IN THE

SUPREME COURT OF THE UNITED STATES

19-5016

Michael A. SALAZAR, PRO SE,

Petitioner,

-V-

HEB GROCERY COMPANY, LP AND WALMART #1198

Respondent.

On Petition for Writ of Certiorari to the

Supreme Court of Texas

PETITION FOR WRIT OF CERTIORARI

MICHAEL A. SALAZAR, PRO SE

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FEBRUARY, 2019

QUESTION PRESENTED

F.B.I. has violated

In this case the Texas Supreme Court did not reject, but accepted the decision of the Fourth Court of Appeals in affirming the judgement of the Judge of the Trial Court Hearing motion to dismiss under Tex. R. Civ. P. Rule 91a, instead, entering a decision in conflict with the Due Process Clause which prohibits state and local governments from depriving persons of life, liberty, without a fair procedure, departing further from accepted and usual course of judicial proceedings, and sanctioning such a departure by a lower court, as to call for an exercise of this Court's supervisory power ?

Did the Justices of the Fourth Court of Appeal violate Mr. Salazar's rights to due process of law and the Fourteenth Amendment: With right to evidence, with right to fair trial, with right to impartial Judges and Justices, and with right to no influence by business – financial interests; was a fair legal due process BLOCKED? Violating Title 18 U.S.C. 371 and section 241

The legal tactics and devices that the F.B.I. are popular against gangs

IDENTITY OF PARTIES AND COUNSEL

/Appellant /Petitioner

Michael A. Salazar

In the Supreme Court

Michael A. Salazar, Pro Se

1206 Thompson Place

San Antonio, Texas 78226

/Appellee/ Respondent:

HEB Grocery Company, LP

Ruben Olvera

Curney, Farmer, House &

Osuna, P.C.

411 Heimer Road

San Antonio, Texas 78232

/Appellee/ Respondent:

Walmart #1198

James K. Floyd

Willie Ban Daw, III

Daw & Ray

14100 San Pedro Ave.

San Antonio, Texas 78232

1. PETITION FOR WRIT OF CERTIORARI

JURISDICTION

Texas government code 22.001 (a) (6) Jurisdiction:

(a) The Supreme Court has appellate jurisdiction, except in criminal law matters, coextensive with the limits of the state and extending to all questions of law arising in the following cases when they have been brought the courts of appeals from appealable judgment of the trial courts:

(6) any other case in which it appears that an error of law has been committed by the court of appeals, and that error is of such importance to the jurisprudence of the state that, in the opinion of the supreme court, it requires correction, but excluding those cases in which the jurisdiction of the court of appeals is made final by statute.

OPINIONS BELOW

The Texas Supreme Court 's order denied Petitioner Michael A. Salazar petition and is not published. The Fourth Court of Appeal 's denied Order is not published.

CONSTITUTIONAL PROVISION INVOLVED

F.B. I. of San Antonio, Texas has violated the principle that "the right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances, "and view the right to sue in court as a form of petition. Furthermore, the F.B. I. violates Title 18 U.S.C. 286, the conspiracy to defraud the United States of money through submission of false claims; 18 U.S.C. 371 elements (1) an agreement between two or more; (2) to defraud the U.S.; and (3) overt act in furtherance of the conspiracy. The "fraud covered by the statute reaches any conspiracy for the purpose of impairing, obstructing or defeating the

lawful functions of the any department of the Government" by " deceit, craft or trickery, or at least by means that are dishonest." The plans of the plot must be pointed directly against the United States or a federal unit : frustrating the proper role of United States federal bureaucracy is the point plan.

The right to petition, the right to sue in court, the of due process of the Fifth and Fourteen Amendments, the F.B.I. and the courts are the targets to "frustrate the functions" of San Antonio by the FBI and San Antonian conspirators.

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STATEMENT OF THE CASE

A MOST EXTREME CASE

Few public issues agitate opinion in America so persistently as the "collective criminal agreement" - more ominous are criminal schemes, indeed.
The Federal Bureau of Investigation (FBI) is the domestic intelligence and security service of the United States, and its principal federal law enforcement agency. And what about the F.B.I.

PART ONE

The Supreme Court has explicated that a "collective criminal agreement – a partnership in crime (United States v. Socony-Vacuum Oil Co., 310 U.S. 150, 310 U.S.253) – presents a greater potential threat to the public than individual delicts. Concerted action both increases the likelihood that the criminal object will be successfully attained (Justice Holmes in Frohwerk v. United States, 249, U.S. 204, 249 U.S. 209, an "intent to accomplish an object cannot be alleged more clearly than by stating that parties conspired to accomplish it"), and decreases the probability that the individual involved will depart from their path of criminality." (Iannelli v. United States, 420 U.S. 770, 778 (1975). The Court continues, "group association for criminal purposes often, if not normally, makes possible the attainment of ends more complex than those which one criminal could accomplish. Nor is the danger of a conspiratorial group limited to the particular end toward which it has embarked." And so, "combination in crime makes more likely the commission of crimes unrelated

to the original purpose for which the group was formed." In summary, "the danger which a conspiracy generates is not confined to the substantive offense which is the immediate aim of the enterprise." (Callanan v. United States, supra, at 593-594).

Justice Jackson avers: "The basic rational of the law of conspiracy is that a conspiracy may be an evil in itself, independently of any other evil it seeks to accomplish." Justice Jackson an antagonist and adversary of the law of conspiracy continues: Krulewitch v. United States, 336 U.S. 440 (1949) "this case illustrates a present drift in the federal law of conspiracy which warrants some further comment because it is characteristic of the long evolution of that elastic, sprawling and pervasive offense." Conspiracy's history serves as a lesson: the 'tendency of the conspiracy principle to expand itself to the limit of its logic.' (The phrase is Judge Cardozo's – The Nature of the Judicial Process, p.51).

The Conference of Senior Circuit Judges, presided over by Chief Justice Taft in 1925 reported: ' We note the prevalent use of conspiracy indictments for converting a joint misdemeanor into a felony; and we express our conviction that both for purpose and for the purpose—or a least with the effect—of bringing in much improper evidence the conspiracy statute is being much abused.'

