISTY, COLLEGE OF COMMUNITY AND  
PUBLIC SERVIC; TOMAS J. HAAS; ELAINE C. COLLINS;PAULA  
LANCASTER;OLIVIA A. WILLIAMS; GEORGE GRANT; LOIS SMITH  
OWENS;EDWARD J. BARDELLI; GREGORY M. KILBY

*Defendants-Appellees-Respondents*

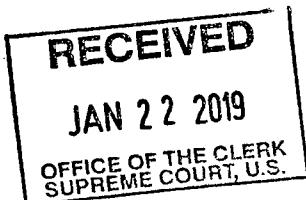
Prior Case the United States District Court Western District of Michigan 1:11-cv-00233 (*Kim I*). The Six Circuit Court Case *Kim I* no. 12-1401, 12-02407, 13-02354. (*Kim I*). Prior Case: the United States District Court Western District of Michigan No 1:16-cv-309 (*Kim II*) and Six Circuit no. 16-2321 (*Kim II*).

On Appeal from the United States District Court For the Western District of Michigan docket no. 1:18-cv-00107 and Southern District of Ohio Court docket no. 2:18-cv-0029 and The Sixth Circuit Case no 18-1637 (*Kim III*).

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**On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit**



## QUESTION PRESENTED

This Court has a jurisdiction

### QUESTION *defraud I*

The judge and panel “erroneous factual findings”<sup>1</sup> *Kim I*, that On March 28, 2011 the U.S. Marshal Christine Elmey (b)(7)(C)was not mailed the complaint and the USM Form -299 *Receipt of Summons and Complaint* to defendants until present<sup>2</sup>which is “[ on March 28, 2011]there is no evidence that defendants were served” (Order, *Kim I* P.2, ECF No 48 and Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law” (Appendix G) and denied Application for entry of default and default judgment.

The panels’ conduct was actuary willful and malicious. The judge and panel “erroneous factual findings” that Respondents is NOT violated Statute Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. This is criminal matter.

### QUESTION *defraud II*

The judge and panel “erroneous factual findings” *Kim I*, that On June, 2011 defendants receiving requests waivers of service from the Marshals’ office”(Order,

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<sup>1</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>2</sup> Petitioner “taken as true, the judge and panel “erroneous factual findings evidence that the Court record appears that On March 28, 2011 Defendants Solely had NEVER been *must*<sup>2</sup>Returned the USM Form -299 *Receipt of Summons and Complaint* until present. To see Complaint Exhibit C p.7,10,13,16,19,22,25, and 28. See. Appendix I

*Kim I* P.2, ECF No 48) <sup>3</sup>and denied Application for entry of default and judgment and Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels' conduct was actuary willful and malicious. The judge and panel "erroneous factual findings" that Respondents is NOT violated Statute Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. This is criminal matter.

### **QUESTION *defraud III***

The judge and panel "erroneous factual findings"<sup>4</sup> *Kim I*, that Kim actually not served the defendants with the amended complaint" ( *Kim II*, Order, P.2, ECF No 34, Complaint Exhibit B) <sup>5</sup> and denied Application for entry of default and judgment and denied Application for entry of default and judgment and the *Kim III*, judge and panel "erroneous factual findings" that Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels' conduct was actuary willful and malicious. This is criminal matter.

### **QUESTION *defraud IV***

The judge and panel "erroneous factual findings" *Kim I*, that the judge and

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<sup>3</sup> Petitioner "taken as true, the Court record appears that plaintiff had actually NEVER been filed AO 399 *Waiver of the Service of Summons* and the U.S. Marshals had NEVER been received from the Clerk of Court the Waver Service. See. *Kim I* 1:11-cv-00233 dockets.

<sup>4</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>5</sup> Petitioner "taken as true", the judge and panel "erroneous factual findings evidence that the Court record appears the U.S. post office receipt actually appears *Kim I*, docket no. 46-2, docket no.52-3.docketno60-2)See. Appendix L. Proof of service indicated that Plaintiff served amended complaint see. Appendix K. Defendants admitted that defendants received the amended complaint . See. Appendix M.

panels was not follow the Fed. R. Civ. P. 12(b)(7)“[on August 10, 2011]*defenses*

*must be made before pleading*[On June 3, 2011]” Fed. R. Civ. P. 12(b)(7).

The panel and chief judge decision is conflict with the Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the Defendants’ Motion to dismiss because defendants are not file *made before pleading*.

The judge and panel “erroneous factual findings” *Kim I*, that granted Defendants’ Motion to dismiss and the *Kim III*, judge and panel “erroneous factual findings” that Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels’ conduct was actuary willful and malicious. This is criminal matter.

### **QUESTION *defraud V***

The judge and panel “erroneous factual findings” *Kim I*, that Chief district court judge and panels Order is “frivolous ”that Judge and panels was erred in adversely rulings that Solely intentionally failure to make any mention of facts factual allegation ,Cause of Action I, II, III <sup>6</sup> in its Opinion an Order and *Kim III* Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels’ conduct was actuary willful and

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<sup>6</sup> *Count I.* the Homosexual defendants refused to correct the miscalculation”the complaint indicated that the college of Education Grand Valley State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. *Count II* GVSU refused complies with the GVSU Rule readmission application. *Count III.* GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

malicious. This is criminal matter.

### **QUESTION *defraud VI***

The judge and panel “erroneous factual findings” *Kim I*, that Chief district court judge ordered is “frivolous”<sup>7</sup> that the judge had particularity biases orders that Defendants received grant defendants’ Motion for Taxation of Costs (docket no 197) amount of the 1,006.46. ). Judge’s conduct was willful and malicious.

### **QUESTION *defraud VII***

*Kim II*, Distinct Judge Maloney, “erroneous factual findings”<sup>8</sup> that “[*defraud I to VI*] are only to adverse rulings [ “*the thirteenth [fourteenth] times*”] adverse rulings are not a sufficient reason for a judge to be excused from presiding over a lawsuit. *Jewell v. Ohio State Univ.*, 941 F. 2d 1209 (6<sup>th</sup> cir. Aug 14, 1991). For a bias to be personal against the party, and a basis for disqualification, it must arise from some extra Judicial source” and “this case be reassigned to Judge Jonker the United States District Court Western District of Michigan 1:11-cv-00233(*Kim I*) in order to promote judicial economy”. (*Kim II*, ECF No. 17) ). *Kim II* Judge Maloney’ and panels’ conduct was actually willful and malicious.

### **QUESTION *defraud VIII***

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<sup>7</sup> “frivolous,[and] lacking sufficient evidence to raise an inference that misconduct has occurred,”28 U.S. Code § 351(b)(1)(A)(iii).  
<sup>8</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

The Chief District judge “erroneous factual findings” *Kim II*, that Kim “must have had a full and **fair** opportunity to litigate the issue in the prior proceeding *id* All the factors [*the Defraud I to VII*] are amply satisfied” (*Kim II*, ECF No. 220 p.3) and defendants . Chief District judge’s conduct was actually willful and malicious.

### **QUESTION *defraud XI***

*Kim II* The panel “erroneous factual findings” “we VACATE the district court’s judgment and REMAND to the district court to dismiss this case for lack of subject- matter jurisdiction<sup>9</sup> The conflict the *Point of view defraud I to VII* is not address in the opinion [ or order] Fed. R. App.P.40). The panels’ conduct was half willful and malicious.

