No. 19-5892

IN THE
SUPREME COURT OF THE UNITED STATES

CHALES TITUS,
CLEMENTINE TITUS,

Self-Represented Petitioners,

-vs-

MOHAMMED ALAEDDIN,
BASHIR & SONS, INC., D/B/A RANCH LIQUORS

Respondents.

No. 124550
May 22, 2019

On Petition For Writ Of Certiorari To The Supreme Court of Illinois

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PETITIONERS' PETITION FOR WRIT FOR CERTIORARI

Charles & Clementine Titus
Self-Represented Petitioners
In care of 306 East Jackson Street
Municipality of Joliet/Will County
Republic of Illinois [60432]
(815) 768-0543

QUESTIONS PRESENTED

1. Whether the trial court's actions – rushing petitioners straight into trial proceedings without affording them with the mandatory procedural due process of S.Ct. Rule 218(a) initial case management conference proceedings, and without first affording them with the mandatory procedural due process of S.Ct. Rule 201(a) full fact discovery, and without first affording them with equal entitlement of S.Ct. Rules 233 – 239 against *pro se* parties amounts to an unfair trial violation of the Due Process Clause of the Fifth and Fourteenth Amendment?

2. Whether the trial court's actions, as described above, against *pro se* parties amounts to judicial bias in violation of the Due Process Clause of the Fifth and Fourteenth Amendment?

3. Whether the State of Illinois Third District Appellate Court Should Have Stricken The Respondents' Response Brief?

PARTIES TO THE PROCEEDINGS

The Self-Represented Petitioners in this Court are Charles and Clementine Titus, 14th Amendment Black African American citizens and life long residents of the Republic of Illinois presently residing at 306 East Jackson Street in the Municipality of Joliet/Will County. Petitioners Charles and Clementine Titus were Self-Represented Petitioners in the Supreme Court of Illinois, and were Self-Represented Appellants in the State of Illinois Third District Appellate Court. They have also represented themselves at several circuit court proceedings including the jury trial proceedings, and the motion for new trial proceedings, and is currently appealing the affirming of the circuit court's May 31, 2017 decision denial of their unopposed 735 ILCS 5/2-1202(b) motion for new trial.

The Respondents in this case are Mohammed Alaeddin, Sales Clerk Employee at Ranch Liquors Store (of middle east origin, allegedly now deceased), and Bashir & Sons, Inc. D/B/A Ranch Liquors, a retail liquor store organized and existing under the Laws of the State of Illinois and located in the Township of Joliet/Will County.

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PETITION FOR A WRIT OF CERTIORARI

Petitioners Charles and Clementine Titus respectfully petition for a writ of certiorari to review the decision of the State of Illinois Third District Court of Appeals in consolidated case # 3-17-0400 & case # 3-17-0428, affirming the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, decision which denied the unopposed 735 ILCS 5/2-1202(b) motion for new trial in the case #16 L 53 and case # 16 L 54.

OPINIONS BELOW

This Writ is being filed in this case by Petitioners proceeding Self-Represented. The Writ contains what will be a joint Appendix in this case, which will be referred to as "A-". The Illinois Supreme Court issued Order of May 22, 2019, that denied Petitioners' Petition For Leave To Appeal, without explanation, is reproduced at App. 1a is reported as Charles Titus and Clementine Titus v. Muhammed Alaeddin et al., 124550. The State of Illinois Third District Appellate Court's Opinion of October 25, 2018 is reproduced at App. 2a is reported as Charles Titus and Clementine Titus vs. Mohammed Alaeddin, Bashir & Sons, Inc. D/B/A/ Ranch Liquors, Consolidated Appeal No. 3- 17-0400 & No. 3-17-0428

STATEMENT OF JURISDICTION

On the 22nd day of May, A.D., 2019, the Illinois Supreme Court issued its decision that denied Petitioners' Petitioner For Leave To Appeal, without explanation (*See* Appendix, p. 1a)

Rule 13 of the Supreme Court Rules allow this Court's review on Certiorari to review a judgment by a lower court that is subject to discretionary review by a state court of last resort if the writ of certiorari is timely filed with the Clerk of this Court within ninety (90) days after entry of the order denying discretionary review.

In this present case, this Writ of Certiorari, directed toward the Illinois Supreme Court's May 22, 2019 issued order that denied discretionary review of Petitioners' Petition For Leave To Appeal, is being filed within ninety (90) days of the Illinois Supreme Court's decision of May 22, 2019. Therefore, this Court is properly vested with authority to exercise subject matter jurisdiction over this Writ of Certiorari

RULES AND REGULATIONS

735 ILCS 5/2-1005. Summary judgment. Summary judgment, (a) For plaintiff. Any time after the opposite party has appeared or after the time within which or after the time within which he or she is required to appear has expired, a plaintiff may move with or without supporting affidavits for a summary judgment in his or her favor for all or any part of the relief sought.

735 ILCS 5/2-1202(b) Post-Trial Motion In Jury Cases Relief desired after trial In jury cases, heretofore sought by reserved motion for direct verdict, in arrest of judgment or for new trial, must be sought in a single post-trial motion. Relief after trial may include the entry of judgment if under the evidence in the case it would have been the duty of the court to direct a verdict without submitting the case to the jury, even though no motion for directed verdict was made or if made must contain the points relied upon, particularly specifying the grounds in support thereof, and must state the relief desired, as for example, the entry of a judgment, the granting of a new trial or other appropriate relief. Relief sought in post-trial motions may be in the alternative or may be conditioned upon the denial of other relief asked in preference thereto, as for example, a new trial may be requested in the event a request for judgment is denied.

Supreme Court Rule 191(a) Motions for Summary Judgments . . (a) Requirements. Motion for summary judgment under section 2-1005 of the Code of Civil Procedure and motions for involuntary dismissal under Section 2-619 of the Code of Civil Procedure must be filed before the last date, if any, set by the trial court for filing dispositive motions. . . . . .

Supreme Court Rule 201(a) General Discovery Provision. Information is obtainable as provided in these rules through any of the following discovery methods: depositions upon oral examination or written questions, written interrogatories to parties, discovery of documents, objects or tangible things, inspection of real-estate, request to admit and physical and mental examinations of persons. Duplication of discovery methods to obtain the same information and discovery request that are disproportionate e in terms of burden or expense should be avoided.

Supreme Court Rule 201(b)(1) *Full Disclosure Required.* Except as provided in these rules, a party may obtain by discovery full disclosure regarding any matter relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking disclosure or of any other party, including the existence, description, nature, custody, condition, and location of any document or tangible things, and the identity and location of persons having knowledge of relevant facts

Rule 233. Parties' Order of Proceeding

The parties shall proceed at all stages of the trial, including the selection of prospective jurors as specified in Rule 234, opening and closing statements, the offering of evidence, and the examination of witnesses, in the order in which they appear in the pleadings unless otherwise agreed by all parties or ordered by the court. In consolidated cases, third-party proceedings, and all other cases not otherwise provided for, the court shall designate the order.

Amended eff. July 1, 1975.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 233.

Rule 234. Voir Dire Examination of Jurors and Cautionary Instructions

The court shall conduct the voir dire examination of prospective jurors by putting to them questions it thinks appropriate touching upon their qualifications to serve as jurors in the case on trial. The court may permit the parties to submit additional questions to it for further inquiry if it thinks they are appropriate, and shall permit the parties to supplement the examination by such direct inquiry as the court deems proper for a reasonable period of time depending upon the length of examination by the court, the complexity of the case, and the nature and extent of the damages. Questions shall not directly or indirectly concern matters of law or instructions. The court shall acquaint prospective jurors with the general duties and responsibilities of jurors.

Amended eff. July 1, 1975; amended Aug. 9, 1983, eff. Oct. 1, 1983; April 3, 1997, eff. May 1, 1997.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 234.

