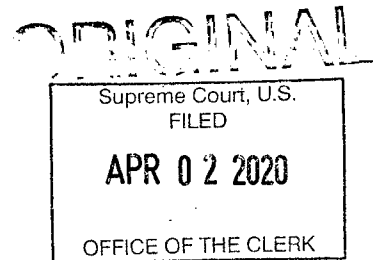


Case No. 19-8288



**IN THE SUPREME COURT OF
THE UNITED STATES**

Mac Truong, Ruediger Albrecht, *Appellants-Petitioners*
Rosemary Ida Mergenthaler, *Debtor-Appellant-Petitioner*

-against-

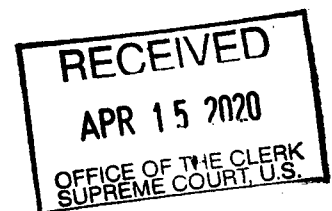
R. Kenneth Barnard, United States Trustee,
Appellees-Respondents

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Second Circuit

**PETITION FOR A WRIT
OF CERTIORARI**

Mac Truong, Plaintiff-Appellant-Petitioner *Pro Se*
Rosemary Mergenthaler, Debtor-Appellant-Petitioner *Pro Se*
Ruediger Albrecht, Creditor-Appellant-Petitioner *Pro Se*
C/o IMDIT PRO SE SERVICES

875 Bergen Avenue, Jersey City, NJ 07306
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QUESTIONS PRESENTED

1. May a Chapter 7 Trustee proceed to collect a Chapter 7 Debtor's assets before the Debtor would have successfully attended at least one 11 USC 341(a) Creditor Meeting, and/or even though the Debtor had willfully refused to attend any of more than 50 scheduled 11 USC 341(a) Creditor Meetings?
2. May a Chapter 7 Trustee proceed to collect a Chapter 7 Debtor's assets and distribute them to himself and whomever he deems it fit even though the Debtor had willfully refused to attend any one of more than 50 scheduled 11 USC 341(a) Creditor Meetings during a period of four years, and been denied a discharge?
3. May a Chapter 7 Trustee file his Final Report and propose to distribute assets to whomsoever he deems it fit even though litigations between him and Debtor and many creditors and other concerned third parties have not been finalized, settled or terminated as he misrepresents in his report, but pending in many concerned courts with himself as the main litigant?
4. After the Debtor had willfully refused to attend any 341(a) Creditor Meeting and been denied a discharge upon his own motion, does a Chapter 7 Trustee have a duty under 11 USC 349(a) to remit Debtor's collected assets in his custody to those who owned them immediately prior to Debtor's filing for bankruptcy?
5. Does 11 USC 105 empower a USBC judge to arrest in handcuffs and incarcerate an absolutely innocent Chapter 7 Debtor in federal prison until she would have turned over her non-estate inherited funds that her alleged Trustee claims in bad faith belong to her estate, even though she has never attended any 341(a) Meeting, and been denied a discharge?

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PARTIES TO THE PROCEEDING

There are no other parties than those named in the caption. Upon information and belief Appellee-Respondent R. Kenneth Barnard having filed a Final Report with the USBC-EDNY on 5/16/2019 has as such withdrawn from this proceeding as active Chapter 7 Trustee of Petitioner herein.

LIST OF PROCEEDINGS

United States Court of Appeals for the Second Circuit.

No. 19-cv-2562

**Mac Truong, Ruediger Albrecht, *Appellants-Petitioners*,
Rosemary Ida Mergenthaler, *Debtor-Appellant-Petitioner*,
-against-**

**R. Kenneth Barnard, United States Trustee,
*Appellees-Respondents***

***Opinion Date:* 01/15/2020 - APPEAL Dismissed**

***Rehearing Denial Date:* 3/19/2020 - MOTION ORDER, Motion for
Reconsideration Denied**

United States District Court for the Eastern District of New York.

No. 19-cv-4279

**Rosemary Ida Mergenthaler,
Mac Truong, Ruediger Albrecht, *Appellants*
-against-**

**R. Kenneth Barnard, United States Trustee,
*Appellees***

***Decision-Opinion Date:* 08/15/2019 - APPEAL Dismissed**

United States Bankruptcy Court for the Eastern District of New York.

Chapter 7 Case No. 15-72040 (REG)

Rosemary Ida Mergenthaler, Debtor

***Decision-Opinion Date:* 07/16/2019 - Motions Dismissed**

RULE 29.6 STATEMENT

Appellant Mac Truong is an individual, having no stocks for any private or publicly traded company to own 10% or more of his stocks.

Appellant Ruediger Albrecht is an individual, having no stocks for any private or publicly traded company to own 10% or more of his stocks.

Appellant Rosemary I. Mergenthaler is an individual, having no stocks for any private or publicly traded company to own 10% or more of her stocks.

JURISDICTION

(1) Basis of the EDNY's Subject-Matter Jurisdiction:

The EDNY has jurisdiction over Appellant's Bankruptcy Proceeding pursuant to 11 USC 8001(a) in that Appellant is a debtor having timely filed an appeal from final order(s) of the U.S. Bankruptcy Court for the Eastern District of New York ["USBC-EDNY" hereafter] Case No. 15-72040-REG.

(2) Basis of the USCA2's Subject-Matter Jurisdiction:

The Order(s), being appealed, are inextricably intertwined and final decisions of the EDNY, under 28 U.S.C. 1291. [See, EDNY, DE #2 Filed 8/15/2019].

(3) Basis of this USSC's Subject-Matter Jurisdiction:

28 USCS § 1254 provides that cases in the U.S. Court of Appeals may be reviewed by the Supreme Court by writ of certiorari granted upon the petition of any party to any civil or criminal case,

before or after rendition of judgment or decree. Debtor-Appellant and other Appellants herein appeal from the following inextricably intertwined orders of the USCA2:

- (a) 01/15/2020 Doc #61 – MOTION ORDER, denying as moot motion to proceed in forma pauperis [38] filed by Appellant Ruediger Albrecht, denying as moot motion to proceed in forma pauperis [37] filed by Appellant Rosemary Ida Mergenthaler, denying as moot motion to proceed in forma pauperis [36] filed by Appellant Mac Truong, by GC, RSP, SLC, copy to pro se, FILED. [2753592][61] [19-2562] [Entered: 01/15/2020 04:36 PM] [Apx: 1-2]
- (b) **01/15/2020 Doc #62 – APPEAL, pursuant to court order, dated 01/15/2020, DISMISSED.** [2753596] [19-2562] [Entered: 01/15/2020 04:40 PM] [Apx: 3-4]
- (c) 01/15/2020 Doc #65 – MOTION ORDER, denying as moot motion directing appellees to turn over from Debtor's estate [57] filed by Appellant Rosemary Ida Mergenthaler, Ruediger Albrecht and Mac Truong, copy to pro se, FILED. [2754421] [65] [19-2562] [Entered: 01/16/2020 01:54 PM] [Apx: 5]
- (d) 2/10/2020 Doc #73 – MOTION ORDER, denying motion for reconsideration [68] filed by Appellant Rosemary Ida Mergenthaler, by GC, RSP, SLC, copy to pro se, FILED. [2773901][73] [19-2562] [Entered: 02/10/2020 12:09 PM] [Apx: 6]
- (e) 3/19/2020 Doc #106 MOTION ORDER, denying motion for reconsideration [82] filed by Appellant Ruediger Albrecht; denying motion for leave to file a motion for reconsideration [86] filed by Appellant Mac Truong, by GC, RSP, SLC, copy to pro se, FILED. [2805383][106] [19-2562] [Entered: 03/19/2020 11:18 AM] [Apx: 7-8]

