ORIGINAL

No. 19-187

***** IN THE *****

SUPREME COURT OF THE UNITED STATES

In re: KALIM A.R. MUHAMMAD, et. al.,
*** Petitioners ***

V.

******* AT&T, INCORPORATED, et. al., *******
Respondents

****

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF ALABAMA

****

Al.Sup.Ct. Cs. #1180165; #1160299 – Al. Ct. App. #2160236, Dallas C.C.Ct.Cs. #CV-2016-00018/2016-00018.80 Fed. Dist. Ct. Al. # CA 16-0428 WS-C

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

QUESTION 1: Does it violate the Federal Arbitration Act or otherwise undermine "equal footing" and contract immunities when State Courts construe the Congressional policy to incorporate or accommodate inherent inequality to parties by allowing for the dispensing with arbitrability and contract construction so that it further allows for arbitrary state created discretionary rules that affords the 'bundling' of each and every claim and counterclaim that arises out of court process itself to also be part and parcel of the "all" the claims presumably fit for the arbitrational forum?

QUESTION 2: The litigation challenges jurisdiction by conditions precedent and Supreme Court precedents of *Marbury v. Madison,* 5 U.S. 137 (1803) to *Steel City Steel Co. v. Citizens for a Better Env't,* 523 U.S. 83 (1998); and on to invoking a similar anomaly of Article III jurisdiction, as alerted in *Osborn v. Haley,* 549 U.S. 225 (2007). In light of this Court's holding in *Elliot v. Piersol,* 26 U.S. 328, 340 (1828) and other Supreme Court jurisdictional precedents: Does the fact that the record plausibly holds that there is unproven grounds of all elements of the arbitrator's jurisdiction; and the court ordering arbitration nevertheless thereby sets the arbitrator up for civil charges in a separate cause of action for imposition and plausibly being a "trespasser" if his jurisdiction is not proved upon the record with sufficiency to standards and due process?

QUESTION 3: The litigation charges the Alabama

State Courts to be making per se rules of convention that clash with Supreme Court precedents and also federal and state court precedents. Mandamus was petitioned, seeing that such process appeared to be void on its face and would deny an appeal. Assuming the aforesaid is plausible the question is: Would the State actually further the alleged error unto violating the 14th Amendment and the Civil Rights Statutes *if* the Courts construe the FAA to afford discretion to deny inalienable liberties of equal benefit of arbitration agreements and inherent immunities of freedom from oppressive forces of such contract and court adjudications, when fraud is alleged to induce the arbitration and fraud is further alleged to maintain the status quo of parties before the Courts after rulings are made?

QUESTION 4: The litigation invokes the due process requirement of having a fair Judge under the Constitutional scrutiny of *Tumey v. Ohio,* 273 U.S. 510 (1927). The litigation also shows the Courts to perceive a view that the FAA inherently preempts any substantial due process inquiry and that the Federal law demands arbitration on any and all issues that may arise in whatever form or fashion. Underscoring *Tumey's* common law right to a fair Judge the question is: Does the FAA allows or otherwise requires the abridgement and/or a specialized reformulation of the Alabama or Federal Rules of Civil Procedure by a State or Federal Court, so that the Court may vary the due process, the procedural standards and further discount having the appearance of bias; thereby promoting a clash with or showing inherent

conflict with 28 U.S.C. § 2072 (b) and its Alabama counterpart in Al. Code § 12-2-7 (4)(2014)?

INTERESTED PARTIES TO THE PROCEEDINGS

The interested Parties are once again the Plaintiffs of official record. The Plaintiff Parties interested are enlarged for the grave implications to Citizens of other States· whom the Plaintiffs believe are unconstitutionally burden and abridged of rights, as asserted in the record. The Interested Parties are again the AT&T defendants et, al; but such has been enlarged to officially include Corporation Trust Company[CT], whom Judge McMillan made a party to the arbitration, which the Plaintiffs contend was but an unwarranted prejudice to all Plaintiffs and potential Class Plaintiffs in other States. The quasi court defendant in the Dallas County Circuit Court, the recused Judge Donald L. McMillan Jr. and the petitioned to be recused Judge Marvin W. Wiggins are interested parties to the outcome of finality. All parties to any arbitration agreement under the FAA may well be interested parties, as this Honorable Court may well pass on the herein issues to determine the extent of Congress' power to enact laws to order parties to agree on certain parameters of Constitutional matters that may arise or somehow relate to the arbitrational process, argued herein to be – unconstitutional.

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The Alabama Courts made rulings regarding unique questions concerning the Federal Arbitration Act [Doc. #8]. We hereby adopt the record up to the filing of cert petition #17-24; whereas it is uncontroverted that the Court denied Constitutional due process of an adequate hearing on issues encompassing the Plaintiffs' liberty and property rights. After *this* Court denied certiorari[#17-24], the Dallas County Circuit Court thereafter denied our filing of an Independent Action[Rule 60],which included *that* Court and its officers as quasi defendants. The rulings have produced very questionable applications of the supremacy doctrine. The Alabama Supreme Court denied review on December 20, 2018. The contention then, as now, is that the Plaintiffs of this State of Alabama, as well as all other States are detrimentally affected in our established rights and due process; for the clear inconsistencies with the FAA. There's a correlating assumption that such rulings cannot be enforced; for lacking Constitutional value of full faith and credit, and being void against supremacy. The State Supreme Court denied rehearing on January 31, 2019, upon petitioning for unconstitutionality and motioning for oral arguments.

STATEMENT OF JURISDICTION

The Court has jurisdiction under Art. III, §2, cls. 1-2; which ensures the integrity and uniformity of federal law. Jurisdiction is also under 28 U.S.C. 1257(a), where the Highest State Court may have given a conflicting opinion of federal law or the

Constitution. Jurisdiction is under 28 U.S.C. § 1651, the All Writs Act. Jurisdiction is assured for the 90 day limitation for review of judgments of State courts.

CONSTITUTIONAL PROVISIONS, STATUTES AND REGULATIONS AT ISSUE

We assert as in cert petition #17-24, the Constitution at Article III, the Separation of Powers and the Commerce Clause are of great moment in this Controversy. The Bill of Rights and the Reconstruction Amendments [13th and 14th] were prominent in the previous matter and are perhaps more invoked presently. The Supremacy Clause and specific commandments of the Alabama Constitution are also prominent from the complaint to the herein petition. The Federal Arbitration Act is prominent; as well as state court precedents on fair trials, dismissals, arbitration and void judgments.

