

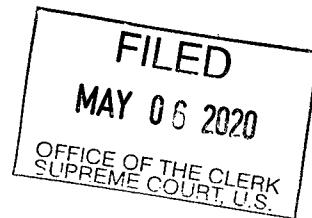
19-1320 ORIGINAL
IN THE SUPREME COURT OF THE UNITED STATES

No. _____

Veronica M. Johnson
Petitioner (Plaintiff-Appellant below), *Pro se*

v.

Rock Solid Janitorial, Inc.
Defendant, Appellee, jointly and severally
and
Selective Insurance Group, Inc.
Defendant, Appellee, jointly and severally
and
Selective Insurance Company of America
Defendant, Appellee jointly and severally
and
Selective Way Insurance Company
Defendant, Appellee, jointly and severally



*ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF VIRGINIA*

PETITION FOR A WRIT OF CERTIORARI

Veronica M. Johnson,
Petitioner, *Pro se*
166 Yorkshire Road
Portsmouth, Virginia 23701
(757) 465-0348

I. QUESTIONS PRESENTED

1. Whether the second Judge who presided in Plaintiff's civil case violated the Constitution by denying Plaintiff's demand for a jury trial, again, after the Supreme Court of Virginia had reversed and remanded the Motion to Dismiss granted by the first Judge?
2. Whether the second Judge in Plaintiff's civil case denied Plaintiff's jury trial for an impermissible, unconstitutional motive?
3. Whether the Court's failure to conduct a de novo proceeding of Plaintiff's appeal from General District Court to Circuit Court as required by statute violated the Constitution?

II. LIST OF PARTIES IN THIS CASE

Portsmouth Circuit Court Case No. CL16003713-01
Supreme Court of Virginia Record No. 190294

Veronica M. Johnson
Petitioner (Plaintiff-Appellant below), *Pro se*

v.

Rock Solid Janitorial, Inc.
Defendant, Appellee, jointly and severally
and
Selective Insurance Group, Inc.
Defendant, Appellee, jointly and severally
and
Selective Insurance Company of America
Defendant, Appellee jointly and severally
and
Selective Way Insurance Company
Defendant, Appellee, jointly and severally

III. RELATED CASES

1.

Supreme Court of Virginia **Record No. 171132,**

Portsmouth Circuit Court **Case No. CL16003713-00**

(This was the “*first appeal*” of this case),

Which was Defendants “first” Motion to Dismiss filed in this case

REVERSED AND REMANDED

Judgment entered February 28, 2018

Veronica M. Johnson

Petitioner (Plaintiff-Appellant below), *Pro se*

v.

Rock Solid Janitorial, Inc., et al

Defendant, Appellee, jointly and severally

2.

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 20-1285

Veronica M. Johnson v. Douglas Ottinger

2:18 – cv-00625-AWA-RJK

ACTIVE/PENDING

3.

Portsmouth Circuit Court

CL1700-2039-00

Veronica M. Johnson, Plaintiff, pro se

Plaintiff

v.

Rock Solid Janitorial, Inc.

Defendant

ACTIVE (Verified Personal Injury Complaint)

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V. INDEX OF APPENDICES

APPENDIX A. Decision of State Trial Court

Dated: December 31, 2018

APPENDIX B. Decision of State Supreme Court Denying Review

Dated: August 28, 2019

APPENDIX C. Decision of State Supreme Court Denying Rehearing

Dated: February 14, 2020

APPENDIX D. Decision of State Supreme Court, Record No 171132, Reversing and Remanding the State Court's "first" Dismissal Order in this case. This Petition for Certiorari is for the State Court's 'second' Dismissal Order in this case after the Supreme Court Reversed and remanded the first one.

Dated February 28, 2018

APPENDIX E.

Decision of the General District Court, entered December 6, 2016 at the close of the proceeding on December 6, 2016, Certified by the General District Court Clerk, which Certified Order was appealed by Plaintiff to the Portsmouth Circuit Court , December 6, 2016, and then Judge Ottinger went behind Petitioner's back and materially altered the Certified order he entered, with no notice or due process after Petitioner had appealed it, and then, Judge Ottinger entered "two additional supplemental rulings" in the form of case dispositions which contradicted each other and contradicted his Certified order stating in the case dispositions he was "notifying the Circuit Court..." all in violation of Petitioners constitutional rights.

