No. 19-834

In the Supreme Court of the United States

PHILIPPE BUHANNIC,

Petitioner,

v.

SUPREME COURT OF THE STATE OF NEW YORK – NEW YORK COUNTY

Respondent.

On Petition for an Extraordinary Writ of Mandamus to the Supreme Court of New York – New York County

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PETITION FOR EXTRAORDINARY WRIT OF MANDAMUS

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DECEMBER 23, 2019

QUESTION PRESENTED

Whether the state courts, have the right based on an obvious prejudice and bias to refuse due process to a foreign Pro se litigant. The denial is so obvious, persistent and omnipresent, the collusion so obvious in this case that this court must correct this quickly to have still a meaningful constitution as the rights denied to the foreign Pro se litigant are constitutional in nature: due process, right to appeal, etc.?

LIST OF PROCEEDINGS BELOW

New York Appellate Division, First Department
Case No. 653624/16-7543
Philippe Buhannic, et al., v. Tradingscreen, Inc., et al.,
Decision Date: November 12, 2019

Supreme Court of the State of New York County of New York Commercial Division Part 60

Index No. 653624/2016

Philippe Buhannic and Patrick Buhannic, Individually and Derivatively on Behalf of Tradingscreen, Inc., v. *Tradingscreen Inc.; Pierre Schroeder; Piero Grandi; Frank Placenti; Robert Trudeau; TCV VI, L.P., and TCV Member Fund, L.P.*

Decision Date: December 6, 2018

RELATED PROCEEDINGS IN THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

Buhannic v.
American Arbitrage Association (AAA) et al.
Case No: 1:18-cv-02430-ER
Case Opening Date: March 19, 2018
Decision Date: September 27, 2019

Buhannic et al. v. Tradingscreen Inc. et al.
New York Southern District Court
Case No: 1:18-cv-05371
Case Opening Date: June 14, 2018
Decision Date: September 27, 2019

Buhannic et al. v. Tradingscreen Inc. et al.
New York Southern District Court
Case No: 1:18-cv-05372-ER
Case Opening Date: June 14, 2018
Decision Date: September 27, 2019

Buhannic v. Friedman
Case No: 1:18-cv-05729-RA
Case Opening Date: June 25, 2018
Decision Date: February 7, 2019

Buhannic et al v. Tradingscreen Inc. et al
New York Southern District Court
Case No: 1:17-cv-07993-ER
Case Opened: October 17, 2017
Decision Date: July 27, 2018

Buhannic et al v. Tradingscreen Inc. et al.
New York Southern District Court
Case No: 1:18-cv-07997-ER
Case Opening Date: August 31, 2018
Decision Date: September 27, 2019

Buhannic v. Tradingscreen Inc.
New York Southern District Court
Case No: 1:18-cv-09351-ER
Case Opening Date: October 12, 2018
Decision Date: No Decision

Buhannic v. Tradingscreen, Inc. et al.
New York Southern District Court
Case No: 1:18-cv-09447-ER
Case Opening Date: October 16, 2018
Decision Date: September 27, 2019

Buhannic v. Tradingscreen, Inc. et al.
New York Southern District Court
Case No: 1:18-cv-10170-ER
Case Opening Date: November 1, 2018
Decision Date: September 27, 2019

RELATED PROCEEDINGS IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Buhannic v. Friedman
United States Court of Appeals for the Second Circuit
No. 19-365
Decision Date: August 1, 2019

Buhannic v. Tradingscreen Inc.
United States Court of Appeals for the Second Circuit
No. 19-531
Decision Date: April 23, 2019

Buhannic v. Tradingscreen Inc.
No. 18-2274
United States Court of Appeals for the Second Circuit
Decision Date: October 11, 2019

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OPINIONS BELOW

Petitioner seeks an extraordinary writ of mandamus pertaining to the proceedings in the State of New York Appellate Division, First Department. The final opinion and order dated November 17, 2019, is included below at App.1a. The orders of the Supreme Court of New York, County of New York, are included below at App.4a-5a, 8a-12a, 13a-14a, and 15a-17a.

JURISDICTION

This case has clearly breached the rights of Mr. Buhannic under the 5th and the 14th amendment of the U.S. Constitution. Mr. Buhannic has fundamentally been stolen his property of north of 60% of the company he created through a mixture of outright corruption in Delaware where the judge was bought out, Collusion in the Supreme court of New York and New York appeal court and exposed to a significant discrimination as a foreign national and Pro se person and massive due process issues under Delaware, New York but also sadly the Federal court system in New York in a way that effectively is breaching his right to be protected by due process against these acts.

This Petition for Extraordinary Writ of Mandamus is filed pursuant to Sup. Ct. R. 20.4(a). This Court has jurisdiction under 28 U.S.C. § 1651.

CONSTITUTIONAL PROVISIONS

U.S. Const. amend. V

> No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const. amend. XIV, § 1

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

RULE 20 STATEMENT

A. Name and Function of Parties to Whom Mandamus is Sought to be Directed

Petitioner seeks mandamus issued to Judge Friedman of the New York Supreme Court, New York County.

B. Petitioner seek the following relief:

Mr. Buhannic respectfully requests that this Court grant the relief requested, based on the US Constitution to reestablish an environment where due process exist and is not entirely denied to foreign *pro se* litigant as it has been in this case, declare that these courts have breached Mr. Buhannic constitutional right to due process and appeal and to:

1. In the New York Supreme Court cases, we request:

   a. The recusal of Judge Friedman from the case and a concentration of all actions front of the single most relevant court in Federal court but outside of the southern district that has demonstrated a level of inefficiency and collusion unmatched in modern time with a really independent judge that can handle a case rapidly.

   b. An allocation of the case to a relevant Federal court away from New York based on Diversity

c. A reversal of ALL the judgements of Judge Friedman who were all determined on a lack of due process and bias.

d. The establishment of a parity between all parties for indemnification and an immediate reimbursement of the 5 M USD plus of advancement expenses including interests since their due date at 19%, that the Company failed to advance for three years, despite Mr. Buhannic's total compliance with the advancement conditions under Section 4 and that Mr. Buhannic has incurred and was not reimbursed for while the other Board members were reimbursed illegally.

e. Damages in the amount decided by the court for the breach of the indemnification agreement realizing that this has damaged the defense of Mr. Buhannic seriously and allowed the Defendants to destroy his company that was worth 650 M USD before that to a value that is 0 today. The bad faith of the company should be taken into account while calculating the damages as well as the hardship endured by Mr. Buhannic who has seen his life creation, TradingScreen, being savagely destroyed by a group of Private Equity racketeers with no skills but to manipulate a legal system going awry, a few corrupt Board members and a team of corrupt big law firms that put money front of integrity in ALL their actions.

f. Any further relief that the Court might deem appropriate as the Court deems just and

proper like the amount of damages that should be charged to the Defendants for the personal moral prejudice created to Mr. Buhannic over three years.

