

UNITED STATES SUPREME COURT  
WASHINGTON DC.

DOCKET NO \_\_\_\_\_

Theresa S. Romain dba Alternative Homecare Co.

**MOTION**

AKA Theresa Romain

Petitioner

V.

Hon Kimberly O'Connor et al (individual and in capacity)

Wells Fargo et al, Wilmington Saving Fund Society et al, Rusk Walden & Martuscello et al

United Parcel Services (UPS) et al

Microsoft Corporation et al, Google LLC et al,

Gross Polowy LLC et al

New York Appeals Court et al

Knuckles komosinski & Manfro et al

Straight Talk et al, John Doe et al

Jane Doe et al

Respondents

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**MOTION TO ACCEPT WRIT OUT OF DATE**

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**PLEASE TAKE NOTICE**, that upon the affirmation and exhibit here to, Theresa

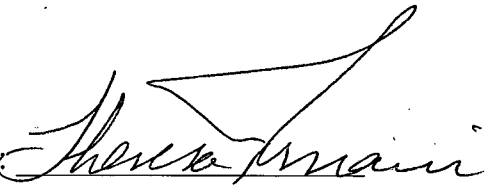
Romain (Petitioner) motioned to the U.S. Supreme Court located in Washington DC to accept

the Writ of Certiorari. Motion shall be heard on a term hereof to be held on January 7th 2019

at 9 am in the forenoon. Granting that the writ be accepted out of date.

Such and further relief that the court may see fit and proper.

Date: December 7th 2018

Signature: 

Print Name: Theresa Romain (Petitioner)

Address: P.O. Box 415, Milton NY 12547

**AFFIDAVIT IN SUPPORT OF MOTION:**

STATE OF NEW YORK

COUNTY OF ULSTER ss.:

THERESA ROMAIN, being duly sworn, deposes and says

1. I am the Plaintiff/Petitioner in the above – entitled action

I have appealed to the U.S. Supreme Court from an order or judgment of the Supreme

Court of ULSTER County, dated November 2, 20 15, an order of the Appellate Division

located in Albany NY dated 2017 and an order of the New York Court of Appeal dated November 2017.

2. **By this motion I am seeking the following relief:**

a. That the U.S. Supreme Court accept the writ out of date.

3. **The grounds for the motion and reasons the relief should be granted are:**

a. Respondents colluded and conspired with State officials to deny petitioner the due process of law by intercepting and destroying court documents.

b. State officials Obstruct Justice by recruiting Conspirators and by foreclosing court house door to Theresa.


c. Respondents conspired to defraud the United States of its Constitutional Laws.

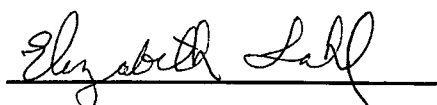
d. Respondents Commit Fraud upon the Court.

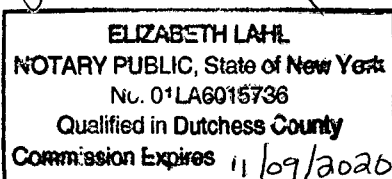
e. Respondents **discriminate against petitioner due to the color of petitioner's skin and nationality under state law.**

Such other and further relief as to the court may seem just and equitable.

Sworn to before me this day of  
12/8/20 18

  
Theresa Romain (Petitioner)

 Notary public



## MEMORANDUM OF LAW:

Theresa asks that the U.S. Supreme Court viewing the pleadings and submissions in the light most favorable to plaintiff and providing her with every favorable inference as been implemented in the case of **Andrew R. Mancini Assoc., Inc. v Mary Imogene Bassett Hosp.**, 80 AD3d 933, 935 [2011]; **Walton v Albany Community Dev. Agency**, 279 AD2d 93, 94-95 [2001]

### **Government interaction as a Constitutional Tort:**

State created the danger. State and local governments has an affirmative obligation under the **Fourteenth** Amendment to stop the furtherance of the harm. The Fourteenth Amendment to the U. S. Constitution limits the actions of state and local officials, including those acting on behalf of such an official.

### **Fraud on the Court as a Basis for Dismissal with Prejudice or Default: and awarding petitioner judgment.**

"Abuse occurs when a material factor deserving significant weight is ignored, when an improper factor is relied upon, or when all proper and no improper factors are assessed, but the court makes a serious mistake in weighing them." **Independent Oil and Chemical Workers of Quincy, Inc. v. Procter & Gamble Mfg. Co.**, 864 F.2d 927, 929 (1st Cir. 1988); see also Anderson v. Cryovac, Inc., 862 F.2d 910, 923 (1st Cir. 1988) (to warrant reversal for abuse of discretion, it must "plainly appear] that the court committed a meaningful error in judgment").

**See Aoude v. Mobil Oil Corp.**, 892 F.2d 1115, 15 Fed. R. Serv. 3d 482 (1st Cir. 1989) ("Because corrupt intent knows no stylistic boundaries, fraud on the court can take many forms.

In **Cox v. Burke**, 706 So. 2d 43, 47 (Fla. 5th D.C.A. 1998, **Owens-Corning Fiberglas Corp. v. Ballard**, 749 So. 2d 483 (Fla. 1999)

The evidence must be credible; the memories of the witnesses must be clear and without confusion; and the sum total of the evidence must be of sufficient weight to convince the trier of fact without hesitancy.' In **re Adoption of Baby E.A.W.**, 658 So. 2d 961, 967 (Fla. 1995)".

