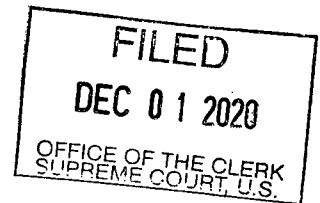


20-1343

ORIGINAL

**In The
Supreme Court of the United States**



AUDREY L. KIMNER

Petitioner,

v.

WEB WATCHERS, BRAD MILLER, CEO; MIKE OSBORN, Co- Founder of
AWARENESS TECHNOLOGIES; RON PENNA, Co - Founder of
AWARENESS TECHNOLOGIES; MICHAEL J. KIMNER; LORI D. STONEY,
Esq.; MARGARET THEOS, Esq.; J.TODD MANLEY, Esq.; THOMAS
KIMNER; SUZANNE GROFF, Esq.; ALEX CASH, Esq.; SUSAN KIMNER

Respondents

**On Petition For A Writ of Certiorari in the United States
Supreme Court of Appeals for the Ninth Circuit , San Francisco, CA**

PETITION FOR A WRIT OF CERTIORARI

AUDREY L. KIMNER.
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QUESTIONS PRESENTED

ii

1. Whether the Supreme Court finds it appropriate by law, The United States Constitution and Federal Rule 60 to VACATE all attached federal orders in case No. 20-15343 and No. 5:19-cv-06973 due to violations of petitioners First Amendment Rights, which reflects VACATED orders by Honorable Magistrate Nathanael Cousins and denied petitioners Rights under 28 U.S.C. § 636 ©.

Note: Petitioner overnighed a Writ of Certiorari to the Supreme Court one day prior to any knowledge of a Mandate order in this case, Writ submitted by United States mail date of November 30, 2020, and resubmitted on December 19, 2020 to date per court clerks request.

2. Whether the California District Court in San Jose and the Ninth Circuit Court of Appeals Intentionally and willfully deprived petitioner of all Rights under 18 U.S.C. § 242, denying Equal Protections under the law while ignoring a pattern over ten years of multiple Federal offenses and Constitutional violations by all Respondents with new case law by an Honorable Ohio Sixth Circuit Court judge.
3. Whether the California Courts failed to acknowledge multiple violations of No Due Process by holding petitioner against petitioners will under a false bench warrant concerning Petitioners home contract against an irrevocable Binding Arbitration award while failing to offer petitioner Procedural Due Process from October 2019 to date, nor any resolve or assistance, as petitioner is a victim of assault and financial abuse.
4. Whether petitioner was intentionally denied a trial by jury against petitioners Sixth Amendment Right.
5. Whether the District Court judge and the Ninth Circuit judge's intentionally retracted Petitioners Forma Properous in retaliation for filing an appeal, vilified petitioner in court Orders stating petitioner filed a frivolous complaint and a malicious litigant while ruling In error of Rooker Feldman Doctrine on speculation, not Federal law or Constitutional Violations with no hearing against petitioners Right to be heard under The United States Constitution.

QUESTIONS PRESENTED CONTINUED

6. Whether this Racketeer Influence Corrupt Organization Act case involving Wiretapping and multiple Federal crimes should have been taken seriously by the California District Court and The Ninth Circuit Court of Appeals.

7. Whether the California courts intentionally ignored Mortgage fraud and violated public trust laws in this case.

LIST OF PARTIES

The following is a list of all parties to the proceedings in this court below, as required by Rule 24.1 (b) and Rule 29.1 of the Rules of the Supreme Court of the United States.

1. Audrey L. Kimner, Petitioner;
2. Brad Miller, CEO, Web Watchers, Awareness Technologies;
3. Mike Osborn, Co Founder of Awareness Technologies;
4. Ron Penna, Co Founder of Awareness Technologies;
5. Michael J. Kimner;
6. Lori D. Stoney, Esq.;
7. Paul Tinkler, Esq.;
8. Jerry Theos, Esq.;
9. Margaret Theos, Esq.;
10. J. Todd Manley, Esq.;
11. Thomas Kimner;
12. Susan Kimner;
13. Alex Cash, Esq.;
14. Suzanne Groff, Esq.;

