

APR 13 2019

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18-9090

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

VIRGINIA HOWARD --- PETITIONER

vs.

SAN DIEGO COUNTY COUNSEL, CLAIMS AND
INVESTIGATIONS FOR SD RECORDER /ASSESSORS OFFICE
RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI
United States Court of Appeals for the Ninth Circuit

"PUBLIC INTEREST"

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Pro se

ORIGINAL

(i)

QUESTION(S) PRESENTED

Question #1

Are the **Recorders** failure omissions to register, record, docket or index documents (regarding real property) make offices, counties, parish, and municipalities responsible? pursuant to the “Supremacy of federal law over conflicting state or local laws”. and USC and United States Codes (USC) and does this create cause of action.? **Regarding Documents such as:**

(1a) **Construction Notice of pending action (Lis Penden)** pursuant to 28 USCS §1964

(1b) **Mechanic liens**: 26 USC§ 6323

Question #2

Do **Homestead exemptions** for (real property) different to from other types of Homestead and processes: (like Declarations of Homesteads, Bankruptcy Chapter7 & 11 and Probate codes and statute) **against** force sell of real property?

Question #3 Civil Rights

Does Civil Rights Title 42§1983 create a cause of action for “real property”? or any Civil Rights Codes under Title 42?

3(a) For monetary, declaratory, injunctive relief, and/or actual / normal when government entity, municipality **fails to train “deliberate indifference” and failure to execute government policy or custom inflicts the injury/loss is the moving force behind constitutional violation?**

3(b) How offices, counties, parish, municipalities should register, record, docket or index legal documents regarding real property?

3(c) Do other specific classes of United States citizens (persons) have the same Rights under the U.S. amend. Five (V) and Fourteen (XIV

- (1) Who are protected by Homestead for real property, under clauses such as: “Personal Liberty,” “Equal protection”, “taken clauses” of the U.S. Constitution. and
- (2) Against discrimination based on gender, sex race creed or color “equal protection clause?”

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

page iii of 14

TABLE OF CONTENTS

	Page No.
I. OPINIONS BELOW.....	1
II. TABLE OF AUTHORITIES cases statues and rules.....	2
III. JURISDICTION.....	3
IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	4-8
V. STATEMENT OF THE CASE.....	9-10
VI. REASON FOR GRANTING THE WRIT.....	11

INDEX TO APPENDICIES

APPENDIX A	ORDER OF THE U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT DATED: JAN 17, 2019
APPENDIX B	JUDGMENT IN A CIVIL CASE U.S. DISTRICT COURT OF FOR THE SOUTHERN DIVISION DATED: JULY 24, 2018
APPENDIX C	GENERAL DOCKET UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT 3 PAGES CASE NO. 18-56141 (A, B, C, Attached to back of the Certiorari)

TABLE OF AUTHORITIES

<u>CASES</u>	page
Fox v Seal. 89 US 424.....	4
Armstrong v United States, 364 U.S. 40.....	4, 5
Sperry Oil 7 Gas Co. v. Chisholm, 264 U.S. 488	5
City of Canton v. Harris (1989) 489 U.S. 378.....	5
U.S. Reed vs Reed. 404 U.S, 71	6
Albertson v. Raboff CA Supreme Court No 46 Cal 2d 375 & LA No. 23159	6
<u>Malcom v. Superior Court of Santa Clara County</u> 29 Cal 3d 518 & S.F. No.24162...7	
Butterworth v. Caggiano, 605 So 2d 56 & No. 78, 377	7
Public Health Trust v. Lopez Florida. 509 So 2d 1286 & 70,968, 71,618.....	7
DYER v Martinez, 147 Cal. App. 4 th 1240.....	8
<u>U.S. & STATE CONSTITUTIONS, USC CODES STATUES, RULES, ACT</u>	
<u>CONSTITUTIONS,</u>	
Civil Rights 1983 Title 42	ii, 4
U.S. Constitution XIV... the 14th amendment	ii, 6
U.S. Constitution V. Fifth amendment.....	ii, 4
Fla, Cons't, Art X, & 4.....	7
Fla, Cons't, Art X, Section 4. as amended (a).....	7
Idaho Cons't 15-312, 15-314 repealed	6
<u>USC CODES STATUES, RULES</u>	
28 USCS §1964)	ii, 4, 9
26 USC §6323.....	ii, 4, 9
28 USC § 2101(e).....	3
Rule 10 (a) (b) (c).....	3
ALM GL c 188 § 3 Massachusetts.....	8
Gov Code 27250.....	8, 9

JURISDICTION

☐ For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was JAN. 17 2019.

