No. 18-8193

IN THE

SUPREME COURT OF THE UNITED STATES

Ada Albors Gonzalez
— PETITIONER
(Your Name)

vs.

William M. Stern, et al.
— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Florida Fifth District Court of Appeal
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ada Albors Gonzalez
(Your Name)

P. O. Box 11092
(Address)

Tallahassee, FL 32302
(City, State, Zip Code)

(917) 551-0272
(Phone Number)

QUESTIONS PRESENTED

1. Whether the State of Florida court abuse its discretion by decision of denial on Petitioner's legal malpractice cause of action on the statute of limitations legal grounds.

2. Whether the State of Florida trial court's denial of an evidentiary hearing, due process or the opportunity to be heard on Petitioner's motion for relief entitles Petitioner of reversal or quash the State of Florida court's decision of denial of relief under Fla. R. Civ. P. 1.540(b).

3. Whether the State of Florida court abuses its discretion by accepting and rendering "Affirmed" PCA's decisions when the trial court case arrives to the Appellate Court Clerk's office where a the record clearly shows that trial court lacks jurisdiction over party litigant.

4. Whether the Petitioner is entitled for relief of the State of Florida void or voidable orders from the highest court by the grant of this petition for writ of certiorari.

5. Whether Petitioner, under the extraordinary circumstances of the present case and Respondent's as officer of the court's intentional, deliberate and calculated actions, and the inconceivable harm to Petitioner, mounts to this court to exercise its sovereign powers to grant a final judgment in favor of Petitioner.

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] 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 is as follows:

Norman D. Levin
Jennifer L. Sloane

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IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[X] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix B to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Florida Fifth District Court of Appeals court appears at Appendix A to the petition and is

[X] reported at Gonzalez v. Stern, 244 So.3d 1187 (Fla. 5DCA 2018); or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[X] For cases from **state courts**:

The date on which the highest state court decided my case was DEC. 7, 2018.
A copy of that decision appears at Appendix B.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

28 U.S.C. § 1257 (2018):

> (a) [f]inal judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, any commission held or authority exercised under, the United States.

Article III, § 2, U.S. Const.

> (a)"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;-- to all Cases affecting Ambassadors, other public Ministers and Consuls;--to all Cases of admiralty and maritime Jurisdiction;--to Controversies to which the United States shall be a Party;--to Controversies between two or more States;-- between a State and Citizens of another State;--between citizens of different States;--between Citizens of the same State claiming Lands under Grants of different States, and between s State, or the Citizens thereof, and foreign States, Citizens or Subjects.
> (b)In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.
> (c)The Trial of all Crimes, except in Cases of Impeachment, shall be by jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed."

Art. XIV, § 1, U.S. Const.:

> "[A]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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."

Article VI, U.S. Const.

"...This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."

28 U.S.C., § 1651. Writs

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdiction and agreeable to the usages and principles of law.
(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction

28 U.S.C. § 1654, "Appearance personally or by counsel":

"[I]n all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein."

28 U.S.C., § 2104 Review of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States."

28 U.S.C., § 2106 "Determination:"

"The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct

the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances."

28 U.S.C., § 1657, "Priority of Civil Actions:"

"(a) [N]otwithstanding any other provision of law, each court of the United States shall determine the order in which civil actions are heard and determined, except that the court shall expedite the consideration of any action brought under chapter 153 or section 1826 of this title, any action for temporary or preliminary injunctive relief, or any other action if good cause thereof is shown. For purposes of this subsection, "good cause" is shown if a right under the Constitution of the United States or a Federal Statute (including rights under section 552 of title 5) would be maintained in a factual context that indicates that a request for expedite consideration has merit
(b) The Judicial Conference of the United States may modify the rules adopted by the courts to determine the order in which civil actions are heard and determined, in order to establish consistency among the judicial circuits."

42 U.S.C., § 1981, Equal rights under the law.

(a) Statement of Equal Rights
All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and o the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licences, and exactions of every kind, and to no other.
(b) "Make and Enforce Contracts" Defined
For purposes of this section, the term "make and enforce contracts" includes the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.
(c) Protections against Impairment
The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under of State law."

Art. I, § 21, Fla. Const.(2018):

Access to courts.—The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay.

§ 95.11, Fla. Stat.(2018): Limitations other than for the recovery of real property.-- Actions other than for recovery of real property shall be commenced as follows:
(4) WITHIN TWO YEARS.--

(a) An action for professional malpractice, other than medical malpractice, whether founded on contract or tort; provided that the period of limitations shall run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence. However, the limitation of actions herein for professional malpractice shall be limited to persons in privity with the professional.

Fla. R. Civ. P. 1.540(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, decree, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial or rehearing; (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) that the judgment or decree is void; or (5) that the judgment or decree has been satisfied, released, or discharged, or a prior judgment or decree upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment or decree should have prospective application. The motion shall be filed within a reasonable time, and for reasons (1), (2), and (3) not more than 1 year after the judgment, decree, order, or proceeding was entered or taken. A motion under this subdivision does not affect the finality of a judgment or decree or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, decree, order, or proceeding or to set aside a judgment or decree for fraud upon the court.
Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished, and the procedure for obtaining any relief from a judgment or decree shall be by motion as prescribed in these rules or by an independent action.