C. Why Petitioners Have Filed for Relief in This Court

Petitioners have sought remedy in the New York Appellate Division and U.S. Court of Appeals for the Second Circuit. See List of Proceedings. The only remaining court of higher authority is the Supreme Court of the United States.

STATEMENT OF THE CASE

Preliminary Statement

This is a straightforward case. Philippe Buhannic ("Buhannic") seeks to enforce his constitutional rights to due process protected by the U.S. Constitution that have been denied to him in the most horrible manner by the New York Supreme court whose bias and prejudice is so deeply rooted in the system, that they have breached the constitutional right of Mr. Buhannic as a foreign Pro se litigant as they consider wrongly that the constitution does not protect him.

Worse the actors of this farce feel so certain that they are unreachable that they are going extremely far in the illegality and of their manipulative actions, and fear nothing from a system that they feel they master and can play against a Pro se litigant with no resource as the system is more interested in protecting its own faulty members than achieving justice. This

is the ultimate in bad faith and insulting to intelligence and the principles of the U.S. Constitution.

It demonstrates that the system allows the actors to refuse effectively due process by hiding their, sometimes criminal acts, behind the most stupid presentation reasons, or just to ignore the rules as demonstrated in examples outlined in this case.

Worse the litigant has also experienced massive corruption of the system in the benefit of the big corrupt law firms Morgan Lewis and Weil Gotschal which have established in the courts, against discreet retribution, a network of dependent employees that will effectively guide the cases their way.

This case is a terrible eyesore on the U.S. legal system and demonstrate a total lack of principles and legal respect by all the actors of the U.S. legal system from lawyers to judges to clerks.

STATEMENT OF FACTS

From 1999 until his wrongful termination in late June 2016, in a clear breach of his employment agreement, in a coup organized by the minority Private Equity shareholder TCV with 18% of the shareholding to steal the value of the company unduly, Mr. Buhannic served as the Company's CEO and Chairman of its Board for 16 years. This is a company that he created from scratch making tremendous personal sacrifices to create the leader in the Fintech space with his ingenuity, hard work and money.

Thanks to the corrupt judge Laster in Delaware he was illegally taken off as CEO and president and chairman of the Board and denied illegally his rights as the largest shareholders to elect his representation and control the company. This criminal decision as it was "purchased" has allowed the TCV thieves to effectively buy the Board members that the Plaintiffs wanted to replace and to control the company with 18% of the shareholding illegally and to wreck the company to oblivion. Worse the TCV thieves have manipulated a totally corrupt system, where everything can be purchased, through the corrupt big law firms Weil Gotschal and Morgan Lewis and made sure to deny due process to the Plaintiffs in so many ways that it should be a benchmark case.

He is still a Board member today and is getting diluted to oblivion thanks to the efforts of the colluded and corrupt judges.

Thus, in this complaint, Mr. Buhannic seeks a correction of all the massive due process issues he has faced and a cancellation of all the decisions that were based and leveraged on these due process failings to reestablish a level of coherence in the system that has proved to be prone to corruption at all levels and has denied clearly the constitutional rights of the Plaintiffs and allowed the thieves at TCV to commit multiple criminal acts without any restraint as the big corrupt law firms they use "own" the court system.

ARGUMENT

POINT I. THE PLAINTIFF WAS DEPRIVED OF HIS DUE PROCESS RIGHT TO A FAIR, EFFICIENT, AND PROMPT TRIAL: AFTER A TOTAL OF THREE YEARS OF ABSOLUTELY NO ACTION THE JUDGE HAS CLEARLY BREACHED ALL THE DUE PROCESS LIMITS OF INCOMPETENCE AND DUE PROCESS TO SUPPORT HER ABSOLUTE COLLUSION WITH THE DEFENDANTS.

First, Judge Friedman adopted a prejudice against Mr. Buhannic's national origin and *pro se* status immediately after Mr. Buhannic who was obliged to move to that status because of the Judge illegal and negative decision on indemnification, which highly influenced her fair administration of the court's procedures. In *Turner*, the Supreme Court opined that although the right to counsel is not necessary to comply with the due process, courts should grant alternative procedural safeguards that would compensate the absence of a counsel and in all states instruction

have been given to judges to support the Pro se litigants, not to treat them like a well-organized, experienced, big law firms. Judge Friedman did warn very clearly Mr. Buhannic against going Pro se despite forcing him into this status by her unfair decision on indemnification, where she applied the law differently to the two parties allowing indemnification for the defendants but not the Plaintiff, proving again her collusion with the defendants.[1]

> "THE COURT: Now, Mr. Buhannic, you will have the right to proceed without counsel in this action, but you will be held to the same standards as parties who have counsel, and that is what I must do. You have already had two well-known law firms in this case; Kasowitz, Benson and the Shiboleth law firm. You, evidently, have not been in agreement with either counsel. I strongly urge you to retain counsel to represent you in this matter. And this is a complicated commercial case, involving complicated procedural and substantive issues; and I must hold you, whether represented or not, to the same standard as represented parties. While you have the right to proceed on your own, a case like this is very difficult to negotiate without counsel."

Moreover, the inspection of due process clause is instructed by *Mathews* test.[2] Thus, it is indispensable for the judge to consider *Mathews* three factors before depriving a party from a procedural safeguard: (1) the

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1 *Turner v. Rogers*, 564 U.S. 431 (2011), at 12.