Rule 235. Opening Statements

As soon as the jury is empaneled the attorney for the plaintiff may make an opening statement. The attorney for the defendant may immediately follow with an opening statement. An opening statement may not be made at any other time, except in the discretion of the trial court.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 235.

Rule 236. Admission of Business Records in Evidence

(a) Any writing or record, whether in the form of any entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of the act, transaction, occurrence, or event, if made in the regular course of any business, and if it was the regular course of the business to make such a memorandum or record at the time of such an act, transaction, occurrence, or event or within a reasonable time thereafter. All other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but shall not affect its admissibility. The term "business," as used in this rule, includes business, profession, occupation, and calling of every kind.

(b) Although police accident reports may otherwise be admissible in evidence under the law, subsection (a) of this

rule does not allow such writings to be admitted as a record or memorandum made in the regular course of business.

Amended Aug. 9, 1988, eff. Oct. 1, 1988; April 1, 1992, eff. Aug. 1, 1992.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 236.

Rule 237. Compelling Appearances of Witnesses at Trial

(a) **Service of Subpoenas.** Any witness shall respond to any lawful subpoena of which he or she has actual knowledge, if payment of the fee and mileage has been tendered. Service of a subpoena by mail may be proved *prima facie* by a return receipt showing delivery to the witness or his or her authorized agent by certified or registered mail at least seven days before the date on which appearance is required and an affidavit showing that the mailing was prepaid and was addressed to the witness, restricted delivery, with a check or money order for the fee and mileage enclosed.

(b) **Notice of Parties *et al.* at Trial or Other Evidentiary Hearings.** The appearance at the trial or other evidentiary hearing of a party or a person who at the time of trial or other evidentiary hearing is an officer, director, or employee of a party may be required by serving the party with a notice designating the person who is required to appear. The notice also may require the production at the trial or other evidentiary hearing of the originals of those documents or tangible things previously produced during discovery. If the party or person is a nonresident of the county, the court may order any terms and conditions in connection with his or her appearance at the trial or other evidentiary hearing that are just, including payment of his or her reasonable expenses. Upon a failure to comply with the notice, the court may enter any order that is just, including any sanction or remedy provided for in Rule 219(c) that may be appropriate.

(c) **Notice of Parties at Expedited Hearings in Domestic Relations Cases.** In a domestic relations case, the appearance at an expedited hearing of a party who has been served with process or appeared may be required by serving the party with a notice designating the party who is required to appear. The notice may also require the production at the hearing of the original documents or tangible things relevant to the issues to be addressed at the hearing. If the party is a nonresident of the county, the court may order any terms and conditions in connection with his or her appearance at the hearing that are just, including payment of his or her reasonable expenses. Upon a failure to comply with the notice, the court may enter any order that is just, including any sanction or remedy provided for in Rule 219(c) that may be appropriate.

Amended June 19, 1968, and amended October 21, 1969, effective January 1, 1970; amended September 29, 1978, effective November 1, 1978; amended June 1, 1995, effective January 1, 1996; amended February 1, 2005, effective July 1, 2005.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 237.

Rule 238. Impeachment of Witnesses; Hostile Witnesses

(a) The credibility of a witness may be attacked by any party, including the party calling the witness.

(b) If the court determines that a witness is hostile or unwilling, the witness may be examined by the party calling the witness as if under cross-examination.

Amended Feb. 19, 1982, eff. April 1, 1982; amended eff. April 11, 2001.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 238.

Rule 239. Instructions

(a) Use of IPI Instruction; Requirements of Other Instructions. Whenever Illinois Pattern Jury Instructions (IPI), Civil, contains an instruction applicable in a civil case, giving due consideration to the facts and the prevailing law, and the court determines that the jury should be instructed on the subject, the IPI instruction shall be used, unless the court determines that it does not accurately state the law. The most current version of the IPI, Civil instructions is maintained on the Supreme Court website. Whenever IPI does not contain an instruction on a subject on which the court determines that the jury should be instructed, the instruction given in that subject should be simple, brief, impartial, and free from argument.

(b) Court's Instructions. At any time before or during the trial, the court may direct counsel to prepare designated instructions. Counsel shall comply with the direction, and copies of instructions so prepared shall be marked "Court's Instruction." Counsel may object at the conference on instructions to any instruction prepared at the court's direction, regardless of who prepared it, and the court shall rule on these objections as well as objections to other instructions. The grounds of the objections shall be particularly specified.

(c) Procedure. Each instruction shall be accompanied by a copy, and a copy shall be delivered to opposing counsel. In addition to numbering the copies and indicating who tendered them, as required by section 2-1107 of the Code of Civil Procedure, the copy shall contain a notation substantially as follows:

"IPI No. ___," or "IPI No. ___ Modified," or "Not in IPI," as the case may be. All objections made at the conference and the rulings thereon shall be shown in the report of proceedings. The original instructions given by the court to the jury shall be taken by the jury to the jury room.

(d) Instructions Before Opening Statements. After the jury is selected and before opening statements, the court may orally instruct the jury as follows:

(i) On cautionary or preliminary matters, including, but not limited to, the burden of proof, the believability of witnesses, and the receipt of evidence for a limited purpose.

(ii) On the substantive law applicable to the case, including, but not limited to, the elements of the claim or affirmative defense.

(e) Instructions After the Close of Evidence. After the close of evidence, the court shall repeat any applicable instructions given to the jury before opening statements and instruct the jury on procedural issues and the substantive law applicable to the case, including, but not limited to, the elements of the claim or affirmative defense. The court may, in its discretion, read the instructions to the jury prior to closing argument. Whether or not the instructions are read prior to closing argument, the court shall read the instructions to the jury following closing argument and may, in its discretion, distribute a written copy of the instructions to each juror. Jurors shall not be given a written copy of the jury instructions prior to counsel concluding closing argument.

(f) Instructions During Trial. Nothing in this rule is intended to restrict the court's authority to give any appropriate instruction during the course of the trial.

Amended May 28, 1982, eff. July 1, 1982; Oct. 1, 1998, eff. Jan. 1, 1999; June 11, 2009, eff. Sept. 1, 2009; Dec. 16, 2010, eff. Jan. 1, 2011; April 8, 2013, eff. immediately.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 239.

Supreme Court Rule 341(h)(6)(7)(9) Briefs . . . . . (6) Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the page of the record on appeal, *e.g.*, RC7 or R. 7 or the pages of the abstract, *e.g.*, A. 7, Exhibits may be cited by reference to pages of abstract, or of the record on appeal or by exhibit number followed by the page number within the exhibit, *e.g.*, Pl. Ex. 1, p.6 . . .(7) Argument, which shall contain the contention of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the page of the record on appeal or abstract, if any, where evidence may be found. Citation of numerous authorities in support of the same point is not favored. Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing. . . . . (9) An appendix as required by Rule 342.

Supreme Court Rule 341(i) Briefs of Appellee and Other Parties. The brief for the appellee and other parties shall conform to the following requirements, except that items (2), (3), (4), (5), (6) and (9) of paragraph (h) of this rule need not be included except to the extent that the presentation by the appellant is deemed unsatisfactory.

CONSTITUTIONAL PROVISIONS

Title 42 U.S.C. Section 1981(a) Equal Rights Under The Law. . All persons within the jurisdiction of the United States shall have the same right in every State and Territory to . . . . . to sue, be parties, give evidence, and to the full and equal benefits of all laws and proceedings for the security of their person and property as is enjoyed by white citizens.

U.S. Constitution
Article IV Section 2 Privileges and Immunities . . . The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

U.S. Constitution
Fifth Amendment, ...; nor be deprived of life, liberty, or property, without due process of law.

