19-390

No.

In The
Supreme Court of the United States

WILLIAM JAMES and TERRI TUCKER,
Petitioner(s)

v.

BARBARA HUNT, HARPO, LIONSGATE ENTERTAINMENT. OPRAH WINFREY, OPRAH WINFREY NETWORK (OWN), TYLER PERRY, TYLER PERRY COMPANY, TYLER PERRY STUDIOS, LLC. and CHIEF JUDGE THOMAS W. THRASH, JR.,
Respondent(s)

On Petition for Writ of Certiorari
To the U.S. Eleventh Circuit Court of Appeals

JOINT PETITION FOR WRIT OF CERTIORARI

WILLIAM JAMES
ProSe Petitioner of Record
14920 S. Ashland
Harvey, Il 60428
Phone: 773-990-9373

TERRI TUCKER
ProSe Petitioner of Record
1136 Joslin Path
Douglasville, Ga 30134
Phone: 678-822-4593

Questions Presented Rule 14.1(a)

1. Whether district court orders dedicate any section of the opinion(s) to deny petitioner's Civil RICO 18 U.S.C. 1961-1964, in the verified complaint, Jury Demanded, U.S. Const., Seventh Amend., right to a trial by jury; and the RICO complaint to proceed to trial court;

Whether predicate acts of Civil RICO allowed for use in respondents counterclaims copyright infringement have be denied and collaterally estopped, since it received a final decision in a prior action.

2. Whether when "Fraud Upon the Court" exists on a Civil RICO complaint pursuant to 18 U.S.C 1961-1964, by the Officers of both the appellate and district court, the Judge, the clerks and the licensed attorney, would all orders be vitiated in favor of the injured party ; violations obstruction of justice and document tampering; U.S. Const., First Amendment.

3. Whether the district court judge issued orders repeatedly in this case using a Fed.R.Civ.P. 54(b), intentionally, violating the petitioners U.S. Const. Fifth and Fourteenth amend., for due process, when the judge violated the Final Judgment Act Rule that limits him to a final judgment; after a first use, of the Final Judgment Act & Interlocutory Appeal 28 U.S.C. 1291-1292(b) to destroy the merits of Civil RICO 18 U.S.C. to create a manifest of injustice that would be so difficult to unravel, the review courts would not be able to determine the true merits of this case.

4. Whether the appellate and district court violate petitioners U.S. Constitution First, Fifth

and Fourteenth Amendments, by allowing the respondents to file an injunction into the district court, using an all writs act, out of time and illegal, during the appellate jurisdiction over the case, while judges status was pending on issues in the appellate court for abuse of discretion and "fraud upon the court", or any rulings for adjudication Civil RICO 18 U.S.C. 1961-1964 claims.

5. Whether restricting petitioner's ability to freely participate in proceedings before pre-trial actions, demonstrate a prohibited violation of petitioner's access to the federal courts and freedom of speech, the ability to freely execute simple motions and pleadings requiring permission and restricting, a violation of the U.S. Constitution First, Fourth, Fifth, Sixth, Seventh, Eleventh and Fourteenth Amendment, causing undue burden of costs associated with filings that only affect petitioners' Civil rights and liberties when it is petitioners that initiated complaint.

6. Whether the appellate court erred when they affirmed the prior appellate case 17-14866 as the law-of-the-doctrine of the case on a final set of orders pursuant to 28 U.S.C. 1331;

a. whether the abuse of discretion on Fed.R.Civ.P. 54(b), discovery , perjury, document tampering, dismissal of judge, subject matter jurisdiction and "fraud upon the Court" were avoided in appellate order(s), failing adjudication of petitioners issues, yet allowing a review of the entire district court record, when respondent's abandoned those arguments, the appellate court abandoned adjudication, and erroneously stated petitioners abandoned arguments on appeal,

what was before them to make the determination; and

b. Whether petitioners issues are clearly outlined in their "notice or amended notice of appeal", reply brief(s), with references to laws of citations and district court arguments asserted, but somehow it is possible that petitioners actual appeal brief(s) in both cases 17-14866 and 18-13553 are missing all citations, whether it is evident the court removed those citations of authorities;

7. Whether respondents' counterclaims for the same claims in a prior case and in the same case are collaterally estopped and res judicata on issues of copyright infringement as a defense in an unrelated case for Civil RICO claim(s);

a. Whether the defense is also estopped and inter alia, res judicata, pursuant to Civil RICO, anti-trust act actions never heard or decided any court of law, and under Civil RICO 18 U.S.C. 1962, are prior actions used as predicate acts allowed as a defense.

8. Whether if petitioner's complaint and merits of Civil RICO 18 U.S.C. 1964 and other anti-trust claims ever adjudicated on district court decisions opinioned order(s),

a. whether defense(s) as a counterclaim on a 1292(b), Fed.R.Civ.P. 54(b), for some claims end litigation; allowing respondents a second counterclaim and summary judgment, out of time and illegal, in the same case, receive an injunction and attorney costs not previously requested then forbid petitioners to move forward with the open Civil RICO issues of the complaint

remaining open on a closed case ending orders with a 54(b) to forever lock appellate courts out.

9. Whether a chief district court judge while presiding on a case, becomes a defendant, remain impartial and unbiased; enough to dismiss himself without three panel district judge or the appellate chief judges' permission; violate subject matter jurisdiction while that decision is pending, and not have been recused.

10. Whether it is lawful in a Civil RICO case to erroneously assert prior action were Civil RICO and then change the narrative in same case to state the prior case was copyright infringement and use the collaterally estopped defense for a counterclaim against a predicate act of Civil RICO to gain favor affecting entire case.

Introduction

1. Congress enacted the Civil Racketeering, Influenced, and Corrupt Organization (RICO) Act laws, generally to prohibit major enterprise corporations from acting as an illegal business enterprise(s) and participating in racketeering activity in their day to day business affairs as demonstrated in the petitioner's complaint.

2. The charges of this case are Civil RICO predicate acts related to 18 U.S.C. 1962 criminal copyright infringement 18 U.S.C. 2319, 1341, 1503, 1510, 1512, 1513, 1948, 1001, 1621, 1623 and other patterns pursuant to the Congress enacted Civil RICO Act 18 U.S.C. § 1964, causing injury to petitioner's business of their names as writer's and denied the right to recoup treble damages for the injury under the Civil RICO

claim and no decision has been rendered pursuant to that claim in any set of orders in its entirety.

3. The issues are of exceptional importance because it involves continued corruption and a miscarriage of justice created by the officer(s) of the court and perpetuated by the lower courts in concert with one another to defraud the American people of the united states and general public and disregard their own laws and its application of those laws to excuse the actions of these billion dollar corporations.

4. The Corporations and individuals use the judicial system to navigation through hard areas of law and "to muddy the waters" to obstruct justice that deal with the utmost important question(s) of Federal Copyright laws that deals with unresolved issues on Civil RICO 18 U.S.C. § 1964, 17 U.S.C. § 506(a); 1201; 1202; 1203 and 18 U.S.C. § 2319 and Federal Competition Law of the Sherman Anti-trust Act 15 U.S.C. § 1-7 undecided by the U.S. Supreme Court as it relates to the protections of copyright owners works under the First Amendment of the U.S. Const., Art. 1, Sec. 8.

5. This current case is related to and have the same issues of petition for writ of certiorari case no. 18-1557 pending conference Oct. 1, 2019, dealing with a serious general public concern of fraudulent court proceedings, while under the Statutes of 18 U.S.C. § 1964 for the Civil RICO Act.

6. The procedural damages and the steering from normal judicial processes and the matter of abusive litigation tactics, to impinge

the issues from being heard by creating legal diversions from factual arguments and exhibit. The smokescreen is to use the pro se status to insinuate the petitioners, use no law or extract law and misapply information to steer further from the truth.

7. Petitioner's seek "Equal Access to Justice" and justice for violations of the First, Fourth, Fifth, Seventh, Eleventh and Fourteenth Amendment of the US Constitution. See, Dasher v. Housing Authority of City of Atlanta, Ga., D.C.Ga., 64 F.R.D. 720, 722. (Fifth Cir. 1975) See also, Equal Access to Justice Act.