2 *Nelson v. Colorado*, 137 S.Ct. 1249 (2017), at 6.

nature of "the private interest that will be affected," (2) the comparative "risk" of an "erroneous deprivation" of that interest with and without "additional or substitute procedural safeguards," and (3) the nature and magnitude of any countervailing interest in not providing "additional or substitute procedural requirement[s]."[3] Finally, *In re Murchison*, the Supreme Court stipulated that "fair trial in a fair tribunal is a basic requirement of due process."[4]

Throughout this case, Judge Friedman blocked almost every procedural safeguard for Mr. Buhannic despite being a *pro se* litigant depriving him from his due process of law and his right to a fair trial.

First, she disallowed discovery for Mr. Buhannic and allowed it for defendants. Second, she did not force his opponent to comply with the court procedures by disclosing relevant documents and information to the plaintiff despite Mr. Buhannic giving Judge Friedman the proof the Defendants were tampering with evidence. Third, she allowed the defendants to produce some documents even after Mr. Buhannic offered the judge a concrete proof that the defendants tempered with the discovery and were refusing to perform a complete discovery. Fourth, she allocated time unfairly between the parties where the highly paid defendant lawyers spent hours in oral arguments, where Mr. Buhannic could barely speak since his Law firm was terminated. This does not only breach landmark Supreme Court cases of due process like *Turner*, *Nelson*, and *Mathews*, it basically reveals how unfair

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[3] *Mathews v. Eldridge*, 424 U.S. 319 (1976), at 11.

[4] *In re Murchison*, 75 S.Ct. 623, 99 L.Ed. 942.

and prejudiced was Judge Friedman against Mr. Buhannic as if she is punishing him for choosing to be a *pro se* litigant, a right that he can freely exercise. Thus, the plaintiff was deprived of his right to a "fair trial in a fair tribunal" according to the Fifth and Fourteenth Amendments of the constitution and *in re Murchison* case.

Second, Judge Friedman failed to conduct an efficient administration of judicial matters which breached the plaintiffs' due process. The Administrative Order of the Chief Administrative Judge of the Courts encourages judges to "make reasonable efforts to facilitate the ability of unrepresented litigants to have their matters fairly heard."[5] Instead of making reasonable efforts for Mr. Buhannic to facilitate his *pro se* litigation, Judge Friedman blocked every procedural channel for him. She did not only block his discovery; she also did not accept his amendment of the complaint. In fact, the hostility against *pro se* litigants is not new; it was thoroughly described by a former *pro se* litigant,[6] was the subject of criticism by many academic papers,[7] and led one of the judges to retire due to his dissatisfaction with the way his co-workers treated

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5 ADMINISTRATIVE ORDER OF THE CHIEF ADMINISTRATIVE JUDGE OF THE COURTS, (B) 12 (2015), *available at* https://www.nycourts.gov/rules/comments/orders/AO83-15.pdf.

6 Brian Vukadinovich, *Courts and Congress Must Protect the Rights of Pro Se Plaintiffs*, Washington Examiner (2017), available at https://www.washingtonexaminer.com/courts-and-congress-must-protect-the-rights-of-pro-se-plaintiffs.

7 *See e.g.*, Paris R. Baldacci, *Access to Justice is More Than the Right to Counsel: The Role of the Judge in Assisting Unrepresented Litigants*, New York Law School (2016).

pro se litigants.[8] One must distinguish between equality between parties before the court and equity. A judge holding a big law firm and a *pro se* litigant on an equal ground and expressly declaring to do so according to proceeding transcripts is not equitable. Rather, it blatantly breaches the procedural due process under *Mathew*'s test. This is because the failure of a judge to provide for alternative procedural safeguards to allow the pro se litigant to stand on equal ground with the defendant's law firm deprives the plaintiff of his ability to entertain the case just for being a *pro se*, a right that he can exercise without being punished for especially when she is the one to force him into pro se.

Lastly, Judge Friedman failed to conduct the administration of judicial matters promptly. It has been three years since the case was filed and there is no progress taking place on the main subject matter of the case which is his termination and its consequences. Thus, the judge is far away from prompt despite all the efforts of Mr. Buhannic who literally begged her not to order stays on every junction. Moreover, in almost 36 months, Judge Friedman had refused to examine two information demands by board members who wanted to comply with their fiduciary duties. By rejecting the issuance of this information to the Board members when it was totally legal, Judge Friedman acted as an obstacle to justice. It is worth noting that she herself recognized the case as simple when she stated in the first oral arguments session:

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[8] Debra Cassens Weiss, *Posner: Most Judges Regard Pro Se Litigants as 'Kind of Trash Not Worth the Time'*, ABA Journal.

> "Let's address the threshold of how these acts can amount to a fiduciary duty. I have some reservation about that. How is striking an employee, as reprehensive as such an act may be if true, an act that breaches a fiduciary duty?"[9]
>
> "Is there any case in either New York or Delaware which treats a physical act of that kind as a breach of fiduciary duty?"[10]
>
> "And the answer is no."—"that is because if this thing is true, it is a bad thing, but it is not a breach of fiduciary duty."[11]

Thus, Judge Friedman had failed to dispose of legal matters in our case fairly, efficiently, and promptly which breaches the constitutional right of the plaintiff to due process and fair trial. Judge Friedman has once again colluded with the Defendants as she clearly knew that they had a very bad case on the key issues and through her multiple unreasonable delays imposed on the due process has allowed the Defendants to destroy totally Mr. Buhannic firm TradingScreen that he created over 16 years and to steal all the money that was accumulated by Mr. Buhannic (39 M $ of cash were replaced by 30 M $ plus of debt) and by allocating to themselves millions of stocks without any investment or efficient work. These events would have not been made possible without the significant delays, more than 24 months in total that

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9 Transcript for the proceedings on Jan 11th, 2017, at 24.

10 *Id.*, at 25.

11 *Id.*, at 25.

can be attributed to the systematic delaying of Judge Friedman despite the pleading of the Plaintiffs. This was done by the judge to support her collusion with the Defendants.

