IN THE
SUPREME COURT OF THE UNITED STATES

IN RE ROBERT SARHAN AND ANABELLA SOURY
Petitioners,

On Petition for a Writ of Mandamus and Writ of Prohibition to the Eleventh Circuit Court of Appeals for the Eleventh Circuit

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PETITION FOR WRIT OF MANDAMUS & PETITION FOR WRIT OF PROHIBITION

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April 27, 2020

QUESTIONS PRESENTED

Should a writ of mandamus be issued to the Eleventh Circuit, requiring it

(A) to disregard matters *dehors* the record,

(B) to rule without regard to matters *dehors* the record,

(C) to reverse the order of the district court,

(1) which granted a motion to dismiss the complaint based on a matter, which was:

(i) outside the "four corners" of the complaint, and

(ii) dehors the record, and

(2) which disallowed requested relief from a state-court judgment under the *Rooker-Feldman Doctrine*, where the judgment was entered:

(a) without notice to Anabella Soury,

(b) without affording to her an opportunity

(i) to appeal or

(ii) to be heard on the due-process violations, and

(c) without affording to Robert Sarhan an opportunity to be heard on those due-process arguments, and

(D) Mandating that the district court accept jurisdiction to grant relief from the state court judgment in regard to the due-process challenges to that judgment that the state court would not hear, notwithstanding the *Rooker-Feldman Doctrine*?

(E) Is mandamus available to mandate relief from orders that recite reliance on items *dehors* the record and violate the ministerial duty to rule just on items within the record?

(F) Is mandamus available to mandate relief from an order of dismissal of a complaint that recites reliance on items *dehors* the "four corners" of the complaint and violate the ministerial duty to rule just on items within those four corners?

(G) Is mandamus available to mandate that the court take jurisdiction where it declined to do so because of a misinterpretation of the *Rooker-Feldman Doctrine*?

(H) Is a judgment of foreclosure against Anabella Soury and Robert Sarhan, as owners of the foreclosed property, a denial of due process where that judgment was entered without serving, and without notice to, Anabella Soury or her attorney and without affording to Robert Sarhan an opportunity to be heard?

Should a writ of prohibition be issued to the Eleventh Circuit, prohibiting it:

(I) From considering any matters *dehors* the record, and

(J) Considering matters outside the "four corners" of the complaint?

(K) Is prohibition available to prohibit reliance on items outside the record?

(L) Is prohibition available to prohibit reliance on items outside the "four corners" of the complaint in ruling on a motion to dismiss the complaint?

(M) Is a judgment of foreclosure against Anabella Soury and Robert Sarhan, as owners of the foreclosed property, a denial of due process and void where that judgment was entered without serving, and without notice to, Anabella Soury or her attorney and without affording to Robert Sarhan an opportunity to be heard?

(N) Should a writ of certiorari be issued to the Eleventh Circuit determining that the state-court judgment was entered without notice to Anabella Soury, without any opportunity to be heard, was a denial of due process, and was void, and that the district court should order the state court to invalidate the judgment and that the relief hereinabove mentioned in regard to mandamus and prohibition should be granted via certiorari ?

(O) Should sanctions be permitted to be based on matters dehors the record?

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Pursuant to Eleventh Circuit Rule 26.1-1, counsel of record for Appellant, certifies that, to the best of their knowledge, the following is a complete list of all trial judges, attorneys, persons, associations of persons, firms, partnerships, or corporations that have an interest in the outcome of this case or appeal, including subsidiaries, conglomerates, affiliates, parent corporations, any publicly held corporation that owns 10% or more of the party's stock, and other identifiable legal entities related to a party:

1. Raul Gastesi, Esq. Attorney for H & H Investors, Inc. the Appellee
2. Judge Darrin P. Gayles U.S. District Judge Southern District of Florida
3. Judge Jon Gordon, Eleventh Judicial Circuit
4. Ralph Halim, President of H & H Investors, Inc. the Appellee
5. Judge Michael Hanzman, Eleventh Judicial Circuit
6. Robert L. Moore, Attorney for the Anabella Soury, Appellant
7. Arthur J. Morburger, Esq. Attorney for Robert Sarhan, Appellant
8. Robert Sarhan, the Appellant
9. Judge Robert Scola U.S. District Judge Southern District of Florida
10. Judge Rodney Smith U.S. District Judge Southern District of Florida
11. Anabella Soury, the Appellant

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IN THE
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PETITION FOR WRIT OF MANDAMUS & PETITION FOR WRIT OF PROHIBITION

The Petitioners, Robert Sarhan and Anabella Soury respectfully petition for a writ of mandamus and writ of prohibition to vacate the orders of the Eleventh Circuit that are *dehors* the record. This writ will be in aid of the court's appellate jurisdiction and are exceptional circumstances that warrant exercise of the Supreme Court's powers and that adequate relief cannot be obtained in any other forum or from any other court.

OPINION BELOW

The orders of the Eleventh Circuit improperly impose substantial sanctions against the Petitioners and affirmed the dismissal of the Complaint based on matters *dehors* the record and outside of the "four corners" of the Complaint." **Exhibit G1 & H1, J1.**

JURISDICTION

The Eleventh Circuit entered two orders on 01/09/2020 and one order 03/11/2020, denying the Petition for Rehearing En Banc. This Court's jurisdiction rests on 28 U.S.C. § 1651(a).

STATUTORY PROVISIONS INVOLVED

"USC Const. Amend. 14, § 1 provides: All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the Sta
the 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. 28 U.S.C. § 1651(a) provides."

"Final 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 mandamus and writ of prohibition 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, or any commission held or authority exercised under, the United States."

INTRODUCTION

Robert Sarhan and Anabella Soury seek a writ of mandamus and writ of prohibition to review the orders of the Eleventh Circuit in which they exceeded their own authoritative decision and the authoritative decision of the U. S. Supreme Court. As a direct consequence, created the exceptional circumstances that warrant writ of mandamus and writ of prohibition.

The Panel's consistent citation to, and reliance on, matters entirely outside the "four corners" of the complaint and *dehors* the record.

The underlying proceedings is an Appeal *dehors* the record of an order dismissing the Complaint based on matters outside of the "four corners" of the Complaint. It appears that the Panel has adopted the Appellee's Answer Brief, "word for word," in which the Answer Brief strays outside of the "four corners" of the

Complaint and its entire 166-page Appendix are also *dehors* the record. **The Appellee's Answer Brief does not dispute any of the Complaints Allegations.**

The Fifth and Eleventh Circuits and the U.S. Supreme Court rejected this practice. *Hassenflu v. Pyke,* 491 F.2d 1094 (5th Cir. 1974) [**"it is inappropriate to base an appellate opinion on assertions dehors the record,"**] and that holding is cited with approval in *U.S. v. Camejo*, 929 F.2d 610 (11 Cir. 1991)*, Hudgins v. Kemp*, 59 US 530 (1855), Ex-parte *Easton*, 96 US 68 (1877) and *Waley v. Johnston,* 316 US 101 (1942).