Various precedents regarding federal jurisdiction – from *Marbury v. Madison,* 5 U.S. 137 (1803) to *Ex parte McCardle, 7 Wall. 506, 514 (1868)* to *Mansfield v. Swan,* 111 U.S. 379 (1884); from *McNutt v. General Motors Accept.Corp.*, 298 U.S. 179 (1936) and thereon are alerted in the process. The record invokes premises of all the above to underscore whether parties can *'contract out'* all federal jurisdiction or whether Article III is preclusive to the parties and exclusive unto Constitutional courts, for the protection of liberties. The Judicial Canons, the Civil Rights Statutes and the Alabama precedents on contract interpretation are at issue - for being denied to the Plaintiffs. The Alabama Rules of Civil Procedure – corollary to the

Federal Rules of Civil Procedure· are at issue for interplay, diversion and abandon. We invoke the mandamus and infer the entire record of proceedings at the Alabama Supreme Court for expediency, as if fully realleged.

STATEMENT OF THE CASE

The genesis of this present controversy arises from the fact that the recused Judge Donald L. McMillan, Jr.· of record· issued state court rulings on interstate commerce, under the FAA, which dispensed with the necessary and proper hearings on issues and created a prevalent atmosphere of bias· to the point of recusal and chaos· in carrying out the legislated intent of Congress in arbitrational disputes.

Recounting the cert petition[#17-24], the record notes the defendants later waived the right to file a brief at the cert petition stage. *This* Honorable Court thereafter denied the cert petition on October 2, 2017, the same day it took up oral arguments on *Lewis v. Epic Sys. Corp.*, 823 F.3d 1147 (7th Cir. 2016). Thereupon denial of certiorari, the Plaintiffs had no other outlet to challenge the breadth of the federal statute and the clear unconstitutional conditions arising out of certain practices of the AT&T defendants. Thus, our only resort was to file a Rule 60 and a copy of the certiorari petition in the State Court on November 13, 2017.

The case, being reassigned to Judge Marvin W. Wiggins· after Judge McMillan's recusal for bias disqualifications· shows the AT&T defendants making an untimely response on April 6, 2018, nearly five months after we perfected service. The

Court ordered a hearing on May 3, 2018; after the defendants filed a *"Response to Plaintiffs' Recent Motions and Briefs"*. The Plaintiffs proffered other filings, giving judicial notice of errors, but specifically pleading various attacks for the Motion's lack of service and for the untimely reply.

The Plaintiffs were unaware of the detriment and alleged vitriol. The true import of the defendants' actions couldn't be ascertained, for having not been served a copy of the papers; as required by Alabama law, due process and simple justice. The Court was made aware of these issues, but led us to believe the May hearing was simply a formality to be aware of the issues. We alerted the Court to the voidness of the entire process and that we could not properly defend ourselves, for knowing not what was in the Motion. The Court and AT&T knew what was filed was a Motion To Dismiss With Prejudice. The Court led us further to believe we were gathered to discuss the Rule 60 at the hearing. At the hearing, the Court finally gave us a chance to vent some of the reasons why the previous rulings were void, although the Court kept interrupting with unwarranted challenges. Voidness was necessitated under Rule 60 and the Plaintiffs expected the Court would first rule · in light of those issues.

The record verifies the hostility and the Court's interruptions; appearing to be on the defense with the AT&T parties and to defend the recused Judge McMillan in absentee. When jurisdiction was again challenged at the hearing, the record affirms CT and AT&T refused to put forth evidence to prove the arbitration court's jurisdiction and to plausibly show the previous matter was not void. The record

shows that the Court promised it would give the defendants a chance to address the lack of service; but the Court failed its promise. The Court thereon issued a ruling, summarily dismissing the case with prejudice- without notice- or holding to support the drastic course of events. Plaintiffs gave notice that AT&T's process appeared to be fraud upon the court for lack of service.

Concluding our Statement of the Case, the Plaintiffs assert that we are Citizens of this Great State of Alabama, but we're not afforded proper notice whether AT&T pled for the Motion under Rule 8, 12 or 56; or whether they implored Rules for sanctions- pursuant to Rule 11, 37, 41 or other premises. The Plaintiffs filed timely post judgment pleadings, pursuant to Rule 59 and Rule 60 - to which the Circuit Court also denied -without any holding or hearings. The Plaintiffs asserted void judgments on top of void judgments- which would deny any appeals, by operation of law. *Underwood v. State,* 439 So. 2d 125 (Ala.1983). The Plaintiffs timely advanced to the Alabama Supreme Court, but were denied- as aforesaid.

REASONS WHY CERTIORARI, EXTRAORDINARY WRIT, HABEAS CORPUS OR GVR MANDATE SHOULD BE GRANTED TO PLAINTIFFS

This controversy presents the age old struggle to determine whether the 'right of might'- or the *'might of right'* - prevails. Though on the surface the FAA is under scrutiny, the Constitution at Article III is exposed to danger in this litigation. The issues herein affect all States and their Citizens; seeing that Article III is the inheritance of

every Citizen to insure, liberty, justice, equality and our Republican form of government. Therefore, we may do more service by explaining why this cause should be granted in hope of subsequent applications of supporting evidence. We believe that the record itself, already bears witness to these most unique and perhaps 'dangerous' implications by the Courts and the Defendants. Such stands to reasoning for the danger to liberty. The very first sentence of Article III says: "*The judicial power of the United States ...*" It does not say *"the judicial power of the People, the Corporations, the Citizens and non Citizens".* Similarly stated, this Court held *"against the United States" means against the United States and no one else."* *Finley v. United States*, 490 U.S. 545 (1989). The liberties enshrined in our Constitution are deeply threatened by the explosive implications to what the Courts and the Defendants require of the FAA. The record shows that the Courts and the defendants view Article III to be bargained for and parceled out to various parties, but not all other parties on an equal basis; thus undermining even the 14th Amendment.

The Statement of the Case above may well suffice to show incongruence with the FAA and the unconstitutionality of the Alabama Court processes. If we look into the process of the Courts, and -- if all goes as the defendants allegedly planned, the State [or federal] Court would have to put a stamp of approval upon this process; if it is still kept *under the radar.* See 9 U.S.C. §13. If matters go unimpeded, the above impending scenario would mean that the State of Alabama would thereby become complicit in violating the clear demands of the 14th Amendment in doing so. *[See "make or enforce any law*

which shall abridge the privileges or immunities of citizens..."]. See also *Reitman v. Mulkey*, 387 U.S. 369 (1967), holding "... *wherein the State had taken affirmative action designed to make private discrim -inations legally possible... made the State "at least a partner in the instant act of discrimination . . ."*

If this mad grab for power and advantage further goes unchecked it simply *"encourages litigants to abuse the judicial process and bestirs the public to ridicule it."* *Johnson v. United States*, 520 U.S. 461 (1997). We note that there would also be a fraud at full faith and credit[Art. IV§1]. See also *Baker v. Gen. Motors Corp.*, 522 U. S. 222 (1998), holding *"the full faith and credit obligation is exacting."* We assert the Court should take this matter up and pass on it under the scrutiny of such being a "manifest injustice" upon the Citizens of these United States. *Arizona v. California*, 460 U.S. 605 (1983).