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SUMMARY

Petitioner, Audrey L. Kimner respectfully petitions for review and acceptance of this Writ of Certiorari in this unusual and premeditated Racketeer Influence and Corrupt Organization and Federal Wiretapping case, which is inappropriate monitoring Technology. Petitioner request all orders and Mandate to be VACATED under Federal Rule 60, honor petitioners Default Judgement, and, or elevate this case to The Supreme Court in Washington. Petitioner was the only person to litigate this Federal case due to a pattern over ten years, and the scope of Wiretapping technology and case law that few bar members have knowledge of. This case contains new case law involving Web Watchers and Awareness Technologies, including Respondents using the software to extort petitioners awarded assets while using tainted privilege emails against the petitioner, violating Federal Laws with Irrevocable Binding Arbitration and Formal Agreements in 2012 signed by all respective lawyers in a state court. Third party Respondents interveined after petitioner was an assault victim in November 2008. California District and Federal Court further harmed pettioner by depriving petitioner of Constitutional Rights and insufficient process. Petitioner was forced to work pro se to stand up for herself, resolve, and to reunite with college age children who were wiretapped, stalked and extorted in another state, along with blocks placed on phones and computers to insure no contact to date.

OPINIONS BELOW

Judgements in the United States District Court, Northern District of California Dated: February 6, 2020, and followed by a denied motion to Reconsider. Order dated: October 29, 2020 to Dismiss while stating petitioner is malicious and filed a Frivolous Federal Complaint. The District Court later retracted petitioners varified Forma Pauperis after petitioner filed an appeal in the Ninth Circuit court of appeals dated: March 02, 2020. Petitioner served all Respondents per TIME SCHEDULE ORDER reply date on Tuesday, April 28, 2020. Petitioner filed a Default Judgement and followed up with a Writ of Certiorari on November 30, 2020. Petitioner recieved a Mandate Order after submitting and had no knowledge of any mandate. Petitioner could not have prepared this Writ with no Writ experience in one day, nor had prior knowledge of any mandate prior to mailing the Writ overnight by United States mail. In fact, the Supreme Court requested to correct the Writ in the proper form twice with more time. Petitioner request a VACATE of all orders due to violations of First Amendment Rights and Deprivation of Rights in the California Federal Courts. Petitioner has never met one judge, nor spoken to any judge, and was denied court time with case management hearings canceled without notice, or Proper Procedural Due Process. The District court judges orders now reflect VACATED orders by the Honorable Magistrate, and both ruled collectively on "speculation" of Rooker Feldman that petitioner was trying to overturn a state family law case failing to state a claim upon which relief can be granted. When petitioner tried to explain this was not the case, error of law, Lucy H. Koh denied all of petitioners Constitutional Rights, Privacy Rights and necessary request for federal restraints and safety. Petitioner is now aware that Federal orders can be VACATED if petitioner was denied First Amendment Rights to be heard under Federal Rule 60. Petitioner was also denied relief in The Ninth Circuit Court of Appeals with unwarranted stays multiple times.

JURISDICTION

Petitioner filed in the proper jurisdiction in California Federal District courts as a four year resident of California. Petitioner filed a Federal complaint with a "pattern" with exclusive Rights under (2) 47 U.S.C. § 227 to file in Federal Court in California. This diversity case is in the proper jurisdiction under 28 U.S.C. § 1332, (a) (1), as Respondents are living in South Carolina, Connecticut and Maryland while requesting punitive damages exceeding \$75,000 within thirty days of judgement. Petitioner is now a resident of four years after filing approximately one year ago as the case was intentionally delayed, along with tampering, under 18 U.S.C. § 1519. The Respondents have crossed state lines involving computer interception, illegal wage garnishing with perjurious court orders in attempts to defame, extort, and use threats and intimidation to financially abuse petitioner in retaliation for petitioner reporting all Respondents Federal crimes through the proper courts and federal agencies. Threats include extorting placing a fraudulent lien placed on petitioners midrise and business to intentionally bankrupt petition, as members of the bar, Respondents intentionally conspired with no restraints under Model Rule 3.3 (c), which states a lawyer should "refuse to offer evidence that the lawyer reasonably knows is false, and over a ten year time frame of approximately 150 false contempts after petitioners family law case closed in finality in 2012 in Irrevocable Binding Arbitration.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

- 1) United States Constitution, Deprivation of Rights under 18 U.S.C. § 242,

" makes it a crime for a person acting under the color of law to willfully deprive a person of a Right or privilege protected by the Constitution or laws of the United States".

- 2) United States Constitution, Fourteenth Amendment, " Due Process".

"No state shall make or enforce any law which shall abridge the privilege or immunity 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."

3) United States Constitution, Seventh Amendment.

Provides the Right to a federal jury trial under many Federal Rules and Statutes. Petitioner requested a jury in her complaint with more than a six months sentence time for Wiretapping, excluding many other federal crimes.