8. Herring v. United States, 555 U.S. 135, 129 S. Ct. 695; 172 L. Ed. 2d 496; (2009). Another objective of Civil RICO is to turn victims into prosecutors, "private attorneys general", dedicated to eliminating racketeering activity. See Rotella V. Wood, 528 U.S. 549, 554 n.2 (2000).

9. The respondents blacklisting and injuring the business of their name which are the copyright writers/owners from procuring work in the film industry because of the smear campaign, and is recoverable under Civil RICO as a plausible claim. See, Formax, Inc. v. Hostert, 841 F.2d 388, 389-390 (Fed. Cir. 1988).

Parties to the Proceedings

1. The petitioners are William James and Terri Tucker aka Tlo-Redness, Prose Litigants.

2. The Respondents are Barbara Hunt, HARPO, Lionsgate Entertainment, Oprah Winfrey, Oprah Winfrey Network (OWN), Tyler Perry aka Emmett Perry and all other aliases,

Tyler Perry Company, Tyler Perry Studios, LLC, and Chief Judge Thomas W. Thrash, Jr.

Petitioners William James and Petitioners William James and Terri Tucker Joint Certiorari of Corporate Disclosure & Certificate of Interested Person (CD-CID)

1. Pursuant to Rule 14.1(c) of the U.S. Supreme Court, Petitioners William James and Terri V. Tucker, hereinafter referred to as "Petitioners", hereby makes and files their Certificate of Interested Persons and Corporate Disclosure Statement as follows:

2. The undersigned and Prose Litigants" and "Private Attorney Generals" of record to this action William James and Terri V. Tucker, certify that the following is a full and complete list of all parties in this action, including any parent corporation and any publicly held corporation that owns 10% or more of the stock of a party as well as attorneys and Judges:

(a) Barbara Hunt – Defendant / Appellee/ Respondent

(b) aka Emmett M. Perry, Jr. aka (Buddy) Defendant / Appellee / Respondent

(c) aka Emmett T. Perry, Jr. – Defendant / Appellee / Respondent

(d) HARPO 10% or more owned by a party - Defendant/Appellee / Respondent

(e) John Ivory-Defendant/Appellee / Respondent

(f) Lions Gate Entertainment – Defendant/ Appellee / Respondent

(g) Oprah Winfrey – Defendant/ Appellee / Respondent

(CD-CID) Continued

(h) Oprah Winfrey Network (OWN) 10% or more owned by a party Defendant/ Appellee / Respondent

(i) Pryor and Cashman, Defendants Attorney

(j) Richard A. Gordon P.C. – Defendants Attorney

(k) Richard W. Story, Jr. – Prior Presiding Judge

(l) Thomas W. Thrash, Jr – Chief U.S. District Judge Defendant/ Appellee / Respondent

(m) Tom J. Ferber Attorney – Defendants Attorney

(n) Tyler Perry – Defendant / Appellant / Respondent

(o) Tyler Perry Company 10% or more owned by party Defendant/Appellee/ Respondent

(p) Tyler Perry Studios 10% or more owned by a party Defendant /Appellee / Respondent

(q) William James – Plaintiff / Appellant / Respondent

(r) David Zaslav – 10% or more owned Oprah Winfrey Network (OWN) by a Non-Party interested person Respondent

(s) Discovery Communications – 10% or more Owner of Oprah Winfrey Network (OWN) Stock Market Symbol (DISCA) Respondent

3. The undersigned further certifies that the following is a full and complete list of all other persons, associations, firms, partnerships, or corporations neither a financial interest in or other interest which could be substantially affected by the outcome of this particular case:

(CD-CID) Continued

(a) HARPO - Private

(b) Lions Gate Entertainment, Ticker - RG-a NYSE – LG-Fa

(c) Oprah Winfrey Network (OWN) – DISCA - Public

(d) Discovery Communications – DISCA - Public

(e) The Tyler Perry Company, Private

(f) The Tyler Perry Studios, Inc. Private

(3) The undersigned further certifies that the following is a full and complete list of all persons serving as attorneys for the parties in this proceeding.

Table of Contents

Table of Contents

Appendix

Table of Citation Authorties

Cases.,
Acha v. Beame,

Table of Citation Authorities

Table of Citation Authorities

Table of Citation Authorities

Table of Citation Authorities

Legal Reviews

Federal Rules of Civil Procedure

Supreme Court of the United States

Statutes:

Rules of Professional Conduct

United States Constitution:

United States Constitution:

United States Constution Articles

In the Supreme Court of the United States

WILLIAM JAMES and TERRI TUCKER
Petitioner(s)

v.

BARBARA HUNT, HARPO, LIONSGATE ENTERTAINMENT. OPRAH WINFREY, OPRAH WINFREY NETWORK (OWN), TYLER PERRY, TYLER PERRY COMPANY, TYLER PERRY STUDIOS, LLC. AND CHIEF JUDGE THOMAS W. THRASH, JR.,
Respondent(s)

On Petition for Writ of Certiorari
To the U.S. Eleventh Circuit Court of Appeals

JOINT PETITIONERS PETITION FOR WRIT OF CERTIORARI

Petitioner(s) William James and Terri Tucker, ProSe Litigants, respectfully petition for a Joint Writ of Certiorari to review the judgment on 3rd Appeal Case No. 18-13553 of the United States Court of Appeals for the Eleventh Circuit, related to appellate 2nd case no 17-14866 "pending" Petition of Certiorari case no. 18-1557 on conference for Oct. 1, 2019.

Opinion Below

1. The opinion of court of appeals orders denying mandamus, (Pet. App. 1a-8a) Orders on probable jurisdiction (Pet. App. 18a-19a), denials in both cases to amended notice of appeal, consolidate, denying five motions, (Pet. App.21a-22a)

2. District court final orders 54(b), (Pet. App. 8a-17a) docket sheet orders, orders Doc. 154, note restrict filing (Pet. App.124a), orders moving appeal 17-14866 forward closing district writ of mandamus, reconsider injunction. (Pet. App.125a-127a), provide discovery (Pet. App. 127a-128a), temporary injunction denial. (Pet. App.128a-130a)

Jurisdiction

1. Jurisdiction of this court is invoked under U.S. Art. V. The Constitution is the supreme law of the land. U.S. CONST. art. VI, cl. 2.; U.S. CONST. art. III, § 2, cl. I., U.S. CONST. art. III, § 1; Civil RICO Act 18 U.S.C. 1961 through 1965(d); the Clayton Act. 483 U. S., at 150-151 (comparing 15 U.S.C. § 15(a), and with 18 U.S.C. § 1964(c)); see, Sedima, S. P. R. L. v. Imrex Co., 473 U.S. 479, 489 (1985), Pro Se Rights 28 U.S.C. 1654;

2. The jurisdiction of this Court is invoked, Direct Appeals from Decisions of Three-Judge Courts 28 U.S. Code § 1253, Courts of Appeals; Certiorari; Certified Question 28 U.S.C. 1254(1)(2). Pet. App. (88a-89a).

Statutory Provisions Involved

1. Section 1964 of the Racketeering, Influenced, Corrupt Organization Act (RICO), 18 U.S.C. § 1964 (1970), section 1962 for predicates of 18 U.S.C. § 2319; Criminal Offenses 17 U.S.C. 506(a), Circumvention of Copyright Protection, 17 U.S.C. 1201, Integrity of Copyright management 17 U.S.C. 1202, 17 U.S.C. 1203 Obstruction of Justice (1948), 18 U.S.C. § 1341, Protection of Government Processes-Obstruction of Justice, Witness Protection Act (1992) 18 U.S.C. § 1503; Obstruction of Federal Criminal Investigation and the Witness Protection Act (1991) 18 U.S.C. § 1510, Tampering with Victims, Witnesses, or Informants (1980) 18 U.S.C. § 1512; Conspiracy to Commit Offense or Defraud United States 18 U.S. Code § 371.