☒ No petition for rehearing was timely filed in my case. (see NOTE #1 Below)

☐ 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). and
28 USC § 2101(e)
Rule 10(a), (10b) (10c)

☐ For cases from **state courts:**

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ 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).

NOTE #1

Petitioner did NOT APPLY FOR Rehearing based ON The
Circuit ADVISORY CIRCUIT RULE 27-1(4)
MOTIONS FOR CLARIFICATION, Reconsideration OR
Modification "is discouraged"

page 37-14

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Rule 10(c) United States of Appeal has for the Ninth Circuit has decided important Federal questions in a way that conflicts with relevant decisions of this court.

In the U.S. Supreme cases below the U.S. Supreme court reverses the lower Courts decision and ruled in favor of laws, Constitutions Codes, Act pertaining to the /Cases below:

Regarding Question #1(a), (b)

1(a) Construction Notice of pending action (Lis Penden) “real property”

28 USCS §1964 The laws of the State require a Notice of Action (concerning real property) pending in a court of the State to be registered, recorded, docketed, or indexed in a manner according to law of each State. Or in certain office, counties, parish, require a Notice of pending action for real property.

1(b) Mechanic liens (lien valid)

26 USC § 6323 6323 (f)(1)(A) place, f (4)(B) indexing, & others that pertain
US SUPREME COURT CASE

(1) Fox v Seal. 89 U.S. 424

Standard of review: The Statutory Lien was valid to secure payment from railroads and made those liens **valid** against subsequent mortgage **without** being first recorded....,

OPINION The Court reversed the judgement and held that the evidence rejected by the Court should have been received as tending to prove the contractor’s claim was protected by statute and that the mortgage was invalid as against him.

US SUPREME COURT CASES

(2) Armstrong v United States, 364 U.S. 40

Standard of review, HN5 Judges hold that there was a taking of these liens for which just compensation is due under the **Fifth amendment “taken clause”**, for public use.

OPINION: The judgement is, and the cause is remanded to the Court of Claims for further proceeding to determine **the value of the land taken**,

CONSTITUTIONAL AND STATUTORY PROVISIONS

INVOLVED CONTINUED U.S. SUPREME COURT CASES

Regarding Question #2

Do **Homestead exemptions** for (real property) different to from other types of Homestead and processes: (like Declarations of Homesteads, Bankruptcy Chapter 7 & 11 and Probate codes and statute) **against** force sell of real property?

U.S. SUPREME COURT CASE (s)

(3) Sperry Oil Gas v. Chisholm, 264 U.S., 488

Standard of review: Indian land needed approval by the Secretary of Interior Act of May 27, 1908, c. 199, 35 Stat. 312 § 1, which provided that the Indians homestead could not be subject to alien or incumbrance without approval of the 'Secretary of the Interior.

OPINION: The Decree of the Circuit Court of Appeals is affirmed as to so of the extension lease as covers the fifty acres of the surplus

Allotment, and reversed as to so much of said lease as covers thirty acres of the homestead allotment as covers the thirty acres of the **homestead allotment**

Regarding Question #3 Civil Rights

U.S. SUPREME COURT CASES

(4) City of Canton v. Harris (1989) 489 U.S. 378

A Municipality **failure to train** can be actionably under 1983 under "deliberate Difference" which cause the injury/loss. A municipality can be found liable 42 USCS § 1983 only when municipality itself causes the constitution violation at issue. When the execution of the government policy or custom inflicts the injury that the municipality/city may be held liable under §1983.

