

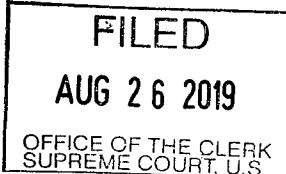
19-5745

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

MARY RYAN, *pro se*
Petitioner

v.
ROBERT J. CONNELLY, III, et al.
Respondent



ON PETITION FOR A WRIT OF CERTIORARI TO THE
RHODE ISLAND SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

This case presents a clear and intractable conflict regarding three important questions involving the Rhode Island Supreme Court's determination that while it recognizes that Civil Rights guaranteed by the United States Constitution, The Rhode Island Constitution and Rule of Law .

According to the Rhode Island supreme Court, it has the authority to do so.

1. Whether the Court has jurisdiction to proceed with a case without having the proper parties to a case.
2. Whether a Court has the authority to impose severe sanctions on a United States Citizen by taking her rights to Petition the Court as a self-represented litigant without affording due process or the reasons either in a show cause order or in the sanction order itself.
3. Whether a Court has the authority to impose attorney fees without affording the reasons for the sanction or showing any causal connection between alleged conduct and the actual cost.
4. Whether a Court has the authority or jurisdiction to review a case when he/she has been the subject of a lawsuit by the party to a case.

LIST OF PARTIES

The parties are Petitioner is Mary Ryan
Respondent is Robert J. Connelly, III, et al.

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PETITION FOR WRIT OF CERTIORARI

Mrs. Ryan respectfully petitions for a writ of certiorari to review the judgment of the Rhode Island Supreme Court.

OPINIONS BELOW

The opinion of the Rhode Island Supreme Court of April 30, 2019 is not published, but is included in the Petitioner's Appendix B (Pet. App. B). The denial of the petition for rehearing dated May 28, 2019 is found in Petitioner's Appendix A. (Pet. App. A). The Order of the R.I. Superior Court is at Appendix C (Pet. App. C)

JURISDICTION

The judgment of the Rhode Island Supreme Court was entered on April 30 2019. A petition for rehearing was denied on May 28, 2019. (App. A, B) The jurisdiction of this Court is invoked under 28 U.S.C. 1257

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Introduction

This petition arises from the Rhode Island Supreme Court's ruling to uphold an order entered by the R.I. Superior Court. This order violates Mrs. Ryan's Constitutional right to petition the Courts as a pro se litigant. The Order also awards substantial punitive attorney fees to a man who had no standing in the original case. In entering this order, the R.I. Superior Court justice blatantly ignored the rules of civil procedure and due process. The R.I. Superior Court dropped all pretense of being an unbiased arbiter and took on the role of Grand Inquisitor.

To this day, Mrs. Ryan has not been presented with a written order which specifically outlines the allegations for which she is being punished. Nor has she been given an opportunity to defend herself. Instead, she was directed to search through the case file that *might* be sanctionable and guess at what she was accused of. This is an abuse of power that contradicts some of the most basic values of a free society. The rights to due process and the right to petition the courts as a pro se litigant Citizen are crucial to justice. Those rights have been violated in this case. If the Rhode Island Supreme Court's decision to uphold the R.I. Superior Court is not reviewed and goes unchecked, it will set a dangerous precedent that will allow further abuse of power. If the problem is not stopped here and now, it will only grow eroding the public trust in the judiciary and spiraling to the point of no return. Mrs. Ryan has no where else to go but to the ultimate and final arbiter of the Nation. She respectfully requests the United States Supreme Court review this case.

Statement of the Case

This Petition asks this Court to review the Rhode Island Supreme Court's Order upholding the Rhode Island Superior Court's egregious Order of a) imposing severe and unwarranted sanctions by depriving Mrs. Ryan her Constitutional rights to file documents in the Rhode Island Superior Court as a "*pro se*" litigant; b) awarding attorney fees to an individual who is an intermeddler and had no standing in the original probate case; and c) its dismissal of Mrs. Ryan's probate appeal. The Rhode Island Supreme Court Order upholding the R.I. Superior Court's Order does violence to Mrs. Ryan's Constitutional rights guaranteed by the First, Fifth, Seventh, and Fourteenth Amendments to the United States and sends a chilling effect to any Citizen who exercises their right to petition the Courts without an attorney. The R.I. Supreme Court also dismissed Mrs. Ryan's probate appeal which has the effect of depriving her the right to protect and preserve her property rights.

Mrs. Ryan's appeal to the Rhode Island Supreme Court arose from the R.I. Superior Court's dismissal of her probate appeal regarding two issues involving the Estate of Elizabeth Brown. Mrs. Ryan is next of kin, heir at law and was appointed Administratrix of Mrs. Brown's estate subject to her filing a \$25,000.00 Surety Bond, an amount imposed due in part to the slanderous statements made by Mr. Robert J. Connelly, III, a stranger and intermeddler in the Estate. Mrs. Ryan was unable to obtain a bond from a conventional Bond company due to the disparity between the existing value of the Estate (\$1500.00) and the required Bond amount (\$25,000.00). In lieu of a conventional bond, Mrs. Ryan timely filed a \$25,000.00 Universal Surety Bond given by

William Rose, a potential heir at law. The Probate Court refused to accept Mr. Rose's Universal Surety Bond and required a "conventional" bond. Mrs. Ryan appealed this issue to the R.I. Superior Court.