2. Retaliating Against a Witness Victim or an Informant (1982) 18 U.S.C. § 1513, Fraud and False Statements or entries (1948), 18 U.S.C. § 1001, Official Certificates or Writings (1948), 18 U.S.C. §,1018 Ch. 47; Penalties for Document Fraud, 8 U.S.C § 1324(c), Frauds and Swindles 18 U.S.C. § 1341; Subject Matter Jurisdiction 28 U.S.C. § 1331, Perjury Generally, 18 U.S.C. § 1621; Perjury 18 U.S.C. § 18 U.S.C. § 1623;

3. False Statements Accountability Act (1996) 18 U.S.C. § 1001, Abuse of Discretion, Judicial Review 5 U.S.C. § 706(2)(a); Violation of Rules and Regulations (1976), 18 U.S.C. § 47; Remedies for Infringement 17 U.S.C. § 502, Conspiracy Against Rights, 18 U.S.C. § 241 (1992), Final Judgment Act &

Interlocutory Appeal 28 U.S.C. 1291-1292(b), Federal Question, 28 U.S.C. 1331 and Title 35 of United States Code reproduced in appendix to petition. Federal Rules of Civil Procedures. Pet. App. (23a-89a).

Statement of the Case

1. Petitioners brought this Civil action pursuant to Racketeering, Influenced and Corrupt Organization Act, Civil Rico 18 U.S.C. 1964, based on respondent's decades long, running pattern(s) of unlawful conduct directed at deceiving the American people, building their enterprise film/television production companies illegally, proceeds stem from, "ill-gotten gains" Circumventing Copyright Protection, 17 U.S.C. 1201-1202, Integrity of Copyright management 17 U.S.C.506(a), using judicial system(s) scheming to avoid compensating poor unsuspecting hard-working literary writers; blacklisting employment to continue predicate acts of Civil RICO 18 U.S.C. 1962, criminal copyright infringement, 18 U.S.C. 2319.

2. Merits of Civil RICO 18 U.S.C. 1964 is hidden in abusive litigation tactics, both district and appellate court(s) conceal criminal offenses impinging petitioner's civil rights to be fully and fairly heard in a court of law, civil remedies 17 U.S.C. 1203 prejudiced prose litigant status, removing laws from petitioners main brief(s), stating issues are abandoned, leaving laws in Notice(s) of Appeal and Reply brief(s), evident tampering

at the expense of prose litigants. See, Haines v. Kerner, et. al. 404 U.S. 519,92 s. Ct. 594,30 L. Ed. 2d 652 (1972), freedom of speech, process allowing respondents summary judgment Fed.R.Civ.P. 56(b), without notice, or acknowledging response to be liberally construed as true in complaint. See, Cruz v. Beto, 405U.S. 319, 322 (1972). U.S. Const., Fourth, Fifth, Fourteenth Amendment. Pet. App. (134a-146a)

3. Violations began during respondents' answers to complaint due within 21 days of service, May 5, 2017. Attorney Gordan represented all eight respondents and only appeared for Perry, answer and counterclaim, document 33, no certificate of service, petitioners warned respondents, after the deadline above, on May 11, 2017. Failure to assert an affirmative defense (both require an affirmative statement).

4. See, Allmerica Fin. Life Ins. & Annuity Co. v. Llewellyn, 139 F.3d 664, 665–66 (9th Cir. 1997) See, Brankovic v. Snyder, 578 S.E.2d 203, 207 (Ga. App. 2003) (stating that "[a] party has no right to a judgment based on false "admissions"' due to late response).

5. Local Attorney Gordon hired by Tom Ferber appeared May 11, 2017, filing eight documents, pro hac vice for Tom Ferber, appearances and answers for Perry/privities, Gordan filing answers, May 22, 2017 after petitioners mailed courtesy copy of default(s) for Lionsgate and Winfrey entering non-convincing answers, representing all, eleven

days passed, no extension filed prior to default(s), falsely using carbon copy of Perry's' answer, "Winfrey" never a party to prior litigation. Turner v. Alta Mira Vill. Homeowners Ass'n, Inc., No. 2 CA-CV 2013-0151, 2014 WL 7344049, at *4 (Ariz. Ct. App. Dec. 24, 2014) (refusing to award sanctions where false admission resulted from "erroneously admit[ing] the truth.").

6. Clerk's entered default(s), removed signatures to make it appear invalid, learned later. Orders Doc. 76 removed defaults, petitioners kept "stamped signed original copies" of "All" documents filed. An analysis can prove authentic. Petitioners requested excusable neglect in motions to strike late answers, pursuant to Fed.R.Civ.P. 12(f) for violations of 55(a), answers and counterclaims; Hunt respondent moved to dismiss Fed.R.Civ.P. 12(b)(2) lack of personal jurisdiction, petitioners moved to strike pursuant Civil RICO 18 U.S.C. 1965(b)(d)-Nationwide Service on RICO. Respondents defaulted on petitioner's notice, summary judgment, documents 40 and 61, amended complaint to Fed.R.Civ.P. 14, document 85.

7. See, Moore v. Taylor Sales, Inc., 953 S.W.2d 889, 894 (Ark. Ct. App. 1997) (holding that default judgment would not be set aside where the attorney failed to file "timely answers" even though his client delivered the attorney the answers and the attorney assured the client he would file a response).

8. On Aug. 20, 2018, petitioners filed three documents in both lower courts,

(1) Petitioners' Joint and Consolidated Amended Notice of Appeal Case No. 17-14866, document 170, Pet. App.(91a-117a), (2) permission motion document 171, object and oppose orders, documents 168-169, (3) permission motion, document 172, reconsider documents 168-169, subject-matter-jurisdiction belonged to appellate court.

8. Current case 18-13553, eleventh circuit court, fraudulently created a new appeal using petitioners, Joint and Consolidated Amended Notice of Appeal, document 170, to amend case no. 17-14866, exhibiting all issues of this case belong to "pending", petitioner's writ of certiorari, case no. 18-1557, on conference, Oct, 1, 2019.

9. In district court six (6) docket spaces occupy transmittals of petitioners "amended notice of appeal", document 170 and documents, 173, 174, 175, 176, two (2) large note sections multiple corrections and transmittals. The purpose of multiple transmissions became evident after reading the current case appellate orders on Aug. 12, 2019. Fraud on multiple cases make it necessary to use document-case number(s) to follow fraud throughout proceedings relating back to prior case. Pet. App.(122a-128a)

10. On Aug. 23, 2018, district court clerks willfully committed "fraud upon the court" again, attempting to send, petitioners "Amended Notice of Appeal", Document 170 to "unused" document 140, visible on "court only" docket sheet, labeled clerks errored judgement entry, Oct. 19, 2017, for district

orders document 138, Oct. 19, 2017, for respondents, document 74, judgement on the pleadings, internal move of document 170 placed it on top of 140 creating a dual stamp, instead of rescanning a fresh copy into 140. Pet. App. (122a-123a), motion filed this case appellate Sep. 28, 2018. Clerks intentionally transmitted forged document no. 140 to petitioners closed on Mar. 26, 2018, appellate "writ of mandamus" case 18-10164. Pet. App. (119a-121a)

11. The lower courts worked in concert in order to cover up district court Injunction document 157 and orders 168-169 violation of subject-matter-jurisdiction, after jurisdiction accepted, Mar 29, 2018. Appellate pending decision, district judge recusal-self-dismissal, and abused discretion for 54(b) certification on 17-14866.

12. District Judge added as defendant for aiding and abetting respondents, possible bribe, granting injunction, Aug. 10, 2018 to prohibit Civil RICO motions for trial, and before appellate decision, case in district is currently open, seemingly closed. Civil RICO claims never adjudicated on 54(b) final orders documents 138 or 168. Petitioners U.S. Const., first, fifth, and fourteenth amend, due process, freedom of speech, civil rights and access to federal courts violated.

13. The Eleventh Circuit affirmed on Aug. 12, 2019 prior appeal 17-14866, as law-of-doctrine of this case, proving this case violated subject matter jurisdiction district orders document 168-169, on Aug. 10, 2018.

14. This petition should be consolidated per Supreme Court Rule 12.6 to pending writ of certiorari case no. 18-1557. Pet. App. (5a). Petitioners "amended appeal document 170" moved into district court document 140, transmission had a visible footprint to the appellate court on a case closed as of May 26, 2018, petitioner's old writ of mandamus. The "court deceitfully referred to the "Mandamus" in orders on Aug. 12, 2019 and district "court only" notes show document 170 filed in 2019, was erroneously closed in 2017. Pet. App. (124a-125a)

15. The petitioner's pray seeking redress with this Court, rather than a "rehearing en banc and rehearing" since eleventh circuit court is involved in petitioners' civil rights violations in concert with the district Court.

