NO. 20-____

In the Supreme Court of the United States

ANTHONY TRICOLI,

Petitioner,

v.

ROB WATTS ET AL.,

Respondents.

On Petition for a Writ of Certiorari to the Court of Appeals of Georgia

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

While preparing his 2017 petition to this Court against Georgia's assertion of sovereign immunity protection for crimes by state officials, Petitioner Anthony Tricoli discovered new evidence infecting the judgment, including the Georgia Attorney General obstructing investigation of a scheme in the state university system to defraud federal programs—and blocking a hearing due Tricoli to conceal the fraud. When Tricoli filed a motion to set aside the state court judgment, trial court Judge Coursey barred all evidence and granted a motion for sanctions against Tricoli, disregarding a statutory prohibition against imposing sanctions for a position supported by recognized authority. The trial court also ignored Tricoli's motion for First Amendment protection against government retaliation. Georgia's Attorney General never filed a responsive pleading to Tricoli's motion documenting USG fraud on the federal government and obstruction by the Attorney General. The Georgia Court of Appeals affirmed the sanctions without opinion and denied the First Amendment motion and uncontested motion to set aside as barred by the challenged judgment itself. After five Georgia Supreme Court Judges who attempted to rule against Tricoli were disqualified, the remainder of the court refused to hear the case. The Questions Presented are:

1. May the State of Georgia impose punitive sanctions, against an attorney petitioning the courts and speaking out in public to expose and redress state government corruption, while completely disregarding the state's own statute for First Amendment protection against government retaliation?

2. Is it unacceptable and impermissible, under the First and Fourteenth Amendments, for the State to impose such punitive sanctions in disregard of Georgia's own First Amendment protection statute, while also ignoring Georgia's statutory prohibition against imposing sanctions for taking a legal position supported by recognized or even persuasive authority?

3. Did Georgia courts violate Fourteenth Amendment due process and the First Amendment right to petition by denying an uncontested motion to set aside for fraud and due process violations affecting the judgment, on a pretextual basis without a judicial opinion addressing the law and facts of the uncontested motion, while also affirming without opinion the denial of First Amendment protection and the imposition of punitive sanctions, contrary to Georgia's own controlling statutes?

PARTIES TO THE PROCEEDINGS

Petitioner and Plaintiff-Appellant

- Anthony Tricoli

Respondents and Defendants-Appellees

- Rob Watts
- Ron Carruth
- Sheletha Champion
- Hank Huckaby
- Steve Wrigley
- John Fuchko
- Mark Gerspacher
- Jim Rasmus
- Ben Tarbutton
- Robin Jenkins
- Sam Olens
- Office of Georgia Attorney General (Department of Law)
- Board of Regents of the University System of Georgia (USG)

LIST OF PROCEEDINGS

Supreme Court of Georgia

Case No. S20C0577

Anthony S. Tricoli v. Rob Watts Et Al.

Date of Petition for Certiorari Denial: June 16, 2020

Reconsideration Denial Date: August 10, 2020

Order Denying Motion to File Supplemental Brief: January 22, 2020

Date of Order Disqualifying Five Justices: May 4, 2020

Court of Appeals of the State of Georgia

Case No. A19A1071

Anthony S. Tricoli v. Rob Watts Et Al.

Date of Order Denying Rule 60 Motion: October 24, 2020

Date of Affirming Trial Court Without Opinion: October 24, 2020

Court of Appeals of the State of Georgia

Case No. A18D0468

Anthony S. Tricoli v. Rob Watts Et Al.

Date of Order Denying Discretionary Review of Sanctions: June 15, 2018

Court of Appeals of the State of Georgia

Case No. A18D0406

Anthony Tricoli v. Rob Watts Et Al.

Date of Order Denying Discretionary Review of Order Denying Rule 60(d) Motion: April 24, 2018

Superior Court of DeKalb County Georgia

Case No. 14CV4911

Anthony Tricoli v. Rob Watts Et Al.

Date of Order Denying Motion to Set Aside Judgment: January 30, 2018

Date of Order Denying First Amendment Protection: May 17, 2018

Date of Order Granting Sanctions Motion: April 18, 2018

Date of Order Quashing Subpoenas: March 6, 2018

Court of Appeals of the State of Georgia

No. A15A2256

Anthony Tricoli v. Rob Watts Et Al.

Date of Opinion: March 30, 2016

U.S. Supreme Court
Case No. No. 16-1212
Date of Petition for Certiorari Denial: May 22, 2017

Supreme Court of Georgia
Case No. S16C1469
Anthony S. Tricoli v. Rob Watts Et Al.
Date of Petition for Certiorari Denial: November 7, 2016

Court of Appeals of the State of Georgia
Case No. A15A2256
Anthony S. Tricoli v. Rob Watts Et Al.
Date of Final Order: March 30, 2016

Superior Court of De Kalb County Georgia
Case No. 24-CV-4911
Anthony Tricoli v. Rob Watts Et Al.
Date of Final Order: November 21, 2014

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Anthony Tricoli respectfully petitions this Court for a Writ of Certiorari to review the judgment of the Court of Appeals of Georgia.

OPINIONS BELOW

In *Tricoli I,* by order entered November 21, 2014 (App.13a) the Superior Court of DeKalb County dismissed Tricoli's original complaint on grounds of sovereign immunity, positing Tricoli lost the waiver of sovereign immunity on his written contract because Respondents tricked him into resigning later, and that state officials who falsified financial reports to hide improprieties were immune because they were performing "financial oversight." The Georgia Court of Appeals converted Tricoli's case to summary judgment, with no notice or opportunity to respond, and held he had no breach of contract claim and state officials were immune from suit for RICO felonies by order of March 30, 2016. (App.2a). Judge Miller dissented. (App.9a). The Georgia Supreme Court and US Supreme Court denied certiorari.

In *Tricoli II*, based on new evidence of fraud and due process violations, Tricoli filed a motion to set aside the judgment against him. The DeKalb Superior Court denied that motion by order of January 30, 2018 (App.48a) and entered an April 18, 2018 sanctions order (App.41a) against Tricoli while ignoring his motion for First Amendment protection

from retaliation under the Georgia Anti-SLAPP statute, and after quashing Tricoli's subpoenas by order of March 6, 2018 (App.46a). The trial court later entered an order denying First Amendment protection with no explanation and without complying with any of the statutory requirements, on May 17, 2018. (App.36a).