OPINIONS BELOW

1. Undisputedly and unexpectedly, in the case at bar, the traditionally respectable and honest U.S. Court of Appeals for the Second Circuit [USCA2 hereafter] has intentionally and glaringly deviated from the prior rulings of its own and those of the overwhelming majority of all U.S. Circuit Courts, and as such has unconstitutionally and unconscionably ruled on the wrong side of the law regarding all the issues being raised for adjudication.
2. Indeed, in substance the USCA2 decided that Trustees-Appellees-Respondents herein may (a) proceed to collect a Chapter 7 Debtor's assets before the Debtor would have successfully attended at least one 11 USC 341(a) Creditor Meeting, and/or even though the Debtor had willfully refused to attend any of more than 50 scheduled 11 USC 341(a) Creditor Meetings; and (b) proceed to collect a Chapter 7 Debtor's assets even though she had been denied a discharge, and had willfully refused to attend any one of more than 50 scheduled 11 USC 341(a) Creditors Meetings; and (c) file his Final Report even though litigations between him and Debtor and creditors and other concerned parties had not been finalized and terminated but pending; and (d) pay Debtor's assets to himself, his professionals and third parties, none of whom were immediate owners of Debtor's assets prior to Debtor's filing for bankruptcy; and (e) have no duty under 11 USC 349(a) to remit Debtor's collected assets in his custody to those who had owned them immediately prior to Debtor's filing for bankruptcy.
3. Finally, the USCA2 most incorrectly found that a USBC judge has the power to arrest in handcuffs and incarcerate an innocent Chapter 7 Debtor in federal prison until she would have turned over her inherited assets that her alleged Trustee claimed belonged to her estate, even though she has never attended any 341(a) Meeting, and been denied a discharge, and asserted that

by law her inherited assets did not belong to her bankruptcy estate and that her refusal to turn them over to the Trustee should only have resulted in a dismissal of her case by the Court, something she was looking for to obtain.

SUMMARY OF ARGUMENT

(Arguments Showing Why USCA2's Decisions Being Appealed Are Erroneous)

1. In substance, by its final decisions-judgments and/or motion-orders being appealed to this USSC to be vacated and/or reconsidered, the USCA2 determined and decided that Trustee-Appellee-Respondent R. Kenneth Barnard herein had the power to investigate and/or proceed with the case and collect and/or liquidate Chapter 7 Debtor-Appellant-Petitioner Rosemary Mergenthaler's assets before the latter would have successfully attended at least one 11 USC 341(a) Creditor Meeting, and/or even though she had willfully refused to attend all and any of more than 50 scheduled 11 USC 341(a) Creditor Meetings. This decision is erroneous and illegal since it is an undisputed violation of 11 USC 341(a).

2. In substance, by its final decisions-judgments and/or motions-orders being appealed to this USSC to be vacated and/or reconsidered, the USCA2 determined and decided that Trustee-Appellee-Respondent R. Kenneth Barnard herein had the power to continue to investigate and/or proceed with the case and/or collect and/or liquidate, and/or seize for his own personal benefit or that of those entities he deems being entitled to, Chapter 7 Debtor-Appellant-Petitioner Rosemary Mergenthaler's assets after and/or even though she had been denied a discharge upon his own motion. This decision by USBC-EDNY Judge Robert E. Grossman, EDNY Judge Joanna Seybert and USCA2 Chief Judge Robert A. Katzmann is erroneous, unfair, unjust, illegal,

unconstitutional, unconscionable and contrary to the spirit of the U.S. Bankruptcy Code, Chapter 7. Indeed, the main simple idea of the Chapter 7 bankruptcy filing is Congress allows an honest Debtor to receive a discharge i.e. getting rid of all her legitimate debts and has a second chance in life free of debts after she would have agreed to turn over to her Chapter 7 Trustee all her non-exempt assets to him. As such, when a Trustee had moved the Court to deny a Debtor her discharge, i.e. the ultimate reward or consideration of her filing, he must end her case and return to her whatever assets he had collected from her. In this case, judicial organized crime (JOC) criminal R. Kenneth Barnard had collected or rather literally extorted by arrests and threats of indefinite incarceration in a federal prison \$2,793,000.16 from Debtor-Appellant-Petitioner Mergenthaler, herein, then moved USBC-EDNY Judge Robert E. Grossman, a judicial member of Barnard's JOC unit, to deny her a discharge, then kept all that millions of dollars to pay to himself and all parties he deems it fit, without any legitimate reason or consideration.

3. In this scenario, Debtor's \$2,793,000.16 was literally taken by Respondent Barnard and his JOC unit, without any consideration in return, since being denied a discharge after her filing, and robbed of her \$2,793,000.16 by him, she still is as a matter of law a debtor of all and any of her legitimate pre-petition creditors. For instance, as a matter of law, since she was not granted a discharge, she still owes to Appellant Albrecht a debt of \$600,000.00, even though nothing to Truong, because it is Barnard but not Mergenthaler who has converted Truong's 25% share to the Property.

4. In sum, the USCA2's decisions being appealed are undisputed violations of 18 USC 153, 155, 157, 1512 and 1961. Indeed, the Court intentionally and calculatedly permitted Trustee-Appellee-Respondent R. Kenneth Barnard and other members of his JOC unit to take Debtor-Appellee-Petitioner Rosemary Ida Mergenthaler's \$2,793,000.16 without compensating her with any legal benefit at

all under the Code. The foregoing decision is also erroneous because it is contrary to the decisions by the USCA3 and/or USBC-DNJ resolving the same issues in the same litigation between the same parties before the Court.

5. In substance, by its final decisions-judgments and/or motions-orders being appealed to this USSC to be vacated and/or reconsidered, the USCA2 determined and decided that Trustee-Appellee-Respondent R. Kenneth Barnard herein had the right to file his Trustee's Final Report with \$2,793,000.16 in his pocket, or that of members of this JOC unit, and be released as Trustee of the case, even though litigation between him and Debtor Mergenthaler and Plaintiff-Appellant-Petitioner Mac Truong and other concerned parties had not been finalized and terminated but pending. This decision by the USCA2 is erroneous and illegal since it is an undisputed violation of the Code, the U.S. Department of Justice Chapter 7 Handbook and 18 USC 153, 155, 157, 1512 and 1961.

6. In substance, by its final decisions-judgments and/or orders being appealed to this USSC to be vacated and/or reconsidered, the USCA2 determined and decided that the USBC-EDNY had the subject-matter jurisdiction under 11 USC 105 to order the U.S. Marshall Office to arrest, without prior notice, in handcuffs, and incarcerate an otherwise innocent Chapter 7 Debtor in federal prison until she would have turned over her inherited assets that her alleged Trustee had claimed under false pretenses belonged to her estate. This decision by the USCA2 is erroneous and illegal since it is undisputedly a violation of Provisions 105 and 704 of the Code, the U.S. Department of Justice Chapter 7 Handbook, and 18 USC 153, 155, 157, 1512 and 1961.

STATEMENTS OF FACTS AND PROCEDURAL HISTORY

Preliminary Statement:

1. In a nutshell, court records, most of which are reproduced originals in chronological order in Appellant's Appendix being on file with USCA2 in support of appeal, and undisputed by Appellees in their opposition papers, show that on May 11, 2015 Debtor-Appellant-Petitioner Rosemary Ida Mergenthaler herein filed for bankruptcy under Chapter 7 [A: 53]. Her Petition shows that she had about three times more strongly disputed debts than assets, the most valuable of which was 75% of her former residence at 3 Wood Edge Court, Water Mill, New York [the "Property" hereafter]. Appellant-Petitioner Mac Truong's 25% ownership of the Property was conspicuously listed [A: 55-59]. Also was Debtor's \$600,000.00 Debt to Appellant-Petitioner Ruediger Albrecht herein to buy the Property in 2004 [A: 53 & A: 84, & A: 192-212].
2. Thereafter, despite conspicuous written court warnings that her failure to successfully attend an initial 11 USC 341(a) Creditors Meeting within three months would cause her case to be dismissed, Debtor **willfully** never complied with her said legal obligation. Indeed, having very strongly and rightfully suspected that both USBC-EDNY Chapter 7 Trustee R. Kenneth Barnard, Appellee-Respondent herein, and USBC-EDNY Judge Robert E. Grossman, Presiding Judge of her Case #15-72040 (REG), are hardcore notorious JOC criminals, heartlessly taking advantage of their respective privileged judicial positions to rob and steal from debtors with assets in open court with fake motions and fake orders, Debtor-Appellant-Petitioner Rosemary Ida Mergenthaler herein willfully did everything and anything within the limit of the law to get herself out of Barnard and Grossman's concerted robbery attempts in open Court. For instance, Debtor Mergenthaler promptly filed her affirmation supporting Barnard's motion to dismiss her case for her failure to attend scheduled 341(a) Meetings [USBC-EDNY- DE #46, 04/14/2015 - A: 60]; and when he **withdrew** it the same day he announced to other members of his Judicial Organized Crime (JOC) unit, such as Judge Grossman, that Debtor had about \$3,000,000.00 assets to convert by false pretenses in her estate, [USBC-EDNY- DE #46, 04/14/2015 - A: 60], she filed her own motion to dismiss her case, [See, USBC-EDNY DE# 272, 2/6/2017 – A:146] that was later ignored by Judge

