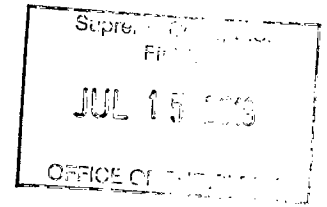


No. 19-5359 ORIGINAL

IN THE SUPREME COURT OF THE UNITED STATES



PHAN, KENT VU, Petitioner

v.

COLORADO LEGAL SERVICES, and

STATE FARM INSURANCE COMPANY et al, Respondent.

On Petition for a Writ of Certiorari to the  
Tenth Circuit Court of the Colorado

**PETITION FOR WRIT OF CERTIORARI**

Petitioner's name: Phan, Kent Vu

Address: 14896 E 2<sup>nd</sup> Ave, Apt: H106

City, State, Zip Code: Aurora, Colorado 80011

Phone number: (303) 875-5224

## QUESTION(S) PRESENTED FOR THE COLORADO LEGAL SERVICES

1- Defendants who have known about petitioner's disabilities status, but he or she intentionally indifferent and exploited of impairment of petitioner on the purpose to suppress on lawsuit, and medical treatment is violation to the American with Disabilities Act?

2- Defendants who have known petitioner's disabilities status, have known petitioner is Asian; is under protected class, but defendants ignored that qualified and suppressed on lawsuit is violation to ADA, and 42 U.S.C. 1981?

3- Pursuant to the Sec 504 Rehabilitation Act of 1973 (29 U.S.C. 794) petitioner was qualified for receive an assistant from Federal assistant, but defendants intentionally denied for that benefit is violation to the Sec 504 Rehabilitation Act?

4- Discrimination can be direct or indirect; petitioner was an Asian and a victimization of defendants' violation; defendants with apparently evidences of violation to petitioner's rights, but they're American white and under protected by judges; were they're in act of racial discrimination?

5- Petitioner was injured and damaged with significantly evidences, but judges dismissed petitioner's complaint without hearing and trial was violated to the Seventh and Fourteenth Amendment?

QUESTION(S) PRESENTED FOR THE STATE FARM INSURANCE COMPANY et al

1-Petitioner in seriously injured, with long history of medical care, ongoing treatment, and permanently disabled cause by this accident. Complaint of petitioner is demanded for justice with significantly evidences; is this complaint justifiable or frivolous?

2- Petitioner was suffering a seriously injured, but complaints of petitioner were dismissed without hearing and trial, were Judges and Courts in violation to 7<sup>th</sup> Amendment and 14<sup>th</sup> Amendment?

3- Deprived petitioner's Civil Rights had secured in 7<sup>th</sup> Amendment and 14<sup>th</sup> Amendment then imputed to petitioner's complaints were frivolously? Was this an injustice?

4- Exploited the impairment of disabilities litigant is violation to 42 U.S.C. 1981 (c)? Defendant who were deprived the benefit of law, deprived the enjoyment of life of petitioner, and maltreated to petitioner in medical care, intend subject to like punishment and pains to petitioner is violation to 42 U.S.C. 1981(a)?

5- Petitioner's Civil Rights secured under 7<sup>th</sup> and 14<sup>th</sup> Amendment had been deprived by defendants; were they in violation to 42 U.S.C. 1983?

6- Were the connivance among defendants on the purposed to disrupt treatment plan of petitioner? And they're in violation to the 42 U.S.C. 1985?

7- Were the actions to disrupt on treatment plan of petitioner can be preventing by an effort to bring the benefits to petitioner? And they're in violation to 42 U.S.C. 1986?

8- Were the connivance between Courts or Judges and State Farm Insurance Company counsel in the dismissed case 16cv02728 RBJ?