Mrs. Ryan also appealed from the Probate Court's denial of her Motion for Sanctions against Mr. Connelly for filing a lien against Mrs. Brown's estate; a Petition for Administration in his own name; and an Objection to Mrs. Ryan's Petition for Administration using slanderous and false statements against Mrs. Ryan to substantiate his position. Mr. Connelly also falsely claimed to be acting on behalf of innocent out-of-state family members who, as the record shows, had no knowledge of his existence.

During the proceedings, the Probate Court denied Mr. Connelly's Petition for Administration noting that he represented no one but himself and lacked standing in the Estate. Further the Probate Court requested Mr. Connelly to withdraw his lien against Mrs. Brown's estate based on the fact that Mr. Connelly had no standing and never had any attorney-client relationship with Mrs. Brown to have justified his filing the lien in the first place. The Probate Court denied Mrs. Ryan's Motion for Sanctions and told her that she could contact R.I. Disciplinary Counsel, which she already had. R.I. Disciplinary Counsel Barbara Margolis had advised Mrs. Ryan to tell the Probate Judge of Mr. Connelly's conduct reasoning, that if the Court does nothing, then Disciplinary Counsel cannot do anything. Given there was no other place to go, Mrs. Ryan filed an appeal to the R.I. Superior Court from the Probate Court's denial of her motion for sanctions against Mr. Connelly as well.

The Superior Court and its Proceedings

Mrs. Ryan filed a timely appeal in the Rhode Island Superior Court and specifically demanded a “trial by jury.” Despite that there were specific procedural rules, no one other than Mrs. Ryan, Mr. Rose, and Attorney Neville Bedford, who had represented Mrs. Brown prior to her death, entered their appearance or filed motions to intervene in the matter. In June of 2005, while before R.I. Superior Court Justice Judith Colenback-Savage on a preliminary matter, Mr. Connelly appeared without notice, disrupted the hearing and left prematurely. Mr. Connelly repeated the same conduct in the R.I. Superior Court that he did in the Probate Court by claiming to represent individuals who he did not.¹ To resolve the issue, Judge Savage told Mr. Connelly that he was not a party

¹ During the Probate proceedings, Mr. Connelly told the Probate Court that was filing his Petition to be appointed as Administrator in his own name at the request of unnamed family members living out of state, including one of Mrs. Brown’s siblings. Mr. Connelly told Judge Savage that he represented Ms. Cassiere, Ms. Moniz, Mr. Sheehan and himself and that he was “certainly” a party. (*Tr. 6/29/05 p.4:3-7; 17-25*) He told Judge Lanphear that he represented “Ms. Cassiere, Ms. Moniz and Mr. Sheehan” and that he was not representing himself at that time. (*Tr. 7/25/05 p.56:16-18*) He told Judge Fortunato that he represented Ms. Cassiere and her brother, whose name he did not know. (*Tr. 8/11/05 p.3:6-9*) He told Judge McGuirl that he represented “Ms. Cassiere and Mr. Sheehan” and that *he, Mr. Connelly* was “not a party” (*Tr. 10/6/05 p.5:2-8*) During his deposition, he varied in his representations as to who he represented and when. He said he did represent Ms. Cassiere during the Probate proceedings, but didn’t know at what point. He said he does not have to disclose who his clients are unless he’s asked by the Court. He said he never had any attorney-client relationship with Mrs. Brown nor did he ever meet or speak with her. He told Judge McGuirl and Judge Fortunato that he couldn’t find Mr. Sheehan, his alleged client. He told Judge Vogel that he represented Ms. Cassiere. (*Tr. 2/3/2012 p.1:15*) He told Judge Hurst that he represented Ms. Cassiere, Ms. Moniz and Mr. Sheehan (who had passed away two years before) and for the first time since being before

to the case, nor was anyone he claimed to represent at that time. She ordered Mr. Connally to properly file an entry of appearance and motions to intervene on behalf of whomever he claimed to represent, including himself after he had told her that if it weren't for the sanctions issue, he would have nothing to do with the case and that he was "certainly" a party. However, Mr. Connally did not comply with Judge Savage's Order.

Due to the rotating Rhode Island Superior Court motion calendar assignments, Mrs. Ryan appeared before several Rhode Island Superior Court justices². The case then came before Justice Jeffrey Lanphear. Contradicting the previous Court's order, Judge Lanphear allowed Mr. Connally to intervene on behalf of three individuals based on his representations as a member of the RI BAR and on the condition that he file an entry of appearance with the R.I. Superior Court Clerk's office, giving him specific instructions on how to do so. Mr. Connally was very clear that he was not entering his appearance at that time on behalf of himself. However, no order was entered granting Mr. Connally the right to intervene. The case then came before Justice Steven Fortunato. Mrs. Ryan had filed a motion for protection after she was threatened with sanctions laced with the flavor of a S.L.A.P.P. Suit (Strategic Lawsuit Against Public Participation). Mrs. Ryan's motion was denied without prejudice. The Court said:

"You or any citizen always has the right to signal to the Court either the way you did here, reference to that statute or just anybody else who is interfering with the orderly function of the judicial process by trying, you know, somehow to obstruct you from getting your case presented." (*Tr. 8/11/05, p.13:25,*)

Judge Savage, he claimed that he represented himself again. (*Tr. 5/30/12, p.1:23-24*) On October 1, 2012, Mr. Connally submitted a sworn affidavit to Judge Hurst claiming that he represented the Estate of Elizabeth Brown since December 1, 2004.