### **QUESTION *defraud X***

The *Kim III*, Chief District judge “erroneous factual findings” that *defraud I to VIII* “is still to the screening mechanism” and dishonestly fraud that the *Point of view defraud I to VIII are* “Defendants is a prevailing party” denied plaintiff’s Motion for judgment and *Kim III*, Defendants are not violated Title 28 App Federal Title Rule 9.Intentional Misrepresentation Fed. R. Civ. P. 9(b) *Fraud, Mistake, Condition of the Mind* . Chief district Judge’ conduct was willful and malicious.

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<sup>9</sup> “Kim and most of the defendants are citizen of Michigan, the district court also diversity jurisdiction.” “But failed to mention that act in his complaint particularly the circumstances constituting fraud or mistake. Rule 9(b)”. f

This is actually criminal matter. This “case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e).

### **QUESTION *defraud XI***

The *Kim III*, panel “erroneous factual findings”<sup>10</sup> that the *defraud I to VIII* is, “Kim fails to point to any evidence of bias on the part of the district court judge other than his unfavorable rulings” p.5 Order . The panel’s conduct actually was willful and malicious. This is a waste, fraud, and abuses its discretion and this is criminal matter. Petitioner “taken as true, the judge and panel “erroneous factual findings evidence that the district Court and Sixth Circuit Court record appears that Kim established and submitted to point to evidence of bias on the *defraud I to VIII* of the district court judge. *Kim III*, Defendants are violated Title 28 App Federal Title Rule 9. Intentional Misrepresentation Fed. R. Civ. P. 9(b) *Fraud, Mistake, Condition of the Mind* which is panel’s conduct was actually willful and malicious.

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<sup>10</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

Petitioner respectfully prays that On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit issue to review the Judgment and Penal Order below:

## **I. OPINIONS BELOW**

This Case is from federal court. In this case the Chief District judge had been maliciously granted *Kim I*, and *Kim II* Defendants' Motion to dismiss and this case *Kim III*, dismiss this case by himself. The Sixth Circuit maliciously affirmed the *Kim I*, *II*, and *Kim III*. The panels' conduct was actually willful and malicious. This is a waste, fraud, and abuses its discretion and this is criminal matter.

The 18-1637(*Kim III*) Order of the United States court of appeals appears at Appendix A to be unpublished.

The No 1:18-cv-00107 (*Kim III*) Opinion and Order of the United States District Court appears at Appendix B to be unpublished.

The 16-2321(*Kim II*) Order of the United States court of appeals appears at Appendix C to be unpublished.

The No 1:16-cv-309 (*Kim II*) Order of the United States District Court appears at Appendix D to be unpublished.

The No. 12-01401(*Kim I*) Order of the United States District Court appears at Appendix E to be unpublished

The 1:11-cv-00233(*Kim I*) Order Approving and Adopting Report and

recommendation of the United States District Court appears at Appendix F to be unpublished.

The 1:11-cv-00233(*Kim I*) Order denied Application for entry of default Affirming Magistrate judge's Decision of the United States District Court appears at Appendix G to be unpublished.

The 1:11-cv-00233(*Kim I*) Order denied Application for entry of default Magistrate judge's Decision of the United States District Court appears at Appendix H to be unpublished. Petitioner- Appellant- Plaintiff (Mr. Kim ) indicated in the appendix each decision.

## Appendix I

Petitioner "taken as true the evidence fact that On March 28, 2011 Defendants Solely had NEVER been must<sup>1</sup>Returned Executed by the U.S. Marshal Christine Elmy (b)(7)(C)upon defendants the USM Form -299 *Receipt of Summons and Complaint* until present. p.7,10,13,16,19,22,25, 28 and 6. This is criminal matter.

## Appendix J

On March 25, 2011, *The Kim I*, Court issued Summons.

The Proof of evidence the panel and judge had been "erroneous factual findings" which is the U.S. Marshal Christine Elmy (b)(7)(C)was mailed the complaint and the USM Form -299 *Receipt of Summons and Complaint* to defendants On May 18, 2011, 58days later first time and On June 16, 2011, 71days later and Second time. Defendants answered to complaint See. *Kim I* docket no 38 on June 6, 2011.

## Appendix K

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<sup>1</sup> The USM Form -299 *Receipt of Summons* appears that Defendants "MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1AND 2 to the sender *within 21days*".

The Proof of evidence the panel and judge had been “erroneous factual findings” that “without having served defendants with amended complaint”

Petitioner “taken as true the fact that Proof of service show that Plaintiff was has served defendants with amended complaint

## Appendix L

The Proof of evidence the panel and judge had been “erroneous factual findings” that “without having served defendants with amended complaint” This is a waste, fraud, and abuses its discretion and this is criminal matter.

Petitioner “taken as true the fact evidence that The U.S. post office receipt appears *Kim I*, docket no. 46-2, docket no.52-3.docketno60-2)Kim actually served the Amended Complaint to the defendants and future represent defendant’s attorney.

## Appendix M

The Proof of evidence the panel and judge had been “erroneous factual findings” that “without having served defendants with amended complaint” ( Order. p.2 Appendix H) and denied Application for entry of default and judgment. “The Sixth Circuit affirmed the Court’s decision “nothing in record indicates that Kim actually served the defendants with the amended complaint”(Order. p. 2. Appendix D).

Petitioner “taken as true the evidence fact that “their counsel received Docket no 6[Amended complaint] See, Paragraph 23 Defendants’ answers to Plaintiff’s First Request for Admissions.( *Kim I*, ECF docket no.108 Attachment 1 ). Defendants are had served with amended complaint.

It is important to note that the judge and panel “erroneous factual findings”<sup>2</sup>

*Kim I*, that On March 28, 2011 the U.S. Marshal Christine Elmey (b)(7)(C)was not mailed the complaint and the USM Form -299 *Receipt of Summons and Complaint* to defendants until present. Which is

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<sup>2</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

“[on March 28, 2011]there is no evidence that defendants were served” (Order, *Kim I* P.2, ECF No 48 and Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law” (Appendix G)and denied *Kim I* Plaintiff’s Application entry of default. This is criminal matter at the United States District Court Western District of Michigan1:11-cv-00233(*Kim I*) Six Circuit no. 12-01401, 12-02407, 13-02354 (*Kim I*).

Petitioner had been demonstrated and “taken as true, the judge and panel “erroneous factual findings evidence that the Court record appears that On March 28, 2011 Defendants Solely had NEVER been must<sup>3</sup>Returned the USM Form -299 *Receipt of Summons and Complaint* until present. To see Appendix I p.7,10,13,16,19,22,25,28 and 6.

The U.S. Marshal Christine Elmy (b)(7)(C) actually mailed eighteen (18) pieces of the USM Form -299 *Receipt of Summons* to the (9)nine defendants. The nine (9)defendants’ address is Grand Valley State University 1 Campus Drive Allendale, MI 49401-9403. (To See Appendix I .) Respondents returned only (9) pieces of the USM Form -299 *Receipt of Summons* to Court. (To See Appendix I p. 3, 4,8,11,14,17,20,23,26). This is criminal matter.

