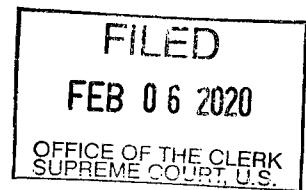


1.9-7642 ORIGINAL



IN THE

SUPREME COURT OF THE UNITED STATES

Ann Karnofel — PETITIONER  
(Your Name)

vs.

Superior Waterproofing, Inc. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of Ohio  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

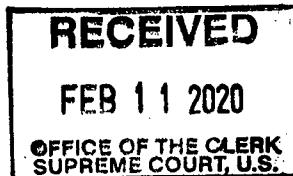
PETITION FOR WRIT OF CERTIORARI

Ann Karnofel  
(Your Name)

1528 Greenwood Ave.  
(Address)

Birard, Ohio 44420  
(City, State, Zip Code)

(330) 545-6303  
(Phone Number)



**QUESTION(S) PRESENTED**

Were Petitioner's due process rights denied, since she is a 97-year-old, female, pro se litigant?

Did Petitioner receive a fair day in court?

## LIST OF PARTIES

- All parties appear in the caption of the case on the cover page.
- All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

## RELATED CASES

### Ann Karnofel v. Superior Waterproofing, Inc.

No. 2017-7-0026, Eleventh District Court of Appeals, Trumbull County, Ohio. Opinion/Judgment entered December 29, 2017.

### Ann Karnofel v. Superior Waterproofing, Inc.

No. 2015 CV 01162, Court of Common Pleas, Trumbull County, Ohio. Judgments entered May 16, 2018 and March 7, 2017.

### Superior Waterproofing, Inc. v. Delores M. Karnofel

Nos. 2015-7-0113, 2017-7-0010, 2018-7-0027 and 2019-7-0015, Eleventh District Court of Appeals, Trumbull County, Ohio, Opinions/Judgments entered September 26, 2016, September 29, 2017, April 23, 2018 and April 8, 2019.

### Superior Waterproofing, Inc. v. Delores M. Karnofel

No. 2014 CVF 01065, Girard Municipal Court, Trumbull County, Ohio. Judgment entered January 20, 2017.

## TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED .....	3
STATEMENT OF THE CASE .....	4
REASONS FOR GRANTING THE WRIT .....	14
CONCLUSION.....	32

## INDEX TO APPENDICES

APPENDIX A	OPINION AND Judgment ENTRY of State Court of Appeals, APRIL 15, 2019.
APPENDIX B	Judgment ENTRY of State Court of Appeals DENYING RECONSIDERATION, MAY 1, 2019.
APPENDIX C	Judgment ENTRY of State Trial Court, MAY 16, 2018.
APPENDIX D	ENTRY of State Supreme Court Denying Review, September 3, 2019.
APPENDIX E	Reconsideration ENTRY of State Supreme Court DENYING RECONSIDERATION, November 12, 2019.
APPENDIX F	Order of Magistrate of State Court of Apps. MAY 16, 2019.
APPENDIX G	Judgment ENTRY of State Court of Appeals, June 13, 2019.
APPENDIX H	Judgment ENTRY of Trial Court, March 7, 2017.
APPENDIX I	Judgment ENTRY of Girard Municipal Court, January 20, 2017.
APPENDIX J	OPINION AND Judgment ENTRY of State Court of Appeals, December 29, 2017.

## TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Coulson v. Coulson</u> , 5 Ohio St.3d 12, 448 N.E.2d 809 .....	26
<u>GTE Automatic Electric, Inc. v. ARC Industries Inc.</u> , 47 Ohio St.2d 146, 351 N.E.2d 113 .....	24
<u>Karnofel v. Superior Waterproofing, Inc.</u> 11th Dist. No. 2017-T-0026, 2017-Ohio-9346 .....	17
<u>Little v. First American Title Insurance Co.</u> 2015 WL 7075914 .....	26
 STATUTES AND RULES	
Ohio Civ. R. 16(B) (2) .....	6, 13, 17 4, 8, 9, 25, 26
Ohio Civ. R. 60 (B) (3) .....	4, 8, 9, 24, 26
Ohio Civ. R. 60 (B) (5) .....	4, 8, 9, 24, 26
§ 10:40 CONSTRUCTION CONTRACT - Between OWNER AND CONTRACTOR - GENERAL CONDITIONS ARTICLE X Changes in the Work. SECTION 3 .....	6, 13, 21
U.S. Const. amend. XIV, § 1 .....	14, 18, 21, 31
 OTHER	
Federal Trade Commission "Home Sweet Home... IMPROVEMENT" .....	21, 30