The last twist of her collusion is even worse. Judge Friedman has taken away the protection against losing the majority which was in place against the TCV thieves in a preliminary injunction granted by . . . . Judge Friedman! She now has exercised her illegal power as this case should be in any case front of Federal court because of Diversity and has totally changed her mind to feed her collusion with the defendants!

This is another completely unacceptable breach in due process as Judge Friedman is exercising fundamentally retaliation against Mr. Buhannic as he refused the collusion she has demonstrated with the Defendants. A judge by Federal rules and New York rule must maintained a balanced and fair approach and avoid ex-parte communication with either party. Judge Friedman clearly feels she can do anything she wishes and feels due process is a ridiculous concept.

This case started in the New York court system on 11 July 2016. We are more than three years later and despite the Plaintiffs being clearly the owners at 70% plus they have been unable to exercise their corporate rights. Worst the employment issues that are extremely simple, and that are in every of the 25 countries I have worked in, always prioritized as they have a serious negative impact on people. Have not even been read by the judge in a clear case of collusion with the Defendants and in a flagrant refusal to apply the New York judge rules and due process rules in New York or Federal.

This has created a situation where the judge has put the Plaintiffs at extremely high risk to never receive the money they are owed by the company as the company is in effective bankruptcy going from one loan to another. The plaintiffs have not been paid their retirement for more than 10 years which is a criminal offense under ERISA, have not been paid their 2016 bonus, have not received their fully vested stocks and numerous issues in clear infringement of his contract. Judge Friedman in her complete collusion and discriminatory approach against the Plaintiffs national origin and *pro se* status has made sure that no decision was taken even the most trivial ones to advantage her collusion partners. She is most likely also getting paid for that in dirty money untraceable. This is in clear opposition of the basic concept of due process as the judge does not have any authority on the timing of these resolutions. A judge is obliged to be effective and efficient in its handling of a case. Here even trivial decisions like getting information from the company to exercise the rights and obligation of control for board members to discharge themselves of their fiduciary duty, have been totally ignored by Judge Friedman. Twice the Plaintiffs made some request for information that the judge decided to completely ignore and has not even answered after more than two years in clear breach of due process and judge rules, allowing the Defendants through this to outright steal assets from the company unchecked. The personal criminal responsibility of the judge here is fully engaged as she refused to apply the rules and a very well-established jurisprudence in Delaware. It is a major due process breach as the New York judge rules and the federal

judge rules are requiring the judges to be efficient and as rapid as possible. In this case Judge Friedman has been voluntarily, as slow as she could to favor the dismantling of the company by outright collusion with the Defendants.

POINT II. REFUSAL OF DISCOVERY RIGHTS WITHOUT ANY JUSTIFICATION WHILE ALLOWING THE DISCOVERY TO THE OTHER SIDE.

One of the most fundamental right in any jurisdiction is the right to get discovery. This right is protected by the Constitution and is granted to all parties. As part of the outright collusion between the Judge Friedman and the Defendants, Judge Friedman allowed a full discovery to the Defendants but denied it entirely to the Plaintiffs. The Plaintiffs when they went *pro se* had communicated a very clear plan of discovery that would prove the criminal enterprise of racketeering that TCV had organized. To achieve this a few key witnesses were necessary. When the plaintiffs were starved for resources by Judge Friedman collusion with the Defendants who refused without any basis the indemnification they were entitled to, they had to go *pro se*. When they went *pro se* they requested the discovery they needed to prove their points. Judge Friedman realizing that the plaintiffs will prove their points with these witnesses and getting her instruction from the Defendants through ex-parte communication, refused the discovery plan without any basis leaving them with no valid discovery while the Defendants had a full discovery. Worse she used the fact that Philippe Buhannic had offered many times to testify and Morgan Lewis refused to take his deposition, as much as staying in their lobby for hours in two occa-

sions. And once again colluded with an ex-parte communication to use the fact that Mr. Buhannic starved for resources could not change his ticket back to Europe and had a flight at 5 despite Mr. Buhannic offering to come earlier or to come another time to complete if necessary a totally unnecessary deposition as he had already said everything while the Plaintiffs could were refused even the most simple deposition to be done! Judge Friedman in one of the most bizarre and unfair decision if not for her total discrimination and collusion, decided to cancel her own preliminary injunction that she took before based on a false no show for Mr. Buhannic's deposition organized by Morgan Lewis the corrupt law firm that pays her who refused to take his deposition. This flagrant denial of justice and due process was reported to the New York Appeal court who refused once again to take the appeal.

We have shown the discovery requests of the plaintiffs which were totally in the framework requested by the judge (10 witnesses, etc.) and the refusal of the discovery by the judge in her order, showing her collusion and discrimination and refusal to apply the law.

The Due Process Clause of the Fifth Amendment simply stipulates that no person shall be "deprived of life, liberty, or property, without due process of law."[12]

In *People v. Ochoa*, The Supreme Court of California opined that: "[n]ot every discovery violation is a

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[12] Fifth Amendment of the U.S. Constitution.

due process violation—only those that undermine confidence in the outcome."[13]

Moreover, the U.S. Supreme Court laid down the test to measure the procedural due process in *Mathews*.[14] Following this case, it became indispensable for the judge to consider *Mathews* three-factor-test before depriving a party from a procedural safeguard: (1) the nature of "the private interest that will be affected," (2) the comparative "risk" of an "erroneous deprivation" of that interest with and without "additional or substitute procedural safeguards," and (3) the nature and magnitude of any countervailing interest in not providing "additional or substitute procedural requirement[s]."[15]

In the case beforehand, the plaintiff was deprived of his right to discovery before the New York Court. In the early stages of the case, the plaintiff was represented by a law firm before choosing to represent himself *pro se*. Both counsels agreed on a fixed deadline for discovery. However, when the plaintiff noticed negligence on the side of his law firm to comply with the discovery deadline, he appeared in court and decided to represent himself *pro se* after terminating his relationship with the law firm. This took place a few days before the deadline of discovery. The judge, in our case Justice Marcy Friedman, did not grant any extra time to the *pro se* litigant to exercise his discovery rights. Instead, she was late in declaring

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13 *People v. Ochoa*, 1998 Cal. LEXIS 6882 (1998), 30.