The conflict is not address in the opinion [or order at the *Kim I, II, III*] eight (8) years. Fed. R. Civ. P. 55(a) requires that judge and Clerk of Court to mandatory to enter entry default. The Chief district court judge and panel dishonestly decision are “substantial ground for different of opinion” 28 USC § 1292(b) that denied entry of default and default judgment. This is a crime. The panels’ conduct was

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<sup>3</sup> The USM Form -299 *Receipt of Summons* appears that Defendants “MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1AND 2 to the sender within 21 days”.

actually willful and malicious because Defendants knowingly make fraud that Respondents returned only (9) pieces of the USM Form -299 *Receipt of Summons* to Court. (To See Appendix I p. 3, 4,8,11,14,17,20,23,26). Respondents are NOT returned only (9) pieces of the USM Form -299 *Receipt of Summons* to Court until present.(To See. Appendix I p.7,10,13,16,19,22,25,28 and 6. ) This is crime.

Also, the *Kim, I, II, III*, Chief district court judge and panel dishonestly decision are “substantial ground for different of opinion” 28 USC § 1292(b) that Respondents is NOT violated Statute Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. This is a waste, fraud, and abuses its discretion and this is criminal matter.

at the United States District Court Western District of Michigan *No 1:16-cv-309 (Kim II); No 1:18-cv-00107 (Kim III)*and Six Circuit no. 16-2321(*Kim II*); 18-1637(*Kim III*).This is criminal matter and Organized crime. The panels’ conduct was half willful and malicious.

This case “is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. See 28 U. S. C. § 2101(e)” Rule 11. The *Point of view defraud I to XI* are as follows:

## **II. JURISDICTION**

This Court has a Jurisdiction. On December 27, 2018 denied petition for PETITION FOR REHEARING EN BANC and APPLICATION FOR AN APPEAL HEREUNDER 28 USC § 1292(b).The *Point of view defraud I to XI* and

On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit, as follows:

## **INTRODUCTION**

The Petitioner -Appellant - plaintiff- GwanJun Kim (Mr. Kim) *Pro se*, is a U.S. citizen, 66years old and over 40 years resident of Ionia, Michigan, his English as Third Language, and alumni of Michigan State University Criminal Justice. He was a formal Korean Federal Police officer, and Worked at the U.S. Attorney's Office and State of Michigan Officer. Kim was attending Master program; Teaching English to Speakers of Other Languages (MA.TESOL) at Grand Valley State University, College of Education, his English as Third Language, and Kim requests for excuse his grammar errors.

### **III. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

#### **a. Plaintiff's Application for entry of default and default judgment.**

#### **A. First, STATEMENT OF THE CASE and *Kim I*. Defendants –Appellees- Respondents**

In March 2011, he was brought before the Court issue of the defendants in *Kim v. Grand Valley State University et al.*, ("GVSU") The United States District Court Western District of Michigan No 1:11-cv-233 (*Kim I*); Most lesbian –professor – instructor -defendants ;Thomas J. Haas is president of Grand Valley State University; Elaine C. Collins is Graduate degree program Dean of college of education, Grand Valley State University; Paula Lancaster is chair of college of

education, Grand Valley State University; Olivia A. Williams is professor of college of education, Grand Valley State University; George Grant is dean of the GVSU College of Community and Public Service (CCPS); Lois Smith Owens is an instructor of the GVSU College of Community and Public Service (CCPS); Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of Community and Public Service (9) nine defendants. The defendants were violated Title VI of Civil Right of 1964 2000d and 42 USC§ 1983. The selective treatment was motivated by an intention to discriminate of the basis of impermissible consideration that “*provided in a different manner for that which is provided to others.*

**Count I.** Defendants<sup>4</sup> fundamentally fraud, “refused to correct the miscalculation the complaint indicated that the College of Education Grand Valley State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. This action is fraud by lesbian- professor - defendants.

**Count II.** Defendants<sup>5</sup> refused comply with the GVSU Rule readmission application. This action is fraud by lesbian -defendants.

**Count III.** Defendants<sup>6</sup> refused the lesbian- instructor - Black – Lois Smith Owens- defendant’s corruption hearing. She is a black- lesbian. She has two sons. She was started lesbian when she was 60 years old, she said in the class. She has only master degree in social work but she was instructor of the SW600 Social Work Master Program, because she is a black and lesbian. During the SW 600 class OWENS was without syllabus schedule; four (4) times four weeks lesbian speaker

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<sup>1</sup> Thomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A. Williams; Grand Valley State University; Grand Valley State University, College of Education

<sup>5</sup> Thomas J. Haas; Elaine C. Collins; Grand Valley State University; Grand Valley State University, College of Education;

<sup>6</sup> Thomas J. Haas; George Grant, and Lois Smith Owens; Grand Valley State University; Grand Valley State University; College of Community and Public Service

came in the class talking about homo sexual orientation. During the class the Defendant OWENS asked Kim that "did you have a sex with a man". It was bully environment in the class. He was only a man and he was 60 years old man married his wife 34 years. Kim was asked Corruption Hearing at Defendant Dean George Grant (he is a black), GVSU refused the corruption hearing.

**Petitioner alleges that the *Kim I* the U.S. district Court record appears that defendants had been default.**

Petitioner alleges that the *Kim I* the U.S. district Court record appears that defendants had been default. Procedural history shows. *See*.

On March 28, 2011 Defendants Solely had NEVER been must<sup>7</sup> Returned Executed by the U.S. Marshal Christine Elmy (b)(7)(C)upon defendants the USM Form -299 *Receipt of Summons and Complaint* until present. To see Complaint Exhibit C p.7,10,13,16,19,22,25, and 28. This is criminal matter.

The panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that Chief district court judge was "substantial ground for different of opinion" 28 U.S.C. 1292 (b)"*the thirteenth [fifteenth] times*"(7)seven years that "there is no evidence defendants were served"(Order, *Kim I* P.2, ECF No 48) which is the

On March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C)was not mailed the complaint and the USM Form -299 *Receipt of Summons and Complaint* to defendants until present and denied *Kim I* Plaintiff's Application entry of default. This is criminal matter. This is an *untrue*.

Petitioner "taken as true the fact that the Panel and Chief district judge has overlooked" Fed. R. App.40(a)(2). This is criminal matter.

The United State District Court Western Michigan case # 1:11-cv-00233 and

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<sup>7</sup> The USM Form -299 *Receipt of Summons* appears that Defendants "MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1AND 2 to the sender *within 21days*".

Six Circuit no. 12-01401, 12-02407, 13-02354.

The Judge and panel decision was manifest injustice and the rulings Conflict with TRUE and the Federal Rule of Civil Procedure 55(a) requires that “clerk must enter the party’s default” Rule 55(a) and a default judgment Rule 55(b). The Judge and panel decision was manifest injustice denied Application entry of default and judgment. This is a waste, fraud, and abuses its discretion and this is criminal matter.

**B. Second , STATEMENT OF THE CASE and *Kim II*. Defendants –  
Appellees- Respondents violated Intentional Misrepresentation, Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind*.**

On March 2016, Kim(“*Kim II*”) brought a False Claim Act *Kim I* defendants and their attorneys violated Title 28 App Federal Title Rule 9. *Fraud, Mistake, Condition of the Mind* at the United State District Court Western Michigan case # 1:11-cv-00233 and Six Circuit no. 12-01401, 12-02407, 13-02354. Articulate the appropriate rule 9(b). *Fraud, Mistake, Condition of the Mind* as the United States District Court Western District of Michigan No 1:16-cv-309 (*Kim II*);

The panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that *Kim I* Defendants Answered to complaint *within 71days*<sup>8</sup> is a *within 21days timely* answered to complaint. The fact that the petitioner believes the court has overlooked Fed. R. App.40(a)(2).

