CASE NO. 19-7554

IN THE

SUPREME COURT OF THE UNITED STATES

Roger Hillygus et al.

Appellant

vs.

Frances Doherty et al.

Respondents- APPELLEE'S

ORIGINAL

ON A PETITION FOR WRIT OF CERTIORARI TO

The 9th Circuit Court of Appeals

Appeal No. 19-15137

Prepared by:
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A. QUESTIONS PRESENTED FOR REVIEW

1. Did the trial court err when it dismissed with prejudice all of Plaintiffs' claims under 42 USC § 1983 when Plaintiff Roger Hillygus has suffered false arrests?

2. Did the trial court err when it dismissed with prejudice Plaintiffs' claims against the Private Professional Guardian and her employees when they illegally isolated, drugged, kidnapped, and human trafficked Susan Hillygus through a fraudulent Guardianship case, Stole firearms belonging to Mr. Roger Hillygus, through perjured testimony locked Mr. Hillygus out of the trust residence, broke a vested land trust selling the Family Residence for invoices due to the lawyers, summarily terminated his Powers of Attorney for Property and Health Care all without due process, notice or trial, and then violated a deed and trust filed with the county.

3. Did the Trial Court erred when it dismissed the Original, First and Second Amended Complaints for failure to be "clear and concise"?

4. Did the Ninth Circuit Court Erred when it dismissed each and every Petition for a Fee Waiver after the court requested and received the Petitions regarding the petitioner's indigent status and disability.

B. LIST OF PARTIES

Frances Doherty Individually,
Washoe County Clerk Jacqueline Bryant,
The Second Judicial District Court in Washoe County, for the State of Nevada,
Judge Frances Doherty, Employee State of Nevada, Attorney General Adam Laxalt,
Scott Freeman Chief administrator of the Second Judicial District Court, Washoe County, NV, employed by State of Nevada, Attorney General Adam Laxalt,
Patrick Flanagan, Chief Administrator District Court, State of Nevada (Deceased),
The Washoe County Board of County commissioners,
Kitty Jung, Commissioner,
Bob Lucy, Commissioner,
Jeanne Herman, Commissioner,
Commissioner Vaughn Hartung,
Commissioner Marsha Berkbigler,
Judge David Clifton, Employee of Washoe County,
David Clifton in his personal capacity,
Reno Justice Court, a court serving Washoe County,
City of Reno, Reno City Council,
State of Nevada, Attorney General Adam Laxalt,
Washoe Legal Services Domestic Non-Profit Corporation,
Washoe Legal Services Board of Directors,
WLS President Austin K. Sweet Esq.,
David Spitzer Esq., Employee WLS
Todd L. Torvinen Esq. Chartered P.C.,
Todd L. Torvinen, individually,
Robin R. Renwick, Individually,
Robin R. Renwick, and as guardian, of H. E. Hillygus,
Robin R. Renwick as co-guardian, S. L. Hillygus and co-trustee, The Hillygus Family Trust,
Kaycee Zusman, Individually,
Kaycee Zusman as Guardian of S. L. Hillygus,
Kaycee Zuzman Trustee of the Hillygus Family Trust,
Kaycee Zusman managing partner of Fiduciary Services of Nevada LLC,
Robert Zusman managing partner of Fiduciary Services of Nevada LLC,
Robert Zusman, Individually
Deborah S. Bowers, Individually,
Kelly K. Lund a.k.a. Kelly Kathleen Wozniak, Individually and as Guardian and Trustee,
Fiduciary Services of Nevada LLC d.b.a. Lund Enterprises LLC,
Lund Enterprises LLC,
Kelly K. Lund Managing Partner Lund Enterprises LLC,
Daniel D. Lund Managing Partner Lund Enterprises LLC,
JEA Senior Living, Jerry Erwin Ass. Inc. a Foreign Corp.,
Debra A.W. Fredericks Ph.D., d.b.a. Integrated Behavioral Healthcare
Washoe County Sheriff's Department,
Washoe County Sheriff Chuck Allan, and Chuck Allan individually,
Washoe County Deputy Sherriff Captain Jerry Baldridge, and Jerry Baldridge individually,
Washoe County Deputy Sheriff Lieutenant Greg Herrera, and Greg Herrera individually,

Washoe County Deputy Sheriff John Macken, and John Macken individually,
Ryan J. Earl Esq. Guardian Ad Litem,
Gordon Muir Esq.
Hawkins Folsom, & Muir P.C.,
Don Leslie Ross Esq.,
Michael W. Keane Esq.,
Woodburn and Wedge a Chartered Domestic Professional Corporation,
Stephen Craig Moss Esq.,
Michael B. Springer Esq., Silver State Law LLC.
The Barber Law Group Inc.,
Joel Bennett Barber, President and registered agent,
Ryan J. McElhinney Esq. Associate, Barber Law Group,
The Gunderson Law Firm P.L.C., President Mark H. Gunderson,
John R. Funk Esq. Associate, Gunderson Law Firm,

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D. Statement of Jurisdiction

The court's jurisdiction is invoked under 28 U.S.C. 1254(1), also Pursuant to Supreme Court Rules 13.5, 14, 22 and 30, 33.2, 39 Petitioners respectfully request a Writ of Cert along with all supreme court rules which require the citing of the rules to allow this federal case to proceed to appeal with the Supreme Court of the United States regarding this timely appeal during the year of 2019 to file a Petition for a Writ of Certiorari to review the NINTH CIRCUIT Court Decision in the Case of Roger Hillygus et. al. Vs. Frances Doherty et. al. a timely Pro Se Informa paperis appeal, decided by order is in appendix "A" December 21, 2018, a petition/motion for rehearing/reconsideration was filed January 18, 2019, but not decided on by the Federal Judge Du. A timely extension of time was filed September 24, 2019, per the letter post marked September 30, 2019 by the Clerk of the Supreme Court granting petitioner 60 days to refile this Writ of Cert. Which was timely filed by post mark Wednesday November 27, 2019.

INTRODUCTION

This case is in fact legitimate, the facts speak for themselves, and it is not frivolous or exaggerated. However, what makes this case so interesting is the number of involved individuals who either willingly or unwillingly side with taking people's rights, liberties, and freedoms away in the name of justice. This has been called the "Deception of Protection" by Theresa Kennedy of elderdignity.org the anatomy of an involuntary guardianship, as seen on YouTube. Hundreds of thousands of elders are being involuntarily conscripted into unnecessary guardianship every day, and the number is only going to grow as the baby boomers reach the age of retirement. What should alarm the justices is if this can happen to our grandparents, parents, and loved ones it could happen to "YOU", or the fifty or sixty year old children who someone claims they will "protect" by imposing a guardianship, upon them. Before any guardianship should be imposed upon anyone it should be done by a jury of their peers, not a judge who excludes; expert witnesses, doctors, bankers, neighbors, family, testimony, trials, evidence, affidavits, etc. as in the existing case at hand. No trial, no testimony, no depositions, no interrogatories, no affidavits, no motions in limine, no trial statements, no mediation statements, JUST HEARSAY, innuendo, perjury, subornation of perjury, false documents, lies, falsehoods, and racketeering. Because once the guardianship is formed, the lawyers are free to submit fee requests, invoices, billing statements, and continue to charge the WARD or "PROTECTED PERSON" from well-intentioned family members. Just like this case which has yielded twenty plus attorneys who have received close to one MILLION DOLLARS from Susan Hillygus and her trust which was set aside for her benefit. Not to mention the heirs to the trust who are beneficiaries to the trust. Please explain to me, "How my mother Susan Hillygus has benefitted from the courts involvement which has caused her to be; locked up, institutionalized, neglected, abused and

overcharged for the protection she is receiving from the court having invaded her life? Especially since it is against her wishes, i.e. (Trusts documents, POA's, all pre-estate planning contracts, civil rights, liberties, freedoms and the principals the country was founded upon, known as the Constitution of the United States of America.

Plaintiffs filed a pro se Complaint in Federal District Court against all the individuals involved in plundering all of Susan Hillygus' assets and then through isolating and drugging her in a locked facility, she was institutionalized against her will. The Second Amended complaint contains the following causes of action: 42 USC § 1983, Wrongful Eviction, False Arrest, and Trespass upon Chattels, Conspiracy and Intentional Infliction of Emotional Distress along with breaches, and malpractice.