2 Justice Savage; Justice McGuirl; Justice Lanphear; Justice Fortunato

“The guidance I will provide is if there is an Order from Judge Savage or any other member of the Court directing an attorney to do something and if that attorney doesn’t do it, well, then, your motion is, I would think you probably already know, would be a motion to compel or some sort of a motion for sanctions for someone who is not following the terms of a Court Order.” (*Tr. 8/11/05, p. 14:1-5; 13-23*)

The case then came before Justice Susan McGuirl, who handled the majority of the proceedings that followed. Mr. Connelly and his alleged client(s) were ordered to comply with discovery requests. When Mrs. Ryan tried to explain that she was attempting to proceed to discovery to establish the proper parties, and Mr. Connelly did not comply with orders, Judge McGuirl told Mrs. Ryan that,

“if [Mr. Connelly’s] not in compliance with an order, the appropriate motion to file is a motion to adjudge in contempt for not complying with the order.” (*Tr. 10/19/05 p. 23:13-15*)

Judge McGuirl also denied Mrs. Ryan’s motion for immunity and said,

“No one is going to do sanctions against you.” (*Tr. 10/19/05 p. 23:13-14*)

Although Mr. Connelly agreed in open Court to have his alleged client(s) appear for their depositions, he failed to do so. The record shows that no matter how many times he promised to comply with Judge McGuirl’s orders or was given the opportunity to do so, he ignored them. After continued non-compliance, Judge McGuirl ordered him to provide her with an affidavit to tell her why he should not be held in contempt for failing to comply with her orders. (*Tr. 1/18/06 p. 25:17-20*) Mrs. Ryan was later directed to file the “appropriate” motions if Mr. Connelly’s (alleged) client(s) did not comply. Mr. Connelly and his clients failed to comply. Mrs. Ryan filed appropriate motions as directed. The case then came before Justice Fortunato again, who temporarily stayed discovery for the purposes of narrowing the issues on appeal. In November of 2006, Justice Fortunato

lifted all stays and transferred all pending motions back to Judge McGuirl. Following that hearing, Mr. Connelly told Mrs. Ryan that he wanted nothing more to do with the case and intended to file a motion to withdraw. After he did not follow through, and continued to ignore the outstanding discovery requests, Mrs. Ryan attempted to seek relief from Judge McGuirl. However, Mrs. Ryan was informed that Judge McGuirl had been reassigned to the trial calendar and no longer had jurisdiction of the case. Judge Fortunato had retired in February of 2007 and Mrs. Ryan believed she had nowhere else to go. Further, Mrs. Ryan was before the Rhode Island Supreme Court regarding her civil suit against the Roman Catholic Bishop of Providence, et al., a case which Mr. Connelly repeatedly tried to use throughout the proceedings to discredit Mrs. Ryan. *Ryan v. Roman Catholic Bishop of Providence, et al.* was dismissed on February 8, 2008. A Petition for Writ of Certiorari was filed with this Court and denied on October 8, 2008.

In the fall of 2011, Mrs. Ryan was alerted to the fact that the R.I. Superior Court intended to dismiss her probate appeal, along with two other cases that Mrs. Ryan had been involved in over the years³. Mrs. Ryan requested the above-captioned matter to be

³ Mrs. Ryan had been involved in two civil litigations, *Ryan v. Roman Catholic Bishop of Providence, et al.* which was dismissed in 2008 by the Rhode Island Supreme Court's grant of summary judgment. The defendant's Motion for Summary Judgment excepted defendant Monsignor Louis Dunn, who was convicted of First Degree Sexual Assault against Mrs. Ryan after years of abuse. Mrs. Ryan raised this issue before the R.I. Superior Court, was reinstated and then subsequently denied without affording a hearing. Mrs. Ryan appealed and without any hearing or opportunity to address the R.I. Supreme Court, Mrs. Ryan's appeal was denied and dismissed referencing the case against *Ryan v. Roman Catholic Bishop of Providence, et al.* that had been dismissed on February of 2008.

The other case that Mrs. Ryan had been involved in regarded a R.I. Superior Court order entered in

assigned to address the then pending motions left in 2007. The case came before Justice Nette Vogel who, along with the Presiding Justice Alice Gibney, assigned the case to Justice Patricia Hurst for a status conference. At first glance, Judge Hurst appeared to understand the two very narrow issues involving the probate appeal, and even questioned Mr. Connelly's standing and his alleged client(s) in the case. However, for unknown reasons, two weeks later, on June 14, 2012, Judge Hurst took a dramatic turn and began to embark on a path which leaves Mrs. Ryan at a loss to this day. When Mrs. Ryan raised the issue regarding Mr. Connelly's standing in the case and his disregard for previous orders of the Courts, he said:

"I think Mrs. Ryan keeps hopping on the fact that I didn't state that I represent myself. I think that was obvious. The motion was against me. I showed up in court to defend. There was no other attorney with me. I don't see how that's an issue."