4) United States Constitution, Eight Amendment.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

5) United States Constitution, First Amendment,

" 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".

28 U.S.C. § 131 provides;

" The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States."

STATEMENT OF THE CASE WITH FACTS OF LAW

1. Whether the Supreme Court finds it appropriate by law, under The United States Constitution and Federal Rule 60 to VACATE all attached orders in case No. 20-15343 and No. 5:19-cv-06973 due to violations of petitioners First Amendment Rights, which reflect VACATED orders by Honorable Magistrate Nathanael Cousins, and denied petitioners Rights under 28 U.S.C. § 636 (c) to deny a Magistrate judge by law and request a United States District Court judge voted in by a President of The United States.

Petitioner respectfully request for the Supreme Court offer relief while the California Federal Courts ignored all of petitioners Rights, especially the First Amendment Rights to be heard. Petitioner requested a jury trial due to outstanding monies withheld that needs to be audited per a ten year time frame to include royalties, along with hard drive proof of many contacts in other countries, including stateside with Respondent Thomas Kimner, and also involving Respondent Susan Kimner by interference of custody, mental injury to our two now college age children, and theft of checkbooks of marital monies without petitioners consent prior to divorce, and after, while Michael J. Kimner was in the car under a No Contact and restraining order by a criminal court judge after assault and battery arrest in 2008.

2. Whether the California District Court in San Jose and the Ninth Circuit Court of Appeals intentionally and willfully deprived petitioner of all Rights under 18 U.S.C. § 242, denying Equal Protections under the law while ignoring a pattern of over ten years of multiple Federal Offenses and Constitutional violations by all Respondents with new case law by an Honorable Ohio Sixth Circuit Court judge concerning Federal Wiretapping under the Wiretap Act.

Petitioner was denied all Rights for years, denied awarded assets and denied privacy Rights with warranted protections. Petitioner was denied a hearing and open access to phone lines to extorted college age children after petitioner filed a federal complaint, including a motion to reconsider with Honorable Lucy H. Koh. All constitutional Rights were denied intentionally, willfully and maliciously against petitioners First Amendment Rights. Petitioner had a scheduled

hearing, which was canceled without notice, or Proper Procedural Due Process after months concerning an acceptable Federal case and verified Forma Prosperous on the docket in California District Court in San Jose. Petitioners personal, private and privileged information was then placed on social media without petitioners consent or knowledge, an assault and Wiretap victim, and during a global pandemic.

- a) California Online Privacy Proteciton and Rights were violated, 2008 state statute, were ignored as petitioners personal information was placed online for months by the Federal District Court. Petitioner provided police reports from Monterey County and forensic reports with proof in timelines and dates, including full explanations and proof of continued illegal entry of wire interception in a full brief on appeal in the Ninth Circuit Court of Appeals. Failure to safeguard and improper disclosure of individual and business information to third parties and Facebook, see Cullen v Zoom Video Communications, Inc., No. 5:20-cv-02155 (N.D. Cal). Note: Petitioner continued to have illegal entry into Facebook, Facebook Messenger, Twitter and petitioners personal phone downloading files when petitioner is not touching phone, as of recent, and to date against federal laws and crossing state lines with air interception. Petitioners Twitter account was closed weeks prior and entered from a phone petitioner does not own. This is considered " real time" entry of invasion of privacy and Wiretapping.
- b) Article 1 Declaration of Rights, petitioner requested protection and was denied all Rights as an assault victim with proven and self admitted Federal crimes in open Court by Repondent, Michael J. Kimner. New case law was mentioned in petitioners Federal complaint to the District Court judge Honorable Lucy H. Koh and in The Ninth Circuit on Appeal, but all was dismissed as " FRIVOLOUS". Pettioner then provided a full appeal with Federal proof attached in the Ninth Circuit Court of Appeals and service proof to Respondents, including a separate motion for an emergency hearing, which was never ruled on. This Motion for an emergency hearing was intentionally ignored and prior to the Final Order attached and date. Petitioner was again ignored by three Ninth Circuit

Court judges. Please see California Constitution Article 1, section 32, 3 (4). "Nothing in this subversion supercedes or modifies any provisions of this Constitution, including the guarantees that a person may not be deprived of life, Liberty, or property without Due Process of law, or denied Equal protection of Laws', as provided in Section 7, Section 28 (14). "To prompt return of property when no longer needed as evidence". The entire section, under victim, as Petitioner, (e) financial abuse and victim means protection of the victim, including family members. Grandparents suffered tremendous elder abuse Financial loss, including denied their Grandparents Rights. Petitioners Entire families Rights were violated with unconstitutional gag orders with no basis, proof or facts, nor proof. Family law case closed in 2012 in finality with irrevocable binding arbitration, along with Formal agreements signed by all respective lawyers. Arbitration in South Carolina did not change in the Supreme Court , so petitioners arbitration award remains sound. Re: SC § 15-48-10 (2019), all claims on awards and home remain irrevocable and Binding, not allowed to be relitigated by any South Carolina judge in any county.