STATEMENT OF THE CASE

This case arises out of Florida Fifth District Court of Appeal authored opinion on April 27, 2018, (App. A) on Petitioner's Ada Albors Gonzalez' legal malpractice case, filed on Feb. 26, 2004, as *pro se* litigant, against three Florida Bar attorneys: William M. Stern[1], (hereinafter "Stern"), Norman D. Levin[2], (hereinafter "Levin") and Jennifer L. Sloane[3], (hereinafter "Sloane"), initially titled: *Ada Albors Gonzalez vs. William M. Stern Norman D. Levin Jennifer L. Sloane, case No.: 2004-CA-505-09-G.*

On Dec. 7, 2018, the Supreme Court of Florida rendered its decision "that it should declines to accept jurisdiction and that petition for review is denied" (App. C), and Order of denial to recall Mandate, (App. D). Florida Fifth District Court of Appeal authored opinion dated April 27, 2018, (App. A), arises from an appeal taken from trial court' decision of denial, on Nov. 7, 2017, (App. B) on Petitioner's trial court motion for relief, as *pro se* litigant, titled: *"Plaintiff's Additional Motion of*

[1] Attorney for Petitioner's former husband, Florida Bar Number 165501

[2] Attorney for Petitioner from July 25, 2001 forward to 2004, Florida Bar Number 213322

[3] Attorney, Florida Bar Number 144479

Relief Under 1.540(b)(1); 1.540(b)(2); 1.540(b)(3); 1.540(b)(4) of "Order of Dismissal" from January 12, 2016", dated Jan. 4, 2017, (App. E)[4].

Trial court is the State of Florida for the Eighteenth Judicial Circuit Court, Civil Division, in Seminole County, Sanford, Florida, (hereinafter "trial court"). Trial court's decision of dismissal with prejudice was rendered on Jan. 12, 2016, (App. F).

The attorney-client relationship existed between Petitioner and Respondent, Levin. Respondent, Levin was retained by Petitioner in her State of Florida domestic relations case on or around July 25, 2001. Respondent, Levin provided to the State of Florida Court, Domestic Relations Division, Sanford, Florida with the written stipulated by attorneys Respondents, Stern and Levin *"Final Judgment of Dissolution of Marriage"* dated around Mar. 22, 2002. Petitioner's stipulated *"Final Judgment of Dissolution of Marriage"* dated around Mar. 22, 2002 stems from Petitioner's State of Florida Domestic Relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez*, No.:2000-DR-1898-02, (Fla. 18th Jud. Cir. Ct. 2002).

The present case of legal malpractice was filed on Feb. 26, 2004, with the limited information known to Petitioner at the time, but appreciable and actual harm flowing from all three Respondents negligent conduct, (App. G). Respondent,

[4] Jurisdiction of Fla. R. Civ. P. 1.540(b) arises from Art. V, § I, Fla. Const., (2017), Art. V, § II, Fla. Const., (2017), Art. III, § 1, U.S. Const. Art. I, U.S. Const., Common Law.

Levin did not file a response pursuant Fla. R. Civ. P. 1.140(a)(1). The present case was filed within the two years of the statute of limitations from Petitioner's stipulated *"Final Judgment of Dissolution of Marriage"* dated around Mar. 22, 2002, pursuant to § 95.11(4)(a), Fla. Stat. (2002).

Attorneys Stern[5], and Sloane[6], did not file an answer to Petitioner's Complaint pursuant Fla. R. Civ. P. 1.140(a)(1), instead, Stern and Sloane filed their respective motion to dismiss and Stern and Sloane were dismissed around July 28, 2004 and subsequently with their respective attorneys' false, deceptive and misleading legal representation obtained a combined final judgment of around eight thousand three hundred thirty eight U.S. dollars and seventy five cents ($8,338.75), on attorney's fees, without notice or due process, in the absence of Petitioner. Respondents Stern, Levin, Sloane did not move to quash the process of service and

[5] William M. Stern, Esq. was personally served on April, 13, 2004, filed his "Notice of Appearance" on April 21, 2004 and was dismissed on or around July 28, 2004, and obtained a final judgment for attorney's fees, which it was fully paid by Petitioner, who had no knowledge of the fraud upon the court.

[6] Jennifer L. Sloane, Esq. filed her "Notice of Appearance" on March 19, 2004, Sloane was personally served on April, 8, 2004 and was dismissed on or around July 28, 2004, and continued scheduling ex-parte hearings without Petitioner's knowledge up to Feb. 8, 2005, and obtained a final judgment for attorney's fees, which it was fully paid by Petitioner, who had no knowledge of the fraud upon the court.

did not challenge the sufficiency of process under § 48.21, Fla. Stat. (2004) and Fla. R. Civ. P. 1.070(b) at any time during the State of Florida proceedings, (App. H).

