

No. Case: 19-406

---

In the  
**SUPREME COURT OF THE UNITED STATES**

MARILU TOUMA, Petitioner,

vs.

THE GENERAL COUNSEL OF THE REGENT AND  
ET AL, Respondents,

On Petition for Certiorari to the United States

Court of Appeals for the Ninth Circuit, San Francisco,  
California No. Case:18-55996

Southern District Court, Santa Ana, California.  
No. 8:17-cv-01132-VBF-KS

Central District Court, Los Angeles, California.  
No. 8:17-cv-01132-VBF-KS

**PETITION FOR A WRIT OF CERTIORARI**

MARILU TOUMA  
Plaintiff, Appellant and  
Petitioner  
4439 Murietta Avenue #20  
Sherman Oaks, CA 91423  
mtoume2017@aol.com  
*PRO PER*

---

i.

## QUESTIONS PRESENTED

1. *Whether, UCLA Medical Center violated the America with Disability Act (ADA); Title II of the America with Disability of 1990 (ADA) and Civil Rights (SAC) when the hospital and its employees denied medical treatment to a disable woman; provided her substandard medical services; denied her stabilization at the Emergency Room (ER); abused her physically and mentally; accused of a criminal act; among other horrendous claims with the intention to destroy her persona and reputation; because she OBJECTED the abusive behavior and REJECTED inferior medical service?*
2. *Whether, All decisions made in petitioner's case at the Southern District Court and the Central District Court should be VOID for Lack of Jurisdiction; Abused of Power and Acted in Bad Faith. And Whether these deceitful actions constitute a VIOLATION of petitioner's Due Process; Deprivation of Civil Rights; Conspiracy to interfere with Civil Rights; violation under The America*

ii.

with Disability Act (ADA); Title II of the America with Disability of 1990 (ADA) and other violations determine by this court?

3. *Whether*, The Court of Appeals for the Ninth Circuit *Abused its Power* when FAILED to review petitioner's VIOLATION of Due Process; Acted in Bad Faith when affirmed the lower courts' decisions and concluded petitioner's case is Frivolous; when lower courts *lack jurisdiction* in this case. *And Whether* those deceitful actions constitute a VIOLATION of petitioner's Due Process; Deprivation of Civil Rights; Conspiracy to interfere with Civil Rights; violation under The America with Disability Act (ADA); Title II of the America with Disability of 1990 (ADA) and other violations determine by this court?

iii.

### **LIST OF PARTIES INVOLVED**

- 1) MARILU TOUMA. Plaintiff-Petitioner.
- 2) DEFENDANTS-RESPONDENTS have not appeared at any stage in this lawsuit.
  - a. The General Counsel of the Regents a/k/a "The Regents". Defendant-Respondent.
  - b. Veena Ranganath. Defendant-Respondent.
  - c. Roy Altman. Defendant-Respondent.
  - d. Melissa Ginsburg. Defendant-Respondent.
  - e. Mike (Unknown last name). Defendant-Respondent.
  - f. Nickolas Baca. Defendant-Respondent.
  - g. Emily Huang. Defendant-Respondent.
  - h. Michael Weingrow. Defendant-Respondent.
  - i. Los Angeles City. Defendant-Respondent.
  - j. Los Angeles County. Defendant-Respondent.
  - k. Bristol-Myers Squibb (BMS) Defendant-Respondent and
  - l. Does 1 through 10, Inclusive. Defendant-Respondent.

## TABLE OF CONTENTS

QUESTIONS PRESENTED .....	i
LIST OF PARTIES .....	iii
TABLE OF CONTENTS .....	iv
TABLE OF AUTHORITIES.....	vii
JURISDICTION.....	1
CONSTITUTIONAL AND STATUTE AT ISSUE.....	3
STATEMENT OF THE CASE .....	5
A. Facts Giving Rise to This Case .....	3, 4, 5
B. The District Court Proceedings.....	2, 3, 4, 11, 12, 13
C. The Appellate Court Proceedings.....	1,2,3, 13, 15
REASONS FOR GRANTING THE PETITION .....	16
I. REVIEW IS JUSTIFIED BECAUSE COURT OF APPEALS DID NOT REVIEW VIOLATION OF DUE PROCESS AND COURT OF APPEALS LACK JURISDICTION OVER DEFENDANTS .....	1, 2, 3, 4,13, 15,16
II. REVIEW IS JUSTIFIED BECAUSE THE SOUTHERN DISTRICT COURT AND THE CENTRAL DISTRICT COURT LACK JURISDICTION IN THIS CASE... ..	2, 3,11, 12, 13, 22
III. REVIEW IS JUSTIFIED BECAUSE THE	

v.

<b>MAGISTRATE JUDGE (MJ), ABUSED HER POWER AND ACTED IN BAD FAITH.....</b>	<b>24</b>
A. MJ <i>OBSTRUCTED DUE PROCESS</i>	
..... 2,3,12, 17,18, 20,22,23,24,25	
B. MJ <i>SUPPRESSED EVIDENCE</i> .....	2,3,12,27
C. MJ <i>INVALID REPORT AND RECOMMENDATION (R&amp;R)</i> .....	2,312,13,28,29
 <b>IV. REVIEW IS JUSTIFIED BECAUSE DISTRICT JUDGE (DJ) ABUSED HER POWER AND ACTED IN BAD FAITH. .....</b>	 <b>29</b>
A. DJ RULED IN A CASE; SHE <i>LACKS JURISDICTION</i> .....	2,3,11,12,13,22,23,24,29
B. DJ <i>REVOKE</i> D PETITIONER'S PAUPERI STATUS.....	12,15,16,18,19,20,30,31,32
C. DJ CONCLUDED PETITIONER'S CASE IS FRIVOLOUS.....	15 ,16,18,29,31,32
1. Theory of Plausibility:.....	32
• Coherent Legal Theory .....	32
• Truthful Facts.....	32
a. <i>Reasonable inference of liability</i> .....	33
b. <i>Degree of factual specificity</i> .....	34
c. <i>Information and belief</i> .....	34

vi.