APPENDIX F. State Trial Court Order Entered August 7, 2018
Court acknowledges de novo proceeding due process right

APPENDIX G. State Trial Court Order Entered October 9, 2018
Court acknowledges that there are genuine issues in dispute

APPENDIX H. Plaintiff's UNREFUTED, SWORN, AMENDED WARRANT IN DEBT, (with overwhelming evidentiary exhibits attached, that undisputedly demonstrate that Petitioner was entitled to the relief she sought Served: October 11, 2016

APPENDIX I. Defendants Response to Plaintiff's AMENDED WARRANT IN DEBT, November 2, 2016

APPENDIX J. Virginian Pilot Article, Fewer Cases Go To Juries, February 9, 2010

VI. TABLE OF AUTHORITIES

Cases:

The Court “may properly take judicial notice of matters of public record.”

Phillips v. Pitt. Cty. Mem. Hosp., 572 F. 3d 176, 180 (4th Cir.2009)

State statutes:

VA. CODE§ 8.01-129. Appeal from judgment of general district court.

A. An appeal shall lie from the judgment of a general district court, in any proceeding under this article, to the circuit court in the same manner and with like effect and upon like security as appeals taken under the provisions of § 16.1-106 et seq. except as specifically provided in this section. The appeal shall be taken within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et seq., the bond shall be posted and the writ tax paid within 10 days of the date of the judgment.

B. In any unlawful detainer case filed under § 8.01-126, if a judge grants the plaintiff a judgment for possession of the premises, upon request of the plaintiff, the judge shall further order that the writ of eviction issue immediately upon entry of judgment for possession. In such case, the clerk shall deliver the writ of eviction to the sheriff, who shall then, at least 72 hours prior to execution of such writ, serve notice of intent to execute the writ, including the date and time of eviction, as provided in § 8.01-470. In no case, however, shall the sheriff evict the defendant from the dwelling unit prior to the expiration of the defendant's 10-day appeal period. If the defendant perfects an appeal, the sheriff shall return the writ to the clerk who issued it.

When the appeal is taken by the defendant, he shall be required to give security also for all rent which has accrued and may accrue upon the premises, but for not more than one year's rent, and also for all damages that have accrued or may accrue from the unlawful use and occupation of the premises for a period not exceeding three months. **Trial by jury shall be had upon application of any party.**

VA CODE§ 16.1-106. Appeals from courts not of record in civil cases.

From any order entered or judgment rendered in a court not of record in a civil case in which the matter in controversy is of greater value than \$20, exclusive of interest, any attorney fees contracted for in the instrument, and costs, or when the case involves the constitutionality or validity of a statute of the Commonwealth, or of an ordinance or bylaw of a municipal corporation, or of the enforcement of rights and privileges conferred by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), or of a protective order pursuant to § 19.2-152.10, or of an action filed by a condominium unit owners' association or unit owner pursuant to § 55-79.80:2, or of an action filed by a property owners' association or lot owner pursuant to § 55-513, there shall be an appeal of right, if taken within 10 days after such order or judgment, to a court of record. Such appeal shall be to a court of record having jurisdiction within the territory of the court from which the appeal is taken and shall be heard de novo.

The court from which an appeal is sought may refuse to suspend the execution of a judgment that refuses, grants, modifies, or dissolves an injunction in a case brought pursuant to § 2.2-3713 of the Virginia Freedom of Information Act. A protective order issued pursuant to § 19.2-152.10, including a protective order required by § 18.2-60.4, shall remain in effect upon petition for or the pendency of an appeal or writ of error unless ordered suspended by the judge of a circuit court or so directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

Supreme Court of Virginia Rule 5:17 (i)

What the Certificate Must Contain. The appellant shall include within the petition for appeal a certificate stating: **(1)** the names of all appellants and appellees, the name, Virginia State Bar number, mailing address, telephone number (including any applicable extension), facsimile number (if any), and e-mail address (if any) of counsel for each party, and the mailing address, telephone number (including any applicable extension), facsimile number (if any), and e-mail address (if any) of any party not represented by counsel; **(2)** that a copy of the petition for appeal has been mailed or delivered on the date stated therein to all opposing counsel and all parties not represented by

Other:

ARTICLE

Fewer civil cases go to juries due in large part to cost, By Janie Bryant The Virginian-Pilot | Feb 09, 2010 | 12:00 AM

The Court “may properly take judicial notice of matters of public record.”

