

NO: 20-1007

IN THE  
SUPREME COURT OF THE UNITED STATES

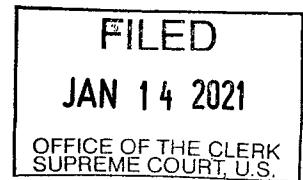
MERRILEE STEWART, PETITIONER

V.

RRL HOLDING COMPANY OF OHIO, ET AL., RESPONDENTS

ORIGINAL

ON PETITION FOR WRIT OF CERTIORARI TO  
THE SUPREME COURT OF OHIO



PETITION FOR WRIT OF CERTIORARI

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## **I. The questions presented for review**

1. Are the Courts of the State of Ohio obligated to enforce Federal Laws?
  - a. Whistleblower Laws designed to protect the crime victim and informants.
  - b. Equal Employment Opportunity Commission Right to Sue
  - c. The Civil Rights Act, The Fair Housing Act, Sherman and Clayton Act
2. Can the lower court in Ohio ignore and disobey an order from the higher Appeals Court? This lower court denied the Appeals court order for a hearing and this disobedience of the lower court infringes upon Petitioners constitutional rights protected by the First, Seventh and Fourteenth Amendments.
3. Does a citizen of Ohio have the same Duty to Report White-Collar crimes and is that citizen offered the same protections for reporting as are afforded citizens of other states who are offered protected under the constitution and federal laws.
  - a. Should a resident of the State of Ohio and a United States citizen, be afforded the same equal constitutional protections and due process rights as are granted to a non-resident in the Courts of the State of Ohio?
4. Can a Court of the State of Ohio inflict a lifetime sentence upon a citizen, offer no opportunity to be heard, offer no right to appeal, and subsequently lock the doors and throw away the keys for all eternity on this and all-future access to the courts?
  - a. A citizens Duty to Report White-Collar crimes is not Vexatious Litigation.
  - b. The Unconstitutional application of Vexatious litigator statute for retaliation against Petitioner for fulfilling her Duty to report White-Collar crimes in violation of Whistleblower laws.
  - c. The statute, as applied stripes Petitioner of Free Speech, Equal Access and Due Process of Law (First, Seventh and Fourteenth Amendments)
  - d. Would this be subject to collateral review or Writ of Habeas Corpus?
5. How long can a Common Pleas Judge in Ohio keep a case in Stayed Status and under a preliminary Agreed Entry before it violates the Petitioner Equal Access, Due Process, Free Speech and Federal Laws. Is not the right to sue and defend in the courts one of the highest and most essential privileges of citizenship and must be allowed by each state to the citizens of all other states?

*See Chambers v. Baltimore & O.R.R., 207 U.S. 142 (1907)*

*See also McKnett v. St. Louis & S.F. Ry., 292 U.S. 230, 233 (1934).*

Note: The 2011 annual report of the Ohio Supreme Court, justices noted that only 2 percent of civil cases in the U.S. ever reach a jury. It reported the rate in Ohio was even less, about 1.3 percent, and that the rate in Ohio has decreased every year for the past decade.

<https://www.cantonrep.com/article/20130512/NEWS/305129922>

## **II. Parties to the proceedings.**

The caption contains the names of all the parties to the proceedings.

However, this Petition for Writ of Certiorari, in part, involves the validity of a statute of the State of Ohio as repugnant to the Constitution and as applied in this case by authorities used for the deprivation of the Petitioners Constitutional rights and in violation of Whistleblower Laws.

Now therefore, pursuant to Rule 29.4(b) the petition is also served on the Attorney General of the State of Ohio, Dave Yost, by regular United States mail to the forgoing address and as is Certified by the separately submitted Proof of Service.

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**OPINIONS: List of all proceedings in state and appellate courts  
that are directly related to the case in this Court  
and challenges the same convictions as is challenged in this court.**

Appendix	Judgement Entry	Docket no.	Court	♦Pages
<b>A</b>	Mailed 08/20/2020 Filed 08/18/2020 2020-Ohio-4045	2020-0615	The Supreme Court of Ohio	
Case Caption: RRL Holding Company of Ohio LLC, et al. v. Merrilee Stewart, Jurisdictional Appeal Filed: 05/14/2020				
Description: <b>Motion for reconsideration</b> of 6/29/2020 (appeal from 10th District Court of Appeals 20AP44 judgement of 2/20/2020)				

Appendix	Judgement Entry	Docket no.	Court	♦Pages
<b>B</b>	Filed 6/17/2020 2020-Ohio-3275	2020-0615	The Supreme Court of Ohio	
Case Caption: RRL Holding Company of Ohio, et al. v. Merrilee Stewart, Jurisdictional Appeal Filed: 05/14/2020				
Description: <b>Appeal</b> from 10th District Court of Appeals 20AP44 judgement of 2/20/2020.				

Appendix	Judgement Entry	Docket no.	Court	♦Pages
<b>C</b>	02/20/2020	20AP44	Tenth District Court of Appeals Franklin County, Ohio	
Case Caption: RRL Holding Company of Ohio, et al. v. Merrilee Stewart				
Description: <b>Request for reconsideration</b> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 18CV7212				

Appendix	Judgement Entry	Docket no.	Court	♦ Pages
<b>D</b>	01/23/2020	20AP44	Tenth District Court of Appeals Franklin County, Ohio	
Case Caption: RRL Holding Company of Ohio, et al. v. Merrilee Stewart				
Description: <b>Appeal</b> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 18CV7212				

**OPINIONS: List of all proceedings in state and appellate courts  
that are directly related to the case in this Court.**

(continued from page ii)

Appendix	Judgement Entry	Docket no.	Court	♦ Pages
<b>E</b>	01/23/2020	19AP202	Tenth District Court of Appeals Franklin County, Ohio	22-60
Case Caption: RRL Holding, et al. v. Stewart, et al.				
Description: <u>Appeal</u> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 15CV1842 special proceedings				

Appendix	Judgement Entry	Docket no.	Court	♦ Pages
<b>F</b>	12/20/2019	18CV7212	Franklin County Ohio Court of Common Pleas Civil Division	61-73
Case Caption: RRL Holding Company of Ohio, et al. v. Merrilee Stewart.				
Description: <u>Final Appealable order(s)</u> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 18CV7212				

Appendix	Judgement Entry	Docket no.	Court	♦ Pages
<b>G</b>	03/15/2019	15CV1842	Franklin County Ohio Court of Common Pleas Civil Division	74-86
Case Caption: RRL Holding, et al. v. Stewart, et al.				
Description: <u>Appealable order from special proceedings</u> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 15CV1842				

Appendix	Judgement Entry	Docket no.	Court	♦ Pages
<b>H</b>	11/10/2015	15CV1842	Franklin County Ohio Court of Common Pleas Civil Division	87-95
Case Caption: RRL Holding, et al. v. Stewart, et al.				
Description: <u>Stay Order</u> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 15CV1842				

Appendix	Judgement Entry	Docket no.	Court	♦ Pages
<b>I</b>	05/28/2015	15CV1842	Franklin County Ohio Court of Common Pleas Civil Division	96-101
Case Caption: RRL Holding, et al. v. Stewart, et al.				
Description: <u>Preliminary Agreed Entry</u> from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 15CV1842				

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<i>Michel v. Louisiana</i> , 350 U.S. 91, 93 (1955) (quoting <i>Parker v. Illinois</i> , 333 U.S. 571, 574 (1948))	7
<i>Moldovan v. Cuyahoga Cty. Welfare Dept.</i> (1986), 25 Ohio St.3d 293, 25 OBR 343, 496 N.E.2d 466	12