## COLORADO LEGAL SERVICES ' S LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page.

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner: Phan, Kent Vu

14896 E 2<sup>nd</sup> Ave, Apt: H106

Aurora, Colorado 80011

Respondent: Colorado Legal Services

1905 Sherman Street, Suite: 400

Denver, Colorado 80203

STATE FARM INSURANCE COMPANY' S LIST OF PARTIES

Petitioner: Phan, Kent Vu

14896 E 2<sup>nd</sup> Ave, Apt: H106

Aurora, Colorado 80011

Respondent: State Farm Insurance Company

P O Box 52282

Phoenix, AZ 85072-2282

Respondent: Kaiser Permanente

2045 Franklin Street

Denver, Colorado 80205

Respondent: Peter Weingarten, M.D.

1400 Potomact Street, Suite: 400

Aurora, Colorado 80012

Respondent: Dr. Khoi Pham Duy, M.D

9399 Crown Crest Blvd, Suite: 422

Parker, Colorado 80138

Respondent: Patterson&Slag, P.C.

5613- DTC Parkway, Suite: 400

Greenwood Village, CO 80111

Respondent: Attorney Maaren Johnson

Bachus&Schanker, LLC

1899- Wynkoop St, Suite:700

Denver, Colorado 80202

Respondent:Health First Colorado

1570 Grant Street

Denver, Colorado 80203

Respondent: Luke Madical Center

1601- E- 19th Ave, Suite:3800

Denver, Colorado 80218

Respondent: Concentra Urgent Care

3449-N-Chamber Road, Suite:B

Aurora, Colorado 80011

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- Protection and Advocacy for Individuals with Mental Illness Act of 1986, 42 U.S.C. 10801 et seq (“PAIMI”)
- 42 U.S.C. 1981, 1983, 1985, and 1986.
- Colorado Torts: Bad Faith Insurance under C.R.S. 10-3-1115 and 1116.
- Colorado Torts: Medical Malpractice.
- Colorado Torts: Legal Malpractice.
- 28 U.S. Code § 1367. Supplemental jurisdiction.
- Res Judicata doctrine.
- Rooker-Feldman doctrine.

OTHER: None



IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment  
below.

OPINIONS BELOW

For cases from federal courts:

The opinion of the Tenth Circuit court of appeals appears at  
Appendix...A...to the petition and is  
report at.....Appendix A.....; or,  
has been designated for publication but is not yet reported; or,  
is **unpublished**.

The opinion of the United States district court appears at Appendix B.....to  
The petition and is  
report at.....Appendix B.....; or,  
has been designated for publication but is not yet reported; or,  
is **unpublished**.

## **JURISDICTION**

For the cases from **federal courts**:

The date on which the Tenth Circuit Court of Appeals decided my case was: **04/16/2019**

**No petition for rehearing was timely filed in my case.**

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: ...n/a and copy of the order denying rehearing appears at Appendix....

An extension of time to file the petition for a writ of certiorari was granted to and including...**06/18/2019**.....(date) in Appendix No.....

The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1)

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

- **Racial Discrimination**
- American with Disabilities Act; Title II and Title III.
- Sec 504 Rehabilitation Act and 29 U.S.C. 794
- Equality Act of 2010 protects for individual with mental illness.
- Protection and Advocacy for Individuals with Mental Illness Act of 1986, 42 U.S.C. 10801 et seq ("PAIMI")
- 42 U.S.C. 1981, 1983, 1985, and 1986.
- Colorado Torts: Bad Faith Insurance under C.R.S. 10-3-1115 and 1116.
- Colorado Torts: Medical Malpractice
- Colorado Torts: Legal Malpractice
- 28 U.S. Code § 1367. Supplemental jurisdiction.
- Res Judicata doctrine.
- Rooker-Feldman doctrine

## **STATEMENT OF THE CASE OF COLORADO LEGAL SERVICES**

On the December 09, 2014 petitioner filed a complaint for Dr. Pham, Khoi Duy, Dr. Peter Weingarten, Kaiser Permanente, and State Farm Insurance Company; the case number was 2014CV300. Because petitioner is disabled; therefore, petitioner had involved to the civil procedural, and result was case dismissed without prejudice. Petitioner has filed another case was 2015CV301 with same defendants of case 2014CV300. Clerk of the Court recommended that petitioner shall contact to the Colorado Legal Services for help in this lawsuit, and Court clerk provided the contact information of Colorado Legal Services. Before this time, petitioner did not know about the Colorado Legal Services.