While *Tricoli II* was pending in the Georgia Court of Appeals, Tricoli filed in that court a motion to set aside based on new evidence of fraud affecting that court's summary judgment against him. By order of October 24, 2020, the Georgia Court of Appeals affirmed without opinion the trial court's denial of the first motion to set aside, the order imposing sanctions on Tricoli, and the non-compliant order denying First Amendment protection. (App.30a). Also by order of October 24, 2020, the Georgia Court of Appeals denied the motion to set aside its summary judgment, also without opinion addressing the motion, based on the law of the case. (App.28a). The Georgia Supreme Court denied certiorari (App.22a), and denied reconsideration by order of August 10, 2020 (App.21a).

JURISDICTION

A timely petition for rehearing was denied by the Supreme Court of Georgia on August 10, 2020. (App.21a) This Court granted a 60-day extension of the time to file a petition for writ of certiorari through January 7, 2021. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

- U.S. Const. amend. I

  Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

- 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.

STATEMENT OF THE CASE

The unprecedented case of Anthony Tricoli is back before this Court on a motion to set aside the prior judgments holding that sovereign immunity protected state officials who committed criminal acts to intentionally harm Tricoli, and who breached his written contract with the State of Georgia. The motion to set aside is based, in part, on new evidence

of fraud infecting those judgments by Georgia courts. New evidence, that Tricoli began to uncover at the time he petitioned this Court in *Tricoli I,* has made the State's position in *Tricoli II* even more implausible and indefensible—and makes the punitive sanctions imposed on Tricoli for challenging government corruption illegal, unconstitutional, and unconscionable. *Lozman v. City of Riviera Beach*, 585 U.S. ___, 138 S.Ct. 1945 (2018).

The Attorney General, aided and abetted by the courts of Georgia in the course of *Tricoli II*, has vastly expanded the criminal and unconstitutional impunity with which state officials may purportedly operate. Georgia state government has also retaliated against Tricoli for his steady progress in exposing government corruption—retaliation unfettered by any constraints of Georgia's own laws, constitutional due process, or the First Amendment—for the sole purpose of the government intimidation prohibited by *Lozman*, earning Tricoli's original assertion that Georgia state government is conducted, at the highest levels of the offices of the Governor and Attorney General, as a racketeering enterprise when it comes to defending fraud in the University System of Georgia (USG). OCGA § 16-14-3(3).

The country has not seen such wholesale defiance of the U.S. Constitution, in the name of sovereign immunity protection for RICO felonies and wanton breach of contract, since the bad old days when Georgia courts sneezed at fundamental rights, in the 1960s, to pervert justice in defense of segregation. *Wright v. Georgia*, 373 U.S. 284, 292 (1963) (sending false signals through state statutes, and then pulling a bait and switch to penalize litigants who were fooled into follow-

ing the clear direction of the statute, violates constitutional due process, voiding such judgment); Accord, *Reich v Collins*, 513 U.S. 106, (1994); *Bouie v. City of Columbia*, 378 U.S. 347, 354 (1964).

These days, this disdain for the rule of law shields government corruption by political allies involving billions of dollars in state-sponsored fraud. *United States v. Ammidown*, 497 F.2d 615, 620-22 (D.C. Cir. 1973); *United States v. Woody*, 2 F.2d 262 (D. Mont. 1924).

The logical place to start, then, is the new evidence of fraud informing the motion to set aside the prior judgments—for which the State has sanctioned Tricoli, ordering him to pay the State's legal fees (App.41a) because Tricoli and his counsel pointed out the wrongdoing of state officials in petitions to the courts for redress of grievances, and to the media.[1]

First, to understand the new evidence, we need to look at what Tricoli knew when he first filed his complaint in May of 2014, before *Tricoli I* was bounced from the courts on grounds of sovereign immunity for RICO felonies and breach of contract.

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[1] *See*, *e.g.*, media criticism of the Georgia Supreme Court relying on Confederate law to expand sovereign immunity protection to unconstitutional acts, found at the following link: http://www.huffingtonpost.com/entry/596e5ddbe4b05561da5a5b3e; *see also*, Humphreys requests independent investigation of RICO enterprise in Georgia state government https://www.ajc.com/news/state-regional-govt-politics/investigator-sought-examine-university-system-employees-cases/HhHTT0hpUeyBlUWbVMwRwO/

A. Quick and Dirty *Tricoli I*

To vastly simplify what former Georgia Perimeter College (GPC) President Anthony Tricoli knew about the harms he complained of in his first go-round with the courts of Georgia,[2] in January of 2012 a mid-level manager at GPC sent an angry email to the college's Assistant Vice President of Finance Sheletha Champion asking why millions of dollars were "gone with no explanation" from GPC's reserve funds.

Tricoli knew, at the time he filed his complaint, that this brewing financial scandal was discussed throughout early 2012 in the VP of Finance office, and with officials in the University System of Georgia (USG) that oversees all of Georgia' public colleges and universities. It is undisputed that this crucial information was never shared with President Tricoli or the rest of the GPC administration. In fact, VP of Finance Ron Carruth and his assistant Sheletha Champion continued to report a rosy financial picture to Tricoli and GPC's executive committee, including that GPC's surplus reserves, that stood at $20.9 million in 2009, were still intact.

In fact, those reserves were completely depleted by the beginning of 2012, when the "gone with no explanation" email alert breeched the veil of secrecy, at least internally.

USG Chancellor Hank Huckaby knew about these possibly criminal discrepancies at the time of a March 2012 budget hearing for GPC, for example, but did not mention it to Tricoli—when one would

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[2] *See also* Petition in *Tricoli v. Watts*, filed in this court on April 7, 2017 (Tricoli I).

think the fact that GPC's reserves had disappeared without explanation should have been the main topic of the hearing. Huckaby and other USG officials attempted to deny their prior knowledge, though that is contradicted by a report Sheletha Champion sent to the USG—but, again, not to Tricoli or other GPC administrators who were not in on the scheme. Champion's report to the USG detailed a $14 million deficit, and growing, at GPC in March of 2012, while Carruth and Champion were still reporting a surplus to Tricoli, and the USG officials Carruth and Champion reported to said nothing.

At the end of April 2012-at a time when Regents policy in effect at the time, and incorporated into Tricoli's contract, mandated that Tricoli's presidential appointment was extended another year if he were not given notice otherwise by then[3]-the USG stage managed a grand announcement, as if it were a sudden discovery, that GPC was deep in the red and would have to borrow $10 million from other USG schools to avert a financial catastrophe. USG officials claimed they had learned the alarming deficit information they announced by going over GPC's books overnight on April 25—though it was the same information Sheletha Champion sent them back in March, as part of the re-accreditation process.