The Federal District court found that Plaintiffs did not and could not state proper causes of action in Federal Court and dismissed some of the Federal causes of action with prejudice against the "Judges" and without prejudice the causes of action against the lawyers. They dismissed the State causes of action without prejudice. Plaintiffs believe they have stated proper causes of action under Federal Law and they do not want to be returned to State Court where all of the egregious breaches of their civil rights originally occurred and the court is biased against someone who stands on rights and principal.

STATEMENT OF CASE - THE 9TH CIRCUIT DECISION

This Writ of Cert is being filed by Appellants by Order which issued on June 27, 2019 by a three judge panel consisting of Justices Clifton, N.R. Smith and Friedland. In the Order, the Justices basically decided that the severe abuse and neglect of Susan Hillygus 1) was warranted;

2) was not of concern to the U.S. Federal Court System; 3) and there was no remedy which could be brought in the Northern District of Nevada for; ADA violations, RICO, the abuse, kidnapping, and human trafficking of Susan Hillygus because the original trustee Mr. Roger Hillygus "had no standing", inasmuch as none had been appointed Executor. In addition, it was not a concern or held to be a remedial cause of action that Plaintiff Roger Hillygus had been falsely arrested numerous times after the PPG (private professional guardians) all filed false police reports against him, and/or colluded and/or suborned perjury with attorney Torvinen to file false police reports against him resulting in False Arrest and False Imprisonment, all of which were promptly resolved.

The Plaintiff's vigorously refute that they have no remedy in Federal District Court for violation of their civil rights, and in addition they have not asked the Federal District Court to act as an appellate court for them. Since the guardianship file can be publicly viewed and printed, and because it was unconstitutionally placed into jurisdiction in the first place, there is a foundation of corruption to be built upon and discovery can and will provide the facts.

The Plaintiffs in State Civil Court have filed a unanimous jury verdict citing all the constitutional authorities to vacate in Guardianship court's jurisdiction in this case GR14-00159 and PR14-00025. Until the jury verdict is acknowledged by a rendering of law, it has force of law and is valid. The transfer of authority back to Mr. Hillygus is still in the process, as the conspirators are attempting to re-kidnap Susan Hillygus back into a locked facility, further isolating her from her son and excessively billing against her assets. Nonetheless, the jury verdict of the guardianship case will not affect the Federal District Court proceedings on the torts which the Defendants committed, either singly or jointly with others, in a conspiracy to deprive the

Plaintiffs of their civil rights and property which was stolen and/or confiscated without due process by the RICO conspirator's as named defendants.

Because the case involves the institutionalism of an elderly woman against her will, her false imprisonment in a string of nursing homes where she never saw the light of day again because she was drugged, neglected, isolated and human trafficked and her son had to stand idly by and watch this nightmare unfold and could not do anything about it, except notice the court and parties the case would be heard by a jury, the case is clearly exceptional in nature and demands the strictest of scrutiny by this honorable U.S. Supreme Court.

For these reasons, the US Supreme Court should reverse and remand this case to the Federal District Court with instructions regarding the Second Amended Complaint.

a. STATEMENT OF THE CASE - FACTUAL BACKGROUND

Herbert and Susan Hillygus formed a family trust with the help of an attorney Steve Moss Esq. of Reno, Nevada back in 1993 while both parents of Plaintiff Roger Hillygus were still employed and thinking clearly. The trust included POA's (power of Attorney) both durable for finances, and healthcare decision making and a successor trustee if and when the time was needed for family decision making. The parents chose their son Roger over their daughter Robin to handle all family decisions. They could have chosen both children to make decisions together, or they could have even chosen their daughter, but Herbert aka (Gene) and Sue aka for (Susan) decided to place the responsibility and authority with their son who had graduated top of his class, received a scholarship to study abroad, and was now a College of Business graduate from the local UNR University Nevada at Reno. He was even out of the country travelling around the

world back in 1993 and had no idea his parents were placing their lives, potentially in his hands. But they properly raised both children to adhere the moral values of society and with the assistance of a local Reno attorney (Moss named defendant) they knew they had made the right decision. The trust remained unchanged for twenty years, and eventually decisions were needed regarding both parents who had now (2009) been diagnosed with Alzheimer's and/or Dementia. Gene and Sue were still maintaining the ADL's (activities of daily living) However, more and more assistance would be needed as time moved on. Gene and Sue were public servants, who served their community as educators. Both as teachers, and administrators, they taught their family to work hard, save and enjoy life. At the peak of their net worth Gene and Sue had managed to invest and save over 1.5 million dollars. Those greenbacks, and bonds, and real property are at the heart of the white collar crime, RICO racketeering, perjury, theft, and corruption involving this case. What ends up happening is the State, or Local government believes they know better how to manage someone's life savings, provide care, and decision making for all elderly who come into the court with a petition for guardianship. The court uses the "Deception of Protection" to take over the rights, freedoms, and liberties of United States Citizens who lose all their rights, assets, and life once a guardianship is imposed. This is what one would expect from North Korea, or Communist China, or the former Soviet Union or Nazi Germany. Because once the court takes jurisdiction over your loved one, the one they claim they are "protecting" they appoint 4 bar members/professional experts, "paid with your money to protect you from the ones you placed as your POA's and trustee". The four people include; a court appointed attorney, another court appointed attorney called a GAL (guardian ad litem), a guardian or a PPG (private professional guardian, and finally they send you to a locked facility or institution to be isolated and kept imprisoned away from those evil family members, who they

claim, don't really care for you. This is happening all across the U.S. of America and it needs to be stopped, it is a billion dollar industry and is a violation of elder rights, civil rights, family bonds, ethics and morals, **b. THE ABUSIVE PROBATE GUARDIANSHIP PROCEEDING.** These civil cases known as GR14-00159 the guardianship of Susan Hillygus, and PR14-00025 the trust case filed in the Second Judicial District Court have no basis of fact and were filed fraudulently and frivolously by the defendant racketeers in the Federal case who with knowledge of forethought, willfulness, and intention attempted and succeeded to fraud the court. This was done by undue influence, exploitation, and elder abuse over my parents whose wishes were well documented through POA's and Trust documents. The trust was even funded, and explained how the succession was to take place. This case should have been dismissed, but somehow mysteriously just kept creeping along under the false guise of the courts involvement. What ends up happening is the defendant racketeers want the case under the jurisdiction of the court so they can submit billing invoices and be granted huge paydays. These cases violate the civil rights of both Susan Hillygus, Roger Hillygus, Debbie Hillygus, Herbert Hillygus, their trust "The Hillygus Family Trust" and the beneficiaries to the trust. Through the court involvement it is certain the judge has violated the NRS statutes of the plaintiff's, the court rules, the civil rules of procedure, and the case law which explains past cases. Without truth, honesty, integrity the judicial system is destined to fail.

c. THE FALSE ARREST AND IMPRISONMENT

A hearing was held for contempt. However, the NRS statues were not followed regarding; objection to the judge hearing the contempt of her order, no affidavit or testimony on behalf of the petitioner. However, affidavits, and testimony was provided by Mr. Roger Hillygus. He

explained and provided affidavits as to how he squared funds used. The judge agreed that Mr. Hillygus was well within his rights to retain assets per an order of this court, but refused to allow Mr. Hillygus any trustee fees, guardianship fees, caregiving fees for his wife, out of pocket fees spent to care and handle the family trust business, and expenses with receipts, and demand letters to the newly appointed guardian and trustee. The total amount owed to Mr. and Mrs. Debbie Hillygus was well north of two hundred thousand dollars ($200,000.00) which they were entitled but never took or received. Instead the judge ordered Mr. Hillygus placed under arrest for $1,500.00 dollars. This was a show of intimidation and a threat to Mr. Roger Hillygus to back off and stay in his lane, because the judge could use the WCSO deputies and her power to make life miserable for Mr. Hillygus.

d. ADA RETALIATION

During the time that Plaintiff Roger Hillygus was visiting with his mother, he was subjected on a continual basis to a barrage of insults, defamatory comments, and threats. He was told if he filed any complaints about the treatment of his mother, or allowed his wife Debbie to talk to, visit with or in any manner communicate with Susan, his visiting privileges would be terminated permanently. Roger was also told that if he filed any complaints about the treatment of his mother, or allowed any manner to communicate with his mother Susan, his visiting privileges would be terminated. Because Susan Hillygus owns a home free and clear of 45 years, every doctor explained it was best to stay in the home with support and care of family and friends. Because Mr. Roger Hillygus is a retired firefighter EMT (Emergency Medical Technician), and his wife was 35 years in the medical field, and Susan chose Roger as her POA, successor trustee, and he was willing and able to care for his mother per her wishes. Placing her in a locked facility

against her wishes is a violation of her civil rights, against the ADA guidelines, NOT the least restrictive environment and kidnapping and human trafficking of an elderly person, because the guardian, GAL, Court appointed attorney are all receiving "Susan's" money to keep her locked up against her wishes and rights.

e. WRONGFUL EVICTION

The Subject Property had been placed into an irrevocable land and Trust, (The Hillygus Family Trust) and upon information and belief, Roger and his wife were the beneficiaries of a vested Land Trust and had the right to be on the premises. They were to receive the Subject Property after his Mother had passed while being cared for in her home of 45 years per her request to her son.