When contact to the Colorado Legal Service for medical malpractice; petitioner had stated that petitioner is disabled on both physical and mental; and currently receiving Security Supplemental Income (SSI). Petitioner also stated that private attorney refused for contingent contract, and required petitioner must deposit \$2500.00 before case start and may be more. Petitioner is receiving SSI; therefore deposit is impossible. Similarly for the case of Contamination by Red Sky Condominium HOA, private attorney says that this case is 50/50 chance to win; therefore deposit is required. Petitioner had stated all this statement to the attorneys of Colorado Legal Services and requested for assistant from them. After few days, petitioner has receive a letter for denial, but day after an attorney of Colorado Legal Services call petitioner and bargain that if petitioner willing to set for small claim; they're will help for. Because petitioner's damages was huge; small claim in Colorado is set \$15,000.00 was not adequate to damaged; therefore, petitioner refused for that offered. Therefore, Colorado Legal Services argued for they're denied due to "fees-generating" was sophisticated.

Pursuant to 29 U.S.C. 794, petitioner is disabled on both physical and mental, currently receiving SSI was qualified for receive the benefits on which law has provided.

Pursuant to the Equality Act of 2010 protects for individual with mental illness.

Pursuant to the 42 U.S.C. 10801 et seq; petitioner is under Protection and Advocacy for Individuals with Mental Illness Act of 1986 ("PAIMI").

Whereas, respondent intentionally indifferent and deprived the rights, the benefits on which belong to petitioner.

Consequence from the indifferent and deprivation benefits of petitioner; defendants of medical malpractice, legal malpractice, and contamination claim freely coerced petitioner and they're under patronage by state judges and federal judges; defendants were suppressing on petitioner claim and stay-out trouble with law. All complaints of petitioner had been dismissed without hearing, without jury trial; although that petitioner had demanded for jury trial, but judges ignored. Petitioner's Civil Rights had secured under 7<sup>th</sup> Amendment and 14<sup>th</sup> Amendment were violated by Courts and Judges.

Petitioner strong believed that defendants and judges have already known what were impacting to petitioner when they're treated to petitioner like that. Both defendants and judges known that petitioner is disabled, currently receiving SSI; unaffordable for attorney fees and expert; therefore, with impairment of petition, defeat petitioner is easily. That why the complaint for accident from 12/09/2014 and contamination complaint had filed on 07/30/2015 all are still in courts system, and dimly judges intentionally coerced on petitioner and protecting for defendants regardless on the legality.

## **STATEMENT OF THE CASE OF STATE FARM INSURANCE COMPANY, et al**

The complaint's contents were appeared under Colorado Torts law; medical malpractice, legal malpractice. But motivator of these violations was the racial discrimination, the connivance and indifferent on petitioner's disabilities due to accident's injured were the evidence of violations. State judges, Federal judges, defense attorney, and defendants who were notice of petitioner's disabilities and ADA which prohibits discrimination on the basis of race, color, religion, sex, or national origin – and Section 504 of the Rehabilitation Act of 1973, the ADA is an "equal opportunity" law for people with disabilities. The cases dismissed without of hearing and trials were violated to the 7<sup>th</sup> Amendment and 14<sup>th</sup> Amendment. Defendant cannot celebrate immunity if violated to the Civil Rights of plaintiff. Violation can be direct or indirect, defendant by himself or herself exploited of his or her duty and indirectly discriminated. Petitioner is Asian victimization but petitioner was suppressed by Courts, by defense attorney, and by defendant; that why petitioner had raised the question for Racial Discrimination, because petitioner is Asian and defendants who were American white and they're violated to petitioner's civil rights. Petitioner was injured in contamination, injured in car accident, but petitioner complaints were suppressed by judges, by defense attorney, and by defendants. The apparently evidences were enough factors on which hearing and trial can be proceeding, but not. Here, petitioner respectfully report to the United States Supreme Court that defendants, defense attorneys, and judges have already known about petitioner's disabilities but they're ignored and indifferent on the way of resolve the case. On the other hand, after accident happened and petitioner on going treatment; petitioner's name was on blacklist of hospital. An emergency case for

back pain and petitioner cannot walking, petitioner call 911, and when petitioner just enter emergency room, a female nurse angrily cursed petitioner in twice, but all doctors and another nurses had no prevention act. And others treatment for injury is receive a same discriminate. Court dismissed petitioner complaint without hearing and trial, settlement had not made, petitioner is still in injury and damaged, but judge apply the doctrine of Res Judicata and prevent petitioner demand for relief.