In the middle of the USG's April 26, 2012 announcement of the GPC financial scandal, Chancellor Huckaby called Tricoli to the USG central office in

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[3] The USG Board of Regents changed these policies, BOR 2.1 and 2.4.2, after the fact, to disguise these violations, and consequent breach of Tricoli's contract, after Tricoli filed his RICO and breach of contract action.

downtown Atlanta and demanded Tricoli's immediate resignation. When Tricoli refused, claiming criminal fraud must have been committed, Huckaby recalibrated. A few days later, Huckaby offered Tricoli an alternate position in the USG central office if Tricoli would "step down quietly" from GPC. On May 7, 2012, the USG announced via the Atlanta Journal-Constitution that this job switch had already occurred. On May 8, without Tricoli's knowledge at the time, the Board of Regents approved Rob Watts, the USG official who directly oversaw GPC, as GPC interim president. Two days later, on May 10, Huckaby informed Tricoli that the Board did not reappoint him and he was terminated without a pension or any of his other vested benefits under his contract incorporating Regents' policy. Tricoli's new job at the USG, announced in the newspaper three days earlier, simply dematerialized.

Also on May 10, the same day Tricoli received the bad news that he was finished, not only at GPC, but in his newly-announced USG position, Huckaby announced that the USG was preparing to launch its own investigation into how GPC's financial woes grew so serious without anyone knowing about it.

Meanwhile, the ATLANTA JOURNAL-CONSTITUTION reported, according to its USG sources, that it was Tricoli who had personally dipped into the once-healthy reserves, reserves that previously made GPC an anomaly in Georgia's cash-starved University System after the economic crash of 2008. Tricoli, once dubbed a "rising star" in the University System for this exemplary management, has never been able to get another job in higher education to this day after the flaying he received at the hands of the

USG, Attorney General, and Atlanta Journal-Constitution.

The rest is legal history. Tricoli filed his RICO and breach of contract action against GPC and USG officials who misrepresented the finances and against the Attorney General who shirked his duties to coddle the miscreants. In *Tricoli I,* these defendants claimed sovereign immunity protection, including for criminal conduct. Georgia courts agreed, though no brief by the Attorney General and no court opinion ever mentioned the Georgia Supreme Court precedent in *Caldwell v. State*,[4] holding that Georgia's RICO statute expressly authorized a civil RICO action against state officials, like the one Tricoli filed, which satisfies the standard for waiving sovereign immunity.

Georgia also waives sovereign immunity for claims against the State for breach of a written contract. OCGA § 50-21-1. Georgia's Attorney General and Georgia's courts ignored and eluded these legal authorities to grant sovereign immunity protection for RICO felonies and breach of contract claims, anyway. Tricoli based the motion to set aside—that he was sanctioned for filing—in part on these very due process violations, pursuant to OCGA § 9-11-60(a) (Rule 60(a)).

But, first, on to the new evidence of fraud that formed the foundation of the motion to set aside the judgments pursuant to Georgia statute, OCGA § 9-11-60(d) (Rule 60(d))—bearing in mind that Tricoli was penalized with monetary sanctions, and denied

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[4] *Caldwell v. State*, 253 Ga. 400, 402 (1984) (Georgia RICO statute expressly authorizes civil action against state officials—which means it meets Georgia's Constitutional standard for waiver of sovereign immunity under Ga. Const, Art. I., Sec. II, par. IX(e)).

First Amendment protection, for filing this motion and for airing the state government corruption in public.[5]

B. New Evidence of Fraud in *Tricoli II*

Though trial judge Daniel Coursey, in *Tricoli I,* held that Tricoli lost the benefit of the waiver of sovereign immunity on his written contract because the USG tricked him into resigning (App.16a), new evidence shows that Tricoli had already been fired and replaced before Chancellor Huckaby's resignation ruse even went into operation. The partial evidence Tricoli started filing into the court record in support of his Rule 60(d) motion,[6] literally an hour before Coursey entered an order denying the motion to set aside (App.48a), showed Huckaby and Wrigley discussing Tricoli's replacement-after Huckaby demanded Tricoli's immediate resignation and a week before Huckaby's ruse to induce Tricoli to resign with a false offer of another USG position.

New evidence showed that Tricoli accepted the new position offered by Huckaby, after it was announced in the media, but Tricoli never actually resigned as GPC president[7]-rendering Judge Coursey's

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[5] *See*, *e.g.*, Bribery and extortion overlooked by courts; Attorney General never responded https://creativeloafing.com/content-470581-outlandish-conspiracy-theories-timeline-of-the-phantom-case-at

[6] Tricoli counsel took care not to disclose all supporting evidence because it was the basis of a federal criminal investigation.

[7] One might infer that acceptance of a new position means a resignation from the old position, but the USG itself treated Kennesaw State University Dr. Dan Papp differently, as still in his old position at Georgia Tech even after accepting a new USG position, when that served USG interests.

theory of dismissal inoperative. In fact, documents that should have been reviewed in the discovery that never happened show that Tricoli hotly contested, at the time the job switch was announced, Huckaby's representation that Tricoli had already stepped down from the GPC presidency.

We now know the USG already named an acting president before announcing Tricoli moved to another USG position and framing that as a resignation. The USG named Alan Jackson acting president before Huckaby deployed this snare to trap Tricoli. Whether he resigned or not, Tricoli was already over as GPC president, though he was the last to know.

In other words, Tricoli was fired first, before the USG tried to trick Tricoli into resigning. That means—under Board of Regents (BOR) Policy 2.4.3, incorporated in Tricoli's written contract-he qualified for a statement of charges on what he did wrong. Did he dip into the GPC reserves? Or did someone else do that, while actively deceiving Tricoli? Under BOR Policy 2.4.3, Tricoli was entitled to a hearing to sort that out. Of course, that was the last thing Huckaby, Wrigley, or Attorney General Sam Olens wanted. By preventing that hearing, by means we will address in the next section on Attorney General obstruction, they breached his contract—and deprived him of the waiver of immunity to pursue this claim through the resignation ruse. Of course, by depriving Tricoli of a hearing, they also deprived him of constitutional due process—and then blocked discovery of that claim on the sovereign immunity pretext.

Other new evidence shows that Tricoli's then-counsel—based on assurance from the Attorney General, since admitted to be false, that Tricoli knew

about the financial fraud being committed at GPC—made the request for a hearing in accordance with USG policy governing the firing of a president.[8] Tricoli never received that hearing, even though he personally wrote to Huckaby requesting one, without knowing his former attorney had already requested it before being pressed to drop the case. Because Tricoli's original counsel dropped the case, neither Tricoli nor his current counsel knew, when he filed his complaint, that Tricoli had satisfied the formal requirements to receive a hearing under BOR policy, depriving him of that claim at the time.