The Eleventh Circuit And The District Court Misapplied The *Rooker-Feldman Doctrine* By Foreclosing The Petitioners Attempt In State Court To Raise Due Process Arguments

The Eleventh Circuit Panel and the U.S. District Court both incorrectly applied the *Rooker-Feldman Doctrine,* which does not apply in Fla. Rules of Civ. P. Rule 1.540(b)(4) cases or void judgments, where Anabella Soury and her attorney Robert L. Moore were not served with the Final or Amended Final Judgments of Foreclosure and did not find out till 11 months later, where the time to appeal has long past, the certificates are on page 6 below and judgments and certificates are in **Exhibit C1 (C & D).** Anabella did not file a notice of appeal. She was not served a copy of the brief. She was not listed as having been served with the appellate decision or the appellate mandate and filed a Declaration. **Exhibit C1(F)** Therefore, Anabella Soury had no opportunities to raise her federal claims in the state court or on appeal. The Third District Court of Appeals had no jurisdiction over non-party Anabella Soury, thereby depriving the court of jurisdiction over her person, under *Miami Bank & Trust Co. v.*

Rademacher Co., 5 So.2d 63, 64 (Fla. 1941), and rendering the *Rooker-Feldman Doctrine* inapplicable to her.

The state court, Judge Michael Hanzman denied Robert Sarhan's attorney, Arthur, J. Morburger from oral argument on his "Emergency Motion for Relief from Judgment as Void," a violation of Robert Sarhan's due process rights.

The Eleventh Circuit Panel and the District Court cites *Casale v. Tillman*, 558 F.3d 1258 (11th Cir. 2009) and *Am. United Life Ins. Co. v. Martinez*, 480 F.3d 1043 (11th Cir. 2007), but fails to note that there was not involved in those cases a Rule l.540(b) or a void judgment proceeding and that those cases did not recede from either *Woods v. Orange County*, 715 F.2d 1543, 1548 (11 Cir. 1983) *cert denied* 467 US 1210 and *U.S. v. Napper,* 887 F.2d 1528, 1534 (11 Cir. 1989). Moreover, in regard to footnote 2 to the Panel opinion, 28 USC § 2283 applies here since the federal court has jurisdiction under *Woods* and *Napper.*

The Panel decision conflicts with *Rooker-Feldman Doctrine* as construed by the Eleventh Circuit by *Woods v. Orange County*, 715 F.2d 1543, 1548 (11 Cir. 1983) *cert denied* 467 US 1210 and as later adopted by the Eleventh Circuit, *U.S. v. Napper,* 887 F.2d 1528, 1534 (11 Cir. 1989) (holding that the federal court has jurisdiction to grant relief to a litigant who in the state court was barred from arguing due process issues).

Not only has the Panel adopted the Appellee's Answer Brief "word for word" which *dehors* the record and outside of the "four corners" of the complaint, but the Panel has also relied on Judge Hanzman's Order, his involvement was post-judgment

1.540(b) "Motions For Relief From The Judgment Which Is Void." Judge Hanzman, violated the Constitutional Rights of both Anabella and Robert, by not allowing Arthur Morburger to argue the void judgment, motion in which he wrote, but allowed the opposing party to argue the motion. As 50% owner of the Property, where Anabella and her attorney were not served with the final and Amended final judgments of foreclosure and the time for the appeal has past, the judgment is void under Fla Statute 1.540(b).

STATEMENT OF THE CASE

Plaintiffs/Appellants ROBERT SARHAN and ANABELLA SOURY A/K/A ANABELLA SARHAN, sued Defendant/Appellee H & H Investors, Inc., in the United States District Court Southern District of Florida in Case No. 19-11177 **EXHIBIT B** and alleged:

"l. The Court has jurisdiction of this action pursuant to 28 U.S.C.1343 and 2201.

2. The venue of this action is properly in Miami- Dade County, Florida because Defendant has its office in Miami-Dade County and is a Florida corporation.

3. Plaintiffs own and reside at premises located at 22795 S.W. 212th Avenue Miami, Florida.

4. On June 23, 2008, Plaintiff Robert Sarhan signed a promissory note, payable to Defendant and Plaintiffs signed a mortgage of the Homestead Property.

5. Defendant is suing Plaintiffs for foreclosure in Miami-Dade County, Florida Circuit Court in Case No. 2012-07970, as to their Homestead Property in the area of SW Miami Dade County, Florida.

6. In that case, the court entered a Judgment and an Amended Judgment, copies of which are attached hereto. **Exhibit C1 (C & D)**

7. The court did however fail to serve copies of those Judgments on Plaintiff Anabella Soury or her attorney Robert L. Moore and the time for appeal elapsed before they learned of the Judgments.

8. The aforementioned Final Judgment of Foreclosure contained the following Certificate of Service that specified Raul Gastesi and Michael Cotzen were served with copies, not Robert L. Moore, attorney for Anabella Soury: **Exhibit C below**

JUL 3 1 2017

DONE AND ORDERED in Chambers in Miami Dade County, Florida, this _____ day of _____, 2017.

Circuit Judge

Conformed Copies:
Plaintiff's Counsel: Raul Gastesi, Esq., 8105 N.W. 155th Street, Miami, Lakes, FL 33016, efiling@gastesi.com

Defendant's Counsel: Michael L. Cotzen, Esq., 20700 West Dixie Highway, Aventura, Florida 33180, Michael@cotzenlaw.com

ORIGINAL
JUDGE JOSE M. RODRIGUEZ

DONE AND ORDERED in Chambers in Miami Dade County, Florida, this 11th day of Dec, 2018.

Circuit Judge

RODNEY CIRCUIT JUDGE

Conformed Copies:
Plaintiff's Counsel: Raul Gastesi, Esq., 8105 N.W. 155th Street, Miami, Lakes, FL 33016, efiling@gastesi.com

Defendant's Counsel: Arthur J. Morburger, Esq. 19 West Flagler Street, Suite 404, Miami, Florida 33130, Amorburger@bellsouth.net

FINAL ORDERS AS TO ALL PARTIES
SRS DISPOSITION
NUMBER 12
THE COURT DISMISSES THIS CASE AGAINST ANY PARTY NOT LISTED IN THIS FINAL ORDER OR PREVIOUS ORDER(S). THIS CASE IS CLOSED AS TO ALL PARTIES.
Judge's Initials

are attached hereto, claiming that the unserved Judgments were denials of due process and were void. **Exhibit C1(E)(F)**

12. That Motion " Emergency Motion for Relief from Judgment as Void" came on for hearing before Circuit Court Judge Michael Hanzman on June 20, 2019.

13. At the hearing, Judge Hanzman precluded counsel for Plaintiff Robert Sarhan from participating in the oral argument, in which Defendant's counsel was permitted to participate, and thereby denying Plaintiffs Robert Sarhan due process of law, ruling in advance that Robert Sarhan had no interest in the arguments raised in the Motion.