Grossman. Being desperate, Debtor made judicial misconduct complaint to USCA2 Chief Judge Robert A. Katzmann to remove and/or sanction Judge Grossman. Chief Judge Katzmann directed that Debtor must do so through appellate channel. When, after a few years of litigation, the issues came from USBC-EDNY to EDNY and then to the USCA2 through regular appellate channel, Chief Judge Katzmann simply covered and concealed Judge Grossman's misconduct consisting of making a series of fake orders being issued based on a series of Barnard's fake motions, allowing him at the bottom line to convert Debtor's \$1,793,000.16 by finding in one short sentence that Debtor's appeal(s) from Judge Grossman's orders is dismissed for being without merits as a matter of fact and law, without any explanation at all how it is so or for instance why a USBC may arrest in handcuffs and incarcerate an innocent Chapter 7 Debtor in federal prison until she would have turned over her inherited assets that her alleged Trustee claimed belonged to her estate, even though she had never attended any 341(a) Meeting, and been denied a discharge, and asserted that by law her inherited assets did not belong to her bankruptcy estate and that her refusal to turn them over to the Trustee should only result in a dismissal of her case by the Court, something she was looking for to obtain.

3. In any event, as based on the face of court documents, without guessing any mind, within the foregoing absolutely and truly abnormal procedural and judicial context, **on August 14, 2015 R. Kenneth Barnard, one of two Trustees-Appellees-Respondents herein, moved the USBC-EDNY Judge Robert E. Grossman to dismiss Debtor's Case for failure to comply with 11 USC 341(a)** [A: 60]. On August 26, 2015, instead of opposing Barnard's motion to dismiss, Debtor filed her affirmation in support of Barnard's motion to dismiss her case on the very ground that she had willfully failed to attend any of several scheduled 341(a) Meetings, and added that she certainly would not, and strongly requested that her case be dismissed, and she be out of the jurisdiction of the Bankruptcy Court. [A: 61-64]. On September 23, 2015, Barnard notified the Court and all concerned parties that he discovered that Debtor's estate had millions of dollars in assets, and that he withdrew his Motion to Dismiss. [A: 65-66 & 67-68] Thereafter, Barnard continued to illegally allow Mark A. Cuthbertson, a state-court-appointed former receiver of the Property, who was supposed to be removed from the case under 11 USC 543(a) since May 11, 2015, to sell it for only \$1,850,000.00. Debtor strongly opposed by motions those improper and glaring unlawful activities by Barnard and Cuthbertson [See, A: 86]. Barnard cross-moved to

enjoin Debtor and her alleged “agent” Appellant-Petitioner Mac Truong herein from filing any paper of any kind in any court regarding Barnard and Cuthbertson’s said illegal activities.

4. On August 12, 2016, upon Barnard’s motion, Judge Grossman signed an order denying Debtor Mergenthaler her discharge. [A: 87-90] As a matter of law, this Order should have stopped the collection of Debtor’s assets, and Barnard should have turned over any already collected asset to respective immediate owners prior to Debtor’s filing on May 11, 2015, and the case terminated and closed. Notwithstanding the above, Barnard willfully disobeyed that rule of law and most aggressively and lawlessly continued to amass Debtor’s assets with the patent intent of distributing them to himself as administration fees and/or expenses and those of his professionals, and at his option, debts allegedly owed to other entities, none of whom had been owners of the assets immediately prior to filing. [A: 192-212]
5. As such, only after Cuthbertson could not sell the Property as a matter of law under 11 USC 543(a), on September 15, 2016, Appellee-Respondent Barnard herein moved under false pretenses Judge Grossman to sell it for \$2,300,000.00 and held the proceeds in custody ever since [A: 121 & 130 & 192-212]. Appellee Barnard also literally, not in a figure of speech, extorted, by physical arrests and actual threats of indefinite imprisonment, Debtor-Appellant-Petitioner Mergenthaler and her husband Peter in open court, with the active cooperation of bankruptcy Judge Robert E. Grossman, her inherited assets in the total amount of \$450,000.00, and more than \$42,000.00 insurance compensation for the damages having been caused to the Property by a 2014 Storm. Debtor-Petitioner Mergenthaler’s assets being collected and held in Barnard’s custody totaled exactly \$2,793,000.16 according to his FTR [See, Barnard’s TFR, A: 192-212].
6. The relief sought by Debtor-Appellant-Petitioner herein in this Supreme Court of the United States of America is an order reversing all and any orders of the lower courts that have covered up Appellee-Respondent Barnard’s foregoing undisputed criminal activities in violation of 18 USC 153, 155, 157, 1512 and 1961, and directing him and his supervisor, the U.S. Trustee, to turn over his admitted collected assets in the amount of \$2,793,000.16 to those who were the respective owners thereof immediately prior to May 11, 2015, and granting leave to Appellants-Petitioners herein and all concerned entities to file appropriate civil and/or criminal complaints with appropriate authorities against Appellee-Respondent Barnard and/or all other parties that may be proven to have acted in concert with him to commit the undeniable felonies since May 11, 2015, that may be undisputedly evidenced and summarized as follows.

POINT 1
APPELLEE-RESPONDENT BARNARD FAILS
TO DISPUTE THAT HE MUST RETURN TO
DEBTOR-PETITIONER MERGENTHALER MY
75% OWNERSHIP OF THE PROPERTY AND
ALL MY OTHER ASSETS IN HIS CUSTODY

7. In his Appellee's Brief [USDC-DNJ Case No. 20Cv74 (ES) DE #20], Trustee-Appellee-Respondent R. Kenneth Barnard herein has failed to dispute hence agrees and admits in substance that on May 11, 2015, Rosemary Ida Mergenthaler, Debtor-Appellant-Petitioner *pro se* herein, filed for bankruptcy under Chapter 7 in the United States Bankruptcy Court for the Eastern District of New York (USBC-EDNY- Judge Robert E. Grossman, Case #15-17240 (reg) [See, A: 53]. Her filing was accepted by the Court and she was scheduled to appear for a Creditors Meeting pursuant to 11 USC Section 341(a) with the conspicuous legal warning that her failure to do so would subject her Petition to be dismissed as a matter of law by the Court without further notice. Notwithstanding, from May 11, 2015 to May 16, 2019, Mergenthaler intentionally and willfully refused to attend, and in fact never voluntarily attended any of the more than 50 scheduled Creditors meetings [For Details, See, A: 60; 61-64; 69; 70; 72; 73; 74; 75; 76., 77; 78-79; 80; 81; 82; 87-90; 132-145; 146-164; 165-179; 180-181]. Debtor-Petitioner Mergenthaler even filed repeatedly her motions to dismiss her case after the USBC-EDNY had refused to allow her to voluntarily dismiss her case or to convert it to one under Chapter 13 or remove purported Chapter 7 Trustee R. K. Barnard for misconduct. [A: 69; A: 70]. She had also made repeated requests to ask Judge Grossman to recuse himself from her case, and complaints against his honor to USCA2 Chief Judge Robert A. Katzmann to sanction him for judicial misconduct by making decisions based on prejudices, biases and/or willful glaring material misstatements of fact and/or law to assist Barnard to convert Debtor's assets in violation of 18 USC 153, 155, 157, 1512 and 1961. However, all Debtor-Petitioner Mergenthaler's such motions in Judge Grossman's Court were ignored or denied on the merits without any rational or material explanation. On the contrary, without any rational ground, upon R. Kenneth Barnard's objections and/or motions, from May 11, 2015 to May 7, 2019 [A: 191], Judge Grossman issued continuously numerous orders enjoining Mergenthaler from making or filing any paper without prior court leave, which leave was always ignored or denied when applied for. [A: 78-70; 80; 82] It is of note that, **ironically, such**

injunction orders or legal duct tapes, being issued by Judge Grossman, were the only affirmative defense(s) that purported Trustee Barnard had set forth in his opposition papers and/or Appellee-Respondent's Brief to persuade Judge Esther Salas of the USDC-DNJ to (unlawfully) reject Appellant Mac Truong's Appeal that is right now pending in said court. [See, USDC-DNJ Case No. 20Cv74 (ES) DE #20]