16. Petitioners took matters to appellate clerk Manager Brenda McConnell the prior week, and she took issues to chambers on "amended notice of appeal document 170", after reviewing document 140, dated Oct. 19, 2017 filed into appellate system Aug. 20, 2018 and transmitted to a closed "Mandamus" appellate case no. 18-10164, on Aug. 20, 2018.

17. McConnell advised petitioners to self- correct issues by consolidating both appeal as soon as Aug. 28, 2018, the new erroneous appeal 18-13553 to open appeal 17-14866; and file a fee waiver in district court for new appeal.

18. Petitioners motioned to consolidate both cases, Aug. 30, 2018. Miraculously, respondents filed responses to petitioners' motion to consolidate Aug. 28, 2018, two (2) days before petitioners filed, petitioners inquired and respondents modified motion(s). McConnell told Mohler case-handler to file consolidation immediately, her Supervisor Ware warned Mohler for holding petitioners' motions eight days, explaining she gets two days. Mohlers' jurisdictional question(s), Jan. 24, 2018 reviewed pending "counterclaim" on district court record twelve (12) days before filed by respondents on Feb. 5, 2018.

19. District court committed "fraud upon the court", stating his new orders documents 168-169, Aug 10, 2018 were restatements orders document 138 from Oct. 19, 2017; ruling on respondents new document 157. Petitioner's new motions documents 171-172, were terminated Aug. 20, 2018, from orders Nov. 20, 2017, document 154, The eleventh circuit requested those orders Nov. 2, 2017 to move appeal no. 17-14866 forward petitioners pending de. 142.

20. On Aug. 23, 2018 respondents admit, document 177, district judges' orders granting counterclaim and injunction, document 157 which probably violated appellate subject matter jurisdiction. Pet. App. (18a-19_143a-145a) The appellate court tried to cover this these facts on petitioners five motions that duplicated the district record of documents 170, 171, 172 filed into 174866 by denying and requesting refiling

into the new erroneously created appeal 18-13553, then they state on Aug. 12, 2019 the issues belong to the law of the doctrine of the case 17-14866, in a concerted effort of the district court make it appear new orders were before petitioners "notice of appeal" document 144, Oct. 26 2017, for case 17-14866 accepted due to abuse of discretion of the 1292(b), 54(b), and dismissing himself from the case.

22. Failure to close petitioners' issues on district court orders with law and opinion(s) for Civil RICO 18 U.S.C. 1964, leaves them open. Closing respondents' counterclaim issues using a 54(b) certification prove deceitful use to close some but not all issues. The district court must first assess the finality of the disputed ruling. Curtiss-Wright Corp. v. General Electric Co., 446 U.S. 1, *43 7, 100 S.Ct. 1460, 1464, 64 L.Ed.2d 1 (1980); United States General, Inc. v. Albert, 792 F.2d 678, 680-81 (7th Cir. 1986); Bank of New York, 108 F.R.D. at 186.

23. If the ruling lacks the necessary finality, the application must fail. As the Court has said, "[t]he District Court cannot, in the exercise of its discretion, treat as `final' that which is not `final' within the meaning of [28 U.S.C.] 1291." Sears, Roebuck Co. v. Mackey, 351 U.S. 427, 437, 76 S.Ct. 895, 900, 100 L.Ed. 1297 (1956) (emphasis in original). As an adjunct of this inquiry, of course, it must be shown that the ruling, at a bare minimum, disposes fully "of at least a single substantive claim." Acha v. Beame, 570 F.2d 57, 62 (2d Cir. 1978).

24. Respondents committed "fraud upon the court" to gain favor on reassignment, stating petitioners had three (3) prior cases of Civil RICO 18 U.S.C. 1964, 1962 predicate acts of 18 U.S.C. 2319 on document 31, on May, 11, 2017, requesting judge by name, erroneously claiming he presided over the prior Civil RICO case. Both the judge and respondents knew only past copyright infringement cases existed, not encompassing any "Anti-Trust" Fraud issues, previously, current case only asserts copyright infringement as predicate acts. Pet. App. (154a-155a)

25. Respondent's defaulted Answers/ Counterclaim documents 33, 43, 44, 54, 55 and 56 and 74-1 judgment on the pleading's respondents stated petitioners prior three (3) cases were "Copyright Infringement 17 U.S.C. 501", judge presided on (true), obstructing justice, civil rights, U.S. Const. fifth and fourteenth amend., due process of. Pet. App. (27a_156a-157a)

26. The respondents filed, motion-to-stay for protective order, July 6, 2017, motion-to-stay discovery, motion-to-modify discovery period, Jul. 10, 2017, stipulations petitioners not allowed discovery, file motions/pleadings until after district judge rules on respondents counterclaim of Copyright Infringement Fed.R.Civ.P. 12(c), document 74-74-1, Jun. 27, 2017, granted on document 95-96. Pet. App. (158a-159a), for judge to deceitfully injunct petitioners on orders 168-169 on Aug. 10, 2018, providing discovery orders 124, Oct.

18, 2017, applying collateral estoppel and res judicata proves Civil RICO 1964 was not decided, discovery would not be allowed on res judicata and collaterally estopped claims. Pet. App. (130a-131). District orders document 138, 54(b) certification "there is no just reason to delay", on Oct, 19, 2017, mention no laws concerning Anti-trust claims. The judge abused discretion on respondent's defensive counterclaims barred by res judicata and collateral estoppel petitioners, reply and counterclaim document 49, on May 22, 2017.

27. Allowing collaterally estopped defense document 74, prejudiced the case, for intrinsic and extrinsic fraud upon the court, by the lawyers, clerks of the court and the court, as discovery is not provided otherwise. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. See, People v. Zajic, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980). Pet. App. (102a-115a_123a_124a_138a_145a) 18 U.S. Code § 371.Conspiracy to Commit Offense or to Defraud United States.

Reasons for Granting the Petition

I. The court of appeals' decision is inconsistent with the decisions of this Court and decisions of other courts of appeals

1. Implications of this magnitude make less desirable U.S. Supreme Court acceptance of petition for writ of certiorari, due to the complex nature of this case, should this Court decide not to accept this petition it would

leave the serious issues of constitutionality of prose petitioners, future Civil RICO litigation subjected to unfair procedurally damaging outcomes. Intervention is needed to correct injury(s) to the American people's inalienable rights and jurisprudence that conceal crimes within courts. The American people need to keep the faith in our justice system.

2. The respondents falsely motioned to reassign the district to overthrow petitioner's Civil RICO case, asserting a total combined three prior within action(s) for recovery of Civil RICO 18 U.S.C. 1964 damages, alleging predicate acts of copyright infringement and counterfeit goods, citing, citing doc. 1, petitioners current Civil RICO complaint and doc. 15, Judge Story's narrative using the prior case doctrine that was for copyright infringement only, petitioners made several claims to other Anti-trust laws ad predicate acts, respondents intentionally ignore to avoid charge.

3. See, Perjury Generally, 18 U.S.C. 1621; Perjury 18 U.S.C. 1623, Pet. App. (111a-113_132a_135a-136a)(139a_154a-157a) Outback Steakhouse of Florida., Inc. v. Markley, 856 N.E.2d 65, 85 (Ind. 2006) (disciplining by ethics committee for false statements); People v. Scruggs, 52 P.3d 237, 241 (Colo. 2002) (holding that disbarment was an appropriate remedy for abuse). Treble and procedural damages. See, Klehr v. A. O. Smith Corp., 521 U.S. 179 (1997).

4. The district court provided no decision on Civil RICO orders 54(b) orders,

138, 168, on copyright infringement "only", falsely granting injunction on current Civil RICO predicates. Pet. App. (11a-17a). Petitioners jurisdiction Civil RICO, Sedima, S.P.R.L. v. Imrex Co., hic, 473 U.S. 479 (1985) and the U.S. Court of Appeals for the Ninth Circuit in Lou v. Belzberg, 834 F.2d 730, hn., 9th Cir. (1987).