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

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

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix D to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the Eleventh District Court of Appeals court appears at Appendix A to the petition and is

- reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

## JURISDICTION

[ ] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was \_\_\_\_\_.

[ ] No petition for rehearing was timely filed in my case.

[ ] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_A\_\_\_\_\_.

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

For cases from **state courts**:

The date on which the highest state court decided my case was September 3, 2019. A copy of that decision appears at Appendix D.

A timely petition for rehearing was thereafter denied on the following date: November 12, 2019, and a copy of the order denying rehearing appears at Appendix E.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_A\_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

**CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

U. S. Constitution, Amend-  
ment XIV, § 1

Due Process Clause

## STATEMENT OF THE CASE

This case arises out of a denial of a Civ.R. 60 (B) Motion for Relief from Judgment for (2) newly discovered evidence and (3) and (5) fraud. Then sanctions and attorney's fees were erroneously and maliciously imposed, because the Appellate Court erroneously indicated that petitioner filed a frivolous appeal (APPENDIX C).

Petitioner signed a contract with Respondent Superior Waterproofing, Inc., on June 27, 2013. Respondent's owner, Frank Kiepper, (hereinafter, "FRANK") also signed. The contract was for exterior basement waterproofing and removal/rebuilding of front porch. The job commenced on September 16, 2013 and ended on October 1, 2013. The job was not completed, and the work performed was not adequate. The job ended because there was a disagreement in the contract about the front porch footer/blocks and Frank's statement that he performed on the back porch on September 30, 2013, when he invited himself in to write additional work, receipt of payment, dates and costs on the backside of the original contract.

Petitioner reported Respondent to the Better Business Bureau on October 9, 2013. Respondent

did not respond, resulting in a lower rating. On December 11, 2014 Respondent filed a fraudulent and frivolous Complaint on Account Against Petitioner's daughter, Delores Karkofel, (hereinafter, "Delores") with two attachments — 1. The frontside of the Original contract and 2. A typewritten Invoice that was dated over one year after the job ended, October 3, 2014. It did not have ANY signatures to authorize the work (three items) added to the contract.

ON JANUARY 20, 2017 the Girard Municipal Court issued a Judgment for Respondent, after the Motions for Summary Judgment were filed, and erroneously stated: (APPENDIX I).

"... Attached to the complaint of the Plaintiff and its Motion for Summary Judgment are copies of the ORIGINAL CONTRACT AND CHANGE ORDER."

No change order existed, just the post-dated invoice. The invoice was misinterpreted for a change order. Petitioner indicated in her documents that the Appellate Court made obvious errors, and the misinterpretation of an invoice as a change order was one of them. In order for Respondent to receive money from the additions, a signature was needed to authorize

the additional work. Petitioner cited contract law and Civ R. 11 that refers to the signing of papers, and the lower courts overlooked them. With the absence of the change order or any document with a signature to authorize the additional work, the complaint on account should have been dismissed. This case has been in the courts since 2014 and was filed to harass petitioner and Delores and has succeeded with the courts favoring Respondent, that is represented by an attorney, who shared the same law firm with Judge Donald Ford, Sr., a retired judge from the Eleventh District Court of Appeals. Judge Mary Jane Trapp, who signs the decisions in this case for the Appellate Court, took his position in 2007. This case has wasted a lot of the taxpayers' dollars.

ON June 23, 2015 Petitioner filed a complaint against Respondent for breach of contract and negligence for the work performed in the Trumbull County Court of Common Pleas. The judge issued a decision for Respondent and wrongfully stated: (APPENDIX H).