Understood that the modern crime of conspiracy defies clarity and as many critics of conspiracy complicate many simple cases—the Krulewitch v. United ("one of the wrongs that our forefathers meant to prevent." Hyde v. United States, 225 U.S. 347, 225 U. S. 387 and Justice Holmes, avers).

Conspiratorial criminality has been delivered with the inveterate habit of addled connotations of treachery, violence with secret underground cabals undermining stability and both social and personal security. Cabals and their movements threaten and promote political assassins , state overthrow, revolutions and craving for mastery, control and power, which is not such a new development in history.

Conspiracy is an agreement between two or more persons playing at forbidden games. These forbidden games – crimes- are agreements upon completion (Paul Marcus asks: "what is an agreement?" in his book: "Conspiracy: The Criminal Agreement in Theory and in Practice)" and for some prosecutors there must be evidence of having taken on the part of the conspirators, a "concrete step" or pursue an overt act to advance the game. 18 U.S.C. 371, is one statutes outlawing conspiracy committing federal crime and others outlawing conspiracy pursuing specific types of proscribed behaviour.

It is the belief concerning dangerous groups being active in the actual conspiracy crime. "It serves a preventive function by stopping criminal conduct in its early stages of growth before it has full opportunity to bloom." (United States v. Wallach, 935 F.2d 445, 470 (2d Cir. 1991) This society continues on the belief conspiracy law "protects society from the dangers of concerted criminal activity." (Wallach, 935 F .2d at 470). In short, " we punish conspiracy

because joint action is generally more dangerous than individual action." (United States v. Townsend, 924 F.2d 1385, 1394 (7th Cir. 1991).

In the long run a tactic such as conspiracy can demand a significant reward from a democratic society that puts stock with the pulchritude of their rule of law. Conspiracy can, of course, be used to serve the purpose, with dramatic results, against criminal gangs. But it must be understood, avers Dr. Aaron Fichtelberg, "it can also be exploited , and has been exploited, by unscrupulous officials to prosecute other, less malevolent organisations to put pressure on minor functionaries in a criminal organization, or non-criminal members ... The legal weapon that works well against the mob may just as likely be used against labour unions, political dissident organisations, or one of the other legitimate (if unruly) elements of a healthy public sphere." He further believes, the inherent tension between conspiracy and individual rights, …."the temptation to use conspiracy as a means by which to suppress unpopular dissident organisations is an ever-present threat in a democracy, a threat that is magnified when we look at the various dimensions of conspiracy as it has developed Model Penal Code of the United States..." and he adds, " the crime of conspiracy itself can be a threat to the rule of law."

The conspiracy statute, 18 U.S.C. 371, creates a offense " if two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose.

The function of this statute "is to protect governmental functions from frustration and distortion through deceptive practices." Section 371 reaches

"any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of Government." Tanner v. United States, 483 U.S. 107, 128 (1987); see Dennis v. United States, 384 U.S. 855 (1966). The "defraud part of section 371 criminalises any willful impairment of a legitimate function of government, whether or not the improper acts or objective are criminal under another statute." United States v. Tuohey,867 F .2d 534, 537 (9th Cir. 1989).

In Section 371, fraud not only reaches financial or property loss through use of scheme or artifice to defraud but also is designed and intended to protect U.S. integrity and its agencies , programs and policies. Proving that the United States has been defrauded under statute 371 does not require any showing of monetary or proprietary loss.

Intent is required for conspiracy to defraud the government and that the defendant had the intent (a) to defraud, (b) to make the false statements or representations to the government or its agencies in order to obtain government property or defendant portrayed acts or declared statements that were to be false, fraudulent or deceitful to government officials , disrupting government agencies . All that is needed is for defendant to know the falsehood or fraudulent when addressed. It is not required by the government to go any further but that the defendant knew the statements were false or fraudulent ; only the defendant 's activities impeded or interfered with legitimate governmental functions; the defendants engaged in acts which impedes or obstructs a legitimate government function by deceit, craft, trickery or by dishonest means.

And so I question, why is the F.B.I. "

Title 18 U.S. Code - Section 371. Conspiracy to commit offense or to defraud United States.

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined under this title or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

What and why is an FBI involved in a conspiracy movement – plan?

I encourage citizens to contact authorities if you are a witness in this case. These are serious charges and the vigorous enforcement of civil rights is serious and urgent to maintain citizen trust in the rule of law. We must be vigilant and alert to investigation and prosecution of matters involving allegations of federal criminal civil rights violations .

Charges must include deprivation of constitutional rights, conspiracy to obstruct justice, destruction of evidence, and obstruction of justice.

There must be attempts at undercover activity in order to record and document criminal activity in order to arrest in a lawful manner are violate the law .

There is conspiracy to obstruct justice for conspiring and agreeing to engage in misleading conduct toward witnesses to prevent information about criminal conduct from authorities. ("A conspiracy is a partnership in crime", United States v. Socony-Vacuum Oil Co., 310 U.S. 150, 253, 60 S.Ct. 811, 858.):

'For two or more to confederate and combine together to commit or cause to be committed a breach of the criminal laws is an offense of the gravest character, sometimes quite outweighing, injury to the public, the mere commission of the contemplated crime. It involves deliberate plotting to subvert the laws, educating and preparing the conspirators for further and habitual criminal practices. And it is characterized by secrecy, rendering it difficult of detection, requiring more time for its discovery, and adding to the importance of punishing it when discovered.' See Sneed v. United States, 5 Cir., 298 F. 911,912, 913; Banghart v. U.S., 4 Cir., 148 F.2d 521.

Pinkerton v. U.S., 328 U.S. 640, 647 (1946): 'Whether the object of the conspiracy must be a crime is still an open question. See.e.g. 18 U.S.C. 371 (1970)

There is destruction of evidence for knowingly destroying and mutilating evidence with the intent to impede, obstruct, and influence the investigation from lawful termination.

There is corrupt attempts to obstruct, influence, and impede federal proceeding by engaging in a series of misleading assertion and false statements when they attempt to testify Title 18 U.S.C. 1519.