On Sept. 28, 2004, Respondent, Levin, through his attorney's files in this case of legal malpractice[7], at trial court, a "Motion to Show Cause". On Nov. 9, 2004, trial court rendered an order on Levin's "Motion to Show Cause" titled: "Order of Dismissal Without Prejudice" holding: "this matter be dismissed without prejudice", (App. I). Petitioner did not appeal the Order dated Nov. 9, 2004. Respondent, Levin did not file a motion for relief on such order pursuant to Fla. R. Civ. P. 1.540(b)[8].

On or around Nov. 4, 2014, Florida Fifth District Court of Appeal rendered an "PCA" adverse decision on an appeal from a sister court's ruling on an order derived from Petitioner's State of Florida domestic relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez*, No.:2000-DR-1898-02, (Fla. 18th Jud. Cir. Ct.

[7] The present case State of Florida trial court docket is missing the transcript of the State of Florida trial court hearing from July 28, 2004 in which Petitioner's hired court reporter appearing at court hearing and was fully paid. Petitioner recalls filing at the present case State of Florida trial court a notice of filling with the attached complete transcript of the trial court hearing from July 28, 2004. The present case State of Florida trial court docket entries where the transcript of proceedings of the court hearing from July 28, 2004 used to appear, now appears as four repetitive identical trial court orders.

[8] Respondent, Levin's calculated risk in this case and potential risk that the effect of knowledge of a voidable order will cause Petitioner's to examine her State of Florida domestic relations case and discover the same fact of lack of jurisdiction and Levin's concealment of such action.

2002) order denying Petitioner attorney's supplemental petition for modification of alimony award due to change in circumstances as result of Petitioner's disability.

On Jan. 22, 2015, in the instant case, Petitioner's, as *pro se* litigant, filed her motion for leave of court to amend the initial Complaint[9]. On April 7, 2015, Respondent, Levin attorneys filed their opposition to Petitioner's motion for leave to amend Complaint, with a changed Respondents names on its caption. On May 11, 2015 at trial court hearing, trial court rendered an Order that denies Petitioner her legal right to amend the initial Complaint as to the matter of Respondent, Levin, holding: "The motion is denied. This case was dismissed on November 9, 2004. The Statute of Limitations has since run." (App. J).

Petitioner filed an appeal to Florida Fifth District Court of Appeal on the trial court's May 11, 2015 Order. For this appeal Petitioner relied in case *Czeremcha v. International Association of Machinist and Aerospace Workers, AFL-CIO,* 724 F.2d 1552 (1984). Florida Fifth District Court of Appeal, on Oct. 15, 2015 rendered an order relinquishing appellate jurisdiction to the State's trial court for Petitioner to obtain a final appealable order[10], (App. K).

[9] The affidavit of proof of service of personal delivery by Florida process server applicable to the Jan. 22, 2015 motion for leave to amend with the attached amended Complaint on Respondent, Levin is missing from this court case docket.

[10] For this final appealable order Appeal trial court omitted the transfer of material orders to Florida Fifth District Court of Appeal, the amended complaint, and the affidavit of process of service

In order to obtain the final appealable order at the State of Florida trial court Petitioner encountered serious challenges. Petitioner, right after October 16, 2015, hired a Florida process server to serve Respondents by delivering a true copy of the initial Complaint, the Appellate Order and the additional Amended Legal Malpractice Complaint[11], which were contemporaneously mailed via U.S. Mail to the trial court for the correct filing in the case at hand trial court's docket. As per trial court order dated Oct. 16, 2015 to almost Dec. 1, 2015, Petitioner's hired Florida process server did not serve all three Respondents and lied as that it had properly served all Respondents, to Petitioner who was living in the State of New York at the time, to run the forty five (45) days allowed by order of the State's Appellate court, (App. K). Petitioner discovered the process server's inaction and filed a motion for extension of time to the Florida Fifth District Court of Appeal, which it was granted and Petitioner was afforded an additional forty five (45) days to obtain a final appealable order, (App. L) and still couldn't properly serve Respondents, only Respondent, Levin's attorney[12] was personally served and such affidavit of proof of service does not appear at the State's trial court's docket. Respondents did receive by U.S. Mail certified receipt the Appellate Order and later

applicable to Dec. 8, 2015, from Respondent, Levin is also missing from trial court's docket, which resulted on a PCA decision.

[11] The Petitioner's Amended Legal Malpractice Complaint from after Oct. 15, 2015 is missing from trial Court's docket.

[12] Kenneth L. Baker, Esq. Florida Bar No.: 254207.

the Petitioner's motion for summary judgment on the pleadings which included the initial Complaint, no response was filed. Therefore, Respondents manipulated, evaded and created an unfair scheme to intentionally influence and obstruct the proper service of process at the State of Florida court to prevent Petitioner from obtaining a valid final appealable order.