OPINION

The U.S Supreme Court vacated the judgment of the Court of appeals for the Sixth Circuit and remanded the case for further proceedings to determine whether respondent should have had an opportunity to prove her case under the "deliberate indifference" rule.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
CONTINUED U.S. SUPREME COURT CASES

U.S. SUPREME COURT CASES

(5) Armstrong v. United States, 364 U.S. 40

OPINION: The Petitioner had a compensable property interest under, US Const. amend V. HN8 “taken clause” prior to the transfer of title to the government. The court held that the government ‘s action, having the effect of destroying all the petitioner’s **property rights** under their otherwise **valid liens** had every possible element of a compensable. The court reversed the judgment and remanded the cause to the claims court for further proceeding to determine the value of the property taken.

U.S. SUPREME COURT CASE

(6) U.S. Reed vs. Reed. 404 U.S, 71 (Probate/ estate)

Standard of review US. Supreme court held that Idaho codes 15-312, 15-314 (repealed 1972) violated the equal protection clause US Cons’t Amend. XIV,,. **OPINION:** The Court **reversed** the decision of the State Supreme Court and remanded the case for further proceeding. The court held that the statues that gave mandatory preference to the appointment of Appellee father over Appellant mother as administrator of deceases son’s estate because Appellee father was male was unconstitutional.

RULE 10(a) UNITED STATES OF APPEAL NINTH CIRCUIT HAS DECIDED AN IMPORTANT FEDERAL QUESTION IN A WAY THAT CONFLICTS WITH A DECISION BY A STATE COURT OF LAST RESORT (State Supreme Courts cases)

Regarding Question #1(a) Lis Penden “Notice of Pending Action”

STATE SUPREME COURT OF CALIORNIA CASE

(1) Albertson v. Raboff, 46 Cal. 2d 375
No. 23159

Appeal/Review of the Judgment of the Superior Court of Los Angeles County

OPINION: Regarding the defendant’s **lien** on the **real property** for IOU. The Court reversed, finding that a recordation of **Lis Pendens** was privileged and it had a reasonable relationship to the action HN3, also that the Plaintiff had stated a cause of action.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
CONTINUED STATE SUPREME COURT CASES

STATE SUPREME COURT OF CALIFORNIA CASE

(2) Malcom v. Superior Court of Santa Clara County, 29 Cal 3d 518

No. S.F. No. 24162

Review of the Judgment of the Superior Court of Los Angeles County

OPINION: The Supreme Court of California **denied** the Petition of Writ
Mandate because it held the trial court **properly refused to expunge** the Lis
Penden.

Regarding Question #2 Homesteads, probate /estates/

STATE SUPREME COURT CASE

(3) Butterworth v. Caggiano 605 So 2d 56

No. 78, 377

Appeal/Application for Review of the District Court of Appeal Second

The Supreme Court of Florida **ruled** the Certified Question from the District
Court in **the affirmative**, policy considerations and rules of Constitutional
construction require a finding that Florida Constitution protected an owner of
homestead property from forfeiture. Fla, Const, art X, & 4. HN1, HN10
applies to Civil and Criminal

STATE SUPREME COURT CASE

(4) Public Health Trust v. Lopez 509 So 2d 1286

No. 70,968 71,618

**Appeal Review of the District Court of Appeal Certified “Great Public
Importance**

The Supreme Court of **Florida**, **held** that the **homestead exemption**, formerly
Only enjoyed by the head of the family, **could now be enjoyed by any natural
person**. The exemptions continue after the homesteaders’ death without regards
to whether the heirs were depended on owners the homestead. Thus, the
homestead descends directly to the spouse or heirs. see HN2, HN7 and
Fla, Const, art X, Section 4. as amended (a)

CONSTITUTIONAL AND STATUTORY PROVISIONS

INVOLVED CONTINUED (STATE LAW)

STATE LAW ON HOMESTEADS

Annotated laws of Massachusetts Chap 188 Homesteads § 3 Estate of Homestead: Exceptions to exemptions ALM GL c 188 § 3

An estate of homestead to the extent of the Declared homestead exemption in a home may be acquired by 1 or more owners who occupy or intend to occupy the home as a principal residence. The estate of homestead shall be created by a written declaration executed and **recorded** in accordance with section 5. A homestead declaration shall benefit each owner making the declaration and that owner's family members who occupy or intend to occupy the home as their principal residence. The homestead rights of non-titled family members shall consist of the rights to use, occupy and enjoy the home as their principal residence. Exceptions follows:

RULE 10(a) U.S. COURTS OF APPEALS FOR THE 9TH CIRCUIT HAS ENTERED DECISION IN CONFLICT WITH THE DECISION OF ANOTHER UNITED STATE COURT OF APPEALS ON THE SAME IMPORTANT MATTER.