The Georgia Court of Appeals converted the issue of Tricoli's contract to a summary judgment proceeding (App.3a), with no notice or opportunity for Tricoli to respond,[9] and held—with no evidence or argument concerning Tricoli's contract before it—that Tricoli was an at-will employee with no rights. (App.5-6a).

In fact, because Tricoli was fired and properly requested a hearing, he was entitled to a hearing under Board of Regents policy and constitutional due process, but was deprived of the hearing at which his innocence and the Respondents' highly questionable roles in the financial scandal could have been proven.

This question of Tricoli's contract rights is not academic, and not only because he was deprived of the

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[8] BOR 2.4.3 in effect at the time entitled a president who was terminated outside the annual reappointment process to a statement of charges and a hearing before the Board of Regents if a written request is made within ten days of the termination. It is now BOR 2.5.3.

[9] Tricoli literally learned about this summary judgment conversion upon receiving the appeals court order terminating his case.

hearing to which he was entitled when he was fired by roundabout means. The negation of Tricoli's written contract with the state was also essential to stamping out the waiver of sovereign immunity on his written contract.

Because he had a written contract, undiminished by any resignation,[10] Tricoli's case could not legitimately be thrown out on grounds of sovereign immunity. The Court of Appeals could not have opined on the terms of a contract not before it—as the only question raised by the Attorney General's motion was whether there was a written contract waiving sovereign immunity. Tricoli was entitled to a trial by jury, with presentation of evidence and argument, not a trial court dismissal or a summary judgment conducted in a vacuum by an appellate court, with no notice or opportunity for Tricoli to respond.

This new information gives new meaning to other documents in Tricoi's possession, like a USG internal memo saying Tricoli's resignation is needed before the Board of Regents meets, evidence that has never been subjected to deposition examination, or further discovery, and has been barred from being presented in court, thus far.

C. Attorney General Obstruction

Correspondence obtained by Tricoli's counsel, during the preparation for petitioning this Court in

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[10] The Georgia courts have never explained their novel theory of how Tricoli lost his contractual rights, on top of the waiver of sovereign immunity, by resigning after many material terms of his contract had already been breached while it was in effect, before the purported resignation.

Tricoli I, shows that Attorney General Olens actively opposed the hearing required by BOR policy. The Attorney General knowingly misrepresented state audit information for the express and stated purpose of getting Tricoli's then-counsel to drop the case. This included the absurd and easily refutable assertion that Tricoli was the main point of contact for state auditors, when in fact state records show that role was filled by one of the defendants, Sheletha Champion. The Attorney General cut and pasted excerpts from an audit report to misrepresent that the fragments showed the massive deficit, and thus Tricoli should have known about it. At the same time, this cut-up of the audit report concealed by omission the audit's *material findings* that were limited to technical accounting issues and made no mention of deficits, expenses exceeding revenue, conflicting financial reporting, or depletion of GPC's reserves.

Attorney General Olens, in claiming there was no reason to investigate because there was no evidence of criminal activity, also overlooked the fact that, regardless of whether Tricoli should or could have looked at the state audits and realized that the Carruth's reports to him were off by as much as $37 million, the doctoring of the financial reports presented to Tricoli by Carruth and Champion is still a felony—as is Olens' misleading doctoring of the reports given to Tricoli's then-counsel, under OCGA § 16-10-20, and a predicate act under the Georgia RICO statute. OCGA § 16-14-3(5)(xxii).

The new evidence supporting Tricoli's motion to set aside further shows that Attorney General Olens, despite these known and wild discrepancies in GPC's books, allowed the USG to conduct its own review

of what happened, allowing Wrigley and Huckaby to direct the investigation of themselves and conclude in a special report, released five months after he was fired, that Tricoli was responsible, after all, even though the financial reports to him were admittedly false, and they had known nothing about it.

Attorney General Olens told Huckaby and Wrigley, though, to let him know if they happened to find they committed any wrongdoing, a position so reckless, at best, that it is arguably criminal obstruction. More discovery must be conducted in the civil case, if not an actual criminal investigation, but that has been blocked in the name of sovereign immunity by the courts of Georgia, the Governor,[11] the Inspector General,[12] and the Attorney General himself.

And, when Tricoli's counsel pointed out this potential criminality, conflict of interest and obstruction, in court pleadings and the media, Attorney General Chris Carr—appointed to replace Olens after the USG gave Olens a $500,000 a year job[13]—moved for sanctions against Tricoli and his counsel for taking these steps to protect the public interest, as well as to right the wrongs done to Tricoli.

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11 *See*, *e.g.*, request to Governor Brian Kemp to appoint an independent investigator: https://drive.google.com/file/d/1LZJI2JtYAdXKoQf83McnjqzUmECrmviB/view?usp=sharing

12 Georgia's Inspector General, appointed by the Governor, never responded to a complaint.

13 *See* December 14, 2020 petition to this Court in the related case of *Richards v. Olens.*

D. The New Motion to Set Aside Filed in the Court of Appeals

By the time the trial court's denial of the motion to set aside, imposition of sanctions on Tricoli, and complete failure to acknowledge Tricoli's motion for protection from First Amendment retaliation reached the Court of Appeals, Tricoli had discovered a whole new dimension to the USG fraud and why the entire Georgia state government was pulling so hard at the oars to conceal it.

On April 1, 2019, Tricoli filed into the Georgia Court of Appeals, which currently had jurisdiction over the case, a motion to set aside the Court of Appeals March 30, 2016 summary judgment (App.2a) on grounds of the due process violations and still more new evidence of fraud affecting the judgment.

Of course, the assertions of the prior motion to set aside concerning Tricoli's contract and firing contradicted the appellate court's prior summary judgment pronouncements of fact. In addition, the new motion to set aside asserted the investigatory findings that millions had been transferred out of GPC's once uniquely-ample reserves and USG financial reports had been falsified in a system-wide scheme of accreditation fraud.

Colleges and universities have to be reaccredited every ten years. If they do not meet strict financial requirements for accreditation, they do not qualify to receive federal money. The new motion to set aside asserted that GPC's reserves were depleted and its financial reports falsified to hide it, as part of an accreditation fraud scheme to deceive the federal government

—similar to falsely reporting income to receive a mortgage loan— in violation of the federal False Claims Act.

Attorney General Chris Carr never filed a responsive pleading, admitting the allegations as true, and has never answered them in any forum. His only response has been to double down on defending the sanctions already imposed on Tricoli for exposing this state government corruption.