- (c) Petitioners brief requested protections under Marsy's Law to the Ninth Circuit Court of Appeals due to petitioner being an assault victim. The three judge order states Lucy H Koh stated petitioners case was " frivolous", even though petitioner sent self admittance and proof of assault and arrest in a full brief by Medical University concerning Michael Kimner, Respondent. Also, petitioners Forma Pauperis was sound, but also paid for in advance and cleared the District Court and Ninth Circuit Court of Appeals under check number 8188 on May 14, 2020 and Check number 8179 on April 28, 2020 while two cases remained on stay for Multiple Forma Properous affidavits. Under Rule 24, (3), petitioner had a prior Approval to move forward Forma Pauperous and did not need any further affidavit to file an appeal in the Ninth Circuit. Petitioner has monies withheld and needed court time, especially after the global pandemic started. Petitioner believes this was cruel while the court knowingly participated in tampering and delay against Domestic laws of " Rights to a fast trial, along with respect".

3. Whether the California Courts failed to acknowledge multiple violations of No Due Process, and of withholding petitioner against her will under a false civil contempt bench warrant concerning petitioners home contract, " Wrongful arrest", as there was no service by law or probable cause to arrest petitioner by South Carolina Respondents, and against an irrevocable binding arbitration award while failing to offer petitioner Procedural Due Process in California from October 2019 to date.

Petitioner was denied Due Procedural Due Process per Constitutional Rights in California District Court and The Ninth Circuit, which refers to the Constitutional Requirements with the Federal government acts in such a way that denies a citizen of Life, liberty and property, along with the Right to be heard. A decision by a neutral decision maker, the District Courts. Petitioner filed claims dating back to October 2019 and made all judges aware of Federal violations and Constitutional violations on a trip to South Carolina, and now again in California by intentionally not serving Respondents following statements posted online in public to "tip off" Respondents to a federal case filed. Petitioner was left no choice but to file an appeal in the Ninth Circuit and serve Respondents pro se. Respondents failed to reply to the Ninth Circuit order, April, 28, 2020. The Respondents intentionally returned the served papers several times, and months after proven service by United States mail. Petitioner provided proof in her brief of being held against her will, and awarded assets withheld in exchange for commerce against the Federal Hobbs Act. The Federal Hobbs Act fall under U.S.C. § 1951, 9-131.000, prohibits Robbery and Extortion affecting interstate or foreign commerce. Re: Scheidler v National Organization for Women (2006). The Hobbs Act Law prohibits interference with commerce by violence or threats of violence. The Travel Act involving interstate travel in support of Racketeering, thus petitioners bank accounts and awarded assets, including stolen home proceeds and investments. Due Process falls under Fifth and Fourteenth Amendment Rights, and Procedural Due Process was denied for petitioner. Petitioner was also denied Privacy Rights under California Article 1. No Due Process, Re: Troxel v Granville, pages 99-138, (2000).

4. Whether petitioner was intentionally denied a jury trial against petitioners Seventh Amendment Right.

Petitioner requested a trial due to monies outstanding, witnesses and involving multiple third parties in Wiretapping and fraud. This case sentence is more than six months sentence time for Wiretapping alone, not including the enormous loss. Please see, *Balwin v New York*, 399 U.S.C. § 117 (1970).

5. Whether the District Court judge and the Ninth Circuit judge's intentionally retracted Petitioners Forma Properous in retaliation for filing an appeal, vilified petitioner in court orders

Stating petitioner filed a " Frivolous" complaint and a malicious litigant while ruling in error of Rooker Feldman Doctrine on Speculation, not Federal law or Constitutional Violations with no hearing under the United States Constitution.

This is not a family law case, which is a state matter. Lucy H. Koh states case law under Rooker Feldman, but fails to mention any resolve for Federal Wiretapping, ignores our California Privacy Constitution, especially in the motion to reconsider denial to petitioner. Please see *Lance v Dennis*, 546 U.S.C. § 459 (2006), and The Supreme Court continues to narrow Rooker Feldman Doctrine and does not fit this unusual federal case.