5. On July 6, 2017, respondents filed, document 87 Jul. 10, 2017, document 89, stating petitioners have "no need for discovery", the case will be dismissed in their favor, the district court granted the motion on document 95, on Jul. 31, 2017, and violated orders document 124, Oct. 19, 2017 to produce discovery within 30 days of order document 138. The judge adopted non-legal argument from the respondent's motion as the basis of his orders document 95.

6. If res judicata and collateral estoppel applied to copyright infringement, discovery would not be allowed after the counterclaim, the district court left Civil RICO open. See, Gripe v. City of Enid, 312 F.3d 1184, 1188 (10th Cir. 2002) (refusing to overturn dismissal for attorney's failure to follow court orders and procedures); Corchado v. Puerto Rico Marine Mgmt., Inc., 665 F.2d 410, 413 (1st Cir. 1981) (holding that dismissal was appropriate where counsel repeatedly failed to respond to discovery requests).

7. The district court tried to change the scope of how Civil RICO predicates for 18 U.S.C. 1962 are brought in Civil RICO, on orders, Oct. 19, 2017, that triggered an

interlocutory appeal 17-14866 currently on petition for writ of certiorari case no. 18-1557, stating, one line related to Civil RICO, "the petitioners fail to plead copyright infringement as a predicate act for RICO." Petitioners, first 12 or more pages clearly and plainly outline the several predicates of Civil RICO to include the statutory code 18 U.S.C. 2319. Pet. App. (132a_135a-136a)

8. During the appeal process and answering the jurisdictional question somewhere between Jan. 24, 2018, appellate jurisdictional question and the answer filed on Feb. 5, 6 and 7, 2018.

9. Attorney Ferber filed a perjurous statement it was the clerk's error when the clerks stated it was the attorney who entered himself as the judge's attorneys since he is an electronic filer, then directing a letter to the clerk directed clerks to remove him as counsel for respondent judge.

10. The appellate court conspired in the scheme, by misleading the petitioners to think this appeal, pursuant to 28 U.S.C. 1331, would address all orders in the district court case placing a note on the docket 18-1553, not on orders on, Oct. 16, 2018, Pet. App. (90a-91a)

11. Therefore, the appellate court made an erroneous affirmation of the district court orders, on the appellate appeal case no 17-14866. Appellate court knew issues not on the ten-day limitation prior and during the interlocutory appeal slowing respondent's summary judgment when Fed.R.Civ.P. 56(c),

Justice Rehnquist of the U.S. Supreme Court stated,

> "there is no requirement that the moving party support its motion with an affidavit or other affirmative evidence which disproves the opponent's claim or defense, Moreover, Rules 56(a) and (b) state that claimant and defendants, respectively, may move "with or without supporting affidavits."
>
> 12. citing Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505 (1986). The Supreme Court vacated the D.C. Circuit Court's decision and remanded the case. Justice White wrote for a majority."
>
> "The Court stated preliminarily that the motion should be granted if there is no "genuine" issue of "material" fact. The substantive law determines which facts are material. Material facts are only those which may affect the outcome of the suit"

13. The current case is Civil RICO 18 U.S.C. 1964, nature of the suit, other statutes, 470 Racketeering, Influenced and Corrupt Organizations, the predicates of 18 U.S.C. 2319, used are at least eight in the petitioners complaint, enough to move the case to trial, for 17 U.S.C. 506, "for purposes of commercial advantage or private financial gain" liberally interpreted to mean acting "for profit.

> "The Court held that the standard of review 'Thus, a mere

> scintilla of evidence in support of plaintiff's case is insufficient; the evidence must be such that the jury could reasonably find for the plaintiff." See, Anderson v. Liberty Lobby, Inc., 106 S.Ct. 2505 (1986).

14. The restrictions applied by the eleventh circuit and the district court on the Civil RICO case predicates, are in direct conflict in the case with, ICONICS v. Massaro, supports the petitioners use of copyright infringement as a predicate act, even the most minute use of petitioners works respondents in the current case summary judgment awarding counterclaims on predicate acts, which would narrow congress' intended use of 18 U.S.C. 2319, in Civil Rico 1962,

> "In fact, here, Stewart court, Stewart v. Wachowski, No. 03-2873, 2005 WL 6184235 (C.D. Cal. June 14, 2005), in ICONICS case held that, "these allegations were sufficient for the plaintiff's civil RICO claim to survive summary judgment and thus rejected the defendants' argument that this was a garden-variety copyright dispute that was not cognizable as a RICO predicate act."

15. In the current case the appellate court is affirming, a district court ruling on a summary judgment labeled as a counterclaim of copyright infringement when in the case of:

> "The ICONICS court, it was reasoned that the legislative history

cited by the Stewart court did not overrule the plain text of the statute: Defendants' narrow reading of the RICO statute draws some force from the legislative history and consideration of the purpose of the statute; that said, "the legislative history mustered by the Stewart court serves only to show that counterfeiting and piracy were at the center of Congressional attention when Congress amended RICO; nothing suggests that Congress intended ordinary copyright infringement not to be a predicate act."

However, further developed,

> "[T]he plain text of the statute, not excursions through legislative history, governs here, the court further held that such a broad interpretation the Supreme Court's repeated instructions "that [the] plain text governs" in the context of applying the RICO statute and its rejection of "judicial attempts to narrow the legislatively-enacted text." Nonetheless, as a tacit admission that this "plain language" approach could lead to unintended results, the ICONICS court placed the ball in Congress's court to address the issue:
>
> "[The Supreme Court] stated that if a 'correction' was sought, it 'must lie with Congress.' If allowing all acts of criminal copyright infringement to serve as predicate acts under RICO

> sweeps too broadly, a narrowing interpretation is not 'a form of statutory amendment appropriately undertaken by the courts."

16. See, e.g., ICONICS, Inc. v. Massaro, 192 F. Supp. 3d 254, 269 (D. Mass. 2016) (permitting allegations of copyright infringement stemming from a business dispute to be a predicate act under RICO). Synopsis applied the "plain language" of RICO which requires only "any" act of criminal copyright infringement, no matter its size or impact. See Synopsys v. Ubiquiti Networks, Inc. et al, 2017 WL 3485881 (N.D. Cal. Aug. 15, 2017)

17. There has been no such limitation that covers the broad use of the statute 18 U.S.C. 2319, in fact the petitioner's used the predicate in the context in which, congress intended, asserting counterfeits and plagiarism(s) on a large-scale scheme of counterfeiting and which protect the petitioner's copyrights under the U.S. Const. First Amend., Art. 1, Sec. 8, protections. The decisions of the appellate and district court also are in direct conflict with this court, on Dowling v. United States,

> "Similarly, with respect to Section 2319, the court cited the Supreme Court's statement in, 473 U.S. 207 (1985), that Congress had originally enacted the statute in 1982 because it "believed that the existing misdemeanor penalties for copyright infringement were simply inadequate

> to deter the enormously lucrative activities of large-scale bootleggers and pirates." Further, the court noted that "concern[s] about the burgeoning market in counterfeit software" had been the impetus to the 1992 amendments expanding the scope of Section 2319 to include all types of copyrighted works."

18. The landmark case, Sedima v. Imrex, establishes additional guidelines to serve as a check on petitioners claim for Civil RICO outside of the predicate acts.

19. The petitioners established necessary requirements of Civil RICO, pleading "RICO Enterprise(s)"exclusive business production deal by Winfrey and Perry publicly, violating the Sherman Anti-trust act, creating a monopoly, listing the legal businesses, by name in the initial complaint, used to express "Conduct", fraudulently concealing the "Pattern" racketeering activity, court bribes, counterfeiting copyrights, the usual way the respondents did business, identifying "Individuals"

20. Oprah Winfrey separate from the "Enterprise(s)" Oprah Winfrey Network (OWN) etc., injury to the petitioner's business of their names as writers in Hollywood by going on a smear campaign, separate from the injury caused by the predicate acts. See, Formax, Inc. v. Hostert,841 F.2d 388, 389-390, Fed. Cir. (1988); Boyle V. United States, 785, 838, 07-1309 (Supreme Court 2009),

Sedima, S.P.R.L. v. Imrex Co., 473 U.S. 479, 498 (1985).