Judge Hurst said that she didn't see it as an issue either. (*Tr. 6/14/12, p. 60:5-10*) Judge Hurst scheduled a trial date of July 23, 2012. Following that hearing, Judge Hurst showed her clear bias toward Mrs. Ryan, calling her "clueless", "out in left field", "ignorant" and a "broken record." Judge Hurst instructed the R.I. Superior Court Clerk's office to redirect *all* of Mrs. Ryan's filings to her own clerk, bypassing the normal course which resulted in the record failing to reflect the existence of several of Mrs. Ryan's filings and other hearings. Judge Hurst had the public file locked in her office and denied 2002 condemning public wells that had been contaminated by gasoline in the drinking water. Understanding at that time that might be unknown long term health effects from drinking the gasoline laced water, the R.I. Superior Court left the case open ended for citizens who might be affected to return to the Court for redress.

Mrs. Ryan access to it unless she viewed it in the presence of Judge Hurst's clerk in her courtroom and only when he was available between court sessions. Mrs. Ryan was only allowed to copy one page at time from the file and at the discretion of her clerk. Mrs. Ryan was denied the right to copy the original transcripts of the Probate proceedings despite the fact that she *had purchased the original transcripts* herself and had filed them with the Court. Mrs. Ryan was told that if she wanted a copy, she would have to go back to the court reporter who was on leave until just days before the scheduled trial. When Mrs. Ryan followed procedure, appeared before the correct judge who was assigned to review *in forma pauperis* motions, and presented sufficient evidence to obtain an Order granting relief for copies of necessary transcripts and subpoena costs, Judge Hurst arbitrarily overturned her colleagues order, accusing Mrs. Ryan of doing a "backdoor number" on her and, having no evidence to support her decision, told Mrs. Ryan that she would have never granted it. She accused Mrs. Ryan of having inappropriate *ex parte* communications with various judges, which *never* happened.

When Mrs. Ryan filed motions at Judge Hurst's directive to address Mr. Connelly's non-compliance, she belittled Mrs. Ryan and told her that she would not address those motions until after the completion of the trial. She then moved to trial without having the proper parties before her and without affording Mrs. Ryan a jury trial despite the fact that Mrs. Ryan had specifically requested one. She ignored her colleagues previous orders and refused to allow Mrs. Ryan to present relevant evidence while allowing Mr. Connelly to present hearsay and unauthenticated documents. Without notice or an opportunity to be heard, and contradicting her own previous ruling, Judge Hurst blindsided Mrs. Ryan and denied Mrs. Ryan's motions with regard to Mr. Connelly's non-compliance. Toward

the end of the trial, on July 27, 2012, Mr. Connelly said that he wanted “sanctions” against Mrs. Ryan and Mr. Rose. Judge Hurst told Mr. Connelly that he would have to file a proper motion for sanctions and memorandum of law and that she would afford him two weeks to do so, and afford Mrs. Ryan and Mr. Rose the same to respond. On August 2, 2012, without adequate notice, Judge Hurst issued a bench decision and claimed that Mr. Connelly’s “oral” motion for sanctions had “merit” and further, directed Mr. Connelly to prepare a Show Cause Order pursuant to Rule 11. (App. K) She said that there was “ample evidence” and grounds to require Mrs. Ryan (and Mr. Rose) to show cause why they shouldn’t be sanctioned pursuant to Rule 11. She told Mr. Connelly if he intended to file a motion for sanctions, he should do so no later than August 31, 2012, and that if he requested attorney’s fees, she expected a detailed invoice, affidavit or bill. Once again, Mr. Connelly failed to comply. Following the trial, Mrs. Ryan was denied the right to obtain a copy of relevant portions of the transcripts of the trial unless she ordered it in its entirety which was beyond Mrs. Ryan’s means. Given Mr. Connelly did not provide a motion for sanctions by August 31, 2012 as Judge Hurst had directed him to do, Mrs. Ryan believed that she had no choice but to purchase a 42-page transcript of the bench decision in an attempt to respond to Judge Hurst’s show cause order. That transcript was unavailable at least until the court reporter returned after the Labor Day holiday. Mrs. Ryan was left to guess at what the Court was accusing her of. Mrs. Ryan had no choice but to request a continuance.

On October 4, 2012, Mr. Connelly filed a “MOTION FOR APPROVAL OF ATTORNEY FEES AND EXPENSES, AFFIDAVIT AND MEMORANDUM OF LAW” in response to Judge Hurst’s August 2, 2012 directive. The so-called “motion” was in the