There is deprivation of rights under colour of law and making false statements to authorities (FBI). In violation of 18 U.S. C. 242

We must work to uphold the civil and constitutional rights of all Americans, in particular the most vulnerable citizens by enforcing federal statutes forbidding all forms of discrimination : race, colour, sex, disability, religion, and original national origin. Title 18 U. S. C. 241

I am compliant and not posing a physical threat to anyone

Conspired by obstructing justice by falsifying incident reports . the department

should not tolerate such abuses, we should continue to vigorously enforce nation's laws and hold them accountable. To falsify documents with intent to obstruct and influence the investigate

We must be vigilant that an indictment must be understood as only an accusation and citizens are due presumption of innocence.

Their role in a conspiracy to cover up by falsifying documents with intent to obstruct and influence the investigation of a matter within federal jurisdiction.

Their role in the conspiracy too violate the civil rights of ...attempted to to obstruct the investigation into his assault by falsifying police report

compromise the public's trust in law..

After ten years of exhausting investigation into corruption and conspiracy in San Antonio/Bexar County judicial practices and the Federal Government by the machinations of Federal Bureau of Investigation's machination's with criminal conspiracy acts.

A. I accuse the following of having violated my constitutional rights : charge the FBI with Agent Olvera (First agent named with other agents and names to come) with crimes against and in violation and crimes against human dignity. They are also charged with participating in the planning and execution of conspiracy plans to violate these crimes.
B. I further commit and declare groups and offices to be criminal in their actions : HEB, Walmart, Sears, Goodwill, Salvation Army, Carman's Furniture Store, Lamp repair store, Assissant Leaque T.H, Sprouts, Half Price Books.
C. Fourth Court of Appeals, Bexar Court House, Federal Court House, Small Claims Court Prin. 2., Trial Court, Bexar County District Clerk's Office
D. Justices: Luz Elena D. Chapa, Sandee Bryan Marion, Chief Justice, Irene Rios, Karen Angelini, Marialyn Bernard, Rebeca C. Martinez, Patricia O.

Alvarez, Judge John D. Gabriel, Keith E. Hottle, Clerk of Court, Cecilia Phillips, Deputy Clerk, Ruben Olvera, Curney, Farmer, House & Osuna, PC, James Keith Floyd, Willie Ben Daw, III, Daw & Ray , Michael Reeves, Stewart Alexander, Diane , Clerk, Kriston Hunt, Ruben and Anna & son(neighbour). Carmen Morin

In this complex conspiracy case, I charge to violations of 18 u.s.c.287 by presenting false claims against the U.S. and 371 , conspiring to defraud the US Conspiracy to present false claims against the U.S. , in violations of 18 USC 371 and of presenting false claims against the US, in violation of 18 USC287

Convicted of conspiracy under 371 and obstruction of proceedings under 18 USC 1505

Section 287 criminalises the presentation of any false , fictitious or fraudulent claim against the US (18 USC 1001)

Should we not be concerned and focus of the San Antonio, Texas FBI ever move for control with a city-wide conspiracy collective spreading throughout.

REASONS FOR GRANTING THE PETITION

F.B.I. CRIMINAL CONSPIRACY ABUSE IN SAN ANTONIO TEXAS

Boys with their parents and young men are going to the F.B.I. to tell perverted and dirty lies about me and they get lots of money from the F.B.I. and more. The FBI abuses and exploits conspiracy for political and social ends. There intrinsic tension and a profound effect on our self image and understanding. The legal system is corrupt and unhealthy; the moral environment deeply suppresses our individual rights. We surrend to FBI vapid values, money and their power of their badge. You all lack dignity; the city is connected toa network of conspiracy led by the FBI, Bexar County, 4th Court of Appeal, small claims court , Federal Court House thanks to Kriston Hunt and Diane (my tedious experience of 20th of December, 2017 and display of male whores – such dignity: FBI money speaks loud and clear. It is San Antonio. It is the San Antonio of cheats and lying, dishonesty and empty inner self. How many men and boys have gone over to FBI to defraud the United States, to rob from their own people. My neighbourhood is one of many all over the city of San Antonio.

Who is and what is this united in conspiracy -in crime- this individual who is looking for crime? This FBI agent and informers are not doing their duty to fight crime. They are the crime, the criminal who is so dangerous.

Be afraid !

The Texas Supreme Court has the authority to promulgate and amend rules

that govern the practice and procedure in civil actions. Texas Constitution art. V, 31 (b), which the Supreme Court to "promulgate rules of civil of procedures for all courts not inconsistent with the laws of the state as may be necessary for the efficient and uniform administration of justice in the various courts; "(Texas Gov't Code Ann. 22.004(a)) (West Supp. 2015) (The Supreme Court has the full rulemaking power in the practice and procedure in civil actions, except that is rule a not abridge, enlarge, or modify the substantive rights of a litigant."). The legislature even permits the Supreme Court repeal power of statutes by rules to the point that the rules aver procedural and not substantive matters. Id. 22.004(c) (allowing that "a rule adopted by the Court repeals all conflicting laws and parts of laws governing practice and procedure in civil action, but substantive law is not repealed" which putting into a procedure for repealing statures by putting into action rules.) The Texas Supreme Court is required to issue in full all Texas Rules of Civil Procedure for a period of 60 days before becoming effective. Id. 22.004(b). The public is invited to comment during this 60 day period, with analyzes of the comments submitted with modification taking place of proposed rules in response to public comments. (Refer to "How Texas Court Rules are Made (May 13, 2016). This is the manner of approach to the development of Rule 91a. of the Texas Rules of Civil Procedure. The development of this dismissal procedure of the Texas Supreme Court will become relevant to my case, they understand Rule 91a, in view of experience of the Trial Court Hearing 5th October, 2016.

On the First of March, 2013, Rule 91a of the Texas Rules of Civil Procedure went into effect. Governor Rick Perry signed the House Bill 274 in 2011 which was enacted by 82nd Legislature included a subsection (g) to section 22.004 of the Texas Government Code which mandated the Supreme Court to : "adopt

rules to provide for the dismissal of causes of action that have no basis in law or fact on motion and without evidence." Id. 22.004(g). And the Legislature also provided that: "the rules shall provide that the motion to dismiss shall be granted or denied within 45 days of the filing of the motion to dismiss" and "shall not apply to actions under the Family Code." Id. The Legislature, finally, included Section 30.021 to the Texas Civil Practice and Remedies Code, reading : "In a civil proceeding , on a trial court's granting or denial, in whole or in part, of a motion to dismiss filed under the rules adopted by the Court under Section 22.004(g), Government Code, the court shall award costs and reasonable and necessary attorney's fees to the prevailing party."