V. REVIEW IS JUSTIFIED BECAUSE TO DELIBERATE INFILCT PSYCHOLOGICAL PAIN TO A DISABLE LITIGANT IS JUST “INHUMANE” .....	1,2,3,4,11,12,13,14,15,16,34,35,36
VI. CONCLUSION .....	36
<b>APPENDIX TABLE OF CONTENT</b> .....	37
<b>APPENDIX A</b> (Appeals MANDATE).....	16,38
<b>APPENDIX B</b> (Appeals DISMISSED and DENIED Motion for Reconsideration to appear in forma <i>pauperi</i> ) .....	16,21,39
<b>APPENDIX C</b> (Appeals DENIED Request for Opinion as to why concluded case is frivolous; DENIED Motion for Reconsideration for Dismissing case; DENIED Petition for Rehearing en banc; DENIED Motion to extend time to file Opening Brief; DENIED Motion to appoint a Pro Bono attorney in petitioner’s case; DENIED Motion to appear in forma <i>pauperi</i> ; DISMISSED petitioner’s case) .....	16,41

**APPENDIX D** (Central District, FINAL

JUDGMENT) ..... 13,31,43

**APPENDIX E** (Central District ORDERS:

OVERRULED Petitioner's Objections, ADOPTED

Magistrate Judge's R &R; DISMISSED Second

Amended Complaint. DISMISSED case with

Prejudice; DIRECTED Entry of Final Judgment,

TERMINATED and CLOSED CASE) ..... 13,18,31,44

**APPENDIX F** (Central District MAGISTRATE

JUDGE'S REPORT AND RECOMMENDATIONS

(R&R)..... 13,29,47

**TABLE OF AUTHORITIES**

**CASES**

*Keys v. Humana, Inc.*

684 F.3d 605,609 (6<sup>th</sup> Cir.2012)..... 11

*Freund v. Nycomed Amersham,*

347 F.3d 752, 762 (9<sup>th</sup> Cir. 2003). ..... 13

*Harman v. Apfel,*

211 F.3d1172, 1174 (9<sup>th</sup> Cir. 2000)..... 14

viii.

*Freeman v. DirecTV, Inc.*,  
457 F.3d 1001,1004 (9<sup>th</sup> Cir. 2006)..... 14

*Rand v. Rowland*,  
154. F.3d.952,957 n4(9<sup>th</sup> Cir. 1998)..... 15

*Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*,  
526 U.S. 344, 350, 119 S.Ct. 1322, 143  
L.Ed.2d 448 (1999)..... 21

*Combs v. Nick Garin Trucking*,  
825 F.2d 437, 442 & n. 42 (D.C.Cir.1987)  
(collecting cases); cf..... 21

*Cambridge Holdings Grp., Inc. v. Federal Ins.*  
Co., 489 F.3d 1356, 1360 (D.C.Cir.2007) .21,22

*Henderson v. U.S.*,  
517 U.S,654, 672 (1996); ..... 22

*Mann v. Castiel*,  
681F.3d 368, 372 (D.C. Cir. 2012)..... 22

*Barrett v. City of Allentown*,  
152 F.R.D. 46,..... 22

*Lepone-Dempsey*,  
476 F.3d at 1280-81;..... 23

*Henderson v. U.S.*,  
517 U.S. 654, 656 (1996). ..... 23

*Gorman v. Ameritrade Holding Corp.*,  
293 F.3d 506, 514 (D.C.Cir.2002); ..... 23

ix.

<i>Omni Capital Int'l, Ltd. v. Rudolf Wolff &amp; Co.,</i> <i>Ltd., 484 U.S. 97, 104, 108 S.Ct. 404, 98</i> <i>L.Ed.2d 415 (1987).....</i>	23
<i>Melo v. US,</i> <i>505 F2d 1026.....</i>	24
<i>Broom v. Douglas,</i> <i>75 Ala 268, 57 So 860 .....</i>	24
<i>Willie James Glover, Plaintiff-Appellee Cross-Appellant, v. Alabama Board of Corrections, Et Al., Defendants, James Towns, Defendant-Appellant Cross-Appellee., 660 F.2d 120</i> <i>(5th Cir. 1981).....</i>	25,26
<i>Latana v. Hopper,</i> <i>102 F. 2d 188; Chicago v. New York, 37 F</i> <i>Supp. 150.....</i>	26
<i>Chicago v. New York, 3</i> <i>7 F Supp. 150.....</i>	26
<i>OLD WAYNE MUT. L. ASSOC. v. McDONOUGH,</i> <i>204 U. S. 8, 27 S. Ct. 236 (1907).....</i>	27
<i>Rose v. Bartle,</i> <i>871 F.2d 331, 339 n.3 (3d. Cir. 1989).....</i>	28
<i>Summers v. Utah,</i> <i>927 F.2d 1165, 1167 (10th Cir.1991).....</i>	29
<i>McCoy v. Goldston,</i> <i>652 F.2d 654, 657 (6<sup>th</sup> Cir, 1982).....</i>	30
<i>Iqbal, 556 U.S. at 678-79.....</i>	33

**x.**

*Whitney v. Guys, Inc.*,  
700 F.3d 1118, 1128 (8<sup>th</sup> Cir.2012).....33

*Shepard v. David Evans & Associations.*,  
694 F.3d 1045, 1050, (9<sup>th</sup> Cir.2012)..... 34

*Arista Records LLC v. Doe*  
3, 604 F.3d 110, 120 (2d Cir. 2010)..... 34

**U. S. CONSTITUTION**

Article Three. Section 2 (a) Court System.  
The Judiciary Branch.....25, 26,27

**CONSTITUTIONAL AMENDMENTS**

The Fourteenth Amendment: Due Process Clause.  
.....3,12,13,18,20,21,22,23,24,27,28

**STATUTES**

42 U.S.C.1981 Equal Rights under the Law..3,5,11,17

42 U.S.C.1983 Deprivation of Civil Rights...3,5,11,17

42 U.S.C.1985 Conspiracy to interfere with Civil  
Rights..... 3,5,11,17

**U. S. ACTS**

The American with Disability Act of 1992. (ADA) .  
.....4,5,12,17

Title II of the America with Disability Act (ADA)  
of 1990.....4,5,12,17

**xi.**

Section 504 of the Rehabilitation Act of 1973	
.....	4,5,12,17
Emergency Medical Treatment & Labor Act (EMTALA).....	4,6,12,17
Title 45 CFR 46 Protection of Human Subjects	
.....	4,5,12,17