form of a 3-page affidavit with an attachment containing blatantly false claims. Mr. Connally claimed that he was the attorney in the estate of Elizabeth Brown since 2004 and that he had handled all aspects of the estate, when in fact, he never has. His attached invoice identified Mrs. Brown as his client, despite the fact that she never had any attorney client relationship with her. Mr. Connally docketed several hours involving other individuals that have nothing to do with Mrs. Brown or her estate. Mr. Connally never provided a proper motion for sanctions or memorandum of law. Given that Mrs. Ryan was ordered to appear before Judge Hurst for a show cause hearing, but was not provided with any allegations of Rule 11 violations, she attempted to respond to the August 2, 2012 bench decision which was laced with unsubstantiated accusations. When Mrs. Ryan tried to respond and obtain evidence to defend herself, Judge Hurst refused to allow it. At one point, she threatened Mrs. Ryan that if she attempted to obtain evidence, she would put a “restraining order” on her. Then after Mrs. Ryan had flown a police officer from Florida to Rhode Island to testify at the scheduled show cause hearing against some accusations made by Judge Hurst in her August 2, 2012 decision, Judge Hurst refused to take his short testimony and told Mrs. Ryan that she would have to have him return the following week on Wednesday, the eve of the Thanksgiving holiday. On November 14, 2012, Judge Hurst told Mrs. Ryan that Mr. Connally's Motion for attorney's fees were part of the Rule 11 Sanctions. When Mrs. Ryan tried to correct the errors in an order issued by Judge McGuirl that was relevant to Mrs. Ryan's defense, Judge Hurst interfered and redirected the motion from Judge McGuirl to herself and then arbitrarily denied it. She then told Mrs. Ryan that the Rule 11 violations were separate from the August 2, 2012 bench decision.

Nearly every time Judge Hurst ordered Mrs. Ryan to appear before her, more than not without notice, she appeared to intentionally issue lengthy bench decisions which created more costs. After it became clear that Judge Hurst had an agenda to sanction Mrs. Ryan, Mrs. Ryan filed a motion to disqualify herself. Judge Hurst arbitrarily denied it. Then, without notice to Mrs. Ryan, Mr. Connelly submitted a proposed order regarding her denial to another R.I. Superior Court justice that included embellishments that did not exist. The other R.I. Superior Court Justice seemingly signed it inadvertently. After Judge Hurst awarded Mr. Connelly attorney fees in response to his October 4, 2012 motion, she changed her mind from her previous statement that the attorney's fees were associated with Rule 11 sanctions, and threatened that she could add more attorney fees as part of the sanctions. After months of back and forth, and being subject to elusive, unfounded accusations and orders to appear before her with only a day or two's notice and without a reason. Mr. Connelly failed to file a motion for sanctions or memorandum of law as he had been directed to do. Judge Hurst then took it upon herself to use her inherent power to threaten sanctions and instructed Mrs. Ryan to go through the entire file and find any documents that she (Mrs. Ryan) thought might be violative of Rule 11. She said:

"I think you should go through your papers and pleadings to see what you've signed and what you haven't signed, and I think you ought to look at two things: The individual pleadings, the actual pleadings themselves and as separate and independent documents but also you should take a look at them in the context of the overall proceeding. There's questions about whether the pleadings are grounded, in fact, whether they're supported by existing law or whether they're driven by improper purposes. So, take a look at the individual documents and the case file as a whole." (Tr. 1/28/13 p. 44:9-19)

After Mrs. Ryan told Judge Hurst that she was being bullied by her and it was her

responsibility to provide specific allegations pursuant to Rule 11, Judge Hurst directed Mrs. Ryan to appear before her on February 1, 2013. Judge Hurst also switched gears and informed Mrs. Ryan that she intended to hear Mr. Connelly's said Motion three days later, *independently* from the Rule 11. On February 1, 2013, Judge Hurst awarded Mr. Connelly attorney's fees and, for the first time, gave Mrs. Ryan some "examples" of what she perceived as Rule 11 violations and again suggested that Mrs. Ryan go through all of her pleadings. At the mercy of the Court reporter, she allowed Mrs. Ryan to only pay for the portion of the transcript with the allegations. Mrs. Ryan filed an objection and responded to those allegations. Mrs. Ryan subsequently filed a Motion to Vacate Mr. Connelly's Order that had been entered. Mr. Connelly was directed to submit an amended order. (App. J) Again, Mrs. Ryan was ordered into Court within a day's notice and without any explanation. On March 7, 2013, Judge Hurst told Mrs. Ryan that she had a "couple of more" examples. Mrs. Ryan filed an objection. On April 22, 2013, Mrs. Ryan presented evidence in support of her objections. On the morning of April 26, 2013, Mrs. Ryan received a message from Judge Hurst's clerk that she intended to issue a bench decision that very afternoon but that Mrs. Ryan did not have to be there. On Monday, April 29, 2013, Judge Hurst had left for vacation and left her Orders imposing sanctions against Mrs. Ryan, depriving Mrs. Ryan her right to file documents as a *pro se* litigant with the R.I. Superior Court and awarding attorney's fees. (App. F, G, H & I) The public file remained locked in Judge Hurst's office for the duration of her vacation.

Mrs. Ryan was denied the right to file any documents with the R.I. Superior Court and was advised by the Clerk that she could not file an *informa pauperis* motion if she wanted to because of Judge Hurst's specific instructions to the Clerk's office and the

order. Mrs. Ryan could not even file a motion for a new trial pursuant to Rule 59. Further, Judge Hurst was away until after the deadline that a Rule 59 motion could be filed. Due to Judge Hurst's instructions to the Clerk's office to redirect all of Mrs. Ryan's filings to her own clerk, and the Clerk's failure to docket several documents and hearing dates, the record was incomplete for Supreme Court review.