8. Briefly, in his said Appellee's Brief [DE #20], Appellee-Respondent Barnard herein has failed to dispute hence agrees and admits that in no event, Rosemary Mergenthaler, Debtor-Petitioner *pro se* herein, has ever been sworn in by purported Chapter 7 Trustee-Appellee Barnard, or signed my Petition at his request or permission during a 341(a) Creditors Meeting as conspicuously required by law to formalize my Petition for a discharge of all my pre-petition debts under Chapter 7 of the U.S. Bankruptcy Code.
9. Notwithstanding the above, in his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that as soon as a few days after May 11, 2015, Barnard commenced actively to unlawfully lift automatic stay on my 75% Property located at 3 Wood Edge Court, Water Mill, New York, the "Property" hereinafter, being worth in total approximately \$2,850,000.00 at that time, and abused the power that he did **not** have as Chapter 7 Trustee to authorize Mark A. Cuthbertson, a state-court-appointed former receiver of the Property to sell it. Only after Cuthbertson could not sell it as a matter of law due to 11 USC 543(a), Barnard moved Judge Grossman to sell it for \$2,300,000.00 and held the proceeds in his custody ever since. Barnard also literally, not in a figure of speech, extorted Petitioner Mergenthaler herein and my husband Peter in open court, with the active cooperation of Judge Robert E. Grossman, my inherited assets in the total amount of \$450,000.00 from me, and some \$42,000.00 insurance compensation for the damages being caused to the Property by a 2014 Storm. **Debtor-Appellant-Petitioner Rosemary Mergenthaler's assets being collected and held in Barnard's custody totaled exactly \$2,793,000.16 according to his FTR [See, Barnard's TFR, A: 192-212].**
10. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard herein has failed to dispute hence agrees and admits that on August 12, 2016, upon his motion, Judge Grossman granted an **order denying Debtor Mergenthaler a discharge**, on the alleged ground that she had concealed some of the assets of her bankruptcy estate and/or filed frivolous and/or vexatious motions and/or appeals; and/or failed to appear for a 341(a) Creditors Meeting. [A: 87-90]. The order was never appealed from or reconsidered and was as such final with all the legal effects that followed, such

as all the properties and assets belonging to entities immediately prior to the filing of Debtor's Petition must be returned to the latter under the borrowed provisions of 11 USC 349 governing the distribution of assets following the dismissal and closing of a Chapter 7 bad-faith filing under 11 USC 707(a) as in the underlying case, USBC-EDNY No. 15-72040 (reg) .

11. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that on October 30, 2019, USBC-DNJ Judge Papalia found that based on that final Order of Judge Grossman denying Debtor Mergenthaler a discharge, all her assets were no more under the protection of 11 USC 362(a) and should have been promptly returned to her, and as such her creditors, if any, could have sued her to collect their respective debts under non-bankruptcy laws. [See, A: 265-286]
12. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that such legal determination by Judge Papalia implied that his honor's USBC-DNJ had full subject-matter jurisdiction and authority to issue appropriate orders directing Defendant Barnard, custodian of Debtor's non-protected assets, to pay her assets to her, and/or Mac Truong's assets to him. [For Judge Papalia's determination that Barnard should have paid denied-a-discharge Debtor Mergenthaler her assets, See, A: 265-286]
13. **[Side Note: The foregoing point illustrates undisputedly the error of law having been made by Judge Papalia in his honor's December 23 2019 Order being appealed to Judge Esther Salas's UDC-DNJ, Dkt. No, 20-Cv-74 (ES), in which, the Court, on the other hand, erroneously found that it had no subject-matter jurisdiction to issue such orders, and directed both Mergenthaler and Mac Truong to go to make their respective claims in Judge Grossman's USBC-EDNY. With all due respect, most hopefully, such error or inconsistency of material rulings on the same issues by two different federal courts should now be corrected by this USSC upon this appeal to align the respective inconsistent orders being issued on one hand by the USCA2, or courts under its subject-matter jurisdiction, and on the other hand by the USCA3, or courts under its jurisdiction, regarding the exact same matters and/or issues between two same parties.]**
14. Viewing the foregoing, since in his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits the foregoing most important issue of law that he (Barnard) had the duty to return to Debtor Mergenthaler my assets following my being denied a discharge, and that Judge Papalia's court has subject-matter jurisdiction to issue such orders, as a matter of law, Debtor-Appellant-Petitioner Rosemary Ida Mergenthaler herein is entitled to a

summary judgment under FRCvP 56 for an order directing her co-Defendant-Appellee-Respondent R. Kenneth Barnard and/or his employer and/or supervisor, the United States Trustee, to return to me all my assets admittedly collected in my personal name as owner thereof to wit: \$2,793,000.16 minus those belonging to Appellant-Petitioner Mac Truong personally and/or Creditor-Appellant-Petitioner Ruediger Albrecht, as hereinafter more exactly set forth, and/or other appropriate relief in the circumstances.

15. For the balance of the facts and legal authorities showing why as a matter of law, purported Trustee Barnard must immediately return the assets that belong to Debtor-Petitioner Rosemary Mergenthaler to me, I respectfully refer the Court to Appellant Mac Truong's Main Brief and Motion for Summary Judgment that are completely uncontested by Defendant-Appellee-Respondent Barnard in his Appellee's Brief being on file with the United States District Court for the District of New Jersey in Case #20-Cv-74 (ES) Plaintiff-Appellant Mac Truong v. Defendant-Appellee R. Kenneth Barnard, DE #20 Date 3/6/2020, hereinafter referred to as **Appellee's Brief** [USDC-DNJ #20-Cv-74 (ES) DE #20].
16. Viewing the foregoing, it is beyond a reasonable doubt as a matter of law that Appellee-Respondent R. Kenneth Barnard herein must be directed by the USCA2 or this USSC to turn over to Appellant-Petitioner Rosemary Ida Mergenthaler my assets that have been in his custody since May 11, 2015.

POINT 2

APPELLEE-RESPONDENT BARNARD HAS FAILED TO DISPUTE THAT EVIDENCE ON RECORDS SHOWS WHY HE MUST REFUND APPELLANT-PETITIONER MAC TRUONG MY 25% SHARE TO THE PROPERTY

17. In his Appellee's Brief [USDC-DNJ #20-Cv-74 (ES) DE #20], Appellee-Respondent Barnard herein has failed to dispute hence agrees and admits that in substance, it is absolutely supported by relevant undisputed documentary evidence on court records, most of which have been included in Appellant-Movant Mac Truong's Appendix to my Motion for Summary Judgment [Id. USDC-DNJ #20-Cv-74 (ES) DE #3], that in 2004 Rosemary Ida Mergenthaler, Appellant-Debtor-

Petitioner *pro se* herein, bought her former residence at 3 Wood Edge Court, Water Mill, New York 11976 (the Property), for about \$1,500,000.00. Debtor borrowed \$600,000.00 from her friend and business partner named Ruediger Albrecht, a Creditor-Appellant-Petitioner herein and Appellant in appellate proceeding in the USCA2 Case No. 19-2562. The deed was in Debtor-Petitioner Mergenthaler's name alone. On February 5, 2015 Debtor Mergenthaler transferred 25% share to the Property to Appellant-Petitioner Mac Truong herein by Quitclaim Deed that was duly recorded and uncontested. [See, A: 55-59]. On May 11, 2015, Debtor-Petitioner Mergenthaler filed for bankruptcy under Chapter 7 in the United States Bankruptcy Court for the Eastern District of New York (USBC-EDNY) [See, A: 53].