Regarding Question No. 1(a) Lis Penden Notice of Pending Action

Court of Appeals of California, Fourth Appellant District Division Three

DYER v Martinez, 147 Cal. App. 4th 1240

Once a lis pendens is filed it clouds the title. And prevents the real property transfer. In this case the Claimant had deposited a lis pendens with the County Recorder's office for recording, **but it was not indexed until five days** after its recording date. The day before the Lis penden was indexed, escrow closed on the sale of the property, the Lis pendens at issue was recorded but not indexed as required by **Gov Code 27250** This was an error of the County Recorders office. The Court affirmed the trial Court decision, only because the purchaser had no knowledge of the recorded lis pendens. Constructive notice is given only when the instrument is recorded **Gov. Code 27250**

STATEMENT OF CASE

The **Petitioner/ Appellant/Plaintiff** (V. Howard) was a previous owner of the **Real Property 6210 Amesbury Street San Diego California 92114, EXHIBIT 1 DEED** Before her mother was deceased. Her mother quick claim by Deed to four adult Children with a Declaration of Homestead.

The Homestead and the Deed were recorded by the San Diego County Records Office. Then came a Civil suit, regarding this real property, with V. Howard vs her three siblings. Civil case No 37-2008-000666253-CU-OR-EC HOWARD vs, HOWARD. This case ended in Feb 24, 2017.

The Petitioner's CLAIM (EXHIBIT A), is and Unlimited Claim was date stamped by Claims Division of The County of San Diego. **Nov 13, 2017. The Plaintiff** has a Claim against Respondent (s) /**defendant** (San Diego County Assessor/ Recorder.) regulated by the San Diego County Claims & Inve Division arising out of the following: **Gov Code 27250, reads:** "The Recorder shall keep **an Index** of Notice of the pendency of actions (which is a Lis Pendens "how they are be labeled, headed, when recorded, and where recorded."

The defendant County Assessor/Recorders omission, failure to Index, record Plaintiffs Notice of Pending Action (Lis Pendens) 28 USCS §1964, **Mechanic lien** for repairs 28 USCS 6323 (As owner of the property I did repairs before the State judge took my name off the deed), and **Declaration of Homestead** varies from state to state. Petitioner/ Appellant /Plaintiff then filed a Complaint with the U, S. District

STATEMENT OF CASE CONTINUED

Court Southern District Court California (with Evidence of the failures/ omissions of the San Diego County Assessor Recorder Office. Then the Petitioner appealed to the U.S Court of Appeals for the Ninth Circuit, Judicial notice to Appendix A and B and C

REASON FOR GRANTING PETITION

The Defendants/San Diego County Recorders failure to registrar. record, docket, or index, **Construction Notice of pending action (Lis Penden)** pursuant to

28 USCS §1964 and government code 27250 and failure to record

Mechanic liens: 26 USC§ 6323 and **Declarations of Homesteads** for real property caused the Petitioner/Appellant losses/injuries, without compensation

“THIS PETITION IS OF PUBLIC INTEREST”

IN THIS PETITION THE PETITIONER APPLIED
UNITED STATES SUPREME COURT CASES;
STATE SUPREME COURT CASES, AND U.S. COURT
OF APPEAL CASES. ALSO
UNITED STATES CODES AND OTHER STATUTES THAT
SUPPORTS PETITIONER/APPELLANTS CLAIMS.

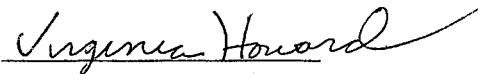
RELIEF SOUGHT

- (1) The Court to reverse judgment or vacate judgment and orders of the lower courts and the respondent/ appellee shall pay cost.
- (2) stays pending review

CONCLUSION

The petition for writ of Certiorari should be granted.

Respectfully submitted,
April 4, 2019


Virginia Howard pro se
Petitioner