Once the Florida Fifth District Court of Appeal order dated Oct. 15, 2015, reaches the trial court docket the order included a hand written case number of 04CA505, with the State of Florida trial court's clerk of the court stamped dated Oct. 16, 2015, (App. K). Petitioner, reached the conclusion that the initial complaint was reinstated as the order included the trial court's case number 04CA505 as it says: "the above style case is hereby reinstated" and the order fails to distinguish the case numbers presented on the trial court's order, then the final appealable order had to be a final judgment in Petitioner's favor for the total amount from the initial Complaint (App. G) pursuant Fla. R. Civ. P. 1.140(c). On Jan. 12, 2016, the State of Florida trial court dismissed the instant case with prejudice without procedural jurisdiction in violation of Fla. R. Civ. P. 1.420(b) and as direct result of Respondent's misconduct (App. F). Petitioner timely re-opened the case and paid the trial court's re-opening fee within thirty (30) days from Jan. 12, 2016.

A barrier was created by the sister court, utilizing the very same case in which legal malpractice occurred, as Respondent, Levin represented Petitioner on the State of Florida for the Eighteenth Judicial Circuit Court, Domestic Relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez*, No.:2000-

DR-1898-02, (Fla. 18th Jud. Cir. Ct. 2002), Petitioner's former husband's attorneys[13] obtained a series of void orders, in complete absence of jurisdiction[14], or due process, which includes an order that impedes Petitioner from filing a *pro se* litigant in all legal matters, around April 21, 2016, (App. N). As direct result of this barrier, at the time Petitioner's discovered the Respondent's misconduct and fraudulent actions, Petitioner finds herself unable to file an independent action or collateral attack at the State of Florida trial court. In order to prevent a grave miscarriage of justice, Petitioner's only choice was to file a motion for relief on Jan 4, 2017 for relief of the Jan. 12, 2016 decision of dismissal with prejudice in the case at hand.

[13] Terry C. Young, Esq. Florida Bar Number 222364 and Jennifer R. Dixon, Esq. Florida Bar Number 879851.

[14] Petitioner recently discovered that Respondent, Levin as Petitioner's attorney in Petitioner's State of Florida domestic relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez,* No.:2000-DR-1898-02, (Fla. 18th Jud. Cir. Ct. 2002) failed his fiduciary duty, as there was no jurisdiction over Petitioner's former husband prior to the stipulation of the final judgment of dissolution of marriage. Respondent, Levin, should have dismiss Petitioner's domestic relations case and re-file a new case. Instead, Respondent, Levin, procured a stipulated bogus 2002 *"Final Judgment for Dissolution of Marriage"* signed by the State of Florida Judge and abandoned Petitioner without disclosing the case lack of jurisdiction. In addition, Respondent, Levin without Petitioner's authority filed a redacted transcript of Petitioner's March 5, 2002 open court proceedings, which resulted in a court case which lacks of the State of Florida jurisdictional requirement under § 61.052, Fla. Stat. (2002).

An additional and more sinister barrier, to prevent Petitioner from review this State of Florida trial court' case court docket and review the physical court record[15] was created by the same sister court utilizing the very same case that Respondent, Levin as attorney in Petitioner on the State of Florida for the Eighteenth Judicial Circuit Court, Domestic Relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez*, No.:2000-DR-1898-02, (Fla. 18th Jud. Cir. Ct. 2002). On or around Sept. 12, 2016, Petitioner's former husband's attorneys obtained a fabricated order, in complete absence of jurisdiction or due process, a conviction of "civil criminal contempt" with the "writ of bodily attachment" against Petitioner for exercising her federal protected right under 28 U.S.C. § 1654 and § 454.18, Fla. Stat., (2016). Both orders were sent as a false criminal report to the Seminole County Sherriff Office at 100 Eslinger Way, Sanford, Florida for the imminent Petitioner's false arrest. Per fear of imminent false arrest that Petitioner would lose her freedom and would cause her bodily harm, Petitioner was not able to go to the State of Florida trial court in Seminole County, Sanford, Florida, to inspect this court's case record prior to the filing of her motion for relief dated Jan. 4, 2017. The present case State of Florida trial court record reflected an altered docket depending on which stage of the State of Florida

[15] State of Florida in Seminole County Circuit Court did not had the ability to search the case through the public website for *pro se* litigants until late summer 2017. State of Florida in Seminole County Circuit Court had denied Petitioner online access to the attorneys secure access to court records by the Clerk of the court at all times.

proceedings since 2004[16], (the latest version is attached as App. M). Petitioner, as *pro se* litigant, established that she has pursued her rights diligently and that a barrier, out of her control, stood in her way for the proper presentation of her cause.