6. Whether this Racketeering Influence Corrupt Organization Act case involving Wiretapping and multiple Federal crimes should have been taken serious by the California District Court and Ninth Circuit Court of appeals.

Federal Wiretapping complaint was filled by petitioner against Web Watcher and Awareness Technologies, including Respondents who were recently using petitioners privileged tainted emails in open court in February and April 2018, after new case law in the Sixth Circuit Court, Electronic Evidence in criminal investigation. See *Luis v Zang*, 833 F. 3d 619 (6th Cir. 2016). Federal laws were violated in petitioners complaint by the same companies who do not challenge the victimization claim, and admit to "concede", and pay damages if victimized by their software. Petitioner evidence proves to the Ninth Circuit, this federal case is " NOT FRIVOLOUS", nor malicious intent by the petitioner. The Wiretap Act under 18 U.S.C. § 2511 with new case law confirms "ANY" illegal interception of a wire violates Federal Wiretap Laws.

Forensic reports were provided as evidence to the Ninth Circuit Court of Appeals in San Francisco and documented in petitioners complaint to San Jose, California District Court. Petitioner requested punitive damages for being victimized with indisputable enormous losses, but petitioner was blocked by all Federal court judges from receiving damages owed to the petitioner. Petitioner also noted bar members using wiretapped tainted emails is a felony and any felony is automatic disbarment, but petitioner was denied to file on Bar members, Respondents named to obstruct justice.

Petitioner recently learned about this new case law when prior petitioner could not sue the software companies. Also, petitioner did not know until recently that SAS Corporation was linked to Web Watchers and Awareness Technologies where petitioners ex brother in law Thomas Kimner, Respondent, is their global wiretapping and fraud executive. Petitioner has possession of hard drives for proof, and South Carolina Respondents had knowledge prior to retrieving and using tainted privileged emails to win a case. The United States Court of Appeals rules "ANY" interception violates federal laws. Any person who intentionally intercepts, any wire, oral or electronic communication, shall be punished by fine or imprisonment under 18 U.S.C. § 2511, 1 (a). Also relief as may be appropriate, 18 U.S.C. § 2520, (a). Awareness Technologies violated 18 U.S.C. § 2511 by "intercepting", and petitioner has a Right to pursue a private action, Federal claim per Luis v Zang, No. 14-3601. Also Re: Electronic Communications Act, (ECPA), United States v Kernell, 667 F. 3d 746, (Sixth Cir. 2012), as Michael Kimner was going into petitioners Yahoo account in 2012 and after, proof given to the Ninth Cir. Court of Appeals. Petitioners filed immediately after learning Web Watchers and Awareness Technologies can be sued, and do indeed violate Federal Wiretap Laws. These software companies selling software to Michael Kimner ruined ten years of petitioners life, business and personal, and destroyed petitioners children entire childhood, with irreversable mental injury for life. The nightmare has ruined petitioners family, and time that is irreplaceable, including petitioners motherhood. This twenty four hour monitoring and criminal stalking is Child Endangerment, mental injury per child, and is intentional and willful, including SAS Corporation in North Carolina who track CPS accounts involving millions of children, endangering children globally for profit. This should be investigated, as stated in my federal complaint with Lucy H. Koh.

The lack of compassion and concern for children and parents with malicious actions towards the petitioner and family is shocking! The abuse of power has been overwhelming in Audrey L. Kimner's cases for ten years, and Cruel and Unusual Punishment for years for not reason. All whom took an oath of office ignored endangered our children recklessly and intentionally for years. Many in office were allowing Respondents to use petitioners wiretapped tainted emails against petitioner, out of jurisdiction, along with numerous recused judges who these Respondents took full advantage of the courts time while judge shopping and changing case number to achieve Federal offenses in South Carolina. All orders sent to California were under the color of law, Re: Crandell v Nevada, 75 US 35, Supreme Court 1868.

Petitioner filed a Racketeering Influenced Corrupt Organization Act. This Act umbrellas over the Hobbs Act Federal Law, 18 U.S.C. § 1951, 9- 131,00. The Hobbs Act also falls under 18 U.S.C. § 2332, criminal penalties, including (1961) 18 U.S.C. § 201, 1344, 1503, 1510, 1511, 1513, 1542, 1544, 1952, 1546, especially 18 U.S.C. 2318 pertaining to computers in this case. Please see, *Scheidler v National Organizations for Women*, (2006), *Luis v Zang*, No. 14-3601 and *United States v Kernall*-677 F 3.d 746, (6th Cir. 2012), as the same applies to Audrey L. Kimner v Web Watcher, Awareness Technologies and named Respondents.