21. Respondents never defended Civil RICO predicates and proceeded to trial, a counterclaim is not a denial or defense. See Shell Oil Co. v. M/T GILDA, 790 F.2d 1209, 1215 (5th Cir. 1986) ("A party need not offer proof as to matters not contested in the pre-trial order."); Swift v. State Farm Mut. Auto. Ins., 796 F.2d 120, 123 (5th Cir. 1986) ("Once the order is entered, it controls the scope and course of the trial.")

22. Petitioners provided information to support "fraud upon the court" filed in both appeals, notice of appeal, document 144, filed on Oct. 26, 2017 and in "amended notice of appeal, document 170, filed on Aug. 20, 2018 to consolidate, the issues of violations of appellate subject-matter-jurisdiction, the Eleventh circuit verified jurisdiction over district case. Fierro v. Johnson, 197 F.3d 147, 154 (5th Cir. 1999) (holding that in order to establish fraud on the court, it is "necessary to show an unconscionable plan or scheme which is designed to improperly influence the court in its discretion.")

23. Petitioners uncovered evidence of a potential bribe, district judges' family and Perry have a television show "too close to home", produced by Tyler Perry, on the television networks, TLC, a partner of Oprah Winfrey, starring one of the judge's family members.

24. The TV show was the same as district court judge Thrash' biography, born in

Birmingham, AL, left the south, attended law school north, came back south to practice law. Perry's first predominantly all white cast, airing a year into the petitioner Tuckers' Georgia court case which Judge Thrash presided for copyright infringement. Rozier v. Ford Motor Co., 573 F.2d 1332, 1338 (5th Cir. 1978).

25. The judge never denied petitioners' motion and exhibits of his family and Tyler Perry having a working relationship possibly used to funnel the bribe. The district judge refused recusal, on Jul. 3, 2017, document 81, denied, Jul. 13, 2017 and Oct. 6, 2017, document 120, denied on Oct. 19, 2017, pursuant to 28 U.S.C. 133, 455.

26. The Second Circuit held in Nichols v. Universal Pictures Corp., 45 F.2d 119, 121 (2d Cir. 1930) ("It is of course essential to any protection of literary property that the right cannot be limited literally to the text, else a plagiarist would escape by immaterial variations."). "RICO's legislative history (showing a particular concern over piracy and counterfeiting enterprises), favored the application of the "plain language" of RICO which requires only "any" act of criminal copyright infringement, no matter its size or impact

27. Obstruction of Justice (1948), 18 U.S.C. 1341, Protection of Government Processes – Obstruction of Justice, Witness Protection Act (1992) 18 U.S.C. 1503; Conspiracy Against Rights, 18 U.S. 241 (1992), Fraud and False Statements or entries

(1948), 18 U.S.C. 1001, Official Certificates or Writings (1948), 18 U.S.C. 1018 Ch. 47; Penalties for Document Fraud, 8 U.S.C 1324(c), Frauds and Swindles 18 U.S.C. 1341, a continual tactic and scheme perpetuated into Civil RICO by respondents. The United States Supreme Court decided that state courts have concurrent jurisdiction over civil RICO claims in Tafflin v. Levitt, No. 88-1650 (Jan. 22, 1990).

A. The court of appeals' decision conflicts with principles established by this Court's decisions in Civil RICO cases

1. This Court in Evaluating Civil RICO and the predicates, see, Reves v. Ernst & Young, 507 U.S. t70, 183-85 (1993) (suggesting that the boundaries of congressional purpose limit the liberal construction clause); Sedima, 473 U.S. at 481 (indicating that to establish a RICO cause of action a plaintiff merely must satisfy the predicate act requirement and elements of the offense); JOSEPH, supra note 6, § 1 (explaining that a great amount of law exists debating various RICO issues of "standing, injury and damages, equitable relief, causation, and a variety of pleading and practice issues"). Sedima, S.P.R.L. v. Imrex Co., Inc., 473 U.S. 479 (1985). Agency Holding Corp. v. Malley-Duff & Associates, Supreme Court Reporter 2759, 483 U.S. 143 at page 151 (1987).

2. See, Scheidler v. Nat'l Org. for Women, Inc. (Scheidler 1I), 537 U.S. 393, 397

(2003) (limiting the predicate racketeering act of extortion).

B. The court of appeals' decision creates a direct conflict with decisions of other courts of appeals to include its own decisions

1. Law of the case doctrine does not preclude reconsideration of an issue where (i) a subsequent trial produces substantially different evidence, (ii) controlling case law subsequently made a contrary decision of law applicable to that issue, or (iii) a prior decision was clearly erroneous and would work manifest injustice. United States v. Davis, No. 15-15227, 2016 WL 3997209, *1 (11th Cir. 2016) (per curiam) (citing United States v. Stinson, 97 F.3d 466, 469 (11th Cir. 1996) (per curiam)).

2. This case, 18-13553 and 17-14866, "Fraud Upon the Court", exists pursuant to violations of Fed.R.Civ.P. 60, and the law-of-the -doctrine of the case 17-14866 does not preclude reconsideration, in the Fifth Circuit, recalled and amended its earlier mandate on the grounds that it was inconsistent with the full opinion. 296 F.2d at 215-16.

3. The appellate court erred when they affirmed the prior appellate case 17-14866 was the law-of-the-doctrine of the case on a final set of orders pursuant to 28 U.S.C. 1331 on issues prior to and after the 28 U.S.C. 1292(b) on issues that were not litigated in either appeal, after stating they would have review of the entire district court record, since

all respondent's abandoned all arguments of the open issues and "fraud upon the Court".

> "D.C. Circuit noted that a court's power to recall any mandate obtained through fraud "overrode the 'term' rule even when that was in force." Id., citing, U.S. Supreme Court, Hazel-Atlas Glass Co. v. Hartford-Empire Co., 322 U.S. 238, 244 (1944)."

4. Document tampering of the appellate and district court record, altering documents, removing laws and issues from petitioner's brief(s) to give the appearance issues are abandoned, when it was discovered, petitioners could only address the fraud on the appeal brief on rehearing en banc.

5. The eleventh realized respondents are the ones that abandoned the claims in the petitioner's powerful brief, Dec. 26, 2018 and reverse the facts, whereas the brief address fully all issues, with law. The petitioners have filed a notice of appeal, on Oct. 26, 2017, invoking laws, cases, statutes, issues in the form of enumerated errors, orders issues and rebuttal's, yet the appeal court bring forth new issues on appeal, when the respondents never argued.

6. The Supreme Court defined waiver as "an intentional relinquishment or abandonment of a known right or privilege." Johnson v. Zerbst, 304 U.S. 458 (1938), the Johnson definition has been used in both criminal and civil cases. When a party can prove that he did not intentionally waive a contractual right or that he did not have the

actual knowledge of the facts necessary to relinquish the right intentionally courts have held that there is no waiver of a known right

7.The petitioner's issues but added their own and it is the petitioner's getting blamed for the new issues. This appears to be the way the eleventh deal with petitioners they wish to prejudice, the claim of new or abandoned issues, knowing the long shot for correction by the U.S. Supreme Court nearly does not exist on most cases, this would be considered a change of law, and not to be confused with the law of the case, see Ziffrin, Inc. v. United States, 318 U.S. 73, 78 (1943) ; Vandenbark v. Owens Illinois Glass Co., 311 U.S. 538, 543 (1941).

8. It is the eleventh circuit assist the district court and respondents with claims never made in district court or on brief(s) responses, such as an appeal for writ of mandamus, previously closed, to invent the appearance these were pre-interlocutory appeal issues. The Judge in his "notes" sections for "Court Only" tried to give the appearance that the orders for the respondents document 157, filed on Feb. 5, 2018 were previously awarded on Oct. 19, 2017, and he made another "Court Only Note", stating the petitioners permission motions, document 171, to oppose new orders, document 168 and document 172, permission motion to reconsider his orders, granting respondents out of time and illegal, document 157, stating on a note entry they two motions were denied on orders document 154, filed on

Nov. 20, 2017, failing to evaluate the petitioners' sworn affidavit accommodating the response to the respondents summary judgment, The Eleventh Circuit held

> "that an affidavit which satisfies Rule 56 of the Federal Rules of Civil Procedure may create an issue of material fact and preclude summary judgment even if it is self-serving and uncorroborated."