U.S. Constitution
Fourteenth Amendment, ...; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

This Court has noted that while extreme cases often "test the bounds of established legal principles," they also often cross constitutional limits requiring the "Court's intervention and formulation of objective standards. This is particularly true when due process is violated." Caperton et. al. v. A.T. Massey Coal Inc., et al., 556 U.S. ____(2009), slip op., at 17. This case presents the Court with another extreme case of judicial bias, here, bias against a *Self-Represented* party. Indeed, it is difficult to imagine a more extreme case of bias than the one presented here.

The petitioners were party plaintiffs in a 775 ILCS 5/5-101 Public Accommodations violation claim and a Title 42 U.S.C. Section 1981(a) – Discrimination Against Right To Make Contract violation claim which was filed in the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois. Petitioners proceeded *pro se*, and they possessed a due process right of access to the state circuit court and to judicial impartiality. *See* c.f., Boddie v. Connecticut, 401 U.S. 371 (1971); Tumey v. Ohio, 273 U.S. 510 (1927). The state circuit court thought otherwise. Rather than applying standards and Local Court Rules, Illinois Rules of Civil Procedure and Illinois Supreme Court Rules. The state court rushed the *pro se* petitioners into jury trial proceedings, without first affording petitioners with the full and equal benefit of Supreme Court Rule 201(a) and 218(a) frcp rule proceedings, and without first affording them with the full and equal benefit of

Supreme Court Rules 233 – 239 proceedings, and with no chance to adequately defend their right to be free from discrimination to access public accommodations, and to be free of discrimination to make contract. The result was easy to predict; the state circuit court (wrongfully) entered a jury verdict against them. The petitioners subsequently filed a post-trial motion for new trial pursuant to 735 ILCS 5/2-1202(b). Despite the failure on the part of the defendants to file a written response in opposition to the motion for new trial. The trial court denied the motion, without affording the petitioners with a written memorandum of law setting forth the findings of fact and conclusion of law as justification for denying the motion for new trial.

On appeal before the State of Illinois Third District Appellate Court. Rather than addressing the petitioners' issues presented for review. The Third District Appellate Court issued a opinion claiming that petitioners Titus appealed from a jury verdict in favor of the defendants where a liquor store and one of its employees allegedly violated the Illinois Human Rights Act (775 ILCS 5/1-101 *et seq*) (West 2016)) and Title 42 U.S.C. Section 1981(a). (*See* Appendix, ps. a-2 thru a11).

On appeal before the Supreme Court of Illinois. The petitioners raised the exact same issues for review which the Third District Appellate Court evaded addressing. Rather than addressing the petitioners' issues presented for review. The Supreme Court of Illinois simply denied the petitioners' petition for leave to appeal, without explanation (*See* Appendix, p. a1)

The questions being presented to this Court, which represent the exact same questions that were presented first to the Illinois Third District Appellate Court and then presented second to the Supreme Court of Illinois, concerns whether or not the *pro se* petitioners were given their due process right to a fundamentally fair pre-trial proceedings and to a fundamentally fair jury trial proceeding. Because all parties – both attorney represented and *pro se* – are entitled to meaningful access to the courts and judicial impartiality, and since the State of Illinois Third District Appellate Court evaded addressing the subject matter of judicial bias against *pro se* parties, coupled with the Supreme Court of Illinois equally having had evaded showing interest in and concern toward providing guidance on the subject of judicial bias against *pro se* parties, review on certiorari is warranted.

The following events should be noted:

This action arose from the Illinois Department of Human Rights issuance of the Dismissal and Notice of Rights letter authorizing Petitioners Titus to file their separate claims in the appropriate state court based upon petitioners Titus' public accommodation violation claim of race discrimination establishing substantial evidence (R.Doc. 112 – R.Doc. 119)

On or about the 21st day of February, 2016, petitioners Titus separately filed a combine fact and notice pled four (4) count verified discrimination complaint under IDRA 775 ILCS 5/101; Article I Section(s) 2 & 20 of the Illinois Constitution; Chapter 9 ½ Article I Section 9 ½-2 of the Ordinance of the City of Joliet;

and Title 42 U.S.C. Section 1981(a). In addition to the verified original complaint containing a request for jury trial by a petit jury. The verified complaints equally contained a reservation of rights clause reserving the right to amend the pleadings to add additional claims and additional defendants. May 10, 2016 was scheduled as the date for the Initial Case Management proceeding (R.Doc. 6 – R.Doc. 20).

In preparation for the May 10, 2016 scheduled Initial Case Management proceedings. Based upon the unwillingness on the part of the respondents' attorney to meet in conference with petitioners Titus for discussing and preparing a Joint Status Report for presentment to the court prior to the scheduled Initial Case Management proceedings. Petitioners Titus drafted and filed their own Initial Status Report (*See* R.Doc. 121 – R.Doc. 124).

During the May 10, 2016 scheduled Initial Case Management proceedings. Rather than discussing any of the items set forth in petitioners Titus' May 6, 2016 submitted Initial Status Report (*See* R.Doc. 121 – R.Doc. 124). After directing the respondents' attorney (in the person of Robert Welz) to file a motion to dismiss petitioners Titus' verified first amended complaint. The trial court (in the person of Michael J. Powers) issued a order which set a motion to dismiss briefing schedule directed toward petitioners Titus verified first amended complaint (R.Doc. 125).

After much squandering of time on the trial court's attempt to deprive petitioners Titus of their right to access the court (*See* R.Doc.127 – R.Doc. 129, *and see* R.Doc. 140 – R.Doc. 151 *and see* R.Doc. 152 *and see* R.Doc. 155 –

R.Doc. 159), coupled with the excessive delay toward addressing petitioners Titus motion for substitution of judge for cause pursuant to 735 ILCS 5/2-1001(3)(i) (*See* R.Doc. 154 *and see* R.Doc. 161). On July 21, 2016, the trial court (in the person of Michael J. Powers) issued a order, without explanation, dismissing Counts II and III of the verified first amended complaint, with prejudice, and allowed petitioners Titus twenty-eight (28) days to file a second amended complaint, and continued the matter for status on August 25, 2016 (*See* R.Doc. 162).

On August 25, 2016 the trial court (in the person of Michael J. Powers) issued a order, which among other things, further delayed taking action on petitioners' motion for substitution of judge by setting a September 30, 2016 hearing date on petitioners Titus' motion for substitution of judge to be entertained before Circuit Judge Bobbi J. Petrungaro (*See* R.Doc. 163 – 197).

During the September 30, 2016 rescheduled hearing on petitioners Titus motion for substitution of judge. The trial court issued a order further delaying action on petitioners Titus' motion for substitution of judge (*See* R.Doc. 197).

After petitioners Titus filed their separate verified second amended complaint on November 16, 2016 (*See* R.Doc. 220), and after the respondents filed their Section 2-610 answer. On December 1, 2016, the trial court (in the person of Michael J. Powers), though being the subject of the excessively delayed action on petitioners Titus' motion for substitution of judge, issued a order commencing

discovery and set a January 11, 2017 status date on written discovery (See R.Doc. 221).

On January 11, 2017, without there being a formal hearing conducted on petitioners Titus motion for substitution of judge for cause pursuant to 735 ILCS 5/2-1001(3)(i), after being continued from September 30, 2016. Petitioners Titus' separate actions, Case No. 16 L 053 & Case No. 16 L 054, were rotated to Circuit Judge Raymond Rossi, who continued the matter to February 27, 2017 for status on the parties deposition (See R.Doc. 221).

During the February 27, 2017 scheduled status hearing , without the parties having had first engaged in initial disclosure procedures, and without the parties having had first engaged in full fact discovery consistent with applicable fact discovery rules, and without having had first allowed petitioners Titus to exercise rights under Supreme Court Rule 191 and 735 ILCS 5/2-1005 Summary Judgment adjudication. The trial court (in the person of Raymond Rossi) issued a order scheduling jury trial proceedings for the week of March 27, 2017 with a trial status hearing scheduled for March 24, 2017 (See R.Doc. 224).