Tricoli filed supplemental motions, amplifying the findings of the ongoing investigation, that the state department of audits was implicated in obscuring the fraudulent USG transactions. Tricoli filed pleadings showing the USG self-review had been used in place of independent audit required for the reaccreditation process, implicating the regional accreditation agency in this lawbreaking.

Still, there has never been any response from the Attorney General to the supplemental court pleadings.

The April 1, 2019 motion effected a sea-change, in which the proceedings themselves became evidence of fraud as Tricoli's uncontested motion to set aside, backed by documentation and admitted by the Attorney General's failure to respond, were turned aside by the courts.

The Court of Appeals panel, reconstituted after one of the members committed suicide after oral argument in this case, affirmed without opinion the trial court's denial of the Rule 60 motion filed in that court, as well as the sanctions imposed in violation of OCGA § 9-15-14(c), and the trial court's complete failure to acknowledge the procedural requirements of the motion Tricoli filed for protection from First Amendment retaliation under OCGA § 9-11-11.1. *Contra*, *Wilkes & McHugh v.*

LTC Consulting, 306 Ga 252 (2019) (court must follow procedural mechanics of anti-SLAPP statute). (App. 30a).

As far, as the April 1, 2019 motion to set aside based on a giant federal fraud scheme, for which the Attorney General obstructed hearings and criminal investigation, the Court of Appeals denied this uncontested motion, (App.28a), invoking the law of the case under OCGA § 9-11-60(h)—even though the law of the case does not apply to a motion to set that very judgment aside based on fraud and due process violations. *Guthrie v. Wickes*, 295 Ga. App. 892, 895 (Ga. App., 2009); *Brown v. Piggly Wiggly Southern*, 228 Ga. App. 629 (1997).

When Tricoli petitioned the Georgia Supreme Court, the Attorney General did not respond to any of the issues of fraud on the federal government raised in the April 1, 2019 motion to set aside. Attorney General Chris Carr offered no response to this alleged RICO scheme, or the denial of First Amendment protection under Georgia statute. Carr's only response was to support the sanctions against Tricoli for filing a motion to set aside—to which Carr has still no answer, almost two years after it was filed.

REASONS FOR GRANTING THE PETITION

I.

Georgia Attorney General Chris Carr has never to this day been able to respond to the allegations of fraud and due process violations in Tricoli's motion to set aside the judgment against him. Carr's sole response has been to seek sanctions against Tricoli for filing the motion—the same motion to which Carr cannot respond. However, Carr found willing accomplices to this intimidation tactic in the Georgia courts.

When Judge Daniel Coursey sought to bar all Tricoli's proffered evidence, quash his subpoenas without authority (App.46a), and ignore the safe harbor provision of Georgia's sanctions statute that prohibits imposition of sanctions for a position supported by evidence and legal authority, OCGA § 9-15-14(c), Tricoli moved for protection from retaliation for exercising his First Amendment rights to speak out on the important public issue of corruption in Georgia state government and petition the courts for the redress of grievances.

Notwithstanding the motion for First Amendment protection from government retaliation, and the baselessness of the motion for sanctions, Judge Coursey did not even follow a single procedural requirement of Georgia's own anti-SLAPP statute. OCGA § 9-11-11.1.

Judge Coursey ignored the requirement of a stay of the proceedings until the First Amendment issue is resolved before taking further action. OCGA § 9-11-

11.1(d).[14] Rather, two weeks after the anti-SLAPP motion was filed, Coursey entered an order granting sanctions against Tricoli (App.46a), an order that did not mention Section 14(c) of the sanctions statute prohibiting sanctions against an attorney with recognized authority supporting his position.

Yet Tricoli's motion was supported by a Georgia Supreme Court precedent that Georgia's RICO statute expressly authorizes a civil RICO action against state officials. *Caldwell v. State*, 253 Ga. 400, 402 (1984) (Georgia RICO statute expressly authorizes civil action against state officials); OCGA §§ 16-14-3(3) & 16-14-4(b). Georgia Supreme Court precedent expressly authorizes setting aside a judgment for due process violations. *Johnson v. Carrollton*, 249 Ga. 173, 175-76 (1982). As usual, the Attorney General had no response to these supporting authorities. Nor has the Attorney General ever mentioned the Section 14(c) prohibition on sanctions in any of his briefs or arguments, ever—exposing Carr's knowing circumvention of Georgia's own laws and retaliatory motive.

Judge Coursey ignored both the statutory stay requirement and the complete lack of merit in Carr's motion for sanctions.

Georgia's First Amendment protection statute also requires a hearing on the First Amendment issues within 30 days. OCGA § 9-11-11.1(d). Judge Coursey

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[14] (d) All discovery and any pending hearings or motions in the action shall be stayed upon the filing of a motion to dismiss or a motion to strike made pursuant to subsection (b) of this Code section until a final decision on the motion. The motion shall be heard not more than 30 days after service unless the emergency matters before the court require a later hearing.

never held a hearing, despite Tricoli's repeated notices and Rule Nisi in an attempt to obtain a hearing on the First Amendment issues, as well as the evidence in support of his motion to set aside with the USG witnesses who Tricoli subpoenaed at the request of federal law enforcement authorities to obtain their testimony under oath about the evidence of fraud—which Coursey obstructed by quashing the subpoenas, without authority, after considerable cajoling by the Attorney General. (App.53a).

Coursey also made none of the findings required by the statute, ever. OCGA § 9-11-11.1(b). Nor did Coursey ever make any determination, or even examine whether Tricoli's actions were in the public interest. OCGA § 9-11-11.1(c). Coursey, the same judge who said Tricoloi lost his waiver of sovereign immunity because Hank Huckaby tricked him into resigning, was too busy barring the evidence.

It was only after Tricoli's deadlines to file a notice of appeal of the other judgments against him had passed that Judge Coursey entered a perfunctory order denying Tricoli's motion for First Amendment protection from retaliation, without any comment or explanation. (App.36a)

Coursey's total failure to even acknowledge the substantive and procedural requirements of the statute contradicts the binding Georgia Supreme Court precedent mandating strict adherence to the requirements of the anti-SLAPP statute. *Wilkes & McHugh v. LTC Consulting*, 306 Ga 252 (2019). Strange then, that the Georgia Supreme Court refused to hear this case. Could it have been because Tricoli's counsel has ridiculed their efforts to expand sovereign immunity by ignoring Georgia's current Constitution, in viola-

tion of the oath of office, and relying instead on the Confederate Constitution of 1861?[15]

This Court has made it clear that a state's evasion of its own procedural requirements to prejudice a particular litigant singled out for special treatment is a gross and intolerable denial of constitutional due process. *NAACP v Alabama*, 357 U.S. 449, 456-57 (1958).