United States v. Stein, 2018 WL 635960 (11th Cir. Jan 31, 2018).

9. District court order, document 154, originally requested by the appellate court, Nov. 2, 2017, to move appeal 17-14866 forward to close out open motions in the district court. If the docket entry is true, then it means the current case belongs to 17-14866, referring all motions back, such as another "Court Only Journal Entry: by the district court judge states the petitioners Joint and Consolidated Amended Notice of Appeal was terminated on orders document 154, in Nov. 20, 2017. Fraud Upon the Court since, petitioners' documents are court stamped Aug. 20, 2018 and moved over into the system with-out getting a new copy to scan, which stamped document 140 on top of the previous system generated date, document number and court docket entry log, to cover up the new orders the judge filed. This proves since the eleventh circuit in orders also refer back to this case issues belonging to the previous appeal, 17-14866. See, New York Times Co. v. Sullivan, 376 U.S. 254 (1964), reversing 273

Ala. 656, 144 So. 2d 25 (1962). See, e.g., Justice Black and First Amendment "Absolutes": A Public Interview, 37 N.Y.U.L. REv. 549, 558 (1962). New York Times Co. v. Sullivan, 376 U.S. 254, 279 (1964).

10. Proving the amended notice of appeal or the motions to consolidate should not have been denied on Sep. 21, 2018 filed in both appeals case no. 17-14866 and 18-13553 and

> "a prior panel's holding is binding on all subsequent panels unless and until it is overruled or undermined to the point of abrogation by the Supreme Court or by this court sitting en banc." United States v. Archer, 531 F.3d 1347, 1352 (11th Cir. 2008); Cohen v. Office Depot, Inc., 204 F.3d 1069, 1076 (11th Cir. 2000)."

11. The appellate and district court were willing to take the chance since the odd for the prose Civil RICO case have low odds of receiving a review by the U.S. Supreme Court which made the odd worth the chance for redress being low.

> The tenth circuit states;
>
> "Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court. "In Bulloch v. United States, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon the court is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent

> documents, false statements or perjury.....It is where the court or a member is corrupted or influenced or influence is attempted or where the judge has not performed his judicial function --- thus where the impartial functions of the court have been directly corrupted."

12. The Federal Rules of Civil Procedure provide that relief from a judgment may be granted upon a showing of fraud. FED. R. Civ. P. 60(b)(3). For the text of rule 60(b), Since the district court is prohibited under the doctrine of "law of the case" from departing from the remand instructions, see note 6 supra, the mandate must be changed by the issuing court to reflect the intended instruction and result. 463 F.2d at 279. See Meredith v. Fair, 306 F.2d 374 (5th Cir. 1962) (Sua Sponte recall). See Simons v. Grier Bros. Co., 258 U.S. 82 (1922).

13. When "Fraud Upon the Court" exists on a Civil RICO complaint pursuant to 18 U.S.C 1961-1964, by the Officers of both the appellate and district court, the Judge, the clerks and the licensed attorney, all orders should be vacated in favor of the injured party for obstruction of justice and document tampering; U.S. Const., First Amend. Root Refining Co. v. Universal Oil Prods. Co., 169 F.2d 514, 534–35 (3d Cir. 1948) (stating that "[t]he records of the courts must be purged and the judgments in Universal's favor, both in this court and in the District Court, must

be vacated and the suits by United, The Seventh Circuit states,

> ""Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." Kenner v. C.I.R., 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ś 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

II. The court of appeals' decision incorrectly resolves an exceptional issue of important issue in a critically important case

1. The prayers of the petitioners are that this court consider consolidating the two petition's and redressing the issues presented under the umbrella of one appeal in the interest of justice and to vitiate all orders of both the appellate and district court cases no 17-14866 and 18-13553 for case no 17-cv-1181-rws/twt.

> "Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness

and due process. Gonzalez v. Commission on Judicial Performance, (1983) .33 Cal. 3d 359, 371, 374. Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. Owen v. City of Independence. "The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury."

2. The district judge while presiding on the Civil RICO case 18 U.S.C. 1964 was added for aiding and abetting as a defendant on document 85, on Jul.5, 2017, for supporting the perjurous motion filed on May 11, 2017, document 31, by the respondents stating the current case was the same exact CIVIL RICO 18 U.S.C. 1964 case filed by the petitioners, three times and the chief Judge Thrash supposedly presided on one case. The respondents never moved to dismiss the complaint on those same grounds pursuant to Fed.R.Civ.P. 12(b)(6), or on any set of grounds claiming this is the same copyright infringement claim, this case makes no claims asserted in any prior case. RULES OF PROF'L CONDUCT 3.3 (stating that lawyers shall not make false statements of fact or law to the court or fail to correct false statements of material fact to the court).

3. Petitioners verified complaint, is Jury Demanded, U.S. Const., Seventh Amend., procures a right to a trial by jury;

and the Civil RICO complaint should proceed to trial court; predicate acts of Civil RICO cannot be collaterally estopped used to impinge in respondents counterclaims for copyright infringement to impinge proceeding unless petitioners complaint received a final decision in a prior action or current action.

> "All the officers of the government from the highest to the lowest, are creatures of the law, and are bound to obey it. "Cannon v. Commission on Judicial Qualifications, (1975) 14 Cal. 3d 678, 694. Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. Gonzalez v. Commission on Judicial Performance, (1983) .33 Cal. 3dations, (1975) 14 Cal. 3d 678, 694."

4. The chief judge had first-hand knowledge three prior cases in which he presided was a normal routine civil litigation suit for copyright infringement, not Racketeering activities of any sort. The district judge cannot be considered impartial and unbiased, allowing him to dismiss himself, without a three-panel-judge or the appellate chief judge's permission is unruly. Judge ignored petitioners' motion to transfer the case to another judge, and ignored motions for recusal, then self-dismissed.

5. The Chief district court judge while presiding on a case, added to the presiding case as a defendant, document 85 on Jul. 5,

2017, can he did not remain impartial and unbiased, motion to reassign, document 97, petitioners argued on Jul. 7, 2017; dismiss himself without a three panel district judge or the appellate chief judge's permission on Oct. 19, 2017, document 131; ignore a motion to transfer the presiding case to another judge, and motions for recusal, on documents 81 and 120, then after self-dismissal, while on appeal of the decisions, case no 17-14866 Oct. 26, 2017, continue to rule on the case, document 168 and 169 on Aug. 10, 2018, violating subject matter jurisdiction, Case no. 17-14866, on Mar. 29, 2018, since the Chief Judge's dismissal of himself was on issue for appeal 17-14866, before the court of appeals remanded the case back to the district court, does it make all issues in this appeal become moot or consolidated together for adjudication purposes and void all prior judge's orders, documents, 124-139 on Oct. 19, 2017 void of no legal effect.

6. When petitioner's appealed district decision(s), should the district court judge have been allowed to continue to rule on the case, violating subject matter jurisdiction of the eleventh circuit court, since his dismissal dispute of himself was on the issues of notice of appeal before the case was remand by the appellate court back to the district court.

> ""The Eleventh Amendment was not intended to afford them freedom from liability in any case where; under color of their office, they have injured one of the State's citizens. To grant

them such immunity would be to create a privileged class free from liability from wrongs inflicted or injuries threatened. Public agents must be liable to the law, unless they are to be put above the law. See Old Colony Trust Company v. City Seattle et. al. (1926) 271 U.S. 426, 46 S.C. 552, 70 L. Ed at page 431. No officer of the law may set that law at defiance with impunity. See United States v. Lee, 106 U.S. 196, 220 (1886) and Burton v. United States, 202U.S. 344 (1906)."

7. When the district court allowed the respondents to file the out of time second counterclaim and injunction, on Feb. 5, 2018, petitioners on a 54(b) to extend a courtesy to counsel, Civil Procedure 54(b) permits the entry of judgment, and thus an appeal, on fewer than all the claims in a multi-claim action; such as the Civil RICO v Copyright infringement claims, after is amendment in 1941, one court has stated:

"It follows that 54(b) orders should not be entered routinely or as a courtesy or accommodation to counsel. [as to the appealability of final judgments] and rule," Panichella v. Pennsylvania Railroad Co., 252 F.2d 452, 455 (3d Cir.1958). Santa Maria v. Owens-Illinois, Inc., 808 F.2d 848, 854 (1st Cir. 1986); Simon & Schuster, Inc. v. Members of N. Y. State Crime Victims Bd., 502 U.S. 105 (1991). "First Amendment presumptively places this

sort of discrimination beyond the power of the government. As we reiterated in Leathers: "'The constitutional right of free expression is ... intended to remove governmental restraints from the arena of public discussion, putting the decision as to what views shall be voiced largely into the hands of each of us ... in the belief that no other approach would comport with the premise of individual dignity and choice upon which our political system rests.'" Id., at 448-449 (quoting Cohen v. California, 403 U. S. 15,24 (1971))."