In violation of Art. I, § 21, Fla. Const., (2017), Petitioner's Jan. 4, 2016' motion for relief ruling was delayed by the State of Florida trial court, for three hundred and eight (308)[17] days from the filing of the motion for relief and the State of Florida trial court denied Petitioner her petitioned right to a court hearing in the presence of a fraud claim, the opportunity to be heard on such motion to correct all defects and provide the higher courts with a transcript of a trial court hearing on the decision of denial dated Nov. 7, 2017, (App. B). The State of Florida trial court record shows that by Respondents fraudulent actions, as result of the manipulation of jurisdiction all three Respondents final judgments are voidable. All "orders" are voidable and the order from Jan. 12, 2016 is also a void order as the trial court

[16] Fla. R. Jud. Admin. 2.420(b)(3): *"Custodian"* The custodian of any records of any court is the chief justice or chief judge of that court, except that each judge is the custodian of all records that are solely within the possession and control of that judge. As to all other records, the custodian is the official charged with the responsibility for the care, safekeeping, and supervision of such records.

[17] Fla. R. Jud. Admin. 2.215(f): "Duty to Rule within Reasonable Time. Every judge has a duty to rule upon and announce an order or judgment on every matter submitted to that judge within reasonable time. Each judge shall maintain a log of cases under advisement and inform the chief judge of the circuit at the end of each calendar month of each case that has been held under advisement for more than 60 days."

record lacks the Florida process server affidavit of service on the proceedings on Respondent's Levin attorney from around Dec. 10, 2015. The present case, after the Respondent's voidable dismissal orders from 2004, there is no motion to dismiss, no notice by the state trial court on its intent of dismissal nor a response to Petitioner's motion for final judgment prior to the State of Florida trial court's hearing on Jan. 12, 2016.

Wherefore, this is the dark lawless reality encountered by litigants as Petitioner, appearing as *pro se* litigant, at the State of Florida for the Eighteenth Judicial Circuit Court, Civil Division and with legal representation for over fifty thousand U. S. dollars ($50,000.00) paid to Respondent, Levin back in 2001-2004 years, at the Domestic Relations Division in Seminole County, Sanford, Florida. Petitioner paid every attorney hired since and all concealed from Petitioner the lack of jurisdiction over Petitioner's domestic relations case, which includes the parental provisions and the quick claim deed of the marital home to Petitioner. There is no other remedy at law for the relief Petitioner is entitled as a matter of law, perhaps the authored opinion is an additional delay for the State of Florida denial of justice or it is just the path for the national necessity of this case to be seen.

The State of Florida trial court's delayed decision of denial dated Nov. 7, 2017, (App. B), which was followed by an appeal, that the Fifth District Court of Appeal rendered the authored opinion on April, 27, 2018, (App. A) followed by the Supreme Court of Florida denial orders on Dec. 7, 2018, (App. C, D). Petitioner has

met the requirement at law under Sup. Ct. R. 13(1) for this Petition for Writ of Certiorari review.

Petitioner appears as *pro se* litigant pursuant 28 U.S.C. § 1654 and § 454.18, Fla. Stat.,(2018).

REASONS FOR GRANTING THE PETITION

A. Certiorari Should Be Granted as the State of Florida Orders Are In Conflict of Decisions by the Supreme Court of Florida and by Different States Courts on the Boundaries of Exhaustion of State of Florida Remedies

The Florida Fifth District Court of Appeal authored opinion is in conflict with the State of Florida case law and in conflict with the Supreme Court of Nevada case law on the issue of a new amended complaint relates back to the original Complaint. Florida Fifth District Court of Appeal authored opinion of that "long-expired statute of limitations bars her complaint" should not stand, (App. A).

Petitioner petitioned the discretionary jurisdiction to the Supreme Court of Florida and Petitioner's filed a jurisdictional initial brief, as *pro se* to the Supreme Court of Florida.[18]

[18] Petitioner's jurisdictional brief was restrained according to case: *Reaves v. State*, 485 So.2d 829 (Fla. 1986) holding: "Only facts relevant to Supreme Court's decision to accept or reject petitions for review of decision of District Court of Appeal on ground of direct conflict of decision, are those facts

Petitioner, filed the jurisdictional initial brief to the Supreme Court of Florida based on conflict of Florida Fifth District Court decision with case *Kopel v. Kopel,* 229 So.3d 812 (Fla. 2017) holding: "amendments stating new legal theories can relate back to time of original filing"

In *Kopel,* the Supreme Court of Florida "quashed the order" re-affirming the modern rule that an amended pleading asserting a new claim or legal theory relates back to an earlier complaint if the new claim is based on the same conduct, transaction or occurrence. Fla. R. Civ. P. 1.190(c) says:

"Relation Back of Amendments. When the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment shall relate back to the date of the original pleading"

The present case shows Supreme Court of Florida' disparate treatment between cases and on Dec. 7, 2017, denied Petitioner's petition and denied Petitioner's motion to Recall Mandate, (App. C, D).

Petitioner brings this petition for writ of certiorari to the U. S. Supreme Court pursuant Sup. Ct. R. 10(b) as the State of Florida authored decision as is stands is in conflict with *Kopel v. Kopel,* 229 So.3d 812 (Fla. 2017) and in conflict with, the Court of Appeal, Fourth District, Division 1, California case: *Pointe San Diego Residential Community, L. P., et al., v. Procopio, Cory, Hargreaves & Savitch,*

contained within four corners of majority decision; neither dissenting opinion nor record itself may be used to establish jurisdiction. Const. Art. V, §3(b)(3), Fla. Const.