### **1- Dr Pham, Khoi Duy.**

Petitioner had been cured by Dr. Pham, Khoi Duy in two accidents on 2011. Doctor Pham, Khoi Duy provided the effectiveness of neuro-diagnosis as well as treatment. After petitioner was injured by accident on 04/21/2012; petitioner had come back for treatment with Dr. Pham, Khoi Duy. On the 02/05/2013 petitioner's right shoulder in painful; petitioner request him for MRI exams same day. Dr. Pham, Khoi Duy affirmed that MRI report will be in office within 24 to 48 hours. On the Friday 02/08/2013 pain in highest level; petitioner call in his office and asking about MRI report, Dr. Pham, Khoi Duy informed that MRI looks normal. The contrary here was the pain in highest level but MRI was normal. Petitioner stops by Health Images where petitioner had MRI scanned on 02/05/2013 and request for a copy MRI onto the cd's. Petitioner heading to the Emergency Department of University Hospital with the cd's copied of MRI images. Probably, doctor of emergency had contacted to Dr. Pham Khoi Duy; therefore, with MRI' cd's images but doctor say nothing about shoulder painful. On Saturday 02/09/2013, and Sunday 02/10/2013 was the weekend and also lunar New Year; petitioner must suffer painful because doctor office was closed too. On next week; Monday 02/11/2013 petitioner comes to Dr. Pham, Khoi Duy in person and met him on building entrance, petitioner asked him that on last Friday you told me MRI was normal,

but pain was at high level? He instantly bullied the petitioner in twice and said: I don't know what wrong with you, he repeated in twice. At this time he on outward of building, petitioner come into his office; his clerk informed that petitioner was referred to surgery center. When Dr. Pham come back, petitioner asking him that why on Friday you said my MRI normal, but you sent me to surgery center? He bullied again and said: come to that doctor and asking him, he repeats in twice. After heard that, petitioner request a hard copy of MRI report; read it and know that petitioner's right shoulder muscle tear, but Dr. Pham, Khoi Duy intentionally concealed it and inform that MRI was normal. This was a deliberately between he and State Farm Insurance. His clerk, she informs to petitioner that State Farm Insurance won't pay for surgery cost. At surgery center, staff tells the same thing, and petitioner still suffering a pain to present. Relate to the muscle tear, on Oct 25<sup>th</sup> 2017, MRI shown that muscle is still in condition tear and create a pain as well as disturbing to daily activities of petitioner. From May to July of 2018 petitioner under care by Dr. John Splittler M.D. of the University Hospital of Colorado. Again, Dr. John Splittler intentionally concealed the tear of muscle, he advice to petitioner that shoulder joint was tight, he gestured by his hands as a bolt and nut in high torque and difficulty to move, he eluded a muscle tear, he said he will inject a liquid to expand the joint for freely moving, this was counter science. Probably he says under directed by insurances. Up to present; right shoulder muscle still in tear and petitioner still suffering a pain in daily without appropriately remedy such as surgery. At this point, the intimately connivance among doctors and insurances on the purposely suppressing on petitioner medical care had relating to car accident on the April 21, 2012 had explored.