Yet Coursey's utter disdain for the First Amendment protection statute was "Affirmed without opinion" under Georgia Court of Appeals Rule 36.[16]

Cases may be affirmed without opinion under Rule 36 where there does not appear to be any reversible error.

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[15] Humphreys argues Georgia Supreme Court Justices violated their oaths of office by raising Confederate law over the current state constitution to extend sovereign immunity protection to unconstitutional acts: https://drive.google.com/file/d/1gPL77h0fO9Y2xnQMjD8byNZwNd3NI0X3/view

[16] Rule 36. Affirmance without Opinion, When Rendered.

Cases may be affirmed without opinion if:

(1) The evidence supports the judgment;

(2) No reversible error of law appears and an opinion would have no precedential value;

(3) The judgment of the court below adequately explains the decision; or

(4) The issues are controlled adversely to the appellant for the reasons and authority given in the appellee's brief.

Rule 36 cases have no precedential value.

In what house of mirrors, in what banana republic does the complete failure to follow statutory procedures, hold a required hearing, and to make mandatory findings conclusively demonstrate the absence of error that no judicial opinion is even necessary—especially where one of the most fundamental rights enshrined in the U.S. Constitution is concerned?

Because it is so obvious that statutes should not be observed? Because it is obvious that the First Amendment is not important? Because they were joining in the retaliation against an attorney who has harshly called the Georgia judiciary out in public, both in court pleadings in this action and in the media?

It is far from obvious that the answer can be found in the pleadings below. Judge Coursey offers no explanation whatsoever, in his order, for his failure to otherwise acknowledge the existence of the Georgia statute.

The lame excuse offered by AG Chris Carr knowingly misrepresents the law. The Attorney General claimed the motion for First Amendment protection was a nullity because Judge Coursey said in court before Tricoli filed the motion for protection that he intended to grant sanctions against Tricoli—therefore, Carr argued, Tricoli could not defend against it.

While Coursey's threat sounded like a good reason to file a protective motion to Tricoli, Attorney General Carr's rationale is that Coursey's intemperate and lawless statement meant a sanctions order had already been granted and therefore Tricoli could not oppose it. As usual, Carr's response is contradicted by Georgia law, which states that there is no such thing as an order until it has been written, signed by the

judge, and entered by the Clerk. OCGA § 9-11-58. Tricoli filed for First Amendment protection on April 3, 2018. Judge Coursey entered his sanctions order on April 18, 2018 (App.41a), after the anti-SLAPP motion was filed. Judge Coursey was bound to follow the requirements of the statute, and simply chose to ignore them. His motives can be examined later in discovery.

In case the Attorney General was not familiar with the Georgia statute on what constitutes an order, there is ample authority to support the proposition that it is not effective until entered by the clerk of court. *Hill v. State*, 281 Ga. 795, 799 (2007) (an oral order is neither final nor appealable unless it is reduced to writing, signed by a judge, and filed with the clerk).

This debacle of an excuse may explain why the Attorney General has since simply stopped responding to Tricoli's court pleadings altogether.

Could that be what the Court of Appeals relied on to determine that Tricoli was so obviously wrong, under Rule 36 that the appeals court panel did not even need to write an opinion?

It is a chilling view of the First Amendment, that it does not apply once a judge telegraphs that he is going to bar all the evidence from the record and ignore the prohibitions of the sanctions statute.

The Court of Appeals cannot tell us which of these Rule 36 factors apply. The real reason the appeals court did not issue an opinion is that it cannot explain why it is so readily acceptable to demolish Georgia's First Amendment protection statute, and the First Amendment to the U.S. Constitution with it.

Nor can the appeals court explain why this complete deep-sixing of the Georgia statute does not constitute a grave violation of the Due Process Clause of the Fourteenth Amendment, as well as a trouncing of the First Amendment Rights to Petition and Free Speech.

These statutory failures get to the real motive of the sanctions, intimidation and retaliation for exercise of First Amendment rights. The courts of Georgia not only permitted this trampling of Georgia's own laws. They fomented a local rebellion against the U.S. Constitution. This Court must not permit this insurrection in defense of government corruption.

II.

Whatever springes the State may set for those who are endeavoring to assert rights that the State confers, the assertion of Federal rights . . . is not to be defeated under the name of local practice. *Wright v. Georgia*, 373 U.S. 284, 289 (1963).

When the Court of Appeals made its March 2016 pronouncement that state officials enjoy sovereign immunity protection to commit RICO felonies (App.2a), one judge on that court dissented. Judge Yvette Miller's dissenting opinion (App.9a) agreed with Tricoli that the Georgia RICO statute does waive sovereign immunity for a civil RICO action against state officials engaged in a criminal conspiracy, and that the Court of Appeals denied Tricoli constitutional due process by converting the motion to dismiss and granting summary judgment against Tricoli with no notice or opportunity for him to respond. *Tricoli v. Watts*, 336 Ga. App. 837, 840-42 (2016) (J. Miller dissenting). (App.9a-12a).

Denial of constitutional due process of the type described by Judge Miller is grounds to set aside a judgment in Georgia. *Johnson v. Carrollton*, 249 Ga. 173, 175-76 (1982); *Murphy v. Murphy*, 263 Ga. 280, 282 (1993); *Coweta County v. Simmons*, 507 S.E.2d 440, 269 Ga. 694, 695 (1998) (court denying due process lacks jurisdiction).

That should have been the end of the sanctions discussion because Georgia's sanctions statute strictly prohibits the imposition of sanctions where a novel legal theory is being argued that is supported even by persuasive authority. OCGA § 9-15-14(c) (Section 14(c)). Judge Miller's dissenting opinion is persuasive authority that supports the motion to set aside the judgment for which Tricoli has been sanctioned.

The fact that this dragged on as controversy through Georgia's appellate courts, with the Attorney General and Judge Coursey both ignoring Section 14(c) and never mentioning it, tells this Court everything it needs to know about the sham, pretextual nature of these proceedings, and the retaliatory motive behind the sanctions.