LLP et al., 195 Cal. App. 4th 265 (2011) held: "that amended legal malpractice complaint related back to original complaint." In addition, in conflict with the Supreme Court of Indiana case: *Chenore v. Plantz,* 56 N.E. 3d 123 (2016) holding: "that client's complaint asserted sufficient facts in avoidance of the two-year statute of limitations."

The State of Florida authored opinion is in conflict with Supreme Court of Nevada case: *Brady, Vorwerck, Ryder & Caspino v. New Albertson's, Inc.*, 333 P.3d 229, 130 Nev.632 (2014) holding:

"That the statute of limitations for attorney malpractice is tolled against an action for attorney malpractice pending the outcome of the underlying suit in which the malpractice allegedly occurred"

Florida Fifth District Court of Appeal rendered the adverse decision "PCA" on Nov. 4, 2014 in the State of Florida case where the malpractice occurred: Petitioner's State of Florida Domestic Relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez*, No.:2000-DR-1898-02, (Fla. 18th Jud. Cir. Ct. 2002). Petitioner at the State of Florida trial court Motion for Leave of Court to Amend Legal Malpractice Complaint for the first time "as a matter of right" pursuant Art. V, § 4(b)(1), Fla. Const. (2015) was filed on Jan. 22, 2015.

Florida Fifth District Court of Appeal authored opinion is in direct conflict with the Florida Second District Court of Appeal case *Diaz v. Maney,* 42 So.3d 312, (Fla. 2nd DCA 2010) holding: "that the two-year statute of limitations began to run upon affirmance of ruling in separate lawsuit that the assignment was

unenforceable." Petitioner received a "PCA" adverse decision on Nov. 4, 2014 and filed in this case leave to amend complaint on Jan. 22, 2015, therefore, Petitioner timely filed both the initial Complaint and the motion for leave of court with the attached amended Complaint. However, the issue of Respondent's "sabotage" of the affidavit of process of service applies to all Petitioner's Complaints.

Petitioner believes that the Supreme Court of Florida failed to provide Petitioner with the legal right of quash the lower court's orders on Petitioner's motion for relief under Fla, R. Civ. P. 1.540(b) and the reinstatement of Petitioner's cause of action as Petitioner argued that Florida Fifth District Court of Appeal manifested in an erroneous ruling as rejected the Supreme Court of Florida recent decision in *Kopel,* Id. Therefore, the holding in this case should be reversed, as it is at odds with *Kopel* and *Pointe, Brady, Diaz* and conflicts with this Court's jurisprudence safeguarding constitutionally protected and constitutionally derived rights.

The State of Florida court also erred as the trial court dismissal order was issued with prejudice on Jan. 12, 2016.

This Court should grant certiorari because the Florida Fifth District Court of Appeal's authored decision foreclosed Petitioner's legal right of her legal malpractice cause of action causing Petitioner irreparable harm for the remainder of the proceedings. 28 U.S.C. § 1651(1)

B. The State of Florida Orders Denied Petitioner Her Legal Right of Relief Pursuant Fla. R. Civ. P. 1.540(b) In Violation of Petitioner's Constitutional Rights Under Amend. XIV, U.S. Const. and In Violation of 42 U.S.C. § 1983.

Petitioner recognized the State of Florida courts violation of Federal and State of Florida Constitutional rights. Petitioner's briefs relied on:

> "if allegations in the moving party's motion for relief from judgment raise a colorable entitlement to relief, a formal evidentiary hearing on the motion, as well as permissible discovery prior to the hearing, is required. Fla. R. Civ. P. 1.540(b)(3) citing case *SunTrust Bank v. Puleo,* 76 So.3d 1037, (Fla. 4th DCA 2011).

Petitioner timely motion for relief was not groundless and was brought in good faith to the State of Florida trial court. Petitioner was not afforded a court hearing or due process on Petitioner's motion for relief dated Jan. 4, 2017 prior to its ruling on Nov. 7, 2017 in violation of Petitioner's constitutional rights under Amend. XIV, U.S. Const. and Federal Statute 42 U.S.C. § 1983. Petitioner should have given the opportunity to present whatever evidence she thought was necessary. In case: *Vollmer v. Key Development Properties, Inc.,* 966 So.2d 1022 (Fla. 2nd DCA 2007) held: "under due process clause, a trial court may not refuse to permit a *pro se* litigant to participate in a hearing simply to foreclose the possibility of collateral matters being raised, U.S.C.A. Const. Amend. 14"

> "The Fifth Amendment to the United States Constitution provides that no person shall be deprived of life, liberty, or property without due process of law. The Fourteenth Amendment declares that no state shall deprive any person of life, liberty, or property without due process of law. The Fifth Amendment applies to the States through the Fourteenth Amendment. The Florida Constitution also provides that no person shall be deprived of life, liberty, or property without due process of law. Thus, the right to due process is conferred not by legislative grace, but by constitutional guarantee. Those against whom the State wishes to exercise its power and authority must be

> accorded due process of law, and due process is considered to be one of the basic tenets of Florida law.[19] "10A Fla. Jur 2d Constitutional Law § 464.