The Supreme Court issued a proposed version of Rule 91a under an administrative order on 13th November 2012. In response to public comments, the Court revised the rule and presented the final proposed version of Rule 91a under administrative order 12th February 2013. This new rule permitted a party to file a motion to dismiss a cause of action on the grounds that " has no basis in law or in fact." Texas Rule Civil Procedure Rule 91a.1. Rule 91a. took effect on 1st March ,2013.

"SUI GENERIS" COMMUNICATION ASPECTS OF RULE 91A:

91a.1 MOTION AND GROUNDS. Except in a case brought under the Family Code or a case governed by Chapter 14 of the Texas Civil Practice and Remedies Code, a party may move to dismiss a cause of action on the grounds

that it has no basis in law or fact. A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to the relief sought. A cause of action has no basis in fact if no reasonable person could believe the facts pleaded.

91a.2 CONTENTS OF MOTION. A motion to dismiss must state that it is made pursuant to this rule, must identify each cause of action to which it is addressed and must state specifically the reasons the cause of action has no basis in law, no basis in fact, or both.

91a.4 TIME FOR RESPONSE. Any response to the motion must be filed no later than seven days before the date of the hearing.

91a.7 AWARD OF COSTS AND ATTORNEY FEES REQUIRED. Except in an action by or against a governmental entity or a public official acting in his or hear official capacity or under colour of law, the court must award the prevailing party on the motion all costs and reasonable and necessary attorney fees incurred with respect to the challenged cause of action in the trial court. The court must consider evidence regarding costs and fees in determining the award.

91a.8 EFFECT ON VENUE AND PERSONAL JURISDICITON. This rule is not an exception to the pleading requirements of Rules 86 and 120a, but a party does not by filing a motion to dismiss pursuant to this rule or obtaining a ruling on it, waive a special appearance or a motion to transfer venue. By filing a motion to dismiss, a party submits to the courts jurisdiction only in proceedings on the motion and is bound by the courts ruling , including an award of attorney fees and costs against the party.

Affirming the JUDGMENT OF TRIAL COURT HEARING: ORDER GRANTNG

DISMISSAL UNDER RULE 91A.: THEY WERE NOT READY FOR THE TRIAL

The blocking from consideration of "APPELLANT'S BRIEF ON THE MERITS AND SECOND AMENDED REHEARING" (persona non grata); Rule 91a.2; Judge's Notes: Legal Standard: Special Exception or Legal Standard: Rule 91a; Judgment: Order Granting ...Motion to Dismiss: "Pleadings, Motion, any response on file, arguments of counsel..." (APP. K, L, M); tampering with transcripts: Rule 34.6 and the CLOCK ; 30th of May ORDER (Justice Chapa); MEMORANDUM OPINION (April 4, 2018). FBI is in the background of the game. (App. T-11 : Second Amended Rehearing, page 8*) Two appeals: one appeal for 4th Court of Appeals, filed 24 Oct, 2016 and one appeal for Michael Salazar, filed on 7 Nov., 2016.

A TRIAL Hearing on Defendant Walmart #1198's TRCP 91a Motion to Dismiss was set on October 3, 2016, at 8:30 a.m., at the Presiding Court, Bexar County, Texas, room 109 and was signed by, Presiding Judge, Sol Casseb, III. This was "FIAT." The date was moved to 5thOctober, 2016. Note that we have very clearly stated the legal standard Rule 91a to be applied in the Trial Court Hearing – no question which legal standard. (App. H "FIAT")

Appellant/Plaintiff, Michael A. Salazar, brought a civil defamation and civil conspiracy cause of action against Appellee/Defendant, HEB Grocery Company, LP and Walmart #1198, arising from an incident that took place at HEB with manager accusing Appellant of shoplifting.

Question: Why are the lawyers for the defendants not seeking summary judgment, the undertaking the rules of summary judgment are difficult. See Lear Siegler, Inc. v. Perez,819 W.W.2d 470, 471-72 (Tex. 1991). It is not to deprive litigant of right to a full hearing on real facts issues, but summary judgment is to eliminate unmeritorious claims and untenable defenses.

But the difference between Summary Judgment and Rule 91a is that Rule 91a entitles to attorney's fees- the singular advantage of Rule 91a. (commonly called "Losers Pays")

But here is the rub (the peculiar handling), defense dropped the attorney's fees in the presence of the Trial judge: defense is the successful party in the Rule 91a case or so they believed? If that is defense reaction to their success, why Rule 91a (sui generis) and not just go for summary judgment or special exception? Why in front of the Judge: the legal standard special exception does not recover attorney's fees if successful with case (you will later see "Judge's Notes" and the legal standard he used: special exception and not legal standard Rule 91a; the FIAT: Trial Court standard: Rule 91a.) See: APP. D AND H

By using legal standard Special Exception they have to surrender legal fees acknowledging that they did not win the trial Motion Rule 91a. Failing, they kept quiet about the change from rule 91a to "special exception." And the change from legal standard 91a (an acknowledgment of failure of trial court hearing for motion of dismissal 91a) to legal standard "special exception", nonetheless, it is not valid Judgment (deception). What they did was a mistake, they were not organized nor prepared. The Judge and the two attorneys were not ready for the trial court hearing for dismissal under rule 91a (and you will see later that even the Justices of the Fourth Court of Appeals were not ready), but went ahead with the trial. They failed but would not admit it, both Judge and defense attorneys) do not understand Rule 91a!