This did not happen. The court summarily broke the vested Land Trust and ordered it sold, "the Subject Property", all without Notice to the beneficiaries and/or a trial even though a demand for trial had been filed and placed upon the record. Plaintiffs Mr. and Mrs. Hillygus were entitled to Notice, Service by the Sheriff, a Petition to Invade the Trust, Discovery and a trial on the Merits as a deed of trust and promissory note had been filed upon the trust property.

The PPG conspired with the WCSO personnel and a Reno Justice Court Judge David Clifton to summarily evict, without jurisdiction. Because the District Court Judge Frances Doherty had taken in rem jurisdiction of the trust property, but she was under recusal and had no jurisdiction to transfer the in rem property from State District Court to the County Justice court a lower court. No advance notice was provided. Plaintiffs Roger and Debbie were told not to return to the trust home where they had resided for 3 to 4 years or face arrest. They were followed by helicopter

from court and swat broke and entered the home and vehicle of Mr. Hillygus and his personal property was stolen under the watchful eye of the WCSO deputies. They then received extortion letters claiming they had to pay to receive their personal property that was left after the cops and guardians stole what they wanted.

F. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

Mr. Hillygus and his family was continually subject to a barrage of negative comments, nasty defamation, false light, slander and libel against him personally. The PPG (Zusman, Bowers, and Renwick) all berated the Hillygus' constantly, they falsely and maliciously filed with the court that this was the fault of Mr. Roger Hillygus. The PPG defendants falsely accused Plaintiff Roger of stealing a trust car, when in fact the car belonged to Mr. Hillygus. The PPG without notice or due process, broke into Plaintiff Roger's truck and took valuables to include firearms which were reported to the WCSO and the insurance company, who paid out a claim of theft by the PPG (Zusman, Renwick, and Bowers). The PPG went through Plaintiff Roger's and Debbie's personal belongings, taking whatever they wanted. The theft, vandalism and unauthorized access to a private trust property caused Plaintiffs Roger and Debbie great emotional distress, resulting in anxiety attacks, panic attacks, depression, sleepless nights and an inability to focus or carry on normal activities. In addition, Plaintiff Roger is medically retired, and suffers from his surgeries. The lack of hot water and heat for long months while living at the trust property caused a great deal of emotional distress with Plaintiffs Roger and Debbie. The conduct by the PPG and the conspiracy with others, most notably

The WCSO deputies, the GAL(Guardian ad litem) Ryan Earl Esq., and WLS(Washoe Legal Services) Dave Spitzer was extreme and outrageous, and intended to cause severe emotional

distress and in fact did cause severe emotional distress to Plaintiffs Roger and Debbie. The WCSO directly participated in the wrongful eviction of Roger and Debbie from the Trust Premises. They had no legal court order, they never properly served papers to evict. Rather, they used the police to threaten arrest in order to evict Roger and Debbie Hillygus. As a result of the above tortuous actions, the named Plaintiffs have suffered and continue to suffer from severe acute and chronic adverse psychological effects.

G. PATTERN/PRACTICE – PRIVATE PROFESSIONAL GUARDIAN

The unlicensed PPG was appointed as Plenary Guardian over Susan Hillygus on or about April of 2016 by falsely claiming that Plaintiff Roger was not giving his mother proper care and in other manners abusing her. They made repeated statements to the court that Susan had been subject to abuse by her son for years and had been financially exploited. All of these claims were false and unfounded. In fact, the son Roger had engaged the Sanford Center For Aging and worked with licensed clinical psychologists, employed the Washoe Senior Center meals and wheels a federal nutrition program who sends social workers twice a week to check on the elderly, RSVP (Retired Senior Volunteer Program) to check on Susan Regularly, also worked with the Continuum an adult day care facility. Roger also had the full support from the medical doctors, and dentists, and local banking and financial accounts held in trust. He always received excellent evaluations of his mother's care and comfort by the State agency he complied with. The PPG has a long history of making false claims to take over guardianship cases and they then immediately engage in the following wrongful conduct; a) summary wrongful eviction of a loved one; b) wrongful eviction of someone who actually has title to the Subject Property; c) isolation of a Disabled Person; d) issuance of a DNR when the Disabled Person has not provided

authorization and there is no court order; e) dispensing psychotropic drugs without the authorization of the Disabled Person or a court order; and e) allowing the theft, conversion and vandalism of the Disabled Person's Real Estate without filing an insurance claim or police report or absconding with insurance proceeds; and f) drugging into compliance the Disabled person to human traffic without a court order and summary orders issued without Due Process as required by law to take the rights of someone away.

DETAILED LEGAL ARGUMENT

In its December 21, 2018 Order and Decision, the Reno Federal Court Judge Du found that all of the following doctrines applied which would bar all Causes of Action brought by Plaintiffs against the Defendants: **1) THE PROBATE EXCEPTION** – despite the fact that Plaintiffs explained in great detail that the probate exception was a narrow one and only applied to routine probate matters such as deciding who would be executor, will disputes and inheritance disputes, the Federal Court routinely declared they would apply it to the instant case. None of those three doctrines apply at all to cases such as these where there were numerous civil rights violations, violations of due process, lack of jurisdiction (Susan Hillygus was never served with notice of the Guardianship by the sheriff, nor were all the trust beneficiaries), the guardianship case was a fraud, done without notice or any finding of fact, conclusions of law, etc. and other egregious violations of due process, the 4th and 5th amendments and the 14th amendment; **2) THE *YOUNGER /ROOKER-FELDMAN* DOCTRINES DO NOT APPLY-** Because the guardianship was never properly filed, because it was a fraud upon the court. The Federal Complaint makes it clear that the plaintiffs are not asking to sit in the role of appellate court for both the guardianship and decedent's estate proceedings for Herbert and Susan L. Hillygus. The

file has been tampered with not only once, but twice by Judge Doherty in both September of 2016 and July of 2017. As a result of her actions she was removed from all adult guardianships statewide through an administrative order, then forced to retire 8 years early just last month (August 8, 2019). Mr. Hillygus can and will appeal all improper decisions. The court also hand cuffed Mr. Hillygus deeming him a vexatious litigant, even though he has never filed a complaint in Nevada state court. As of the date of writing of this pleading, when Plaintiff Roger recently went to the Offices of the Clerk of the Supreme Court of Nevada he has to file documents as a vexatious litigant. In any case, between the two, clerks none of the documents to dismiss the guardianship case have been filed in the case. Moreover, the son of Susan, Roger has filed the instant lawsuit on two bases: 1) violations of their own civil rights and constitutional rights under the1st, 2nd 4th, 5th and 14th Amendments to the US Constitution, and in addition, it now appears that Plaintiffs must cite the Nevada Constitution which provides that

> SECTION. RIGHT TO REMEDY AND JUSTICE
> **Every person shall find a certain remedy in the laws for all injuries and wrongs which he receives to his person, Privacy, property or reputation. He shall obtain justice by Law, freely, completely, and promptly.**

Mr. Roger Hillygus is an heir to the Estate of Susan Lynn Hillygus and he not only has his own civil remedies for breach of his civil rights, but he also has an Expectation of Inheritance and that Inheritance has effectively been stripped away from him by his not being able to file suit under 42 USC § 1983 and related torts when the defendants conspired to deprive him of his rights in Probate Court. The Probate Court is a court of limited jurisdiction for probate matters for decedents and disabled adults only and it does not entertain causes of action sounding in tort or civil rights violations for Children of a Disabled Adult or Decedent. Accordingly, none of the

probate exception, *Younger* or *Rooker Feldman* should apply to the instant cause of action brought in the Subject Complaint or2nd Amended Complaint.