The State of Florida trial court denied Petitioner her fundamental right of due process by ruling on Petitioner's timely motion for relief three hundred and eight (308) days after such motion to intentionally run time and without Petitioner's right to the opportunity to be heard or due process. Florida Fifth District Court of Appeal exercised his supervisory powers and rendered an authored opinion, affording Petitioner her legal right to correct any defects for Petitioner to reach the highest court supervisory powers and hopefully provide this case with must needed writ for certiorari review under 28 U.S.C. § 1257(a), (2018).

> "Due process refers to a law that hears before it condemns, proceeds upon inquiry, and renders judgment only after proper consideration of the issues advanced by adversarial parties. For example, due process is a general principle of law that prohibits the government from obtaining criminal convictions brought about by methods that offend a sense of justice. The term "due process" embodies a fundamental conception of fairness." 10A Fla. Jur Constitutional Law § 466"

[19] U.S. Const. Amend. V., U.S. Const. Amend. XIV, § 1, St. Johns River Water Management Dist. v. Koontz, 77 So. 3d 1220 (Fla. 2011), judgment rev'd on other grounds, 133 S. Ct. 2586, 186 L. Ed. 2d 697 (2013), Art. I, § 9, Fla. Const., Beary v. Johnson, 872 So. 2d 943 (Fla. 5th DCA 2004), Pittman v. State, 22 So. 3d 859 (Fla. 3d DCA 2009), Hanson v. Hanson, 678 So. 2d 522 (Fla. 5th DCA 1996); Steinhorst v. State, 636 So. 2d 498 (Fla. 1994); Scull v. State, 569 So. 2d 1251 (Fla. 1990), State v. Robinson, 873 So. 2d 1205 (Fla. 2004).

In the present case, substantive rights are at issue, procedural due process under the Florida Constitution guarantees to every citizen the right to have that course of legal procedure which has been established in Florida's judicial system for the protection and enforcement of private rights applied in Petitioner's case. Respondents obtained an invalid affidavit of proof of service (App. H), and procured an altered trial court's record which created a safe "lack of jurisdiction" case, accompanied by the sister court barriers enjoining Petitioner from filing as *pro se* litigant and a criminal contempt conviction and false report of a crime to the police by a State of Florida Judge in complete absence of jurisdiction, prevented Petitioner from fairly and fully presenting her claim. In case *NC-DSH, Inc. v. Garner,* 125 Nev. 647 (2009) the Supreme Court of Nevada affirmed the District Court's granting motion for relief from judgment and vacated judgment for fraud on the court, holding:

> "For purposes of savings clause in rule governing motions for relief from judgment, providing that rule does not limit court's power to entertain independent action to relieve party from judgment for fraud on the court, "fraud on the court" embraces only that species of fraud which does, or attempts to, subvert the integrity of the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases, and relief should be denied in the absence of such conduct. Rules Civ. Proc., 60(b)."

The State of Florida trial court' illegal process is as damaging to Petitioner as the denial of Petitioner's motion for relief itself. Therefore, this court should grant relief on Petitioner's motion for relief and reverse the State of Florida court orders under Art III, § 2, U.S. Const.

The State of Florida court orders are voidable and or void orders contemplated for relief under Fla. R. Civ. P. 1.540(b), therefore a writ of error should apply. Petitioner relied on the same appellate circuit court's case *U.S. Bank Nat. Ass'n v. Anthony-Irish*, 204 So.3d 57 (Fla. 5th DCA 2016) and *Parker v. Dekle,* 46 Fla. 452 (1903) holding: "lack of jurisdiction is a fundamental error", Art. VI, U.S. Const.

The State of Florida trial court erred as there was no justification for dismissal with prejudice foreclosing the legal malpractice cause of action even for the count of extrinsic fraud as Respondent's Levin forced a settlement where the State of Florida Court had no jurisdiction over Petitioner's former husband, preventing Petitioner from presenting her case in the court of law[20]. Respondent shall not be eligible for relief upon their own fraudulent actions, evade liability at the risk of affording Respondent, Levin a res judicata defense. The State of Florida offered no reasons for its delay, therefore review should be granted pursuant 28

[20] See the State of Florida case from the same 5DCA: *Olesen v. General Electric Capital Corporation, et al.*, 135 So. 3d 389 (Fla. 5th DCA 2014) holding: 1. "client's contention that he never got his day in court in the underlying action because his interests were corruptly sold out to lender by attorneys who were ostensibly representing him was sufficient to state a claim against lender for extrinsic frau, and allegations in client's second amended complaint, along with the attached supportive documents, and with inferences drawn from them in favor of client, were sufficient to state a claim for civil conspiracy. Reversed and remanded"

U.S.C. § 2104, 28 U.S.C.§ 2106, 28 U.S.C. § 1653, 28 U.S.C. § 1657 and Art. I, § 21, Fla. Const., (2018).