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<sup>8</sup> The Summons issued on March 25, 2011. Defendants answer on June 3, 2011 See. Kim I Docket 1 and 38

Also, the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that Chief district court judge was “substantial ground for different of opinion” 28 U.S.C. 1292 (b)”“*the thirteenth [fifteenth] times*”(8) eight years that Solely granted *Kim I*, Defendants’ Motion to dismiss. The Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the *Kim I* defendants’ Motion to dismiss because *A motion*[August 10, 2011(defendants’ Motion to dismiss, docket no 62)]*asserting any of these defenses must be made before pleading*[June 3, 2011(Defendant answered to complaint docket no 38)].

The Sixth Circuit Case no 16-2321 *Kim II* finds that Solely “we VACATE the district court’s judgment and REMAND to the district court to dismiss this case for lack of subject- matter jurisdiction<sup>9</sup>. This is half criminal matter.

**C. Third , STATEMENT OF THE CASE and *Kim III*. Defendants – Appellees- Respondents violated Intentional Misrepresentation, Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind.***

Chief district Judge did not provide fair treatment during previous (*Kim I and Kim II* ) lawsuit. Defendants violated Title 28 App Federal Title Rule 9.Intentional Misrepresentation Fed. R. Civ. P. 9(b). The United States District Court Western District of Michigan *No 1:18-cv-00107 (Kim III)*;

On January 11, 2018 Kim(“*Kim III*”)re-filed complaint at the United States District Court For the Southern District of Ohio, docket no. 2:18 –cv-0029(*Kim III*)

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<sup>9</sup> “Kim and most of the defendants are citizen of Michigan, the district court also diversity jurisdiction.” “But failed to mention that act in his complaint particularly the circumstances constituting fraud or mistake. Rule 9(b)”.

and cured the “*lacked federal-question jurisdiction*<sup>10</sup>” that he states to mention act in his complaint. *Kim I* defendants and their attorneys violated Title 28 App Federal Title Rule 9. *Fraud, Mistake, Condition of the Mind.* at the United State District Court Western Michigan case # 1:11-cv-00233. Six Circuit no. 12-01401, 12-02407, 13-02354. Articulate the appropriate rule 9(b). *Fraud, Mistake, Condition of the Mind.* “a period of 30 days after it is dismissed” 28 U.S. Code § 1367(d). On January 30, 2018 the Southern District of Ohio Court were “Cure or Waiver of defects” 28 U.S.C § 1406 that the Court Chosen “interest of justice, transfer to the Western District of Michigan, Chief District court Judge ( *Kim, I, II, III*), docket no. 1:18-cv-00107.

### **PRESENTED STANDARD OF REVIEW**

The panel decision conflicts with Statute Respondents violated Title 28 App Federal Title Rule 9. *Fraud, Mistake, Condition of the Mind* that On March 28, 2011 Defendants Solely had NEVER been must<sup>11</sup>Returned Executed by the U.S. Marshal Christine Elmy (b)(7)(C)upon defendants the nine(9) pieces USM Form -299 *Receipt of Summons and Complaint* to the Court until present. See. Appendix I.

The panel, Chief district Judge dishonestly “interlocutory decisions” 28 USC § 1292 that “*the thirteenth [fifteenth] times*”(8)eight years that

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<sup>10</sup> Six Circuit ordered that “but failed to mention that act in his complaint. See. United States v. Cline, 362 F.3d 343, 348(6<sup>th</sup> Cir. 2004)

<sup>11</sup> The USM Form -299 *Receipt of Summons* appears that Defendants “MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1AND 2 to the sender *within 21days*”.

“[on March 28, 2011] without having served defendants with a complaint” (Order, *Kim I* P.2, ECF No 48 and p. 2.Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law” (Appendix G)which is the on March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) Not mailed the USM Form -299 *Receipt of Summons and Complaint* and Complaint upon defendants. This is actually criminal matter.

The judge and panel and Defendants’ conduct were willful and malicious and denied application entry of default and default judgment and *Kim III*, Respondents are not violated Statute Title 28 App Federal Title Rule 9 (b) *Fraud, Mistake, Condition of the Mind*. Chief district Judge Dismissed himself under 28 U.S.C. § 1915(e)(2)(ii) in this Case. This is a waste, fraud, and abuses its discretion and this is criminal matter. There was nothing honest in the *Kim I, II, II*, district Court room. Chief district judge, Defendants’ panel’s conduct was willful and malicious.

## **VI. REASONS FOR GRANTING PETITION**

### **D. ARGUMENT**

Pursuant to Section 1292(b) this Court may certify an order for interlocutory appeal if that order: (1) involves a controlling question of law for which there is substantial ground for difference of opinion, and (3) an immediate appeal of the order may materially advance the ultimate termination of the litigation. 28 U.S.C. § 1292(b). Satisfaction of all three requirements is a minimum for certification. *Nat'l Asbestor Workers Med. Fund. V. Phillip Morris, Inc.*, 71 F. Supp.2d 139, 162 (E.D.N.Y. 1999)(cited in *Teem v. Doubravsky*, No. 3:15-cv-

00210-ST, 2016 U.S. Dist. LEXIS 13452,3(D. Or. Jan, 7 2016)) Section 1292(b)

to be applied “only in exceptional circumstances”

**a. Plaintiff’s Application for entry of default and default judgment.**

***Kim I. Point of view defraud I.***

**1 . ARGUEMNT Defendants Solely had NEVER been returned the USM Form -299 *Receipt of Summons and Complaint* until present, is not “there is no evidence defendants were served”(Order, *Kim I* P.2, ECF No 48, Appendix H) and Defendants are not violated Statute Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind.***

Defendants knowingly make fraud that

“[on March 28, 2011] without having served defendants with a complaint” (Order, *Kim I* P.2, ECF No 48 and p. 2.Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law” (Appendix G)which is the on March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) Not mailed the USM Form -299 *Receipt of Summons and Complaint* and Complaint upon defendants. 7,10,13,16,19,22,25,28, and 6 at Appendix I. This is actually criminal matter.

And also, the defendants are not violated Statute Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind* at the United State District Court Western Michigan case # 1:11-cv-00233. Six Circuit no. 12-01401, 12-02407, 13-02354. This is not TRUE. This is a waste, fraud, and abuses its discretion and this is criminal matter.

Procedural history shows. *See.*

- a. The Summons issued on March 25, 2011(See. at Appendix J) On March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) *First time* mailed the USM Form -299 *Receipt of Summons and Complaint* and Complaint upon The (9)nine defendants’ address is Grand Valley State University 1 Campus

Drive Allendale, MI 49401-9403. To see Complaint Exhibit C p.7,10,13,16,19,22,25,28

- b. On April 17, 2011 Defendants failed timely answer to the complaint *within 21 days*.
- c. On March 28, 2011 Defendants Solely had NEVER been must<sup>12</sup> Returned Executed by the U.S. Marshal Christine Elmy (b)(7)(C) upon defendants the USM Form -299 *Receipt of Summons and Complaint* until present. To see Complaint Exhibit C p.7,10,13,16,19,22,25, 28.
- d. On May 18, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) Second time mailed to the defendants the USM Form -299 *Receipt of Summons and Complaint*. The (9)nine defendants' address is Grand Valley State University 1 Campus Drive Allendale, MI 49401-9403. To see Complaint Exhibit C p.3,8,11,14,17,20,23, and 26.
- e. On June 3, 2011, 71 days later, defendants answered to complaint *See. Kim I* docket no 38.
- f. On June 16, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) Third time mailed to the defendant- The (2) two pieces of the USM Form -299 *Receipt of Summons to* one defendant Lois Smith Owens on June 16, 2011 To see Appendix I p.4, and 6. Defendant Lois Smith Owens Solely had NEVER been must<sup>13</sup> Returned Executed by the U.S. Marshal Christine Elmy (b)(7)(C) upon defendants the USM Form -299 *Receipt of Summons and Complaint* until present.
- g. Petitioner "taken as true, The U.S. Marshal Christine Elmy (b)(7)(C) mailed 18 pieces of the USM Form -299 *Receipt of Summons* to the (9)nine defendants. The (9)nine defendants' address is Grand Valley State University 1 Campus Drive Allendale, MI 49401-9403.