In particular, without due process and notice, the PPG Guardian, via Zusman and Bowers of Fiduciary Services of Nevada. Todd Torvinen, filed a motion to sell the Hillygus Family Trust to fund his plundering of the Estate. This family trust property despite the fact it had been placed into a vested Land Trust with Title and Trust that Roger Hillygus and Robin Renwick were the stated beneficiaries. The records of the Sheriff's department show no service whatsoever on either of the trust named beneficiaries to include Mr. Roger Hillygus. Accordingly, the due process rights of Roger and Debbie Hillygus were violated, without their knowledge or consent.

As noted above, the *Younger* Doctrine and the *Rooker Feldman* Doctrine and the Probate Exception were only meant to be narrowly applied to specific cases. The Plaintiffs have not alleged a routine failure of the Probate Court to decide a dispute of who will be an Executor, an inheritance dispute or an asset distribution dispute. Their Original and Amended Complaints were each narrowly tailored to address the issue of violations of their civil rights and due process–rights for; ADA violations and RICO which there is no remedy in Probate Court. What the Plaintiffs have alleged are torts against persons who have harmed Susan L. Hillygus, an elderly disabled and vulnerable woman, and only on behalf of himself in his course of conduct for protecting his mother. It is not possible to even bring these torts on behalf of the beneficiaries in a Probate Case involving the guardianship of a disabled adult, or even in Susan L. Hillygus case. These tortious actions for damages must be brought in a separate civil action against each of the individual persons directly involved.

If the 9th circuit is saying the District Courts cannot entertain such actions, then effectively there is no forum in which these egregious tortious actions may be brought, and effectively the son, his mother, and deceased father have been ousted from both the US and Nevada Court Systems, all in contravention to the Nevada Constitution which provides for all harm done to a Nevada citizen, the courts must provide an appropriate remedy.

3) VIOLATIONS OF DUE PROCESS AND CIVIL RIGHTS VIOLATIONS

1) False petition for emergency temporary guardianship filed violated son's constitutional rights; and guardianship without due process violated son's POA and successor trustee appointments as constitutional right violations.

A guardianship case was filed against Susan L. Hillygus on 6/18/14 and she was not served as shown by the records of the court. She was 75 years old at the time. The Petition was filed by Robin Renwick and Todd Torvinen Esq. her divorce attorney. This was more than frivolous it was a fraud upon the court as cited in court documents. Then again on November 25, 2015 they alleged an "emergency temporary guardianship" was needed, but this was a blatant falsehood. Susan L. Hillygus at the time was living in the trust home under the care and control of Roger and Debbie Hillygus. No such emergency ever existed. The pleading filed was false and fraudulent by Todd Torvinen Esq. The report stated blatant lies such as Roger was the subject of numerous reports of abuse (not true, he has never been arrested or received any communication from any agencies on the condition of his mother, in fact, monthly reports from the caregiver service indicate she was receiving "excellent care"–evidence of this will be provided). The entire filing was nothing but a lie. There was absolutely no basis for the "Emergency Guardianship" and it was based upon a pack of lies from Robin Renwick, and Todd

Torvinen Esq. The entire report was a pack of lies calculated to put Susan L. Hillygus under a false guardianship.

4) ISOLATION FROM MOTHER VIOLATED CONSTITUTIONAL RIGHTS.

Son Roger was never served with a court order outlining his inability to visit his mother, in fact just the contrary existed. The court order indicated that Mr. Roger Hillygus was to visit the locked facility Stone Valley in Reno on odd numbered days. So when he was visiting on July 17, 2018 he was issued a trespass warning from the facility and the guardian Robin Renwick that the visit was upsetting Susan and Roger and his witness needed to leave as the Reno Police Department had been summoned and a trespass warning issued, if Mr. Roger Hillygus was to return to the facility he would be arrested. This violated all of their civil rights, drained the estate with unnecessary nursing home placements and the Hillygus family were isolated from their beloved mother when they should have had a constitutional right to see their own mother. The facility, the PPG, Robin Renwick, and the RPD violated these important constitutional rights of family to visit family and to break the family bond.

My mother has spent over 3 years against her will in a series of nursing homes, where she was narcotized with psychotropic drugs against her will and consent. She was not provided with a telephone in her room so she could contact her beloved son at will. (See Federal Nursing Home Regulations, Patient's Bill of Rights, 42 CFR § 483, and 42 CFR 483 (e) (1-8); 42 CFR (g) (6)– right to a phone). § 483.10 Resident rights.

> **(a)Resident's rights. The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the facility**, including those specified in this section.

(1) A facility must treat each resident with respect and dignity and care for each resident in a manner and in an environment that promotes maintenance or enhancement of his or her quality of life, recognizing each resident's individuality. The facility must protect and promote the rights of the resident.

(b)Exercise of rights. The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States.

(1) The facility must ensure that the resident can exercise his or her rights without interference, coercion, discrimination, or reprisal from the facility

(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights and to be supported by the facility in the exercise of his or her rights as required under this subpart.

(j)Grievances.

5 (e) Respect and dignity. The resident has a right to be treated with respect and dignity, including:

(1) The right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

(1) The resident has the right to voice grievances to the facility or other agency or entity that hears grievances without discrimination or reprisal and without fear of discrimination or reprisal. Such grievances include those with respect to care and treatment which has been furnished as well as that which has not been furnished, the behavior of staff and of other residents; and other concerns regarding their LTC facility stay.

The court and the PPG limited my Mother's visits with her son. She was often found dirty and filthy and so drugged she could barely talk or lift her head, another violation of her civil rights. She could never see because the PPG and nursing home staff made sure she never had her glasses. Her son Roger brought glasses to her several times and almost immediately they were removed by nursing home staff.

5) COMPLAINTS UNDER ADA, RETALIATION VIOLATED HER RIGHTS.

Roger Hillygus continually complained to the Ombudsman, the AOC Kate Mckloskey, and the court about the fact his mother was being neglected and abused at Stone Valley, and the PPG in retaliation limited his visits. Retaliation for protecting an elderly, disabled adult is prohibited under the ADA or Americans with Disabilities Act. After the complaints were filed with the authorities and relayed to the nursing home staff, the PPG and Todd Torvinen retaliated by banning Roger Hillygus from visiting with his mother at all and he was even banned from waving to his mother.

This is a violation of USC § 1983. As a result, My Mother Susan Hillygus was granny napped, kept in a series of nursing homes against her will and consent and never returned home, and never saw the light of day again. She was drugged with psychotropic drugs against her will and consent. These drugs are not FDA approved for use in persons over age 60 or those suffering from dementia, but the PPG allowed this abuse to continue.

6) PLAINTIFF ROGER WAS HELD IN CONTEMPT WITHOUT DUE PROCESS, A SUMMONS, PETITION, DISCOVERY, JURY TRIAL, ETC.

Ryan Earl Esq. the GAL for both Herbert and Susan filed an illegal and improper order to show cause hearing in October of 2015 for payment he did not receive for the services he was to provide to his client Herbert E. Hillygus. His job description outlines the duties and responsibilities he is to provide to his client, because he was appointed by the Judge. Of his duties he failed at 90% of them, also he failed to speak with his client Mr. Herbert Hillygus. So when Mr. Roger Hillygus refused to pay Mr. Earl for services he failed to provide. Mr. Earl filed an improper order to show cause hearing. At the hearing Mr. Roger Hillygus again objected to the judge hearing the order, also Mr. Earl failed to provide an affidavit or testimony regarding his motion. However, Mr. Roger Hillygus did testify, and the bill should have been submitted to

probate because Mr. Roger Hillygus as the trustee refused to pay someone who failed at their duties, a right of the trustee to object to paying for frivolous fees. Instead, the court removed Mr. Roger Hillygus as the Trustee of the Hillygus family trust for violating an order to pay someone she appointed to the case, along with the other 4 lawyers who all benefited by keeping the trust and guardianship under her jurisdiction in order to enrich her sycophants. Accordingly Mr. Roger Hillygus and his mother's 4th, 5th and 14th Amendment civil rights were violated and as such he has made a valid claim under 42 USC § 1983. The case is still available for viewing or printing to the public, he has no idea what happened, yet his constitutional rights were clearly violated, and there is no remedy for this in the Probate Court. He is in the process of vacating certain orders and appealing them but his true remedy for damages lies in the US Federal District Courts.

7) FALSE ARREST AND IMPRISONMENT OF ROGER HILLYGUS.