14 *Nelson v. Colorado*, 137 S.Ct. 1249 (2017), at 6.

15 *Mathews v. Eldridge*, 424 U.S. 319 (1976), at 11.

him *pro se* until the deadline passed. As a result, the plaintiff was deprived of his right to discovery. According to *Mathews* test, Judge Friedman breached the procedural due process granted by the constitution for the following reasons. First, the private interest of the plaintiff that will be affected in this case is very high, namely: he will be at a higher risk to lose his multi-million corporation that he built from scratch if he did not have discovery. Second, Judge Friedman did not adopt any additional or substitute safeguards to mitigate the risk of the erroneous deprivation of procedure by extending the discovery deadline even for a few days. In contrast, she was late in declaring the plaintiff a *pro se* which made him miss the deadline that he tried to comply to. Finally, the nature and magnitude of the contravening interest in not providing additional safeguards was trivial. A few weeks delay in the proceedings is indeed trivial compared to a pro se litigant losing his right to discovery. It complies more with the due process that a judge extends the deadline for discovery instead of conducting a very fast unfair trial that would be far away from justice and equality.

It is worth referring to *People v. Ochoa* as a persuasive precedent to our case. In *People*, the California Supreme Court provided that a deprivation of discovery that undermines confidence in the outcome of the case constitutes a breach to the procedural due process. In our case, a French *pro se* litigant who was deprived from his right to discovery would surely have an undermined confidence in the outcome of the litigation. This is because litigation in the U.S. is adversarial in nature and giving one party a right to dis-

covery and depriving another, necessarily means that it is a one-sided litigation that does not lead to justice.

POINT III. A CLEAR AND DEMONSTRATED PREJUDICE AND BIAS IN BREACH OF THE FIFTH AMENDMENT.

The U.S. Supreme Court, in *In re Murchison*, stipulated that the right to an impartial jurist is a "basic requirement of due process."[16] Further, in *Caperton*, the U.S. Supreme Court found that the federal constitutional jurisprudence guides courts to assess the existence of a "serious risk of actual bias," by employing objective perceptions and by considering all the circumstances alleged.[17] In *People v. Novak*, the New York Court of Appeals opined that "not only must judges actually be neutral, they must appear so as well."[18] In *Liteky*, the Supreme Court decided that "opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible."[19] Finally, in *Berger v. U.S.*, the U.S. Supreme Court found that the Judge was prejudiced against the defendant's national

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16 *In re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 623, 99 L.Ed. 942 (1955); *see also People v. Alomar*, 93 NY2d 239, 245, 711 NE2d 958, 689 NYS2d 680 (1999).

17 *See Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 884, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009).

18 *People v. Novak*, 30 N.Y.3d 222.

19 *Liteky v. United States*, 510 U.S. 540, 4.

origin—Germany—on the aftermath of World War I, and disqualified the judge on that ground.[20]

Judge Friedman had a prejudice and bias against Mr. Buhannic's national origin. She made fun of Mr. Buhannic's French accent and acted as if no reasonable English-speaking person would be able to understand him unless he writes down what he is saying. According to *Caperton*'s objective standard, her narcissistic and demeaning approach to Mr. Buhannic was not justifiable and amounted to a prejudice against Mr. Buhannic. For instance, in one hearing she asked Mr. Buhannic to spell his address which was already in file and to write it down like if he could not spell right. Considering all the circumstances, Mr. Buhannic did not only study at NYU (which requires the highest scores of TOEFL for admission-scores that some Native Americans find challenging to meet if they sat for the test[21]), he also held conferences and gave speeches in English around the world for many decades. Further, he taught in several languages including English and had obtained multiple O1 visas for extraordinary ability. Thus, such a demeaning approach towards Mr. Buhannic and his French accent does not find any basis, from an objective point of view and taking into account all the circumstances, except on discrimination and prejudice against his national origin which is a breach

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[20] *Berger v. United States*, 255 U.S. 22, 65 L. Ed. 481, 41 S.Ct. 230 (1921), 255.

[21] Lucas Fink, *TOEFL Tuesday: Do Native Speakers Get Perfect Scores on the TOEFL?*, Magoosh TOEFL Blog, *available* at https://magoosh.com/toefl/2016/toefl-tuesday-do-native-speakers-get-perfect-scores-on-the-toefl/.

to his due process right to have a fair trial administered by an impartial judge.

Further, Judge Friedman prejudice towards Mr. Buhannic's national origin is analogous to the *Berger v. U.S.* Case.[22] In *Berger*, the Judge was disqualified on the ground of bias for stating: "One must have a very judicial mind indeed not to be prejudiced against the German-Americans in this country. Their hearts are reeking with disloyalty."[23] Similarly, in this case, Judge Friedman displayed a biased antagonistic behavior towards Mr. Buhannic only because he is French, has a slight French accent, and defending himself *pro se*. Thus, it is indeed a breach to his due process right to have a judge who is biased against foreigners and *pro se* litigants to conduct proceedings of a French *pro se* litigant. Indeed, Judge Friedman's attitude in the court room displayed a deep-seated favoritism to the defendant's counsel and antagonism to Mr. Buhannic that would make a fair judgment impossible under *Liteky*.

Moreover, Judge Friedman colluded with the defendants. In one hearing, she called Mr. Buhannic's *para legal* and questioned him relying on *ex parte* communication with the Defendants, otherwise she would have no chance to know that a gentleman sitting at the last bench in a public court room was the plaintiff's *para legal*. Further, she allowed only two witnesses from Mr. Buhannic's ten-witness list. The selected two witnesses were the only witnesses who could not demonstrate the coup that took place in

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[22] *Berger*, 255 U.S. 22, 65 L.Ed. 481, 41 S.Ct. 230 (1921), at 255.