18. In his Appellee's Brief in the USDC-DNJ - #20-Cv-74 (ES) DE #20, Appellee-Respondent Barnard has failed to dispute hence agrees and admits that Plaintiff-Appellant-Petitioner Mac Truong's claim against Debtor-Petitioner Mergenthaler's estate in the USBC-EDNY was duly acknowledged by Mergenthaler's Petition in the amount of \$625,000.00 or 25% of the approximate market value of the Property at that time. [A: 53] The said figure or claim was also undisputedly reported in Appellee-Respondent Barnard's TFR. [A: 192-212]
19. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that on May 23, 2016, Appellant-Petitioner Mac Truong, who had practiced law between 1982 and 2005 in New York State with thousands of clients, filed for Chapter 7 Bankruptcy in USBC-DNJ, my residence state, to stop an illegal eviction of my Manhattan law office located at 325 Broadway, Suite 200, New York, NY 10007.
20. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that Appellant-Petitioner Mac Truong had declared as part of my assets my 25% share to the Property [For Deed, See, A: 55-59.] Appellant also immediately advised Charles M. Forman, Chapter 7 Trustee of my estate in the underlying case in USBC-DNJ, to contact and request that Barnard turn over Appellant's said share to him (Forman).
21. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that thereafter, Forman and Barnard discussed but acted in concert with each other, and at the end, Forman moved Judge Papalia for an order for leave to abandon Mac Truong's claim to 25% of the \$2,300,000.00 worth Property on two grounds that are subsequently proven both egregious willful material misstatements under oath of fact and/or law, to wit: (a) Mac Truong's title to 25% of the Property, which was otherwise uncontested, was declared null and

void by NYSC Justice Arthur G. Pitts's August 6 2015 Order; and (b) the value of the Property is inconsequential to warrant recovery by Trustee Forman, since, according to Barnard's willful misstatements of fact and law, nothing would be left to pay Mac Truong after all Mergenthaler's purported debts would have been paid.

22. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that Mac Truong, Appellant-Petitioner herein, strongly opposed Forman's motion to abandon on two grounds (a) Justice Pitts's 8/6/2015 Order was null and void and unenforceable because (i) it was issued to former state-court receiver Mark A. Cuthbertson in a proceeding to which Mac Truong was not a party to sell the Property clear and free of all encumbrances, meaning the Court only authorized the liquidation of the Property without forfeiting Mac Truong's title to 25% of the Property's sale proceeds; and (ii) Justice Pitts's 8/6/2015 Order was subsequently annulled and voided by his honor's 9/9/2016 Order [See, A: 111-115] relieving Cuthbertson from all and any power or duty as receiver of the Property; and (iii) no court has reaffirmed Justice Pitts's 8/6/2015 Order annulling Mac Truong's title to 25% of the Property; and (b) Movant Forman's contention that the value of the Property is inconsequential to be bothered with, and as such it should be abandoned in the interest of Mac Truong's estate, is incorrect as a matter of fact and law because (i) it was worth up to \$2,850,000.00 on the market at the time, and was indeed sold for \$2,300,000.00 within four months subsequent to Mac Truong's claim to 25% thereof had been abandoned by Forman [See, A: 121]; and (ii) Mac Truong's 25% ownership of the Property is not an asset of Rosemary Mergenthaler's estate to be used to settle any of her debts, and could not have been calculatedly, willfully and unlawfully converted to pay any party such as Barnard himself, his attorneys or Mergenthaler's alleged creditors as conspicuously and admittedly done in Barnard's TFR [A: 192-212]; and (iii) all, except about \$650,000.00, of Mergenthaler's listed debts on her Petition were strongly disputed, and as such, there was no ground to consider inconsequential Mac Truong's claim at a time when there was not even an estate to be administered as a matter of law. Indeed, at that time Mergenthaler was neither granted a discharge nor had she even attended a 341(a) Creditors Meeting to validate or confirm her Chapter 7 Filing and commence an estate to be legally administered by Barnard.
23. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that in spite of the foregoing, USBC-DNJ Judge Vincent F. Papalia granted Trustee Forman's motion to abandon on the ground that the issue belonged to the sound discretion

of the Trustee to make, and, if need be, Mac Truong could commence my own adversary proceeding to prosecute my claim, if any, and keep the recovery proceeds, if any, without sharing it with my estate under Trustee Forman's administration.

24. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that on or about August 23, 2016 Mac Truong was granted a discharge in good standing. [See, A: 91-92]. It is as such undisputed that even had any of my alleged aggressive and/or vexatious litigation conduct in other fora since 1982 been true, it could not be any ground to deprive me of my right to property and/or to due process.
25. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that about 19 days prior to that, i.e. on or about August 4, 2016 Petitioner Mac Truong herein started Adversary Proceeding #16-1618-VFP against Debtor Rosemary Ida Mergenthaler and her Trustee R. Kenneth Barnard to recover the value of my 25% of the Property. Barnard moved to dismiss on the exact same grounds as in the Motion to Abandon by Forman except he started to violently attack "disbarred lawyer" Mac Truong having been known all over the internet world to be an extremely aggressive lawyer suing anybody on sight including dozens of top judges in the State of New York and many lawyers so long as they do not share my view on any issue, including for instance the contents of the King James Version of the Holy Bible. [See, Exhibit A to Appellant's Reply Certification to Appellee's Opposition to Appellant's Cross-Motion to Sanction Appellee under Rule 11 of the FRCvP, being filed with the Court and electronically available as DE #21 – Date 3/16/2020 - USDC-DNJ Case No. 20-Cv-074 (ES)]
26. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that he had intentionally concealed from the Court that on August 31 2016, EDNY Chief Judge Irizarry dismissed Barnard's probably most audacious and extravagant ex parte motion in the legal history of the United States [A: 93-105] to compel Mac Truong, a citizen of New Jersey, to appear in the EDNY to be arrested and incarcerated in a federal prison in New York until such time as he (Barnard) would have enough time to fully administer Mergenthaler's estate, i.e., in fact, to convert in open court under false pretenses by fake motions and fake orders all her approximate \$3,000,000.00 cash assets, which includes Appellant's \$575,000.00 plus interest in Barnard's custody. [A: 106-110]
27. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that on November 4, 2016 Judge Papalia granted Barnard's motion to dismiss

based on two grounds: (a) the Rooker-Feldman doctrine prevented the Court from not enforcing Justice Pitts's August 6 2015 Order declaring null and void Mac Truong's 25% title to the Property; and (b) Mergenthaler's filing for Bankruptcy in USBC-EDNY triggered automatic stay under 11 USC 362(a), and suspended the USBC-DNJ's subject-matter jurisdiction to direct Barnard and/or Debtor Mergenthaler to turn over the 25% of the sale proceeds of the Property to Appellant-Petitioner Mac Truong herein. [A: 123-129]

28. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that Mac Truong timely appealed from Judge Papalia's November 4 2016 Dismissal Order to the USDC-NJD - Docket No. 16-cv-8591-ES. Honorable Judge Esther Salas affirmed USBC-DNJ's Dismissal Order on the Rooker-Feldman doctrine and *res judicata* theory without explaining at all how it should be so. Mac Truong appealed to the USCA3.
29. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that on or about July 30, 2018, Defendant-Appellee Rosemary Mergenthaler (not Plaintiff-Appellant Mac Truong) moved the USCA3 for summary judgment to direct her co-Defendant-Appellee Barnard to pay Appellant Mac Truong \$575,000.00 and the balance to her.
30. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that Barnard had failed to oppose Mergenthaler's foregoing Motion for Summary Judgment in the USCA3 on the merit but only on the **unfounded and immaterial hearsay allegation** that both Rosemary Ida Mergenthaler and Mac Truong were enjoined by various courts from litigation without prior court leave to fight for justice in whatever matter or regarding whatever issue that may be, including, for instance, to recover our respective assets having literally been robbed by extortion and blackmailing in open court, and tied up in Barnard's custody by fake orders for permanent conversion purpose.
31. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that on February 22, 2019 the USCA3 decided that Mac Truong's claim to my 25% share to the Property was not barred by the NYSC's August 6 2015 Order allowing the Property to be sold free and clear of any encumbrance including Mac Truong's Quitclaim Deed, **because Mac Truong was not a party to the proceeding, in which such order had been issued.** The Court however dismissed Mac Truong's appeal not on the merits but upon an **incorrect** technicality that at the time I commenced my underlying adversary proceeding [USBC-DNJ #16-