Phillips v. Pitt. Cty. Mem. Hosp., 572 F. 3d 176, 180 (4th Cir.2009)

OPINIONS BELOW

APPENDIX A. Decision of State Trial Court
Dated: December 31, 2018

APPENDIX B. Decision of State Supreme Court Denying Review
Dated: August 28, 2019

APPENDIX C. Decision of State Supreme Court Denying Rehearing
Dated: February 14, 2020

JURISDICTION

From the SUPREME COURT OF VIRGINIA

The date on which the highest state court decided my case was August 28, 2019

A copy of that decision appears at APPENDIX B

A timely petition for rehearing was thereafter denied on the following date:

February 14, 2020 and a copy of the Order denying rehearing appears at

APPENDIX C

The jurisdiction of this Court is invoked under 28 USC Section 1257 (a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Seventh Amendment

“In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law.”

Fourteenth Amendment:

“All 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.”

STATEMENT OF THE CASE

Preface

The record in this case, Supreme Court of Virginia Record No. 171132, (Reversed and Remanded) and Record No. 190294, together) contain clear and convincing evidence of fraud committed on the court by Defendant’s Counsel, and that the fraud perpetrated upon the Court by Defendant’s Counsel in its “*second*” untimely Motion to Dismiss filed in this case prevented the State Court and the Supreme Court of Virginia from reaching a fair decision, HOWEVER,, Petitioner had demanded a jury trial which was supposed to prevent this, BUT, Judge Padrick denied Petitioner a jury trial despite the fact that he admitted in his own Order of

October 9, 2018, APPENDIX G, that there were “genuine issues of fact in dispute.”

It was not until during and *after* the decision of the Supreme Court of Virginia denying Petitioner’s rehearing in this case that it came to the attention of this Petitioner that pervasive fraud had been committed by Defendant’s Counsel.

The Motion to Dismiss pleading that Defendant’s Counsel filed with the Circuit Court was not a true copy of what was falsely Certified as having been sent to this Petitioner.

Petitioners AMENDED WARRANT IN DEBT, filed October 11, 2016, (which contains “all” Petitioners evidentiary exhibits attached which prove Petitioner’s claim, APPENDIX H, was left out of the General District Court papers transmitted to the Circuit Court Clerk’s Office (CL16003713-00) and so was Defendant’s Response, filed November 2, 2016, left out by the General District Court Clerk’s Office.

Defendant’s counsels “second” Motion to Dismiss, subject of this Petition, filed November 13, 2018, is a “fraudulent packet” apparently presented to “clean up” what the General District Court Clerk left out of the file. Defendant’s counsel left out the Notary Statement and all the evidentiary exhibits and the Certificate of

service pages on Petitioners AMENDED WARRANT IN DEBT that she tendered as an exhibit in her “*second*” Motion to Dismiss to the Court.

Plaintiff filed a sworn, legally sufficiently documented UNREFUTED CLAIM that Defendants reneged on paying the remaining balance of a disclosed \$15,000.00 MED PAY Entitlement, (regardless of fault) after only paying the Emergency Room Bill of \$2,544.86 following a slip and fall accident that took place in the Portsmouth Circuit Court hallway as Plaintiff slipped on an unseen puddle of wax spilled on the floor by Defendant, Rock Solid Janitorial, Inc., propelling Plaintiff across the hallway floor like a human missile, crashing her head against the concrete floor causing head contusion and a concussion and knocking a filling out of a wisdom tooth, dislocating her jaw...and the injury list gets worse. See APPENDIX H. Defendant’s counsel filed a response to Petitioner’s AMENDED WARRANT IN DEBT 21 (twenty one) days after service.

The General District Court denied the relief sought in Petitioner’s AMENDED WARRANT IN DEBT and Plaintiff timely appealed to Circuit Court demanding a jury trial pursuant to the 7th Amendment and VA. CODE 8.01-129, alleging that Defendant committed Bad Faith Insurance Practice in contravention of 38.2-510 (13) of the Insurance Code of the Commonwealth of Virginia:

“Failing to promptly settle claims where liability has become reasonably clear, under one portion of the insurance policy coverage (MED PAY) in order to influence settlements under other portions of the insurance policy coverage;” (Personal injury damages claim for negligence). See UNREFUTED SWORN AFFIDAVIT, Record page 172-228, CL1600-3713-00.