During the March 24, 2017 scheduled trial status hearing. Petitioners Titus' separate claims were shifted to Circuit Judge Bobbi J. Petrungaro who issued a order setting March 30, 2017 as the jury trial date for petitioners Titus' separate cases (See R.Doc. 225).

As a means to prevent being unjustly rushed into jury trial proceedings. On March 29, 2017, petitioners Titus filed a emergency pre-trial motion requesting

modification of the entered order of March 24, 2014 to extend the jury trial proceedings to allow time to exercise rights under 735 ILCS 5/2-1005 summary judgment adjudication (*See* R.Doc. 231 – R.Doc. 233).

During the March 30, 2017 scheduled hearing on petitioners Titus' emergency pre-trial motion to modify the entered order of order of March 24, 2017. In addition to the trial court allowing the respondents' attorney (in the person of Christopher Rouskey) to file a delayed Motion In Limine (*See* Third District Appellate Court Case No. 3 – 17 – 0428; Petitioner Clementine Titus' Opening brief; Appendix, p. 9a). The trial judge (in the person of Circuit Judge Bobbi J. Petrungaro) indicated that she was going to take ten (10) minutes to read the petitioners Titus' separately filed verified second amended complaint (*See* Third District Appellate Court Case No. 3 – 17 – 0428; Petitioner Clementine Titus' Opening Brief, Appendix, p. 10a, lines 8 – 24), and without the respondents attorney either providing a written response in opposition to petitioners Titus' emergency pre-trial motion to modify, or providing a verbal response in opposition to petitioners Titus' emergency pre-trial motion to modify. The trial court (in the person of Circuit Judge Bobbi J. Petrungaro), while uttering a misrepresentation of the substance of the pre-trial motion to modify, she denied the emergency pre-trial motion to modify the order of March 24, 2017 (*See* Third District Appellate Court, Case No. 3 – 17 – 0428; Petitioner Clementine Titus' Opening Brief; Appendix, p. 11a, lines 19 – 24, p. 12a, lines 1 – 24).

Subsequent to denying the petitioners Titus' emergency pre-trial motion to modify the entered order of March 24, 2017. Despite petitioners Titus having

separate complaints with petitioner Charles Titus having more claims than petitioner Clementine Titus. The trial court consolidated the separate requested jury trials and rushed both matters to jury trial proceedings without having had first afforded petitioners Titus with an opportunity to engage in rights under Illinois Supreme Court Rules 233 – 239, and the trial court proceeded with drafting the I.P.I 20.02.01 forms without having had afforded petitioners Titus with an opportunity to exercise rights to having input, and the trial court hand selected the jury members, and drafted the jury instructions (*See* Illinois Third District Appellate Court, Case No. 3 – 17 – 0428; Petitioner Clementine Titus' Opening Brief; Appendix, p. 9a, limes 18 -24), and the trial court allowed the defendants' attorney to present an opening statement including information about an unrelated civil action which the trial court previously informed the respondents' attorney that the mentioning of that unrelated civil action was not relevant (*See* Illinois Third District Appellate Court, Case Number 3 – 17 – 0428; Petitioner Clementine Titus' Opening Brief; Appendix, Excerpts of Report of Proceedings on the 30th day of March, A.D., 2017, pgs. 32a – 35a *and see* pgs. 14 a – 16a).

After about a two (2) hour jury trial proceeding, during which time petitioners Titus were not afforded with an opportunity to presents opening and closing statements. The jury rendered a decision in favor of the respondents and against petitioners Titus (*See* R.Doc. 250 – R.Doc. 251 & R.Doc. 258 *and see* Illinois Third District Appellate Court, Case Number 3 – 17 – 0428, Petitioner Clemen-

tine Titus' Opening Brief,, Appendix, Excerpt of Report of Proceeding, on the 30th day of March, A.D., 2017, pgs. 38a & 39a).

On or about the 15th day of May, 2017, with leave of court, petitioners Titus filed their motion for new trial pursuant to 735 ILCS 5/2-1202 directed toward the jury trial proceedings of March 30, 2017, stressing that the deprivation of being afforded with the full and equal benefit of rights to engage in 735 ILCS 5/2-1005 and Illinois Supreme Court Rules 233, 234, 235 and 237 warranted the allowing of a new trial (*See* R.Doc. 265 – R.Doc. 268).

During the May 31, 2017 held proceedings on petitioners Titus emergency motion for new trial. Despite the failure on the part of the respondents' attorney to file a written response in opposition to the bases for the motion for new trial, and despite the failure on the part of the respondents' attorney to present any relevant oral argument opposing petitioners Titus' motion for new trial (*See* Appendix, Report of Proceedings of May 31, 2017, pgs. a12 – a17). Then, on the 9th day of June, 2017, the trial court (in the person of Bobbi J. Petrungaro) subsequently issued a order that denied the unopposed motion for new trial, without explanation (*See* R.Doc. 272).

On the 23rd day of June, 2017, petitioners Titus filed their notice of appeal directed toward the trial court's entered order of June 9, 2017 (*See* R.Doc. 277).

In their respective appeal reply briefs, petitioners Titus pointed out that the respondents raised an argument which they had not first raised before the trial court in reference to the unopposed motion for new trial and requested of the

Illinois Third District Appellate Court to strike the respondents' response brief argument as having been forfeited (*See* Illinois Third District Appellate Court Case Number 3 – 17 -0428, Appellant Charles Titus' Reply Brief, Argument IA, pgs. 2 – 5).

After consolidating petitioner Charles Titus and petitioner Clementine Titus separately filed appeals. In addition to the Opinion of the three panel judges of the State of Illinois Third District Appellate Court's misrepresentation of the bases for petitioners Titus appeal by claiming that petitioners Titus were appealing from jury verdict in favor of the respondents (*See* Appendix, October 25, 2018 State of Illinois Appellate Court Third District, p. a4). The Fact section failed to make any citation to the record where those facts were derived from, and the three panel judges failed to address petitioners Titus' issue concerning the respondents having had waived and/or forfeited the arguments presented in their response brief, and the three panel judges failed to address the trial court's June 9, 2017 issued decision that denied petitioners Titus motion for new trial, without explanation (*See* Appendix, October 25, 2018 Opinion, pgs. a4 – a10) Petitioners Titus' June 23, 2017 filed Notice of Appeal was directed toward the trial court's June 9, 2017 issued order which petitioners Titus' sought on appeal to be reversed and remanded (*See* Illinois Third District Appellate Court Case Number 3 – 17 – 0428, Appellant Clementine Titus's Opening Brief, pgs. 12 & 12, respectively,

On Petition For Leave To Appeal In the Illinois Supreme Court. The Illinois Supreme Court merely closed its eyes and turned its head for fear of what it might see in the pleadings presented in petitioners' Titus's consolidated Petition For Leave To Appeal, and denied the Petition For Leave To Appeal, without explanation (*See* Appendix, p. a1).

REASONS FOR GRANTING THE PETITION

The Court's review is warranted for several reasons. First, this Court probable has never decided the question of whether *pro se* parties are entitled to frcp rule 16(a) pretrial conference proceedings, as well as are entitled to Illinois Supreme Court Rule 201(a) full fact discovery, and are entitled to Illinois Supreme Court Rules 233 – 239 trial proceedings in accordance with the Due Process Clause of the Fourteenth Amendment. Second, this Court probably has never decided the question of whether judicial bias against *pro se* petitioners can rise to the level of a due process violation. The questions are undoubtedly important, given the rising number of *pro se* litigants across the country .Third, the decision of the three panel judges of the State of Illinois Third District Appellate Court ignores decisions of the United States Supreme Court, *Wood v. Milyard*, 132 S.Ct. 1826 (2012); *Kontrick v. Ryan*, 540 U.S. 443 (2004); *Fretag v. Commission*, 501 U.S. 868, 895 (1991) and *Weigand* supra Note 1, at 182- 83 (holding that, "Courts will not consider arguments that parties have waived or forfeited"), as well as ignored decisions of the U.S. Seventh Circuit Court of Appeals, *Baptist v. City of Kankakee*, 481 F.3d 485, 492 (7th Cir. 2007)(holding that "arguments not raised in the district court – in this case the circuit court – are waived on appeal.") Finally, the Supreme Court of Illinois issued decision of May 22, 2019, which denied petitioners Titus' petition for leave to appeal, is merely a conclusory finding sustaining the Third District Appellate Court's unwarranted opinion which created a issue that was not remotely related to the

nature of petitioners' June 23, 2017 filed notice of appeal directed toward the trial court's decision that denied petitioners' unopposed motion for new trial pursuant to 735 ILCS 5/2-1202, without explanation, and that the May 22, 2019 decision did not set forth what evidence was accepted or rejected so that the bases of the decision of May 22, 2019 could be clearly and adequately disclosed, and without a written findings of facts and conclusion of law this Court's review will be hindered. Thus, there exist a dire need for this Court's review.