"... although the Girard suit named Delores as a defendant and this suit was brought by Ann as plaintiff, there is sufficient mutuality of interest, including an identity of desired result so that Delores and

Ann ARE IN PRIVITY FOR PURPOSES OF  
RES JUDICATA."

This is false. First, the Girard Municipal Court case, filed by Respondent, was fraudulent and frivolous. The case should have been dismissed. Secondly, Delores' counterclaim was not valid. Since she was erroneously declared a vexatious litigator in 2008, she has to file a Leave to Proceed with the Trumbull County Court of Common Pleas, asking for permission to file a pleading. Delores' counterclaim was filed in the wrong court, pursuant to the Girard Court's instructions. So there was no "... sufficient mutuality of interest, including an identity of desired result so that Delores and Ann are in privity for purposes of res judicata."

The Girard case refers to payments for the work. It was captioned "Complaint on Account." The Common Pleas case that Petitioner filed was for breach of contract and negligent work.

The desired results in the two cases are not the same. Appeals were taken in both cases, and Respondent wrongfully received the favorable decisions.

On May 7, 2018 Petitioner filed a Motion for Relief from Judgment from the Trumbull County Court of Common Pleas' March 7, 2017 Judgment Entry. The Trial Court denied Civ R. 60(B) (2) newly discovered evidence and Civ R. 60(B) (3) and (5) for fraud. On Appeal, the Appellate Court's OPINION of April 15, 2019 erroneously stated: (APPENDIX A).

"... all of Ann Karrofel's claims are barred by res judicata because she is in privity with Deloers..."

The above quote is false. Res judicata did not exist because there never existed a valid Complaint in the Girard case. The Appellate Court further stated that the Motion for Relief from Judgment was time-barred. It was two months over the one year timeframe. Although one year and two months was reasonable time for newly discovered evidence. (Civ R. 60(B))

(3) and (5) for fraud do not have a one-year limitation.

The Appellate Court stated in its May 1, 2019 Judgment Entry: (APPENDIX B).

"We further found Ms. Karnofel failed to demonstrate why she was precluded from discovering a copy of the handwritten document, which is her 'newly discovered evidence'..."

This is another obvious error. Petitioner explained that Delores discovered it first in January 2018. Petitioner has been on a walker since 2011 due to kyphoplasty surgery. She cannot go into Delores' room that has throw rugs. Delores brings the files to Petitioner. Petitioner discovered the backside of the contract with handwritten notes, not typewritten text as the invoice, on May 5, 2018, when she was looking at the file.

The Appellate Court stated the evidence was filed in the trial court with Respondent's motion for summary judgment. This is false. Frank wrote on the backside of the original contract each time he received a \$3,000.00

check and the additional work added to the contract. The original contract was always in Delores' file, since her case was filed one year before Petitioner's. Also, Delores made a copy of the frontside only, because that is what Respondent attached to the Complaint on Account. The original contract was on very thin paper. So Delores placed it behind all of her other papers in the file to prevent it from tearing.

Petitioner had no contact with Respondent whatsoever, regarding the handwritten notes on the backside of the contract. It was Delores who always had the original contract in her possession. Delores did not send Respondent a copy until 2018. If Respondent had the newly discovered evidence in its possession, then it should have included it with the Complaint on Account, instead of the post-dated, typewritten Invoice, because the evidence was the beginning of developing a change order; however,

Respondent did not mention it at all in its pleadings. The Appellate Court also stated: (APPENDIX B).

"We also found Ms. Karcofel failed to explain or support with ANY authority her assertion that 'concealing' the so-called 'newly discovered evidence' constituted a fraud upon the court."

Petitioner indicated that Respondent never requested a COPY of the backside of the contract. Dolores forgot about it, since she filed it in the back of the folder for safe-keeping. Respondent should have re-requested it from Petitioner, so it could have used it as an exhibit to its Complaint. Respondent never mentioned how it received it before 2018, nor did it submit proof that Petitioner sent it to him with a cover letter.