Defendant’s Counsel filed a “frivolous” untimely Motion to Dismiss, claiming this Petitioner did not perfect her appeal from General District Court to Circuit Court. Upon appeal by Petitioner, the Supreme Court of Virginia REVERSED AND REMANDED. Record No 171132, See Appendix D.

After the case was remanded, the Judge who was reversed recused herself upon Motion of this Petitioner.

Rather than proceeding to a jury trial upon remand, in compliance with Petitioners Constitutional right, the “new” judge, Judge Padrick, dismissed Petitioner’s case, for a second time, after he conducted a “covert” bench trial which was *masqueraded* as a Motion to Dismiss hearing, granting a “*second*” untimely Motion to dismiss, this time, based on a legally baseless claim of lack of standing to sue when “all” argument in support of the Dismissal Order is rebutted by the law of the case in Supreme Court of Virginia, Record No. 171132 which was reversed and remanded. See APPENDIX A. Although Judge Padrick entered a “*second*” Dismissal Order in this case, his own Order entered October 9, 2018, APPENDIX

G, Record page 194-197, clearly states that “there are genuine issues of fact in dispute”

Also, Judge Padrick’s Dismissal Order, APPENDIX G, upon its face clearly shows that this matter was not a de novo proceeding as required by statute, VA. CODE 16.1-106, constituting violation of 14th Amendment due process.

The Appeal Notice from General District Court, which listed all four Defendants, was found proper by the Supreme Court of Virginia in Record No. 171132 and the Supreme Court of Virginia, specifically, took no issue with Petitioner refusing to refile her Notice of Appeal as Judge Ottinger had tried to force Petitioner to do and not list all four Defendants in the case as listed on the Certified Order he entered at the close of the proceeding on December 6, 2016, as required on the Appeal Notice.

The Notice of Appeal and the Certified Order Appealed listed who the party defendants are and Defendant’s counsel filed no *cross- appeal* to obtain standing to argue to the contrary if she chose to do so. The forgoing contradicts Judge Padrick’s “finding” as to who the Defendant’s are in this case stated in his Dismissal Order. APPENDIX A. See APPENDIX E, APPENDIX D, APPENDIX H, and APPENDIX I

Defendant's counsel committed fraud on the Court a "second" "time with the filing of it's "second" untimely Motion to Dismiss in this case. Record pages 198-251, CL16003713-01 , filed November 13, 2018. Defendant's counsel, Kelley C. Holland, submitted exhibits to the court to support a second Motion to Dismiss in this case which she knew to be false. Kelley C. Holland supported her Motion to Dismiss with Certified Orders entered by General district Court Judge on December 6, 2016, that had been altered. See APPENDIX K, and compare these Orders Certified by the General District Court at the close of the proceeding on December 6, 2016, to the Orders that Judge Ottinger altered behind this Petitioners back without due process, to favor defendant's counsel, Kelley C. Holland, after Petitioner had appealed the Certified Order, offered in support of Defendant's counsels "second" Motion to Dismiss, CL 16003713-01, Record pages 198-251.

Defendant's counsel, Kelley C. Holland, also submitted the Orders of Judge Aundria Delores Foster to support her "second" Motion to Dismiss, when Judge Foster was reversed by the Supreme Court of Virginia in Record No. 171132 and recused upon remand on Motion of this Petitioner, willfully misleading the Court.

The General District Court certified order appealed by Petitioner, had the General District Court certified seal removed from the Order as it appears in

Defendant's Counsel, Kelley C. Holland, Motion to Dismiss filed November 13, 2018, Record pages 198-251, as in APPENDIX K, and the General District Court Certification replaced by a certification made upon the face of the order by Portsmouth Circuit Court Deputy Clerk Yolanda Daughtry, CL 16003713-01, in violation of due process. **THIS IS A REALLY, REALLY SERIOUS MATTER.**

MOTIVE is what IS important here, because motive is what makes the STATE OF Petitioners case before this Court make sense. It's simple. In this case, when you are the third largest law firm in Virginia and a pro se senior citizen ex-school teacher argues before the Supreme Court of Virginia in person in front of 60 plus lawyers and has you reversed, stands to reason that you are out to see to it that it does not happen again, seemingly in this instance, "by any means necessary."

The MOTIVE here appears clear.