Roger Hillygus was falsely arrested when the PPG conspired with Todd Torvinen to have him arrested in an attempt to constructively show him who was boss: Plaintiff Roger went to the Reno Justice Court and the WCSO to deliver document explaining the shame eviction was just that a shame. Because there was never a contract to rent, rent was never paid, the judge's order explained Susan Hillygus was to remain living in her home with Roger and Debbie providing care, the trust home was under a deed of trust, and promissory note and the rightful owners were willing and able to provide care to Susan Hillygus per her wishes. The trust home was the least restrictive environment and they had lived there for many years.

Certainly it is not within the duties of a Guardian of Susan Hillygus' Estate (FSON Kaycee Zusman, Debra Bowers, and Robin Renwick) to constructively evict a beneficiary of a

Land Trust by instigating a series of false eviction documents against lawful residents Roger and Debbie Hillygus.

The Washoe County District Attorney Christopher Hicks, along with his team Amos Stege, and counsel for the county are retaliating against Mr. Roger Hillygus for his Federal Lawsuit accusing the Reno Justice Court, and Judge David Clifton for RICO racketeering. Mr. Hillygus has been falsely arrested and imprisoned for kidnapping his mother. This is false, because the Nevada Constitution states my right to a jury trial in a civil matter is "INVIOLATE". Notice was filed with the Judge Eagan Walker citing the authorities which authorized the case to be heard by a Jury, i.e. (Nevada Constitution Art. 1, Sec. 3, the NRS (Nevada Revised Statute), the NRCP 38, &39, the court rules, the 7th amendment to the U.S. Constitution, and the 10th amendment explaining our rights are self-effectuating, case law ruled on by the Supreme Court of the United States. Because the right to a jury is "INVIOLATE", and a judge cannot prohibit that right, and the Notarized Jury Verdict was Unanimous, explaining the State did not through "Clear and Convincing" evidence take Susan Hillygus as a Ward of the State and lock her away.

8) THE PPG'S TOOK NUMEROUS ITEMS FROM THE TRUST RESIDENCE

Plaintiffs Roger and Debbie Hillygus legally resided with Susan Hillygus in the Trust home and as beneficiaries. Once illegally evicted numerous items were removed from both the home and garage: several valuable guns, valuable china, oil paintings and other antique doll collectibles) and Roger lost valuable computer equipment essential to his needs and care. This clearly violated Plaintiff Debbie and Roger's constitutional rights under the 4th, 5th and 14th amendments since the PPG, WCSO had no right to enter this residence without a warrant and take any valuables therefrom.

Thus, there have been numerous violations of the Plaintiff's constitutional rights and breaches of fiduciary duties by the PPG actors to the guardianship Estate of Susan Hillygus.

And the litigation is not over in probate court. Roger Hillygus has filed a Sworn Affidavit, and Reply to vacate the TPO. In addition, Plaintiff Roger Hillygus has already filed an appeal regarding VOIDED orders from a Judge who was removed by administrative order, but still filed and signed orders more than a month after being removed. He is also alleging his mother is being wrongfully imprisoned in a nursing home, abused and isolated in several nursing homes, etc.), the inventory from the Guardianship does not match the inventory he filed with the Probate court; numerous items are missing from the inventory, including numerous fine oil paintings worth $10k+, oriental vases worth $10k+, each, antique dolls, diamond rings, etc. All of this was on the Guardianship inventory filed by Mr. Roger Hillygus where are all these valuables now? Zusman filed an Estate inventory with all of these items missing and has not asked the PPG at all about where the items are. She needs to be removed as Administrator of the Estate of Susan L. Hillygus.

In addition, the attorney, Todd Torvinen was caught trading documents and information on the Guardianship case with another attorney racketeer. However, in attorney Torvinen's fee petition, he admitted that the documents and information with the PPG when the case was still active. He was the agent of the Trust Administrator, and the Administrator is responsible for his unlawful and illegal actions. Accordingly, the PPG should be removed. In fact the PPG Zusman removed herself without court approval and sold her business to her office manager an act of human trafficking, because the business relies upon the assets of people kept in locked facilities against their and their families' wishes.

EFFORTS TO OBTAIN AN ATTORNEY

In the 9th Circuit Courts Decision, second page, the Court believes that the District Court properly denied the Son's requests for a lawyer because they did not show detailed efforts (it should be noted at this point, the Courts seem to vacillates between the Petitioners "providing too many details" and "not enough details) In any case, when a pro se litigant goes to court, they are told to contact one of the numerous organizations for free or low cost legal services. The list is famous. Unfortunately, the list is also famous for telling all litigants that only a few minutes of help can be dispensed, and for sure, no lawyer will file an appearance on any case involving probate issues. Early on in this case, Plaintiff Roger contacted many agencies on "The List": Community and Elder Law Center, Pro Bono Advocates, and none of them would file an appearance on a Probate matter. None of them would touch a probate case. That was back in 2018 when Plaintiff Roger was told firmly no pro bono legal clinic would file an appearance on a case, let alone a probate case. More recently, in November 2019, Plaintiff Roger undertook the same exercise, contacting all the foregoing agencies, and he was told firmly they would not represent him. That is dozens of phone calls and hours of wasted time with no results.

All of this was explained to the trial court in a fairly detailed Original Complaint, and amended complaints and subsequent filing which occurred over the case being appealed to the Ninth Circuit. However, the Court wrote an opinion citing this Original Complaint was frivolous and they dismissed it but should have gave Plaintiffs 30 days to amend. While the court referred Plaintiffs to the "pro se assistance program", the Pro Se Assistance Program does not in fact draft complaints for pro se litigants, and even they could not tell Plaintiff Roger Hillygus exactly what

was wrong with the complaint. While the court states that the Plaintiffs told their story, the court asserted that Plaintiff did not state the elements of their claims, when in fact they did.

For example, Plaintiff Roger was never served in the Probate Court with any petitions, yet 1) he was the subject of a summary contempt order without due process and 2) his Mother's real property was held in a Land Trust with him and his sister as beneficiaries, but it was ordered sold and proceeds to pay the lawyers to the estate despite the fact she was never provided due process on this issue–notice, petition and trial. That is clearly a 42 USC § 1983 violation by the probate court and the PPG and council. Those are valid claims that those defendants should be answering to a federal Judge.

The trial court did not even discuss the other causes of action or what was wrong with each of them. In an opinion rendered on December 21, 2018 again the court dismissed the Amended Complaint without stating exactly what was wrong with any of the claims filed against the defendants. This opinion clearly repeated the allegations of the Amended Complaint, and the court seemed to understand the story of the abusive guardianship, yet the District Court judge again dismissed the Amended Complaint once again, not explaining what exactly was wrong and how it could be corrected. A visit to the Pro Se Program attorneys again did not result in any advice from them either as to what Judge Du exactly wanted to see in the Complaint. Plaintiffs had tried their best to condense over five years of an abusive guardianship proceedings. In the Guardianship case GR14-00159 Susan Hillygus had been continually drugged (illegal chemical restraints), had been place in 4 point physical restraints (also illegal), had been found dirty, in her own urine and feces on many occasions, had rarely been bathed, her estate drained and much of

it given to lawyers and the PPG, court room vendors, much precious artwork, vases, sterling silver, China had been taken by the PPG or had just disappeared.

On 6/6/18 again Plaintiffs filed a Second Amended complaint. In this Complaint, again, Plaintiffs tried to make their points clearer and more condensed. Again, with little explanation (how many pages of facts are acceptable, what elements exactly are missing from each cause of action claimed, etc.), again the District Court dismissed the Plaintiffs' complaint. However, this time, Court seemed to include a very good summary of what the Probate Court case was all about–an abusive guardianship of Mother Susan Hillygus. What is interesting about this analysis is that the District Court argues the Statue of Limitations issue, which of course can be waived by the Defendants if they do not assert it as an Affirmative Defense. Nowhere in its analysis does the District Court present any case law or argument for asserting Affirmative Defenses for the PPG and Stone Valley defendants. Further, the District Court conveniently side steps the concept of "continuing tort" which clearly extends the limitations period until the tortious activity ceases, this clearly was the date of isolation of Susan Hillygus and perhaps even beyond that date. The original complaint was filed May 8, 2018.

Perhaps the date of August 8, 2018 is the end of the tortious activity between the Judge Frances Doherty and the Defendants because this would constitute Fraud on the Court. In any case, this is an affirmative defense that the *defendants* would typically assert and not a District Court Judge. The District Court Judge did not ask the Hillygus plaintiffs about all of this, she just assumed her job was to defend all the defendants.