At appellate oral argument, Judge McMillian can be seen to visibly wince in the video when counsel raised the absolute defense against the sanctions—the dissenting opinion supporting Tricoli's position in his motion to set aside— which should have ended the sanctions.[17]

Just as Attorney General Chris Carr and Judge Coursey act as if they entered into a conspiracy to eviscerate First Amendment protections, and did not

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17 *See* the video at: https://www.gaappeals.us/oav/A19A1071.php

follow a single procedural requirement of Georgia's own anti-SLAPP statute, they simply ignored the safe harbor provision of the sanctions statute, as well as the dissenting opinion agreeing with Tricoli's opinion that rendered the imposition of sanctions a legal impossibility—in a world where the laws apply.

What kind of world is it in Georgia, where adherence to statutes is completely optional to the courts and Attorney General? The safe harbor of Section 14(c) was argued by Tricoli in his briefs and at oral argument. The Attorney General and the courts have never once mentioned it.

Again, however, as with the First Amendment violations, this trouncing of Section 14(c) was "affirmed without opinion" by the Court of Appeals, wince and all, under Rule 36. The Georgia Supreme Court also refused to review this glaring violation of Georgia law and constitutional due process.

Is that because it is so obvious to the Georgia courts that none of Georgia's statutes should be observed by the Attorney General or the courts? That is a fragile rule of law, if at all.

It has been a long time since this Court has given Georgia a really strong push to say the state cannot hold out protections under its laws, like the sanctions safe harbor, allowing attorneys to believe they are on safe ground, even opposing the government and alleging corruption by state officials, and then simply ignore that protection and yank the ball away and sanction the attorney, anyway.

That is the kind of "springe" Chief Justice Earl Warren was talking about in *Wright v. Georgia*. What the Constitution abhors is a snare in the form of

what appears to be a statutory remedy or protection offered by the state, that is then taken away to penalize the unwary.

In *Reich v Collins*, this Court told the state of Georgia it could not offer a statutory remedy that its citizens relied on and then take it away in a "bait and switch." 513 U.S. 106, (1994). In *Bouie v. City of Columbia*, this Court said governments had to give citizens a fair warning of what conduct might be punished. 378 U.S. 347, 354 (1964). In *Shuttlesworth v. City of Birmingham*, this Court said the city could not evade the law that controlled whether Reverend Shuttlesworth could stand on the sidewalk and impose punishment under another law that governed traffic in the street, without denying due process of law, which meant the penalties imposed were based on no evidence at all, the worst kind of violation of our historical traditions. 382 U.S. 87, 93 (1965) (state evading controlling law violates constitutional due process under the Fourteenth Amendment).

In *Wright*, Georgia did not really follow any law but made up its own rules as it went along to suit its own purposes, at every level of the Georgia court system, to justify barring African-Americans from a public park.

What happened here is akin to *Wright* in its general lawlessness, but it is even worse than the withdrawal of a remedy in *Reich*, or the vagueness of the punishable conduct in *Bouie*, or even the *Shuttlesworth* switch.

In Section 14(c), Georgia's legislature defined the zone in which attorneys and their clients could not be punished with sanctions for their legal arguments. In

this case, Georgia has ignored that protection in a way that intimidates and retaliates, barring access to the courts in a way that violates due process at the same time it has a chilling effect on the First Amendment Right to Petition.

Tricoli was not punished in accordance with Georgia's sanctions statute, but in spite of the prohibition of 14(c). It is not as if the Attorney General argued around it, or the courts reasoned why Section 14(c) did not apply. They simply never mentioned it, which gives the judicial proceedings themselves the feeling of a RICO enterprise. It smacks of impermissible government retaliation against Tricoli for taking the government to court to expose its corruption. *Lozman v. City of Riviera Beach*, 585 U.S., ___, 138 S.Ct. 1945 (2018).

In the era of segregation, this Court looked behind Georgia's pretexts and protests of innocence to divine the intent of what was really going on, that there was no innocent explanation for Georgia's assault on basic freedoms, and this Court did not defer to the intransigeance of the state courts. *Staub v. City of Baxley*, 355 U.S. 313, 318-19, 322 (1958).

This Court surely understands the real motive of the sanctions is not to intimidate Tricoli counsel Stephen Humphreys, which has not worked. The real purpose is to intimidate any other lawyer who might dare to challenge the government, or even support Tricoli, especially concerning the USG fraud scheme the Attorney General has potentially committed criminal obstruction to conceal, for which state audit reports have been fudged, and even the SACS accreditation agency has been complicit in substituting in-house

reviews for independent audits, while Governor Kemp pretends not to know about it.

III.

Just as the trial court sprung traps to take away protections under Georgia law against sanctions as a form of First Amendment retaliation for Tricoli speaking out on issues of public importance and petitioning the courts for redress of grievances, the Georgia Court of Appeals set a snare to take away a remedy Georgia law authorizes under OCGA § 9-11-60.

On April 1, 2019, Tricoli filed a motion to set aside the appeals court March 2016 summary judgment, in the court of rendition as required by OCGA § 9-11-60(b). Under the law of Georgia, the 2016 Court of Appeals acted without jurisdiction when it purported to make itself a *sui generis* fact-finder. *Coweta County v. Simmons*, 507 S.E.2d 440, 269 Ga. 694, 695 (1998) (appeals court deciding issues not raised on appeal denies due process and lacks jurisdiction). These due process violations, along with the fraud outlined in the original motion to set aside denied and sanctioned by Judge Coursey, were bolstered in this April 2019 motion by the discovery of the widespread USG fraud on the federal government, as well as the metastasizing complicity running though other state agencies.

On the same day the appeals court affirmed without opinion (App.30a) the sanctions the trial court imposed on Tricoli while quashing his subpoenas without authority and ignoring the First Amendment protections of OCGA § 9-11-11.1, the same two wincing panelists and replacement judge engaged in a pure legal pretext to deny the uncontested motion to set aside the appeals court's summary judgment of March

2016. Instead of addressing the facts, evidence or legal authority, they merely invoked the law of the case, under OCGA § 9-11-60(h), that an appellate decision—in this instance, the one being challenged—controls all future proceedings. That was their grounds for denying Tricoli's uncontested April 1, 2019 motion to set aside the March 2016 summary judgment entered *ab initio* by the appeals court. (App.28a).

That magic incantation is a pure pretext given that Georgia law establishes that the law of the case yields to a motion to set aside that judgment for the statutorily-enumerated defects. That only makes logical sense since the judgment attacked for fraud and due process violations cannot itself be a bar to raising those challenges authorized by statute, in this case OCGA 9-11-60(a&d). *Guthrie v. Wickes*, 295 Ga. App. 892, 895 (Ga. App., 2009); *Brown v. Piggly Wiggly Southern*, 228 Ga. App. 629 (1997) (law of the case does not apply in the face of supplemental evidence in a motion to set aside). Indeed, the appeals court's use of the law of the case would completely annihilate the remedies created by the legislature to set aside faulty judgments that rest on fraud or are void for due process violations and lack of jurisdiction. OCGA § 9-11-60.