My understanding of the Trial Court Hearing period was all very new. It was a judicial course and the stage we were entering is as valid as the 4th Court of Appeal and the Texas Supreme Court. This was stage one

Nature of the case was originally a Rule 91a dismissal case (APP. H : FIAT),

but because of the nature of 5th October, 2016 trial court hearing sham, it is being challenged by appellant. The difficulty for me was the lack of commitment to legal standard Rule 91a, lack of understanding the new introduced (March 1,2013) rule of Tex.R.Civ.P. and, on the other hand, the legal standard "Special Exception" is still, unbeknownst to the other side, in operation. They were still confused. (App. D: JUDGE'S NOTES). Because of this deception, the Judgment was not valid but bogus. There was no neutrality from Judge or Justices of 4th Court of Appeals, they were part of the "Conspiracy" presently in control.

THE "JUDGE'S NOTES" POINTS IMPORTANT EVIDENCE AND STATE OF MIND:

In the first matter, the Judge was examining my pleadings not from the standard of "Rule 91a" but, from the legal standard "special exception," but or ,rather, the issue should be whether the challenged causes of action have no basis in law or no basis in fact under the standard of Rule 91a. meaning, "...the legal standard for testing the sufficiency of the pleading in response to special exceptions." (see, Tex. R. Civ. P. 91a.1.) Wooley, 447 S.W. 3d at 76.

This court 'need not apply the fair-notice standard used to determine the sufficiency of pleading.' "Texas is a notice pleading jurisdiction; a petition is sufficient if it gives fair and adequate notice of the facts upon which the pleader bases his claim. (Kopplow Dev., Inc. v. City of San Antonio, 399 S.W.3d 532,536 (Tex.2013). The test of a fair notice is whether an opposing attorney of reasonable competence, with the pleadings before her, could ascertain the nature and basic issues of controversy and the testimony that is probably relevant." (also known as "Plausibility Pleading Standard or Twombly Standard)

(See Hand v. Dean Witter Reynolds, Inc., 889 S.W.2d 483,489 (Tex. App.-Houston [14th Dist.] 1994, writ denied).

'The majority purports to apply these notice-pleading standards to its review of the trial court's dismissal under Rule 91a.' But, the issue under Rule 91a "is not whether the claimant sufficiently pleaded a cause of action under Texas's liberal notice-pleading standards; rather, the issue is whether the challenged causes of action have no basis in law or no basis in fact under the standards promulgated in Rule 91a." (See Tex.R.C.P. Rule 91a.1). Therefore, this Judge should have applied the legal standard from 91a, not the legal standard for testing the sufficiently of the pleading in response to special exception. See id. and see APP. D "JUDGE'S NOTES, "Type of Motion or Application: Non-Jury setting on M-T DISMISS/SPECIAL EXCEPTION AND Judges notes 10/10/16 special exception mentioned in handwritten notes. But the Motion Rule 91a is never mentioned in "Judge's Notes!" (App. D) Rule 91a is by creation a "Sui Generis" and you do not analogise Rule 91a with different procedural creations.

And finally, "Rule 91a is unique, an animal unlike any other in its particulars. Because this new procedural creation differs from other procedures in terms, benefits, and applications, courts should treat it as its own kind without analogizing it to other species, lest practitioners and trial courts fall into error by tailoring their emotions and rulings to meet provisions that are different from the terms of Rule 91a." Wooley v. Schaffer, 447 S.W.2d 71 (Tex. App. – Houston[14th Dist.] 2014 pet. denied).

"...departing further from accepted and usual course of judicial proceeding..."

The Appellate Court also was confused. The Trial Court dismissed the suit (October 10, 2016). How and why is the Fourth Court of Appeals allowing the dismissal of the lawsuit when I am making it clearer and clearer: you do not have a case- Rule 91a dismissal case. The Justices are forcing the Motion Dismissal case and it is confusing and there is much error.

With the introduction of legal standard "special exception," they must drop legal fees, a Rule 91a. 7.

And destroy transcripts of the trial court hearing because they did not comply with Rule 91a.2 and for them to not acknowledge rule 91a but only for show heading, pretending to be using Rule 91a, while using legal standard "special exception". App. D, APP. L (24th Oct. 2016 date, without mention of dropping legal fees) App. K , APP. M (both, APP. K & M 10th October, 2016 date and legal fees dropped shown as dropped). No questions asked with APP. D and L of why the dropping of legal fees for loser in Rule 91a7 sui generis rule? And what are the questions that should be asked of the use of legal standard "Special Exception" in the Judge's Notes (App. D) and "Amended Order Granting HEB Grocery Company,LP's Rule 91a Motion to Dismiss" (App. L) : Why are we using legal standard "Special Exception" when we are focused on legal standard Rule 91a and by "FIAT" we are focused on Rule 91a : Special Exception is testing the sufficiency of the pleadings and Rule 91a : ".. must identify each cause of action to which it is addressed and must state specifically the reasons the causes of action has no basis in law, no basis in fact, or both." (Rule 91a.2: How can "ORDER" be done without?) That is the difference between the legal standard special exception and legal standard Rule 91a and this addled understanding was purposely done to misguide the

case or better said, obstruct justice!

On 24th of October,2016, the Appellate Court entered a Judgment in favour of Appellee. The Appellee further dropped the Salazar Attorney's fees. (Rule 91a.7: award of costs and attorney fees to losers). for what legal standard but "special Exception."

I was outraged at this development. The appellant informed the court clerks of his intention of filing a Notice of Appeal, (7th Nov., 2016) to challenge the trial court hearing and now to challenge the Appellate Court and the Judge of the trial court hearing "Judgment." The validity of the trial and judgment are in question or better interpreted a complete failure – gone awry!

The Judgment of 24th of October, 2016, (corrected from 10th) read : "The Court, having considered the pleadings , the Motion, any response on file, and arguments of counsel is of the opinion that Defendant....Motion to dismiss should be Granted." App. K. ; App. T ("Second Amended Rehearinng; 17th May,2017) page; on (app k) JUDGMENNT: Amended ORDER: Granting ... Motion to Dismiss, 24th Oct. 2016,), page 8*.

When and where were "the pleadings, the Motion, any response on file, and arguments of counsel... considered? All this so call consideration by court is fabricated. App. M , JUDGMENT: ORDER: Granting ...Motion to Dismiss, 10TH Oct.,2016 ; a mendacious Judgment.