If indeed the defendants are approved of this monstrous scheme; such would also mean that the State of Alabama would further be complicit in denying each State and its Citizens their First Amendment rights by the cat's paw effect, by *indirection,* laissez-faire, and by clear indications of fraud. Such is clearly the case when the defendants may later argue res judicata and other bars, arising from our impending doom by the fraudulent *Motion to Dismiss W/Prejudice* ruling. See *Milliken v. Meyer*, 311 U. S. 457 (1940), holding *"the full faith and credit clause of the Constitution precludes any inquiry into the merits of the cause of action..."* See *Arizona v. California*, supra, discussing law of the case and also finality of judgments.

Why should this Court even bother? We believe the grave inconsistencies to federal law should bot-

her any Court, as this matter allegedly unveils a scheme that undermines ·all too many· Supreme Court precedents by the *extravagance* of the defend ·ants. We believe the corporations have taken a de·cisive and yet – a divisive, an unsavory· and yet again—a reckless and an unlawful route· to hedge their bets on litigation; not knowing or perhaps not even caring that the Constitution is wantonly being undermined by their arbitrary processes. Such is underscored in the cert petition of record –which pleads the arcane premise of Congress legislating religious doctrine by indirect means of ·"all juris·diction"· under the FAA. *"This would then give the federal statute the 'color' of defining, debating and satisfying the nature of religion."* [pg 28/#17-24]. The present state of affairs has only reinforced and fortified the previous 'entrenchment' practices of the defendants; by clear indications of state official collusion. The process is palpably unconstitutional· when we observe that this Court has said *"The foundation of jurisdiction is physical power."* McDonald v. Mabee, 243 U.S. 90 (1917).

ARGUMENTS IN FAVOR OF GRANTING

QUESTION 1: FAA Abuse·Creating "more equals"

The *Pandora's Box* is now open for challenges to constitutionality on ·oh too many· fronts. This is especially when litigants in other States issue chal·lenges to jurisdiction· that comes in tough quest·ions of just how expansive is the FAA. The juris·dictional questions also import the premise of state official action· in joint alliance· with the defend·ants. Tested by Justice Holmes' oft·repeated

formulation that *"a suit arises under the law that creates the action,"* American Well Works Co. v. Layne & Bowler Co., 241 U.S. 257 (1916); these questions herein cannot adequately be resolved in a private forum non conveniens. This is especially when private parties are without jurisdiction to "create the action"... "under the law" of the Constitution or the State Constitution. Private party arbitrators-adjudicators cannot also "equally" apply the 14th Amendment's equal protection "equally"; as classes and singular party Plaintiffs are unequally bound by the terms and conditions of the disputed agreement.

We believe the above rationale applies to Congress *allegedly* 'delegating' this same Article III and state corollary jurisdiction to corporate entities; under AT&T's privately contracted judicial forum. This is especially cumbersome in light of the holding that *"If Congress remains at liberty to give this court appellate jurisdiction where the Constitution has declared their jurisdiction shall be original, and original jurisdiction where the Constitution has declared it shall be appellate, the distribution of jurisdiction made in the Constitution, is form without substance."* Marbury v. Madison, 5 U.S. 137 (1803). This presents an equal protection quagmire- for *natural born Citizens* are forbidden into this realm; but the Courts *allegedly* provided AT&T lawful manners of doing this by indirection.

We don't believe the law provides for Courts to *bundle* each and every jurisdiction claim or *non-intrinsic claim* to automatically defer to arbitration, especially when there is no language in the contract for this and no pretrial arguments of arbitrability have been fairly taken in public. We again chal-

lenge jurisdiction *vel non* Congress has the *"physical power"* and could legislate directly or indirectly a protocol of religious questions, marriage and family issues, or even political questions unto final arguments; pursuant to a judgment under interstate commerce. The State Courts ruled **"all"** this and more are within Congress' power. The above *'McBee'* holding of *"physical power"* is complicated enough –in light of First Amendment freedoms; but when the defendants *clandestinely invoke* layers of state judicial immunity so that such is also inextricably mixed into the controversy, we assert this further disturbs Congressional intent of the FAA and makes the *"all" jurisdiction* into absurd results.

The matter, as it now stands, clearly involves the undertaking of deciphering 11th Amendment immunity standards that vie for preeminence against the mere statutory but awesome powers of the FAA. Such clearly presents a "more equal" premise and puts the litigant that is not so blessed with being *intertwined* with the State parties and their absolute immunity at a clear disadvantage. Such a premise destroys simple adhesive good faith bargaining and even collective bargaining is undermined when –as in this matter campaign contributions have been placed as a 'hedge' to create a *soft spot* in the heart of state judges. This is undisputed in the record against the recused Judge McMillan; creating process which vitiates against the First and Fourteenth Amendments, inherently creating inequality at contract and remedy.

The haphazard formulation and the apparent switcheroo applications in this controversy uniquely creates a "more equal" environment. Form con-

tracts already presents inequity at bargaining, but when the Court *stretches the playing field* by ad hoc rules and denials of process that is due, such favors the alleged "more equaled" parties who drafted the contractual language and are more advantaged to litigate than the *less resourceful* Plaintiffs. In *Will-Drill Resources v. Samson Resources Co*, 352 F.3d 211 (5th Cir. 2003), the Court noted that there's a two-step inquiry to determine whether parties should be compelled to arbitrate disputes. *"First, the court must determine whether the parties agreed to arbitrate the dispute. Once the court finds that the parties agreed to arbitrate, it must consider whether any federal statute or policy renders the claims nonarbitrable."* We believe the Alabama Courts also use this same rule, but allegedly for some unexplained reason – the courts failed to equally apply the FAA to the Plaintiffs. See *Ex parte Greenstreet, Inc.*, 806 So.2d 1203 (Ala. 2001). See *Wuest v. Wuest*, 53 Cal. App. 2d 339, 346, 127 P.2d 934, 937 (1942), holding that *"A departure by a court from those recognized and established requirements of law..."* will violate due process. See also *"[T]he standard of review of a trial court's ruling on a motion to compel arbitration* ***at the instance of either party*** *is a de novo determination of whether the trial judge erred on a factual or legal issue to the substantial prejudice of the party seeking review."* *Ex parte Roberson*, 749 So. 2d 441 (Ala.1999).