1618-VFP] to recover my asset from Barnard, Mergenthaler was in bankruptcy and as such her assets were protected by 11 USC 362(a) automatic stay against my claim. [A: 182-189]

32. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that the foregoing technicality barring Mac Truong from recovering my asset from Mergenthaler's estate is erroneous being not up to date in that the USCA3 did not take into consideration that Debtor-Appellee Mergenthaler was denied a discharge on August 12, 2016.
33. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that such technical error by the USCA3 needed not to be corrected by the Court but by any court having competent jurisdiction over the matter such as the USBC-DNJ and/or the USDC-DNJ as duly spelled out in Appellee's Brief, page 6, Statement of Jurisdiction, with regard to the jurisdiction of the Court.
34. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that on June 25, 2019 Debtor Mac Truong filed in the USBC-DNJ, Judge Papalia, my motion to reconsider and/or to relieve me from the Court's November 4 2016 Dismissal Order that had become incorrect as a matter of law based on a novel decision of an appellate court of higher jurisdiction, to wit the USCA3, and the execution of which 11/4/2016 Dismissal Order would have become literally the coverup or concealment of a criminal conversion of funds or grand larceny by Appellee-Respondent Barnard herein in glaring violation of 18 USC 153, 155, 157, 1512 and 1961. [A: 229; and A: 301-326]
35. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that he had absolutely failed to allege one single argument on the merit showing why he had the option of not paying back to Petitioner herein my \$575,000.00 plus interest that had been under his legal control and in his physical custody since May 11, 2015.
36. Briefly, in his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that he had absolutely no opposition on the merit showing why he, Barnard, could refuse to return to Plaintiff-Petitioner Mac Truong my \$575,000.00 plus interest representing my 25% ownership of the Property without violating 18 USC 153, 155, 157, 1512 and 1961. [A: 287-292]
37. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that **on October 30, 2019, Judge Vincent F. Papalia dictated from the**

bench that the Court was bound by the USCA3's February 22 2019 Order determining that the Rooker-Feldman doctrine did not apply to annul or void Mac Truong's Quitclaim Deed to 25% of the Property because I was not a party to the NYSC proceeding, in which the Court granted on August 6 2015 Receiver Mark A. Cuthbertson the power to sell the Property free and clear of all encumbrances including my Quitclaim Deed. However, being in error or not, honorable Papalia discussed at length many immaterial issues, and finally dismissed my Motion for Reconsideration on the undisputedly erroneous finding that it had no subject-matter jurisdiction at all over the Property or its \$2,300,000.00 Sale Proceeds in Barnard's custody.

38. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that Judge Papalia has as such literally suggested that both Plaintiff-Appellant Mac Truong and Debtor-Petitioner Mergenthaler herein should go to the USBC-EDNY, i.e. ultimately to the USCA2, to reclaim our respective assets from Barnard, Defendant-Appellee-Respondent herein, who, according to Judge Papalia, should have returned all assets in Rosemary Mergenthaler's Chapter 7 Estate under his administration to the immediate owners prior to May 11, 2015, date of the commencement of Mergenthaler's Chapter 7 Petition, i.e. respectively to both Mac Truong and Rosemary Mergenthaler, right after she had been denied a discharge on August 12, 2016 by USBC-EDNY Judge Robert E. Grossman; and/or right after the USCA3 February 22 2019 Order determining that Justice Pitts's August 6 2015 Order did not void Mac Truong's Quitclaim Deed to 25% of the Property, because Mac Truong was not a party to the proceeding. [A: 265 to 286]
39. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has as such failed to dispute hence agrees and admits that he had absolutely no lawful ground whatsoever to refuse to return to Appellant-Petitioner Mac Truong my assets in the sum of \$575,000.00 plus compounded interests from May 11, 2015 to me.
40. All that Barnard has to say in substance in the USCA2 is since Mac Truong is a vexatious disbarred lawyer, I must be silenced and let him rob me clean of every penny of my assets in his custody without being given any right to say anything in the matter.

POINT 3

APPELLEE-RESPONDENT BARNARD HAS FAILED TO DISPUTE THAT EVIDENCE ON RECORDS SHOWS WHY HE MUST TURN OVER TO PETITIONER ALBRECHT HIS \$600,000.00 DEBT

41. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that all the assets in Barnard's custody in the total amount of \$2,793,000.16, except \$575,000.00 plus interest that undisputedly belongs to Plaintiff-Appellant Mac Truong, as shown in Barnard's TFR [A: 192-212], belong to Rosemary Ida Mergenthaler, Petitioner herein, and should have been turned over to her as a matter of law, as hereinabove already set forth.
42. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has further failed to dispute hence agrees and admits that the claim in the amount of \$1,437,228.10 by Ruediger Albrecht, Petitioner herein, has been duly acknowledged by Defendant-Appellee Rosemary Mergenthaler in her Petition on file with the USBC-EDNY Case No. 15-72040 (reg) [A: 53]. The settlement agreement between Debtor Mergenthaler and Creditor Albrecht reducing the original claim amount from \$1,437,228.10 to Six Hundred Thousand Dollars (\$600,000.00) has been acknowledged and duly reflected in Defendant-Appellee-Respondent Barnard's TFR [A: 192-212], and right in the Certification being duly acknowledged, consented to, and executed in writing by all Plaintiff-Appellant-Petitioner Mac Truong and Debtor-Petitioner Mergenthaler herein and Appellant-Petitioner Ruediger Albrecht in their Joint Motions in the USBC-EDNY, EDNY and USCA2, **and finally never contested, but on the contrary endorsed by Defendant-Appellee Barnard in his TFR.** [A: 192-112].
43. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has as such failed to dispute hence agrees and admits that viewing the foregoing, Appellant-Petitioner Ruediger Albrecht is entitled as a matter of law, justice and equity and judicial economy, to an order by the USCA2 and/or this USSC directing Appellee-Respondent R. Kenneth Barnard and/or his employer and/or supervisor U.S. Trustee to turn over \$600,000.00 to Ruediger Albrecht out of the total assets of \$2,793,000.16 that they have held in custody as and for the assets of Debtor-Appellant-Petitioner Rosemary Mergenthaler's Chapter 7 Estate in Case No. 15-72040 – USBC-EDNY (reg).

POINT 4

**RESPONDENT R. K. BARNARD HAS FAILED TO DISPUTE
THAT EVIDENCE ON RECORDS SHOWS WHY PETITIONERS
AND ALL CONCERNED PARTIES SHOULD BE ALLOWED
TO FILE CIVIL AND/OR CRIMINAL COMPLAINTS WITH
PROPER AUTHORITIES AGAINST HIM AND THE U.S.
TRUSTEE AND OTHER MEMBERS OF THEIR JOC UNIT**

44. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that Defendants-Trustees-Appellees R. Kenneth Barnard and United States Trustee have made numerous motions based on material misstatements of fact and/or controlling legal authorities to obtain orders from numerous concerned courts, which could have certainly detected such frauds based on Petitioners' abundant moving and/or opposition papers and/or literal complaints for judicial misconducts, but had willfully overlooked and as such concealed them. And, as such, altogether Respondents herein and their attorneys at law and other purported creditors they worked with, and judges, including but not limited to USBC-EDNY Judge Robert E. Grossman, and EDNY Judge Joanna Seybert, USCA2 Chief Judge Robert A. Katzmann, have formed a judicial organized crime (JOC) unit acting in concert to convert and/or conceal the conversion of Petitioner Mac Truong's \$575,000.00 assets, plus interest, Petitioner Ruediger Albrecht's \$600,000.00 undisputed loan, and Petitioner Rosemary Mergenthaler's \$2,793,000.16 minus Mac Truong's assets, and/or Albrecht's debt, in glaring violation of 18 USC 153, 155, 157, 1512 and 1961, the Code and the Chapter 7 Handbook.
45. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits, for instance, that court records are littered with crime scenes literally described by Trustee-Appellee-Respondent Barnard and/or his attorneys as follows.