And what (please, details, details, details) Pleadings; Motion, again details: "special exception", Rule 91a ? ; any response on file:what files? And arguments of counsel: what arguments?, what counsel? Details, please!

The Judgment of the Judge and the Court is fabricated for a Trial Court

Hearing that was a sham! The Judge of the trial and the two attorney's of HEB and Walmart were not prepared. Their understanding of the newly released Tex. R. Civ. P. of Rule 91a is shallow and fake. How, if Rule 91a.2 was not complied with, can there be a reciting of this recital of this enumerated list of nothing, just mendacity. App. K , App. M ;

Remember that Rule 91a.2 is of a valuable part of the Rule 91a motion; States: motion to dismiss must state that it is made pursuant to this rule, must identify each cause of action to which it is addressed, and must state specifically the reasons the cause of action has no basis in law, no basis in fact, or both. (TRCP Rule 91a2) App.: Appellant's Brief of the Merits; From the 438th Judicial District Court, Bexar County , Texas; Trial Court No. 2016-CI-11032 (Filed Jun. 9, 2017 , stamped date of Jun. 8 is incorrect) : pages : 5, 6,7, 8*, 10, 11*,14,15,16, ; App. T-11, Second Amended Rehearing (filed 17th May, 2018) Trial Court No. 2016-CI-11032; pages: 6, 7*, 8*, (take note that there are three "must" in this condition precedent [Texas Gov't Code Ann. 311.016 (3) Vernon 1998]). Rule 91a.2 is the opening (gateway) to all mendacious yarn.

I proceeded to prepare for the Trial Court Hearing and having never heard of Tex. R. Civ. P 91a – I was apparently preparing from a different legal standard called "Special Exceptions," also. I read and reread these short articles called, Update on Rule 91a and Rule 91a 2015 UPDATE (The Advocate FALL 2015), by Carlos R. Soltero & Kayla Carrick – very informative.

The Supreme Court of the United States is being asked to review and, under Writ of Certiorari, to reject the Trial Court hearing judgement: Rule 91a motion to dismiss on 5thOctober, 2016, the Fourth Court of Appeals denial and, finally, the Supreme Court of Texas restudy of the case and no reaction to my

petition, but blocked, again. Who better knows new Rule 91a?

The tort reform legislation was designed to "provide an ideal balance between lowering costs and improving fairness, while still providing access to the civil court system;" id. on page 4. Once the enrollment of the House Bill 274, the Supreme Court of Texas has the authority to adopt and carry out rules for legislation. We have witness the procedures of the Texas gov't and of the Supreme Court of Texas.

The question presented is Due Process Clause of the Fourteenth Amendment violated when the four Justices underwent an intolerable prejudice, shame toward the plaintiff's appeal case. The bases for their bias and intolerance is a defense failure to stop Plaintiff's lawsuit against HEB Grocery Company, LP and Walmart #1198. Their Rule 91a motion to dismiss was unprepared, and awry. Disqualification of Judge, Justices is obvious. They conspired to deny and avoid first amendment right to petition the government for a redress of grievances: " We have recognized this right to petition as one of the most precious of the liberties safeguarded by the Bill of Rights," wrote for the Court, Justice Sandra Day O'Connor. See BE&K Construction Co. v. National Labor Relations Board et al. (2002).

The Court of Appeals and FBI came to the rescue. There is a campaign, a scheme, a conspiracy to have control, dictate and undermine meritful lawsuits, and their goal is to stop and severely limit the ability of the citizen to fight grievances in court and rein in lawsuits and consumer rights. They did not tolerate their blundering and proceeded with their own appeal and totally

ignored and blocking the plaintiff's pro se appeal case. And now for the COVER-UP or A Strategy to Conceal Crime/ Scandal.

The defense was unprepared for the trial court hearing and to award sanctions under Chapter 10 of the Texas Civil Practice and Remedies Code Ann. 10.001 (Vernon 2002), it is apparent the defense filed a dismissal motion for an "improper purpose"; there were no grounds for the Rule 91a advanced; there was no evidence in the allegations because rule 91a forbids evidence – there was no Rule 91a 2 and it was believed that Pro Se was inexperienced and not ready (the "improper purpose" is a phrase construed as equivalent to "bad faith" under Rule 13: See Tex. R. Civ. P. 13). Low v. Henry, 221 S.W.3d 609, 614 (Tex. 2007); Cire v. Cummings, 134 S.W. 3d, 835, 838 (Tex. 2004).

This standard is viewed by the courts according the light most favorable to the plaintiff and what causes did court's "action" have when Rule 91a 2, which avers that a "motion to dismiss must state and identify each cause of action to which it is addressed and must state specifically the reasons the cause of action has no basis in law, no basis in fact, or both," was not complied with during the trial. (See Rule 91a 2). (Please note "condition Precedent" in the word "must").

Some of the specific language of Rule 91a and troubles, Rule 91a of the Texas Rule of Civil Procedure is effective as of 1st of March, 2013. It is similar to Federal Rule of Civil Procedure 12 (b)(6). Following a directive from the Texas Legislative of the Texas Supreme Court in 2011 Rule 91a was adopted that would afford dismissal of causes that have no basis in law or fact on motion and without evidence. Texas Gov't Code 22.004(g). the objective of

Rule 91a is to stem the flow of frivolous lawsuits. (

Rule 91a avers: Except in a case brought under the Family Code or a case governed by Chapter 14 of the Texas Civil Practice and Remedies Code [suit brought by an inmate involving inability to pay costs], a party may move to dismiss a cause of action on the grounds that it has no basis in law or fact. A cause of action has no basis in law if the allegations, taken as true, together with inferences reasonably drawn from them, do not entitle the claimant to the relief sought. A cause of action has no basis in fact if no reasonable person could believe the facts pleaded. (Texas Rule of Civil Procedure 91a1).

Rule 91a2 follows: The motion to dismiss must state that it is made pursuant to this rule, must identify each cause of action to which it is addressed, and must state specifically the reasons the cause of action has no basis in law, no basis in fact, or both.