This writ of certiorari presents a narrow question with significant consequences. The opinion of the three panel judges of the State of Illinois Third District Appellate Court show that contrary to the holdings in c.f. *Boddie v. Connecticut*, 401 U.S. 371 (1971) and in *Tumey v. Ohio*, 273 U.S. 510 (1927), it is not required to determine that a self-represented litigant process a due process right to access the state court and to judicial impartiality. Contrary to the three panel's opinion claiming that petitioners Titus appealed from a jury verdict in favor of the defendants where a liquor store and one of its employees allegedly violated the Illinois Human Rights Act (775 ILCS 5/1-101 *et seq* (West 2016)) and Title 42 U.S.C. Section 1981(a), which jury trial occurred on March 30, 2017 (*See* Appendix; Panel's Opinion of October 25, 2018, p.a4, para.1, and see Case No. 3-17-0400, Plaintiff Charles Titus' Opening Brief, p. 10, para. 2) Petitioners Titus appealed from the trial court's May 31, 2017 issued decision which denied petitioners Titus unopposed 735 ILCS 5/2-1202(b) motion for new trial, without explanation (*See* Case No. 3 – 17 – 0400; Plaintiff Charles Titus' Opening Brief,

Introduction, p. 11, paras. 2 – 4, p. 12, paras 1 -3; Jurisdiction Statement, p. 14, paras 1 – 4).

The issues presented for review to the State of Illinois Third District Appellate Court ask the question, "Whether the trial court's actions – rushing plaintiff to jury trial without first affording him with the mandatory S.Ct. Rule 218(a) initial case management conference proceedings and without affording him with entitlements to Supreme Court Rules 233-239 – against *pro se* parties amounts to a unfair trial in violation of the Due Process Clause of the Fifth and Fourteenth Amendments? (*See* Case No. 3 -17 -0400; Plaintiff Charles Titus' Appeal Opening Brief Issue Presented For Review, p. 13), and subsequently pointed out a valid reason why the respondents' response brief required being stricken (*See* Case No. 3-17-0428; Plaintiff Clementine Titus Appeal Reply Brief, Argument, Part I, pgs. 2 & 3).

The issues presented for review to the Supreme Court of Illinois asked the Questions the very same questions

The procedural improprieties on the part of the state trial court, coupled with the evasive on the part of the state appellate court to address the issues which petitioners Titus raised up for review and consideration dealing with the procedural improprieties on the part of the state trial court essentially deprived petitioners Titus of their fundamental right to access the courts to obtain their certain remedy in the law, and the actions and/or inaction on the part of the State of Illinois Third District Appellate Court and the Supreme Court of Illinois merely co-signed the state trial court's initiative to effectively defeat the proper administer-

ation of Justice, at least in this instance, thereby requiring the review of this Court.

ARGUMENT

I.

This court need to decide the question whether civil pro se parties are entitled to the full and equal benefit of Illinois rules of civil procedure and Illinois Supreme Court Rules governing initial case management conference proceedings, full fact discovery and trial proceedings in accordance with the Due Process Clause of the Fourteenth Amendment.

A. Pro se litigants possess a due process right to equal justice and access to the courts.

Increasingly, both governmental and private organizations in virtually every state are concerned about pro se issues. Much of the national discussion has resulted in the creation and implementation of seminars and other educational tools that benefit pro se parties prior to and after commencing litigation. The reasons for this are many, and they center on the application of due process for civil pro se litigants.

The affirmation of pro se litigants' due process rights can be traced back to several areas of our Constitution. They are guaranteed under our Fourteenth Amendment Equal Protection Clause, the Privileges and Immunities Clause in Article IV, Section 2, as well as the Fifth Amendment. Even so, civil pro se litigants, in general, are often treated disparately and discriminated against in our states' judicial systems. The American Judicature Society conducted a study which concluded . . . . . judges survey for meeting the [Pro se] Challenges were divided; some were annoyed by the presence of Pro se litigants, while others believed judges should help the self-represented receive a fair hearing by relaxing procedural rules. And although many respondents expressed a desire

for formal policies to guide judicial behavior in Pro se cases, more than 90 percent of judges surveyed said their courts had no such protocols. Kathleen M. Sampson, "Meeting the Pro se Challenge; an update, "American Judicature Society, http://www.ajs.org/prose_sampson.asp.

It is particularly true where State court's routinely deprive and discriminate against affording civil pro se litigants with the full and equal benefit of S.Ct. Rule 218(a) initial case management conference proceedings and full fact discovery, indicative of the trial court's actions and/or inactions in this matter.

It is clear that direction from the Third District Appellate Court is needed to achieve consistency and fairness and "equal justice for all" within the state circuit court system – particularly the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois – regarding S.Ct. Rule 218(a) initial case management conference proceedings, as well as S.Ct. Rule 201(a) full fact discovery rights, 735 ILCS 5/2-1005 summary judgment, and Supreme Court Rules 233 - 239 proceedings for pro se litigants in civil matters.

The Court's opinion in *Chambers v. Baltimore & Ohio R. Co.*, 207 U.S. 142 (1907) affirms this sentiment. It stated, "It [the right to sue and defend oneself in court] is one of the highest and most essential privileges of citizenship . . .[and] [e]quality of treatment in this respect is not left to depend upon the comity between the states, but is granted and protected by the Federal Constitution." So, although equal rights in civil courts would appear to be undisputable based on the Court's ruling in criminal matters, "the Constitution contains no such explicit right, and the Court probable has not yet ruled on the precise question."

"Meeting the Challenge of Pro se Litigation– A Report and Guidebook for Judges And Court Managers," American Judicature Society and State Justice Institute, 1998.

"No State can deprive particular persons or classes of persons of equal and impartial justice under the law." Caldwell v. Texas, 137 U.S. 692 (1891). Although the Supreme Court has found that equal justice is a fundamental rights under the Constitution, the reality is that pro se litigants are not consistently afforded this right at the Circuit Court of the Twelfth Judicial Circuit, indicative of this matter. In criminal cases, the Court has recognized the need for its intervention in states' mishandling of our constitutional due process rights and has ruled that under federal law, we should hold that the denial of a federal constitutional right, no matter how important, should automatically result in reversal of a conviction . . [and] . . . with faithfulness to the constitutional union of the States, we cannot leave to the States the formulation of the authoritative laws, rules, and remedies designed to protect people from infractions by the States of federally guaranteed rights. Chapman v. California, 386 U.S. 18 (1967). Again, in Griffin v. Illinois, 351 U.S. 12 (1956), the Supreme Court confronted the problem of "[e]qual justice for the poor and rich, weak and powerful alike." This same guidance is lacking, and sorely needed for civil cases as well because, although, '[a]t its core, the right to due process reflects a fundamental value in our American constitutional system . . . [t]he Due process Clause on which the Court relies has proven very elastic in the hands of

judges." Boddie v. Connecticut, 401 U.S. 371 (1971). In Mullane v. Central Hanover, Justice Jackson wrote, "Many controversies have raged about the cryptic and abstract words of the Due Process Clause but there can be no doubt that at a minimum they require the deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." Mullane v. Central Hanover Tr. Co., 339 U.S. 306 (1950). Justice Brenan's opinion in Armstrong v. Manzo argues that equal protection clause should be applied to all due process situations. A state has an ultimate monopoly of all judicial process and attendant enforcement machinery. As a practical matter, if disputes cannot be successfully settled between the parties, the court system (in this case, the 12th Judicial Circuit) is usually 'the only forum effectively empowered to settle their disputed. Resort to the judicial process by these plaintiffs is no more voluntary in a realistic sense than that of the defendant called upon to defend his interest in court.' . . . I see no constitutional distinction between appellants' attempt to enforce this statutory right [to a dissolution of marriage] and an attempt to vindicate any other right arising under federal or state law . . . The right to be heard is some way at some time extends to all proceedings entertained by courts. Armstrong v. Manzo, 380 U.S. 545 (1965).