7. Whether the California courts intentionally ignored Mortgage fraud and violated public trust laws in petitioners case.

Petitioner made the California judges aware that petitioners house contract was illegally signed By a court administrator in South Carolina by South Carolina Respondents out of jurisdiction with no witnesses for a notary. The FBI stated this was fraud and illegal, and for petitioner to file suit in a federal court. Petitioner filed and was once again denied a hearing to make the county return petitioners home proceeds with punitive damages by law. This violates Public Trust laws in California and South Carolina. The California judge states improper venue, but refused to allow petitioner to have a hearing to overturn this bad faith litigation with litigation on mortgage fraud, including ignoring victims Rights by law that petitioners home proceeds or home must be returned. The false buyer stated she did not purchase petitioners home, although her name is on the contract, not including the cash that was exchanged in exchange for commerce against federal Hobbs Act laws. Willful or knowing violation of the statutory chapter on ethics, i.e., Title 9. Upon conviction for each violation falls under Cal. Gov. code § 91000. Please see *National Audubon Society v Superior Court*, 33 Cal. 3d 419 (1983). Hobbs Act, U.S.C. 1951, 9-131.010, prohibits actual or attempted robbery and extortion interfering with commerce by threats and violence. Please see, *Scheidler v National Organization for Women* (2006). Fraud has no statutes and must be addressed until resolve by law, therefore the case is still open.

Note: Once again dismissing a case while violating petitioners First Amendment Right to be heard. Mortgage Fraud is clear, and one law alone allows for one million in damages concerning Mortgage Fraud. Please see Section 7, Sec 28 (14) To prompt return of property when no longer needed as evidence. This entire section, under victim, as petitioner, (e) financial abuse, and means protection of the victim, including family members whom have been forced to endure financial loss as well due to intentional harm and injustice.

CONCLUSION

Petitioner filed this Racketeer Influence Organization Act case after assault arrest, years of legal abuse and being tortured by Respondents abusing the court system to extort petitioner for awarded assets while using our two children. This is a proven case involving wiretapping, which allowed all Respondents to achieve all federal crimes. Petitioner has endured torture beyond comprehension by Respondents. Petitioner thought California Federal Courts would be the place to finally make all accountable by law, and to stop the ongoing stalking and federal crimes, including making Berkeley County South Carolina accountable for forgery, false imprisonment and taking petitioners livelihood, especially years of natural motherhood. The list of awarded assets are enormous, and the California District Court judges have now allowed all to obstruct petitioners justice, and failed to have petitioners assets returned by law, including violations petitioner Constitutional Rights. Petitioner had the Rights to file in the Federal Court in California in the proper jurisdiction where there is safety, but all judges refused to allow any court time while refusing to offer Procedural Due Process and canceling all hearings on the same day, five days prior, numerous orders not given to petitioner and moved hearing dates multiple times for opposing counsel exparte. Due to ignoring petitioners Rights, the California federal courts forced petitioner to stay on SSI while refusing to make Respondents return petitioners homes, new car, Heirloom business furniture, 401 K, retirement by previous prepared QDRO's, investment with half partnership, monies tied to the SCC in New York since 2011. This was due to retaliation and fraud. One midrise was not tied to any case in South Carolina, including petitioner business that all involved tried to extort as well. Petitioner no longer trust judges in multiple cities after all have violated Public trust, especially petitioners First Amendment Right. There is new case law for all that have experienced the same child trafficking and suffering after assault that ended in a child committing suicide. Petitioner has a Right to speak to her adult children who were extorted with mental injury that is dangerous and irreversable. Please see, Potts v Lazarin, No. HO44587 in the California 6th Circuit Court, and the First Anti Slapp Law that was in the fathers favor that went through litigation abuse as well. All of this could have been avoided had the Respondents been made accountable prior for violating Federal Wiretap Laws, and for Respondent bar members who have been previously found guilty of vexatious litigation with lawsuits to remove monies from Berkeley County School Board, which is all public knowledge. Lori Stoney, Esq. was involved in other money laundering family schemes that are public knowledge and under lawsuits per the local paper in South Carolina when she was illegally taking petitioners assets as well. Petitioner has spoken to the family that refused to acknowledge that Respondent is in their family to date. This case is indisputable and petitioner is allowed punitive damages by law for intentional and malicious harm. Petitioner would appreciate any judge from the Supreme Court to help elevate this case to Washington to receive a fair trial, or order Respondents to acknowledge their own words to concede and pay damages if petitioner was victimized, and honor petitioners filed Default Judgement. Petitioner needs an audit of all monies by Respondents who have the knowledge and whereabouts of petitioners assets that were moved to cash, in their homes and global banks. Petitioner appreciates the Supreme Court for reviewing this case for final resolve.