The newly discovered evidence reveals Frank's handwriting for all of the three additional requests. It proved that it was he who made the two requests. The one request Dolores made (replacement pipe) was made and paid for with the \$3,000.00.

check, AS well AS FRANK'S REQUESTS WERE PAID for from the two \$3,000.00 checks. With this evidence, the COMPLAINT ON ACCOUNT WAS NOT NECESSARY. Respondent PERPETRATED FRAUD UPON THE COURT, when it filed A FRAUDULENT AND FRIVOLOUS COMPLAINT ON ACCOUNT WITH A NON-SUPPORTING EXHIBIT — the INVOICE. A CHANGE ORDER WAS NECESSARY, in ORDER TO RECEIVE PAYMENT. The LOWER COURT PARTICIPATED IN FRAUD BY IGNORING THE ABSENCE OF A CHANGE ORDER, THAT WOULD HAVE HAD A SIGNATURE AUTHORIZING THE ADDITIONAL WORK TO THE CONTRACT.

IT WAS WITH THIS APPEAL of the MOTION for RELIEF FROM JUDGMENT, THAT RESPONDENT FILED A MOTION FOR SANCTIONS AND ATTORNEY FEES WITH ITS BRIEF. THEN THE APPELLATE COURT ERRONEOUSLY AND MALICIOUSLY APPROVED IT. PETITIONER DID NOT FILE A FRIVOLOUS APPEAL. ISSUES RAISED IN THE APPEAL PRESENTED REASONABLE QUESTIONS FOR REVIEW. THE APPELLATE COURT ERRONEOUSLY STATED THAT PETITIONER'S PLEADINGS WERE NOT ADEQUATE. THIS IS FALSE. IT ALSO STATED THAT DECLINES

acted as Petitioner's attorney and represented her in court. This is false.

The Appellate Court did not state anything about the absence of a change order or any document with a signature, to authorize the additional work to receive payment. If they did then it would prove Respondent's Complaint on Account was frivolous and fraudulent. The Appellate Court ignored the facts.

The Appellate Court also did not apply any law Petitioner stated — § 10:40 Construction Contract or Civ. R. 11 — signing of papers. The Appellate Court also ignored fraud because it participated in it.

Sanctions and miscellaneous fees should be imposed upon Respondent for harassing an elderly female, pro se litigant for putting her through unnecessary litigation and financial debt, not to mention the negligent work performed.

## REASONS FOR GRANTING THE PETITION

Petitioner's due process rights were denied, when the decisions in this case were far from equal. Petitioner was treated unfairly, because she is a 97-year-old, female, pro se litigant, who does not have money and connections like Respondent and its attorney to network for votes for the judges.

Petitioner does not think that she knows more than an attorney to represent herself. Petitioner does not have the finances to retain an attorney. Petitioner, as a pro se litigant, is held to the same guidelines as an attorney. Although Respondent and its attorney were shown favoritism, that resulted in biased decisions for petitioner. The myriad of intentional oversights has to be reviewed by the highest court, the U.S.

Supreme Court, because it was Petitioner who was harassed by Respondent from filing a fraudulent and frivolous Complaint on Account against Delores, my daughter, with a post-dated Invoice, that all of the courts purposely misinterpreted as a valid change order. Petitioner and Delores were framed into Privity and Rec. Sedita with the fraudulent and frivolous Complaint on Account. Now, to put the icing on the cake for Respondent and its attorney, the Appellate Court imposed sanctions and attorney's fees on Petitioner and Delores. These are fraudulent decisions that cannot go unheeded.

If Petitioner was represented by an attorney, he or she would find a way to declare the judges incompetent. The judges are supposed to be professionals, however, they enjoy laughing at pro se Petitioner and Delores. We are citizens of the United

States, and we should be treated fairly.

The problem with this case is that Respondent's attorney must be a friend of Judge TRAPP's since she is the one who took Judge Ford's position — a former law partner with Respondent's attorney. Judge TRAPP and the rest of the panel fear public criticism if they would have done their job right and not issued biased decisions for a pro se litigant.