The Chief district court judge made-up story that Defendants Answered to complaint *within 71 days*<sup>14</sup> is a *within 21 days*<sup>15</sup> *timely* answered to complaint and denied application for entry of default and default judgment. "the thirteenth

<sup>12</sup> The USM Form -299 *Receipt of Summons* appears that Defendants "MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1 AND 2 to the sender *within 21 days*".

<sup>13</sup> The USM Form -299 *Receipt of Summons* appears that Defendants "MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1 AND 2 to the sender *within 21 days*".

<sup>14</sup> The Summons issued on March 25, 2011. Defendants answer on June 3, 2011 *See. Kim I* Docket 1 and 38

<sup>15</sup> Rule 12(a)(1)(A)(i) A defendant must serve an answer within 21 days after being served with the summons and complaint.

[fifteenth] *times*”(8) eight years that “[on March 28, 2011] without having served defendants with a complaint” (Order, *Kim I* P.2, ECF No 48 and p. 2.Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law” (Appendix G)which is the on March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) Not mailed the USM Form -299 *Receipt of Summons and Complaint* and Complaint upon defendants. 7,10,13,16,19,22,25,28, and 6( See at Appendix I). This is actually criminal matter.

It is important to note that Chief judge and penal “erroneous factual findings”<sup>16</sup>that

On March 28, 2011 Defendants Solely had NEVER been must<sup>17</sup>Returned Executed by the U.S. Marshal Christine Elmy (b)(7)(C)upon defendants the USM Form -299 *Receipt of Summons and Complaint* until present. To see Complaint Exhibit C p.7,10,13,16,19,22,25, and 28 **is**,

“[on March 28, 2011] without having served defendants with a complaint” (Order, *Kim I* P.2, ECF No 48 and p. 2.Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law” (Appendix G)which is the on March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C) Not mailed the USM Form -299 *Receipt of Summons and Complaint* and Complaint upon defendants. This is actually criminal matter.

It is important to note that the panel and chief judge decision are conflict with Title 28 App Federal Title Rule 9(b) that defendants are violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. The Reasons for granting petition is the Judge’, panel and defendants’ conduct was willful and malicious.

This “case is of such imperative public importance as to justify deviation

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<sup>16</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>17</sup> The USM Form -299 *Receipt of Summons* appears that Defendants “MUST COMPLETE the acknowledgment part of this form below AND RETURN COPIES 1AND 2 to the sender *within 21 days*”.

from normal appellate practice 28 U. S. C. § 2101(e). Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e) defendants are violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. The Reasons for granting petition is the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved this case

The conflict is not address in the opinion or order eight (8)years. The fact that the Petitioner believes the panel has overlooked” Fed. R. App.40(a)(2) at the United States District Court Western District of Michigan 1:11-cv-00233(*Kim I*) No 1:16-cv-309 (*Kim II*); No 1:18-cv-00107 (*Kim III*) and Six Circuit no. 12-01401, 12-02407, 13-02354 (*Kim I*); 16-2321(*Kim II*); 18-1637(*Kim III*).

The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings

#### **Kim I. Point of view defraud II**

Furthermore, Respondents knowingly make fraud, the Chief District judge and panel dishonestly decision (Magistrate Judge was silent) are “substantial ground for different of opinion” 28 USC § 1292(b) that

“Their answer-which waived service –was therefore timely” (Order p.2 Appendix D) Their answer-which waived service –was therefore timely(Order p.5 Appendix E).On June, 2011 defendants receiving requests “waivers of service” from the Marshals’ office( Order p.5 Appendix H ) and affirmed denied Application for entry of default and judgment. This is an *untrue*. This is actually criminal matter.

Petitioner “taken as true, the judge and panel “erroneous factual findings evidence that the *Kim I* Court record appears that plaintiff had NEVER been filed

AO 399 *Waiver of the Service of Summons* and the U.S. Marshals had NEVER been received from the Clerk of Court the Waver Service. See. *Kim I* dockets. The panel and chief judge decision is conflict TRUE and “Clerk must enter the party’s default” Rules 55(a).

The conflict is not address in the opinion or order seven (7)years. The fact that the Appellant believes the panel has overlooked” Fed. R. App.40(a)(2) at the United States District Court Western District of Michigan1:11-cv-00233(*Kim I*) No 1:16-cv-309 (*Kim II*); No 1:18-cv-00107 (*Kim III*)and Six Circuit no. 12-01401, 12-02407, 13-02354 (*Kim I*); 16-2321(*Kim II*); 18-1637(*Kim III*).

The case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e).

Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e).Applicant is, therefore, the claim entitled to “liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3) and defendants violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. Kim has establish claim. The panel and Defendants’ conduct were willful and malicious. The Reasons for granting petition is the panel decide cases presenting issues of importance beyond the particular fact and parties involved this case.

The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”<sup>18</sup>

### **Kim I. Point of view defraud III**

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<sup>18</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

Respondents knowingly make fraud, Chief district Judge and panels dishonestly “there is substantial ground for different of opinion 28 USC § 1292(b)” particularity and the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that

“without having served defendants with complaint or amended complaint” (p.2 Appendix H) and denied Application for entry of default and judgment. “The Sixth Circuit affirmed the Court’s decision “nothing in record indicates that Kim actually served the defendants with the amended complaint”(p. 2. Appendix D). This is an *untrue*<sup>19</sup>. This is actually criminal matter.

Petitioner “taken as true” the judge and panel “erroneous factual findings evidence that the U.S. post office receipt appears *Kim I*, docket no. 46-2, docket no.52-3.docketno60-2)Kim actually served the Amended Complaint to the defendants and future represent defendant’s attorney.

The “erroneous factual findings”<sup>20</sup>evidence that

#### **“PROOF OF SERVICE**

**Motion for leave to file first Amended Complaint and Application for Declaratory and Injunctive Relief and Proof of Service to**

**Grand Valley State University, Thomas J. Haas, GVSU College of Education, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, GVSU College of Community and Public Service, George Grant, and Lois smith Owens  
1 Campus Drive Allendale, MI 49401-9403**

Interesting party (future represent defendant’s attorney:  
Mr. Edward J. Bardelli Warner Norcross & Judd LLP  
900 Fifth Third Center 111 Lyon Street NW Grand Rapids, MI 49503-2487

<sup>19</sup> 28U.S. Code § 352(a)(2) *untrue* or are incapable of being established through investigation.

<sup>20</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

Dated: March 25, 2011 GwanJun Kim ( See at Appendix K)

And

The “erroneous factual findings” evidence that

The U.S post office receipt appears *Kim I*, docket 7 pageID 77 and docket 52-3 Page ID279) Kim actually served the Amended complaint to the defendants and future represent defendant’s attorney. (See. Appendix L. )

See Dated: 3/25/11 07:54:03 AM.