After Mrs. Ryan filed her appeal to the R.I. Supreme Court for review, Judge Hurst ordered Mrs. Ryan into court on two occasions thereafter, again without proper notice. Judge Hurst told Mrs. Ryan that she had received a copy of her request to the R.I. Supreme Court for relief with regard to the August 26, 2012 transcript. While she acknowledged that she understood the fact that Mrs. Ryan's Constitutional rights had been restricted, she told Mrs. Ryan that she could file an *informa pauperis* motion if she wanted to obtain a copy of the bench decision. Judge Hurst arbitrarily denied Mrs. Ryan's motion to correct the record for appellate review stating that it wasn't necessary for the clerk to correct the record. (App. E) Judge Hurst then forced the premature transmission of an incomplete record to the Rhode Island Supreme Court for review.

The R. I. Supreme Court Proceedings

The record shows that Mrs. Ryan provided references in her Motion for Relief from Rule 10 to the original transcripts of the majority of the R.I. Superior Court proceedings that Mrs. Ryan had purchased and had filed with the Court for appellate review. The cost of those transcripts amounted to thousands of dollars. Mrs. Ryan could not, however, afford either the entire transcript of the trial (\$1500.00), which Judge Hurst required her to do, nor could she afford the transcript of the August 26, 2013 bench decision, which was approximately 98 pages and an estimated cost of an additional \$300.00. Mrs. Ryan

raised the fact that the expense of the additional cost of transcripts were overwhelming; and that it was Judge Hurst's obligation to provide a show cause order providing specific conduct alleging Rule 11 violations and further, to provide an order showing a record of specific findings of such widespread abuse of the judicial system to support the severe and unwarranted sanctions imposed along with justification for attorney fees. Judge Hurst had done neither.

More than two years after Mrs. Ryan had filed her Motion for Relief from Rule 10, the R.I. Supreme Court denied it. On January 17, 2017 Mrs. Ryan filed a Statement of the Case pursuant to Rule 12A and requested the Court to allow her to exceed the 10 page limit to 18 pages which provided several references to transcripts and exhibits that had, in fact, already been filed with the record in Rhode Island Supreme Court. Given the gravity of the Constitutional violation, Mrs. Ryan asked that the case be placed on the *Full Briefing* calendar so that she could articulate the issues. Mrs. Ryan's motion was denied. Mrs. Ryan filed subsequent 15-page Rule 12A Statement. Mr. Connolly filed his Statement. Mrs. Ryan filed a Motion for leave to file a Reply. The R.I. Supreme Court entered an order granting Mrs. Ryan's motion to reply, then overturned it. Mrs. Ryan filed her Rule 12A statement for the second appeal from the June 5, 2013 order (App. E), again asking the Court to allow the case to go to the Full Briefing calendar.

On November of 2018, R.I. Supreme Court Justice Francis Flaherty signed an order for the case to go to Show Cause (App. D) calendar rather than to the Full Briefing calendar, which essentially denied Mrs. Ryan the right to adequately present her case. On February 20, 2019, Mrs. Ryan filed a motion to recuse Justices Flaherty and William Robinson, both of whom were intended subjects of a lawsuit filed by Mrs. Ryan and her

husband Thomas in 2011. (*Ryan v. Krause No. 1:11-cv-00037-JAW. 5/22/2012 Doc 67; Doc 71*) Mrs. Ryan's motion to recuse was denied. (App. C)

After pending *six years* before the R.I. Supreme Court, the Court entered their decision “*per curiam*” on April 30, 2019, again. The Supreme Court acknowledged that the trial justice's decision

to “is indeed overly broad in duration, thus infringing on Mrs. Ryan's right of access to the courts”, that the “award of attorneys fees in this particular case moderately exceeded what was called for under the totality of the circumstances...” (App. B p.14)

and; Mrs. Ryan had “a right to have her probate appeal heard in Superior Court.” However, they upheld the order anyway, rationalizing their decision by:

“limit[ing] the duration of the present order's effectiveness to two years from the date of the issuance of this opinion; at the end of that two-year period, Ms. Ryan may file a motion in the Superior Court requesting the court to review the terms of the order in view of the then-existing factual context.” (App. B p.13)

and stating that though:

“the attorneys' fees awarded (*viz.*, \$7,875) constituted a partially unsustainable exercise of discretion on the part of the trial justice; and we remand the case to the Superior Court with the direction that it enter instead an award of \$5,906.25 in attorney's fees.” (App. B p.14)

On the one hand, the Supreme Court acknowledged the existence of a “voluminous” record, but faulted Mrs. Ryan for not providing the transcript of the April 26, 2013 bench decision claiming that the record was “lacunae” and only thing before them to review was the “face” of the April 26, 2013 final judgment sanctioning Mrs. Ryan, and further that there was only “one page” of the February 1, 2013 transcript where Mr. Connelly was awarded fees. The Court did not point to any evidence that showed that Judge Hurst entered a Show Cause order pursuant to the requirements of Rule 11 or that she provided

Mrs. Ryan with any allegations of such widespread abuse of the judicial system to support such severe sanctions nor did the Supreme Court show any causal connection between any Rule 11 violation and the actual cost incurred by Mr. Connelly to justify the fee award. The Court acknowledged that the record was void of that information. Nonetheless, the R.I. Supreme Court noted that:

“the trial justice did not err with respect to any of the issues on appeal that we have been able to review in light of the record that has been presented to us.” (App. B p.16)

In its final message to Mrs. Ryan:

“... “*interest republican ut sit finis litium*” (It is in the interest of the republic that there be an end to litigation.)”