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<i>Palmer v. Canadian Nat'l R.R.</i> , ARB No. 16-035, ALJ NO. 2014-FRS-154 at 53. (ARB Sept. 30, 2016)	3
<i>Pernell v. Southall Realty Co.</i> , 416 U.S. 363 (1974)	7
<i>Thorpe</i> , supra note 21, at 3813	6
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In the 2011 annual report of the Ohio Supreme Court, justices noted that only 2 percent of civil cases in the U.S. ever reach a jury. It reported the rate in Ohio was even less, about 1.3 percent, and that the rate in Ohio has decreased every year for the past decade. <a href="https://www.cantonrep.com/article/20130512/NEWS/305129922">https://www.cantonrep.com/article/20130512/NEWS/305129922</a>	i.
Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23	3

### **III. Citations of the opinions and orders entered in the case by courts.**

The Opinion, to decline jurisdiction, of the Ohio Supreme Court on Case No. 2020-0615, was filed on August 18, 2020 and mailed to the Petitioner on August 20, 2020. The Ohio Supreme Court August 18, 2020 Case Announcements No. 2020-Ohio-4045 on Case No. 2020-0615 was emailed to Petitioner on August 18, 2020 at 9:05AM. *See Appendix A.*

The Opinion, to vacate and remand for hearing of the Tenth District Court of Appeals Franklin County, Ohio Case No. 19AP202 entered on January 23, 2020 from the Appeal from Franklin County Ohio Court of Common Pleas Civil Division, Case No. 15CV1842 special proceedings is being ignored by Common Pleas court Judge Kim J Brown. The Judge refuses to comply with the order of the Tenth District Court of Appeals and afford the Petitioner a hearing, Franklin County, Ohio Case No. 19AP202. *See Appendix E.*

Both of the above referenced conflicting Opinions originated from the same lower court Common Pleas Judge Kim J Brown in her split cases 15CV1842 and 18CV7212.

Furthermore, both of the above reference split cases involve lower court Common Pleas Judge Kim J Brown's infliction of punishment and judgement upon the Petitioner for fulfilling her duty to report White-Collar Crimes on going at Respondent Firefly Agency ("Firefly") to the proper authorities. (emphasis) This duty to report is also a protected activity under Federal Whistleblower laws.

The duty to report and the protected activity of reporting White-Collar Crimes started with the local authorities in Ohio and included: 1) the Ohio Civil Rights Commission, 2) the Columbus Police Department Economic Crime Division, 3) the Insurance Companies and 4) to the Ohio Department of Insurance Fraud Division.

This expanded to the Federal Level as Firefly does business in 24 states and the reported Crimes involved \$8 to \$10 Million in Embezzlement, \$3 to \$5 Million in Tax Evasion, Mail Fraud and Overt Discrimination forced upon the suppliers to withhold products and services from citizens of protected classes in the underserved communities who fail to meet Firefly's "Affluent Middle-Class Rules".

The Federal authorities included the Department of Justice, the Security and Exchange Commission Anti-Trust Division, the United States Department of Treasury Internal Revenue Service and the Federal Bureau of Investigations.

### **IV. The basis for jurisdiction.**

This Court's jurisdiction is drawn from 28 U.S.C. § 1257(a).

## **V. Constitution and Legal Principles.**

A. The First, Seventh and Fourteenth Amendment to the United States Constitution

B. The Civil Rights Act, The Fair Housing Act. The Fair Housing Act (Title VIII of the Civil Rights Act of 1968), 42 U.S.C. §§ 3601-3619 (1976), was enacted in 1968, the same year that the Supreme Court held that the Civil Rights Act of 1866, 42 U.S.C. §§ 1981-1982 (1976), banned private as well as public housing discrimination. *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968).

The Civil Rights Act guarantees all citizens, regardless of race or color, protection of their civil rights, such as the right to file suit, make and enforce contracts, and to buy, sell, and inherit real and personal property. The Supreme Court has recognized that the Fair Housing Act "FHA" promotes a "policy that Congress considered to be of the highest [national] priority." (emphasis) See *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 211 (1972).

"The FHA seeks to eliminate unfair discrimination such as illegal redlining, the practice of either declining to write insurance or charging higher rates for people who live in particular areas, especially those with large or growing minority populations." See, e.g., *NAACP v. American Family Mut. Ins. Co.*, 978 F.2d 287, 290 (7th Cir. 1992).

In 2015, the U.S. Supreme Court ruled 5-4 it was acceptable to use "**disparate impact**" in Fair Housing Act enforcement. The U.S. Supreme Court said people who file housing-discrimination suits don't have to show they were victims of intentional bias, in a blow to lenders and insurers.

The 5-4 ruling upholds a category of U.S. Fair Housing Act lawsuits that civil rights groups said are especially important. The court said plaintiffs can base their suits on statistical evidence that a disputed policy has a "disparate impact" on a minority group. The standard would apply to anyone or any company, whether sellers, landlords, mortgage lenders or property insurers.

Meaning, if insurers/brokers/aggregators/clusters treat different classes of people differently, whether intentional or not, discovery and ultimately damages can be demanded, using a legal standard called "**disparate impact**".

The term "disparate impact" refers to what happens when businesses give certain classes of people an advantage over other people, even if done unintentionally (i.e., Firefly's "Affluent Middle-Class Rule"). It is also a term for a quantifiable standard of proof used in some legal cases in which someone claims a business practice has a discriminatory effect.

D. Deprivation of constitutional rights under 42 U.S.C. § 1983 – 1988.

E: Conspiracy Against Rights Title 18, U.S.C., Section 241. When two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured

to him/her by the Constitution or the laws of the United States, (or because of his/her having exercised the same).

**V. Constitution and Legal Principles - continued.**

F: Fraud upon the Court. All attorneys and judges are officers of the court. Under Federal law, when any officer of the court has committed "fraud upon the court", the orders and judgment of that court are void, of no legal force or effect.

*See Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

G: Whistleblower Protection. Courts have provided federal, state, and local government whistleblowers protection under the Civil Rights Act of 1871, First and Fourteenth Amendments, and witness protection laws.

Whistleblower protection is not granted based upon the outcome of the criminal investigations and the protections are not limited to employees. In fact, the Taxpayer First Act of 2019 ("TFA") protects tax whistleblowers against retaliation. The TFA amends the Code to extend anti-retaliation provisions to Internal Revenue Service whistleblowers similar to those that are provided to whistleblowers under the False Claims Act and the Sarbanes-Oxley Act. Code Sec. 7623(d) as amended by act Sec. 1405.

As is customary, the standard is low and "broad and forgiving" in that the protected activity need only play some role, and even an "insignificant" or "insubstantial" role suffices. *Palmer v. Canadian Nat'l R.R.*, ARB No. 16-035, ALJ NO. 2014-FRS-154 at 53 (ARB Sept. 30, 2016) Once the whistleblower proves that their protected conduct was a contributing factor in the adverse action, the employer can avoid liability only if it proves by clear and convincing evidence that it would have taken the same adverse action in the absence of the whistleblower engaging in protected conduct.

Firefly offers products and services to consumers as is regulated by Dodd-Frank Wall Street Reform and Consumer Protection Act H.R. 4173 § V. Petitioner is a documented "whistleblower" as defined by Dodd-Frank Wall Street Reform and Consumer Protection Act § 922, See 15 U.S.C. § 78u-6(a)(6) and seeks protection under Dodd-Frank Wall Street Reform and Consumer Protection Act H.R. 4173 § 1057 (a) (1) and restitution for retaliation, defamation and industry blacklisting as is protected in the Dodd-Frank Wall Street Reform and Consumer Protection Act H.R. 4173 § 369 (1) (A), The United States Constitution and other Federal Laws and alleges Defamation by Respondents as is defined in U.S. Code § 4101(1).