ERROR OF HONORABLE JUDGES

All judges denied all of petitioners Rights without reviewing or listening to one word in petitioners Federal complaint and Appeal. There is a list below of Canons of Ethics violated in this case. All of victims Rights, horrendous harassment and restraint request were ignored, and judges did not acknowledge or care that South Carolina is double the National average for women being murdered by Domestic Violence when I had to leave the state out of fear of being murdered. Please note the canons violations in this case by Judges ignoring their oaths of office concerning this case.

Canon 1, A judge shall uphold and promote the independence, integrity and impartiality of the, and shall avoid impropriety and the appearance of impropriety.

Canon 2, A judge shall perform the duties of judicial office impartially, competently and diligently.

Canon 2.3, Bias, prejudice and Harassment.

Canon 2.9, Ex Parte Communications

Canon 3, A judge shall conduct the judges personal and extra judicial activities to minimize with the risk of conflict with the obligations of judicial office.

3.5, Use of Confidential information

3.6, Affiliate with Discriminatory Organizations- Petitioner has been discriminated against for being pro se, a white women and mother.

The Petition for Writ of Certiorari should be granted.

Respectfully submitted by:


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1 Complaint was deficient. *Id.* Specifically, Judge Cousins determined that the Initial Complaint
 2 failed to adequately allege that this Court properly had subject matter jurisdiction over the suit. *Id.*
 3 at 2–3. Judge Cousins also stated that the relief sought by Plaintiff was both procedurally
 4 inappropriate and also barred by the *Rooker-Feldman* doctrine. *Id.* at 3–4. Judge Cousins granted
 5 Plaintiff leave to file an amended complaint and warned Plaintiff that she must cure the
 6 deficiencies identified or Judge Cousins would recommend dismissal. *Id.* at 4. On November 15,
 7 2019, Plaintiff filed a declination of United States Magistrate Judge jurisdiction, ECF No. 7, and
 8 the case was reassigned to this Court, ECF No. 9.

9 On December 9, 2019, Plaintiff filed a letter with the Court requesting that the Court
 10 “add [the letter to the] original complaint” filed in October. ECF No. 15 at 1 (the “Amended
 11 Complaint”). On December 16, 2019, Plaintiff filed another document and requested that it also
 12 be “add[ed] to both letters,” ECF No. 16 at 1, which appears to refer to the Complaint and the
 13 Amended Complaint, ECF Nos. 1, 15. Construing the three filings together, the Court concluded
 14 that Plaintiffs’ pleadings continued to suffer from the same deficiencies identified by Judge
 15 Cousins. ECF No. 19. As a result, on February 6, 2020, the Court dismissed Plaintiff’s case
 16 without leave to amend and entered judgment. ECF Nos. 19, 20. On February 19, 2020, Plaintiff
 17 filed a motion for reconsideration, ECF No. 22, which the Court denied, ECF No. 24.

18 On February 28, 2020, Plaintiff filed a notice of appeal to the Ninth Circuit. ECF No. 25.
 19 On March 2, 2020, the Ninth Circuit referred the matter to this Court for a determination of
 20 whether Plaintiff’s in forma pauperis status should continue for Plaintiff’s appeal. 9th Cir. Case
 21 No. 20-15343, ECF No. 2.

22 II. DISCUSSION

23 Motions to proceed in forma pauperis on appeal are governed by 28 U.S.C. § 1915 and
 24 Federal Rule of Appellate Procedure 24. *Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th
 25 Cir. 2002). Proceeding in forma pauperis on appeal is a privilege, however, not a right. Thus,
 26 “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not
 27 taken in good faith.” 28 U.S.C. § 1915(a)(3); *see also* Fed. R. App. P. 24. In the absence of some

evident improper motive, the applicant's good faith is established by the presentation of any issue on appeal that is not frivolous. *Gardner v. Pogue*, 558 F.2d 548, 551 (9th Cir. 1997). An action is frivolous for purposes of § 1915 if it "lacks an arguable basis in law or fact." *Shehee v. King*, 2015 WL 1839817, at *2 (E.D. Cal. Apr. 21, 2015) (quoting *Neitzke v. Williams*, 490 U.S. 319, 328-30 (1989)). A complaint or appeal lacks an arguable basis in law if controlling authority requires a finding that the facts alleged fail to establish even an "arguable legal claim." *Gutti v. INS*, 908 F.2d 495, 496 (9th Cir. 1990) (citation omitted). Here, the Court finds that Plaintiff's appeal lacks an arguable basis in fact or law.