[23] *Id.*

TradingScreen. This makes it obvious that she selected these witnesses upon information received from Morgan Lewis Law Firm, otherwise she would not be able to select the only two witnesses, from a list of ten, who could not support the Plaintiff's interests, as she does not know them. This case is also about the massive discrimination the Plaintiff has endured with Judge Friedman based on his national origin and Pro se status that destroy any basis for due process. At the beginning, when the plaintiffs could afford the assistance of expensive law firms as they were supposed to be entitled to a very wide indemnification, Judge Friedman behave rationally. She granted almost immediately a preliminary injunction as she stated after reading the facts from the lawyers, without knowing the Plaintiffs, that the case was an easy case and the defendants had no points. She even ridiculed them on their attempt to mix fiduciary duty, the only way not to apply a very protective employment agreement and the facts. These preliminary injunction transcript is at App.88a.

Then when she started to realize that the defendant was French, she started immediately to discriminate against him in every possible way and worse to leverage her position and collude with the Defendants badly, establishing and totally unacceptable ex-parte communication channel with the Defendants corrupt lawyers Weil Gotschal and Morgan Lewis to make them win the case without any valid argument. She also pushed the Plaintiffs to go *pro se* unfairly by refusing to even read the indemnification agreement which is very clear. She not only starved the financial resources of the plaintiffs but as reflected in the unfortunately heavily doctored transcripts, but also

prohibited the plaintiffs to even defend themselves by prohibiting them to speak more than five words when the defendants could perorate for hours based on his supposed French accent! Mr. Buhannic is one of the most sought-after speakers in all conferences in the world and has taught PHD level classes at multiple schools in English. A complete farce that shows the denial of due process and the discrimination that the plaintiffs have endured and the amazingly obvious collusion of Judge Friedman with the defendants. Clearly she wants a cushy job when she retires at one of these corrupt law firms.

There is a mountain of evidence in the doctored transcripts and the various cases. That it was difficult to choose from. We have put in the appendix some of the most striking cases that shows a complete disregard for due process the possibility to defend a case and impartiality are totally part of this due process guaranteed by the constitution.

Accordingly, Judge Friedman is in breach of Section 100.3 (B) 4 for being prejudiced and biased against Mr. Buhannic as a French national and a *pro se* litigant leaving him no room to exercise his due process right under the constitution.

POINT IV. REFUSAL OF MODIFICATION OF COMPLAINT DESPITE AN OBVIOUS RIGHT TO DO IT.

At the same time and in the same order the court through Judge Friedman, applying one more time her total collusion with the Defendants refused to the Plaintiffs, refused the Plaintiffs to amend their complaint in an obvious denial of justice and due process. The background was simple and explain why this

modification was necessary. When the plaintiffs had to go *pro se*, once again because of the collusion of Judge Friedman and her desire declared to the lawyers in her back room that she wanted to starve the defenses of the plaintiffs, the plaintiffs went *pro se* and reviewed the work of the lawyers on the complaint. They discovered major inconsistencies, major missing elements that were key for the court to be informed and for justice to be rendered. Therefore as it is their absolute right under due process, they requested to change the complaint and sent a complete, much better complaint. As the complaint was making the situation of the Defendants much riskier, and solid for the Plaintiffs, Judge Friedman in total illegality refused to accept the modified complaint.

We have put at App.8a-12a the order denying the modified complaint and the refusal of Judge Friedman to accept it. It is again and absolute and unjustifiable denial of justice and due process.

POINT V. A SYSTEMATIC DOCTORING OF TRANSCRIPTS AND REFUSAL BY ADMINISTRATIVE JUDGE TO CORRECT THE TRANSCRIPTS BREACHING DUE PROCESS TOTALLY.

Judges are supposed to protect evidence and not manipulate the evidence for their purpose. In the case of Judge Friedman we have faced a judge that is systematically tempering evidence to serve her bias and hidden from light purpose. We have without authorization and illegally taped every proceeding we had with judge Friedman and we have also all the transcripts. She is famous in the court reporter community to be the judge asking for most modifications and asking to erase tapes. In our case she has tried to

hide her patent bias and discriminatory approach from view by third parties by erasing the compromising statements she made and taking entire Plaintiff statements out of the transcripts. The comparison between the transcripts and the real discussion is damning for Judge Friedman.

Judge Friedman has created new grounds in denial of Due process by doing absolutely what she wanted to do without any control and being fully protected by a corrupt system of "Buddies" as despite being fully informed the Administrative judges did nothing despite the proofs given.

Given an act like that, an investigation on the potential corruption of Judge Friedman should be started if there was any disciplinary power existing in the New York court system. There is none as we will see. When the Plaintiffs realized the heavy doctoring of the transcripts by comparing their recordings and the published transcripts they confronted the court reporters. These court reporters all agreed that the transcripts had been rewritten by Judge Friedman and that she was famous for that at the court. Just to summarize the facts, first Judge Friedman collude with one side, potentially for corruption, then she prohibits one side to speak, then she rewrites the transcripts to feed her collusion and support her decisions. If this is due process . . . the plaintiffs are the Pope.

To keep things short we have selected the last case that exemplifies not only he collusion, but the corruption of the entire New York court system and the absolute denial of due process and the total absence of control on the failing judges committing criminal acts like destruction of evidence.

In the last session with Judge Friedman the plaintiffs decided not to participate in this masquerade and came into the session just to read a statement and leave as the judge prohibits them to speak any way and systematically demean them. They did just that. They spoke first as Plaintiffs, read their statement and left. As shown in the Appendix L the statement was very clear and created issues for Judge Friedman. In the same Appendix M we are showing the transcript of the session that does not include the statement, the only words that the plaintiffs did pronounce and build an illusory session that never existed. It is theater or Hollywood. A major blow and insult to due process. But things get even worse. Outraged by this rewriting of history and the manipulation of evidence by the judge, the Plaintiffs sent a complaint to rectify the transcripts and for the statement they made to be reflected at the Administrative judge at the New York supreme court, the body in charged normally to have the rules for judges applied in New York Courts. As their order show their main job is to deny due process and solid evidence and to protect corrupt judges from issues in a "Buddy-Buddy" system dramatic for justice, due process and the people of New York. This order validates the falsification of evidence done by Judge Friedman and takes no action. Unheard of in countries like Nigeria, Brazil or Zimbabwe where due process is better protected than in New York! An amazing feat!