14. At that hearing, Judge Hanzman announced that he was denying that Motion for Fraud on the Court and, in a further denial of due process, further ordered that Plaintiff Robert Sarhan and his attorney shall file nothing further in the case or be subject to the threat of sanctions. The ensuing order copy, which is attached hereto, likewise prohibited any pro-se filings" in the case, with a "criminal contempt" threatened. **Exhibit C1(G)**

15. That order also determined that the Final Judgment entered in that case would not be "void," even if Anabella Soury's claim that neither she nor her attorney were not served therewith were true.(As reflected in the Certificate of Service at the end of the judgments that is copied herein above) In fact, neither Anabella nor her attorney were served with the Final Judgment or the Amended Final Judgment, Robert Sarhan took an appeal from those Judgments but did not serve Anabella or her attorney, Anabella did not participate in that appeal. However, at page 2 of that order it is wrongly stated that "Defendants [plural] appealed that Final Judgment" and that the appellate ruling of affirmance is binding on "Defendant" Anabella- all in violation of her due process rights to be served and to have a reasonable opportunity to be heard. The order also ruled in violation of Anabella's due process rights - that no further motions "collaterally attacking the Final Judgment or Amended Final Judgment wound be heard despite the fact that neither Anabella nor her attorney were served with those Judgments. The one-year time limit for filing a Rule 1.540(b)(3) fraud-on-the-court motion for relief from judgment does not apply to her because of that lack of service, so that it would be a denial of due process to treat fraud-on-the-court as having been adjudicated as to her. Attached hereto is Robert Sarhan's Motion for Relief from Judgment for Fraud on the Court, which was denied as untimely and on the merits against Robert Sarhan only. Robert Sarhan has filed previous Motion with prima facie evidence of Fraud on the Court which were timely and never heard. On April 16, 2019 Judge Rodney Smith granted a two-hour hearing, with evidence, to present the "Motion to vacate the Judgment for Fraud on the Court," However Judge Smith was transferred to the United States District Court before the June 17 hearing and his replacement, Judge Hanzman, did not abide by what Judge Smith had scheduled and instead held a different prejudicial hearing without evidence in violation of due process and without notice and thereby ruled the motion lacked merits. Since this case was removed to Federal Court and

remanded back to State Court the Motion and the case was stayed during bankruptcy, the time period was thereby stayed and the motion was not untimely.

16. Anabella intends to challenge the unserved Judgment and Third District decision as not binding on her and to move for relief from the unserved judgment based on fraud; and Plaintiffs intend to file an appeal from the denial of that Motion and to file a motion for stay pending appeal in the circuit court, but have some hesitancy and fear in doing so in light of the improper threat of sanctions.

17. On May 6, 2014 Plaintiff had to file an action for restraining order against Ralph Halim for "Stalking his young son and himself. Following Robert Sarhan and his minor son while on a Sunday motorcycle ride around- the neighborhood, Halim, president of H&H Investors, stalked them, while in a car, and put them in fear of their lives. Weeks later, on June 25, 2014, Halim placed dead animals in front of Plaintiffs' gate. Then again on June 27, 2014 Halim placed dead animals at Plaintiffs' front gate The placement of dead animals and the stalking were Halim's motive to force Plaintiffs' family to move from their - mortgaged premises, their home for 25 years. This enhances Plaintiff's fear of sanctions retaliation. **Exhibit C1(H)**

18. On June 20, 2019 at 12:31pm, Ralph Halim called Plaintiff Robert Sarhan on his cell phone while he was at his attorney's office; the attorney also heard his remarks while on speaker phone. Halim's remarks were: "hey you mother fucker I haven't started with you yet, you just wait mother fucker I am just getting started," This further enhances the aforementioned fear of sanctions retaliation.

19. As a result of those threats and Plaintiffs have suffered mental anguish and have expended funds to provide a home for Plaintiffs' minor son. Wherefore, Plaintiffs demand on an emergency basis a judgment against Defendants (1) declaring that the aforementioned Motion for Relief from Judgments as Void should be reheard with the participation of Robert Sarhan's attorney; (2) declaring that the unserved Judgments are due process violations of the rights of Plaintiffs and are void; that Anabella Sarhan was not precluded from moving for relief from the Judgment based on a claim of fraud, (3) enjoining the imposition of any sanctions against Plaintiffs or their attorneys for the filing of an appeal or for the filing of any motion to stay pending appeal; (4) enjoining the Florida State court from precluding Anabella from moving for relief from the unserved Judgment based on fraud and enjoining reliance on the Third District decision of affirmance as law of the case or res judicata against Anabella,(5) enjoining the threatened criminal contempt proceedings, (6) enjoining Defendants from any enforcement of the Judgments or of any orders derived from the Judgments, (7) awarding to Plaintiffs and against Defendants monetary damages, subject to the right to jury trial, to whatever extent authorized by law, (8) an emergency hearing and restraining order directing the clerk and the parties to stay the foreclosure sale in advance of the scheduled June 25, 2019 foreclosure sale."

20. Quoted hereinabove and inserted into the quotations of the complaint at pages 6 above are the Certificates of Service that appeared in the Final judgment **Exhibit C1(C),** certify service of process on Raul Gastesi attorney for the Plaintiff and Michael Cotzen attorney for Robert Sarhan in the Final Judgement. In the Amended Final Judgement **Exhibit C1(D),** certify service of process on Raul Gastesi attorney for the Plaintiff and Cotzen successor, Arthur J. Morburger, attorney for Robert Sarhan. Nowhere in the Certificates did their appear in reference to Anabella Soury or her attorney Robert L. Moore. Included as an exhibit to the complaint was Soury's Declaration verifying that she did not receive service. Appellants' **Exhibit C1(F).**

21. Judge Gayle dismissed the complaint *sua sponte,* ruling:

> "Plaintiff filed their Emergency Complaint on June 21, 2019, seeking review of the latest Florida state court order denying them relief from a foreclosure judgment: This case shall be dismissed as Plaintiffs were recently denied the same sought relief on the same substantive issues presented here. *Sarhan, et al. V. H & H Investors, Inc. et al.,* 19-CV- 20368-RNS, ECF Nos. 37 & 38 (S.D. Fla. April 1, 2019). In denying Plaintiffs motion to appeal *informa pauperis,* Judge Scola noted that Plaintiff's claims are frivolous and Mr. Sarhan is using the federal courts to delay the foreclosure sale and to disparage those who feel have wronged him. "Id. at ECF No. 37. Further, this Court lacks jurisdiction over these claims pursuant to the Rooker -Feldman Doctrine. *Casale* v. *Tilman,* 558 F.3d 1258, 1260 (11th Cir. 2009). The doctrine bars federal claims raised in the state court and claims ..inextricably intertwined if it would 'effectively nullify' the state court judgment, or [if] it succeeds only to the extent that the state court wrongly decided the issues. *Casale,* 558 F. 3d at 1260. Plaintiffs seek to do just that. Accordingly, this case is dismissed without prejudice." **Exhibit C1(A)**

22. On June 30, 2019, Plaintiff then filed a motion for rehearing "Emergency Motion To Reconsider and Set Aside Its Wrongful Order of Dismissal And Grant The Relief Prayed For in the Complaint" of the above-quoted ruling. The arguments

raised in that motion were: The Court went outside the "four corners" of the Complaint in citing to Judge Scola's order and the *Rooker-Feldman Doctrine* did not apply. **Exhibit C1(E)**

23. On July 1, 2019 Judge Gayle denied the motion for reconsideration without opinion. **Exhibit C1(A) Docket No. 7**

24. The Appeal was filed.

25. In this Emergency Initial Brief, **Exhibit B1** the Appellant argued that:

> **"I.** The state court judgment, amended judgment, and state court appeal were all prosecuted without any notice to Anabella or her attorney Robert L. Moore, thereby depriving the state court of jurisdiction over her person and rendering the *Rooker-Feldman Doctrine* inapplicable to her.
> **II.** *Rooker-Feldman Doctrine* has no application to a state court proceeding where Anabella had no reasonable opportunity to raise her federal claims or to appeal and has no application to rule Fla. R. Civ. P. Rule 1.540(b) motion proceedings.
> **III.** The court's reliance on Judge Scola's remarks in regard to the removal overlooks the fact that Anabella was not a party to the removal and was not a party to the appeal to which Judge Scola referred.
> **IV.** *Rooker-Feldman Doctrine* has no application to any rule 1.540(b) proceeding or to any other criminally sanctioned proceeding in which Robert Sarhan or Anabella did not and will not have a reasonable opportunity to raise their federal claims in the state court."