**Appellees-Respondents Have Failed to Contest that
Evidence in Barnard's Final Report, His Fake Motions
and Pleadings Proves Beyond a Reasonable Doubt that
His JOC Unit Has Committed Aggravated Perjury,
and Felonies by Making False Arrests, Blackmailing,
Extortion, Grand Larceny and Robbery in Open Court**

46. In his Appellee's Brief [DE #20], Appellee-Respondent R. Kenneth Barnard has failed to dispute hence agrees and admits that in his self-styled "CASE NARRATIVE" [See, USBC-EDNY Case No. 15-72040, DE # 323 dated 5/16/2019 - 21 pgs; 2 docs] [A: 213-220], he described in his own words how he and Judge Robert E. Grossman had acted in concert to commit the felonies of making false arrests, blackmailing, extortion, grand larceny and aggravated robbery in open court as follows:

"14. On January 26, 2016, the Trustee commenced an adversary proceeding (Adv Pro No. 16-08016) against the Debtor, Milda A. Castner, Esq. and her law firm Bergen & Parkinson, LLC, seeking, inter alia, injunctive relief and the recovery of the Inherited Funds. The Trustee sought and obtained an Order granting preliminary injunction preventing the transfer of the Inherited Funds and directing the turnover of documents and information by defendants [Adv. Pro. Dkt No. 14]. Thereafter, a motion was filed [Adv. Pro. Dkt No. 21] to compel the Debtor to, among other things, turnover the Inherited Funds. An Order was entered [Adv. Pro. Dkt No. 22] directing the Debtor to turn over the Inherited Funds within 5 days. When the Debtor failed to comply, the Court issued a Civil Contempt Order [Adv. Pro. Dkt No. 27], directing the United States Marshals Service to detain and incarcerate the Debtor and her husband, and directing that such detention and incarceration continue "until such time as she has purged her contempt by: (i) turning over, or causing to be turned over, the [Inherited Funds] to the Trustee..." The Debtor and her husband were detained and incarcerated by Agents of the United States Marshals Service in the early morning of March 24, 2016. At a hearing before the Court later that day, the Debtor turned over a check for \$180,000.00 to the Trustee, representing that portion of the Inherited Funds which had not been expended by her to that date." [See, USBC-EDNY Case No. 15-72040, DE #323, dated 5/16/2019 - 21 pgs; 2 docs], [A: 213-220]

47. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that the Chapter 7 Trustee's Handbook provides that *"The trustee must assist the United States Trustee in the performance of its civil enforcement duties and refer to the United States Trustee matters that might indicate the commission of a crime. 28 U.S.C. § 586."*

48. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that the foregoing shows that both Trustee Barnard, his attorneys in that case, and Judge Robert E. Grossman have willfully acted in concert and committed the felonies of making false arrests, blackmailing, extortion, grand larcenies and robberies in open court. Indeed,

the circumstances amounting allegedly to Debtor and her husband being suspected of receiving and/or concealing assets that undisputedly belonged to her through inheritance, but refusing to voluntarily turn them over to the Trustee to hold for the estate, did not as a matter of law call for her and her husband's arrests and taken to the court in handcuffs like criminals and told to be incarcerated until such time as she would have "disgorged" the alleged concealed assets.

49. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that **indeed, as a matter of law being unmistakably explained in the Trustee's Handbook, the Chapter 7 Trustee must have first reported the crime, if any, of concealing assets by a debtor to the U.S. Trustee and it would be up to the latter to make the appropriate decision in the matter such as reporting to the F.B.I. for investigation or the U.S. Attorney office for prosecution. Indeed, the Chapter 7 Trustee is as a matter of law not an officer of the U.S. Department of Justice, with power to prosecute criminal suspects, or to take advantage of the suspected misconduct to blackmail Debtor, literally shut her up, and quietly steal all her assets under cover of fake court orders, as in this case. He is only a regular private citizen being assigned a civil job of assisting the U.S. Trustee to administrate a certain number of Chapter 7 Bankruptcy cases, pursuant to the Code and the Trustee's Handbook.**
50. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that in the instant case, the crimes being committed by Appellee Barnard in violation of 18 USC 153, 155, 157, 1512 and 1961 are even more egregious and inexcusable and undisputed viewing that Debtor Mergenthaler had never attended any 341(a) Meeting and was denied a discharge. And, as such Barnard was never an authentic lawful Chapter 7 Trustee with power to collect and/or liquidate Mergenthaler's assets then pay them to himself for his alleged administration fees, or to parties or entities at his own option as if he had all the legal power of a legitimate Trustee to do so in good faith and with total integrity.
51. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that even a U.S. Bankruptcy Judge such as Honorable Robert E. Grossman has no authority to order any debtor or anybody arrested and incarcerated until such time as he or she would have paid a debt to another person, be that a judge or a trustee. No more prison for owing debt is indeed the reason why the modern U.S. Bankruptcy Code has been voted for and promulgated by Congress, and any attempt by Trustee Barnard or Judge Grossman to unlawfully lift such ban of imprisonment for debts is undisputed evidence that these two entities and other

members of their JOC unit, including EDNY Judge Joanna Seybert and USCA2 Chief Judge Robert A. Katzmann, have placed themselves well above the law. They should be properly indicted, prosecuted and jailed by proper authorities.

52. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that **annexed to Appellant's Appendix to Motion for Summary Judgment Page 73 is Electronic Reference to Judge Grossman's March 10 2016 Order directing** "that the Debtor and Peter are hereby directed and compelled to turnover any and all property of the estate in their possession; to produce an accounting of the dates, amounts, payee names, payee bank names and account numbers of any and all transfers made with the property of the Debtor's estate; to produce copies of any and all cancelled checks, wire transfer confirmations, cash receipts, correspondence, letters, emails, text messages, memoranda, agreements and/or documents in the Debtor's and/or Peter's possession; any and all documents required to be produced by Rule 4002 of the FRBP and section 521, to the Trustee within 5 days of the entry of this Order to LaMonica Herbst & Maniscalco LLP. **The Debtor shall appear for her initial meeting of creditors on 4/6/2016 at 11:30 am at 560 Federal Plaza, Room 561/563, CI, NY. A hearing shall be conducted on 3/17/2016 at 10:00 AM at Courtroom 860 (Judge Grossman), CI, NY. to consider whether the Debtor and Peter have complied with this Order and prior Orders issued by this Court, whether the Debtor and/or Peter should be held in contempt of Court and incarcerated or otherwise sanctioned until Debtor and/or Peter fully comply with this Court's Orders, and the balance of the Application. Opposition to the relief requested in this Order to Show Cause shall be filed on or before 3/16/2016 at 10:00 am.**" [Emphasis added]
53. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that the foregoing is undisputed written evidence on formal court record showing that Judge Grossman had voluntarily and calculatedly joined Barnard's JOC unit by issuing orders to extort Debtor's assets under threats of arrests and indefinite incarceration. It also proves that the Court was keenly aware of the requirement of Debtor's attendance of an initial 341(a) Meeting for all and any of the collection of Debtor's assets pursuant to 11 USC 704 to be legally carried out by a Chapter 7 Trustee.
54. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that it is as such absolutely undisputed on the face of the March 10 2016 Order [A: 73] that Judge Grossman has committed the illegal act of compelling Debtor under threat of

arrest and incarceration to attend her initial supposedly voluntary attendance of a 341(a) Creditors Meeting, the failure of which would result as a matter of law in a dismissal of her case and not in an arrest and/or indefinite incarceration. The foregoing order by Honorable Grossman is analogous to a rapist raping his victim while telling her she would be battered or killed if she refuses to “voluntarily” consent to her being raped by him and that “today is the day you come to consent to have sex with me!”