For the Record, that "Preamble chant", that Defendant's counsel has placed at the beginning of "all" her pleadings in this case and in the "Dismissal Order" entered December 31, 2018, APPENDIX A, which reads "...to the extent that plaintiff Veronica M. Johnson(Johnson or Plaintiff) improperly identified Selective Way Insurance Company as Selective Insurance Co. of America" is a strategic, redundant ploy to have it appear that this pro se Plaintiff does not know what she is doing. This "Preamble" was to further mislead the Court serving as a weapon of "mass distraction" not founded in fact, repeatedly inflicted to harass, intimidate,

humiliate, and frustrate a pro se senior citizen Plaintiff, BUT, the law of the case in Record No. 171132, pursuant to Supreme Court of Virginia Rule 5:17(i) as to who the Party Defendants are shatters Defendant's counsel's ongoing schenannigans.

“When you cannot win on the facts and you can’t win on the law...then confuse the issue”...was that Truman?

The Supreme Court of Virginia in Record No. 171132 had no problem with “WHO” the Defendants are in this case as procedural protocol required certification upon the Notice of Appeal from the General District Court, Certification by the Portsmouth Circuit Court Clerk, and Certification upon Appeal to the Supreme Court of Virginia in Record No. 171132. Defendant's counsel's strategy here is just another misleading procedural press in a game of

“ I can’t lose this “*second*” Motion to Dismiss.”

REASONS FOR GRANTING THE PETITION

The state Court's decision in this case has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower Court, as to call for an exercise of this Court's supervisory power.

Justice requires the exercise of this Court's oversight authority in this case for the protection of the public welfare because not reversing the state Court's decision here would have the effect of giving a free pass for "wholesale" public corruption.

The Defendants and their Counsel are clearly the beneficiaries of fraud on the Court in this case. To allow them to now profit from such fraud would only encourage similar fraudulent behavior in the future and would clearly be contrary to public policy, for, as Petitioner continues to suffer from her injuries...uncompensated... others will suffer from their injuries...uncompensated, as well... and the BIG and POWERFUL Insurance Companies and their counsel will keep getting BIGGER and more POWERFUL, by engaging in more fraud, at the expense of the public welfare.

Too, this SUPREME COURT OF THE UNITED STATES should grant this Petition for Certiorari BECAUSE, to allow the state court decision appealed from to stand sets a dangerous precedent for State Court's being able to falsely invoke the use of the term "ore tenus testimony" into a constitutionally, unjust Order as a "kryptonite shied" to have the Order appear "Appeal Proof," when the state Court's decision is unsupported by any evidence in the Record of any "ore tenus testimony" in that there was no trial in this case.

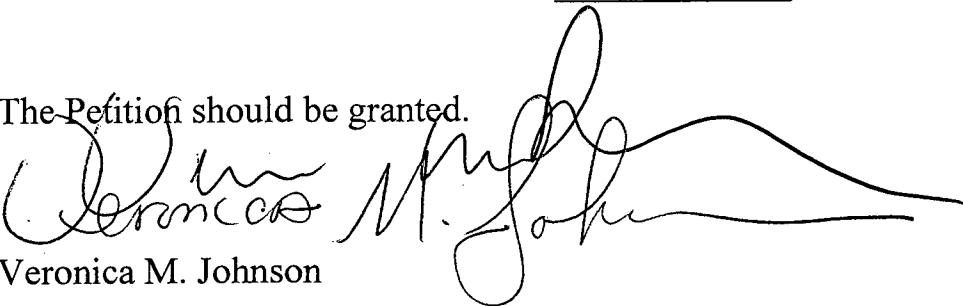
The Courts “findings” (when Petitioner demanded a jury trial), based upon alleged “ore tenus testimony” in a Motion to Dismiss hearing is plainly wrong and without any legal basis to support it when “ore tenus” refers to verbal or oral statements and the practice of a presumption of correctness the appeals court gives to the findings of fact reached by a “trial court” in a nonjury case. This was supposed to be a Motion to Dismiss hearing but it was really a bench trial, strategically procedurally concocted, to block Petitioner from the opportunity to systematically present her evidence on the Record in a transcript, piece by piece, in violation of defendant’s constitutional Rights.

This Virginia Pilot Article at APPENDIX K highlights the need for the Court to hear this case.

"Our position here is the right to trial by jury is kind of the bedrock of not only Virginia but the U.S. Constitution," said Jack Harris, director of the Virginia Trial Lawyers Association. "If it just basically becomes an anachronism, I think we've lost something."

CONCLUSION

The Petition should be granted.



Veronica M. Johnson

Date May 7 - 2020