**FEDERAL RULES OF APPELLATE PROCEDURE**

FRAP 3. APPEAL AS OF RIGHT-HOW TAKEN	
(1) Filing the Notice of Appeal.....	13
FRAP 10. THE RECORD ON APPEAL.....	21
FRAP 11. FORWARDING THE RECORD.....	14,21
FRAP 24 PROCEEDING IN FORMA PAUPERIS	
(a) Leave to Proceed in Forma Pauperis.	
(1) Motion in the District Court.	
(2) Action on the Motion.	
(3) Prior Approval.	
(4) Notice of District's Denial.	
(5) Motion in the Court of Appeals.....	12,18
FRAP 28. BRIEFS.....	14,21

**FEDERAL RULES OF CIVIL PROCEDURE**

FRCP 3 COMMENCING IN ACTION.....	11
FRCP 4. SUMMONS. AMENDMENTS CONTENTS. .....	12,17

FRCP 4. 1 SERVING OTHER PROCESS.....	12,17
FRCP 26. DUTY TO DISCLOSE; GENERAL PROVISIONS GOVERNING DISCOVERY.....	12,17,27
FRCP 34. PRODUCING DOCUMENTS, ELECTRONICALLY STORED INFORMATION, DOCUMENTS..	12,17,28
FRCP 38. TRIAL. RIGHT TO A JURY TRIAL. DEMAND. ....	29,30
FRCP 52. FINDING & CONCLUSIONS BY THE COURT; JUDGMENT OF PARTIAL FINDINGS. (a) Findings & Conclusions.....	14, 19, 29
FRCP 72. MAGISTRATE JUDGES: PRETRIAL ORDER (a) Nondispositive Matters.....	25,26,27
FRCP 73. MAGISTRATE JUDGES: TRIAL BY CONSENT; APPEAL. (a) Trial by Consent.....	25,26,27

## PETITION FOR WRIT OF CERTIORARI

Marilu Touma respectfully petition for a Writ of Certiorari to review the orders, affirmation, mandate of the Court of Appeals for the 9<sup>th</sup> Circuit, and orders, proceedings and final judgment of the Central District Court and the Southern District Court. Review is invoked under 28 U.S.C. § 1254(1).

### JURISDICTION

1. Court of Appeals MANDATE entered on May 1, 2019. **APPENDIX A**
2. Court of Appeals DISMISSING the case as frivolous; DENYING petitioner' Request for an Opinion as to WHY appeal is frivolous; DENYING Motion for Reconsideration for dismissal of the case and Rehearing en banc; DENYING Motions for leave to appear in *forma pauperi*; DENYING Motion to appoint a pro bono attorney in this case; DENYING Motion for Reconsideration for denying leave to appear in *forma*

*pauperi*; DENYING Motion to extend time to file  
Opening Brief; Dismissing case; entered on April 23,  
2019.

**APPENDIX. B**

3. Court of Appeals FINAL JUDGMENT; DENYING  
petitioner's Motion for Reconsideration to leave to  
proceed in forma *pauperi* entered on January 18,

**2019. APPENDIX. C**

4. Central District Court FINAL JUDGMENT in FAVOR  
of all Defendants; AGAINST Petitioner entered on July  
6, 2018.

**APPENDIX. D**

5. Central District Court entered its order OVERRULING  
Petitioner's Objections, ADOPTING Magistrate Judge's  
Report and Recommendation; DISMISSING Second  
Amended Complaint. DISMISSING case with Prejudice;  
DIRECTING Entry of Final Judgment, TERMINATING  
and CLOSING case entered on July 6, 2018.

**APPENDIX E**

6. Central District Court Magistrate Judge's REPORT

AND RECOMMENDATION entered on April 5, 2018.

## APPENDIX F

### CONSTITUTIONAL AND STATUTE AT ISSUE

#### THE FOURTEENTH AMENDMENT

“Section. 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State... nor shall any State deprive any person of life, liberty, or property, without Due process of law,”

#### 42 U.S. Code § 1981. EQUAL RIGHTS

“All persons within the jurisdiction of the United States shall have the same right in every State ...to make and enforce contracts, to sue...benefit of all laws and proceedings for the security of persons ...”

#### 42 U.S. Code § 1983. DEPRIVATION OF RIGHTS

“Every person who, under color of any statute, Of any State ... deprivation of any rights,...shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress...”

#### 42 U.S. Code § 1985. CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS.

“If two or more persons in any State ...conspire to deter, by force, intimidation, or threat,... may have an action for the recovery of damages occasioned by such injury or deprivation...”

## **THE AMERICAN WITH DISABILITY ACT 1990 (ADA)**

“The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including all public (hospitals) ...”

## **TITLE II OF THE AMERICA WITH DISABILITY ACT**

“The Americans with Disabilities Act of 1990 (ADA) is a federal law that prohibits discrimination against qualified individuals with disabilities and protects persons with disabilities from discrimination in many public places..”

## **EMERGENCY MEDICAL TREATMENT & LABOR ACT (EMTALA)**

EMTALA Federal labor law requires that if a patient is determined to have an Emergency Medical Condition then the Emergency Department Staff must screen and STABILIZE the patient, if possible, before asking about insurance.

## **TITLE 45 CFR 46 PROTECTION OF HUMAN SUBJECTS**

In the United States, the Code of Federal Regulations Title 45: Public Welfare, part 46 (45 CFR 46) provides protection for human subjects in research carried out or supported by most federal departments and agencies.

## STATEMENT OF THE CASE

### A. Facts Giving Rise to This Case

Petitioner is a disable woman; who wanted to contract the medical services of a Rheumatologist Arthritis Specialist at UCLA Medical Center; because she wanted to become pregnant; those services were denied (42 U.S.C.1981 Equal Rights under the Law). Instead; she was provided with alternative services. She was sent to a Research study were she was provided with INFERIOR services that put her life at risk. The Americans with Disabilities Act of 1990 (ADA).