This Court has made it clear that state courts cannot engineer results to deny Due Process or the Right to Petition by singling out litigants for which it fails to follow the state courts' normal rules, statutes, procedures, and precedents. *NAACP v Alabama*, 357 U.S. 449, 456-57 (1958). Taken together with the appeals court affirming without opinion the trial court's obstruction of evidence in a federal criminal investigation, quashing subpoenas without authority, granting sanctions in disregard of Section 14(c)'s prohibition,

and complete failure to even acknowledge the requirements of Georgia's anti-SLAPP statute, this pretextual use of the law of the case rule raises serious questions about the motives and legitimacy of the appeals court's actions.[18]

There is another anomaly, perhaps unique in American legal history, that makes matters worse. Though Tricoli has been subjected to a sanctions order for filing, as authorized by OCGA § 9-11-60, a motion to set aside the judgment against him, Attorney General Chris Carr has never been able to respond to Tricoli's April 1, 2019 motion to set aside in which all the falsifications of financial reports and clandestine transfers to public monies from the original complaint were synthesized into a system-wide scheme to defraud the federal government—a scheme protected by the Attorney General's obstruction of any hearing that might blow their cover, or any criminal investigation necessitated by millions of taxpayer dollars "gone with no explanation."

In what universe is a state sued for massive fraud and simply never respond?

To this day, Attorney General Chris Carr has not filed a responsive pleading to that April 1, 2019 motion, or the series of supplemental motions that followed, outlining how the fraud metastasized from the USG and Attorney General's office through the state department of audits and Governor's mansion, just as Carr never filed any response to the USG financial fraud,

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[18] It also raises troubling questions about the pressure the judge who committed suicide while considering this appeal may have been under.

extortion and bribery in the related case of *Richards v. Olens*, petition pending.

Yet somehow, in Georgia, the Attorney General was able to prevail on the motions to set aside in both cases by merely maintaining radio silence—without any explanation from the courts as to why Tricoli should not prevail, or even have his day in court, and certainly not why the state can impose punitive sanctions on him for taking legal action to vindicate his rights under OCGA § 50-21-1, the Georgia RICO statute, or *Caldwell v. State*, and much less why he merits punishment for bringing these important issues to public attention, much less why OCGA § 9-11-60 should go up in a puff of smoke.

One cannot help but wonder why the Georgia courts feel such a compulsion to set aside constitutional due process and the right to petition in favor of sovereign immunity protection for fraud on the federal government.

That sets a new standard for American jurisprudence, possibly the lowest ever in legal history. This is the case to draw the line and define as black letter law that a legal challenge to the government cannot be met with silence from the Attorney General, no articulated opinion from the courts, and finish with retaliation against the messenger and negation of a statutory remedy. It always seemed so obvious and embedded in tradition that adverse parties had to answer in court, that the courts then had to marshal law and facts to support their decisions.

Well, now, in this new day of Georgia jurisprudence, it needs to be said by the U.S. Supreme Court that these are fundamental requirements of constitu-

tional due process where a plaintiff is being deprived—especially by government defendants-of the right to go to trial and present the evidence to a jury of peers. That is one cure for pretextual opinions (App.28a, 30a) that purport to eliminate a statutory remedy.

CONCLUSION

In *Tricoli I,* Georgia courts evaded protections afforded to Tricoli under Georgia law, such as the prohibition of Rule 12(b) on having the motion to dismiss involuntarily converted by an appeals court to a summary judgment, having an appeals court grant summary judgment with no notice or opportunity to respond, contrary to OCGA § 9-11-56(c) (App.2a), and then having the Georgia Supreme Court refuse to review that summary judgment against him in defiance of OCGA 9-11-56(h). (App.1a).

The Georgia courts also conveniently eliminated remedies that should have been available under the law in that first go-round: the waiver of sovereign immunity for claims on a written contract with the state, under OCGA § 50-21-1, and a civil RICO action against state officials engaged in a criminal enterprise. OCGA § 16-14-6. (App.2a, 13a).

After getting away with the lawlessness in *Tricoli I,* Georgia courts, in *Tricoli II*, compounded those due process violations by illicitly attempting to stanch the growing evidence of a state government RICO scheme. (App.32a). Meanwhile, that evidence ballooned from $10 million "gone with no explanation" to the falsification of USG financials to falsely qualify

for billions in federal assistance-with taxpayer funds routed all over the USG with no accountability.

The state was never able to answer those allegations, and never filed a responsive pleading. And yet Tricoli's uncontested claims were thrown out. He was denied First Amendment protection for exposing this government corruption. To put a bitter cherry on it, after the sordid way Tricoi was ousted to protect a criminal enterprise in Georgia state government, he was ordered to pay the legal expenses of a lawless Attorney General—with the protections of the anti-SLAPP and sanctions safe harbor statutes from yanked away, in another bait and switch like the one this Court slapped Georgia down for in *Reich v. Collins*.

These are reasons enough for this Court to intervene to restore law and order in the state's latest lawless incarnation of the *Wright v. Georgia* days. It is essential, though, not to forget another reason this Court should take action to correct Georgia's lawless injustice this time: Anthony Tricoli, and others such as Dr. Daniel Papp, who had their lives and careers destroyed so that Chancellors Huckaby and Wrigley could escape blame for the fiscal train wreck of the USG, so that Governors Nathan Deal and Brian Kemp could feign ignorance of USG fraud on the federal government and Attorney General obstruction of justice by Sam Olens and Chris Carr? Was it worth it, and was it lawful, to destroy the life and career of Anthony Tricoli to fraudulently keep those federal dollars flowing into USG coffers? Does it excuse criminal conduct by public officials? According to the Attorney General and courts of Georgia, in 2020, it does—though the Georgia Supreme Court said otherwise in 1984, in *Caldwell v. State*, in a less lawless time. 253 Ga. at 402.

But first let's kill all the lawyers. Following Shakespeare's recipe for anarchy, what if the Attorneys General and courts of Georgia can defy First Amendment protection for the Right to Petition, and retaliate with punitive sanctions to intimidate any attorney who would not stop investigating corruption, exploding legal pretexts and fallacies, constructing a legal framework for government accountability, speaking out on issues of public malfeasance, and filing against the victimizers for their depredations in a court of law?

Who is going to protect the constitutional rights of the next Anthony Tricoli against the rogue State of Georgia then?

Respectfully submitted,

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JANUARY 7, 2021