

No. 19-5437

In The
Supreme Court of the United States

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EKATERINI ALEXOPOULOS

Petitioner,

vs.

STEVEN GOLDSMITH P.A.,

and STEVEN M. GOLDSMITH,

Respondents.

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**Petition For Writ Of Certiorari
To The District Court Of Appeal
Fourth District, Florida**

PETITIONER'S REPLY BRIEF

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EKATERINI ALEXOPOULOS

Self-Represented Litigant

3998 NW 5th Avenue

Boca Raton, FL 33431

Telephone: (561) 277-8407

RECEIVED

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SUPREME COURT, U.S.

In the State of Florida a person has a constitutional right to appear pro se when the person does not have money to hire a lawyer; a person appearing pro se has a fundamental right to a fair trial, and the right to be heard according to the law; the court will protect the pro se interests of plaintiffs and defendants. The fundamental right to a fair trial is also protected by amendments under The United States Constitution, Amendments V and XIV.

Plaintiff Ekaterini, did not have a fair trial and that is based on many fraudulent practices used by defendants' attorneys which defendant Goldsmith, an experienced litigator and appellate attorney, did not ask to correct and to retract. All attorneys, officers of the court, had an obligation to put in front of the Court and the Jury accurate information not fraudulent as they did. By their own admission, the Joint Pretrial Stipulation was not signed by Ekaterini, and based on the records there is more than what Goldsmith admits to.

In Goldsmith's Brief in Opposition filed with the Supreme Court of the United States, Goldsmith and his attorneys' bring to the attention of this Court the Joint Stipulation they filed on October 20, 2017:

"The Respondents filed their proposed verdict form and their proposed jury instructions (A72). There was a joint pre-trial stipulation filed, but it was not signed by Petitioner (A72). The explanation set forth the facts and issues to be resolved at trial according to the Respondents (A72-73):

JOINT PRETRIAL STIPULATION

NOTE: Defendants, through undersigned counsel on numerous occasions, submitted to Plaintiff the Joint Pretrial Stipulation for Plaintiff's execution. Upon the request of Plaintiff, Defendants accommodated Plaintiff by inserting and incorporating herein separate subsection to reflect Plaintiff's instructions and deleting items to which Plaintiff objected. To date, Plaintiff has refused to execute the Court's mandated Joint Pretrial Stipulation.¹

Pursuant to the Uniform Trial Order 17th Judicial Circuit Order for Pretrial Conference and Calendar Call entered by this Court on May 31, 2017, Defendants, STEVEN GOLDSMITH, P.A. and STEVEN M. GOLDSMITH, ESQ. (hereinafter collectively referred to as "Goldsmith Defendants"), by and through their undersigned counsel, and the Plaintiff, EKATERINI ALEXOPOULOS, (hereinafter referred to as "Plaintiff") hereby stipulate as follows:

1. STATEMENT OF THE FACTS²

a. This is an alleged malpractice action brought by the Plaintiff against the Goldsmith Defendants after she settled an underlying commercial eviction lawsuit, wherein Target Corporation sought to evict its tenant, Homori, Inc., a company in which Plaintiff was a shareholder ("Target Lawsuit"). After the

¹ The SUMMARY portion of the 'JOINT PRETRIAL STIPULATION" typed in Bold was not included in Goldsmith's Opposition Brief to the U S Supreme Court.

Plaintiff's first four law firms either withdrew or declined to represent her and another lawyer was ready and willing to represent Plaintiff in the Target Lawsuit, who Plaintiff declined to hire, on March 17, 2008, the Plaintiff hired the Goldsmith Defendants for the limited purpose of preparing a Writ of Certiorari ("Writ") to seek review of the trial court order denying Plaintiff's repeat Motion for Continuance in the Target Lawsuit. While the Goldsmith Defendants were working on the Writ, the Plaintiff, by and through her other lawyer, Salome Zikakis, Esq. negotiated and settled the Target Lawsuit, with Target's attorney, Marc Gottlieb, Esq. Plaintiff alleges the Goldsmith Defendants did not timely file the Writ of Certiorari and that caused her to settle the Target Lawsuit and incur damages. The Goldsmith Defendants deny that they acted improperly and allege the Plaintiff had other counsel,