Altman and Ranganath did NOT DISCLOSED information about the study and did NOT INFORMED Petitioner's about all her medical conditions; which is a VIOLATION of Title 45 CFR 46 Protection of Human Subjects. Petitioner started to experience several SIDE EFFECTS: losing hair, itching, stomach pain among other side effects that she communicated to Ranganath.

Petitioner was scared when she found out, the medication ORENCEIA she was receiving from the study was EXPIRED (one year-or older). Ranganath told her everything was OK; but Ranganath excluded her from a meeting with the ORENCEIA representatives; suddenly her English skills were in question; but never offered a translator nor offered information in petitioner's native language. Ranganath altered Petitioner's doses of medications. Petitioner TRUSTED Ranganath's medical expertise and continued taken the medications as prescribed by her.

"On June 23, 2013, around 11:30 p.m. Petitioner felt severe chest pain, short of breath, dizziness, fainted at home, Headaches, numbness in the face and stomach, Chest Pain: Sharp, Acute, Intense pain in the chest. Shortness of Breath. Numbness of in the face. Headache: Sharp, Intense and Stomach Pain. Petitioner was scared for her life. She went to UCLA Medical Center Emergency Room (ER) seeking medical help. At UCLA ER petitioner was single out; mistreated and discriminated. When she tried to STOP the abuse... She was DENIED medical TREATMENT and STABILIZATION at the ER. Violation of Emergency Medical Treatment & Labor Act (EMTALA)". She was physical and mentally abused; was Retaliated; humiliated and accused of a CRIMINAL ACT among other repulsive

unfounded ACCUSATIONS; only with the EVIL INTENTION to destroy petition's REPUTATION and CREDIBILITY".

When petitioner was release from UCLA ER, "she had, MORE Chest pain: sharp, acute. More Shortness of breath. Numbness in the face. MORE Headache (left side of my head) Sharp, intense. Stomach pain. (Left side of my stomach) Mistreated, insulted, humiliated and denied medical services by UCLA ER Doctors and Staff. On June 26, 2013 Plaintiff was afraid for her health; she went to UCLA, Santa Monica; for the symptoms she went to UCLA ER. After the incident at the UCLA ER; petitioner told Ranganath she did not want to continue in her study".

Ranganath TOLD petitioner...

- "The mistreatment and discrimination Petitioner was subjected to at the UCLA ER was because Petitioner was a COLORED WOMAN.
- Ranganath, described in detail her personal racial discrimination experience at the UCLA Gynecology Department.
- Ranganath told Petitioner to go to another hospital close to petitioner's home; after Petitioner told Ranganath; she wanted to see a regular Rheumatoid Arthritis specialist at UCLA.
- Ranganath told petitioner her Research assistance was going to mail a copy of petitioner's UCLA ER Medical Report before SOMEONE ALTER/CHANGE her Medical Records at the UCLA ER".

Ranganath INFILCTED terror, fear on petitioner.

Her DESPICABLE behavior pushed Petitioner to write many official complaints in a very inflamed tone.

Petitioner tried to make an appointment with a RA specialist at UCLA hospital; but receptionist would only give her an appointment with Ranganath. Petitioner did not feel safe nor trusted Ranganath. Later, Petitioner did not feel safe at all going to UCLA Medical Center for any treatment. UCLA Security denied to take petitioner's claim.

Petitioner filed several complain at UCLA. Petitioner stated to receive **THREAT MESSAGES** in her cell phone: the message stated: "stop complaint...husband is sick.. I am in the hospital". The only Hospital Petitioner was making a complaint was UCLA Medical Center. Petitioner was afraid UNAUTHORIZED personnel at UCLA Medical Center were viewing petitioner's personal and medical information. Since Petitioner was under the "medical treatment"

of Altman and Ranganath; other RA specialists had diagnosed petitioner with Rheumatoid Arthritis, Lupus (Borderline) Fibromyalgia, S'Jorgen Syndrome, thyroiditis, ,Chrone Disease, Ulcers, among other diseases, infections and conditions. Petitioner was forced to undergo several medical procedures and take several drug medications that had negative side effects.

On or about 2015, Petitioner learned for the FIRST TIME:

- She has LUPUS (Borderline) since 2012; based on Altman and Ranganath's lab exams.
- Altman and Ranganath DID NOT DISCLOSED vital medical and non-medical information about the Study and Petitioner's medical condition.
- UCLA ER employees (Defendants) were SPREADING RUMORS about petitioner's persona: she is difficult, does not want to be touch, ASSAULT (strike) ER employee among other REPULSIVE

unfounded RUMORS to destroy petitioner's persona.

- Petitioner received a letter from UCLA Medical Center stating its computers were hacked in 2013-2014 (est.). Petitioner's personal information was compromised.
- Petitioner's Mental medical records were obtained without Petitioner's authorization.

On or about January 2018, Petitioner learned

- Pharmaceutical, BRISTOL-MYERS SQUIBB provided ORENCEA (EXPIRED) to Ranganath for the study she was conducting at UCLA Medical Center.

For the last five years (est.) Petitioner had made several claims to the City, County, Federal Agencies:

Department of Health Civil Rights AGAINST UCLA Medical Center for FAILURE to comply with local, state, federal laws that prohibit discrimination in public settings (Hospitals).

As a result of that; Petitioner experienced STRONG retaliation and opposition from the Medical and Non-Medical establishments. Petitioner is not receiving medical services and her Medical condition is deteriorating.

**B. The Southern District and Central District Court Proceedings**

On June 30, 2017, petitioner filed a Civil Right lawsuit at the Southern District Court against all respondents seeking compensatory, punitive damages and for further relief the Court determine necessary and appropriate in this case. (FRCP 3). Petitioner filed as a pro se; complaint had some technical errors; but encompassed all the FACTS she claims in her complaint; "civil rights allegations...do not have to be pleaded with particularity"

*Keys v. Humana, Inc.* 684 F.3d 605,609 (6<sup>th</sup> Cir.2012).