1<sup>st</sup> Large Env 1    \$ 2.24 (Grand Rapids MI 49503) for the Interesting party (future represent defendant’s attorney)

1<sup>st</sup> Large Env 1    \$ 1.56 (Grand Rapids MI 49503) for the Court

1<sup>st</sup> Large Env 1    \$ 2.24 ( Allendale MI 49402) for the Defendant- Grand Valley State University.

And

The “erroneous factual findings” evidence that

Defendants’ counsel Bardelli “admit that Defendants received Dkt # 6 Amended Complaint. Answer: “Defendants admit only that their counsel received Docket no 6[Amended complaint] See, Paragraph 23 Defendants’ answers to Plaintiff’s First Request for Admissions.( *Kim I*, ECF docket no.108 Attachment 1 ) See. at Appendix M.

That evidence that Kim actually served the Amended complaint to defendants and future represent defendant’s attorney and “defendants is liable for the misconduct alleged *Ic*”

The conflict is not address in the opinion or order seven (8) eight years. The fact that the Petitioner believes the panel and Chief District Judge has overlooked” at the United States District Court Western District of Michigan 1:11-cv-00233(*Kim*

*I*) No 1:16-cv-309 (*Kim II*); No 1:18-cv-00107 (*Kim III*) and Six Circuit no. 12-01401, 12-02407, 13-02354 (*Kim I*); 16-2321(*Kim II*); 18-1637(*Kim III*). This is a crime.

The panel and chief judge decision are conflict with TRUE and “Clerk must enter the party’s default” Rules 55(a). “The case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e).

Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e). Applicant is, therefore, the claim entitled to “liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3) and defendants violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. Kim has establish claim. The Reasons for granting petition is the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved this case. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”<sup>21</sup>

III. **ARGUEMNT** Chief district Judge dishonestly “there is substantial ground for different of opinion 28 USC § 1292(b)” particularly finds that Solely granted Defendants’ Motion to dismiss This is criminal matter. The “erroneous factual findings”<sup>22</sup> evidence that Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the *Kim I* defendants’ Motion to dismiss.

#### **b. Defendants’ Motion to dismiss**

##### **Kim I. Point of view defraud IV**

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<sup>21</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>22</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the *Kim I* defendants' Motion to dismiss because *A motion*[August 10, 2011(defendants' Motion to dismiss, docket no 62)]*asserting any of these defenses must be made before pleading*[June 3, 2011(Defendant answered to complaint docket no 38)].

The Chief Judge and panel has to follow the rule of law, Fed. R. Civ. P. 12(b)(7). But the panel and Chief district court Judge ignored that rule of law, Fed. R. Civ. P. 12(b)(7) in this Case.

Procedural history shows. *See*.

- a. On August 10, 2011, Kim I defendants filed defendants' Motion to dismiss (see. docket no 62)
- b. On June 3, 2011, Kim I defendants filed Defendant answered to complaint (See. docket no 38)

Respondents knowingly make fraud, Chief District court judge and panel dishonestly decision are "substantial ground for different of opinion" 28 USC § 1292(b) that the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that Solely granted Defendants' Motion to dismiss. This is criminal matter. Petitioner "taken as true" the judge and panel "erroneous factual findings evidence that Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the *Kim I* defendants' Motion to dismiss. The conflict is not address in the opinion [or order at the *Kim I, II, III*] Fed. R. App.P.40.

The conflict is not address in the opinion or order and panel

seven (7) years. “The fact that the petitioner believes the panel has overlooked” Fed. R. App. 40(a)(2) at the United States District Court Western District of Michigan 1:11-cv-00233 (*Kim I*) No 1:16-cv-309 (*Kim II*); No 1:18-cv-00107 (*Kim III*) and Six Circuit no. 12-01401, 12-02407, 13-02354 (*Kim I*); 16-2321 (*Kim II*); 18-1637 (*Kim III*). This is Crime.

The panel and Chief judge decision is conflict Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the *Kim I* defendants’ Motion to dismiss. “The case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e). The Reasons for granting petition is the panels’ conduct was half willful and malicious.

Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e). Applicant is, therefore, the claim entitled to “liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3) and defendants violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. Kim has establish claim. The Reasons for granting petition is the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved this case. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”<sup>23</sup>

### **Kim I. Point of view defraud V**

**III. ARGUEMNT** Chief district Judge dishonestly “there is substantial ground for different of opinion 28 USC § 1292(b)” that Judge was particularly erred in adversely rulings that Solely intentionally failure to make any mention of facts factual allegation ,Cause of Action I, II, III <sup>24</sup> in its Opinion an Order.

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<sup>23</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>24</sup> *Count I*. the Homosexual defendants refused to correct the miscalculation” the complaint indicated that the college of Education Grand Valley

Respondents knowingly make fraud, the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that the judge and panel “erroneous factual findings evidence that Chief District Judge Solely granted Defendants’ Motion to dismiss that Solely intentionally failure to make any mention of facts factual allegation ,Cause of Action I, II, III <sup>25</sup> in its Opinion an Order. This is crime.

The conflict is not address in the opinion or order and panel eight (8)years. “The fact that the panel has overlooked” Fed. R. App.40(a)(2) at the United States District Court Western District of Michigan 1:11-cv-00233(*Kim I*) No 1:16-cv-309 (*Kim II*); No 1:18-cv-00107 (*Kim III*) and Six Circuit no. 12-01401, 12-02407, 13-02354 (*Kim I*); 16-2321(*Kim II*); 18-1637(*Kim III*).

The panel and Chief judge decision is conflict Cause of Action I, II, III <sup>26</sup> “The case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e). Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e). Petitioner is, therefore, the claim entitled to “liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3) and defendants violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. Kim has established claim. The Reasons for granting

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State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. Count II GVSU refused complies with the GVSU Rule readmission application. Count III. GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

<sup>25</sup> Count I. the Homosexual defendants refused to correct the miscalculation” the complaint indicated that the college of Education Grand Valley State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. Count II GVSU refused complies with the GVSU Rule readmission application. Count III, GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

<sup>26</sup> Count I. the Homosexual defendants refused to correct the miscalculation” the complaint indicated that the college of Education Grand Valley State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. Count II GVSU refused complies with the GVSU Rule readmission application. Count III. GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

petition is the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved this case. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”<sup>27</sup>

**Kim I. Point of view defraud VI**

Finally, *Kim I*, Respondents knowingly make fraud, Chief district court judge ordered is “frivolous”<sup>28</sup> that the judge had particularity biases orders that Defendants received grant defendants’ Motion for Taxation of Costs (docket no 197) amount of the 1,006.46. ). Judge’s conduct was willful and malicious. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”

**IV. ARGUEMNT Defendants –Appellees- Respondents violated Intentional Misrepresentation, Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind* at the the United State District Court Western Michigan case # 1:11-cv-00233 and Six Circuit no. 12-01401, 12-02407, 13-02354. Articulate the appropriate rule 9(b). *Fraud, Mistake, Condition of the Mind* as the United States District Court Western District of Michigan No 1:16-cv-309 (*Kim II*);**

**Kim II. Point of view defraud VII**

Respondents knowingly make fraud, *Kim II* Judge Maloney had been finds that “[*defraud I to VI*] are only to adverse rulings [ “the thirteenth [fourteenth] times] adverse rulings are not a sufficient reason for a judge to be excused from presiding

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<sup>27</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>28</sup> “frivolous,[and] lacking sufficient evidence to raise an inference that misconduct has occurred,”28 U.S. Code § 351(b)(1)(A)(iii).

over a lawsuit. *Jewell v. Ohio State Univ.*, 941 F. 2d 1209 (6<sup>th</sup> Cir. Aug 14, 1991).