2. PLAINTIFF'S UNILATERAL PRE-TRIAL STIPULATION

Plaintiff, EKATERINI ALEXOPOULOS, hereby files this Pre-Trial Stipulation as follows:

1. Short and Plain Statement of the Case

The Plaintiff, EKATERINI ALEXOPOULOS has brought this action against the Defendants, STEVEN M. GOLDSMITH, and STEVEN M. GOLDSMITH, P.A., jointly and severally, claiming that as attorneys the Defendants in providing legal services to the Plaintiff failed to meet the appropriate standard of care, breached certain fiduciary duties owing to the Plaintiff, and breached a signed contract and as a direct and proximate result the Plaintiff has been damaged. The Defendants have denied that they provided legal representation to the Plaintiff, that they fell below the standard of care or that they breached fiduciary duties owing to the Plaintiff or that they have breached their signed contract. Further, the Defendants are denying that any of their actions proximately caused damages.

Salome Zikakis, Esq., who represented her when she decided to settle the Target Lawsuit prior to the deadline for the Writ of Certiorari to be filed. The settlement of the underlying landlord tenant eviction proceeding, mooted the appeal on which Mr. Goldsmith was working. This dispute is what you will be asked to resolve."

... (A 2734-2757).

The Goldsmith defendants made the entire plaintiff's case rest on a nonexistent and false foundation. A question remains unanswered to this date: how were the defendants and their attorneys able to bypass the court and to put the fraudulent Joint Pretrial Stipulation package in front of the Jury?

Defendants chose to play with the pro se litigant and chose to practice fraud on the Court. Based on the evidence, the Goldsmith defendants lied to the trial court and to the jury. Ekaterini, the plaintiff did not agree to the Joint PreTrial Stipulation. Ekaterini did not sign the Joint Pretrial Stipulation. She did not file it with the Clerk of the Court. She did not give Goldsmith permission to incorporate any items of her Unilateral Pretrial Stipulation. Without equal representation and with the use of clever schemes, Goldsmith was the only player in the courtroom.

On May 31, 2017, the trial court required a Joint Pretrial Stipulation to be filed with the Clerk of the Court with a copy provided to the trial judge according to the rules by September 9, 2017 (A 2324-

2329). The trial was set for October 9, 2017 (5 day jury trial). Items to be included in the Pretrial Stipulation were: (1) a statement of agreements between the parties and stipulated facts which require no proof at trial; (2) a statement of all issues of law and fact for determination at trial; (3) damages and relief claimed; (4) a list of all witnesses who will be called at trial; (5) a list of all expert witnesses and their summary testimony; (6) a number of peremptory challenges to be exercised during jury selection; (7) a list of all exhibits that will be introduced at trial, by both parties, including specific objections to any opposing exhibits; (8) a list of all jury instructions by both parties including objections to opposing specific jury instructions; (9) a verdict form and any objections to opposing the verdict form, among other things. Any disagreements would be brought to the trial court judge's attention.

On September 7, 2017, plaintiff (Ekaterini) filed a Unilateral Pretrial Stipulation and included all of the nine (9) items listed in the pretrial package with a copy to the trial judge explaining the disagreements with the defendants and the reason of her refusal to sign defendants' Joint Stipulation package, and her objections (A4956-5012). Ekaterini detailed that she was asked to agree and to sign a stipulation package that included issues not litigated, not included in underlying pleadings, in her Complaint and in defendants' Answer and Affirmative Defenses, issues that go to the heart of

this case and have not been in front of the court in the Motion to Dismiss and the Four Summary Judgment Motions. The court's assistance was needed in this case. On September 28, 2017, trial conflict in defendants' attorney schedule changed the trial date from October 9, 2017 to October 25, 2017.