POINT VI. A SYSTEMATIC EX-PARTE COMMUNICATION AND COLLUSION BETWEEN THE DEFENDANTS AND THE JUDGE CREATING A DUE PROCESS ISSUE ON IMPARTIALITY, AS THE MAIN OBJECTIVE OF THE COURT WAS TO PUT MR. BUHANNIC IN A STARVED SITUATION IN TERMS OF RESOURCES.

Ex parte communication with one of the parties is totally prohibited in any justice rule book and in particular in New York but also in federal rule book.

During the entire process Judge Friedman has maintained an unauthorized ex-parte communication channels with the two corrupt legal firms Weil Gotschal and Morgan Lewis.

This ex-parte communication reached its peak multiple times as confidential information was leaked to the law firms to advantage them in advance of the Plaintiffs. However it reached a peak in a very telling incident that Judge Friedman created. As *pro se* without any resources as Judge Friedman allowed the Defendants to be fully indemnified and advanced the legal fees while the plaintiffs despite being on the same case and with the same agreement and without any board authorization were getting fully indemnified. A complete parody of justice organized by Judge Friedman to starve the defenses of the Plaintiffs in complete collusion with Weil Gotschal and Morgan Lewis the two corrupt law firms on the other side. Therefore the plaintiffs could only afford para legal help from students from NY law schools. I had such an intern, called Adeolu Sunday from Nigeria, already a full-time lawyer in his country, paid 15 USD an hour for para legal work, as he never worked on a brief or on any filing as the plaintiffs were doing all

that themselves. Because he helped me I wanted him to understand the U.S. system and one day where I was presenting my case I did ask him to join and to be in the public. When we arrived in court I went inside alone, and I was told by the clerk that the court was late and instead of starting at 11:30 we would start at 2:00 PM. I took Adeolu for lunch and at that time nobody in court knew that I was with him. Not a clerk, not the judge nobody. When we came in at 2:00 we came at different time and while I settled on the Plaintiffs spot he settled in the back of the jury with 3 to 5 other persons. When Judge Friedman came in and after making the roll call she zeroed in on him and asked to come to the bar. Judge Friedman had no way to know this was my paralegal if she had not been informed by Morgan Lewis who saw him. She then started to attack him and went as far as threatening him very badly to prohibit him to take the bar exam if he continued to help me. Totally shocked and very anxious about his future he resigned on me that night. It is so great to face an impartial, not conflicted judge!

POINT VII. JUDGE FRIEDMAN PROHIBITED THE PLAINTIFFS TO PRESENT HIS CASE BASED ON HIS SUPPOSED ACCENT AND ALLOWED THE DEFENDANTS TO TALK FOR HOURS WHEN THE PLAINTIFFS WERE FUNDAMENTALLY PROHIBITED TO PRESENT HIS CASE.

This is clearly presented by the Transcripts despite their heavy doctoring. In a phone session Mr. Buhannic tried to speak and was totally prohibited to speak. In another one he was allowed to state his name was forced to write down his address and was prohibited

to speak a word when the other side was allowed to speak for 45 minutes, a real balance in the treatment of parties and a real help to a *pro se* litigant, as he could not defend at all his positions. The breach of due process is so pervasive and complemented by the heavy doctoring of the transcripts after the facts that it is almost funny. It looks like a cartoon with a crazy judge. But it is not funny as this judge has authorized fundamentally the theft of a company of 650 M USD of value.

POINT VIII. JUDGE FRIEDMAN BY NOT ACTING HAS ALLOWED THE PROPERTY OF THE PLAINTIFFS TO BE RANSACKED, STOLEN, AND TAKEN WITH NO DUE PROCESS IN CLEAR CONTRAVENTION WITH THE U.S. CONSTITUTION.

She has also allowed the complete mismanagement of the company as technology company are very fragile and its destruction for no reason but her absolute collusion and prejudice against the nationality and the *pro se* status of the plaintiff.

A fintech company is much more sensitive to issues than a steel or a chemical company. There is no oligopoly to protect them and the stealing of ideas goes very fast. You need to be on top all the times. To innovate, to manage efficiently and to keep the trust of your clients. Judge Friedman despite being aware of this by our papers that stated that quickly has made sure to no do anything but delay everything. Despite our constant reminder and our requests multiple to not delay anything to the process she has added on her own, carrying therefore the full responsibility of her actions as illegal and outside the rule book for judges. She has added close to two years of stay for

no reason but her outright collusion with the Defendants most likely for money, as demonstrated in the case we had at the New York appeal court as it seems a tradition at the New York court to be paid by the big law firms. Not only this is a breach of the constitution, but this is a breach to the amendments that guarantee due process in case of seizure of property. Here Judge Friedman has fundamentally and practically helped private thieves to steal a property owned by the Defendants at 70% and not only protected them by her complete inaction but funded their effort by allowing the legal fees to be paid by the company and prohibiting the indemnification of the Plaintiffs. She has authorized, subsidized and validated through her complete incompetent inaction an illegal seizure of property by a group of financial and market crooks with a heavy criminal record. Instead of defending the honest and integrity people, she joined forces totally with the crooks and powered their actions in a flagrant breach of due process and the U.S. Constitutional rights of the plaintiffs.

POINT IX. REFUSAL OF THE JUDGE RECUSAL FOR PARTIALITY AND DISCRIMINATION RULED BY THE JUDGE BEING JUDGE AND PARTY IN FLAGRANT DENIAL OF DUE PROCESS.