Respondent wrongfully stated that Petitioner and Delores act as pro se litigants as a hobby. We have better things to do than file pleadings and incur credit card debt, not to mention Delores' eyesight has worsened with the arduous task of writing. Since she has mercury toxicity from dental amalgam fillings with an electro-biologic current, she cannot use electricity without heart and head pain.

Obvious errors were made, and issues were not considered OR not fully considered regarding change orders, contract law and Civ R. 11. Although the Appellate Court erroneously stated in its May 1, 2019 Judgment Entry:

"Further, Ms. Karnofel's factual and legal arguments relating to the invoice, work order and/or change order, ... have already been fully considered AND REJECTED in our latest decision and in our previous judgment denying her motion to reconsider our earlier decision in Karnofel v. Superior Waterproofing, Inc., 11th Dist No. 2017-T-0026, 2017-Ohio-9346. (APPENDIX J).

NOT ONE WORD WAS mentioned about change orders, an absence of a signature on an invoice or any document in the above-cited case, (No. 2017-T-0026). This is not ethical. The scales of justice are NOT equal, when the judges continue to make incompetent decisions, when pro se litigants submit proof.

Nor were the above legal arguments in quotes ever discussed in the Appellate Court's latest decision - April 15, 2019 and/or May 5, 2019.

The judges place their hands on the bible and take their oaths, however, it is a facade. The judges lie to cover-up other lies as in this case. A change order never existed. Respondent's invoice was not a substitute for a change order. Yet, all of the lower courts agreed that it was. Petitioner has reasonable grounds in filing this Writ of Certiorari; when she was not treated fairly.

Petitioner worked hard and smart for her money, as well as her deceased husband. They bought their house, had a landscaped yard with flowers and trees that could have been displayed in "Better Homes & Gardens." Now, a SCAM ARTIST CONTRACTOR not only destroyed the yard, but the basement walls, the foundation and my bank account. I was raised in the Depression Era and had it hard like everyone else - working in defense plants for little money. Respondent did not work a full day on this job and has the nerve to try to swindle money out of me.

The Appellate Court stated in its May 1, 2019 Judgment Entry that Petitioner's assertions about favoritism to Respondent is baseless. The Appellate Court gave an extension of time for Respondent to file one brief, and when Respondent missed the filing of a response to Magistrate Sheth-Massacci's Order of May 16, 2019 (APPENDIX F), an automatic extension of time was given by Judge TRAPP on June 13, 2019 for a generous, seven-day extension. Judge TRAPP indicated: (APPENDIX G).

"To date counsel for Appellee has submitted no material to this court... counsel for Appellee has seven (7) days from the date of this entry to show cause as to why this court should not determine that he is not entitled to any monetary expenses...")

Respondent did not even file a motion to request the extension. Respondent's attorney went on a vacation in the west. He stated in his June 20, 2019 Response to the Court's June 13, 2019 Judgment Entry:

"And so when I returned, there were a lot of unexpected issues on my plate, and I flat-out forgot about Magistrate Sheth-Massacci's order until she contacted me.")

Judge TRAPP did not cite ANY authority for the seven-day extension of time. This is unethical, as well. MAGISTRATE Sheth-MASSACCI contacting Respondent's attorney, to remind him of his time-barred RESPONSE. This is showing favoritism. Petitioner filed a motion for a continuance of the evidentiary hearing, due to her age, health and warmer temperatures in the middle of August, and it was denied. The Appellate Court erroneously indicated in its MAY 1, 2019 Judgment Entry: (APPENDIX B),

"And we rejected her claim that the trial court was biased against her as a pro se, female, elderly litigant, again because she failed to provide ANY evidence or authority to support this claim."

Pro se Petitioner was 96-years-old at the time of the evidentiary hearing. The above proves that the court was biased against her. The evidentiary hearing was held on August 15, 2019, and, of course, they affirmed the decision of attorney's fees FRAUDULENTLY. Nothing was mentioned about Respondent's second chance to file.