On October 20, 2017, at 11:33 am,³ four days prior to trial, the defendants on their own filed under plaintiff's name a "Joint" Pretrial Stipulation package instead of a "Unilateral" Pretrial Stipulation package and chose not to bring to the Court's attention plaintiff's disagreements and objections on jury instructions, verdict form, stipulations and statement. Defendants and their attorneys chose to put a fraudulent package in front of the jury through misrepresentation and fraud. Having knowledge that plaintiff did not agree to a Joint Stipulation package, did not sign the package prior to or after it was filed, did not give them permission to file it with the Clerk of the Court under her name as Plaintiff, and had not asked defendants to insert or incorporate anything into their stipulation package. Plaintiff's Unilateral Stipulation was already in front of the Court since September 7, 2017.

10/20/2017 Joint Pre-Trial Stipulation

On October 20, 2017, at 12:00 pm, after the fraudulent joint stipulation was filed, an email was sent to Ekaterini asking her (on paragraph 4) to sign and return the latest pre-trial statement:

Goldsmith Adv. Alexopoulos
Fri, Oct 20, 2017 12:00 pm

Diran Seropian Diran@ShendellPollock.com Hide
To 'alexopoulos5@aol.com' (alexopoulos5@aol.com)
alexopoulos5@aol.com

Ken Pollock ken@shendellpollock.com, Brittney
Cc Spiliopoulos Britt@shendellpollock.com, Maria
Lopez Maria@shendellpollock.com

Slideshow

TRIAL - Joint Pretrial Stipula...pdf (518 KB)
image001.png (263 B)

Dear Mrs. Alexopoulos:

You continue to be AWOL, and totally non-communicative. This is problematic prior to a trial, and in doing so, you are violating Judge Rodriguez's instructions.

Which of Defendant's exhibits do you agree should be admitted into evidence?

We want to use some during opening statement, and the parties usually agree on such matter prior to picking the jury. When will you be doing so in this case? As in when today?

We attach the latest pre-trial statement which I have signed. Please sign the same and return to us.

Thank you.

Diran V. Seropian | Partner

That makes it fraud on the Court by an Officer of the Court a lawyer representing another lawyer to put in front of the jury a fraudulent joint stipulation bypassing the Court with the use of clever schemes. The jury's verdict was affected as the result.

Defendants intentionally did not inform Ekaterini that the Pretrial Stipulation had been already filed with the Clerk of the Court as "Joint Pretrial Stipulation" before their email was sent. (A 2732-2757). Defendants and their attorney had knowledge that plaintiff will not agree to the contents of their stipulation. The trial judge was not notified in any way through the filing of a motion or email or phone call with the trial date approaching. Ekaterini's complete stipulation package which was timely filed by September 7, 2017, was in front of the court with listings of the many disagreements and objections.

To this date the plaintiff does not understand how the Goldsmith defendants managed to bypass the trial judge and knowingly and deliberately put the fraudulent Pretrial Stipulation package in front of the jury. The overwhelmed pro se plaintiff could not foresee the many fraudulent schemes Goldsmith put in place during trial which affected plaintiff's ability to fairly present her case.

CONCLUSION

Petitioner Ekaterini therefore respectfully pray that this Court grant her petition for a writ of certiorari. Petitioner is entitled to a fair trial. She has not had one. The fraudulent "Joint Pretrial Stipulations" package clearly shows that Respondents, the Goldsmith defendants, had put in motion some scheme to interfere with the trial court and to influence the jury and in an unfair way hampering the presentation of the plaintiff's claim. Without equal representation ⁴ the pro se plaintiff was unable to foresee, overwhelmed to understand all that was happening around her and unable to prevent.

Dated: October 28, 2019



Respectfully Submitted,

EKATERINI ALEXOPOULOS
Pro Se Petitioner
3998 NW 5th Avenue
Boca Raton, FL 33431
(561) 277-8407
alexopoulos5@aol.com

⁴ The choice to appear pro se and to go to trial, to file an appeal and the certiorari to the U S Supreme Court was not and is not a voluntary choice under the circumstances. Ekaterini cannot afford to pay a lawyer to represent her. She became an indigent; she lost her family's livelihood because she was betrayed by the attorneys she trusted to protect her family and businesses.