In another laughable farce and against logic, well established precedent like in *People v. Novak* and just the law, Judge Friedman in a clear breach of due process, despite being warned to the negative precedents in terms of due process, decided to rule on the action of the plaintiffs on her recusal for bias and discrimination. Judge Friedman was judge and party and strangely rules that she could stay in charge of

the case despite obvious proof she had totally colluded with the defendants. She was supposed to deliver the case for money or advantages (position before retirement, tickets, etc.) most likely to the corrupt law firms Weil Gotschal and Morgan Lewis. She could not leave another honest and independent judge rule on her absolute and total collusion without taking risks. What is amazing is that the system of the New York courts with the numerous precedents and especially very recently, once again establishing very clearly that defending its own members was its key goal, let her do that. The fact that a judge rule on its own recusal is a well-established breach of due process and allows a judge that is known to manipulate and forge transcripts, to destroy evidence and have ex-parte communication with one side to hide her tracks and not suffer any consequences for her unacceptable misdeeds. On top the administrative judge Deborah Kaplan supports her fully in her endeavor on a "Buddy to Buddy" system and manipulate the law not even smartly to justify the unjustifiable corruption of the process. The crooks policed by the crooks in the interests of the crooks.

POINT X. IT IS IMPORTANT ALSO TO NOTE THAT THE PRESENCE OF MORGAN LEWIS IN THE CASE REPRESENTING THE INTERESTS OF THE THIEVES IS UNACCEPTABLE. THIS IS ALSO A BREACH OF DUE PROCESS.

Morgan Lewis was representing Mr. Buhannic personally with issues with his coop or inheritance but also was the representation of the company against the attacks of TCV from 2010 to 2016 and their main contact for that was obviously Mr. Buhannic. It is

proven thanks to the very few documents recuperated in Delaware, thanks to judge Laster manipulation and corruption, that Morgan Lewis was effectively attacking Mr. Buhannic while being his representation legally with the other corrupt law firm Morris Nicholls in Delaware who went as far as threatening Mr. Buhannic if he did not surrender to TCV diktat. All this has been reported endlessly to Judge Friedman and should have prohibited Morgan Lewis to cash in in on the fees and participate any further in the case as they should have been disbarred for their criminal actions if there was a vague discipline in the lawyers community and in any case they were so conflicted that they should not participate. But the colluded judges looking for cushy jobs for the end of their not illustrious career did not react to the demands of the Plaintiffs to prohibit Morgan Lewis to participate despite the obviousness of the decision for due process. This situation where a corrupt lawyer who criminally was attacking its client while representing him and having access to all his confidential information but being effectively working for the thieves at TCV is an unbelievable breach in due process that the colluded judge Friedman have allowed to happen for three long years! An unbelievable disdain for due process and a feeling of untouchability by the corrupt law firm Morgan Lewis as they have rigged the case by corrupting or colluding all the judges on the case.

REASONS FOR GRANTING THE WRIT

These issues raised in this case are critical to the effective functioning of the legal system of the United States. Due process needs to be enforced and need to be independent from who you are and as a foreign Pro se litigant you should be entitled to it as much as a big corrupt law firm working for fees. Today between the corruption, the nepotism and the outright bias of numerous levels in the system this is not guaranteed, and it is critical to the wide public and the economy that these issues are fixed in the spirit and law of the U.S. constitution. To no act will disqualify the U.S. legal environment for foreigners definitively as the bias and corruption was so pervasive and organized that foreign entrepreneurs will select other environments to create the future.

There is nothing more important than to fix a system that has been selling itself to partisan interests and is colluding with some of the big law firms to give them an undue power that is challenging the most basic rules of Democracy.

This court must use this case where we have demonstrated an inordinate bias and prejudice as well as numerous cases of outright corruption, collusion and numerous dysfunctions of the system that makes it so faulty that outside of providing a good living to the people involved, mostly lawyers, it has failed totally the general public in rendering justice.

This court is facing a choice here: Act quickly and fairly and demonstrate that all the manipulations

stop at its door and that it represents the last defense of Democracy, Justice and Due process and reestablish decisions that make sense or just let go and accept that the system is now controlled by people that can pay big corrupt law firms to manipulate the process and become an accomplice of the destruction of the legal environment created by the founding fathers.

This court is the last hope for justice but also more importantly to insure that the financing of innovation does not fall definitively in the hands of crooks equipped with big law firms and a strong pull in the lower courts where they managed to convert the most protective indemnity agreement into a useless piece of paper through collusion, manipulation and outright corruption. Worse the lower courts also prohibited the indemnitee to benefit from due process and his appeal rights protected by the constitution. There is no mistake here, this is a benchmark case where the future of innovation financing will be decided that will impact generations to come. Accepting that these illogical decisions, going against almost every case law existing in all jurisdictions, stay in force will damage definitively the legal environment at a huge cost to society and will ensure that crooks well equipped with corrupt lawyers run the show at the expense of the creators, entrepreneurs and value generator. It is a seminal case that should be treated by the highest court in the land to give still hope to honest people that the dream of a better system that started in 1776, and for which my ancestors died for in Chesapeake Bay and Yorktown, there were more French casualties than American casualties in both cases, still exist in some heads, even remotely.

"The true administration of justice is the firmest pillar of good Government"

Georges Washington

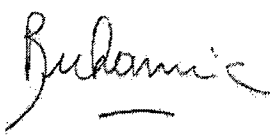
CONCLUSION

The collusion of the lower court with the Defendants of Judge Friedman as demonstrated heavily by the proceedings, even doctored by the judge itself, has denied clearly due process to Mr. Buhannic in an incredible number of cases like in ruling on her own recusal, given her bias and collusion, and has taken her decisions with only one intent: to exercise her bias and prejudice against Mr. Buhannic national origin and his status as Pro se. Judge Friedman forced him to represent himself Pro se and has manipulated the entire process through ex-parte communications and collusion to hurt Mr. Buhannic to apply her bias against his nationality and Pro se status. Her actions are a litany of what not to do in terms of due process and the New York Appeal court has decided against all logic and the law to support her in this endeavor and has demonstrated a level of outright corruption not common in modern times anywhere in the world. Both courts have erred against basic principles of justice, the constitution, the agreements and have manipulated their way to try to hide all their attempts to circumvent due process rules as demonstrated in this filing.

To sum up, Mr. Buhannic has been denied totally his U.S. Constitutional rights to due process, to appeal

and to fairness by a New York court system more interested in denying his rights to a foreigner and protecting its members from the consequences of their illegal and anti-constitutional acts than exercising a fair justice. This Court should grant the petition for writ of certiorari.

Respectfully submitted,



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