"This Civil Right claim constitutes a constitutional violations of petitioner's Civil Rights under Sections 42 U.S.C.1981; First Amendment Retaliation under 42 U.S.C. 1983 Conspiracy under 42 U.S.C.1985;

Violation of American Disability Act (ADA); First Amendment Retaliation under ADA; Conspiracy under ADA; Section 504 of the Rehabilitation Act of 1973; Title II of the America with Disability Act (ADA); violation of Title 45 CFR 46 Protection of Human Subjects *inflicted* upon Petitioner by Respondents: Ronald Reagan UCLA Hospital aka "The Regents"; Veena Ranganath; Roy Altman; Daniel Michael Weingrow; Emily Huang; Melissa Ginsburg; Mike (Unknown last name); Nick Baca, Los Angeles City; Los Angeles County; Bristol-Myers Squibb (BMS) and Does 1 through 10, Inclusive". (SAC)

The Southern District Court did not issue the Summons (FRCP 4); but rather transferred the case to the Central District Court. Petitioner case was assigned to a Magistrate Judge; who granted petitioner *pauperi* status (FRAP 24); ordered not to serve any documents to the defendants (FRCP 4.1) and not to include any exhibits in her pleadings (FRCP 26, 34). In despite of the several OBSTACLES Petitioner was facing; she complied with the court and filed her Second Amendment complaint (SAC). MJ did not reply on the SAC; but filed her Report and

Recommendation (R&R). Petitioner timely filed her  
OBJECTIONS (FRCP 72) to Magistrate Judge's Report &  
Recommendation (R&R). (**app. F**)

District Judge DENIED Motion to extend time to  
serve the Summons and the Complaint to the defendants;  
OVERRULED Petitioner's Objections; ADOPTED  
Magistrate Judge's Report and Recommendation;  
DISMISSED Second Amended Complaint with Prejudice;  
TERMINATED and CLOSE case. (**app. D**). For the final  
judgement; District Judge ruled IN FAVOR of all  
defendants and AGAINST Petitioner. (**app E**). Petitioner  
filed a Notice of Appeal. (FRAP 3)

### **C. The Appellate Court Proceedings**

The Standard of Review in a case is critical to the  
outcome of a case. The proper standard of review in a  
question of federal procedure is governed by federal law.

*See Freund v. Nycomed Amersham*, 347 F.3d 752, 762 (9<sup>th</sup>  
Cir. 2003). Judges made their decisions based on three

categories: (1) question of law (reviewable de novo); (2) question of fact (reviewable for clear error); and (3) matter of discretion (reviewable for abuse of discretion). *See* *Harman v. Apfel*, 211 F.3d 1172, 1174 (9<sup>th</sup> Cir. 2000).

If the court of appeal decided on petitioner's case based on the brief and court records (FRAP 11, 28); case qualify for review under *De Novo*; that means court of appeals had to review the case from the start at the District court (FRAP 11); as if no decision had been rendered. *Freeman v. DirecTV, Inc.*, 457 F.3d 1001, 1004 (9<sup>th</sup> Cir. 2006).

Review of the District court's finding of facts are reviewable under the *clearly erroneous* standard. District Judge denied petitioner fact and findings as to why she concluded petitioner's case is frivolous and nine controverted issues about her case (FRCP 52); because she did not hold an evidentiary hearing; Findings of fact are made on the basis of evidentiary hearings and usually involve credibility determination, which explains why they

are reviewed deferentially under the clearly erroneous standard: *Rand v. Rowland*, 154. F.3d.952,957 n4(9<sup>th</sup> Cir. 1998). Further, standard of review does not apply in petitioner's case; because the court of appeals lack jurisdiction over the defendants; there was NO CASE (FRCP 4.1).

The Court of Appeals referred petitioner's case back to the District Judge to determine whether case was frivolous and if Petitioner should proceed in forma *paupери*. District Judge DENIED petitioner to proceed in forma *paupери* at the court of appeals and advised petitioner to applied again to proceed in forma *paupери* at the court of appeals level.

The Court of Appeals ORDERED Petitioner to DISMISS her appeal or to filed a WRITTEN STATEMENT stating why her case is NOT FRIVOLOUS along with a Motion requesting leave to proceed in forma *paupери*. Petitioner COMPLIED with court of appeal orders.

On January 18, 2019, Court DISMISSED petitioner's appeal as frivolous and DENIED petitioner's motion to proceed in forma *pauperi*. (app. B). On April 23, 2018, the court of Appeals DENIED all Petitioners' Motions [31], [32]. [33], [34]. [35] & [36] that were treated as a combined Motion for Reconsideration; Reconsideration en banc; also, DENIED request for an Opinion as to why the court concluded the appeal was frivolous and DENIED Reconsideration for the denial of *pauperi* status. (app. C)

On May 1, 2019 court of appeal entered its MANDATE. (app. A)

#### **REASONS WHY CERTIORARI SHOULD BE GRANTED**

##### **I. REVIEW IS JUSTIFIED BECAUSE THE COURT OF APPEALS DID NOT REVIEW VIOLATION OF DUE PROCESS AND APPEAL COURT LACKS JURISDICTION OVER DEFENDANTS.**

On June 30, 2017, petitioner filed a Civil Right lawsuit at the SOUTHERN DISTRICT COURT seeking

damages and for further relief the Court determine necessary and appropriate in her case for violations of petitioner's Civil Rights under Sections

"42 U.S.C.1981; First Amendment Retaliation under 42 U.S.C.1983 Conspiracy under 42 U.S.C.1985; Violation of American Disability Act (ADA); First Amendment Retaliation under ADA; Conspiracy under ADA; Section 504 of the Rehabilitation Act of 1973; Title II of the America with Disability Act (ADA); violation of Title 45 CFR 46 Protection of Human Subjects **inflicted** upon Petitioner by Respondents: Ronald Reagan UCLA Hospital aka "The Regents"; Veena Ranganath; Roy Altman; Daniel Michael Weingrow; Emily Huang; Melissa Ginsburg; Mike (Unknown last name); Nick Baca, Los Angeles City; Los Angeles County; Bristol-Myers Squibb (BMS) and Does 1 through 10, Inclusive". (SAC)

The SOUTHERN DISTRICT COURT did not issue the SUMMONS (FRCP 4); case was transferred to the CENTRAL DISTRICT COURT; Magistrate Judge ordered petitioner NOT TO SERVE (FRCP 4.1) any documents to the defendants and NOT TO INCLUDE evidence in her pleadings (FRCP 26, 34). Further, the Central District court FINAL ruling was IN FAVOR of all the defendants

(whom did not appear at any stage in this lawsuit) and  
AGAINST petitioner. (app. E)

Petitioner escalated her case to the Court of Appeals  
for a REVIEW OF VIOLATION OF DUE PROCESS and  
Review of the final decision and pre-trial orders. The  
“Court of Appeals shall have jurisdiction for all final  
decision of the district courts”. 28 U.S.C. § 1291.