By making statements as to the affirmative defense of statute of limitations and ignoring voided pleadings, files cleansed, etc., it appears that Judge Du is acting as counsel for numerous

defendants, and she is not acting in her limited scope as to whether Plaintiffs have clearly explained what happened to them and then reasserting these allegations as the necessary elements to show their many valid cause of action.

The court does not understand how the Barber Law Group and Gunderson Law Firm were involved in the conspiracy, but this is the first time the court has ever asked that question. Both firms came onto the case and claimed the Trust was being railroaded and they could set the record straight. They took numerous retainer payments, and claimed they were hired by the Trustee Roger Hillygus. The lawyers won't respond to their state court subpoena for documents and records. But perhaps a subpoena from Federal Court might be more effective.

It is explained in the Complaints filed that Barber employees were the ones, presumably acting under the orders of the owner "Joel", to cut out three hundred dollars from the retainer, so that the amount was not the same as the 15 thousand dollars alleged to be taken from the trust and given to attorney's to represent the trustee and his mother Susan Hillygus. This is a well document technique employed in abusive guardianships.

Realtor Robin Renwick knows this and when a 3rd party recently called her she just giggled about how she got the listing "from an attorney" and "will do good on it." That is a very suspicious comment that needs additional discovery.

The trust property buyers the Williams likewise refuses to answer questions about the transaction when called.

The intentional destruction of Estate and Guardianship property is well known on all the probate blogs–NASGA, CEAR, www.probatesharks.com, www.marygsykes.com,

stopguardianabuse.org. and www.aaapg.net. The public has been made well aware of the perfidy of the Nevada probate system, but this court seems to be lacking knowledge in that arena. Yet, the probate blogs, Facebook and other reliable sources of information are reporting all the time that the events associated with Susan Hillygus, are not only true, but they can continue for years before the courts stop this nefarious and insidious activity.

THE INFORMA PAUPERIS APPLICATIONS

On the same date, Plaintiffs each filed an In Forma Pauperis Applications to waive the filing fee with each form indicating that each Plaintiff had little to no assets, owned real estate, and lived month to month only on benefits. They also filed a request to have an attorney represent them. In its review, the District Court erred in its denial of each request because the forms were complete. The Plaintiffs even filed beginning and ending dates of employment, and did recall much of that information. They fully answered all questions 4, 10 and 11. Clearly the Plaintiffs needed help and need an attorney. Plaintiff Roger did visit the Pro Bono Program, but the attorneys there did not offer help on the In Forma Pauperis ("IFP") forms.

Plaintiffs filled out more forms to proceed IFP. In the court's order on June 27, 2019 they stated it was a moot point. Nothing was said about Susan's application. In this Order, the Plaintiffs were advised to seek help from the Pro Se Program but again the Pro Se Program attorney did not help with the forms.

Plaintiff's filed a written motion for a court appointed attorney and a litigation representative for Susan Hillygus and deceased father Herbert Hillygus to be submitted to probate. However, this time, the Amended Complaint was dismissed with prejudice and the

IFP's were deemed moot. In its opinion the District Court basically stated all of Plaintiffs assertions (the drugging of Mother Susan Hillygus the illegal chemical restraints, the false arrests of Roger Hillygus, the breaking of a Land Trust and sale of the Family Residence, the isolation of Mother from her son were conclusory in nature and therefore the District Court Judge had the right to dismiss their Amended Complaint with prejudice.

Plaintiff Roger filed a Motion to reconsider dismissal of the First Amended Complaint. A brief was submitted the District Court Judge dismissed the complaint and in its Order noted that while the Plaintiffs reduced their complaint and the torts committed against him and his Mother in a 3to5 page Affidavit which explained details of the abusive guardianship. It was in this Opinion that the District Court judge took to arguing the affirmative defenses of the Defendants–tasks that they should have been doing themselves, had they been served. Basically, the District Court Judge said that what happened to the Plaintiff was impossible. However, the probate blogs and other blogs about Corruption in the courts of Nevada back up the Plaintiffs' assertions with story after story after story. What is happening to Susan Lynn Hillygus and this family should have never happened.

In any case, a story being implausible or impossible should not prevent these Plaintiffs from filing their Complaints. And, not filling out a question or two on long complicated forms should not be a reason not to grant them relieve. It should be noted that the Nevada Supreme Court has recently set up a commission to study abusive guardianships, however, they continue to place the abusers on the commission so nothing gets done. Roger Hillygus Plaintiffs indicated he was on a medical retirement and had little to no assets as he has been labeled disabled.

The District Court dismissed the Original Complaint on December 21, 2018, it dismissed the First Amended Complaint on the same day, and it should not have dismissed a Second Amended Complaint without explanation. In none of its decisions did the District Court provide a list or statement of how the deficiencies might be cured. It did not set a page limit or count limit. However, in the 12/21/18 dismissal order, it began to discuss an affirmative defense, the limitations period for certain counts, which should be impermissible. If the defendants do not assert this affirmative defense, then it is waived. The decision appears to be providing *sua sponte* legal advice to defendants that have not even been served or have filed their appearance.

STANDARD OF REVIEW FOR ALL ISSUES IS DE NOVO.

With regard to motions to dismiss a Complaint for failure to state a claim, the standard or review is de novo.

> We review de novo a district court's dismissal for failure to state a claim pursuant to § 1915A. *Slade v. Hampton Rds. Reg'l Jail*, 407 F.3d 243, 248 (4th Cir. 2005) (citation omitted).

B. DETAILED LEGAL ARGUMENT

i. The Dismissal of the Complaint and Amended Complaints was improper

On appeal to the 9th circuit Plaintiffs argued the following:

While the Court cited the Iqbal case for the proposition that a complaint must provide more than unadorned the-defendants-unlawfully-harmed-me accusations" the Iqbal case was

never about the actual actors creating harm to the Iqbal Plaintiffs. The Iqbal case was about the fact that the court did not want Iqbal and others similarly situated to sue very high, powerful, important government entities such as the like of Dick Cheney and George Bush Jr. In the case of *Ashcroft v. Iqbal*, 556 US 562 (2009) the U.S. Supreme Court held that top government officials were not liable for the tortious actions of their subordinates absent evidence that they ordered or directed the allegedly discriminatory activity themselves ("Bivens Action"). At issue was whether current and former federal officials, including the FBI Director Robert Mueller and former US Attorney General John Ashcroft, were entitled to qualified immunity against an allegation that they knew of or condoned racial and religious discrimination against individuals detained after the Sept. 11 attacks. The decision "transformed civil litigation in the federal courts" by making it much easier for courts to dismiss individuals' suits.

However, the present Causes of Action do not sue top government officials that took no direct action in causing lower level officials and staff to harm and discriminate against individuals. It is clear from the allegations, which the court has noted, that the Defendants named herein each actively and directly participated in the Causes of Action brought against them. They are directly responsible for the harms caused to the Hillygus Plaintiffs.

The District Court should have noted that Stone Valley is accused of having Mother Susan "drugged," "filthy" and placed in chemical restraints. Which are clearly illegal for an elderly frail woman such as Susan Hillygus. The District noted that it was certain that Defendants actively and knowingly kept Susan Hillygus "a prisoner" at Stone Valley for 3 years. She was clearly being held against her will, and none of the defendants seemed to care, except they were very good at filing application for fee petitions. The PPG was directly involved in this

activity. There were not remote disinterested third parties creating policies and procedures from remote offices thousands of miles away (Iqbal was held in a Brooklyn Detention Center, hundreds of miles away from Mueller's and Ashcroft's offices). These were the attorneys and vendors directly hired by the PPG that were actively engaged in the harm to Roger's Mother Susan Hillygus and the Plaintiffs.

In *Iqbal*, Ashcroft and Mueller were sued by Iqbal because "the complaint alleges that they adopted an unconstitutional policy that subjected respondent to harsh conditions of confinement on account of his race, religion, or national origin." Id at 666. However, Iqbal provides the following guidance in determining whether or not a Plaintiff has adequately stated a Cause of Action:

> **(b) Under Federal Rule of Civil Procedure 8(a) (2), a complaint must contain a "short and plain statement of the claim showing that the pleader is entitled to relief."** "[D]etailed factual allegations" are not required, *Bell Atl. Corp. v. Twombly*, 127 S. Ct. 1955, 167 L. Ed. 2d 929, 550 U.S. 544 (2007), but the Rule does call for sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face," *id.*, at 570. **A claim has facial plausibility when the pleaded factual content allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged**. *Id.*, at 556. Two working principles underlie *Twombly*. First, **the tenet that a court must accept a complaint's allegations as true is inapplicable to threadbare recitals of a cause of action's elements,** supported by mere conclusory statements. *Id.*, at 555. **Second, determining whether a complaint states a plausible claim is context-specific, requiring the reviewing court to draw on its experience and common sense. *Id.*, at 556.** A court considering a motion to dismiss may begin by identifying allegations that, because they are mere conclusions, are not entitled to the assumption of truth. While legal conclusions can provide the complaint's framework, they must be supported by factual allegations. When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief. Pp. 13–16, pp. 1948-1951. Id at 663,664. Emphasis added.