§ 10:40 Construction Contract - Between Owner and Contractor - General conditions, Article X. Changes in the work. Section 3 states:

"Additional work performed by contractor without authorization of a change order will not entitle it to an increase in the contract price or an extension of the contract time, except in the case of an emergency . . ."

There was no emergency; therefore, without authorization of a change order, Respondent is not entitled to an increase in the contract price. The Lower Courts all overlooked this purposely, so the party that was represented by an attorney could prevail. Petitioner was not given a fair day in court.

Petitioner would not have known what a change order was unless she did not attend a senior citizens' seminar and received a pamphlet from the Federal Trade Commission that was entitled, "Home Sweet Home . . . IMPROVEMENT?" It was

distributed. It explained what a change order was and that it is made at the time the work is being performed. Obviously, none of the judges from the Lower Courts built new homes or had home improvements.

The errors are obvious, and nobody addresses them. Respondent's attorney mentioned that his family wants him to retire. The judges must want to give him a bonus for being an attorney in their district but also probably a friend of the court, since he shared the same law firm with a former Appellate Court Judge of the same district. So they are using Petitioner and her daughter to be framed into SANCTIONS AND ATTORNEY'S fees if order to receive MONEY for another VACATION.

There were several mistakes, issues not considered or not fully considered and failure to apply any law regarding signing an addendum / document to a contract. Respondent filed the fraudulent and frivolous complaint to frame Petitioner and Delores for privity, res judicata, sanctions and attorney fees. The Appellate Court purposely overlooked the facts and Petitioner's law, regarding change orders and the signing of papers.

Petitioner has been subjected to an unnecessary and lengthy litigation that affected her health and finances, not to mention the damage to the basement and yards. The lower courts had an opportunity to modify or reverse the decisions, but they did not. Even when the judgment that was appealed was not a final appealable order, they did not comment, just as ignoring

the misinterpretation of the INVOICE for a CHARGE ORDER. Despite the ample proof that fraud was exercised by not only Respondent and its attorney, but also the Lower Courts, the Appellate Court erroneously awarded attorney fees to Respondent's attorney.

The Lower Courts' decisions were not supported with any competent evidence. Petitioner prevailed on the three-prong test in her Motion for Relief from Judgment, GTE Automatic Electric, Inc. v. ARC Industries, Inc., 47 Ohio St.2d 146, 351 N.E.2d 113.

1. Petitioner had a meritorious defense if relief was granted. FRAUD - Civ R. 60 (B) (3) and (5) - No charge order or additional signature to authorize the additional work, misinterpretation of the INVOICE for the party that was represented by an attorney, favoritism with additional time to file a response and granting sanctions and attorney fees.

Newly discovered evidence - Civ R. 60 (B)

(2) - the backside of the original CONTRACT, that Respondent claims that it had in its possession in 2017 for its Motion for Summary Judgment. Respondent NEVER RECEIVED A COPY from petitioner or Delores until 2018. Respondent ALSO did not explain how it received it, since the original was ALWAYS IN Delores' POSSESSION.

The evidence PROVED beyond a reasonable doubt that it was Frank's handwriting on the backside of the contract without ANY SIGNATURES. FRANK NEVER ASKED Delores to SIGN, to AUTHORIZE the replacement PVC PIPE that she REQUESTED. FRANK WAS well AWARE of this document, since he probably wrote change ORDERS on other jobs, because he WAS IN the WATERPROOFING business for OVER 35 YEARS. The evidence was dated "9-24-13" and "9-30-13". Change ORDERS are MADE at the time the WORK is BEING PERFORMED, NOT OVER ONE YEAR AFTER the job ENDED, AS Respondent's INVOICE was dated; AND the LOWER COURT'S mis-INTERPRETED the INVOICE AS A change ORDER. It too did NOT have ANY SIGNATURES.

2. Petitioner is entitled to relief under Civ R. 60 (B) (2), (3) and (5), and

3. The MOTION WAS timely. Petitioner filed the MOTION ON MAY 7, 2018 from the Trial Court's MARCH 7, 2017 Judgment ENTRY. One year and two months is reasonable time. In Little v. First American Title Insurance Co., 2015 WL 7075914, it states:

"... MOTION WAS filed APPROXIMATELY four YEARS AFTER the ENTRY of default judgment AND is therefore UNTIMELY."