It is held in our Eleventh Circuit that *"Stability and predictability are essential factors in the proper operation of the rule of law."* *Bonner v. City of Prichard*, 661 F. 2d 1206 (11th Cir. 1981). *"Stability and predictability"* both are severely imperiled-

when the *'Bonner', 'Will-Drill', 'Greenstreet',* and the *'Roberson' holdings[supra]* are the measures for the defendants' Mot. TDW/Prejudice. See *McKenzie v. Killian*, 887 So. 2d 861(Ala. 2004) *"Killian,... having offered the report in support of his summary-judgment motion, he cannot now be heard to object to the report..."* We assert the defendants have *again* invited error and should be estopped for –a second time- at waiving the right to arbitration. This *second* time is brought about by the *plausible* fact that the powers and influence of the Courts are tremendously invoked for disposing collusive frauds and 'cover' to the defendants; which may further require another *reviewing* court to be invoked, having to make further determinations and give finality to these fraud, due process and equal protection violat-ions.See *Diaz v. United States*, 223 U.S.442 (1912), holding *"Neither in criminal nor in civil cases will the law allow a person to take advantage of his own wrong."* See *Dillon v. BMO Harris Bank, N.A.*, 1:13-CV-897 (M.D.N.C. Feb. 10, 2017). See also *Barr Labs., Inc. v. Abbott Labs.*, 867 F.2d 743 (2d Cir. 1989), holding sanctions should apply to AT&T *"...if ...filed ...for some other purpose"* [and] *"the court does not approve"* [and] *"the added purpose is ...in bad faith and ...so excessive as to eliminate a proper purpose."* See *Companion Life Ins. Co. v. Whitesell Mfg., Inc.*,670 So. 2d 897,(Ala. 1995) and see *Hutto v. Finney*, 437 U.S. 678 (1978).

The Courts in Alabama apparently held that because there is the presence of the FAA, there is *apparently no need* to go through all the rigors of Rules of Procedure; and thereby a Court also can dispense with rules of arbitrability. We believe this varying of due process is the kind *"... that results*

in a one-sided trial." Bonds v. District of Columbia, 93 F.3d 801 (D.C.Cir. 1996). We assert these rulings and or their implications are the same *kinsmen* alerted in Doctor's Associates, Inc., et al. v. Casarotto et ux. 517 U.S. 681 (1996), which this Court struck down as per se inventions against arbitration contracts. This is not exaggeration on the Plaintiffs' behalf, but an exaggeration of the extent of *presumed* boundaries of the FAA. The matter further shows incongruence by the fact that the Court appears to hold that challenges to the jurisdiction of the arbitrator and the presumed jurisdiction of the state courts are notwithstanding before the apparent *closed shop* of undertakings under the guise of the FAA. See Henry Schein, Inc. v. Archer & White Sales, Inc., 586 U.S. ___ (2019), holding *"...we are not at liberty to rewrite the statute passed by Congress and signed by the President."* We apply *'Schein'* to such 'respect' for not *rewriting* the Constitution and violating separation of powers. The *'Schein'* Court further held *"When the parties' contract delegates the arbitrability question to an arbitrator, the courts must respect the parties' decision as embodied in the contract."* This controversy shows violence to *'Schein'*; as the converse must be "when parties have left matters otherwise" the court must also *"respect the parties' decision as embodied in the contract."*

The Alabama Courts appear to hold a view clearly divergent to this Court's holding of a central precept of arbitration: that arbitration is *"a matter of consent, not coercion."* Volt v. Board of Trustees, 489 U.S. 468 (1989). The record shows the Courts to force parties and issues upon the Plaintiffs that

are pristinely clear we did not bargain for, or otherwise agree to the alleged terms. There are questionable applications of class action and whether parties have agreed to arbitrate. There are also outstanding questions whether there is actually any lawful agreement among the parties ordered to arbitrate. There are troublesome issues about the effects of AT&T abandoning the right to argue their briefs at *this* Supreme Court[See Rule 15.2 S. Ct.]. See waiver of rights in *Stauffer Chem. Co. v. Brunson,* 380 F.2d 174, 182 (5th Cir.1967). We agree with the *'Boshell' Court,* holding *"When an appellant fails to argue an issue in its brief, that issue is waived."* Boshell v. Keith, 418 So. 2d 89 (Ala.1982). Therefore, whatever the substance of antecedent filings AT&T offered in their *'stealth bomber'* persona of a Motion/TDW/Prejudice; such is barred by estoppels.

In light of AT&T's stoic acquiescence to the Court's discombobulating the language of §2.2(3), by ordering the Classes to arbitration, there is nevertheless- under *Stolt-Nielsen S.A. v. AnimalFeeds Int'l Corp.*, 559 U.S. 662 (2010)- a very doubtful *"contractual basis"* for an agreement to class arbitration. These principles are uniquely disturbed in this controversy. The Alabama Courts have also applied a unique and questionable regiment of jurisdictional law to the FAA that is inconsistent with various other State, Federal and Supreme Court precedents. See *V.L. v. E.L.*, 577 U.S. ___ (2016). The Plaintiffs challenge whether certain matters or procedures of the disputing parties are indeed *'articles of commerce'* and whether Congress could lawfully legislate upon matters disputed herein -

not exhaustive of religious disputes and Constitutional provisions.

The Courts are shown to have displaced the need for a *"careful balancing"* so as *"to encourage all trial participants to seek a fair and accurate trial the first time around against our insistence that obvious injustice be promptly redressed."* Johnson v. United States, supra. Such disharmony and 'out of balance' with the FAA and many Constitutional protections again was the genesis of the cert petition[#17-24 U.S.S.Ct.] of record; filed also with the Alabama Supreme Court. The Rules of Civil Procedure appear to have an awkward misapplication to the point of 'no application' in this litigation. But see Green Tree Fin.Corp.-Ala. v. Randolph, 531 U.S. 79 (2000).

The above highlights our pleadings in the cert petition that there must be boundaries set for the FAA and the resulting protocol of litigants; or there will be absurd results and even oppression of parties. See pages 4-5 of cert pet. #17-24 citing Allied – Bruce Terminix Cos. v. Dobson, 513 U.S. 265 (19-195). The Court should pass on these matters, creating a 'bright line - reasonable boundary' rule; for confusion is bound to arise if other jurisdictions are faced with these same *'capable of repetition'* issues concerning constitutional challenges. Southern Pac. Terminal Co. v. ICC, 219 U.S. 498 (1911).

QUESTION 2: Jurisdiction/ Condition Precedent

We challenge jurisdiction under a First Amendment scrutiny. Jurisdiction has been said that it is the *"power to declare the law."* Ex parte McCardle, supra. The record affords a view that there's scan-

ty pleadings of all the defendants. Rule 8 *"demands more than an unadorned...accusation".* Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009). The record clearly shows the courts failing an *element* of · to *"declare"* · the law openly to the public; so that the public may witness that the *Federal Law* is being fairly executed. Such scantiness uniquely applies to the application of case precedents that requires jurisdiction be pled with specificity on all elements of the defendants' claims. See ***V.L. v. E.L.***, supra,. This Court has held *"Liberty of circulating is as essential to [the right or freedom of speech] as liberty of publishing, indeed, without the circulation, the publication would be of little value."* Lovell v. City of Griffin, 303 U.S. 444 (1938). The record shows the court encumbering our rights to publish and to have adversarial debate "circulated" on these subject matters.