After right shoulder muscle tear had detected, Dr Pham, Khoi Duy provided a prescription for Vicodin, this medicine was working well, and petitioner continuously taking

up to 2018 before primary care doctor changed to Morphine 15mg, Ibuprofen 800mg and Cyclobenzaprine 10mg. Dr. Pham, Khoi Duy retaliated to petitioner because emergency case on 02/08/2013. Dr. Pham, Khoi Duy revenge to petitioner by stop for refill Vicodin and he told petitioner let call 911 if feel pain at right shoulder. Muscle tear is inappropriate for call 911; this was a retaliation of Dr. Pham Duy Khoi. In addition, Dr. Pham, Khoi Duy intentionally postponed refill for Vicodin, after place refile order, petitioner call and inform that refill request had been placed at the Kaiser Permanente pharmacy, Dr. Pham, Khoi Duy office answer that office is waiting for refill order of pharmacy, petitioner call pharmacy and states that doctor office request for refill order from pharmacy and pharmacy technician replied that an order had submitted to doctor office, petitioner call doctor office again and the answer was not received the request order from pharmacy, this condition is continuously extend from Friday over weekend to the nest Thursday before petitioner receive refill for Vicodin. This indicated that how was the retaliation by Dr. Pham, Khoi Duy. Petitioner must suffer painful without medicine from Friday to Thursday; this was a sorrowful of petitioner. In the procurement sent to University of Colorado at Denver, Dr. Pham, Khoi Duy diagnosis this shoulder pain can be affect to petitioner study at least 6 months more, but he instance stop for Vicodin and inflicted the sorrowful to petitioner. This matter had been ignored by judge when complaint had filed.

Petitioner complained about mid-back pain and request for MRI and treatment; Dr. Pham, Khoi Duy advised that when in accident, belly is protects for mid-back. Resulting is petitioner is still suffering a painful from mid-back, and pain is radiated to the front on belly and created a feeling of nausea and chest pain. This symptom still exists. Petitioner had



emergency for chest pain as petitioner mentioned in petition of writ of certiorari for American Family Insurance Company.

All treatments related to accident on 04/21/2012 were under control by insurances, and doctors, themselves were contributed they hand on the purpose to suppress on lawsuit and treatment as well.

## **2- Dr. Peter Weingarten**

After inform that petitioner was disabled due to the accident on 04/21/2012. On the June, July, and August 2013 State Farm Insurance Company had sent 4 letters on that inform to petitioner that it will stop paying medical bills relate to this accident. And on the July 22th 2013 State Farm Insurance Company hired Dr. Peter Weingarten do an Independent Medical Evaluation. In 5 to 7 minutes, he quickly concluded that petitioner had reached to maximum medical improvement. Based on this evaluation State Farm Insurance Company stops paying for medical treatment although that at this time medical coverage was left about \$15,000.00 on \$25,000.00 policy coverage, and after this time petitioner must leant on Colorado Medicaid and Medicare for continuing treatment. Total the amount on which Medicaid and Medicare paid for medical treatment related to this accident was around \$200,00.00 to \$250,000.00 (all bills petitioner has keep in record), and petitioner is still under treatment and ongoing for surgery on spinal injured cause by this accident.

Unbelievable a medical evaluation was proceeding about 5 to 7 minutes. Before do evaluation petitioner was detain in a room for 50 minute to one hour.

Petitioner complained for unfaithful medical evaluation conducted to State Farm Insurance Company stop paying for medical bill relate to this accident. At the Arapahoe District Court case 15CV301 (complaint for this accident) Judge Christopher C. Cross and

defense attorney was tricky by argued that Dr. Peter Weingarten won't liable for medical treatment and dismissed the case. Petitioner did not complaint for medical treatment; Dr. Peter Weingarten did evaluation, not provided treatment for petitioner, but judge and defense attorney contradictions to complaint on the purpose to protect for defendant. Therefore, petitioner concluded that racial discrimination was not wrong at all. Judge and defense attorney were on connivance.

### **3- Kaiser Permanente**

On the January 23th, 2014 petitioner under spinal examined by MRI at Kaiser Permanente. The MRI shown that spine injured at multi levels, but Dr. John Siebert concluded that these injuries were come from prior accident. Dr. John Siebert diagnosis that at L1 old compression fracture, this was a sophisticated, because MRI machine cannot makes a distinguish between old and new injury. In the fact, these injuries did not show on the MRI of accident on 2011. Basic on this diagnosis, physical assistant Deborah Nuccio refused to provide the injection or surgery as primary doctor Dr. Sarah Davis recommended to Kaiser Permanente Neurosurgery Department. Result was petitioner must suffer a painful and sorrowful as the consequence from unfaithful evaluation by Dr. Peter Weingarten. Because pain is at high level petitioner request for injection but PA Deborah Nuccio denied and result is petitioner must suffer a painful without injection or surgery until September 2015 petitioner receive an injection by Dr. Brian Fuller .