Respondents do not deny that the protected activities of Ms. Stewart occurred, but rather attack her rights to report the criminal allegations and support the "right to retaliate" against said protected activity, which is exactly why whistleblower protections are in place.

## **VI. Statement of the Case.**

**A. Prelude:** The ongoing attacks upon the Petitioner in the State Court case(s), continue to occur in a closed docket and center around punishment for the protected activity of Ms. Stewart fulfilling her duty to report White-Collar crimes to the proper authorities.

When efforts to internally implement corrective action failed, Ms. Stewart reported the White-Collar Crime(s), that had been identified by the corporate attorney, to the appropriate State of Ohio regulatory and investigative authorities including: 1) Ohio Department of Insurance, Mary Taylor, Lieutenant Governor and Commissioner of Insurance in a face-to-face meeting with the Enforcement Division, Thomas C. Neiswander, Supervisor and Mathew Taylor, Investigator, February 5, 2015 and followed up with hundreds of substantiating documents submitted by the law office of Thompson Hine, 2) the Ohio Attorney General Mike DeWine in a face-to-face meeting with Matthew Hilbert on December 3, 2015 and subsequently with a formal Ohio Attorney General Organized Crime Complaint on March 31, 2017 and a formal Consumer Complaint on August 2, 2017, 3) to Ohio Civil Rights, case number 41835 06102015; 22A-2015-02568C on June 10, 2015, 4) to the Columbus Ohio Economic Crime Division, Sargent Chris Bond on July 27, 2016 complaint: 163056538, and finally 5) with a report of the known and documented embezzlement involving employee dishonesty to Hartford Insurance on July 18, 2016 claim number CP16918233 for the years 2009-2014 and on July 19, 2016 to Liberty Mutual Insurance claim number 105599470 for the years prior to 2009.

Subsequently, reporting expanded to the Federal Level including the Department of Justice, the Security and Exchange Commission Anti-Trust Division, the United States Department of Treasury Internal Revenue Service and the Federal Bureau of Investigations.

First, at the lower Common Pleas State Court, Respondents sought and obtained sanctions and attorney fees when Ms. Stewart made reports of the identified White-Collar crimes involving Firefly to: 1) the Ohio Civil Rights Commission; 2) the Columbus Ohio Police and 3) Hartford and Liberty Mutual Insurance.

On appeal, the State Court Tenth District Court of Appeals, the attorney fees and sanctions were vacated and the case was remanded for a hearing. However, Judge Kim J Brown at the lower Common Pleas State Court refused to comply with the appeals court order and refused Ms. Stewart the ordered hearing (emphasis).

Second, at the lower Common Pleas State Court, with the concert of effort of Judge Kim J Brown and attorney James R Carnes of Shumaker, Loop & Kendrick, a second case was opened, once again seeking attorney fees and a declaration of meritless litigator for the very same protected activity of Ms. Stewart fulfilling her duty to report White-Collar Crimes ongoing at Firefly to: 1) the Ohio Civil Rights Commission; 2) the Columbus Ohio Police and 3) Hartford and Liberty Mutual Insurance. This also included the report to the Ohio Department of Insurance.

## **VI. Statement of the Case - continued.**

Petitioner was never granted due process rights, discovery, a hearing, or a trial. Judge Kim J. Brown awarded attorney fees, declared Ms. Stewart to be a Vexatious Litigator and locked the door, threw away the key and denied Petitioner any future access to the courts from now until the end of time with no right to appeal.

To be clear, the purported meritless claims (vexatious litigator) are not stemming from any litigation initiated by Petitioner but rather from the duty to report and protected activity of reporting White-Collar Crime(s), witnessed first-hand by Ms. Stewart in her management capacity as President of the Firefly in 2013-2014 and collaborated in writing by the (former) attorney who completed an at-risk evaluation of Firefly's business practices.

Ms. Stewart did attempt to internally correct the at-risk business practices, which triggered immediate retaliation and seizure of her only sources of income, that being, employment at Firefly and her minority ownership shares in Respondent RRL. RRL at this time wholly owned Firefly.

Six Years later, Respondents continue to hold Ms. Stewart's minority ownership shares under seize and even though she was issued an Equal Employment Opportunity Commission Right to Sue for her employment law and retaliation claims, Judge Kim J Brown at the lower Ohio State Common Pleas Court refuses to lift the Stay order and allow the proper litigation of all claims for all parties (emphasis).

Third, Judge Kim J Brown refuses to open the docket, allow finality or eliminate the five-year-old Preliminary Agreed Entry of May 28, 2015, even though the status quo was already violated by Firefly when they made RRL a dead entity.

Finally, Respondents obtained yet another special proceeding, in this closed docket, to inflict additional punishment upon Petitioner involving the same duty to report Firefly's White-Collar Crime to Hartford Insurance. Notwithstanding Judge Kim J Brown refuses to abide by the Tenth District Court's remand for a hearing on the same issue of the Hartford Insurance Claim(s).

## **B. Specification of the stage in the proceedings when the federal questions sought to be reviewed were raised.**

1. The Ohio Supreme Court Motion for Reconsideration of Jurisdiction Case No. 2020-0615, Judgement Entry Mailed 08/20/2020, Filed 08/18/2020 Announcement No. 2020-Ohio-4045 (Appendix A): The Federal questions raised included:

### **a. Vexatious Litigator Statute, as applied is unconstitutional. (*Quoted from Motion for reconsideration, federal questions raised*)**

"The implementation of the Vexatious Litigator Statute in the State of Ohio results in an unremovable derogatory branding, forever branding a citizen, resulting in permanent individual discrimination in direct conflict with the rights granted to all people by the Constitution of the United State of America. What is that right? The guaranteed access to justice and the inalienable right to a hearing of the facts in all cases of law, civil and criminal. This is a protected right in the Constitution of the United States of America.

If the door is shut, locked and the key is thrown away at the Franklin County Common Pleas Court Level and the forever branded citizen no longer has access to a direct appeal then the

**VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

citizens' rights and access to the United States Supreme Court for these federal constitutional claims are infringed upon.

State of Ohio Vexatious Litigator Statute, as implemented, has deprived and denied Appellants inalienable right to property and “No person shall be deprived of life, liberty, or property, without due process of law.” [U.S.C.S. Const. amend. V (1998).]

These fundamental rights are endowed on every human being by his or her Creator, and are often referred to as “natural rights.” These rights which are not capable of being surrendered or transferred without the consent of the one possessing such rights. *Morrison v. State*, Mo. App., 252 S.W.2d 97, 101.

“Creating an American Property Law: Alienability and Its Limits in American History” (PDF). Harvard Law Review. 120: 385. Retrieved 31 October 2017. “[...] all men have certain inherent rights [...] namely, the enjoyment of life and liberty, with the means of acquiring and possessing property. 7 Thorpe, *supra* note 21, at 3813.

The Delaware Declaration of Rights of September 11, 1776, indicated “[t]hat every member of society hath a right to be protected in the enjoyment of life, liberty and property.” Delaware Declaration of Rights (1776), reprinted in Sources, *supra* note 14, at 338.