Art. III, §1 clearly states *"the judicial Power..., shall be vested in one supreme court, and in such inferior Courts as the Congress may ...ordain and establish."* Challenges were issued to the defendants and the arbitrational court, but none produced the evidence that they are the Supreme Court or that Congress enacted a law that made inferior courts of the arbitrator to adjudicate Constitutional matters under the FAA. The jurisdiction was also challenged under both the 5th and 14th Amendment Due Process, seeing that there is evidence that AT&T and their private arbitrator can grant or 'award' the ***"same damages and relief that a court can"*** by Section 2.1 of disputed agreement. This has been petitioned as illusory, a fraud in the inducement of the arbitration agreement; and – if practiced· an attack upon the Constitution. See

Counselman v. Hitchcock, 142 U.S. 547(1892), holding that *"It is quite clear that legislation cannot abridge a constitutional privilege, and that it cannot replace or supply one, at least unless it is so broad as to have the same extent in scope and effect...."* Such could mean the arbitrator allows **all** due process, jury demands and discovery *'that a court can'*. There's ambiguity and a fraud at publishing the arbitrator can do *the same* as courts when there's not the jurisdiction and lawful means to acquire the *same* Constitutional power; using it to obtain the *same* results.

We challenge the jurisdiction of Congress to legislate "all" the issues thus far petitioned by AT&T and 'rubber stamped' by the Courts. We find no lawful premise for religious disputes to be in AT&T's 'backyard' -which *'all the neighbors have said is full of satellites, antennas, cell phones, TV's and service trucks'*. It's illogical for Constitutional First Amendment and Article III controversies to be piled on top of the *'electronic gadgets'*. See the 'common sense' approach to determining arbitrability in *Pictet Overseas Inc. v. Helvetia Trust*, 17-122279 (11th Cir. 2018).

Another Court said *"It is impossible to believe that Congress intended this result..."* *Murdock v. Memphis*, 87 U.S. 590 (1874). If it is doubtful to believe that Congress intended the absurd results suggested of *'Murdock'*, then would it not also be reasonable to the Alabama Courts to perceive that Congress would not have intended the FAA to be a tool to imprison the States' Citizens just to get a bargain at interstate commerce? The imprisonment and clear debauchery is noticed by the courts stripping the Citizens of all too many *Constitutional*

rights to now relegate the Citizens to private servitude of corporate masters of the law and legerdemain. These and more are extreme protocols; inflicting 'badges of slavery' at the **"all"** jurisdiction junction which the courts recommend as the law.

We believe the Alabama Courts have violated the 14th Amendment simply by forcing the Plaintiffs to fight in abatement of the "all" comprehensive jurisdiction held by the Courts and the defendants. We assert a relief by habeas corpus under *Jones v. Cunningham*, 371 U.S. 236 (1963). We challenge jurisdiction even under the standard of "certain minimum contacts" and due process of *International Shoe Co. v. Washington*, 326 U.S. 310 (1945).

Due process and fairness under the 14th Amendment is the real invocation of *'International Shoe'*. Since the Alabama Court subjects the Plaintiffs to the *long arm* of the arbitrational forum on "all" grounds, then surely there is a due process if we are to debate on religious matters in this forum non conveniens. This excursion into the *long arm rule* clearly clashes with the view that *"state or local law creates a sufficient expectancy"* *Driggins v. City of Okla. City, Okla.*, 954 F.2d 1511, 1513 (10th Cir. 1992). There's an expectation of freedom in our Nation. This is most true; as whatever is the ruling in the alleged non-convenient forum, such is *"subject to very limited review by courts"* [§ 2.1 disputed online agreement]. Therefore, since religious matters are already a 'touchy' subject of jurisdiction in the public courts; the Plaintiffs and those of other States clearly are most likely to be oppressed of First Amendment freedoms. Such clearly invokes unconstitutional attacks upon remedy, property immunities, redress, freedom of

persuasion and a *return abridgment* of freedom to access the courts in further processes.

Though one may claim the unfair intermixing of subject matter jurisdiction and personal jurisdiction, there may actually be a 'false dichotomy' as alerted in *Ruhrgas Ag v. Marathon Oil Co.* 526 U.S. 574 (1999). The 'trespassing' alerted in *Elliot v. Piersol*, 26 U.S. 328 (1828) is just as invidious to due process and fairness from subject matter or personal jurisdiction in this "all" or nothing formulation of the Courts. *Baldwin v. Iowa State Traveling Men's Assn.*, 283 U.S. 522 (1931). The defendants, including Corporation Trust Company[CT], have not proved the Classes constantly did business by agreement or otherwise under the arbitration jurisdiction; and further - under terms to arbitrate **"all"** jurisdiction within their forum. Such must thereby be derived from a binding agreement of commerce that is peculiar to **all** the party defendants, including the quasi court ones which must unequivocally show that we **all** have agreed to arbitrate **all** the disputes at hand; including the disputes encompassing conditions precedent to arbitrational jurisdiction.

We assert a view that gives the appearance that Congress may have stepped into the ring of unconstitutionality - *if it is 'lawful'* - for the Alabama or other State Courts to hold that the FAA can embrace each and every facet of fact and law and throw the *blanket* of arbitration over **all** these Article III case and controversy matters; and yet arrive at the station of full faith and credit. Whether or not *This* Court may determine that Congress' power actually goes to such an extent, we assert the defendants have not adequately proved **"all"** these

"elements" of jurisdiction to overcome the strict scrutiny standards alerted in *McNutt v. General Mot. Accept.Corp.*, supra.

The premise of 'Congress' alleged unconstitutionality' is more accurately stated that the Alabama Courts have allegedly 'pushed' Congress off the edge into the realm of 'presumed unconstitutionality'. See *Allied-Bruce, supra;* [Congress *"took pains to utilize as much of its power as it could."].* We believe the jurisdictional *gauntlet* under the *McNutt* standard *[supra];* may well be too much a hurdle to *bundle* all this under such a premise as AT&T and the Alabama Courts have done thus far. *"Whether sufficient contacts exist so that the maintenance of a suit in Alabama does not offend reasonableness and fair play is to be determined on a case by case basis."* *Bryant v. Ceat S.p.A.*, 406 So. 2d 376 (Ala. 1981). The record clearly shows this has not been proven or *"determined"* by any court in Alabama. CT and AT&T thereby had the burden of alleging in their Motion to Dismiss *"sufficient facts to make out a prima facie case of jurisdiction"* of the arbitration court. *United Technologies Corp. v. Mazer*, 556 F. 3d 1260 (11th Cir. 2009). See *Ex parte McInnis*, 820 So. 2d 795 (Ala. 2001).