Petitioner left Kaiser Permanente on July 2015 and move to the Metro Community Provider Network for medical care, but Kaiser Permanente is connivance with Health First Colorado (Colorado Medicaid) on the purpose to disrupt on treatment plan by call to provider of petitioner and inform that Kent Vu Phan (petitioner) is member of Kaiser Permanente;

treatment for Kent Vu Phan must obtain a permit from Kaiser Permanente; result all medical care at this time were not approved. Petitioner must call to Kaiser and Health First Colorado in 20 times and request open for Medicaid ID, this conditions were happened in 2015 and 2016. Petitioner was encounter to many adverse in medical care from Kaiser Permanente and Health First Colorado in 2015 and 2016.

#### **4- Bachus & Schanker, LLC**

Petitioner signed contingent contract with Attorney Maaren Johnson of Bachus & Schanker, LLC on 08/12/2013. Petitioner had informed that accident on 04/21/2012 was the cause of petitioner's disabilities. Petitioner also provided to her a Security Supplemental Income (SSI) documentary. When petitioner on treatment plan, Dr. Lawrence Varner sues for \$500.80 medical bill on proportion 40%/60% bill of accident. Petitioner is disabled under suing for medical bill related to this accident, but she denied to defense for petitioner. Now petitioner own an amount \$1773.08 at the Arapahoe County Court case number was: 13C38588. The MRI exams on 01/23/2014 shown a series of injuries and Kaiser Permanente doctor denied providing remedy, but she had never mentioned in the settlement on 11/21/2014.

From 04/2014 to 09/2014 petitioner had treatment with chiropractor Dr. Christopher Butler, petitioner provided contact information but she did not collect the bill for settlement, petitioner asking her for those bills, she replied: no heal no pay, State Farm says that. Petitioner signed contract on August 2013 and terminate her representative on 02/2015; throughout this time she did not protect for petitioner anything, but protected for State Farm Insurance only. After petitioner request her withdrew for representative; she sent withdrew letter to American Family Insurance only, At State Farm Insurance she did not send a

withdrew letter from her position of legal representative, and State Farm Insurance catch this chance and denied to contact with petitioner on lawsuit.

#### **5- Patterson & Slag, P.C.**

On the 06/08/2016 petitioner had sent a complaint and summons to the State Farm Insurance counsel Patterson & Slag P.C. by Arapahoe sheriff but Patterson & Slag P.C. refused to receive this legal documentary. After this refusal, petitioner contacted to State Farm Insurance Company Head Quarter at Phoenix Arizona, and was directed by this office the complaint and summons shall be sent to State Farm Insurance Operation Center at Greeley, Colorado. At this time complaint and summons had been delivery by Weld County Sheriff and State Farm Insurance refused again. On 10/11/2016 Patterson & Slag P.C. sent a memo and complained that petitioner did not send the appeal to it. At the beginning of lawsuit at the Arapahoe District Court; Patterson & Slag P.C. had filed an Entry of Appearance, but not filed a Withdrew letter from counsel position for State Farm Insurance; that why petitioner still sent complaint and summons to this office and Patterson & Slag P.C. was the defendant's counsel.