On July 24, 2018, the Court of Appeals transferred  
petitioner’s case back to the District court to determine  
petitioner’s PAUPERI STATUS and whether this appeal is  
FRIVOLOUS or taken in BAD FAITH; and kept petitioner’s  
DUE DATE for filing the brief for the appeal.

On July 7, 2017 District court GRANTED  
Petitioner’s *pauperi* status. According to FRAP 24 (3) Prior  
approval.

“A party who was permitted to proceed in forma  
*pauperi* in the district court action...may proceed  
in appeal in forma *pauperi* without further  
authorization, unless (3) the district court...  
certifies that the appeal is not taken in good

faith...states in writing the reasons for the certification or finding..."

On August 14, 2019, District Judge DENIED

petitioner leave to proceed in forma *pauperi* on Appeal number **18-55996**. Further, District Judge stated in her denial "This order is not appealable. Petitioner MAY ASK the United States Court of Appeals for the Ninth Circuit for leave to proceed in forma *pauperi* in appeal number **18-55996**". Petitioner requested District Judge for the findings of FACTS AND CONCLUSION (FRCP 52) for Revoking petitioner's *pauperi* status at the District Court Level; District Judge DENIED the request and replied "The Court will not permit the filing of any further documents regarding this Court's revocation of plaintiff's *pauperi* status for her Ninth Circuit Appeal No. **18-55996**. Denying"

The court of appeals ORDERED Petitioner to file a WRITTEN STATEMENT stating why she believes her appeal is not frivolous; and a Motion requesting leave to proceed in forma *pauperi* in the court of appeals.

On January 18, 2019; the court of appeals  
AFFIRMED District Court decision that petitioner's appeal  
is Frivolous; DISMISSED case; DENIED Motion for  
appointment of PRO BONO counsel. DENIED petitioner's  
leave to appear in forma *pauperi*; DENIED Petitioner's  
Motion for Reconsideration of the Dismissal; DENIED  
request of an opinion as to why the court concluded  
petitioner's case is frivolous; DENIED Petition for Panel  
Rehearing and DENIED Petition for Rehearing en banc.  
**(app. C).** On May 1, 2019, the court of appeals entered its  
MANDATE that the judgment of the court entered on  
January 18, 2019 constitute the formal mandate of the  
Court. **(app. A).** The Final Decision of the Court of Appeal  
does not reflect a Review of petitioner's VIOLATION OF  
DUE PROCESS.

For a panel of three judges to conclude a case is  
frivolous; they need to review the written record of the  
case in the lower court and review the briefs submitted

by BOTH parties. (FRAP 10,11) Written records of petitioner's case demonstrate violation of DUE PROCESS; ABUSED OF POWER and that the court acted IN BAD FAITH. Lower Court did not issue the Summons; petitioner was ordered not to serve the complaint to the defendants and not to include exhibits in her pleadings. More concerning; lower court ruled WHEN THERE WAS NO CASE. Further, court of appeal DENIED petitioner's Motion to extend time to file her brief replying "is not necessary" (FRAP 28). And DENIED her an opportunity for an Oral argument; her petition for *Hearing en banc* was DENIED. (app. B)

"Court of appeal had the power to void lower court's final judgement and orders for lack of jurisdiction. "Service of process, under longstanding tradition in our system of justice, is fundamental to any procedural imposition on a named defendant." *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 350, 119 S.Ct. 1322, 143 L.Ed.2d 448 (1999). Consequently, courts have "uniformly held . a judgment is void where the requirements for effective service have not been satisfied." *Combs v. Nick Garin Trucking*, 825 F.2d 437, 442 & n. 42 (D.C.Cir.1987) (collecting cases); cf. *Cambridge*

*Holdings Grp., Inc. v. Federal Ins. Co.*, 489 F.3d 1356, 1360 (D.C.Cir.2007)".

**II. REVIEW IS JUSTIFIED BECAUSE THE SOUTHERN DISTRICT COURT AND THE CENTRAL DISTRICT COURT LACK JURISDICTION IN THIS CASE.**

In Federal courts, the SERVICE of the SUMMONS and the COMPLAINT are the OFFICIAL method by which a plaintiff notifies the defendant that it is being sued.

Summons and Complaint determine (1) the court jurisdiction over the defendant; (2) satisfy due process requirement-give notice of the suit and (3) give an opportunity to the defendants to defend themselves against any claim by presenting their objections. *Henderson v. U.S.*, 517 U.S. 654, 672 (1996); *Mann v. Castiel*, 681 F.3d 368, 372 (D.C. Cir. 2012).

The Summons must be signed by the court clerk and bear the seal of the court. FRCP 4 (a) (1) (F) (a) (1) (G); (b) *Barrett v. City of Allentown*, 152 F.R.D. 46, 49 (E.D. Pa. 1993). "If the Summons and Complaint are not served

within 120 days (or within a specific time as ordered by the court), the court must dismiss a suit without prejudice for the unanswered parties unless the petitioner shows GOOD CAUSE for not making the SERVICE. See *Lepone-Dempsey*, 476 F.3d at 1280-81; see also *Henderson v. U.S.*, 517 U.S. 654, 656 (1996).

On May, 2018, petitioner filed a Motion to request District Judge to issue the Summons and to extend time to serve the Summons and the Complaint to the defendants. District Judge DENIED the request and replied “which the Court will deny”. Under the federal rules enacted by Congress, federal courts **lack the power to assert personal jurisdiction over a defendant** “unless the procedural requirements of effective service of process are satisfied.” *Gorman v. Ameritrade Holding Corp.*, 293 F.3d 506, 514 (D.C.Cir.2002); See *Omni Capital Int'l, Ltd. v. Rudolf Wolff & Co., Ltd.*, 484 U.S. 97, 104, 108 S.Ct. 404, 98

L.Ed.2d 415 (1987). The Southern and Central District court lack jurisdiction over the defendants. "Once jurisdiction is challenged, the court cannot proceed when it clearly appears that the court lacks jurisdiction, the court has no authority to reach merits, but, rather, should dismiss the action." *Melo v. US*, 505 F2d 1026.