For a bias to be personal against the party, and a basis for disqualification, it must arise from some extra Judicial source.” “this case be reassigned to Chief Judge Jonker *Kim II* in order to promote judicial economy”. (*Kim II*, ECF No. 17) ). *Kim II* Judge Maloney’ conduct was willful and malicious. The panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that

The conflict is not address in the opinion or order and panel seven (7) years. “The fact that the Appellant believes the panel has overlooked” Fed. R. App. 40(a)(2) at the United States District Court Western District of Michigan No 1:16-cv-309 (*Kim II*); No 1:18-cv-00107 (*Kim III*) and Six Circuit no. 16-2321(*Kim II*); 18-1637(*Kim III*).

“The case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e). Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e). Applicant is, therefore, the claim entitled to “liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3) and defendants violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. Kim has established claim. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings.”<sup>29</sup>

### **KimII. Point of view defraud VIII**

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<sup>29</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

Respondents knowingly make fraud, the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved that Kim “must have had a full and **fair** opportunity to litigate the issue in the prior proceeding *id* All the factors [*the Defraud I to VII*] are amply satisfied” (*Kim II*, ECF No. 220 p.3) See. Order p. 3 Appendix D. This is Criminal matter. This is an *untrue*. The judge and panel “erroneous factual findings evidence that *Kim II* Chief Judge had been “unable to discharge all the duties” 28 U.S. Code § 351(a) criminal justice defendants. The conflict *the Defraud I to VII* is not address in the opinion [ or order] Fed. R. App.P.40. The panels’ conduct was half willful and malicious.

The Sixth Circuit Case no 16-2321 *Kim II* finds that “we VACATE the district court’s judgment and REMAND to the district court to dismiss this case for lack of subject- matter jurisdiction<sup>30</sup> See. at Order p. 3 Appendix C.

The conflict the *Point of view defraud I to VII* is not address in the opinion [ or order] Fed. R. App.P.40). The panels’ conduct was half willful and malicious.

The panel and Chief judge decision is conflict with Defendants violated Intentional Misrepresentation, Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind* at the the United State District Court Western Michigan case # 1:11-cv-00233 and Six Circuit no. 12-01401, 12-02407, 13-02354.

“The case is of such imperative public importance as to justify deviation from

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<sup>30</sup> “Kim and most of the defendants are citizen of Michigan, the district court also diversity jurisdiction.” “But failed to mention that act in his complaint particularly the circumstances constituting fraud or mistake. Rule 9(b)”.

normal appellate practice 28 U. S. C. § 2101(e). Petitioner requests “immediate determination in this Court”. See 28 U. S. C. § 2101(e). Applicant is, therefore, the claim entitled to “liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3) and defendants violated under Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. Kim has establish claim. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”<sup>31</sup>

**V. ARGUEMNT Defendants –Appellees- Respondents are violated Intentional Misrepresentation, Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure (b) *Fraud, Mistake, Condition of the Mind* at the United State District Court Western Michigan case # 1:11-cv-00233 and Six Circuit no. 12-01401, 12-02407, 13-02354.**

**KimIII. Point of view defraud IX**

Respondents knowingly make fraud that It is important to note that the panel and judge decide cases presenting issues of importance beyond the particular fact and parties involved this case that Chief district Judge dishonestly “there is substantial ground for different of opinion 28 USC § 1292(b)” that the *Point of view defraud I to VIII* that *Kim I, II, III* Chief district Judge continue “erroneous factual findings”<sup>32</sup> by dismiss himself that Defendants are not violated Title 28 App Federal Title Rule 9. Intentional Misrepresentation Fed. R. Civ. P. 9(b) *Fraud, Mistake, Condition of the Mind*. This is Crime.

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<sup>31</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>32</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

Chief district Judge finds that *Point of view defraud I to VIII* “is still to the screening mechanism” and dishonestly fraud that the *Point of view defraud I to VIII are* “Defendants is a prevailing party” denied Kim’s Motion for judgment and Six Circuit no. 18-1637(*KimIII*) and the panel affirmed the Chief district Judge’ conduct was willful and malicious. This is criminal matter. The panels’ conduct was actually willful and malicious. The Panel and Chief District Court judge decision is “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings.” This is a waste, fraud, and abuses its discretion and this is criminal matter.

**THE REASONS FOR GRANTING PETITION The Panel and Chief District Court judge decision, defraud I to XI are “Interlocutory decisions” 28 USC § 1292 and “erroneous factual findings”<sup>33</sup>**

**THE REASONS FOR GRANTING PETITION *defraud I***

The judge and panel “erroneous factual findings”<sup>34</sup> *Kim I*, that On March 28, 2011 the U.S. Marshal Christine Elmy (b)(7)(C)was not mailed the complaint and the USM Form -299 *Receipt of Summons and Complaint* to defendants until present<sup>35</sup>which is “[ on March 28, 2011]there is no evidence that defendants were served” (Order, *Kim I* P.2, ECF No 48 and Appendix H ). “the Court find the Magistrate judge’s Order(docket #48)neither clearly erroneous nor contrary to law”

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<sup>33</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>34</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>35</sup> Petitioner “taken as true, the judge and panel “erroneous factual findings evidence that the Court record appears that On March 28, 2011 Defendants Solely had NEVER been must<sup>35</sup>Returned the USM Form -299 *Receipt of Summons and Complaint* until present. To see Complaint Exhibit C p.7,10,13,16,19,22,25, and 28. See. Appendix I

(Appendix G) and denied Application for entry of default and default judgment.

The panels' conduct was actuary willful and malicious. The judge and panel "erroneous factual findings" that Respondents is NOT violated Statute Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. This is criminal matter.

### **THE REASONS FOR GRANTING PETITION *defraud II***

The judge and panel "erroneous factual findings" *Kim I*, that On June, 2011 defendants receiving requests waivers of service from the Marshals' office"(Order, *Kim I* P.2, ECF No 48) <sup>36</sup>and denied Application for entry of default and judgment and Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels' conduct was actuary willful and malicious. The judge and panel "erroneous factual findings" that Respondents is NOT violated Statute Title 28 App Federal Title Rule 9(b) *Fraud, Mistake, Condition of the Mind*. This is criminal matter.

### **THE REASONS FOR GRANTING PETITION *defraud III***

The judge and panel "erroneous factual findings"<sup>37</sup> *Kim I*, that Kim actually not served the defendants with the amended complaint" ( *Kim II*, Order, P.2, ECF No 34, Complaint Exhibit B)<sup>38</sup> and denied Application for entry of default and

<sup>36</sup> Petitioner "taken as true, the Court record appears that plaintiff had actually NEVER been filed AO 399 *Waiver of the Service of Summons* and the U.S. Marshals had NEVER been received from the Clerk of Court the Waver Service. See. *Kim I* 1:11-cv-00233 dockets.