"The United States Constitution provides that no state shall deny to any person within its jurisdiction the equal protection of the laws. This clause is a pledge of protection of equal laws. It means, and is a guarantee, that all persons subjected to state legislation must be treated alike, under like circumstances and conditions, both in privileges conferred and in liabilities imposed. The constitutional guaranty of equal protection of the laws was designed to prevent any person or class of persons from being singled out as a special subject for arbitrary and unjust discrimination and hostile legislation.[21] 10A Fla. Jur Constitutional Law § 430.

As to Respondent, Levin where the fiduciary relationship exist, the Supreme Court of Mississippi in case: *Bennet v. Hill-Boren P.C.*, 52 So.3d 364 (2011), held: "that genuine issue of material fact as to when client discovered alleged legal malpractice, precluded summary judgment on statute of limitations." It is important to point out that Respondent, Levin created a case in which there is absolute no jurisdiction on Petitioner's State of Florida Domestic Relations case *Ada Luisa Albors Sanchez Gonzalez vs Alfredo Ernesto Gonzalez*, No.:2000-DR-1898-02, (Fla. 18th Jud. Cir. Ct. 2002) hence, Respondent's Levin withdrawal of such case is

[21] Art. I, § 2, Fla. Const., Amend. XIV, §1, U.S. Const., Amend. V, U.S. Const., *Georgia S. & F. Ry. Co. v. Seven-Up Bottling Co. of Southeast Ga.*, 175 So. 2d 39 (Fla. 1965).

not valid, so Respondent, Levin appearance on Respondent case still a valid notice of appearance since July 25, 2001.

Respondent, Levin as is an officer of the court and his actions in this case should be considered repugnant to the United States Constitution and Respondent, Levin made it possible to take a Final Judgment in absent of a valid affidavit of process service against Petitioner, then by same measure, Petitioner shall be entitled to take a Final Judgment pursuant Fla. R. Civ. P. 1.500(e) in absence of the perfect affidavit of proof of service upon Respondents. 42 U.S.C. § 1981.

C. Florida Fifth District Court Of Appeal, Abuse Its Discretion When Rendered A Per Curiam Affirm "PCA" In A Case Where The Underline Lower Court Lacks Jurisdiction Over A Party Litigant To The Proceedings.

Petitioner relies in case *Analyte Diagnostic, Inc. v. D'Angelo*, 792 So.2d 1271 (Fla. 4th DCA, 2001), holding:

> "The District Court of Appeal held that per curiam affirmance of final judgment in favor of plaintiff was not law of the case barring trial court's consideration of defendants' motion to vacate. Reversed and remanded"

Florida Fifth District Court authored opinion dated April 27, 2017, p. 3, ¶-1 says:

> This Court "affirmed. See Gonzalez v. Stern, 216 So.3d 639 (Fla. 5th DCA 2016)." (App. C).

Petitioner challenges the State of Florida Appellate Court practice of rendering an "affirmed" decision in a case where it lacks jurisdiction over a party litigant as abuse of discretion. A court must have jurisdiction to act or its acts are void and such PCA "affirmed" decision were used to mislead the lay litigant, as

Petitioner, with a false perception that the appeal court's decision was on the merits of the case, as Respondent. Levin has superior knowledge of the law was able to create an escape route on a false decision perceived as a decision on the merits of the case. Respondent, Levin as attorney, in the present case, created a case that by inducement of the Florida process server to provide the court with an invalid affidavit of process service from the inception of this case and by inducement that process server would lie to Petitioner with the intent of deception, to fail to provide the affidavit of process of service to the trial court from the first motion for leave of court to amend initial Complaint around Jan. 22, 2015 and after the Oct. 15, 2015. Respondent, Levin' fraudulent behavior was deliberate, misleading and intentional concealment of facts creates a "set-up" to manipulate the jurisdiction to impede a fair decision on the merits of the case.

Respondent, Levin intentionally altered the jurisdiction of the case to obtain relief that they are not entitled as a matter of law by an "affirmed" decision. A case without jurisdiction over a party litigant cannot produce a legitimate result, therefore should not be allowed to be accepted at any appellate court.

Petitioner present this legal argument as an additional answer of this court requirement to "the importance of the case not only to you but to others similarly situated", Petitioner challenge that the State of Florida Court's action accepting a case without jurisdiction over a party litigant is against the Art. I, § 21, Fla. Const., which clearly established:

"Access to courts._ The courts shall be open to every person for redress of any injury, and justice shall be administered without sale, denial or delay."

A review by an appellate court to the lower court's decision should be on the merits to prevent the manifestation of injustice to all litigants whose interest has been sold by the attorneys, process servers, *custodian* of records or public defenders. By doing so, every person would be able to fairly present her case without sale, denial or delay as the judicial system is supposed to be.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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