See also When a state provides an appellate review process, the procedures used to implement appellate review must comply with the constitutional dictates of due process and equal protection. *Atkinson v. Grumman Ohio Corp.* (1988), 37 Ohio St.3d 80, 84, 523 N.E.2d 851, 855.

**b. Habeas corpus cannot be revoked in the case of a citizen. (Quoted from Motion for reconsideration, federal questions raised)**

“The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.” [U.S.C.S. Const. art. I, § 9, cl. 2 (1998).] Designed to protect people against arbitrary seizures, and thus guaranteeing the legitimacy of the judicial system as it is implemented.

Habeas corpus, or the Great Writ, is the legal procedure that keeps the government from holding you indefinitely without showing cause. (As in the C.P.C.15CV1842) The Founders of our nation believed habeas corpus was so essential to preserving liberty, justice, and democracy that they enshrined it in the very first article of the United States Constitution.

The U.S. Supreme Court in the case of *Waley v. Johnson* (1942) interpreted this authority broadly to allow the writ to be used to challenge convictions or sentences in violation of a defendant's constitutional rights where no other remedy was available.

In 28 U.S.C. §§ 2241(c), 2254(a). “Custody” does not mean one must be confined; a person on parole or probation is in custody. *Jones v. Cunningham*, 371 U.S. 236 (1963).

**c. The Seventh Amendment and parallel split cases. (Quoted from Motion for reconsideration, federal questions raised).**

The Seventh Amendment to the United States Constitution ensures the right to a trial by jury shall be preserved in any civil lawsuit involving claims valued at more than \$20.

Furthermore, there can be no finding of fact when the common Pleas Court refuses to lift the stay and yet the court allowed Appellees to inflict upon Appellant a parallel split case involving the same set of facts and circumstances with the very same judge.

Do Ohio Courts abide by the Seventh Amendment of the United States Constitution? Should State Courts be mandated to abide by the Seventh Amendment of the United States

**VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

Constitution? Is Five Years an excessive amount of time to wait to enter the discovery phase on a case, have an opportunity to defend, receive an answer to a counter claim and have a trial by jury? Is Five Years in a preliminary agreed entry to not compete excessive? How were Respondents allowed to split cases involving the same set of facts and circumstances?

When a state court is enforcing a federally created right, of which the right to trial by jury is a substantial part, the state may not eliminate trial by jury as to one or more elements.

Illustrative of the Court’s course of decision on this subject are two unanimous decisions holding that civil juries were required, one in a suit by a landlord to recover possession of real property from a tenant allegedly behind on rent, the other in a suit for damages for alleged racial discrimination in the rental of housing in violation of federal law. In the former case, the Court reasoned that its Seventh Amendment precedents “require[d] trial by jury in actions unheard of at common law, provided that the action involves rights and remedies of the sort traditionally

enforced in an action at law, rather than in an action at equity or admiralty.” See *Pernell v. Southall Realty Co.*, 416 U.S. 363 (1974).

See also *Curtis v. Loether*, 415 U.S. 189, 194 (1974). “A damage action under the statute sounds basically in tort—the statute merely defines a new legal duty and authorizes the court to compensate a plaintiff for the injury caused by the defendants’ wrongful breach. . . [T]his cause of action is analogous to a number of tort actions recognized at common law.” *Id.* at 195. See also

*Chauffeurs, Teamsters and Helpers Local 391 v. Terry*, 494 U.S. 558 (1990) (suit against union for back pay for breach of duty of fair representation is a suit for compensatory damages, hence plaintiff is entitled to a jury trial); *Wooddell v. International Bhd. of Electrical Workers Local 71*, 502 U.S. 93 (1991) (similar suit against union for money damages entitles union member to jury trial; a claim for injunctive relief was incidental to the damages claim); *Feltner v. Columbia Pictures Television*, 523 U.S. 340 (1998) (jury trial required for copyright action with close analogue at common law, even though the relief sought is not actual damages but statutory damages based on what is “just”).

**d. Collateral Review, Due Process Clause, unlawful detention, permanent branding, no right to appeal. (Quoted from Motion for reconsideration, federal questions raised)**

The overt discrimination including the Denial and infringement of Appellant’s constitutional rights renders the judgment(s) vulnerable to collateral attack. Remedies available to Petitioner include 28 U.S. Code § 2255 and the Constitution of the United States of America.

Accordingly, the court shall vacate and set the judgment aside.

Under the Due Process Clause, prisoners must have “a reasonable opportunity to have the issue as to the claimed right heard and determined,” *Michel v. Louisiana*, 350 U.S. 91, 93 (1955) (quoting *Parker v. Illinois*, 333 U.S. 571, 574 (1948)).

Is not the Vexatious Litigate permanent branding, an unlawful detention that lasts an eternity, from now until the end of time, inflicted upon the accused with no right to appeal, handcuffed and locked behind doors with the key thrown away? Has that not been utilized at the hands of Shumaker, Loop & Kendrick to silence and discredited the Whistleblower, Appellant Merrilee Stewart?

**e. Fraud upon the courts. (Quoted from Motion for reconsideration, federal questions raised)**

## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

Shumaker, Loop & Kendrick's failure to follow the laws in the State of Ohio with the merger of Respondent RRL out of existence on December 31, 2018. In response to a question from James R. Carnes of Shumaker, Loop & Kendrick about Firefly, former/selling RRL member Fritz Griffioen testified on July 9, 2019 (C.P.C. 15CV182) that Firefly was a renaming of RRL and a name change for re-branding and marketing. It was after the hearing, in August 2019, when Ms. Stewart discovered the State Document that showed RRL was "Merged Out of Existence".

This undisclosed event of December 31, 2018, facilitated by Shumaker, Loop & Kendrick, made RRL a Dead Entity. *See State of Ohio Certificate, Ohio Secretary of State, Jon Husted, 1658734, Doc: 201836501222, effective 12/31/2018 RRL Dead.*

Respondent and a new set of owners, six (6) total, had seized 100% of the assets of RRL, making Firefly a non-affiliate and third-party to the RRL Buy/Sell Agreement. This undisclosed change of control was done in violation of the RRL Buy/Sell Agreement and the Laws of the State of Ohio that serve to protect the known and anticipated creditors and dissenting members. *See Ohio Rev. C. § 1705.36, Ohio Rev. C. § 1705.41 (A). See also West v. Household Life Ins. Co., 170 Ohio App.3d 463,469, 2007-Ohio-845 (10th Dist.). Unless a third-party's enforcement of an agreement was "contemplated by the parties and sufficiently identified" in the agreement, a third-party may not enforce an arbitration agreement between two other entities.*

Immediately upon discovery of this cognizable event (emphasis), that the former controlling and selling members of RRL had made RRL a Dead Entity, Ms. Stewart issue a demand pursuant to Ohio Rev. C. § 1705.41 (B) and offered seven opportunities, seven (7) dates, to settle the Buy/Sell agreement, to be facilitated by the offices of Thompson Hine LLP in Columbus, Ohio.

*See Ohio Rev. C. § 1705.41 (B) the dissenting member shall deliver to the company a written demand for payment and Ohio Rev. C. § 1705.391 Legal effect of conversion - action to set aside.*

The controlling members of Appellee RRL, Fritz Griffioen, Bill Griffioen and Rod Mayhill, redeemed their shares in RRL for 1/6th ownership each in a new entity with a new FEIN XX-XXX4159, non-affiliate Firefly, with three new owners (Hans Griffioen, Ben Griffioen and Andy Kirkham). These former members misused their powers for personal/family interests at the expense of the company in violation of "the standard of a duty to be of the 'utmost good faith and loyalty.'" *Crosby v. Beam, 47 Ohio St. 3d at 108.*

The laws of the State of Ohio and the RRL Buy/Sell Agreement specify a required lump sum payment to Ms. Stewart prior to making RRL a Dead Entity. RRL's controlling/selling members failed to perform as required by contract and law.