Federal and state criminal statutes provide for the punishment of persons convicted of fraudulent activity. Interstate fraud and fraud on the federal government are singled out for federal prosecution. The most common federal fraud charges are for mail and wire fraud. Mail and wire fraud statutes criminalize the use of the mails or interstate wires to create or further a scheme to **defraud** (18 U.S.C.A. §§ 1341, 1342).

Breach of oath "establishing standing" it is the right to be heard by a court of competent jurisdiction.

Prosecutors, in an adversary system are necessarily permitted to the zealouslyness in their enforcement of the law **id at 248 100 S.C. ct at 1616.**

**In the case of Dick V. Scroggy Id at 713, 714 (foot notes and citations omitted)**

"We think the conduct of this prosecuting attorney in attempting at once to serve two masters, the people of the commonwealth and the wife of ganger violates the requirement of fundamental fairness assured by the due process clause of the fourteenth amendment.

Theresa Romain was punished for **reporting fraud**. New York has a no nonsense policy on fraud. The following are some of the benefits that Theresa lost. Her career, business, good name, placed in bankruptcy, foreclosure, injurious credit, discriminated upon, Constitutional fraud and harm, deprivation, destruction of electronic equipment and phone, privacy invasion, seclusion, emotional distress, isolation and many more.

The harm be the result of the government entity that implement or executed a policy

statement, or ordinance, regulation, or decision officially adopted and promulgated by that body's officers, or the result of the entity's custom.

There was any to prevent the harm that befalls Theresa, State officials negligently issued the necessary permit to inflict harm on petitioner.

42 U.S.C. 1983..... "EVERY PERSON" who under color of any statute, ordinance, regulation, custom or usage of any state or territory or the district of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws shall be liable.

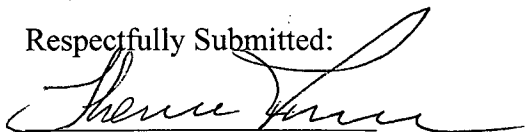
Defendants' behavior was wanton, willful and deliberate triple damage is warranted.

**CONCLUSION:**

The Supreme Court has notice that the basic purpose of a section 1983 damage award is to compensate the victims of official misconduct, and therefore held that there is no limit on actual damages if they can be proven. But where they are not proved, only nominal damages of \$1.00 may be awarded. Damages in excess of Three hundred and fifty billion are not excessively on the diversity of the individual and the harm committee.

Such and other relief that the court may see fit and proper.

Respectfully Submitted:



Theresa Romain (Petitioner)

Date: 12/7/2018

# *State of New York*

## *Court of Appeals*

*Decided and Entered on the  
sixteenth day of November, 2017*

**Present,** Hon. Janet DiFiore, *Chief Judge, presiding.*

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Mo. No. 2017-870

Theresa S. Romain,  
Appellant,

v.

Kimberly O'Connor, et al.,  
Respondents.

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Appellant having appealed and moved for leave to appeal to  
the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, on the Court's own motion, that the appeal  
is dismissed, without costs, upon the ground that the orders  
appealed from do not finally determine the action within the  
meaning of the Constitution; and it is further

ORDERED, that the motion for leave to appeal is dismissed  
upon the ground that the orders sought to be appealed from do not  
finally determine the action within the meaning of the  
Constitution.



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Heather Davis  
Deputy Clerk of the Court



*State of New York  
Court of Appeals*

*John P. Asiello  
Chief Clerk and  
Legal Counsel to the Court*

*Clerk's Office  
20 Eagle Street  
Albany, New York 12207-1095*

Decided November 16, 2017

Mo. No. 2017-870

Theresa S. Romain,  
Appellant,

v.

Kimberly O'Connor, et al.,  
Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the orders appealed from do not finally determine the action within the meaning of the Constitution. Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.



*State of New York  
Court of Appeals*

*John P. Asiello  
Chief Clerk and  
Legal Counsel to the Court*

December 19, 2017

*Clerk's Office  
20 Eagle Street  
Albany, New York 12207-1095*

Ms. Theresa S. Romain  
P. O. Box 415  
Milton, NY 12547

Re: Romain v O'Connor  
Mo. No. 2017-870

Dear Ms. Romain:

I acknowledge receipt of your papers dated December 13, 2017 and addressed to and captioned at the Appellate Division, Third Department, which are returned to you enclosed. It appears that your papers were misfiled. The address for the Appellate Division, Third Department, is PO Box 7288 Capitol Station, Albany NY 12224-0288. It is not necessary or appropriate to send to this Court copies of documents filed at other courts.

Moreover, if you intended to file your papers at the Court of Appeals to seek a stay, please be advised that your appeal and motion for leave to appeal were dismissed by the Court on November 16, 2017. Because no appeal or motion for leave to appeal is pending before this Court under your name, no procedure exists to permit the Court to entertain an application for a stay (see CPLR 5519).

Very truly yours,

Heather Davis  
Deputy Clerk

RMM:mg

cc: Travis Davis

Zainab A. Chaudhry, Esq.

Robert D. Cook, Esq.

Joshua N. Koplovitz, Esq.

Catherine Charuk, Esq.

Jill Strechan, Esq.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**