Without any mistake, it is the identical message given to Mrs. Ryan in *Ryan v. Roman Catholic Bishop of Providence, et al.* 941 A.2d 174 (2008): “It is time for this litigation to end.”

Mrs. Ryan filed a petition for rehearing, arguing that the court’s decision overlooked, misconceived or disregarded relevant information that was presented to it on appeal; that the Court’s decision is violative of her unalienable Constitutional right to due process and equal protection of the laws and her First Amendment right to the United States Constitution. The Supreme Court denied the rehearing on May 28, 2019. (App. A)

REASONS FOR GRANTING THE PETITION

Here in Rhode Island, the R.I. Supreme Court has repeatedly held that “[W]here the Federal rule and our state rule are substantially similar, we will look to the Federal courts for guidance or interpretation of our own rule.” *Anthony Pullar v. Louis Cappelli*,

No. 2015-303-Appeal (NC 11-238) Rule 11 of the Rhode Island Rules of Procedure are similar to that of Rule 11 of the Federal Rules of Procedure.

Rule 11 of the R.I. Rules of Procedure provides:

"A party who is not represented by an attorney shall sign the party's pleading, motion, or other paper and state the party's address and telephone number. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit....The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation."

Rhode Island Rule 11 was amended in 1995 and closely follows G.L. § 9-29-21, enacted in 1986. That statute, and thus this rule, follow generally the 1983 amendment to Federal Rule 11. It continues to require good faith in pleading, adding that the knowledge, information, and belief in the ground for the pleading or motion be formed after reasonable inquiry as to both fact and law. On August 2, 2012 a show cause order was entered, clearly anticipating that Mr. Connelly would file a motion for sanctions and memorandum of law as he had represented to Judge Hurst and she directed him to near the end of the bench decision. Here, Rule 11 of the Federal Rules of Procedure provides guidance:

"A motion for sanctions must be made separately from any other motion and must describe the specific conduct that allegedly violates Rule 11(b)."

No such motion has ever been filed. Rule 11 does allow a court upon its own initiative to impose upon the person who signed documents any appropriate sanction. Rule 11 provides in pertinent part that:

"If a pleading, motion, or other paper is signed in violation of this rule, the court,

upon motion *or upon its own initiative*, may impose upon the person who signed it, a represented party, or both, any *appropriate sanction*, which may include an order to pay to the other party or parties the amount of the *reasonable expenses incurred because of the filing of the pleading, motion, or other paper*, including a reasonable attorney's fee." (*emph.added*)

When using the Court's inherent powers to impose sanctions pursuant to Rule 11, show cause orders will ordinarily be issued only in situations that are akin to a contempt of court, *Advisory Committee Notes 1993*. In *Chambers v. Nasco*, 501 U.S. 32 (1991):

"A court must, of course, exercise caution in invoking its inherent power, and it must comply with the mandates of due process, both in determining that the requisite bad faith exists and in assessing fees, *see Roadway Express, supra*, at 447 U. S. 767."

"We have held, however -- in my view, as a means of preventing erosion or evasion of the American Rule -- that even fee-shifting as a sanction can only be imposed for litigation conduct characterized by bad faith. *See Roadway Express, Inc. v. Piper*, 447 U. S. 752, 447 U. S. 766 (1980).

Here, none exists. There is no evidence anywhere that would support Judge Hurst to invoke her inherent power to either issue such a show order or to impose sanctions, nor is there justification for the R.I. Supreme Court to uphold such an order. The record shows that Judge Hurst stated on the record that Mrs. Ryan "addressed the Court with courtesy and respect" throughout the proceedings. (*Tr. 8/2/2012 p.22:17*) Rule 11 motions should not be made or threatened for minor, inconsequential violations of the standards prescribed by subdivision (b). *Advisory Committee Notes 1993*.

Rule 11 of the Federal Rules provides in pertinent part:

"On the Court's Initiative. On its own, the court may order an attorney, law firm, or party to show cause why conduct *specifically described in the order* has not violated Rule 11(b)." (*emph. added*)

No such order exists. The show cause order of August 3, 2012 was void of any alleged conduct at all. It was only when Mrs. Ryan pushed back after no motion had been

filed, no order had been entered and her being left to guess at what she had allegedly done and sent on a wild goose chase to condemn herself that Judge Hurst provided any information. As previously mentioned, on February 1, 2013, Judge Hurst took Mrs. Ryan by surprise and without having any notice, she listed a few “examples” of allegations for the first time. Those allegations were *never* provided in an order and Mrs. Ryan was left to pay for the transcript so that she could address the allegations to the best of her ability.

In addition, Rule 11 of the Federal Rules also provides:

“(6) Requirements for an Order. An order imposing a sanction must describe the sanctioned conduct and explain the basis for the sanction.”

Again, no such order exists. Even though the Rhode Island Supreme Court admits that the Order was void of information and they only had the final judgment to rely on, they upheld the severe sanctions anyway. This is unjust. The Rules of Civil Procedure exist to secure the just, speedy, and inexpensive determination of every action and proceeding. Mrs. Ryan has been deprived of her Constitutional right to petition the Court as self represented Citizen for more than six years. The R.I. Supreme Court upheld that order and enforced its continuance for at least another two years, then subject to the discretion of the R.I. Superior Court’s review of a motion. To allow the R.I. Supreme Court to disregard Mrs. Ryan’s unalienable rights and its continuing to deny due process sets a dangerous precedent for any Citizen who seeks to exercise their Constitutional rights in this country. The R.I. Supreme Court’s ruling sets a horrible precedent and is repugnant from any reasonable standpoint.