26. On October 21, 2019, the Attorney for the Appellee, Raul Gastesi, Jr. filed an Answer Brief and its 166-page Appendix, which is *dehors* the lower court record. The Answer Brief and Appendix also impermissibly stray outside the allegations of the "four corners" of the complaint. The Appellee's Answer Brief does not dispute any of the Complaints Allegations. This misconduct by Attorney Gastesi has been the norm since the beginning of this case, **Exhibit E1.**

27. According to the U.S. District Court Docket **Exhibit C1(A),** the Appellee attorney Raul Gastesi, Jr., did not file one document in the U.S. District Court, No Briefs and No Appendix, yet he filed a 166-page Appendix which is *dehors* the record on Appeal. There are only 7 entries on the Docket, none from the Appellee.

28. On November 21, 2019, the Appellant filed his Reply Brief. The Appellants Reply Brief pointed out to the Eleventh Circuit, that the Appellee's Answer Brief and Appellee's 166-page Appendix are *dehors* the record, stray outside the "four corners" of the complaint, and do not dispute the complaint's allegations. The Panel failed and did nothing about Attorney Raul Gastesi misconduct, but adopted his Answer Brief, which *dehors* the record and outside of the four corners of the complaint. .

29. **The Answer Brief still does not point to anything in the instant record that disputes the accuracy of any portion of the complaint's allegations,** in general, or any portion of its particular allegation that neither Anabella nor her attorney, Robert L. Moore received any timely notice of the entry or prosecution of the Foreclosure Judgment or the Amended Foreclosure Judgment.

30. Appellee does not focus on the legal consequences of the alleged lack of notice, the resulting lack of state-court jurisdiction, and the resulting inapplicability of the *Rooker-Feldman Doctrine*, analyzed in Appellants' **Argument I** or to its cited precedents.

31. In like manner, Appellee did not respond to Appellants' **Argument II,** that the *Rooker-Feldman Doctrine* does not apply to Fla. R. Civ. P. Rule l.540(b)

motion proceedings or where Anabella allegedly had no reasonable opportunity to raise her federal claims or to its cited precedents. Already noted, is the absence of any Answer Brief response to Appellants' **Argument IV**, concerning the inapplicability of the *Rooker-Feldman Doctrine* to Rule Fla. R. Civ. P. Rule l.540(b) motion proceedings and to Appellants' cited case precedents.

32. The Answer Brief does in fact "not respond" to any of Appellants' citations. Appellee's Table of Citations list only one of those citations, *Casale v. Tillman,* 558 F.3d 1258, 1260(11th Cir. 2009), and mistakenly lists it at pages "18" and "19" of the Answer Brief, but those pages have no such citation nor do any of the other pages of the Brief have any such citation.

33. On January 9, 2020, the Eleventh Circuit Court of Appeals panel ruled Per Curiam and basically adopted or copied the Appellee's Answer Brief word for word, which *dehors* the record on Appeal and is outside of the "four corners" of the Complaint.

34. Nothing in the record or in the complaint suggested that Appellants "owned a tree farm" or were "divorced" or had a "separation agreement" or any "divestiture" of any interest in the tree farm or that "multiple judges" considered Soury's claim that she had an interest in the property. Those recitations were presumably derived from Appellee's Appendix, which was *dehors* the record. No judge "considered and rejected Soury's claim that she had an interest in the property." State court judge Hanzman included in his order, Appellants' **Exhibit C1(G),** a footnote, referring to the deed to Soury, but did not declare that deed to be invalid.

35. The Panel failed to take note of the allegations of ¶ 11 of the complaint (Appellants' Exhibit B) that Judge Hanzman precluded Sarhan from presenting any argument in the Motion "Defendants Emergency Motion For Relief From Judgment As Void" and refused to hear the "Motion To Vacate Judgment of Foreclosure Due To Fraud On The Court." The Panel decision entirely ignored the Final and the Amended Final Judgment of Foreclosure and the named upon whom the judgments were served, where Anabella Soury and her attorney, Robert L. Moore were not served with the Final or Amended Judgment of Foreclosure and therefore the Judgment is Void, Under Florida Statue 1.540(b) and the *Rooker Feldman Doctrine* does not apply to Rule 1.540(b) cases. **Exhibit C1 (C & D).**

36. Included as an exhibit to the complaint was Soury's Declaration verifying that she did not receive service. **Exhibit C1(F).** In the appeal from the Final Judgment and Amended Final Judgment of Foreclosure, Anabella was not a party. She had no notice of the entry of those Judgments. She did not file a notice of appeal. She was not served a copy of the brief. She was not listed as having been served with the appellate decision or the appellate mandate. The Third District had no jurisdiction over non-party Anabella Soury. Its decision was not at all binding on her. Contrary to the Panel decision, there is nothing in the record or in the complaint regarding the Panel's statement that the Third District allegedly "affirmed the trial court's ruling."

37. These facts are pointed out in the Motion for Rehearing and Rehearing En Banc that Appellant filed. **Exhibit I1** In this Motion, the Appellants points out that the Panel decision conflicts with decisions of the Eleventh Circuit to which

the petition is addressed, with decisions of the Fifth Circuit, which the Eleventh Circuit has adopted and conflicts with authoritative decisions of the United States Supreme Court and other United States Court of Appeals that have addressed this issue.

38. In the Motion for Rehearing and Rehearing En Banc, the Appellant points out the Panel's consistent citation to, and reliance on, matters entirely outside the four corners of the complaint and *dehors* the record. That appears to have adopted Appellee's Answer Brief word for word and Appellee's outside-the-record Appendix.

39. Moreover, the Panels opinion is replete with records outside the four corners of the complaint that was dismissed. The Eleventh Circuit in St. *George v. Pinellas County*, 285 F.3d 1334, 1337 (11th Cir. 2002), held that "'the scope of the review must be limited to the four corners of the complaint," quoting *Grossman v. Nations Bank, N.A.*, 225 F.3d 1228, 1231 (11th Cir. 2000).

40. Moreover, the Eleventh Circuit improperly placed it imposition of sanctions on its excursion outside the record. All 166-page of the Appellee's Appendix are *dehors* the record.

