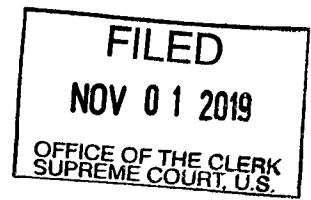


NO. 19-5174



IN THE SUPREME COURT OF THE UNITED STATES

WILLIAM C. LEWIS, SR.,

ESTHER Y. LEWIS,

PETITIONERS

vs.

ESTATE OF ROBERT A. LEWIS, ET. AL.,

RESPONDENT(S)

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ON PETITION FOR A WRIT OF CERTIORARI TO  
THE DISTRICT OF COLUMBIA COURT OF APPEALS

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PETITION FOR REHEARING

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November 1, 2019

## **PETITION FOR REHEARING**

William C. Lewis, Sr. and Esther Y. Lewis (“Petitioners”) petition the Court for a rehearing of the Court’s decision issued on October 7, 2019 denying the Petition for a Writ of Certiorari to the District of Columbia Court of Appeals under Appeal No. 16-PR-150. The Opinion of the DC Court of Appeals is reported at Lewis v. Estate of Lewis, 193 A. 3d 139 (D.C. 2018). Petitioners move this Court to grant the Petition for Rehearing and consider this case on the merits on the important issue of whether United States’ territories are entitled to a trial by jury under the Seventh Amendment to the U.S. Constitution regardless to whether a suit sounds in equity or damages. Pursuant to U.S. Supreme Court Rule 44, this Petition for Rehearing is filed within 25 days of the Court’s decision on October 7, 2019.

## **REASONS FOR GRANTING THE PETITION**

Petitioners respectfully submit this Petition for Rehearing on grounds that residents in the District of Columbia are entitled to a trial by jury pursuant to the Seventh Amendment to the United States Constitution regardless of whether a suit sounds in damages or equity. This issue is of great importance particularly as it relates to the District of Columbia and other U.S. territories since the District is not a State and is directly under Federal domain. Petitioners state the following in support of this Petition for Rehearing.

## RELEVANT FACTS

Petitioners brought an action in the DC Superior Court Probate Division on behalf of their father's Estate who died intestate. Petitioner's father, Amos W. Lewis, Jr. owned two pieces of real estate in the District of Columbia. Prior to their deaths, Mr. Lewis and his wife called a meeting at the family home located at 638 Quebec Place NW, Washington, DC and informed their adult children that they wanted to sell the Quebec Place property. Petitioners' parents placed Petitioners' brother, Robert A. Lewis, in charge of the repairs to the property to get it ready for sale. Petitioners and their siblings were to provide contributions to facilitate the repair and general upkeep of the property.

The Lewis siblings continued to make contributions through the years to Robert Lewis to carry out their parents' wishes even though both passed away before the property was sold. Robert A. Lewis passed away in 2013 and did not leave a will. Unbeknownst to Petitioners and their siblings, Robert A. Lewis vested title to the Quebec Place property in himself. Once Petitioners discovered that their brother had placed the property in his name only Petitioners petitioned the DC Superior Court Probate Division, qualified and were appointed as Personal Representatives of their father's Estate.

Petitioners' brought an action against their brother's Estate to have the property placed back in the name of Amos W. Lewis, Jr.<sup>1</sup>

Respondent filed a Counter-Claim requesting damages for items allegedly belonging to Robert A. Lewis that were taken by Petitioners from Estate property and for reimbursement for the upkeep and maintenance of the properties alleged to belong to the Estate of Robert A. Lewis. Petitioners challenged the Probate Court's decision to place the Quebec Place property back in the Estate of Robert A. Lewis, in the DC Court of Appeals. The DC Court of Appeals upheld the Probate Court's decision. Petitioners filed a Petition for Writ of Certiorari pursuant to the DC Probate Court's affirmation of the lower court's decision in the U.S. Supreme Court. On October 7, 2019 the U.S. Supreme Court denied the Petition for Writ of Certiorari.

#### **A. Petitioners are Entitled to a Trial by Jury**

The Seventh Amendment to the United States Constitution provides:

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact, tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law

The guarantee to a trial by jury under the Seventh Amendment governs only Courts that sit under the authority of the United States Federal

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<sup>1</sup> Petitioners' found out that Robert A. Lewis had placed both properties owned by his father in his own name. Petitioners challenged the transfer of both properties in their action in the DC Superior Court Probate Division. The Court ruled that the property located at 6526 North Capitol Street NW belonged to the Estate of Amos W. Lewis, Jr. and the Quebec Place Property should remain the Estate of Robert A. Lewis ("Respondent").

Courts including courts in the territories and the District of Columbia. *Capital Traction Co., v. Hof*, 174 U.S. 1, 5 (1899). Petitioners maintain that since the District of Columbia is not a State and the District falls directly under the authority of the Article III Federal Court, District residents are automatically entitled to a trial by jury whether the controversy sounds in damages or equity. This right is not guaranteed in State Courts unless the State Court is enforcing a federal created right of which the right to trial by jury is a substantial part. *Dice v. Akron*, 342 U.S. 359(1952).

In the instant matter, the trial court's denial of Petitioners' request for a jury trial *sua sponte* and where Respondent sought money damages in its Counter Claim denied to Petitioners the equal protection of the laws inherent under the Fourteenth Amendment to the United States Constitution. The District of Columbia Courts cannot deny to its residents a trial by jury because the District is under the federal jurisdiction. Petitioners maintain that this is true even for matters in equity only. *Carithers v. District of Columbia*, 326 A.2d 798 (D.C. 1974); *Webster v. Reid*, 52 U.S. (11 How.) 437, 460 (1851); *Kennon v. Gilmer*, 131 U.S. 22, 28 (1889); *Capital Traction v. Hoff*, *supra* at 5 (1899).

The District of Columbia is not a State and it is subject to the provisions of the Fifth Amendment to the United States Constitution. The

plain language of the Seventh Amendment to the U.S. Constitution is consistent with Petitioners' argument that this Amendment provides to DC residents and residence in other territories an express right to a trial by jury. Therefore, District residents in order to assure equal protection of their rights must be afforded the right to a trial by jury regardless of the type of controversy in question.

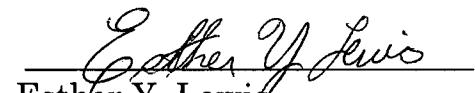
In the instant matter, the DC Court of Appeals upheld the denial of the right of Petitioners to a jury trial, even though the controversy included money damages in excess of \$300.00 (Counter Claim). The DC Court of Appeals failed to address the issue that the property was under a constructive trust. Had the Probate Court allowed the Petitioners to have a trial by a jury of their peers, Petitioners argue that the manner in which property is held, maintained, and disposed of in the District of Columbia could have been adequately addressed. The trial court's deliberate deprivation of Petitioners' rights to a trial by jury because it imposed the equity standard applicable to State Courts interfered with Petitioners' due process rights. Petitioners reiterate here that District residents and residents in territories are entitled to a trial by jury regardless of the controversy in question, whether it sounds in equity, damages or both.

## CONCLUSION

Petitioners pray that the Court will grant their Petition for Rehearing on this issue.

Respectfully submitted,

  
William C. Lewis

  
Esther Y. Lewis