The FAA presents an inherent duty of due process and equal protection that is demanded of Congress. See Section 3 "upon being satisfied that the issue involved in such...is referable to arbitration..." The FAA supports the premise of conditions precedent. If a condition precedent has not been "satisfied", then the Court must forthwith enforce First Amendment trial process. See *Tittle v. Enron Corp.*, 463 F.3d 410 (5th Cir. 2006). We specifically note that Congress mentioned the word *"trial";* un-

derscoring the *"cardinal principle"* that a statute and a contract is to be construed "upon the whole", so that *"if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant."* TRW Inc. v. Andrews, 534 U.S. 19 (2001). The condition precedent is further pronounced by *"providing the applicant for the stay is not in default in proceeding with such arbitration." [Section 3].* The record holds that CT and AT&T have not properly proceeded to arbitration, as the law and the disputed contract demands. See conditions precedent in *Ex Parte Payne*, 741 So. 2d 398 (Ala. 1999).

The State Courts reopened *Pandora's* jurisdictional box by failing to properly distinguish between *"a precondition to filing a claim"* and *"a jurisdictional prerequisite to suit."* See Reed Elsevier, Inc. v. Muchnick, 559 U.S. 154 (2010) citing Zipes v. Trans World Airlines, Inc., 455 U. S. 385 (1982). See *EEOC v. Guar. Sav. & Loan Ass'n*, 369 F. Supp. 36-37 (D.Ala. 1973). Under Alabama law, *"a party can question the whole existence of a contract by alleging the failure of a condition precedent."* Duncan v. Auto-Owners Ins. Co., 592 So. 2d 568, (Ala. 1992). See also Thompson v. Lithia Chrysler Jeep Dodge, 175, 185 P.3d 332(MT 2008)[conditions precedent not met]. *"Timeliness is a matter of substance not merely one of form."* United States v. Gilboy, 162 F. Supp. 384 (M.D. Penn. 1958). See Eady v. Bill Heard Chevrolet Co., 274 F. Supp. 2d 1284 (M.D. Ala. 2003). The Supreme Court has held *"Arbitration is a matter of contract, and the FAA requires courts to honor parties' expectations."* AT&T Mobility v. Concepcion, 563 U.S. 333 (2011). The Courts below and AT&T are virtually rewriting arbitrary laws into the disputed contract by super-

imposing ad hoc rules of procedure and language or simply striking up fancy and ignoring the fair expectations. See challenge of jurisdiction under condition precedent in record of *Rehearing Application[pages 5-8-Alabama Supreme Court].*

QUESTION 3: Mandamus right for denial of equal protection under the 14th Amendment and equal benefit under the Civil Rights Statutes?

Alabama courts have held that *"A petition for the writ of mandamus is the proper procedure to challenge a trial court's order granting a motion to compel arbitration."* See *Ex parte Alexander*, 558 So. 2d 364 (Ala.1990). The issue of the mandamus was before the trial Judge at the May 3, 2018 hearing. The Rule 60 brought up the same issues and relief that would have been possible had the Alabama Supreme Court passed upon them. A writ of mandamus is an extraordinary remedy, requiring the showing of four elements. See *Ex parte Conference America, Inc.*, 713 So. 2d 953, 955 (Ala. 1998). Precedent called for the Alabama Supreme Court to issue the writ of mandamus when *"the trial court clearly exceeded its discretion."* *Ex parte Ocwen Fed. Bank, FSB*, 872 So. 2d 810 (Ala. 2003). Plaintiffs were vested with all four elements. Mandamus is appropriate when a party has been compelled to arbitrate a claim it did not agree to arbitrate. See *Ex parte McKinney*, 515 So. 2d 693 (Ala.1987). See also AL Code §12-2-7(2014)(3). The State Courts again failed to do simple justice and equally apply the rule of law on these issues of interstate commerce and unconstitutionality. In Alabama *"[a] defendant has the right to have the*

proper venue established before it has any obligation to move to compel arbitration." Thompson v. Skipper Real Estate Co., 729 So. 2d 287 (Ala. 1999). We assert a failure *"to follow procedures deemed desirable from the viewpoint of sound judicial practice."* Cupp v. Naughten, 414 U.S. 141 (1973).

There is an intrinsic equal protection problem when the record clearly shows the Courts never having put down a single jot of support for any rulings; including the drastic measures of favoring AT&T's Motion to Dismiss. See *Sutton Place Dev. Co. v. Abacus Mortgage Inv. Co.*, 826 F.2d 637 (7th Cir. 1987), holding that AT&T, the Court and CT *"bears a heavy burden of showing that departure from the plain language is justified"* when they *"contend that a court should disregard the express language of a carefully –drawn rule of procedure..."* This process not only compromises First Amendment redress and common law remedy, but such hides corruption; as *"some of the most atrocious frauds are committed in that way."* Graffam v. Burgess, 117 U.S. 180 (1886). The right of equal protection and due process for adequate counsel privileges are undermined by the denials galore. This specter is akin to the Court's jurisprudence in which prior restraints and other impermissible abridgements of speech and petition were noticed. See Near v. Minnesota, 283 U.S. 697(1931). Clearly, there is the failure to follow *"binding judicial or administrative construction, or well-established practice."* City of Lakewood v. Plain Dealer Publishing Co., 486 U.S. 750, (1988).

The Rehearing at the Supreme Court cited Smith v. Wilcox County B.O.E. 365 So.2d 659, 661 (Ala. 19

78); *page 15/ filed 1/2/2019.* The standard for a Dismissal with prejudice is a "drastic" one; such that the defendants could not have surmounted by the facts of this case. The defendants therefore took a most heinous route to use the 'cover' of the court to deny the Plaintiffs substantial rights and due process by not serving the Plaintiffs. Such actions of the Court and the defendants virtually says there is no need for the Rules-that is, if one is so *fortunate* as to have the *'color the law'* and the *"cover of the law"* on your side.

This present matter has the underpinnings of a Rule 60 in the State courts. Though the Judge should not be a stoic robot when a Rule 60 is under scrutiny, the law affords a view that he has no discretion and must follow the law. Under this scrutiny, similar to summary judgment we assert the Courts have erroneously violated the Plaintiffs by overlooking the preemptive import of void judgments and have given more consideration, *weight and credibility* to the belated Motion of the Defendants. This structural damage imposes a continuous danger and extrudes exacerbating abridgments to the Plaintiffs' substantial rights and liberty interests. Clearly, if the matter was indeed void, there's not any lawful reason why the Plaintiffs must even rise to the occasion to address the defendants Motion/T/D/W/Prejudice. See *Loyd v. Director, Dept. of Public Safety*, 480 So. 2d 577 (1985), holding that a void judgment is "***from its inception,*** *is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree."*

In truth, the Rules of Civil procedure are nowhere to be found, especially where the Court construes the FAA to shortchange the Citizen Plaintiffs on process of serving papers that are allegedly pursuant to a grant of rights and judgment of liabilities under the FAA. Likewise *"we are left with a definite and firm conviction that a mistake has been committed."* Eng'g Contractors Ass'n v. Metropolitan Dade Co., 122 F.3d 895 (11th Cir.1997).