REASON FOR GRANTING THE PETITION

41. The Court in *Cheney v U.S. District Court for District of Columbia,* 542 U.S. 367, 390 (2004) made clear that the following three conditions must be satisfied before such an extraordinary writ must issue: (1) the party must have no other adequate means to attain the relief he deserves, (2) the party must satisfy the burden of

showing that his right to issuance of the writ is clear and indisputable, and (3) the issuing court must be satisfied that the writ is appropriate under the circumstances. *Id.* at 380-81. Petitioners Robert Sarhan and Anabella Soury satisfies the three conditions set out in *Cheney.*

(1) ROBERT SARHAN AND ANABELLA SOURY CANNOT OBTAIN RELIEF FROM ANY OTHER COURT OR FORUM

42. The Petitioners have exhausted any avenue of relief by a Motion for Rehearing and Rehearing en banc that was denied. Moreover, the Appeal from the order of dismissal is final and has finally been affirmed by the Eleventh Circuit. Moreover, the sanctions imposed by the Eleventh Circuit are also final and are not appealable.

A. NO OTHER COURT CAN GRANT THE RELIEF IT SEEKS

43. No other court has the power to vacate the Eleventh Circuit Court of Appeals Orders. Other federal and state trial and appellate courts have no jurisdiction over the Eleventh Circuit Court of Appeals.

(2) THE MISAPPLICATION OF THE ROOKER-FELDMAN DOCTRINE AND THE COURT EXCURSION OUTSIDE THE RECORD ARE CLEAR AND UNDISPUTED BASES FOR ISSUING THE WRITS.

44. In this case, the Eleventh Circuit exceeded its own authoritative decision and the authoritative decision of the United States Supreme Court as a direct consequence created the exceptional circumstances that warrant writ of mandamus and writ of prohibition. The Panel decision conflicts with *Rooker-Feldman Doctrine* as construed by the Eleventh Circuit by *Woods v. Orange County*, 715 F.2d 1543, 1548 (11 Cir. 1983) *cert denied* 467 US 1210 and as later adopted by the Eleventh Circuit, *U.S. v. Napper,* 887 F.2d 1528, 1534 (11 Cir. 1989) **(holding that the federal**

court has jurisdiction to grant relief to a litigant who in the state court was barred from arguing due process issues). The Panel decisions also conflicts with the following precedence barring matters outside the record:

Stearns v. Hertz Corp. 326 F.2d 405, 408 (8 Cir.), *cert. den*. 377 U.S. 934 (1964)
U.S. v. Hay, 685 F.2d 919, 921(5th Cir. 1982)
U.S. v. Addonizio, 449 F.2d 100, 102 (3 Cir. 1970)
Hudgins v. Kemp, 59 US 530 (1855)
Ex-parte *Easton*, 96 US 68 (1877)
Waley v. Johnston, 316 US 101 (1942)
U.S. v. Camejo, 929 F.2d 610 (11 Cir. 1991)
Thurman v. Judicial Correction Services, Inc., 760 Fed. Appx. 733, 737 (11th Cir. 2019)
Garcia v. American Marine Corp. 432 F.2d 6 (5 Cir. 1970)
United States v. Green, 487 F.2d 1022 (5th Cir. 1973)
Hassenflu v. Pyke, 491 F.2d 1094 (5th Cir. 1974) "reincorporated into Eleventh Circuit Precedence in *Bonner v. City of Prichard*, 661 F.2d 1206 (11 Cir. 1981)"

The Panel's decision also conflicted the following precedence prohibiting the court from straying outside the four corners of the complaint:

St. George v. Pinellas County, 285 F.3d 1334, 1337 (11th Cir. 2002)
Grossman v. Nationsbank, N.A., 225 F.3d 1228, 1231 (11th Cir. 2000)

THE FOREGOING PRECEDENCE ARE MANDATORY NOT DISCRETIONARY AND ARE AMENABLE TO MANDAMUS AND PROHIBITION RELIEF.

I. PANEL OPINION CONSISTS OF MATTERS *DEHORS* THE RECORD AND OUTSIDE THE "FOUR CORNERS" OF THE COMPLAINT

45. The Fifth and Eleventh Circuits and the U.S. Supreme Court rejected this practice. *Hassenflu*, 491 F.2d 1094 (5th Cir. 1974) held that **"it is inappropriate to base an appellate opinion on assertions dehors the record,"** and that holding is cited with approval in *Camejo*, 929 F.2d 610 (11th Cir. 1991). See also *Garcia*, 432 F.2d 6 (5th Cir. 1970) (disallowing "matters dehors the record"); *Ex parte Easton*, 96 US 68

("matters dehors the record ... cannot be considered"); *Hudgins,* 59 US 530 ("evidence *dehors* the record cannot be received to impeach the record on appeal").

46. Moreover, the opinion is replete with records outside the four corners of the complaint that was dismissed. The Eleventh Circuit in *St. George*, 285 F.3d 1334, 1337 (11th Cir. 2002) ["'The scope of the review must be limited to the four corners of the complaint. *Grossman v. Nationsbank, N.A.,* 225 F.3d 1228, 1231 (11th Cir. 2000)"']; *Scelta v. Delicatessen Support Services, Inc.,* 57 F. Supp. 2d 1327, 1335 (M.D. Fla. 1999) held:

> "In deciding a motion to dismiss, the court can only examine ***the four corners of the complaint.*** See *Rickman v. Precisionaire, Inc.,902* F. Supp. 232, 233 (M.D.Fla. 1995). 'The threshold sufficiency that a complaint must meet to survive a motion to dismiss is exceedingly low.' *Ancata v. Prison Health Serv., Inc.,769* F.2d 700, 703 (11th Cir. 1985) (citation omitted)." (Italics added)

47. Indeed, at p. 13 of the Appellants Initial Brief, Appellant had already pointed out that review is limited to the "four corners of the complaint." The Answer Brief entirely failed to address that point but nevertheless included a Statement of the Case and an Appendix that were outside those "four corners."

48. Sanction To all of these transgressions add the fact that the Answer Brief still does not point to anything in the instant record that disputes the accuracy of any portion of the complaint's allegations, in general, or any portion of its particular allegation that neither Anabella nor her attorney received any timely notice of the entry or prosecution of the judgment or the amended judgment. Instead, Appellee seeks to formulate a whole new set of events

dehors the record that somehow leaves a false impression that Anabella and her attorney did have alleged notice.

II. THE JUDGMENT, AMENDED JUDGMENT, AND APPEAL WERE ALL PROSECUTED WITHOUT ANY NOTICE TO ANABELLA OR HER ATTORNEY ROBERT L. MOORE, THEREBY DEPRIVING THE STATE COURT OF JURISDICTION OVER HER PERSON AND RENDERING THE *ROOKER-FELDMAN DOCTRINE* INAPPLICABLE TO HER:

49. The lower court and Appellate Court incorrectly determined it did not have jurisdiction of this action as is hereafter set forth. The Court incorrectly cited, in support of its *Rooker- Feldman* ruling, *Casale* v. *Tillman,* 558 F.3rd 1258 (11th Cir. 2009) and *District of Columbia Court of Appeals v. Feldman,* 460 U.S. 462 (1983). *Casale* held that doctrine to be applicable to the underlying Georgia state court decision, because that decision was entered with state tribunal jurisdiction. *Feldman* (as part of "Rooker- Feldman") is otherwise distinguished by the Eleventh Circuit cases cited in **Argument C** *infra. Feldman* also inappositely found that there was jurisdiction. By contrast, in the case at bar, under the verified allegations of the complaint, the relevant state-court judgments were entered ***without jurisdiction over Anabella Soury.***

50. In the appeal from the Final Judgment and Amended Final Judgment, Anabella was not a party. She had no notice of the entry of those Judgments. She did not file a notice of appeal. She was not served a copy of the brief. She was not listed as having been served with the appellate decision or the appellate mandate.