In Boddie v. Connecticut, 401 U.S. 371 (1971), the Court maintained that "due process requires, at a minimum, that absent a countervailing state interest of overriding significance, persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard.

In short, 'within the limits of practicability', a State must afford to all individuals a meaningful opportunity to be heard if it is to fulfill the promise of the Due Process clause." Boddie, 40 U.S. at 379.

If the U.S. Supreme Court's rulings are to be realized (at least in the Circuit Court of the Twelfth Judicial Circuit), pro se litigants in civil cases must be given proper and sufficient memorandum opinions addressing motions, and must be given the opport unity to be afforded Supreme Court Rule 218(a) pretrial conference proceedings, and must be given the opportunity to adequately engage in S.Ct. Rule 201(a) full fact discovery, and 735 ILCS 5/2-1005 summary judgment proceedings, and must be afforded the full and equal benefit of 735 5/2-1105.1 through to 735 ILCS 5/2-1107.1 during the jury trial proceedings.

The Supreme Court has acknowledged that the application and enforcement of due process rights continue to be a work in progress. For example, in Boddie, Justice Harlan states that those who wrote our original Constitution, in the Fifth Amendment, and later those who drafted the Fourteenth Amendment, recognized the centrality of the concept of due process in the operation of this system. Without its guaranteed that one may not be deprived of his rights, neither liberty nor property, without due process of law, the State monopoly over techniques for binding conflict resolution could hardly be said to be acceptable under our scheme of things. Only by providing that the social enforcement mechanism must function strictly within these bounds can we hope to maintain an ordered society that is also just. It is upon this premise that this Court has

through years of adjudication put flesh upon the due process principle (emphasis added).

B. The trial court's refusal to allow full fact discovery prevented the petitioners ability to prove their case, or to disprove the respondents.

The right of access and broad right of discovery is necessary to adequately and effec ively pursue a claim or defense. S.Ct. Rule 201. The right to access is implicated whenever a party seeks discovery and is limited in very few instances and for very specific reasons. *Doe v. Puget Sound Blood Center*, 117 Wn.2d 772, 782, 819 P.2d 370 (1991).

It is important to note that contrary to the "customary practice" of Courts of Third District of Illinois, to afford represented parties with S.Ct. Rule 218(a) initial case management proceedings in order for the parties to present their discussed and agreed upon proposed date for exchanging initial disclosures, and their proposed forms of fa discovery and their proposed opening and closing dates of discovery for approval by th court, and their proposed time table for amending pleadings, and their proposed time f being ready to engage in summary judgment proceedings, and their proposed time to conduct jury trial proceedings. The circuit court high stepped over S.Ct. Rules 201(a 218(a) proceedings and conducted a jury trial proceedings without affording plaintiff Titus with his right to engage in entitlements under Supreme Court Rule(s) 233 - 239 (*See* R.Doc. 248; Appendix, Transcripts of Proceedings for March 30, 2017),

The circuit court's refusal to conduct S.Ct. Rule 218(a) proceedings to properly set Supreme Court Rule 201(a) proceedings into motion to allow full fact discovery to be ha is of great constitutional magnitude as plaintiff Titus was denied due process for the mer

sake of expediency and because he was proceeding as a self-represented litigant. Pro se litigants are generally held to the standards of an attorney Carver v. State, 147 Wn. App. 567, 575, 197 P.3d 678 (2008). Since plaintiff Titus was held to such a standard, he should also have been afforded the same right to S.Ct. Rule 218(a) initial case management conference proceedings, S.Ct. Rule 201(a) proceedings to engage in full fact discovery, and S.Ct. Rules 233 - 239 as an attorney. The circuit court could not and would not have refused a ARDC registered attorney's request for S.Ct. Rule 218(a) proceedings to obtain S.Ct. Rule 201(a) full fact discovery in order to exercise entitlements under S.Ct. Rule(s) 233- 239, but it would not extend that courtesy and respect toward plaintiff Titus, thereby denying a fair and impartial jury trial. No where in the record is there any written explanation offered by the circuit court to justify its refusal to permit plaintiff Titus to obtain full pretrial procedure and its refusal to permit plaintiff Titus to obtain full fact discovery. The refusal to afford the appellant - pro se litigants - with S.Ct. Rule 201(a) and S.Ct. Rule 218(a) proceedings is a denial of due process and a significant constitutional question.

C. The trial court's disregard of Supreme Court Rules 233 - 239, and the lack of pretrial conference and the lack of full fact discovery to produce a fair and impartial jury trial, resulted in a due process violation against the pro se plain-tiffs.

The circuit court violated Supreme Court Rule 218. Pretrial Procedure, which says; "..... At the conference counsel familiar with the case and authorized to act shall appear and the following shall be considered: (1) the nature, issues, and complexity of the case, (2) the simplification of the issues (3) amendment to the pleadings, (4) the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof

(5) limitations on discovery including: (i) the number and duration of depositions which may be taken; (ii) the area of expertise and the number of expert witnesses who may be called; and (iii) deadlines for the disclosure of witnesses and the completion of written discovery and depositions; (6) the possibility of settlement, and scheduling of a settlement conference; (7) the advisability of alternative dispute resolution; (8) the date on which the case should be ready for trial; (9) the advisability of holding subsequent case management conferences; and (10) any other matters which may aid in the disposition of the action including but not limited to issues involving electronically stored information and preservation. **(c) Order.** At the case management conference, the court shall make an order which recites any action taken by the court, the agreement made by the parties as to any of the matters considered, and which specifies as the issues for trial those not disposed of at the conference. . . . . ."

The trial court violated Supreme Court Rule 201(a) General Discovery Provision Governing Discovery, which says; "(a) Discovery Methods. Information is obtainable as provided in these rules through any of the following discovery methods: depositions upon oral examination or written questions, written interrogatories to parties, discovery of documents, objects or tangible things, inspection of real estate, request to admit and physical and mental examination of persons. Duplication of discovery requests that are disproportionate in terms of burden and expenses should be avoided."

The presiding judges in the circuit court knew or reasonable should have known that after the resolution of a defendants' partial motion to dismiss and after the submission of a defendants' required Section 2-610 answer that the respective parties, within 90 days of

the commencement of the action, are entitled a S.Ct. Rule 218(a) initial case management conference for the purpose of discussing and deciding upon all relevant matters, particularly that of setting a specific date for each party to exchange their Supreme Court Rule 201(a) full fact discovery, as well as determining the forms of discovery to be had, and the amount of time to complete discovery prior to engaging in disposition motion practice, and for setting a date when the case would be ready for trial. The trial judge (in the person of Bobbi J. Petrungaro) read plaintiff Titus unopposed motion for new trial which pointed out (1) how he was deprived of entitlements under Supreme Court Rule 234, and (2) how he was deprived of entitlements under S.Ct. Rule(s) 235, 239, and how the defendants' attorney (in the person of Christopher Roskey) spoke upon matters in his opening statement relevant to the matter of Charles Craig, Jr. v. Mohammed Alaeddin, et.al., Case No. 15 L 819 totally divorced from plaintiff Titus' grievances against the defendant that prejudiced plaintiff Titus' case in the minds of Judge Bobbi J. Petrungaro personally selected jury members (R.Doc. 254 – R.Doc. 259). After which she, Circuit Judge Bobbi J. Petrungaro summarily denied the requested relief sought set forth in plaintiff Titus unopposed motion for new trial, without explanation (*See* R.Doc. 260). These omissions are significant due process violations.