"The Court in Yates v. Village of Hoffman Estates, Illinois, 209 F. Supp. 757 (N.D. 111. 1962) held that "not every action by a judge is in the exercise of his judicial function it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse. When a judge acts as a trespasser of the law, when a judge does not follow the law, the judge loses subject-matter jurisdiction and the judges' orders are void, of no legal force or effect." Therefore, the Plaintiffs should not be held to any orders the Judge put into place and due to the involvement. Simmons v. United States, 390 U.S. 377 (1968)."

8. The claim and exercise of a Constitution right cannot be converted into a crime" ... "a denial of them would be a denial of due process of law". Butz V. Economou, 98

S. Ct. 2894-(1978); United States v. Lee, 106 U.S. at 220,1 S. Ct. at 261 (1882). "No man [or woman] in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity.

> All the officers of the Govemment from the highest to the lowest, are creatures of the law, and are bound to obey it. "Cannon v. Commission on Judicial Qualifications Hoffman Estates, Illinois, 209 F. Supp. 757 (N.D. 111. 1962) held that "not every action by a judge is in the exercise of his judicial function it is not a judicial function for a judge to commit an intentional tort even though the tort occurs in the courthouse.

A. Civil RICO continues in this case perpetuating schemes of "Fraud Upon the Court", established by this Courts standard

1. Evidence suggested the petitioners claims of Civil RICO 18 U.S.C. 1964 were defrauded, the First Appellate Court in case, CDR Creances S.A.S. v. Cohen, NY Slip Op. 03294 (2014) decide adopting,

> "clear and convincing evidence" standard for motions to strike an adversary's pleadings under CPLR 3126. The federal courts have applied the clear and convincing standard in determining whether the offending party's actions constitute fraud on the court."

2. The district court violated the petitioner's rights to proceed to trial, filing motions that would continue the Civil RICO portion of the case and to place a similar gag order against petitioners violating their U.S. Const. First, Fourth, Fifth, Seventh, and Fourteenth Amendments, Civil Rights and Civil Liberties by, courts and judges' fraud upon the court during current on-going proceedings restrict petitioners' access to justice.

3. The district court judge issued orders repeatedly in this case using a Fed.R.Civ.P. 54(b), intentionally, violating the petitioners U.S. Const. Fifth and Fourteenth amend., for due process, when the judge violated the Final Judgment Act Rule that limits him to a final judgment; after a first use, of the Final Judgment Act & Interlocutory Appeal 28 U.S.C. 1291-1292(b) to destroy the merits of Civil RICO 18 U.S.C 1964.

The Ninth Circuit stated,

> "Wyle v. R.J. Reynolds Indus., Inc., 709 F.2d 585, 589 (9th Cir. 1983) ("[C]ourts have inherent power to dismiss an action when a party has willfully deceived the court and engaged in conduct utterly inconsistent with the orderly administration of justice."); Eppes v. Snowden, 656 F. Supp. 1267, 1279 (E.D. Ky. 1986) (finding that where fraud is committed upon the court, the court's power to dismiss is inherent "to protect the integrity of its proceedings")."

4. Therefore, this case required a change of law, in order that the mandate does not dictate to the 11th Circuit Ruling of the proceedings that were competing and may infringe on use of the entire record. The classic case is United States v. The Schooner Peggy, 5 U.S. (1 Cranch) 103, 109 (1801) (treaty intervening between trial and final appeal dissolved rights of plaintiffs in the schooner). Vandenbark v. Owens Illinois Glass Co., 311 U.S. 538, 543 (1941) and Ziffrin, Inc. v. United States, 318 U.S. 73, 78 (1943).

The First Circuit concluded,

> "The requisite fraud on the court occurs where "it can be demonstrated, clearly and convincingly, that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system's ability impartially to adjudicate a matter by improperly influencing the trier of fact or unfairly hampering the presentation of the opposing party's claim or defense."

Aoude v. Mobil Oil Corp., 892 F.2d 1115, 1118 (1st Cir.1989). The orders in the district court should be vitiated in favor of the petitions since the fraud upon the court is both intrinsic and extrinsic, the First Circuit held:

> "Brockton Sav. Bank v. Peat, Marwick, Mitchell & Co., 771 F.2d 5, 11–12 (1st Cir. 1985) (affirming district court's entry of default judgment under court's inherent powers in response to

defendant's abusive litigation practices)"

5. Under the standard of this court the petitioners have established, Herring v. United States, 555 U.S. 135, 129 S. Ct. 695; 172 L. Ed. 2d 496; (2009). (1) an intentional fraud; (2) by an officer of the court; (3) which is directed at the court itself; and (4) in fact deceives the court, also held by the Sixth Circuit, Demjanjuk v. Petrovsky, 10 F.3d 338, 348 (6th Cir. 1993).

III. The court of appeals' decision in is in direct conflict with review of this court U.S. CONST. art. III, § 2, cl. I. The Supreme Court of the United States is vested with the final judicial power. U.S. CONST. art. III, § 1.

1. Review was sought for this appeal and interlocutory appeal, in the petitioner's arguments and notices is that neither the current case 18-13553 or case no. 17-14866 and pending on a petition for writ of certiorari case no. 18-1557, on conference for Oct. 1, 2019 rule for RICO. Attorney should be disbarred; petitioners are prose and fraud were intentional.

"Outback Steakhouse of Florida., Inc. v. Markley, 856 N.E.2d 65, 85 (Ind. 2006) (disciplining by ethics committee for false statements); People v. Scruggs, 52 P.3d 237, 241 (Colo. 2002) (holding that disbarment was an appropriate remedy for abuse)."

2. INVALIDATING A JUDGMENT FOR FRAUD ... AND THE SIGNIFICANCE

OF FEDERAL RULE 60(b) By W. DEAN WAGN

> "The label extrinsic or intrinsic adds nothing-and justice should not be predicated on words. Until now no tests have been recommended for defining "fraud on the court." Perhaps rationalization announced in Hadden v. Rumsey, 196 F.2d 92 (2d Cir. 1952) Products 35 by the district court for the Western district of New York is as wise as possible:
>
> The Supreme Court re-defines its position "manifestly unconscionable" test will be the only test, and it will remain, as it has been, that despite Federal Rule 60 (b) there is no federal rule at all.
>
> Shammas v. Shammas, 784 F.3d 219 (1952) supra note 32, 88 A.2d at 208, "[U]pon principle, we hold that relief for fraud upon the court may be allowed under our rule whether the fraud charged is denominated intrinsic or extrinsic." 31196 F.Supp. 988 (W.D.N.Y. 1951)."

3. On October 19, 2017, on a Civil RICO case, the district court granted and certified the respondent's judgment for Rule 12(c) on a counterclaim for copyright infringement applying res judicata, which was a predicate act and pattern, using a 54(b), there were no more motions or pleadings on entire record.

4. The district court never discounted Civil RICO claims on orders; only that

copyright infringement was not plead as a predicate act.

Conclusion

1. The petition for Writ of Certiorari should be granted to petitioner(s) and consolidated Rule 12.6 to 18-1557 to review for Civil RICO 18 U.S.C. 1964 and other statutory provisions reserved violated.

Respectfully submitted.

Date: Sep. 18, 2019

William James
Prose Petitioner
14920 S. Ashland
Harvey, Illinois 60428
Email: BJ255758@yahoo.com
Phone 773-990-9373

Terri V. Tucker (aka)
Donald-Strickland
aka Tlo-Redness
Prose Petitioner
1136 Joslin Path
Douglasville, GA 3013
Email: terrilowe43@gmail.com
Phone: 678-822-4593