In December 2018 Ms. Stewart was an unredeemed RRL Member with a balance owing of \$524,475.00 plus interest. Pursuant to the RRL Buy/Sell Agreement, the uncured default on the lump sum requirement makes all unredeemed RRL shares active with full rights and privileges (emphasis).

## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

As of December 31, 2018, Firefly operates under a new FEIN XX-XXX4159 (emphasis). If this action had been a mere “Named Change” as sworn to under oath by Fritz Griffieon, there would be no change of FEIN. The new owners now own and control 100 percent of all of RRL assets accomplished in part by fraud, including Insurance Fraud with the ownership and beneficiary change to \$6 Million in life insurance contracts under the guise of a “name change” only. Respondents also seized the more than \$5 million in annual recurring revenue created by a network of contracted suppliers by fraudulently representing Firefly as a “name change” only. The contracted suppliers and the \$5 million in recurring revenue belong to RRL, not Firefly.

Ms. Stewart is now the only unredeemed member of RRL.

### ***f. Whistleblower Protection. (Quoted from Motion for reconsideration, federal questions raised)***

Whistleblower protection: Ms. Stewart also seeks restitution for retaliation, defamation and industry blacklisting as is protected in the Taxpayer First Act, the Dodd-Frank Wall Street Reform and Consumer Protection Act H.R. 4173 § 369 (1) (A), the United States Constitution and other State and Federal Laws. Petitioner alleges Defamation by the former/selling RRL member Fritz Griffioen as is defined in U.S. Code § 4101(1).

**2. The Ohio Supreme Court Jurisdictional Appeal, Case No. 2020-0615, Judgement Entry Filed 6/17/2020 Announcement No. 2020-Ohio-3275 (Appendix B) The Federal questions raised included:**

#### ***a. Conflicting judgement from two or more court of appeals warrants Supreme Court Review. (Quoted from Memorandum, federal questions raised)***

Article IV, Section 3(B)(4) of the Ohio Constitution provides for review and final determination by the Supreme Court when judgement is in conflict. Is appeal as a right on a final appealable order grounds for an appeal? Do two irreconcilable Outcomes on the same factual or legal issues turn potentially wrong decisions into clearly wrong ones?

Appellant moved the Supreme Court of Ohio to review the existing conflicting judgement/decisions from two court of appeals cases as these two irreconcilable outcomes turn potentially wrong decisions into clearly wrong ones. 1) this conflict is “upon the same question”, 2) involves the same rule of law, 3) is applicable to the same crime reports with judgement(s) in conflict cited in the forgoing paragraphs pursuant to App. R. 25.

Whenever the judges of a court of appeals find that a judgment upon which they have agreed is in conflict with a judgment pronounced upon the same question by any other court of appeals of the state, the judges shall certify the record of the case to the supreme court for review and final determination.

The conflicting judgements are stemming from the same Common Pleas Lower Court Judge Kim J. Brown, involving the same parties and the same protected activity and duty to report White-Collar crimes to the authorities.

In both cases, the Respondents made allegations and sought retributions against Ms. Stewart for the “SAME” protected activity and legal duty to report White-Collar crimes to:1) Ohio Civil Rights Commission, 2) the Columbus Police Department and 3) the Insurance Companies.

## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

This Tenth District Court of Appeals Case No. 20-AP-044 judgement decision of February 20, 2020 conflicts with this judgement decision of the Tenth District Court of Appeals Case No. 19-AP-202 of January 23, 2020.

Ms. Stewart disputes the 20-AP-044 appeal decision of February 20, 2020 where the appellate judges stated there were no grounds for the appeal (emphasis) and did not allow oral arguments or briefing. However, in the appeal 19-AP-202 decision of January 23, 2020 the appellate judges not only concurred there were grounds for the appeal, they also allowed oral arguments and complete briefing.

The basis of proceeding with the appeal “for grounds” or halting the appeal for “no grounds” were made from the initial filing of the appeal(s), including the docketing statements. Therefore, Ms. Stewart will cite the conflicting judgment or judgment(s) of law, pursuant to App. R. 25, stemming from the initial docketing statement(s). In both cases (emphasis) the grounds for appeal were the same appeal as a right Ohio Rev. Code Ann. §§ 2505.02 to 2505.03.

In both cases the grounds for appeal included violations of defendant-appellants' substantial right in violation of The Constitution of the United States of America-Amendment 14 and Amendment 9. *See* 20AP044 “Reporting discrimination to the Ohio Civil Rights Commission as both a whistleblower and a victim, on June 10, 2015 was and is a protected activity and this ruling imposing penalties for participating in this protected activity violates defendant-appellants' substantial right in violation of The Constitution of the United States of America-Amendment 14, Amendment 9 [].” *See Also* 19-AP-202 “Violation of The Constitution of the United States of America-Amendment 14”

In both cases the grounds for appeal also included violations of Freedom of Speech as stated in the Constitution of the United States of America-Amendment 1. *See* 20AP044 5. The trial courts judgement against Defendant-Appellant violates freedom of speech and rights for a redress of grievance which is protected by The Constitution of the United States of America-Amendment 1. *See Also* 19-AP-202 Sanctions against Defendant-Appellant violates freedom of speech and rights for a redress of grievance which is protected by The Constitution of the United States of America-Amendment 1.

In both cases the ground for appeal included violation of Whistleblower laws, disparagement, false light and retaliation. *See* 20AP044 6. Reporting a Crime to the Columbus police economic crime division on July 27, 2016, as both a whistleblower and a victim, under complaint 163056538 was and is a protected activity and this ruling imposing damage to the Defendant for participating in this protected activity violates defendant-appellants' substantial right [].” *See also* 19-AP-202 (4) “VIOLATION OF WHISTLEBLOWER LAWS, DISPARAGEMENT, FALSE LIGHT, RETALIATION”19-AP-202 “Reporting discrimination to the Ohio Civil Rights Commission as both a whistleblower and a victim, on June 10, 2015 was and is a protected activity and this ruling imposing monetary sanctions for participating in this protected activity violates defendant appellants' substantial right [].” *See also* 19-AP-202 “Reporting a Crime to the Columbus police economic crime division on July 27, 2016, as both a whistleblower and a victim, under complaint 163056538 was and is a protected activity and this ruling imposing monetary sanctions for participating in this protected activity violates [ ] appellants' substantial right [].”

Noteworthy, in addition to the forgoing same “grounds for appeal” used in both appeals, the Respondents could have and should have brought their retribution request for Ms. Stewart’s

## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

crime reports purported as “meritless claims” into the existing court case (C.P.C. No. 15CV-001842 and 19-AP-202), However, in violation of the rules against claim/splitting, the principles of Res judicata and the “entire controversy” doctrine they filed a separate case (C.P.C. No. 15CV-007212 and 20-AP-044) in attempts to further punish Petitioner for same crime reports.

The Respondents subsequently argued for the same Judge Kim J Brown for the reason of being familiar with all the facts, however this Judge has no familiarity with any facts of the case because in the first case filed against Ms. Stewart (C.P.C. No. 15CV-001842) there has been no discovery, has been stayed for over five (5) years (November 10, 2015) and remains stayed today.