51. The Third District had no jurisdiction over non-party Anabella Soury. Its decision was not at all binding on her. *Taylor v. Sturgell,* 128 S. Ct. 2161, 2174

(2008); *Association For Disabled Americans, Inc. v. Amoco Oil Co.,* 211 F.R.D: 457, 472 (S.D.Fla.2002) is directly on point. ln that case, the Court held:

> *"In re Birmingham Reverse Discrimination Employment Litig.,* 833 F.2d1492, 1498-99 (11th Cir.1987), cert. granted sub nom., *Martin v. Wilks,* 487 U.S. 1204, 108 S. Ct. 2843, 101 L. Ed. 2d 881(1988)(nonparties to consent decree not collaterally estopped); *EEOC v. Huttig Sash & Door Co.,* 511 F.2d 453, 455 (5th Cir.1975) (EEOC not privy to private suit and not barred by collateral estoppel or res judicata); *EEOC v. Jacksonville Shipyards, Inc.,* 696 F. Supp. 1438, 1441-42 (M.D.Fla.1988) (same)"

52. *Miami Bank & Trust Co. v. Rademacher Co.,* 5 So.2d 63, 64 (Fla. 1941) held:

> "The notice of appeal, under the rule of *Gover v. Mann,* 114 Fla. 128, 153 So. 895, and *Rabinowitz v. Houk,* 100 Fla. 44, 129 So. 501, was insufficient ***notice*** to City National Bank, City of Miami and B. Wall so as to make them parties to this appeal and give the court ***jurisdiction*** over them in this appeal." (Italics added)

53. *In re Blonder,* 2015 WL 5773230, at *11 (Bkrtcy.N.D.Ga. 2015) likewise held:

> "The defendants argued that although they had notice of the case and were fully apprised of the developments in the case, the judgment was not binding because at all times the sheriffs attorney was in full charge of the ligation, they were never asked to defend the suit, and no notice was given that any judgments rendered against the sheriff would be conclusive as against them. Moreover, the attorneys for the deputies argued that defenses were available to the sheriff which could have been, but were not, raised in the case. The court held that the judgment was not conclusively binding on the deputies and their surety, stating: **It is an elementary principle of justice, that n(! one ought to be bound, as to matter of private right, by a judgment or verdict** to **which he was not a party, where he could make no defense, from which he could not appeal, and which may have resulted from the negligence of another, or may have even been obtained by means of fraud and collusion.** Id. An indemnitor must be given an opportunity to appear and to participate in the defense of the suit and it is not enough to be advised of the facts. Id. 'The effect of the omission of such notice and opportunity is that the judgment is not binding on the person liable over, who has a right to litigate

> again every essential fact necessary to support the judgment.' Id. The court determined that the deputies and their surety had notice of the pendency of the suits in which judgment was entered against the sheriff. Id. But because they were never asked to defend the suits, were never offered permission to defend the suits, and ***were not given notice that a judgment against the sheriff would be*** *binding on them, the court held they were not bound by the judgment.* Id." (Italics added)

III. ROOKER-FELDMAN DOCTRINE HAS NO APPLICATION TO A STATE COURT PROCEEDING WHERE ANABELLA HAD NO REASONABLE OPPORTUNITY TO RAISE HER FEDERAL CLAIMS OR TO APPEAL, AND HAS NO APPLICATION TO FLORIDA RULE OF CIVIL PROCEDURE RULE 1.540(B)(4) MOTION PROCEEDINGS

54. The Sarhan's also cited in their motion for rehearing in *Wood v. Orange County,* 715 F.2d 1543, 1548 (11th Cir. 1983) *cert denied* 467 US 1210, which is directly on point. In that case, the ***Eleventh Circuit*** held:

> "Second, defendants argue that plaintiffs could have raised their constitutional claims on appeal from the judgment creating the lien. Although defendants do not disagree with plaintiffs' allegation that they did not receive actual notice of the judgment until some 11 months after the judgment's entry, defendants contend that plaintiffs must be deemed to have had constructive knowledge of the judgment when it was entered. The cases cited by defendants in support of their argument, *e.g., Texas Gulf Citrus & Cattle Co. v. Kelley,* 591 F.2d 439,440 (8th Cir.1979), are distinguishable. Those cases stand for the principle that where a party has had notice of proceedings he, may be held to have had constructive knowledge of the judgment entered therein. See id.
>
> The party's constructive knowledge of the entry of judgment is conditioned on his actual notice that proceedings have been instituted against him. Defendants have cited no cases, and we find none, for the proposition that a party may be imputed with constructive knowledge of a judgment entered pursuant to ex-parte proceedings of which he has no actual notice. ***Because plaintiffs did not receive actual notice of the judgment until well after the time for filing an appeal had elapsed, they lacked a reasonable opportunity to appeal the judgment.*** Finally, defendants argue that plaintiffs could have raised their objections by filing a Fla. R. Civ. P. Rule 1.540 motion to set aside the final judgment creating the lien. Rule 1.540

> provides that a court, upon a motion of a party made within one year of entry of judgment, may relieve a party from the judgment on grounds of, inter alia, inadvertence or surprise. ***Assuming that claims such as the plaintiffs are cognizable on a Rule 1.540 motion for relief from judgment, the Rooker-Feldman bar does not apply."***

55. A Rule 1.540 motion is not a substitute for appeal, and the court deciding such a motion does not act as an appellate court. See *Pompano Atlantis Condominium Association v. Merlino,* 415 So. 2d 153, 154 (Fla. 4th DCA.1982). The rule permits a special kind of collateral attack on, rather than an appeal of, the judgment. *Fiber Crete Homes, Inc. v. Division of Administration,* 315 So. 2d 492, 493 (Fla.Dist.Ct.App.1975). Proceedings surrounding Rule 1.540 are considered separate from those surrounding entry of the judgment. A denial of a Rule 1.540 motion is, for example, appealable not as the decision of a reviewing court but as a separate judgment in its own right. *Woods, 715* F.2d at 1548, held:

> ***Because Rule 1.540 proceedings are not part of the process of appellate review of the original judgment, it does not matter for purposes of Rooker that plaintiffs could have raised their claims in such proceedings. The federal court may perform a role that a state court deciding a Rule 1.540 motion might also be able to perform. But the federal court is not usurping the role of a state appellate court because a state court ,deciding a Rule 1.540 motion does not act as an appellate court. The district court does not violate Rooker's rationale by deciding plaintiffs' claims. Rooker simply precludes lower federal courts from acting as a state appellate court or as the United States Supreme Court in its capacity as reviewer of state decisions.*** *Rooker* is not a requirement that a plaintiff exhaust all conceivable state remedies; it does not require that where possible he institute proceedings so that state courts can consider the plaintiff's federal claims in the first instance. The important point is that plaintiffs lacked a reasonable opportunity to raise their claims in the proceedings surrounding entry of the judgment.
>
> ***Since plaintiffs did not have a reasonable opportunity to raise their claims in the state trial court where judgment was entered or on***

appeal of that judgment, the district court will not usurp the role of state appellate courts or the Supreme Court by accepting jurisdiction. The plaintiffs' allegations were not 'inextricably intertwined' with the state court judgment." (Italics added)

56. The above-quoted *Wood* decision is cited with approval by the same

Eleventh Circuit in *U.S. v. Napper,* 887 F.2d 1528, 1534 (11 Cir. 1989), which held:

"The defendants in the federal suit argued that the *Rooker-Feldman* doctrine precluded the federal action because the defendant/plaintiffs had the opportunity to raise their constitutional claims at several stages in the state proceedings. The *Wood* court agreed to an extent, holding that *Rooker-Feldman* operates where the plaintiff fails to raise his federal claims in state court. *Wood,* 715 F.2d at 1546."