Four years is UNREASONABLE time, NOT ONE year and two months, especially for fraud, Coulson v. Coulson, 5 Ohio St.3d 12, 448 N.E.2d 809.

This case has been in the courts since 2015, the companion case of Delores' since 2014. Sanctions and Attorney fees should have been ATTEMPTED earlier if they thought Petitioner was harassing, however, it was the new evidence that everyone feared. Respondent's Motion for Summary Judgment, filed on

February 1, 2017 did not have any attachments. So on February 3, 2017 Respondent filed an "Addendum to Affidavit of FRANK Kiepper." It did not mention an Invoice or Change Order. It stated:

"The affidavit references the CONTRACT which forms the basis of claims in this case.

The CONTRACT was supposed to have been ATTACHED to the affidavit and was inadvertently omitted. It is included herewith."

Respondent did not say anything about ATTACHING AN INVOICE OR ANY OTHER DOCUMENT TO THE MOTION FOR SUMMARY JUDGMENT, except the CONTRACT. Yet, the Appellate Court said it did, which is false.

This Court must see that fraud was a factor, when the LOWER Courts made their decisions. Petitioner and Delores did not have ANY knowledge or experience in waterproofing to even suggest the two additions to

The CONTRACT (downspouts to the street and a French drain around the backporch). Respondent used these two additions and Delores' request of a pipe replacement in an existing trench, to file the Complaint on Account with the post-dated Invoice, that did not have any signatures. Petitioner was framed from the beginning, as well as Delores, by claiming the additional work was not paid for. The evidence proved it was.

This case would appeal to thousands of Americans in the U.S. who hire contractors to build new homes or to have home improvements. It also would appeal to the millions of people in the U.S. who represent themselves as a pro se litigant and don't receive a fair day in court. Elderly pro se litigants are more vulnerable to these wrongful decisions when they

GO AGAINST A PARTY THAT IS REPRESENTED BY AN ATTORNEY. Elderly people have a difficult time in going out in the cold and warmer temperatures.

This case will not waste the U.S. Supreme Court's time. Fraud was committed by the Lower Courts to favor the party that was represented by an attorney. Then it ended with sanctions and attorney fees, erroneously being imposed upon Petitioner and Deforse. It was Respondent that commenced litigation with its fraudulent and frivolous Complaint. Petitionee had no choice but to file a complaint in the Common Pleas Court with her own hard-earned money. Now, some SCAM ARTIST contracted with his unethical attorney, filed a judgment lien against the house and is preparing to proceed with foreclosure. This is a low level way of harassing and harming a 97-year-old, female, prose litigant who attended mass every Sunday with her family (health permitting).

Respondent, his attorney and the participating judges don't really know what church is, as a result of the biased and erroneous decisions and fraudulent and frivolous pleadings. If they attended church, it is a facade.

It is also a facade when the judges place their hands on the bible to take their oaths of office. If they were religious, that is, didn't use their church or any church to obtain votes, then they should have no problem in making the right decisions for even pro se litigants, unless they were threatened. Although a reputable judge should not fear public criticism.

The Federal Trade Commission looked out for senior citizens by educating them with their pamphlet. I wish this highest court in the land would do

the same for elderly female, PRO SE litigants. Petitioner's due process rights were denied too many times in this case.

Doubts and questions were raised several times in this case, particularly with the absence of a change order or any document with a signature, to authorize the additional work, and none of the judges questioned Petitioner at oral arguments.

Petitioner did not attend the August 15, 2019 evidentiary hearing when the weather was warmer, and the motion for continuance was denied. Petitioner requested a copy of the hearing through a CD. When she played the CD it was blank.

Petitioner's due process rights, U.S. Const. Amend. XIV, § 1 were denied from the beginning of this case until the end.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Ann Karnofel

Date: February 6, 2020