Attorney's Fees

Consistent with *Chambers v. Nasco*, the Rhode Island Supreme Court provided guidelines and limitations when a court decides to impose attorney fees as a sanction. In *Blue Cross & Blue Shield v. Najarian*, 911 A.2d 706 (R.I. 2006), the R.I. Supreme Court noted in dicta that:

"The 'American rule' requires 'that each litigant must pay its own attorney's fees even if the party prevails in the lawsuit.' *Black's Law Dictionary* 82 (7th ed. 1999). Nevertheless, we acknowledge that this Court may award attorneys' fees as an exercise of 'its inherent power to fashion an appropriate remedy that would serve the ends of justice.' *Vincent v. Musone*, 574 A.2d 1234, 1235 (R.I. 1990). This remedy, however, is available only in one of three narrowly defined circumstances: (1) pursuant to the 'common fund exception' that 'allows a court to award attorney's fees to a party whose litigation efforts directly benefit others[,]' *Chambers v. Nasco, Inc.*, 501 U.S. 32, 45, 111 S.Ct. 2123, 115 L.Ed.2d 27 (1991); (2) 'as a sanction for the "willful disobedience of a court order[.]"' *id.* (quoting *Alyeska Pipeline Service Co. v. Wilderness Society*, 421 U.S. 240, 258, 95 S.Ct. 1612, 44 L.Ed.2d 141 (1975)); or (3) when a party has "acted in bad faith, vexatiously, wantonly, or for oppressive reasons." *Id.* at 45-46, 111 S.Ct. 2123."

The record shows that Judge Hurst told Mrs. Ryan that Mr. Connelly's Motion for Approval of Attorney's Fees and Expenses, Affidavit and Memorandum of Law (consisting of the 3-page affidavit referenced before) was part of her Rule 11 Sanctions, then switched gears and awarded him attorney fees independently and threatened additional attorney fees as part of her sanction.

There is no evidence in the record or anywhere that would support the R.I. Supreme Court's upholding of attorney fees pursuant to Rule 11 or any claim. Judge Hurst admitted that she knew that Mr. Connelly did not ever represent the Estate of Elizabeth Brown nor did he ever handle any aspect of the estate contrary to his sworn affidavit. The record shows that from the outset, the probate court explicitly told him that he never had an any attorney client relationship with Mrs. Brown. Mr. Connelly acknowledged that fact in his sworn deposition. Mr. Connelly admitted that he had never

seen Mrs. Brown or spoken with her. Yet, the R.I. Supreme Court upheld the R.I. Superior Court's punitive Order awarding him attorney fees? That is so very wrong and heart wrenching. It is a betrayal of a Citizen's belief in the judicial system.

The Probate Appeal

As previously stated, Mrs. Ryan is next of kin, heir at law and was appointed the Administratrix of the Estate of Elizabeth Brown subject to the Court's acceptance of a \$25,000.00 bond. Mrs Ryan has a right to administer the Estate of Elizabeth Brown and to bring her appeal to the R.I. Superior Court (As the R.I. Supreme Court acknowledged App. B p. 14). Mrs. Ryan filed Mr. Rose's Universal Surety Bond. Contrary to the R.I. Supreme Court's upholding of Judge Hurst's determination that "failed to prove by a fair preponderance of the evidence that her surety or that of Mr. Rose would be sufficient." There was nothing in the record or evidence that could support that finding. Judge Hurst acknowledged that:

"Mr. Rose testified. He was a credible witness. He has income and assets sufficient to guarantee a \$25,000 surety bond."

Mr. Rose has sufficient assets and, to this day, is willing to act as surety. Mrs. Ryan has a right to protect and preserver her property rights. To deny her of doing so, is to deny her rights guaranteed by the Fifth and Fourteenth Amendments to the United States Constitution, which is simply wrong.

As for Mr. Connelly, Mrs. Ryan left that issue to the R.I. Supreme Court, as they are the final arbiter of attorneys in the State of Rhode Island. Nonetheless, Mrs. Ryan has been received punitive sanctions which are unwarranted and which continues to deprive her of her Constitutional rights to due process and equal protection of the laws

guaranteed by the First, Fifth, Seventh and Fourteen Amendments of the Constitution of the United States.

CONCLUSION

In Conclusion, Mrs. Ryan respectfully petitions this Court to vacate and reverse the Rhode Island Supreme Court's decision to uphold the R.I. Superior Court's imposition of sanctions and its award of attorney fees. Mrs. Ryan also respectfully petitions this Court to vacate and reverse the Rhode Island Supreme Court's denial of Mrs. Ryan's probate appeal and direct the Court to accept Mr. Rose's Universal Surety Bond that he filed in 2005. As for Mr. Connelly, Mrs. Ryan seeks an Order restraining Mr. Connelly from continuing to interfere in the Estate of Elizabeth Brown.

Respectfully Submitted,



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