<sup>37</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

<sup>38</sup> Petitioner "taken as true", the judge and panel "erroneous factual findings evidence that the Court record appears the U.S. post office receipt actually appears *Kim I*, docket no. 46-2, docket no.52-3.docketno60-2.)See. Appendix L. Proof of service indicated that Plaintiff served amended

judgment and denied Application for entry of default and judgment and the *Kim III*, judge and panel “erroneous factual findings” that Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels’ conduct was actuary willful and malicious. This is criminal matter.

### **THE REASONS FOR GRANTING PETITION *defraud IV***

The judge and panel “erroneous factual findings” *Kim I*, that the judge and panels was not follow the Fed. R. Civ. P. 12(b)(7) “[on August 10, 2011]*defenses must be made before pleading*[On June 3, 2011]” Fed. R. Civ. P. 12(b)(7).

The panel and chief judge decision is conflict with the Fed. R. Civ. P. 12(b)(7) requires that judge to mandatory denied the Defendants’ Motion to dismiss because defendants are not file *made before pleading*.

The judge and panel “erroneous factual findings” *Kim I*, that granted Defendants’ Motion to dismiss and the *Kim III*, judge and panel “erroneous factual findings” that Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels’ conduct was actuary willful and malicious. This is criminal matter.

### **THE REASONS FOR GRANTING PETITION *defraud V***

The judge and panel “erroneous factual findings” *Kim I*, that Chief district court judge and panels Order is “frivolous ”that Judge and panels was erred in adversely

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complaint see. Appendix K. Defendants admitted that defendants received the amended complaint . See. Appendix M.

rulings that Solely intentionally failure to make any mention of facts factual allegation ,Cause of Action I, II, III <sup>39</sup> in its Opinion an Order and *Kim III* Respondents is not violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. The panels' conduct was actuary willful and malicious. This is criminal matter.

### **THE REASONS FOR GRANTING PETITION *defraud VI***

The judge and panel “erroneous factual findings” *Kim I*, that Chief district court judge ordered is “frivolous”<sup>40</sup> that the judge had particularity biases orders that Defendants received grant defendants’ Motion for Taxation of Costs (docket no 197) amount of the 1,006.46. ). Judge’s conduct was willful and malicious.

### **THE REASONS FOR GRANTING PETITION *defraud VII***

*Kim II*, Distinct Judge Maloney, “erroneous factual findings”<sup>41</sup> that “[*defraud I to VI*] are only to adverse rulings [ “*the thirteenth [fourteenth] times* ] adverse rulings are not a sufficient reason for a judge to be excused from presiding over a lawsuit. *Jewell v. Ohio State Univ.*, 941 F. 2d 1209 (6<sup>th</sup> cir. Aug 14, 1991). For a bias to be personal against the party, and a basis for disqualification, it must arise from some extra Judicial source” and “this case be reassigned to Judge Jonker the United States District Court Western District of Michigan 1:11-cv-00233(*Kim I*) in order to

<sup>39</sup> *Count I*. the Homosexual defendants refused to correct the miscalculation” the complaint indicated that the college of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of “D” and The Grand Valley State University independently calculated 700+304=700points grade of “C”. *Count II* GVSU refused complies with the GVSU Rule readmission application. *Count III*. GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

<sup>40</sup> “frivolous,[and] lacking sufficient evidence to raise an inference that misconduct has occurred,”28 U.S. Code § 351(b)(1)(A)(iii).  
<sup>41</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

promote judicial economy". (*Kim II*, ECF No. 17) ). *Kim II* Judge Maloney' and panels' conduct was actually willful and malicious.

### **THE REASONS FOR GRANTING PETITION *defraud VIII***

The Chief District judge "erroneous factual findings" *Kim II*, that Kim "must have had a full and **fair** opportunity to litigate the issue in the prior proceeding *id* All the factors [*the Defraud I to VII*] are amply satisfied" (*Kim II*, ECF No. 220 p.3) and defendants . Chief District judge's conduct was actually willful and malicious.

### **THE REASONS FOR GRANTING PETITION *defraud XI***

*Kim II* The panel "erroneous factual findings" "we VACATE the district court's judgment and REMAND to the district court to dismiss this case for lack of subject- matter jurisdiction<sup>42</sup> The conflict the *Point of view defraud I to VII* is not address in the opinion [ or order] Fed. R. App.P.40). The panels' conduct was half willful and malicious.

### **THE REASONS FOR GRANTING PETITION *defraud X***

The *Kim III*, Chief District judge "erroneous factual findings" that *defraud I to VIII* "is still to the screening mechanism" and dishonestly fraud that the *Point of view defraud I to VIII* are "Defendants is a prevailing party" denied plaintiff's Motion for judgment and *Kim III*, Defendants are not violated Title 28 App Federal Title Rule 9.Intentional Misrepresentation Fed. R. Civ. P. 9(b) *Fraud, Mistake,*

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<sup>42</sup> "Kim and most of the defendants are citizen of Michigan, the district court also diversity jurisdiction." "But failed to mention that act in his complaint particularly the circumstances constituting fraud or mistake. Rule 9(b)".

*Condition of the Mind* . Chief district Judge' conduct was willful and malicious.

This is actually criminal matter. This “case is of such imperative public importance as to justify deviation from normal appellate practice 28 U. S. C. § 2101(e).

### **THE REASONS FOR GRANTING PETITION *defraud XI***

The *Kim III*, panel “erroneous factual findings”<sup>43</sup> that the *defraud I to VIII* is, “Kim fails to point to any evidence of bias on the part of the district court judge other than his unfavorable rulings” p.5 Order . The panel’s conduct actually was willful and malicious. This is a waste, fraud, and abuses its discretion and this is criminal matter. Petitioner “taken as true, the judge and panel “erroneous factual findings evidence that the district Court and Sixth Circuit Court record appears that Kim established and submitted to point to evidence of bias on the *defraud I to VIII* of the district court judge. *Kim III*, Defendants are violated Title 28 App Federal Title Rule 9.Intentional Misrepresentation Fed. R. Civ. P. 9(b) *Fraud, Mistake*, *Condition of the Mind* which is panel’s conduct was actually willful and malicious.

Petitioner believes that the panel and Chief District judge received bible from “Grand Valley University Milton E. Ford LGBT Resource Center” or insurance carrier . Most Respondents- gay or lesbian- educators are not King or Queen of the United States America and above the law. Should be an equal

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<sup>43</sup> RULES OF THE Supreme Court of the United States, 10 (Rule 10)

criminal justice.

## REQUEST

a. Petitioner requests Respondents to answer the argument *Point of view defraud I to IX*. Respondents had NEVER been answered the argument *Point of view defraud I to IX* Eight (8) Years or Chief District Judge or Panel to Answer.

The conflict has not been address in the opinion or penal' order.

b. Petitioner respectfully request "immediate determination in this Court". See 28 U. S. C. § 2101(e) that Respondents is violated Statute Title 28 App Federal Title Rule 9(b)*Fraud, Mistake, Condition of the Mind*. This is criminal matter. Petitioner has injury from the *Point of view defraud I to IX* Eight (8) Years. . The panels' conduct was actually willful and malicious. Should be granted.

## V. CONCLUSION

Petitioner respectfully requests determination in this Court" that liabilities of the defendants admiralty cases 28 U.S. C. 1292 (a)(3), the Court of appeal's judgment in favor in Petitioner and remands this Court or remands to the United States District Court for the Southern District of Ohio Court. No 2:18-cv-0029 for order Judgment in favor of the Petitioner relief demanded in the complaint.

Respectfully submitted,

Dated: January 16, 2019   
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