At the United States District Court for the District of Colorado case 16-cv-02728-RBJ. This case was filed on 11/07/2016 and dismissed on 11/30/2017. Petitioner filed this case under In Forma Pauperis (IFP); therefore, complaint and summons shall be delivery to defendant by Court orders to the U.S. Marshall. Petitioner had requested for court clerk issue a summons and petitioner self-services to defendant, but court clerk denied to provide a summons. Pursuant F.R.C.P. Rule 4, Court shall orders to the U.S. Marshall to deliver summons to defendant within 90 days after complaint had been file. From filing day was 11/07/2016 to the day on that Court ordered to the U.S. Marshall delivery summons and copy

of complaint was on 05/12/2017 equal 186 days. State Farm Insurance's counsel Patterson & Slag P.C. filed a motion to dismiss due to improperly service. At the court day 11/19/2017 petitioner stated to judge R Brooke Jackson that court lately delivery (improperly serviced summons) the summons and complaint; not by plaintiff and do not dismiss my case, but judge R Brooke Jackson still ignored and alleged that You speak English I don't understood. The 186 days for delivery summons and complaint was on deliberated of judges and court on the purpose creates a path for State Farm Insurance refuse complaint and summons and file a motion to dismiss. An articulation among defendants, defense attorney, court, and judges. The lawsuit has been filed for State Farm Insurance Company since December 09<sup>th</sup>, 2014 to present and without the answer to complaint.

#### **6- State Farm Insurance Company.**

State Farm Insurance Company not only denied for complaint for it, but also disturbed to petitioner's medical care relating to accident on 04/21/2012. This accident was conducted to disabilities of petitioner. Instead of good take care for petitioner, State Farm Insurance, it sent the 4 letters and informs that it won't pay for medical bills relate to accident on 04/21/2012. On the July 22th 2013 State farm Insurance hired Dr. Peter Weingarten did do a medical evaluation; quickly in 5 to 7 minutes Dr. Peter Weingarten finished his evaluation. Petitioner with long history of illness for both physical and mental, but Dr. Peter Weingarten completely done his evaluate in 5 to 7 minutes. Petitioner has two accidents on 2011, and Independent Medical Evaluation had been spent in 1 hour and 30 minutes, let compare to the work of Dr. Peter Weingarten?

State Farm Insurance Company also hired a doctors to make a proportion on accident and enforce petitioner must pay 40% of bills and State Farm Insurance 60%. No

appropriately factors on that defined proportion 40%/60%. This was a coercion and unfairness when petitioner is Asian. During treatment, State Farm stop paying medical bills and result was petitioner was sued for \$500.80 plus court fees, attorney fees are total \$1773.08 in collection at the Arapahoe County Court in case number: 13C38588.

On 02/05/2013 MRI shown that petitioner right shoulder muscle tear, Dr. Pham, Khoi Duy refer to surgery center, but State Farm denied paying for surgery costs. Petitioner is disabled and receives SSI benefit; therefore, petitioner unaffordable for \$1773.08 and this amount is belonging to State Farm Insurance not for petitioner. Petitioner had requested to attorney Maaren Johnson of Bachus & Schanker to defense for petitioner but attorney Maaren Johnson denied. At this point petitioner recognized that the system of discrimination had formed and dominate on petitioner.

Pursuant to the C.R.S. 10-3-1115 and 1116, State Farm Insurance Company was the Bad Faith Insurance. State Farm Insurance and attorney Maaren Johnson were deprived petitioner the benefit at law, deprived the full enjoyment of life. All they're in concert and dominated petitioner. State Farm Insurance and Patterson & Slag P.C. is working and cooperating to Colorado laws; therefore, they're considerate as a State Actor and liable under 42 U.S.C. 1981, 1983, 1985, and 1986.

#### **7- Health First Colorado/Colorado Medicaid**

In 2015 and 2016 Kaiser Permanente was connivance with the Health First Colorado on the purpose to disruption treatment of petitioner. In the time from 07/2015 and 2016 petitioner must call to Kaiser and Health First Colorado in 20 times for negotiate for use Medicaid for treatment. Pursuant to Sec 504 of Rehabilitation Act of 1973 and Amended as 29 U.S.C. 794. Petitioner was disabled on both physical and mental, petitioner is qualified for

receive assistance from federal benefits. The provider who knew patient under care by Medicaid or Medicare; let provide for remedy and verifying for Medicaid or Medicare later. In this case petitioner was left Kaiser Permanent on July 2015, and petitioner under care by Metro Community Provider Network, petitioner has no more relating to Kaiser Permanente, this was deliberated by Kaiser Permanente and Health First Colorado on the purpose to retaliate and harass to petitioner.