"The *Wood* court further held however, that ***this rule applies only "where the plaintiff had a reasonable opportunity to raise his federal claims in the state proceedings.*** Id. at 1547. If the plaintiff had no such reasonable opportunity, then the issue is not "inextricably intertwined with the state action and the district court has original jurisdiction over it. Id." (Italics added)

57. *Wood* or *Napper* have been cited and adhered to in *Gomer ex rel. Gomer* v. *Philip Morris Inc.,* 106 F.Supp.2d 1262, 12671 fu. 5 (M.D. Ala. 2000) and *Thurman* v. *Judicial Correction Services, Inc.,* 760 Fed. Appx. 733, 737 (11th Cir. 2019) (finding that the plaintiff had a reasonable opportunity in state court to present his arguments). As stated in Paragraph 9 of Plaintiffs' Complaint:

58. As stated in paragraph 9 of Plaintiff's Complaint:

"On June 18, 2019 Plaintiffs filed an Emergency Motion for Relief from Judgment as Void and a Declaration, copy of which are attached hereto, claiming that the unserved Judgments were denials of due process and were void. That Motion came on for hearing before Circuit Court Judge Michael Hanzman on June 20, 2019. At the hearing, Judge Hanzman precluded counsel for Plaintiff Robert Sarhan from participating in the oral argument, in which Defendant's counsel was

permitted to participate, and thereby denying Plaintiffs Robert Sarhan due process of law, ruling in advance that Robert Sarhan had no interest in the arguments raised in the Motion.

That order also determined that the Final Judgment, entered in that case, would not be "void" even if Anabella Soury's claim that neither she nor her attorney were not served therewith were true. In fact, ***neither Anabella nor her attorney were served with the Final Judgment or the Amended Final Judgment, Robert Sarhan took an appeal from those Judgments but did not serve Anabella or her attorney, Anabella did not participate in that appeal.***

However, at page 2 of that order it is wrongly stated that "Defendants [plural] appealed that Final Judgment" and that the appellate ruling of affirmance is binding on "Defendant" Anabella- ***all in violation of her due process rights to be served and to have a reasonable opportunity to be heard.*** The order also ruled in violation of Anabella's due process rights - that no further motions "collaterally attacking the Final Judgment or Amended Final Judgment" would be heard, despite the fact that neither Anabella nor her attorney were served with those Judgments.

The one-year time limit for filing a ***Rule 1.540(b)(3)*** fraud-on-the- court motion for relief from judgment does not apply to her because of that lack of service, so that it would be a denial of due process to treat fraud on-the-court as having been adjudicated as to her."

59. Attached to the complaint was a copy of Anabella's Declaration, verifying The allegations of the complaint. The complaint was also verified by Robert Sarhan. At this stage of the proceedings, the Court is limited just to the allegations of the complaint and its attachments. **Exhibit ,** *Bharucha v. Reuters Holdings PLC,* 810 F. Supp. 37, 40 (E.D.N.Y.,1993) held:

"The court must limit its analysis to the ***four corners of the complaint,*** see *Cortec Industries, Inc. v. Sum Holding, L.P.,* 949 F.2d 42, 44 (2d Cir.1991), and must accept plaintiffs' allegations of fact as true together with such reasonable inferences as may be drawn in its favor. *Stewart v. Jackson* & *Nash,* 976 F.2d 86, 87 (2d Cir.1992); *LaBounty* v. *Adler,* . 933 F.2d 121,123 (2dCir.1991). A complaint should be dismissed only when it is clear that the plaintiff can

> prove no set of facts upon which he would be entitled to relief. *Conley v. Gibson,* 355 U.S. at 45-6, 78 S. Ct. at 102." (Italics added)

60. Applying *Wood* and *Napper* to Anabella's lack of notice, ***she had no reasonable opportunity to present her arguments in the state court proceedings,*** either on appeal or in the lower court and Anabella's motions sought post judgment relief under Rule 1.540(b). Therefore, the *Rooker-Feldman* doctrine had no application to Anabella. The Court's citation to and reliance on *Casale v. Tillman,* 558 F.3rd 1258 (11th Cir. 2009) and *District of Columbia Court of Appeals* v. *Feldman,* 460 U.S. 462 (1983), has no application because they did not involve a Rule l.540(b) motion and did not concern a lack of opportunity to present arguments in state court.

IV. THE COURT'S RELIANCE ON JUDGE SCOLA'S REMARKS IN REGARD TO THE REMOVAL OVERLOOKS THE FACT THAT ANABELLA WAS NOT A PARTY TO THE REMOVAL AND WAS NOT A PARTY TO THE APPEAL TO WHICH JUDGE SCOLA REFERRED

61. Moreover, the order of dismissal to which the instant motion for rehearing is directed additionally relies upon Judge Scola's ruling on Robert Sarhan's removal. However, here again, Anabella did not participate in that removal and did not receive any notice thereof, Additionally, Judge Scola's ruling on the removal was based on the Third District's aforementioned appellate ruling in the appeal to which Anabella was not a party and was not binding on her. In any event, that ruling did not cite to the Eleventh Circuit decisions in *Wood* or *Napper* or any of the other cases cited herein. Thus, the Court's citation to and reliance on Judge Scola's ruling on the removal petition is misplaced,

improperly binding Anabella to proceedings in which she was a non-party and did not participate. An extrajudicial reliance on Judge Scola's findings is in any event erroneous since the motion at issue in the appeal at bar is in the context of a dismissal of the instant complaint. *Bharucha,* 810 F. Supp. at 40.