Rule 91a.8 continues: Effect on Venue and Personal Jurisdiction. This rule is not an exception to the pleading requirements of Rules 86 and 120a, but a party does not, by filing a motion to dismiss pursuant to this rule or obtaining a ruling on it, waive a special appearance or a motion to transfer venue. By filing a motion to dismiss, a party submits to the Court's jurisdiction only in proceedings on the motion and is bound by the court's ruling, including an award of attorney fees and costs against the party.

Rule 91a.9 Dismissal Procedure Cumulative. This rule is in attempt to, and does not supersede or affect other procedures that authorize dismissal. Chief Justice Frost attempts to clarify standard of review for Rule 91a motions. She remarks "a concurrence criticizing the considerable confusion created by the majority's amalgam of analogies."

She avers that the fair notice was not the standard for determining sufficiency

of the pleadings under Rule 91a. the Chief Justice continues to say that the test was simply "whether the challenged causes of action have no basis in law or no basis in fact under the standards promulgated in Rule 91a – no sort of analogy is needed. She continues to add and cautioned against attempts to analogize Rule 91a to other types of legal standards. (see Wooley, 447 S.W.3d at 83. Her aim was preventing "practitioners and trial court's from falling into error by tailoring their motions and rulings to meet provisions that are different from the terms of Rule 91a." (id. at 84). (APP.: No. 18-0622, Supreme Court of Texas, M.A. Salazar, Petitioner v. HEB..., Pet. for Review). Which is exactly what the two Lawyers (James K. Floyd and Ruben Olvera) and Judge Gabriel accomplished but stealthily, the "dead body" is moved to hide the fact of failure: the legal fees (Rule 91a7) discarded to further remove any evidence ,again, discarding the legal standard 91a and replacing with legal standard "Special Exception"; the conspiracy plan goes awry as human nature " is as much reason to believe that a large number of participants will increase the prospect that a plan will be leaked as that it will keep secret..." (Chief critic, Abraham Goldstein of Yale Law School) (APP. D: Judge's Notes); their plan was a nefarious mistake and ultimately a failure, they were found out. (Title 18 U.S.C. 371, obstructing the performance of court ; 'overt act where persons do any act to effect the object of the conspiracy).

I am focused on the complexity of standards of review. Plausibility also is known as factual-plausibility, as told, legal-sufficiency (also known as special exception) are addressed by the Justices in the "Memorandum Opinion" of April 4, 2018, page 2, but again why? This is a "dismissal under

Rule 91a" and Justices are confusing by mixing the above standards with this sui generis standard Rule 91a. It makes the whole effort confusing and unnecessary, we already have Rule 91a, the issue is the challenged "causes of action have no bases in law or no bases in fact" as defined in Rule 91a.

They supposed the case to have been won at trial court hearing and, yet, they still review the other standards (such as, factual-plausibility or Twombly's standards, legal – sufficiency (or special exception legal standard)). With Rule 91a: cause of action has no basis in law, no basis in fact, or both, is the rule. It is sui generis and should not be mixed or analogize with other standards that just muddle matters. (see: Rule 91a.1)
Justice Frost implying that plaintiffs will need to plead in a manner that meets the terms imposed by Rule 91a, rather than by Texas' fair-notice pleading. Id. (Wooley, 447 S.W. 3d at 83).

MEMORANDUM ORDER

There is an interesting question and very telling, indeed, that must be put forward: In the Memorandum Opinion, the Justices (this is their Appeal that was 24th October, 2016 filed) Justice Alvarez, on page 2, why deal with and call for a MEMORANDUM ORDER? what is its purpose? What does it have to do with me and my lawsuit and my 7th Nov. 2016 Notice of Appeal?
"The trial court dismissed the suit, 10th of October,2016."is in the bottom page one of "Memo. Order", but It was not my appeal. The trial Court hearing is being challenged by my appeal and, of course, Judgment" is also in the battle. Because dismissal is a "harsh remedy," Rule 91a 's notice provision is strictly construed. Gaskill v. VHS San Antonio Partners, LLC, 456S.W. 3d 234,238 (Tex.

App.-San Antonio 2014, pet. denied). The of Appeals of San Antonio holds that a trial court must provide the parties with formal notice of a hearing before ruling on a Rule 91a motion. Litigants in using Rule 91 a. dismissal procedure were not successful. Why? The trial court hearing judge and attorneys are not respectful of the procedures of Rule91a, they must: both grounds and contents of motion. There must be insistence of use in application of procedure and insist following Rule 91a..

The trial court hearing failed and Court of appeals refuses to admit their mistakes and unpreparedness for the Rule 91a. case. It is defense that called for trial court hearing and ignored the trial court hearing with a Motion of dismissal 91a. Why, because they were not prepared nor organized for rules and procedures of Rule 91a.

The reverse takes place: the clock and the 23 minutes length of court hearing shocks them; the wrong legal standard Special Exception is put to work instead of correct legal standard for Rule 91a; Rule 91a.2 was also not used; 39 pages of fake transcript was destroyed by tampering; and the JUDGMENT is criminal !

The MEMORANDUM ORDER IS USELESS! : it is of a legal world before the entrance of Rule 91a and ,yes, dramatized , it should be an addition to the legal Tradition. The MEMO.ORDER is confusing and those who have so far used Rule 91a have been lazy, inveterate spoilt, puerile, troublesome, corrupt, parasites! Can you hazard the idea of showing up for trial court hearing unprepared. They must be depending on their pulchritude for their success. Will I persist with this task? In youth we go ahead caparisoned in excitement, the excitement is wearing thin for me and so it must be. But must I be treated so badly.

The MEMO. Opinion is deceptably using Rule 91a, hiding it to deceive or they

are just not ready and they the cover will bar entrance to the truth. They do not want the truth to be revealed, yet. What do I speak about, the October 5th, 2016, trial court hearing that failed by their ineptitude and they must hide the truth. They failed and I did not!