A mistake has indeed been made, especially regarding the fact the Court even accepted AT&T's Motion. At best all AT&T could ask the court for is to stay the proceedings; especially during the Rule 60b(4) process. See Huntley v. Regions Bank, 807 So. 2d 512 (2001). Alabama law required of the defendants that *"...when a party makes a representation, he is under a duty to make a* ***full and fair disclosure.***" Sperau v. Ford Motor Co., 674 So. 2d 24 (Ala. 1995). We don't believe the Federal or the State Rules of Civil Procedure allows for an unserved Motion and sheer reliance on void orders to be enough to survive summary judgment under the FAA standard or any other standard. *See* Allied-Bruce Terminix Companies v. Dobson, 684 So. 2d 102 (Ala.1995). These are the *'Anderson v. Liberty Lobby'* material disputes of record the Courts have overlooked or simply turned a blind eye for AT&T.

The record clearly shows the Alabama Courts treating the FAA contracts –at least in this matter- with a greater degree of immunity from various strictures of lawfulness, arbitrability, and jurisdictional scrutiny. This violates the "equal footing" in the FAA, which is underscored by *"save upon such grounds as exist at law or in equity for the revocation of any contract." [§2].* The herein

question and argument inherently demands an inquiry pursuant to strict scrutiny and perhaps a bright line rule for the courts. We have found no case citing that State contracts are given this virtual absolute immunity from public debate, jury determination of material issues, conditions precedent analysis and challenges to unconstitutionality of process. Our argument is that the Courts have failed to be fair and impartial to each and every argument on the contract and the applicable federal and state law. It is then clear that the 14th Amendment and Civil Rights Statutes are violated; for the record assures that the Alabama Courts did not observe "equal footing", nor equal access, equal benefit, nor even equal protection of contract.

The record is invoked, as there is joint official and private forcing to arrest the inalienable liberties of the Plaintiffs and place us in a fortress of questionable socio-religious/economic indoctrination; simply on the basis of an alleged contract for cell phones, satellite and internet services. Equal protection and due process under the 14th Amendment are clearly violated; for no other Court in any other State has arrived at such a conclusion, and an obdurant manner against revising or retracting such manifest injustices to law and fact. At the State Supreme Court, we cited *Western Union Telegraph Co. v. Kansas*, 216 U.S. 1 (1910), which held certain laws of States were contrary to the 14th Amendment if they abridged the rights of corporations. We assert there is reverse discrimination, as discussed in *Regents of the University of California v. Bakke*, 438 U.S. 265(1978). Our matter herein – challenges the States and the corporations on these same equal protection grounds for abusing the

FAA- to place the Plaintiffs and other States' Citizens in a similar equal protection quagmire. See also *Ricci v. DeStefano*, 557 U.S. 557 (2009).

The cert petition of record[#17-24] highlighted that *this* Court may well have to intervene for the fact that unchecked liberties of speech and petition under *Citizens United v. F.E.C.*, 558 U.S. 310 (2010) have very well clashed with the holdings in *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868 (2009). The unequal position relegated to the Plaintiffs, as compared to the Defendants- clearly shows the injection of subornation into the process; causing more than a *mere tendency* to violate the Alabama Constitution, as well as the 13th Amendment rights, privileges and immunities-by certain unscrupulous campaign financing protocols.

QUESTION 4: Common law immunities of *Tumey v. Ohio's*, right to halt trial. [273 U.S. 510 (1927)]; Violating 28 U.S.C. §2072(b) and § 12-2-7 (4)(2014)

The record clearly shows the Judges to have the appearance of aiding and abetting the AT&T defendants. The Alabama Courts-like many others-have held it is *"neither our duty nor [our] function to perform for the pro se or any counsel at litigation."* See *McLemore v. Fleming*, 604 So. 2d 353 (Ala.1992). See also *Ex parte First Alabama Bank*, 883 So.2d 1236 (Ala.2003) for waivers and forfeitures. Judge Wiggins' Court shows *Tumey's* common law immunities trammeled; with per se bias- as the Court goes into no less than an *attack mode* to insure the success of the CT, AT&T and quasi court defendants. See *In re Murchison*, 349

U.S. 133 (1955)*["justice must satisfy the appearance of justice."].*

It's a certainty Judge Wiggins knew the nomination of AT&T's Motion was really a *Motion/To/Dismiss/W/Prejudice* in spite of the *'cover';* but chose not to adequately inform the Plaintiffs, even at the May 3, 2018 sham hearing. A manifest injustice is had when the Court, the quasi court defendants and the complaint defendants abuse the Rules of Civil procedure to abridge the Plaintiffs' substantial rights. This *doubling up* on the Plaintiffs violates the *"fundamental fairness in the state-court proceedings."* Rose v. Lundy, 455 U.S. 509 (1982). We also question *"is there any principle which is more familiar or more firmly embedded in the history of Anglo-American law than the basic doctrine that the courts will not permit themselves to be used as instruments of inequity and injustice?"* Lloyd v. Service Corp. of Alabama, 453 So. 2d 735 (Ala. 1984).

We assert under these circumstances the Plaintiffs were well of right to *halt the trial* of arbitration by protest of the fair trial immunities and the Alabama Constitution[§§11,13,25]. To this day we must halt all arbitration process until jurisdiction is proven and we get a fair and impartial Judge which is a mandamus right. The court ruled that all these matters must be arbitrated under AT&T's private jurisdiction. We assert, under *'Tumey'* and the 1st, 4th, 7th and 14th Amendments that we should not be forced by the State of Alabama into these unconstitutional conditions. The courts and the quasi court defendants cannot be lawfully *'encompassed or constrained',* as they are further *protected* against the "equal footing" and the fair

and equitable demands of equal protection by the *garb* of judicial immunity. Such a premise raises the stakes to afford a *"more equal footing"*. This process requires any litigant to not only go through the gauntlet of a trial of arbitrability on an *'unequal plane'*, but also face an uphill battle against absolute immunity and the 11th Amendment. The Supreme Court held in *United States v. Olano*, 507 U.S. 725 (1993), that for error to be prejudicial, *"it must have affected the outcome of the ...Court proceedings."* These state conventions paralyze the FAA undertakings from the getgo- with *structural undermining* that irreparably damage the fair trial undertakings.

The Courts treated our FAA contract- with a far greater degree of immunity from every stricture of defense than its own State contracts. There's a com -plete lack of clarity; for the rulings are all facially of inadequate notice or in the substance of their determinations. Any party who is not provided opportunities to be heard shouldn't be bound by results of the proceeding. *Peralta v. Heights Medical Cen.*, 485 U.S. 80 (1988). The record has absolutely not even a word- showing the FAA has been followed- by any of Alabama's Courts. This *'singled out'* treatment clearly supports our claims and cumulative evidence of fraud, collusion, bribing the officials and the fact AT&T knew they had no chance of winning the arguments and claims of the complaint. See *Esmail v. Macrane*, 53 F.3d 176 (7th Cir. 1995). Thus, AT&T decided to forego the lawful route; then take the easy- but unlawful highway of joint alliance- to an undeserved win. The process undermines the proposition of *"main – taining public faith in the judiciary as a source of*

impersonal and reasoned judgments." Moragne v. States Marine Lines, Inc., 398 U.S. 375(1970).