In a last ditch effort to assert his right to minimal procedural due process plaintiff Titus submitted a emergency motion to modify the entered order of March 24, 2017 (R.Doc. 219 – R.Doc. 220, R.Doc. 221 – R.Doc. 223 & R.Doc. 224), which the trial court summarily denied without providing a finding of fact and conclusion of law and proceeded with conducting the jury trial (Appendix, Transcripts of Proceedings for

March 30, 2017). It is not reasonable to expect a pro se litigant to successfully prevail during a jury trial without acquiring adequate fact discovery materials, and without being afforded time and opportunity to engage in entitlements under S.Ct. Rule(s) 234, 235, 237. The failure to provide S.Ct. Rule 218(a) initial case management conference proceedings to plaintiff Titus prevented him from being afforded a fair and impartial jury trial.

These omissions are equally significant due process violations. If the trial court had followed its local rules and S.Ct. Rule 218(a). A initial case management conference would have been held. In addition to discussing other regular pretrial matters, initial disclosures exchange dates would have been arranged, and full fact discovery would have been had. The failure on the part of the trial court (in the person of Judge Michael J. Powers) to follow S.Ct. Rule 218(a), especially after being in personal possession of plaintiff Titus' submitted status Report, greatly prejudiced plaintiff Titus as it directly resulted in his failing to obtain adequate information and documentary evidence, via S.Ct. Rule 201(a), to properly defend his claims during the rushed into jury trial, and it interfered with and deprived him of his right to pursue his IDHR authorized Public Accommodation violation claim, and his Title 42 U.S.C. Section 1981(a) discrimination against right to make contract claim.

In this appeal now before this Court, the most fundamental Illinois Supreme Court Rules designed to protect a litigant - S.Ct. Rule 218(a) and S.Ct. Rule 201(a) - were so abused that the jury trial resulted in a total absence of Constitutional fairness. This happen solely because plaintiff Titus was pro se. By reversing and remanding for starting

the proceedings, a new. This Court can establish a constitutional standard that will provide strict guidelines for all Circuit Courts of the Third District, particularly the Circuit Court of the Twelfth Judicial Circuit Will County, Illinois to follow regarding civil pro se litigants' right to meaningful access to the courts, and their rights to fundamental state and local court rules, particularly S.Ct. Rules 233 - 239 as guaranteed by our Constitutional due process rights.

II.

THIS COURT NEED TO ADDRESS THE STANDARD FOR DETERMINING WHEN JUDICIAL BIAS AGAINST A PRO SE PARTY AMOIUNTS TO A DUE PROCESS VIOLATION.

A. Pro se litigants possess a due process right to judicial impartiality

The U.S. Supreme Court has emphasized that a "fair trial in a fair tribunal is a basis requirement of due process." In re Murchison, 349 U.S. 133, 136 (1955). Indeed, a "neutral and detached judge" is an essential component of the due process requirements. Ward v. Vill. of Monroeville, 409 U.S. 57, 62 (1972). It is well-established that "our system of law has always endeavored to prevent even the probability of unfairness. "Id (emphasis added). This stringent rule," the Court has explained, "may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way justice must satisfy the appearance of justice." Id (internal quotation marks omitted).

This constitutional prohibition upon adjudication by judges tainted by the probability of bias should apply with equal force to pro se litigants in a civil setting. There is no question that pro se civil litigants possess a due process right of access to the courts and

that the right to judicial impartiality is inherent to this right of access.

Although this Court may have addressed judicial bias during past instances, this Court probably has not addressed whether a pro se litigant must show actual bias or objective bias to prove a due process violation. This Court's guidance is therefore need and reversal and remand, with direction, is warranted.

B. The question for judicial bias against a pro se party is important for the entire judiciary system

The right of access to the courts has historically been recognized as vital to both citizens and the judiciary as a whole. In Chambers v. Baltimore & Ohio R. Co., 207 U.S. 142, 148 (1907), this Court wrote that: "The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of an orderly government. It is one of the highest and most essential privileges of citizenship, and must be allowed by each state to the citizens of all other states to the precise extent that it is allowed to its own citizens. Equality of treatment in this respect is not left to depend upon comity between the states, but is granted and protected by the Federal Constitution." The due process right to judicial impartiality is equally important. The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous and distorted conception of the facts or the law . . . At the same time, it preserves both the appearance and reality of fairness . . . by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him. Marshall v. Jerrico, 446 U.S. 238, 242 (1980).

The question of the standard for judicial impartiality against a pro se party (in this case, plaintiff Titus) is also important because of the regularity with which judges interact with pro se litigants. Due to the recession and the high costs of legal fees, pro se representation has increased substantially over the last decade. States Statistics continue to bear out this trend. Consider for example:

> In Utah, for divorce cases, 49 percent of the petitioners and 81 percent of the respondents were self-represented (Committee on Resources for Self Represented Parties, " Strategic Planning Initiative: Report To The Judicial Council," July 25, 2006).

> In New Hampshire, one party is pro se in 85 percent of all civil cases in the District Court, and 48 percent of all civil cases in superior court are pro se ("Challenge to Justice – A Report on Self-Represented Litigants in New Hampshire Courts- Findings and Recommendations of the New Hampshire Supreme Court Task Force on Self-Representation," January 2004).

> In Chicago alone there are thousands of cases each day which involve pro se litigants, Chicago Daily Law Bulletin, "Big Jump in Pro Se Cases," April 25, 2009.

> In 1993 53% of the family law cases in Des Moines, Iowa were pro se and in Washington, D.C. 88% were. (Woo, "The Lawyerless: More People Represent Themselves in Court , But is Justice Served?" Wall Street Journal, August 17, 1993, at 1.)

With the influx of pro se litigants comes increased possibility of judicial bias against them, indicative of the trial court's treatment toward plaintiff Titus beginning with the commencement through to the jury trial, and the subsequent treatment toward him when he filed the motion for new trial. This Court should formulate and implement a remedy now, and provide the trial courts, particularly the Circuit Court of the Twelfth Judicial Circuit with much needed guidance rather than allowing the selective acts of judicial bias to percolate further.

This case provides an opportunity for this Court to "put new flesh upon the due process principle," and to make an enormous impact on the quality of Justice served to *pro se* litigants throughout the State of Illinois, in general, and within the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, in particular. Therefore, this Court should grant this writ for certiorari.

III.

THE STATE OF ILLINOIS THIRD DISTRICT APPELLATE COURT SHOULD HAVE STRICKEN THE RESPONDENTS' RESPONSE BRIEF

A. The Action And/Or Inaction On The Part Of The Three Panel Judges Of The State of Illinois Third District Appellate Court Is Inconsistent With And Contrary To Well-Settled Case Laws U.S. Court of Appeals For the Seventh Circuit and United States Supreme Court.

1. The Issues And Arguments Presented In The Respondents Appeal Response Brief Were Not First Raised In The Trial Court And Therefore Those Arguments Were Waived and Forfeited.