In addition to the parallel legal grounds used in perfecting the appeal(s), both appeals were the result of the Respondents attempts to punish and obtain retribution for the very same events of reporting criminal activity, which if not reported, by law would constitute federal felonies including but not limited to: Misprision of an anti-trust felony, Misprision of a felony, Conspiracy with Shumaker, Loop & Kendrick and the controlling members of RRL, obstruction of justice and being a party to the Criminal Enterprise in violation of federal RICO laws.

### ***b. Fraud upon the Courts. (Quoted from Memorandum, federal questions raised, Fraud upon the courts.)***

In a first twist of events, the Respondents admitted to the multiple felonies in Arbitration. These same multiple felonies that had been denied by the Respondents in a perjured affidavit and were used to obstruct justice and interfere with: (1) a police investigation and (2) two insurance company investigations with Hartford and Liberty Mutual. This knowingly perjured affidavit was signed by RRL member Fritz Griffioen and was crafted by the law firm of Shumaker, Loop & Kendrick. However, it accomplished its purpose: obstruction of three investigations.

In the second twist of events, the Tenth District Court of Appeals determined the Common Pleas Court Judge Kim J Brown abused her discretion, “acted unreasonably, arbitrarily, or unconscionably” (*Id.* 0A303 E64), remanded for a hearing and vacated the finding and any award of sanctions and attorney fees associated with these crime reports. See Case No. 19-AP-202 of January 23, 2020 attached hereto as Appendix E and quoted, in part below.

*See ¶15.* “An abuse of discretion connotes more than an error of law or judgment; it implies the trial court's attitude is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). Claims of error by the trial court must be based on the trial court's actions, rather than on the magistrate's findings. “Therefore, we may reverse the trial court's adoption of the magistrate's decision only if the trial court acted unreasonably, arbitrarily, or unconscionably. *Id.*” (OA393 - E64)

*See also* No. 19AP-202 *Id.* R.0A393 - E76, ¶71 “Accordingly, we sustain appellant's first, third, and part (C) of the seventh assignments of error to the extent they allege the trial court erred in not holding a hearing and in not providing an opportunity to rebut its initial finding [] when she filed a claim with the civil rights commission and a report with police.”

“On remand, the court shall hold a hearing on the September 18, 2017 Notice and exhibits thereto to provide appellant an opportunity to rebut the initial finding of violations regarding the civil rights commission claim and police report to determine if reconsideration is warranted.”

**VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

“Furthermore, we sustain the same assignments of error to the extent they allege the trial court erred in not reconsidering its initial finding that appellant [] when she filed the insurance claims.” “On remand, the trial court shall vacate that finding and any award of sanctions or attorney fees pertaining thereto. Finally, to the extent appellant's first, third, and seventh assignments of error allege additional errors or abuse, they are rendered moot.”

In the third twist of events, a cognizable event, the Respondents controlling/ now former/Selling members of RRL seized all of the assets of RRL and merged the company out of existence (fraudulently under the guise of a “name change” only) in violation of the laws of the State of Ohio, the rights of the dissenting (unredeemed member(s) Ms. Merrilee and Non-Party Norm Fountain) and the many creditors, victims and informants seeking restitution.

Finally, one would expect a higher standard from a legal professional, as the Model Rules of Professional conduct preamble is quoted herein: “Lawyers, as guardians of the law, play a vital role in the preservation of society.”

If a lawyer is truly a guardian of the law and if they play a vital role in the preservation of society, then this case is of great public interest and warrants consideration. The culpable attorneys have committed perjury, subordinated perjury, harassed, intimidated and used scorching tactics on collaborating victims, informants, witnesses and most visibly upon the primary inside whistleblower/victim/informant Ms. Stewart.

It is after all, the concert of effort involving the culpable attorney(s) that has enabled this Criminal Enterprise, Respondent Firefly, to avoid restitution and continue to commit felonies.

**c. Redlining, the Fair Housing act, the Civil Rights Act, Overt Discrimination. (Quoted from Memorandum, federal questions raised)**

Firefly, doing business in 24 states, continue their criminal activity harming citizens in multiple states with the boycotting of the underserved communities from access to product and services who do not meet Appellee's “affluent middle-class rules”.

**d. Due Process Rights. (Quoted from Memorandum, federal questions raised, Due Process)**

“All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.” Ohio Constitution, Section 16, Article I.

This denial of Appellant's right to appeal closes access to the courts and access to the administration of justice.

This appeal courts denial prior to briefing was premature at best. Ms. Stewart was denied an opportunity to Brief the Appeals Court on the “reasonable grounds for the appeal” and therefore this decision was made prematurely and without examination of the case docket or evidence.

See *Moldovan v. Cuyahoga Cty. Welfare Dept.* (1986), 25 Ohio St.3d 293, 25 OBR 343, 496 N.E.2d 466; and *Cent. Ohio Transit Auth. v. Timson* (1998), 132 Ohio App.3d 41, 724 N.E.2d 458. When a state provides an appellate review process, the procedures used to implement appellate review must comply with the constitutional dictates of due process and equal protection. *Atkinson v. Grumman Ohio Corp.* (1988), 37 Ohio St.3d 80, 84, 523 N.E.2d 851, 855.”

The appellate review process denied Ms. Stewart due process and equal protection afforded by the law of the State of Ohio and the Constitution of the United States. The Ohio Constitution, Article I, Section 2. and Fourteenth Amendment to the United States Constitution. The clause,

## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

which took effect in 1868, provides "nor shall any State [...] deny to any person within its jurisdiction the equal protection of the laws".

Furthermore, the denial of the opportunity to submit evidence and brief the case denies equal protection under the Ohio Constitution, Article I, Section 2. and Fourteenth Amendment to the United States Constitution.

### **e. Crime Victims' Rights. (*Quoted from Memorandum, federal questions raised*)**

Do the rights of Crime Victims apply to a citizen in Civil Courts? Does this constitutional protection apply to those victims of felony offenses that afforded a citizen a private right of action?

Ms. Stewart is a documented crime victim of felonies perpetrated upon her, by and through, the concert of effort of Respondents and their culpable attorney(s).

At the Common Pleas Court, in an error in fact and law, the Respondent(s) were granted a dismissal on Appellant's counter claim, were granted a ruling that claimant was a meritless litigator, resulting from the reporting of criminal felonies, and Respondents(s) were granted attorney fees. All appealable final orders, not involving litigation, for the purpose of illegal punishment for the protected activity of reporting crimes to the proper authorities.

This denial of the appeal violates Appellant's rights as a crime victim, as Section 10a(B) Article I of the Ohio Constitution provides: "The victim [ ] in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim [ ] may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition (emphasis).

The rights of victims of crime in pursuant to Section 10a "shall be accorded fairness, dignity, and respect [...]” "This section does not abridge any other right guaranteed by the Constitution of the United States or this constitution"

The Constitution of the State of Ohio Rights of victims of crimes also includes §10a; (A); (4) "to reasonable protection from the accused or any person acting on behalf of the accused"; (7) "to full and timely restitution from the person who committed the criminal offense [] against the victim"; (8) "to proceedings free from unreasonable delay[]".

Furthermore, pursuant to §10a (E) "All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws."

There is a right to bring an action and to prosecute that action to final judgment. See *Marquez vs. Varela*, 92 Phil. 373

### **f. Whistleblower Retaliation. (*Quoted from Memorandum, federal questions raised*)**

Respondents conspired with concert of effort of culpable attorneys to conceal, cover-up, and aided and abetted the Criminal Enterprise in the ongoing continuation of crimes perpetrated upon the suppliers and the citizens within the communities they serve.