The plethora of bias grows, as the record shows Judge Wiggins demanded us to show case law, allegedly to belittle and embarrass us before the court audience. The Court never once required or challenged AT&T and CT- before the same audience- to produce a single proof of citation to back up their claims[pg 38 lines 4-25/ trnscpt]. The Court and Judge McMillan were quasi adversaries- which invokes the holding that *"[i]n the realm of private speech or expression, government regulation may not favor one speaker over another."* Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995). The Court of Judge Wiggins failed the test of a showing that the regulation *"is necessary to serve a compelling state interest and is narrowly drawn to achieve that end."* R.A.V. v. St. Paul, 505 U.S. 377 (1992). See *In re Primus*, 436 U.S. 412 (1978). Since the 'government's speech was limited–by law- of the court's own process *([Rule 60(b)(4)]/ Lakewood, supra]);* we assert a unique kind of abridgement- when Judge Wiggins shuts down the stage and uses *'discretion'* to turn the tide in favor of the defendants and quasi court defendants. See *Ark. Educ. Television Comm'n v. Forbes*, 523 U.S. 666(1998), holding that the government creates a speech forum when it makes access to government property available to a "certain class of speakers".

The equal protection problem is exacerbated when the record clearly shows the Courts never supporting the drastic measures taken against our First Amendment access in the Dismissal. *"It is too late in the day, and entirely contrary to the spirit of*

the Federal Rules of Civil Procedure, for decisions on the merits to be avoided on the basis of such mere technicalities." Foman v. Davis, 371 U.S. 178 (1962). This not only compromises First Amendment redress, speech and publication; but the right of associative counsel privileges and adequate vindications are inexplicably undermined; causing great hardship to adequately develop the record for appellate review. See *Near v. Minnesota*, supra;. Again, there is both a state supported effort and private forcing to arrest the inalienable liberties of the Plaintiffs and place us in a fortress of questionable socio-religious/economic indoctrination, simply on the basis of an alleged contract for cell phones. See state religious entanglement in *Wallace v. Jaffree*, 472 U.S. 38 (1985). Violations of equal protection and due process are clear; for the reverse discrimination arising out of *Western Union Telegraph Co.*, supra, which held certain laws of States were contrary to the 14th Amendment if they abridged the rights of the corporations [AT&T/CT]. Even the disputed contract shows that the Courts have been hostile to the FAA and to the Plaintiffs contractual rights, under *Schein*, supra. Such is derived from the demand that the arbitrator *"shall issue a reasoned written decision sufficient to explain the essential findings and conclusions..." [§2.2(3)].* The *"same as the court"[§2.1]* language is violated; as the courts' "denials" clearly fail *"to explain the essential findings and conclusions";* being contrary to due process of the disputed agreement and thus violating equal protection.

CONCLUSION

In this FAA controversy, there's conflicting Rules of Civil Procedure and due processes, which underscores the diverging and conflicting treatment of the issues under Judge McMillan; as compared to Judge Wiggins' rulings. Judge Wiggins ordered all parties dismissed with prejudice, presumably to be out of the court forever. The dismissal with prejudice doesn't alert to enforce the national policy favoring arbitration. *Southland Corp. v. Keating*, 465 U.S. 1 (1984). As the Court in *Mohammed v. Calla-way*, 698 F.2d 395 (10th Cir.1983) observed, these are indeed some *"disturbing procedural irregularities"*. In fact, there has been no effort to encourage arbitration, even though AT&T cited the parties are now to arbitrate for Judge McMillan's order. *"And it's now upon the plaintiffs to submit their claims to arbitration."* [May 3 transcript, pg 35 lines 23-25].

The Courts have used a most unlawful duress, as there is the evidence of unconstitutional entrapment to force the lead Plaintiffs into a kind of proxy judicial extortion - which would allow for private party evisceration of the rights, privileges and immunities of the Classes; simply by going into the arbitrational forum without proper jurisdiction. This scheme of the defendant[s] amount[s] to unconstitutional conditions and State abridgments that to compromise the legal rights of class members, without their consent. *"Such a compromise is a violation of due process."* *Mandujano v. Basic Vegetable Prod.*, 541 F.2d 832 (9th Cir.1976).

We believe we have now arrived at the apprehension alerted in *Allied Bruce, supra.*, which held that Congress went as far as it could to insure the law of the FAA would hold up to Constitutional

scrutiny. The Courts of Alabama and the defendants have burst the barrier that Congress "took pains" to build and insure against the Citizens being discriminated against by these most unconstitutional conditions brought on by the defendants' abuse and unrecanted applications of the FAA.

The AT&T and the CT defendants have not denied the putative fact of campaign contributions injuring our fair trial, and neither have they denied they have suborned the process with bribes. This causes the 11th Amendment immunity to clash with the First Amendment rights[*Citizens United supra,;]*. This suborning is evident, as the Court grants the defendants Article III powers to judge even this Constitutional issue and those of the complaint. Under this *bypass framework,* the Supreme Court is now bereft of ***original*** jurisdiction and must in the aftermath take the place that AT&T has *legislated* by diversion to *finally* decide this unconstitutional shuffling of executive, legislative and judicial malarkey. There are no clauses or terms *agreed upon* for such a construction; as the disputed online document never uses the words "Constitution", "Article III", or "Supreme Court".

The Courts simply failed to follow any law; denying the Plaintiffs "equal opportunity to arbitrate", even if there were any arbitrable issues. The Court never explains the appearance to outright reject stare decisis and creates this air of confusion and chaos against Congress' National Policy to favor arbitration. We accept the reasoning that *"Federalism"... "represents a system in which there is sensitivity to the legitimate interests of both State and National Governments."* Younger v. Harris, 401 U.S. 37 (1971). What we can't accept is a view of

'Federalism' ***created*** by AT&T- where courts are unlawfully influenced to a most unconstitutional view that Congress has legislated all claims, every life issue, concept, controversy, crime, punishment or remedy; encompassing ***every jurisdictional power of state and federal law;*** circumscribing even common law- into the Commerce Clause, by enacting the Federal Arbitration Act.

PRAYER FOR RELIEF

We pray the granting certiorari and all available relief to Questions herein, incorporating the previous cert petition[#17-24]. We pray the determination of Article III issues, recusal, fair trial, abuse of discretion, fraud and abridgment of fundamental rights issues; thus requiring retrial upon remand.

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