In the matters of *Wood v. Milyard*, 132 S.Ct. 1826 (2012); *Kontrick v. Ryan*, 540 U.S. 443, 458 (2004); *Fretag v. Commissioner*, 501 U.S. 868, 895 (1991); *Weigand* supra Note 1, at 182-83, it has been held that, "Courts will not consider arguments that parties have waived or forfeited." And, in the matter of *Baptist v. City of Kankakee*, 481 F.3d, 485, 492 (7th Circuit. 2007), it has been held that, "Arguments not raised in the district court (in this case, the state circuit court) are waived on appeal."

In their appeal response Brief, in an attempt to take on the posture that they were the Appellant in Case No. 3 – 17 – 0428 and Case No. 3 – 17 – 0400. The respondents asserted that their issue on appeal is, "Whether the Trail Court's

actions against the Plaintiff, Charles Titus, constituted an unfair trial and judicial bias and violated the Due Process Clause of the Fifth and Fourteenth Amendments to the United States Constitution, thereby giving the false impression that petitioners Titus' appeal was based upon the jury trial verdict of March 30, 2017 (*See* State of Illinois Third District Appellate Court Case No. 3 – 17 – 0400; Defendants-Appellees' Appeal Response Brief, Argument, p. 8).

However, petitioners Titus' June 23, 2017 filed Notice of Appeal was directed toward the trial court's June 9, 2017 issued order which denied petitioners Titus' unopposed motion for new trial pursuant to 735 ILCS 5/2-1202(b), without explanation (*See* R.Doc. 265 – R.Doc. 277). Petitioners Titus' motion for new trial pursuant to 735 ILCS 5/2-1202(b) was based on their being deprived of the full and equal benefits of the right to engage in 735 ILCS 5/2-1005 summary adjudication proceedings, as well as was based upon their being deprived of the full and equal benefit of rights guaranteed to them under Illinois Supreme Court Rules 233, 234, 235 and 237 (*See* R.Doc. 265 – R.Doc. 268).

It is important to note that as a preliminary matter in their appeal reply brief. Petitioners Titus pointed to the well-settled holdings in *Wood*, *Kontrick*, *Fretag*, *Weigand* and *Baptist*, to support their bases for having the three panel judges of the State of Illinois Third District Appellate Court to strike the respondents' response brief due to the failure on the part of the respondents to first raise their response brief argument before the state circuit court during the June 9, 2017 held hearing on petitioners Titus motion for new trial pursuant to 735 ILCS

5/2-1202(b) (*See* Third District Appellate Court Case No. 3-17-0400; Appellant Charles Titus' Reply Brief, Argument IA, p. 2, continued on p. 3).

Despite the failure on the part of the respondents to submitted a written response in opposition to petitioners Titus' motion for new trial pursuant to 735 ILCS 5/2-1202(b). The three panel judges of the Third District Appellate Court completely ignored petitioners Titus' presented preliminary matter and set itself to the task of restructuring the respondents' appeal response brief's first time pled argument, and then issued a decision based upon the argument which they had formulated on behalf of the respondents that the respondents had failed to argue for themselves during the June 9, 2017 held proceedings on petitioners Titus' motion for new trial (*See* State of Illinois Third District Appellate Court Case No. 3-17-0428, R4, Report of Proceedings, lines 22 – 24 *then see* State of Illinois Third District Appellate Court Case No. 3 – 17 – 0400, Appellees' Reply Brief, Argument, *then see* Appendix, State of Illinois Third District Appellate Court's October 25, 2018 issued Opinion, Analysis, pgs. A7 – a10).

This Court should take judicial notice that in addition to the failure on the part of the respondents to seek leave of court to submit a sur-reply to challenge petitioners Titus' appeal reply brief's raised preliminary matter. The argument which the respondents presented in their appeal response brief was not first plead before the trial court during the hearing held on petitioners Titus' motion for new trial, and the respondents' argument did not play any role in the trial court's decision to deny petitioners Titus' motion for new trial. Therefore, there did not exist any bases, either in fact or in law, for the three panel judges of the State of

Illinois Third District Appellate Court to ignore strict enforcement the holdings established by *Wood*, *Kontrick*, *Fretag*, *Weigand* and *Baptist*, as sought of the three panel judges of the State of Illinois Third District Appellate Court to consider, as placed before them in petitioners Titus' appeal reply brief.

This Court should take further judicial notice that petitioners Titus pointed the three panel judges of the State of Illinois Third District Appellate Court's attention to the failure on the part of the respondents' response brief to strictly comply with the mandatory requirements of sub-sections (6)(7) of section (h) of Illinois Supreme Court Rule 341, as required by section (i) of Illinois Supreme Court Rule 341, as an additional bases for striking the respondents' appeal response Brief. Yet, the three panel judges of the State of Illinois third District Appellate Court (for reasons known only to them) acted as if sub-sections (6)(7) of section (h) of Illinois Supreme Court Rule 341 did not possess any force of law when it came to a self-represented litigant emphasizing the need to strike a response brief of an attorney at law represented appellees' response brief for failure to strictly comply with the mandatory requirements of Illinois Supreme Court Rule 341(h)(6)(7).

As further evidence supporting petitioners Titus appeal reply brief's preliminary matter concerning the bases for striking the respondents' appeal response brief. Petitioners Titus pointed out that the respondents failed to comply with Illinois Supreme Court Rule 342(a)'s requirement of including an Appendix to show the existence of documentary evidence and other materials to support

any of the pleadings presented in their appeal response brief (*See* State of Illinois Third District Appellate Court Case No. 3-17-0428, Plaintiff-Appellant Clementine Titus' Reply Brief, Argument IA, p. 4, para. 3), which the three panel judge equally neglected to address in their October 25, 2018 issued Opinion (*See* Appendix, State of Illinois Third District Appellate Court's October 25, 2018 issued Opinion, pgs. a3 – a10). The Illinois Supreme Court simply ignored addressing all of the improprieties committed by the Circuit Court of the Twelfth Judicial Circuit, Will County, Illinois, in the first instance, and by the State of Illinois Third District Appellate Court, in the second instance, without explanation. (*See* Appendix, Supreme Court of Illinois decision of May 22, 2019, p. a1). Therefore, this Court should grant this petition for writ for certiorari.

CONCLUSION

The record in this matter, when reviewed in its totality, show that from the very beginning to the very end of the proceedings before the trial court, particularly the proceedings beginning on December 1, 2016 thru to March 30, 2017, that the trial court clearly deprived petitioners Titus of equal and impartial justice under the law, as well as discriminated against affording petitioners Titus of their equal rights to sue, be parties, give evidence and the full and equal benefits of 735 ILCS 5/2-1005, Supreme Court Rules 201(a), 218(a), 233 – 239 proceedings, as allowable under Title 42 U.S.C. Section 1981, and the deprivation of those enumerated activities under Title 42 U.S.C. Section 1981(a) rendered the Spirit of Article IV Section 2, and the Due Process Clauses of the Fifth and Fourteenth

Amendments of the Constitution for the United States of America, null in void.

Therefore, based upon the aforementioned, the fairest and just decision for this Honorable Court to make, as the Guardian of the Law, would be that of granting this Petition for Writ of Certiorari, and remand this matter back to the trial court with direction to begin the proceedings anew.

Respectfully submitted

By _____
Charles Titus
Self-Represented Petitioner

By _____
Clementine Titus
Self-Represented Petitioner

Charles & Clementine Titus
In care of 306 East Jackson Street
Municipality of Joliet/Will County
Republic of Illinois [60432]
Real Land North America
(815) 768-0543

CERTIFICATION OF SERVICE

The undersigned Self-represented Petitioner certifies under penalty of perjury under the Laws of the United States of America that a copy of this Petition For Writ of Certiorari was served upon the Respondents' attorney at his office of record as addressed below by personal hand delivery on the 20th day of August, 2019, before the hour of 5:00p.m.

_____
Charles Titus

ROUSKEY AND BALDACCI
Attn: Attorney Robert J. Welz
210 North Hammes Avenue
Municipality of Joliet, Illinois 60435