Respondents compounded their involvement by scorching activities inflicted upon Appellant in violation of State and Federal Whistle Blower Laws designed to protect the reporter of crimes.

The greatest public concern deals with the boycotting of access to products and services in the underserved communities because they fail to meet the "Affluent Middle-Class Rules". The suppliers are forced to abide by these rules or the ability to sell is shut off completely. These products are essential to our citizen's as they involve accessibility to preferred Auto and Home

**VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

Insurance. The withholding of access to products which are required by law to drive a car and required by a lender to buy a home is of public interest.

The Docketing Statement Provided in this appeal reiterated this fact in multiple sections, including but not limited to: *See* 20AP044 ¶5. Did the judgment or order dispose of all claims by and against all parties? [X] No This is the same parties and same set of facts and circumstances of Judge Kim Browns Case No. 15CV-001842. *See also* 20AP044 ¶7. Nature of Case: Plaintiffs allege "meritless litigation" for the protected activity of reporting criminal activity and the duty to notify: 1) the Ohio Civil Rights Commission, 2) the Columbus Police Department Economic Crime Division, 3) the Insurance Companies and 4) to the Ohio Department of Insurance Fraud Division.

*See also* 20AP044 ¶10. Do you know of another case(s) pending before this court or recently decided by this court which raises the same issue or issue(s)? [X] Yes "The Plaintiffs made allegations against Defendant for the "SAME" protected activity of reporting criminal activity and the duty to notify: 1) the Ohio Civil Rights Commission, 2) the Columbus Police Department Economic Crime Division, 3) the Insurance Companies and 4) to the Ohio Department of Insurance Fraud Division. Trial Court Judge Kim J. Brown Case No. 15CV-001842, Tenth District Court of Appeals Case No. 19-AP-000202."

20AP044 ¶11. Have the parties to this appeal previously been parties to an appeal filed in this court? [X] Yes

The result is Petitioner was denied the ability to file the details on assignments of errors pursuant to App. Rule 16 {A}, (3), (4), (6) and (7) and halted from proceeding with the appeal.

Subsequently, the motion for re-consideration further reiterated and clarified the sound grounds for this appeal.

3. The Ohio State Court, Tenth District Court of Appeals Request for reconsideration, Case No. 20AP44, Judgement Entry 2/20/2020 (Appendix C) The Federal questions raised included: *(Quoted from Motion to re-open, federal questions raised)*

Ms. Stewart sought leave to timely file the Application for reconsideration/ "Motion to Re-open" pursuant to App. Rule 26 (1) (a) upon belief there existed good cause for review of the Journal Entry of Dismissal and the reopening of this appeal.

Ms. Stewart believed the grounds for the appeal were sufficiently located on the docketing statement filed with the motion to leave on January 16, 2020 (0A392, K15).

First, the decisions of trial court Judge Kim J. Brown and magistrates from case 15-CV-001842 were used by the same, Judge Kim J. Brown, in this case 18-CV-007212 to declare Ms. Stewart as a vexatious litigator. These involved allegations of violating the "Agreed Entry" by the acts of filing as; The Police Report, The Ohio Civil Rights Complaint and the Insurance Claims with Hartford and Liberty Mutual.

However, as explained more fully in the forgoing paragraphs, this very Tenth District Court of Appeals determined that Judge Kim J. Brown did not give the Ms. Stewart an opportunity to rebut its findings and remanded back to the trial court.

## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

See Appellate Court Decision of January 23, 2020 OA393 - E46 No. 19AP-202 (C.P.C. No. 15CV-1842) attached hereto as Appendix E)

The tenth district court of appeals remanded the issues on the alleged violations of the “Agreed Entry” in case 15-CV-001842. These same issues were used in this case 18-CV-007212 to declare Appellant vexatious. Therefore, at best, this is a premature judgement made by Judge Kim J. Brown.

All parties were well aware and fully knew the very same claims were under appeal. Involving Ms. Stewart’s fulfilment of her duty to report White-Collar crimes to the authorities: The Police, Ohio Civil Rights and Hartford and Liberty Mutual.

Second, the dismissal of the Ms. Stewarts’ counter complaint was an error of fact and law by Judge Kim J. Brown as the claims are all fully documented, proven and collaborated. Furthermore, the Respondents committed perjury, subordinated by counsel James R. Carnes of Shumaker, Loop & Kendrick.

Third, this clear abuse of process in both trial court cases violates Federal and State of Ohio Whistleblower laws.

Finally, there exists only one piece of litigation initiated by Ms. Stewart as an original complaint and that is an ERISA case in the US District Court. See Merrilee Stewart, et al. v IHT Insurance Agency Group, LLC Welfare Benefits Plan, et. al. Plaintiffs, Case No. 2:16-cv-210, Judge James L. Graham Magistrate Judge Kimberly A. Jolson, United States District Court, Southern District of Ohio, Eastern Division

Therefore, it is utterly impossible to declare someone a vexatious litigator based upon a false narrative used in both cases (15-CV-001842 and 18-CV-007212) and when the Ms. Stewart initiated just one, and only one, original litigation against Respondents.

*See also* Court of Appeals Ohio Tenth Appellate District, Decision of January 23, 2020 (No. 19AP-202, C.P.C. No. 15CV-1842, R.0A393 - E67) Appendix E.

*See also* {¶46} We agree the trial court did not give appellant an opportunity to rebut its initial finding of violations of the Agreed Entry with regard to the civil rights commission's claim and the police report and abused its discretion in not reconsidering its interlocutory finding of November 7, 2016 and May 17, 2017, and in entering the final decision of March 15, 2019 with regard to the insurance claims. This is evidenced in the court's implicit rejection, without any reference thereto of the September 18, 2017 Notice and exhibits thereto and appellant's objections to the magistrates' decisions. It is also evidenced by the court's express words in its decisions.

§ 1. Civil rights commission claim No. 19AP-202, R.0A393, E70, ¶¶55-60

§ 2. Police report No. 19AP-202, R.0A393, E72, ¶¶61-65

§ 3. Insurance claims, No. 19AP-202, R.0A393, E74

**VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

§ VIII. Conclusion R.0A393, E77: To the extent appellant alleges the trial court erred in not granting a hearing and not providing an opportunity to rebut its initial finding that appellant violated the Agreed Entry by filing a claim with the civil rights commission and a report with police; and to the extent appellant alleges the trial court erred in not reconsidering its initial finding that appellant violated the Agreed Entry by filing claims with the insurance companies, appellant's first, third, and part (C) of her seventh assignments of error are sustained and the March 15, 2019 decision

and entry of the Franklin County Court of Common Pleas is reversed in part. The remainder of the first, third, and seventh assignments of error, as well as the second, fifth, and sixth assignments of error are rendered moot.

This case is remanded to the trial court in accordance with law and the instructions within this decision.

4. The Ohio State Court, Tenth District Court of Appeals Appeal as a right, Case No. 20AP44, Judgement Entry 1/23/2020 (Appendix D).

This appeal was rejected, without opportunity of briefing or oral argument (emphasis), relying solely on purported lack of reasonable grounds.

The purported lack of reasonable grounds was the sole reason (emphases) for the Appeal dismissal.

The State Appeals Court (Ohio Tenth District) failed to grant due process rights solely applying the Vexations Litigator statute to deny Petitioner access to the courts.

These final appealable orders were submitted to the appellate court and not even allowed to be docketed or briefed. In other words, stopped at the front door.

This clearly violates individual citizen rights of due process guaranteed by the Constitution of the United States of America, the right to hearing the facts, the right to have the citizen case fully briefed and heard.