55. In his Appellee’s Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that, in this case, such appearance, having been ordered more than 50 times, was literally and willfully never complied with at all, and as such there is no doubt that the alleged administration of Debtor’s estate as described and reported in purported Trustee Barnard’s TFR [A: 192-212] was illegal.
56. In his Appellee’s Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that, viewing the foregoing, any transfer of Debtor’s assets, funds or properties having been made by Barnard even as approved by Judge Grossman was one separate criminal count of conversions of assets under false pretenses in violation of 18 USC 153, 155, 157, 1512 and 1961. Also, as such, Mr. Barnard’s TFR [A: 192-212] and Judge Grossman’s July 16 2019 Orders for Compensation [A: 234-238] and Barnard’s September 30 2019 Final Account and Distribution Report, Certification that the Estate has been Fully Administered and Application to be Discharged [247-261] are the ultimate undisputed documentary evidence on court records of hundreds of separate counts of criminal conversion of funds or felonies of grand larceny that could be used by appropriate U.S. governmental authorities to separately and/or severally and/or jointly indict and prosecute not only R. Kenneth Barnard and Honorable Robert E. Grossman, Honorable Joanna Seybert and Honorable Robert A. Katzmann, but also dozens of concerned parties, whose names and addresses are handily and/or conspicuously listed on such documents being on file with the Court. [A: 73]
57. In his Appellee’s Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that concerning the arrest and incarceration of Peter Mergenthaler, Debtor’s husband and third party to the bankruptcy proceeding of his wife, Barnard’s JOC unit’s crimes are even more egregious. Indeed, the proper procedure, as required by law being described in the Chapter 7 Trustee’s Handbook, is for the Trustee to commence an adversary proceeding against third party Peter Mergenthaler. It is so, because fundamentally the United States of America is a

country of law with a constitution that guarantees to all its citizens their respective rights to due process, rights that Trustee Barnard and Judges Grossman and Seybert and Katzmann and other members of their JOC unit would certainly invoke with pride and insistence being now on the wrong side of the law.

58. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that a review of all the evidence also shows that Mr. Barnard has made numerous material misstatements of fact to obtain orders from Judge Grossman to convert piece by piece, penny by penny the total of \$2,793,000.16 of Debtor-Appellant-Petitioner Mergenthaler, Appellant-Petitioner Mac Truong and Creditor-Appellant-Petitioner Ruediger Albrecht.
59. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that it is so, just by taking into consideration the two undisputed facts that (a) Debtor never attended any 341(a) Creditors Meeting and (b) she was denied a discharge on August 12, 2016, and as such there had never been any estate to administrate, and Appellee Barnard had no authority whatsoever to collect one penny on behalf of disputed creditors, and a lot less to pay it to himself or those who are not acknowledged creditors of Debtor with her explicit consent or authorization, and must have all returned to Debtor and/or to Mac Truong, the immediate owner prior to Debtor's filing for Chapter 7 Bankruptcy on May 11, 2015.
60. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that the dissipation of one single penny of the total sum of \$2,793,000.16 admittedly in his custody that was not turned over to Debtor after her August 12 2016 Discharge-Denial Order, or to Mac Truong after the USCA3 February 22 2019 Order declaring that Justice Pitts's August 6 2015 did not apply to void Mac Truong's Deed, because the latter was not party to the proceeding [A: 182-189], is undisputed evidence that Appellee-Respondent purported Trustee R. Kenneth Barnard herein has willfully and calculatedly acted in concert with other members of his JOC unit to convert said sum of \$2,793,000.16 under false pretenses in violation of 18 USC 153, 155, 157, 1512 and 1961.
61. In his Appellee's Brief [DE #20], Appellee-Respondent Barnard has failed to dispute hence agrees and admits that **COURT HAS INHERENT AUTHORITY AND DUTY TO TURN A CIVIL CASE INTO A CRIMINAL:** "About a week after the trial began in early 2018, Uber agreed to settle the case and pay \$245 million to Google's self-driving car spinoff, now called Waymo. The Google spinoff also got guarantees to prevent its technology from being used in Uber's autonomous

cars. But before that happened, U.S. District Judge William Alsup in San Francisco, who was overseeing the Waymo-Uber lawsuit, took the unusual step of referring the case to the U.S. attorney's office based on testimony and evidence unveiled ahead of a trial.” [QUOTE from “How Uber’s quest for self-driving tech led to criminal case” By TOM KRISHER - ASSOCIATED PRESS - AUG 27, 2019 - 3:00 PM – DETROIT]

62. In his Appellee’s Brief [DE #20], Appellee-Respondent Barnard has finally failed to dispute hence agrees and admits that viewing the forgoing, Petitioners herein and all concerned parties are entitled to an order by this Supreme Court allowing us and/or our attorneys at law to file jointly and/or separately appropriate civil and/or criminal complaints with proper authorities, and seek compensation from appellees R. Kenneth Barnard and the United States Trustee and other members of their judicial organized crime unit.

GROUND UPON WHICH THIS PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED

The facts and circumstances of this case glaringly and undisputedly show on public court records that:

(a) The United States Court of Appeals for the Second Circuit has in the case at bar entered a decision in conflict with its prior decisions and those of other United States Court of Appeals especially the United States Court of Appeals for the Third Circuit regarding the same issues and/or on the same identical matter between the same parties in that the Court has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a U.S. District Court, as to call for an exercise of this USSC's supervisory power. [See, February 22 2019 Order of the U.S. Court of Appeals for the Third Circuit, *Mac Truong v. Rosemary Mergenthaler and R. Kenneth Barnard* – Dkt #18-2430 Dated 2/22/2019 - USCA3

- resolving the exact same issue, opposing the same parties, in favor of Petitioner-Appellant herein, instead of making shameless false statements of fact and/or of law like the USCA2 to despicably endorse the EDNY Orders, being appealed. In other simple words, on the same issue of whether the Rooker-Feldman doctrine should apply in the said litigation to resolve Mac Truong's claim against my Chapter 7 Estate, I won in the USCA3 while I had lost in the USCA2, something that is per se an additional undisputed evidence showing that the USCA2 is involved in JOC activities and separates itself from the correct rules of law and justice.]

(b) The USCA2 has further entered a decision in conflict with its prior decisions and those of other United States Court of Appeals especially the United States Court of Appeals for the Third Circuit in the same identical matter in that the Court has decided an important question of federal law that has not been, but should be, settled by the U.S. Supreme Court, or has decided an important federal question in a way that conflicts with relevant decisions of this USSC. Indeed, in this case the USCA2 squarely misbehaved itself in a despicable criminal manner in that its Chief Judge Robert A. Katzmann has acted in concert with Appellees to conceal by FAKE Orders [Orders based on false findings of fact or conclusions of law or no finding of fact or conclusion of law dismissing Appellant's appeal to cover up Appellees' conversion of Appellants' \$2,793,000.16 in their custody in glaring violation of 18 USC 153, 155, 157, 1512 and 1961.]

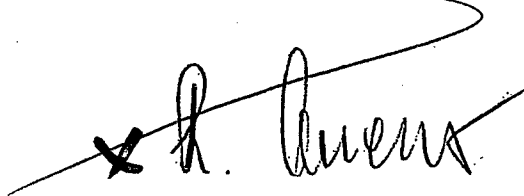
CONCLUSION

For all the reasons and authorities outlined above, Plaintiff-Appellant-Petitioner Mac Truong, Debtor-Appellant-Petitioner Rosemary Mergenthaler, and Creditor-Appellant-Petitioner Ruediger Albrecht respectfully petition to this Court for an order granting our instant Petition for a Writ of Certiorari and/or directing appropriate solution viewing all the facts and correct applicable legal principles in the instant extremely serious matter of national proportion affecting the very deepest core of the American Justice system by issuing any remedy that this Court would deem reasonable and appropriate to restore justice not only for the undersigned but for all the people of the great United States of America.

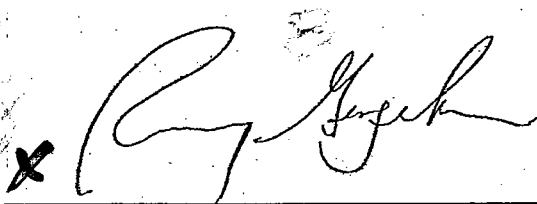
Dated: March 30, 2020



*Mac Truong, Plaintiff-Appellant-
Petitioner Pro se*



*Ruediger Albrecht, Creditor-Appellant-
Petitioner Pro se*



*Rosemary Mergenthaler, Debtor-Appellant-
Petitioner Pro se*