In the present cause of action, the Hillygus Plaintiffs not only gave the details of who, when and how their mother was granny napped, drugged, isolated, her estate drained, how the inventory of the guardianship differed markedly from the inventory of the decedent's estate with tens of thousands of dollars of personal property missing, but he also submitted records showing he was never served when the probate court broke a land trust (this is required under the Nevada Probate Act to break a Land Trust) and how he was summarily held in contempt for retaining funds to reimburse expended monies and he also submitted documents to the Court of Appeals that the case, while ostensibly a fraud in the first place, is the better question, without due process–notice, trial, experts, affidavits, interrogatories, depositions, trial statements, motions in limine, mediation statements, discovery, etc.), it was frivolous not only once but twice and to date it still does not appear on the record of the clerk of court's offices. These are very profound details of the conspiracy that evolved in guardianship case no. GR14-00159, the court can easily check them out, yet it says all Plaintiffs produced were conclusions. It is not known how the Plaintiffs can produce more proof or evidence of the glaring problems in Washoe County guardianship cases. This is especially in light of the fact that the court has consistently held the complaint provides too many details, while at the same time, it claims the complaint is not "clear and concise"; it is bloviated and too long.

In the Opinion of the Federal District Court, it would appear that the District Court fully understood,

1) There was an abusive guardianship proceeding where Mother Susan Hillygus was; isolated, abused, removed from her home, had her vested Land Trust holding her residence invaded without first notifying the beneficiaries to her Trust, her son Roger and daughter

Robin. All of the PPG Defendants were a part of that scheme. The PPG obtained a finding of contempt and a judgment against Plaintiff Roger without proper notice, a proper hearing based on NRS, affidavits, and objections to the Judge Frances Doherty hearing the contempt or the proper serving with a Petition.

2) Roger Hillygus has been continually harassed at least eight (8) times for attempting to expose the false reports of assault and battery claimed by the PPG's in police reports, and TPO filings. Mr. Roger Hillygus has filed numerous Sworn Affidavits explaining he has never threatened anyone. The persons attempting to make entry on the Trust Property–which the PPG brought in, were her family members, and employees, and were in violation of proper notice a violation of a court order. The Plaintiff's Roger and Debbie never paid rent, and no rent is shown on the Estate Inventory. The PPG knew they were living there and caring for Susan for years rent free, and never took any action against them, never filed any pleadings to get them off the premises, this is documented from the court Docket. It was not until the PPG guardian wanted the money for the sale of the home and the placing of the protected person Susan Hillygus that they needed to sell the home to continue to bill over $10,000.00 per month **four thousand** above what Susan Hillygus makes in retirement. So who is kidnapping who for profit, keeping a loved one in a locked facility, isolated from family and billing against the trust property in excess of a monthly budget.

3) The PPG Zusman defendants caused vendors they employed, and who were in privity with them to periodically enter the private trust residence at the Subject Premises and steal, convert or vandalize numerous items of personal property belonging to the Plaintiffs–all without a court order or any Due Process afforded them.

4) The Guardianship case was unconstitutionally placed under court jurisdiction without proper legal Notice or Hearing, Motion or Petition to all beneficiaries, and family members. No court order was ever properly filed containing findings of fact and conclusions of law necessary to remove an ordinary POA, and trustee in favor of a court appointed attorney, GAL, and Private professional guardian over Susan or Herbert Hillygus and or their estate. (All the federal courts of appeals to have decided the question have held that the First Amendment protects access to civil filings. *See Grove Fresh Distribs. v. Everfresh Juice Co.*, 24 F.3d 893, 897 (7th Cir. 1994); *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988); *Westmoreland v. CBS, Inc.*, 752 F.2d 16, 23 (2d Cir. 1984);*Publicker Industries, Inc. v. Cohen*, 733 F.2d 1059, 1071 (3rd Cir., 1984); *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1177 (6th Cir., 1983); *Newman v. Graddick*, 696 F.2d 796, 801-02 (11th Cir. 1983). As of the writing of this Brief, Judge France Doherty has now been forced to retire for her illegal handling of this case. Plaintiff Roger still has not seen the results of an appeal regarding Judge France Doherty signing an order after her removal by administrative order. As of the writing of this Brief, most documents are not in the file, it has been cleansed and the computer in the file room shows "view unavailable" for most images. Any complaints about this fall on deaf ears.

5) 42 USC 1983 and 1985 causes of action have been brought against numerous defendants for the aforementioned violations of the 5th Amendment (Due Process) and 14th Amendment (Equal Protection) claims.

6) Eventually, Mother Susan Hillygus will be placed against her will into Hospice (which she does not believe in, being a devout religious follower), and she will be narcotized to death

while food and water are withheld from her just like they did to her husband Herbert who was overdosed as noted in his medical records. However, because the Guardianship court has **NOT** summarily terminated Roger's POA's he still holds valid documents the "Jury Verdict" which allows him to make decisions on behalf of his mother. The records of the Reno Police Department show that they failed to provide any and all exculpatory evidence prior to filing the kidnapping charges against Mr. Roger Hillygus for the brave act of rescuing his mother from a facility which was neglecting and abusing his mother. All of these allegations could be easily checked out by the District Court and/or the Appellate court by simply calling and asking for a copy of the police report and warrant which the accused is being restricted from obtaining.

The "Court must accept as true well-pleaded factual allegations in the Complaint." *Phillips v. Prudential Ins. Co. Of Am.*, 714 F.3d 1017, 1019-20 (7th Cir. 2013).

PLAINTIFFS WERE NEVER PROVIDED WITH A LIST OF HOW TO CORRECT THEIR DEFICIENCIES

Plaintiffs attempted to amend their Original Complaint not once, but twice. The Court dismissed both of these complaints without pointing out deficiencies and specifically how they might be corrected. However, when a District Court "dismisses the complaint of a pro se litigant with leave to amend, "the district court must provide the litigant with notice of the deficiencies in his complaint in order to ensure that the litigant uses the opportunity to amend effectively." *Id.* (quoting *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992)). "Without the

benefit of a statement of deficiencies, the pro se litigant will likely repeat previous errors." *Karim-Panahi v. L.A. Police Dep't*, 839 F.2d 621, 624 (9th Cir. 1988) (quoting *Noll v. Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987)).

But in each of its rulings shown at the court never provided such a listing, gave the Plaintiffs any statement of what facts are missing and should be pled, and hence, apparently the errors were repeated with each Amended Complaint. The court could have just provided Plaintiffs with a page limit or some sort of guidelines on what exactly they considered to be "clear and concise."

THE RESPONDANTS ARE PROPER IN THIS CAUSE OF ACTION

From the US DOJ website:

> Section 242 of Title 18 makes it a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States.
>
> For the purpose of Section 242, acts under "color of law" include acts not only done by federal, state, or local officials within the their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. **Persons acting under color of law within the meaning of this statute include police officers, prisons guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim. Emphasis added.**

https://www.justice.gov/crt/deprivation-rights-under-color-law.

Each of the Defendants engaged in the tortious and illegal behaviors complained of which directly led to the wrongful death of Herbert Hillygus and the neglect of Susan Hillygus being institutionalized in a locked facility, especially since she had a son and daughter-n-law willing and able to care for her in the Trust home, the home of Susan Hillygus for over 45 years.

In addition, this is a pro se complaint, was filed by disabled adults who do not have the monetary resources to hire an attorney.