The docketing statement filed with the motion to leave on January 16, 2020 (0A392, K15) included reasonable grounds for allowing this appeal to proceed.

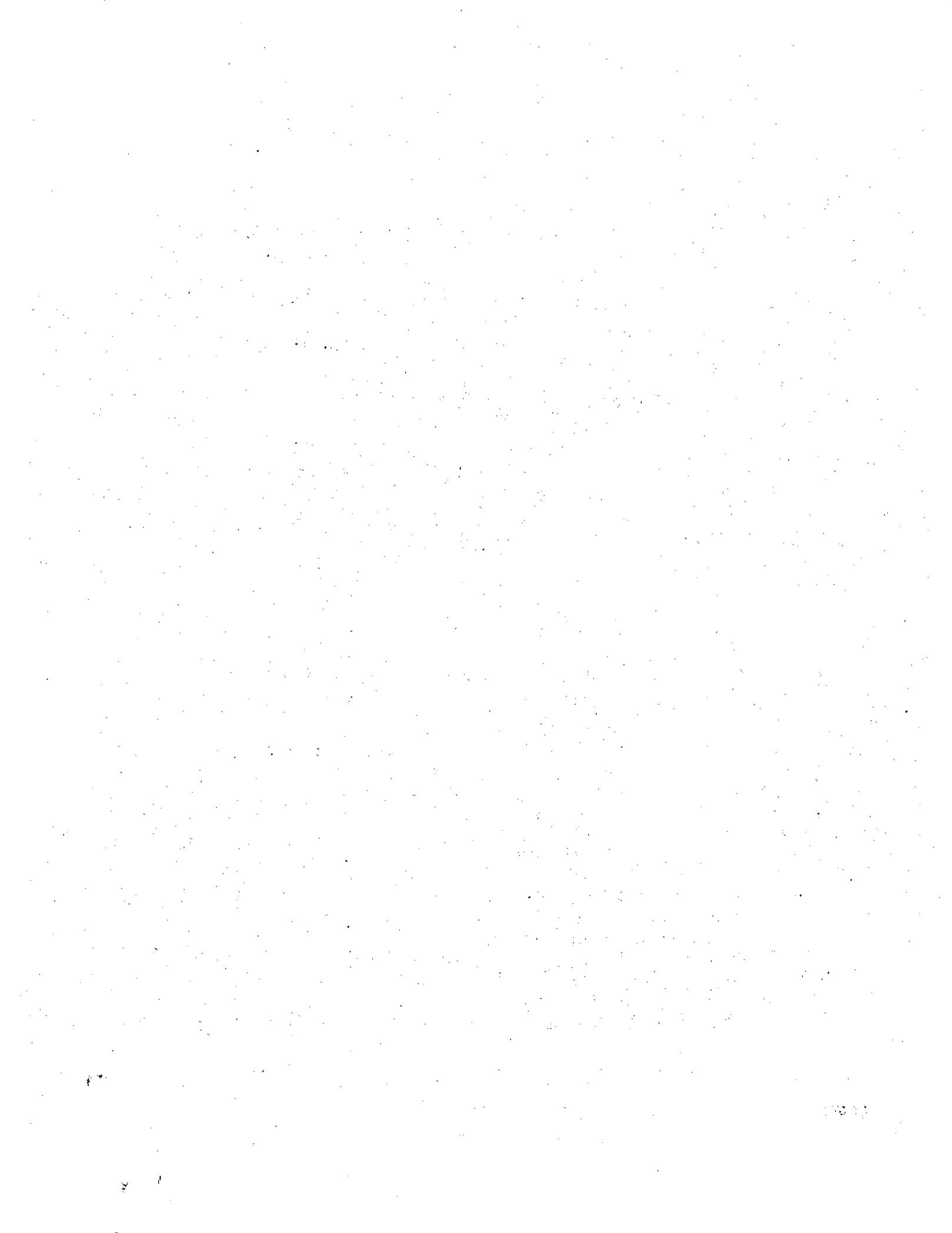
*(Quoted from Appeal Docketing Statement federal questions raised)*

5. This is the same parties and same set of facts and circumstances of Judge Kim Browns Case No.

15CV-001842.

7. Nature of Case: “meritless litigation” for the protected activity of reporting criminal activity and the duty to notify: 1) the Ohio Civil Rights Commission, 2) the Columbus Police Department Economic Crime Division, 3) the Insurance Companies and 4) to the Ohio Department of Insurance Fraud Division.

10. Plaintiffs made allegations against Defendant for the “SAME” protected activity of reporting criminal activity and the duty to report: 1) the Ohio Civil Rights



## **VI. Statement of the Case - continued “§ B: Federal Questions Raised”.**

Commission, 2) the Columbus Police Department Economic Crime Division, 3) the Insurance Companies and 4) to the Ohio Department of Insurance Fraud Division.

*See Trial Court Judge Kim J. Brown Case No. 15CV-001842, Tenth District Court of Appeals Case No. 19-AP-000202.*

16. Briefly summarize the assignments of error presently anticipated to be raised on appeal: 1) This claim and judgement violated the rules against claim/splitting, the principles of Res judicata and the "entire controversy" doctrine; 2) Reporting discrimination to the Ohio Civil Rights Commission as both a whistleblower and a victim, on June 10, 2015 was and is a protected activity and this ruling imposing penalties for participating in this protected activity violates defendant-appellants' substantial right in violation of The Constitution of the United States of America-Amendment 14, Amendment 9 and Amendment 10; 3) The trial courts dismissal of the counterclaim was in error of fact and law; 4) The trial court error in law, without regard to affirmative defense – Arbitration; 5) The trial courts judgement against Defendant-Appellant violates freedom of speech and rights for a redress of grievance which is protected by The Constitution of the United States of America-Amendment 1; 6) Reporting a Crime to the Columbus police economic crime division on July 27, 2016, as both a whistleblower and a victim, under complaint 163056538 was and is a protected activity and this ruling imposing damage to the Defendant for participating in this protected activity violates defendant-appellants' substantial right in violation of The Constitution of the United States of America-Amendment 14, Amendment 9 and Amendment 1

Alternatively, as provided by R.C. § 2323.52 (A) (3) Appellant moves this court to grant continuation by her attorney, to file his appearance and proceed on behalf of Appellant on this appeal, as 'Vexatious litigator' does not include a person who is authorized to practice law in the courts of this state under the Ohio Supreme Court Rules for the Government of the Bar of Ohio. Note: No response was received.

## **VII. Reason for Granting the Writ**

Petitioner Merrilee Stewart moves this Supreme Court of these United States of America to decide these very important questions of constitutional and federal law protections that were not, but should be, settled by the State Courts.

The State Court of last resort, the Ohio Supreme Court, refused to take a look at the National Significance of this case or the disregard of the lower Common Pleas Court to the orders of the Appeals Court.

The greatest public concern deals with the boycotting of access to products and services in the underserved communities because they fail to meet the "Affluent Middle-Class Rules". The suppliers are forced by the Respondents to abide by these rules or the ability to sell is shut off completely. These products and services are essential to our citizen's as they involve accessibility to preferred Auto and Home

Insurance. The withholding of access to products which are required by law to drive a car and required by a lender to buy a home is of great public interest.

### **VIII. Conclusion**

Petitioner Merrilee Stewart prays for at least a chance at justice as is guaranteed to all citizens of these United States of America.

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully Submitted,

*Merrilee Stewart*

Merrilee Stewart

/s/ Merrilee Stewart

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