#### **8- Luke Medical Center**

At the Metro Community Provider Network, Doctor Michael Nguyen referred petitioner to Luke Medical Center for MRI and treatment relate to accident on 04/21/2012. Petitioner calls and requested an appointment; Luke Medical Center requested that the prior MRI report shall be mailed to it. Petitioner mailed the MRI reports. After received MRI report, Luke Medical called to petitioner and informs that Medicaid ID is under named of Kaiser Permanente and denied for treatment. This was a deliberation because petitioner treatment at Metro Community Provider Network was fine, no anyone says that Medicaid ID under named of Kaiser Permanente; only treatment relating to car accident of 04/21/2012. Pursuant to rule of Health First Colorado, Medicaid member can change provider or opening Medicaid ID and able to see any doctors in Colorado. Petitioner called Health First Colorado and asking open for Medicaid ID, but staff said that: you only change your doctor once a years, now is September, you will can change on September next year. In conclusion, Kaiser Permanente and Health First Colorado intentionally retaliate and harass to petitioner.

#### **9- Concentra Urgent Care.**

On the January 26<sup>th</sup>, 2017's morning, because pain at high level, petitioner called to Metro Community Provider Network for an appointment same day. Schedule was full,

therefore staff referred petitioner to the Concentra Urgent Care for treatment. Before coming, petitioner call to this clinic and asking may accept for Medicaid, the female staff answered that clinic accepted for Colorado Medicaid. When petitioner presented at clinic, make sure petitioner ask one more time for accepted Medicaid, the female staff answer and gave a package of application, petitioner filled and return to her. But after a phone call, the female staff call petitioner to her desk and inform that her clinic does not accepted for Colorado Medicaid and refuse for treatment. Petitioner believed that petitioner name was on blacklist of hospital system. At Kaiser Permanente, at Health First Colorado, and at Luke Medical Center where same way to treating to petitioner.

Pursuant to Sec 504 Rehabilitation Act of 1973 as Amended as 29 U.S.C. 794 Concentra Urgent Care was violated to plaintiff because it deprived the benefits on which Federal Assistance provided for petitioner. Also Concentra Urgent Care in connivance to Health First Colorado on the purpose to deprived of petitioner's benefits. This condition can be prevent by Concentra Urgent Care by provide a remedy to petitioner, what a pity this expectation never come.

## **REASONS FOR GRANTING THE PETITION**

Consequence from accident on 04/21/2012 was conducted to petitioner's permanently disabled. Petitioner is ongoing treatment because petitioner medical condition wills never recovery, excepted for surgery, but surgery on seriously spinal injuries is impossibly. MRI shown that petitioner's spinal cord and vertebrae has about 10 discs in herniated, bulged, and ruptured; this condition is notice to petitioner is on permanently disabled condition. In addition, because living under infliction of emotional distress by defendants, petitioner's mental condition is on depression and anxiety, irritate, and hot-tempered person. All these are



derived from accident's consequence and the way to treat to petitioner from defendants. The demand for relief was based on the injuries on which petitioner is suffering, they're visible in the MRI's images, not an imaginable; therefore, judges of United States District Court and the Tenth Circuit Court of Appeal judged that petitioner's complaint was a frivolous is injustice.

## CONCLUSION

The reason why injuries still exist is caused from defendants maltreated to petitioner. If defendant willing and had effort on medical care, petitioner wouldn't have a sorrowful life with infliction of emotional distress from defendants. Causes of actions are existing, petitioner in seriously injured due to accident on 04/21/2012. Defendants are deny of their liabilities, and indifferent on petitioner's injury. Petitioner must bear these injuries until the rest of life. Hereby, petitioner is highly demand of liabilities from defendants and petition to the justice from United States Supreme Court. Therefore; the petition for a writ of certiorari should be granted.

Dated: 07/15/2019

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Phan Vu", is written over a horizontal line.

Petitioner: Phan, Kent Vu