> We review de novo a district court's dismissal for failure to state a claim pursuant to § 1915A. *Slade v. Hampton Rds. Reg'l Jail*, 407 F.3d 243, 248 (4th Cir. 2005) (citation omitted). Pursuant to § 1915A, a district court shall dismiss a case at any time if it determines that the action is frivolous or malicious, fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915A(b)(1). **Allegations in a complaint are to be liberally construed, and a court should not dismiss an action for failure to state a claim "'unless after accepting all well-pleaded allegations in the plaintiff's complaint as true and drawing all reasonable factual inferences from those facts in the plaintiff's favor, it appears certain that the plaintiff cannot prove any set of facts in support of his claim entitling him to relief.'"** *De'Lonta v. Angelone*, 330 F.3d 630, 633 (4th Cir. 2003) (*quoting Veney v. Wyche*, 293 F.3d 726, 730 (4th Cir. 2002)). Courts are instructed that pro se filings "however unskillfully pleaded, must be liberally construed." *Noble v. Barnett*, 24 F.3d 582, 587 n.6 (4th Cir. 1994).

In addition the 9th Circuit has stated:

> **a motion for failure to state a claim under Fed.R.Civ.P. 12(b) (6), should not be granted "unless it appears beyond doubt that the plaintiff cannot prove any facts that would support his claim for relief."** Gustafson v. Jones, 117 F.3d 1015, 1017 (7th Cir.1997) (quoting Frey v. Bank One, 91 F.3d 45, 46 (7th Cir.1996)). In evaluating the motion, **we view the allegations of the complaint in the light most favorable to the nonmoving party**. See Id.

The present Second Amended Complaint is far from frivolous. The Plaintiffs were clearly harmed by a number of state actors–from the police to the judge to the PPG Zusman defendant. Their Family Residence was destroyed by the PPG guardian, their dear beloved Mother was abused, isolated and eventually neglected in an abusive guardianship proceeding which was so outrageous that early in the case, the Probate Court summarily, and without Due Process, or the 9th Circuit guidelines, attempted to dismiss the case as frivolous.

Plaintiffs apologize for not having further facts regarding the abusive Guardianship, but the file still has most of the pertinent facts available to the public as of the writing of this Brief, they had no idea when the PPG Debra Bowers was appointed guardian or bought the business from the original owner Kaycee Zusman, what Orders issued without their knowledge, when the case was transferred or when it was deemed vexatious. Despite the Nevada Probate Act that requires all next of kin, defined as parents, siblings and children, must receive notice of the filing of a Petition for Termination of guardianship or for Petition to file a guardianship 14 days in advance of the hearing date, none of the Plaintiffs – all Susan Hillygus children, never received any notice of anything in the Guardianship case regarding the transfer of the business to a new owner. Until Plaintiff Roger receives a copy of that business transaction, it is obvious that much information is missing from the Complaint regarding the illegal transfer of Susan Hillygus to a new owner without filing a new petition for a guardianship. He has written and requested a copy of the business transaction, but it is not being provided to Mr. Hillygus by the Zusman defendants. All he has is the docket sheet.

In addition, Plaintiffs are still attempting to get much needed information for their civil rights complaint via the discovery process in the case of Susan Hillygus and her son Roger

Hillygus, including all of his mother's Susan's medical records, the names of the arresting officers, the kidnapping complaint, the issuance of the warrant, and statements from witnesses. The Plaintiffs indication of abuse against his mother, is well founded, to include other facts and information being discovered still today as of the filing of this Writ.

All the Plaintiffs are asking of this Honorable Court is the chance to take their case to a jury. They only want justice for their Mother and for other guardianship victims similarly situated, to encourage them to come forward to clean up the court system. To do so, the Court must accept some form of a Complaint. The Plaintiffs apologize that they know cases like these are very hard to file and prosecute. No one wants to criticize attorneys, judges or court insiders. However, even the best intentioned state actors must be held accountable for their actions as they are not above the law and Justice must be done.

WELL DOCUMENTED EVIDENCE THAT THE PLAINTIFFS ARE EXPERIENCING A PHENOMENA THAT IS NO LONGER RARE IN THE UNITED STATES OF AMERICA.

There is no doubt that justice was eventually done in the Ciavarella case ("Kids for Cash"), 3rd circuit 2013, and no less than five GAO reports have documented the exact same problems as these in US guardianship courts across the nation.

In addition, the website AAAPG has conducted a survey and amassed data on hundreds of abusive probate guardianships. See www.AAAPG.com. In 2017, Dr. Sam Sugar, a well know

elder rights activist took a guardianship survey of 200 respondents over 4 months and determined the following: http://aaapg.net/guardianship-2017-survey/

- 66% said their visits with their loved ones were restricted
- 78% said they had to pay to visit their loved one
- 76% said the judge violated their civil rights
- 71% said advance directives were ignored
- 77% were threatened with legal action
- 50% said there were ex-parte communications with the court
- 97% said their civil rights were violated in court
- 45% of the judges prevented visitation with loved ones
- 41% said their right to freely associate with a loved one was violated.

Based upon this survey, it appears that there are indeed serious problems in many, many guardianship cases. The case of Susan Hillygus is not alone, it is not the only one, and Plaintiffs are telling the truth about what happened to them over the course of 5 years being involved in an abusive guardianship case.

In addition, Plaintiffs are in possession of a detailed spreadsheet that provides information on over 200 recent cases involving guardianship court abuses, violations of civil and human rights and even Federal Statutes, Rules and Regulations pertaining to the care of the Elderly. The database was provided in confidence and will only be provided to this Honorable Appellate Court pursuant to an in camera Order and protected as containing confidential information on abuse of the elderly and their family members.

THE DENIAL OF ATTORNEY REPRESENTATION -In January of 2019 Plaintiffs filed a motion for attorney representation and to have appointed a litigation representative for Susan Hillygus after the Court dismissed the Original and amended Complaint without instructions or a detailed list of how to properly fix the Original and amended Complaint and what was required. The Plaintiffs explained that they were indigent and unable to find counsel.

That the sheets given to them in probate list a number of agencies that allegedly provide pro bono legal assistance to the poor, but in reality, none of those agencies will file an appearance for a client, or write any pleadings. They only give general telephone assistance. This is clearly insufficient to handle a case of this magnitude. For just a few short months during the Guardianship proceeding, Roger Hillygus found an attorney to represent his mother his name was Keith Tierney Esq. an elder rights attorney, but even he was removed promptly by the Judge Doherty at the request of the other three court appointed attorney's knowing that Mr. Tierney was not part of the good old boys, and that he was going to throw a monkey wrench into the case. He opposed what the probate court was doing to the Hillygus Family. It is well known in the local Washoe County probate Court there are no attorneys that want to go up against Judge Doherty formerly of Washoe Legal Services, the GAL and/or the private professional guardians who bring in the revenue of elderly's trusts and assets. When the Plaintiffs explained to the District Court they had contacted numerous attorneys the court did not respond in their Order/Decision, but just summarily dismissed their request as moot.

CONCLUSION AND RELIEF SOUGHT

WHEREFORE, Plaintiffs respectfully request that this Honorable Court reverse and remand the Hillygus case with appropriate instructions to the District Court regarding;

1) The Dismissal of a pro se complaint must be provided with a listing of exact deficiencies and how they may be overcome; with opportunity to amend.

2) That the Plaintiffs have in fact stated proper Causes of Action in their Second Amended Complaint and service on all defendants should commence;

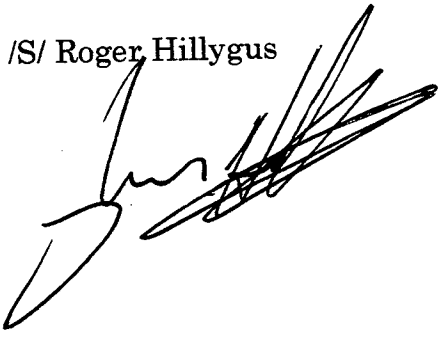
3) That the Paupers Petition forms were in fact properly filled out and showed that all plaintiffs were qualified for fees waivers. The Nevada Supreme Court has its own forms, which may be found at their web page.

4) The District Court should have appointed a lawyer for the Hillygus family and son Roger if it did not like the way he drafted the Original, First and Second Amended Complaint. Further, the District Courts should be ordered to keep a website with a list of attorneys willing to work pro bono on civil and human rights cases, where litigants can send prospective pro bono attorneys their complaints to see if they are interested in taking on these cases. Currently, there is no such system, but one should be put in place. Handing indigent pro se clients lists of 20 or so pro bono agencies that are swamped and overloaded with work and who do not file appearances regardless, is not a workable system for the poor and disabled.

RESPECTFULLY SUBMITTED,

ROGER HILLYGUS

/S/ Roger Hillygus



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