The Southern and Central District court were AWARE that they lack jurisdiction over defendants and with that NOTION; District Judge made several rulings and made petitioner believe, SHE HAD A CASE.

"If it [jurisdiction] doesn't exist, it cannot justify conviction or judgment. ...without which power (jurisdiction) the state CANNOT be said to be "sovereign." At best, to proceed would be in "excess" of jurisdiction which is as well fatal to the State's/ USA 's cause. *Broom v. Douglas*, 75 Ala 268, 57 So 860 the same being jurisdictional facts FATAL to the government's cause (e.g. see *In re FNB*, 152 F 64)".

**III. REVIEW IS JUSTIFIED BECAUSE MAGISTRATE JUDGE (MJ) ABUSED HER POWER AND ACTED IN BAD FAITH.**

A. MAGISTRATE JUDGE (MJ) ABUSE HER POWER.

Before a Magistrate Judge (MJ) takes over a case; a District Judge must authorize it. District Judge has the power and authority to designate a Magistrate Judge to handle pretrial matters in a civil case. Court clerk must send a referral ORDER because "all pretrial matters" assigned to the MJ comes with a **Standard of Review**. Records must be kept for any clarification .636 (b). Under 28 U.S.C. § 636(c). Petitioner has to consent; if she wants her case to be heard by a Magistrate Judge (MJ).

Petitioner NEVER received a REFERRAL ORDER nor a NOTICE OF CONSENT FORM from a District Judge. If there is no *Referral Order* and *Notice of Consent*; Magistrate Judge (MJ) has ABSOLUTE POWER over a case. *In case; Willie James Glover, Plaintiff-Appellee Cross-Appellant, v. Alabama Board of Corrections, Et Al., Defendants, James Towns, Defendant-Appellant Cross-*

*Appellee.*, 660 F.2d 120 (5th Cir. 1981) a court concluded "a decision without consent by a magistrate, a non-Article III judge, would undermine this objective of the Constitution and might violate the rights of the parties". Further, any findings from a Magistrate Judge (MJ) should not be final.

Title 28 U.S.C. § 636(b)(3), Findings by a Magistrate Judge (MJ) made pursuant to this provision are NOT final, but **"are subject to de novo determination by the district court judge."** Magistrate Judge judiciary pre-trial proceedings transpired as such:

"Magistrate Judge DENIED a civil action: VIOLATED Due Process. RESPONDED on behalf of the defendants. DISMISSED complaint. DENIED appointment of Counsel. DISMISSED complaint with leave to amend. OBSTRUCTED DISCOVERY. DENIED trial by Jury. Magistrate Judge DENIED petitioner a fair and unbiased pre-trial".

"Court must prove on the record, all jurisdiction facts related to the jurisdiction asserted." *Latana v. Hopper*, 102 F. 2d 188; *Chicago v. New York*, 37 F Supp. 150. "A court

cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well established law that a void order can be challenged in any court". *OLD WAYNE MUT. L. ASSOC. v. McDONOUGH*, 204 U. S. 8, 27 S. Ct. 236 (1907).

**B. MAGISTRATE JUDGE (MJ) SUPPRESSED EVIDENCE.**

Discovery is a crucial phase in civil case. During this time petitioner can produce and request relevant information that can help her to support her claim or to defend herself from claims against her. FRCP (26) (b) (1).

On July 24, 2017 Magistrate Judge ordered petitioner not to submit any exhibits.

"Evidence that included, but not limited to Doctors' own declaration in regards petitioner's medical condition; Lab test results, X-ray exams, Medical records, Pharmacy records, Summary of Drug prescription, Doctors' diagnosis, assessments , plan/treatments to petitioner's medical conditions. Medical literature, Ranganath's Clinical study, among other relevant medical and non-medical documents to support her claim".

Rule FRCP 34 (c) "written instruments usually consist of documentary evidence...on which a party's action or defense is based. *Rose v. Bartle*, 871 F.2d 331, 339 n.3 (3d. Cir. 1989). Petitioner has the **BURDEN OF PROOF** to demonstrate that all her claims are **LEGITIMATE**. Petitioner has the right to present Exhibits (evidence) to support all of her claims against defendants.

On February 2, 2018, Petitioner filed her Second Amendment Complaint (SAC) with **NO EXHIBITS**. (complying with Magistrate Judge's orders).

**C. MAGISTRATE JUDGE INVALID REPORT AND RECOMMENDATION (R&R)**

On April 05, 2018, Magistrate Judge (MJ) filed her Report and Recommendation. On April 26, 2018, Petitioner filed her OBJECTIONS to MJ's R&R with **NO EXHIBITS**. Petitioner 's OBJECTIONS to MJ's R & R' clearly demonstrates MJ ABUSED her POWER and DISCRETION. Report contains several **MISCONSTRUE ERRORS OF FACTS** that do not represent what

petitioner wrote in her complaint nor what the evidence demonstrates. Furthermore, Magistrate Judge's Report & Recommendation lacks jurisdiction. (app. F)

When a party files timely written OBJECTION to a Magistrate Judge's report, the District court MUST "make a *de novo* determination of those portions of the report ...to which objection is made." 28 U.S.C. 636(b)(1)(C); see also *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir.1991) ("De novo review is statutorily and constitutionally required....").