V. ROOKER-FELDMAN DOCTRINE HAS NO APPLICATION TO ANY RULE l.540(B) PROCEEDING OR TO ANY OTHER CRIMINALLY SANCTIONED PROCEEDING IN WHICH ROBERT SARHAN OR ANABELLA DID NOT AND WILL NOT HAVE A REASONABLE OPPORTUNITY TO RAISE THEIR FEDERAL CLAIMS IN THE STATE COURT

62. The Court also overlooked Plaintiffs' position, paraphrasing *Napper,* that they had ***"no reasonable opportunity to raise the federal claims in state court"*** Judge Hanzman unconstitutionally prohibited Robert Sarhan's attorney from making any oral argument or rebuttal at the hearing of his Rule l.540(b)(4) motion for relief from judgment as void, determining that Sarhan had no interest in that motion, and additionally threatened criminal sanctions against him if he or his attorney files anything further in the state court proceeding. That is confined by the verified allegations of the complaint and by Judge Hanzman's order, also attached to the complaint. Based on that threat of criminal sanctions, there absolutely can be no future "reasonable opportunity" to raise any arguments as to Plaintiffs' federal claims in Florida state court; Judge Hanzman has unconstitutionally threatened Plaintiffs with criminal sanctions for any future Rule l.540(b) motion, for anyfuture objections to a certificate of sale under§ 45.031(3) and (4), Fla. Stat., .and for any future response in opposition to a later petition for writ of possession. **Exhibit C 1 (E)**

VI. THE ANSWER BRIEF AND APPELLEE'S APPENDIX ARE DEHORS THE RECORD, STRAY OUTSIDE THE FOUR CORNERS OF THE COMPLAINT, AND DO NOT DISPUTE THE COMPLAINT'S ALLEGATIONS

63. Appellee's Answer Brief and Appendix violate several basic rules. First of all, the Brief and Appendix impermissibly refer to matters entirely *dehors* the lower-court record. *Sanzone v. Hartford Life Acc. Ins. Co.,* 519 F. Supp. 2d 1250, 1252 (S.D. Fla. 2007) (review is limited to matters within the record); *Waley v. Johnston,* 316 U.S. 101 (1941) *(dehors* the record items may not be considered on appeal).The Brief often purports to summarize records without any citation to the record but occasionally does include multiple curious citations to "R: _," even though there are no paginated pages include in the record. Indeed, the Brief makes only a single reference, at p. 11, to Appellants' Appendix ("Exhibit C"). Secondly, in that same regard, the Answer Brief and its Appendix also impermissibly stray outside the allegations of the "four corners" of the complaint on this appeal from an order of dismissal of the complaint. *St. George v. Pinellas County,* 285 F.3d 1334, 1337 (11th Cir. 2002) ["'The scope of the review must be limited to the four corners of the complaint. *Grossman v. Nationsbank, N.A.,* 225 F.3d 1228, 1231 (11th Cir. 2000)"']; *Scelta v. Delicatessen Support Services, Inc.,* 57 F. Supp. 2d 1327, 1335 (M.D. Fla. 1999) held:

> "In deciding a motion to dismiss, the court can only examine ***the four corners of the complaint.*** See *Rickman v. Precisionaire, Inc.,902* F. Supp. 232, 233 (M.D.Fla. 1995). 'The threshold sufficiency that a complaint must meet to survive a motion to dismiss is exceedingly low.' *Ancata v. Prison Health Serv., Inc., 769* F.2d 700, 703 (11th Cir. 1985) (citation omitted)." (Italics added)

64. Indeed, at p. 13 of the Initial Brief, Appellant had already pointed out that review is limited to the "four comers of the complaint." The Answer Brief entirely failed to address that point but nevertheless included a Statement of the Case and an Appendix that were outside those "four corners."

VII. THE ANSWER BRIEF'S ARGUMENTS ARE MISDIRECTED AWAY FROM APPELLANT'S ARGUMENTS AND THEIR SUPPORTING CITATIONS AND THEREFORE NO REPLY IS DUE

65. The Answer Briefs Arguments are constructed, based on those sets of events dehors the record - *dehors* the "four corners," the allegations of the complaint and Appellants' accompanying Appendix. There is no reason to respond to those bogus Arguments. Those Arguments are not keyed into the Arguments set out in the Initial Brief. By not responding, those Arguments must be deemed as accepted.

67. Appellee does not focus on the legal consequences of the alleged lack of notice, the resulting lack of state-court jurisdiction, and the resulting inapplicability of the *Rooker-Feldman Doctrine*, analyzed in Appellants' Argument I or to its cited precedents.

> In like manner, Appellee did not respond to Appellants' Argument II, that the Rooker-Feldman doctrine does not apply to Rule l .540(b) motion proceedings or where Anabella allegedly had no reasonable opportunity to raise her federal claims or to its cited precedents.
>
> **In regard to Appellants' Argument III, concerning the Court's reliance on Judge Scola's remarks, nowhere in the Answer Brief is there any mention made of those remarks.**

68. Already noted is the absence of any Answer Brief response to Appellants'

Argument IV, concerning the inapplicability of the *Rooker-Feldman Doctrine* to Rule l .540(b) motion proceedings and to Appellants' cited case precedents.

69. The Answer Brief does in fact not respond to any of Appellants' citations. Appellee's Table of Citations list only one of those citations, *Casale v. Tillman,* 558 F.3d 1258, 1260(11th Cir. 2009), and mistakenly lists it at pages "18" and "19" of the Answer Brief, but those pages have no such citation nor do any of the other pages of the Brief have any such citation.

(3) THE ELEVENTH CIRCUIT COURT OF APPEALS ORDERS CREATES EXCEPTIONAL CIRCUMSTANCES IN WARRANTING WRIT OF MANDAMUS AND WRIT OF PROHIBITION

The Panel has failed to address serious Constitutional Rights Violations under the 14th Amendment and the denial of "due process" where the State of Florida has deprived Robert Sarhan and Anabella Soury their **liberty** and their **property,** without due process of law and they were denied **equal protection of the laws.**

The Panel and the lower court incorrectly determined it did not have jurisdiction of this action due to the *Rooker-Feldman Doctrine*. The Judgment, Amended Judgment, and Appeal were all prosecuted without any notice to Anabella or her attorney, Robert L. Moore, thereby depriving the state court of Jurisdiction over her person and rendering the *Rooker-Feldman Doctrine* Inapplicable.

The Panels opinion consists of matters *dehors* the record and outside the "four corners" of the complaint, where the Appellee's attorney submitted a 166-page Appendix that was dehors the record and his Answer Brief was outside of the "four corners" of the complaint. The Fifth and Eleventh Circuits and the U.S. Supreme

Court rejected this practice and held that **"it is inappropriate to base an appellate opinion on assertions dehors the record."**

The Eleventh Circuit improperly placed it imposition of sanctions on its excursion outside the record. All 166-page of the Appellee's Appendix are *dehors* the record.

CONCLUSION

Wherefore, we pray that this U.S. Supreme Court will issue the Writ if Mandamus and Prohibition mandating the orders of the Eleventh Circuit and require them to stay within the boundaries of the record and not to stray out of the "four corners" of the complaint and require application of federal jurisdiction to the district court proceeding and vacate the *dehors* the record imposition of sanctions.

Respectfully Submitted,

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CERTIFICATE OF COMPLIANCE

I, Arthur J. Morburger, Appellate Counsel for Robert Sarhan and Anabella Soury hereby certify that, according to the word-count tool in Microsoft Word, the Writ of Mandamus and Prohibition consists of 8961 words, including footnotes and excluding the sections enumerated by Rule 33. l(d). The Brief therefore complies with Rule 33. l(g).

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing US Supreme Court Brief and Appendix has been emailed to Raul Gastesi, Jr. at rgastesi@gastesi.com on this 27 Day of April 2020.

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