Th "Order" of May 30, 2017 by Justice Luz Elena D. Chapa starts: "This is an appeal "from the trial court's judgment" dismissing Michael A. Salazar's claims pursuant to Rule 91a of the Tex. R. Civ. P." (APP. B)

"This is an appeal from the trail court's judgment....," There cannot be a trial Court Judgement because the Trail Court Hearing failed. It failed because it did not comply with Rule 91a2 which "must identify each cause of action to which it is addressed, must state specifically the reasons the cause of action has no basis in law , no basis in fact, or both." AND, the trial court hearing's transcripts were destroyed and tampered with; the clock of the trial court and on the "Judges Notes" (Judge Gabriel) indicates that the trial started at 8:30 AM and ended at 8:53 AM (less 23 minutes of court time) which makes it impossible to have arrived at 39 pages of transcripts (APP.N) in such a short time. In

short, there was no trial court hearing : it failed because they did not comply with Rule 91a2. Rule 91a8 makes it very clear: "By filing ...a party submits to the courts jurisdiction only in proceeding on the motion (Rule 91a) and is bound by the courts ruling including an award of attorney fees and ...against the party." See Rule 91a8.

For Justice Chapa to have arrived at ruling or Judgment from the trial court is needless to ask: where and how did you get your judgement?

The basis of My Appeal, is just that : the failure of trial court hearing for dismissal under Rule 91a; non-compliance of Rule 91a2; the time element : less

23 minutes and 39 pages of destroyed transcripts – that is may APPEAL!
YOUR BLOCKING MY APPEAL! (APP.F : Appeal)

the Memorandum Order: "On October 10, 2016, the trial court dismissed the suit and the trial court hearing entered an amended order on October 24,2016 clarify a misnomer. This appeal ensued. "Judge knew and was uncertain about failure of trial court hearing on dismissal Motion 91a and in the Judge's Notes turns to legal standard "special exceptions", undisturbed to analogize and unable to recognize the danger.
Justices: Sandee Bryan Marion, Chief Justice, Karen Angelini, Patricia O. Alvarez, Irene Rios, are as knowledgeable about Rule 91a and its failure at the trial court hearing is now understood as part of F.B.I. conspiracy as expected.

It is understood ," a fair trial in a fair tribunal is a basic requirement of due process." In re Murchison, 349 U.S. 133, 136 (1955). To administrative agencies which adjudicate and applies to courts. Gibson v. Berryhill, [421 U. S. 35, 47] 411 U.S. 564, 579 (1973). Not just a biased decisionmaker constitutionally unacceptable but "our system of law has always endeavored to prevent even the probability of unfairness." In re Murchison, supra, at 136; cf. Tumey v. Ohio, 273 U.S. 510, 532 (1927). In pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable. (Withrow v. Larkin, 421 U. S. 35, 47).
Non-compliance of Texas Rule of Civil Procedures 91a.2; There is no transcripts to indicate Rule 91a was complied with hence the tampering with

the Judgment of the Trial Court Hearing with the Judge's mistakenly used the Legal standard of "special exception" instead of legal standard of Rule 91a, which is what the Trial Court Hearing was all about and announced in the "FIAT" summons. (APP. H : FIAT) ` m(Note Rule 91a8: "The defendant may object to the

plaintiff's venue choice (not my choice) by filing a motion to transfer venue .Id. An objection to improper venue is waived if it is not made by a written motion filed prior to or concurrently with any other plea filed prior to or concurrently).

with any other plea, pleading or motion except a "special appearance motion ." Tex. R. Civ.

FBI BACKGROUND

Rule 34.6

Rule 34.6 (b) Tex. R. App. P. Supplementation: if anything relevant is omitted from the reporter's record, the trial court, the appellate court, or any party may by letter direct the official court record to prepare, certify, and file in the appellate court a supplemental report's record is part of the appellate record. (App. B : note the indifference of Justice Chapa.)

Has anyone in the appellate court directed by letter the "official court reporter to prepare ,certify, and file in the appellate court a supplemental reporter's recorder containing omitted items" purported to be tampered. (what is meant by "official court reporter," Ms. Linder from Austin?)

This is appellant's appeal and appellant's reaction: Brief! The trial court was in disarray and later the reporter's record was found to be lacking and, finally, tampered with. And here is more to digest: (APP D)

The Judge's notes indicate date / time of 5th October, 2016 trial court as 10/05/2016, began: 08:30 am and filed with Donna Kay Mckinney District Clerk Bexar County, 2016 5th Oct., finished : 8:53am (perpendicular, on page) and signed by Cindee Flores, Deputy. The trial court hearing lasted: 23 minutes; the reporter's record shows 39 pages of transcript. (APP. N)

Twenty -three minutes of trial court hearing and a reporter's record 39 pages of transcripts. Further underlining my charge that the transcripts were tampered with, expanding to 39 pages in 23 minutes of trial court hearing. In the 4th of May 2017, "ORDER" APPELLANT's request that Court order the reporter, Ms. Linder, to turn over to the court her "recordings or original transcripts." Appellant's motion was denied. (App. A).

. But this reporter's record was tampered with after the trial court – they put in what was left out, adding their 91a.2, failing to adumbrate:" ... must identify each cause of action to which it is addressed, and must state specifically the reasons the cause of action has no basis in law, no basis in fact, or both." (Rule 91a.2)

Rule 34.6 (f): Reporter's record lost or destroyed. An appellant is entitled to a new trial under the following circumstances: .

Conclusion: there was non-compliance: Rule 91a.2; tampering with court hearing transcripts and caught because of the Clock; "Judgment" is fake; there was no trial court hearing: they were not ready for trial Motion to dismiss under Rule 91a! Carlos Soltero, writer for "Rule 91a 2015 Update:" newly introduced (March, 2013) Rule 91a, explains lack of readiness for court hearing and for the destruction of the reporter's record and also

explains want of readiness for trial hearing in October, 2016. 4th Court of Appeals Justices are violating by entering a decision in conflict with the Constitution and due process, departing further from accepted and usual course of judicial proceeding and, finally, sanctioned such a departure by the lower court.

The record is necessary to the solution, which is the reason of having the court reporter.

Please support the certiorari.

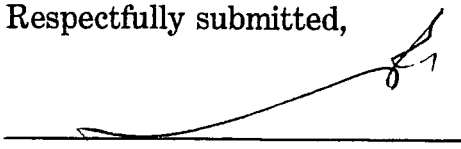
Respectfully,

1206 Thompson Pl.
San Antonio, TX 78218
210-433-6190

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 19 June, 2019