**IV. REVIEW IS JUSTIFIED BECAUSE DISTRICT JUDGE (DJ) ABUSED HER POWER AND ACTED IN BAD FAITH.**

**A. DISTRICT JUDGE (DJ) RULED IN A CASE; SHE LACK JURISDICTION**

Petitioner requested District Judge for the Fact and Findings of Nine controverted issues and as to why she revoked *pauperi* status and concluded petitioner's case is frivolous. District Judge DENIED to provide her legal rationality as to her rulings in petitioner's case; because evidences show this case is for a JURY. (FRCP 38)

The RIGHT to an impartial JURY TRIAL in civil cases is embedded in our constitution: The SEVENTH AMENDMENT guarantee the right "to trial by jury"; The REHABILITATION ACT and THE AMERICA WITH DISABILITY ACT (ADA) protects individual with disabilities the right to trial by jury. And the FIFTH AMENDMENT guarantee "No person shall be...deprived of life, liberty, or property, without Due Process. See. *McCoy v. Goldston*, 652 F.2d 654, 657 (6<sup>th</sup> Cir, 1982). When a judge takes the case from a jury when the evidences are clear and solid in favor of a petitioner; the judge has **USURPED** the role of the jury and the judge does not have that POWER.

In a case, when based on evidences the MINDS DIFFER AS TO THE RESULTS; the case is for the JURY, NOT the JUDGE. (FRCP 38)

B. DISTRICT JUDGE (DJ) REVOKED PETITIONER'S PAUPERI STATUS.

Rule FRAP 24 (a), A party who was permitted to proceed in forma *pauperi* in the District Court-action; may

proceed on appeal in forma *pauperi* **without further authorization, unless**, The District court must certify IN WRINTING its reasons for the certification or **findings that** the appeal is not taken in good faith and petitioner is not entitled to proceed in forma *pauperi*.

Petitioner did not know District Judge had concluded petitioner's case was frivolous at the district court level. District Judge did not provide any explanation as to why she revoked petitioner's *pauperi* status and concluded petitioner's case is frivolous. Petitioner did not include Exhibits (evidence) in her subsequent pleadings and amendments; because she was following Magistrate Judge's orders.

District Judge's orders and final judgment filed on July 6, 2018 does not states/certify/provide any legal opinion/facts about petitioner's case been **FRIVOLOUS**. **(apps. D & E)**. Further, if there is an ISSUE as to petitioner's case been frivolous; why the court

**OBSTRUCTED** the case in several ways and acted with **MALICE** and in **BAD FAITH** by making petitioner believe she had a case; when she did not. The **REVOKING** of petitioner's *pauperi* status and concluding petitioner's case is frivolous without any legal reason is another proof of the extreme mental and physical abused and unjust treatment petitioner had to endure at the Southern District court and the Central District court.

C. **DISTRICT JUDGE (DJ) CONCLUDED PETITIONER'S CASE IS FRIVOLOUS.**

1. Theory of Plausibility

In a Civil Case petitioner has the **BURDEN OF PROOF**. Petitioner needs to establish her version of the events is **MORE** probably **TRUE** than the defendants. That is, the preponderance of the **EVIDENCE** has to favor Petitioner's version of the events. There are two basic ways in which to establish lack of **PROBABLE CAUSE**: failure to allege a **coherent legal theory** (Discrimination, Violation of ADA, Conspiracy, etc.), and failure to allege

truthful facts (facts that any reasonable person can determine they are true.

This is not the case of petitioner. Petitioner has been able TO PROOF those two basic elements with her claims and with her evidences. Moreover, petitioner allegations are not merely conceivable or conclusory; but are facts. *See Iqbal*, 556 U.S. at 678-79. Further, the plausibility determination should be made based on the entire claim; not individual allegations. *See. Whitney v. Guys, Inc.*, 700 F.3d 1118, 1128 (8<sup>th</sup> Cir.2012). *In Iqbal*, The Supreme Court stated that determining whether the plausibility standard has been met will be “context-specific” and will require a judge to use her experience and common sense.

(a) Reasonable inference of liability.

A claim is plausible on its face when the petitioner (plaintiff) claim “actual facts” that allow the court to draw a Reasonable Inference that the defendant did wrong and consequently, liable for the allege wrongdoing.

(b) Degree of factual specificity.

The factual allegations do not need to be detailed; but they must provide more than labels or conclusions. See. *Shepard v. David Evans & Associations.*, 694 F.3d 1045, 1050, (9<sup>th</sup> Cir.2012) (Although complaint was brief, plaintiff had straightforward claim of discrimination that was plausible).

(c) Information and belief.

The factual information can be based on information or belief. FRCP 11 (b); *See Arista Records LLC v. Doe* 3, 604 F.3d 110, 120 (2d Cir. 2010). Claim are appropriate when (1) the information is within the knowledge of the defendant but not the plaintiff or (2) the belief is based on factual information that makes the inference of culpability possible.

V. REVIEW IS JUSTIFIED BECAUSE TO INFILCT PSYCHOLOGICAL PAIN TO A DISABLE LITIGANT IS JUST “INHUMANE”.

Petitioner brought her case to court seeking "JUSTICE" for herself; not to be the subject of hate/adversity/oppression, etc. from people that she does not know. Petitioner has been the subject to Police officers/Security officers/Civilian officers following her everywhere; surveillance cameras on her; tracking devices in her car. Following her in the freeway; hacking her computer; listening to her conversations; her cell phones etc. Her disability benefits cancelled without any explanation. A Squad of police officers showing up at petitioner's family looking for petitioner; spreading false accusations about her persona to her family and to the neighbors. The amount of fear, stress, panic petitioner's family and petitioner have been enduring is UNJUSTIFIABLE AND IRREPARABLE.

This case is not about "frivolous" or "pauperi"; this is about a **DISABLE WOMAN**; who had desires to get medical treatment for her medical conditions; because she had desires to become pregnant and **OBJECTED** physical

and mental abuse and **REJECTED** inferior medical services at UCLA Medical Center.

The rest... everybody is trying to prevent UCLA FROM ANSWERING THE COMPLAINT; on the expense of petitioner; who for the last three years the Southern District court, the Central District court and the Court of Appeals have deliberate **DECEIVED** her by making her believe she had case; when she did not.

That's **INHUMANE**.

The rest... is just undisputable "**OBSTRUCTION OF JUSTICE**".

### **CONCLUSION**

The Petitioner requests that the Court **GRANT** the petition for writ of certiorari.

Dated: September 14, 2019

Respectfully submitted,  
Marilu Touma  
Plaintiff/Petitioner  
4439 Murietta Avenue #20  
Sherman Oaks, CA 91423  
Mtoumre2017@aol.com