A. Initial Complaint

First, with respect to Plaintiff's Initial Complaint, ECF No. 1, Judge Cousins found substantial issues that rendered the pleading deficient.

For example, in his November 12, 2019 order, Judge Cousins found that Plaintiff had failed to sufficiently invoke the Court's subject matter jurisdiction. With respect to federal question jurisdiction under 28 U.S.C. § 1331, Plaintiff variously listed federal causes of actions, including "the Federal Wiretapping Act, the Fourteenth Amendment, the Hobbs Act, the First Amendment, and the "Bill of Rights[,] Life, Liberty and the pursuit of happiness," *see* ECF No. 6 at 3. Judge Cousins found that the "factual allegations supporting these claims, insofar as the Court can understand them, involve the plaintiff losing custody of her children in a family court matter where some defendants used 'tainted' emails." *Id.* (quoting Initial Compl. at 6–10). However, Judge Cousins found that Plaintiff had failed to adequately allege any claims under those federal causes of action. *Id.* As a result, Judge Cousins found that the complaint had likely failed to adequately assert the Court's subject matter jurisdiction pursuant to 28 U.S.C. § 1331. *Id.*

Similarly, with respect to diversity jurisdiction under 28 U.S.C. § 1332(a)(1), Judge Cousins found that Plaintiff had failed to adequately allege an amount in controversy over \$75,000. ECF No. 6 at 2. Although Plaintiff had requested "\$100,000,000, plus additional millions of dollars," Judge Cousins found that Plaintiff "provide[d] no factual basis for this damages claim." *Id.* Instead, Judge Cousins found that Plaintiff's "requested relief seems

1 primarily injunctive, and the \$100,000,000 sought is not explained.” *Id.* As a result, Judge
 2 Cousins held that that Plaintiff had likely failed to invoke diversity jurisdiction pursuant to 28
 3 U.S.C. § 1332(a)(1). *Id.*

4 Relatedly, Judge Cousins also found that Plaintiff’s requests for relief posed jurisdictional
 5 and procedural issues. Judge Cousins explained:

6 First, this Court lacks the authority to overturn decisions made by a family court
 7 under the *Rooker-Feldman* doctrine, which states that federal courts cannot hear
 8 appeals from state court judgments. *Cooper v. Ramos*, 704 F.3d 772, 778 (9th Cir.
 9 Oct. 23, 2012); *Mellema v. Washoe County Dist. Attny.*, 2010 WL 5289345 at *2 (E.D. Cal.
 10 Oct. 23, 2012) (applying *Rooker-Feldman* to family court). Therefore, this Court has
 11 no power to grant Kimner immediate contact with her children if the family court
 12 has ordered a different custody arrangement. Additionally, this Court cannot issue a
 restraining order without a motion made under Federal Rule of Civil Procedure 65.
 Finally, this Court can only issue sanctions against attorneys appearing before it
 under Federal Rules of Civil Procedure 11 or 37; sanctions against attorneys located
 and practicing in different jurisdictions can be sanctioned by those courts or by their
 relevant bar associations. This Court cannot order the relief Kimner seeks.

ECF No. 6 at 4. Judge Cousins gave Plaintiff thirty days to file an amended complaint that cured
 the identified deficiencies. *Id.* Judge Cousins warned Plaintiff that if she failed to timely file an
 amended complaint “curing the deficiencies identified in this Order,” Judge Cousins would
 “recommend dismissal of this action.” *Id.*

16 **B. Amended Complaint**

17 After the case was reassigned to this Court, the Court in an order issued on February 6,
 18 2020 found that Plaintiff had still failed to cure the deficiencies identified by Judge Cousins and to
 19 request any relief that could be granted by the Court. ECF No. 19. As discussed above, the Court
 20 construed all three of Plaintiff’s pleadings together. ECF Nos. 1, 15, 16. As with the Initial
 21 Complaint, Plaintiff’s claims continued to be deficient because they merely raised the specter of
 22 federal statutes without ever requesting any corresponding relief.

23 Instead, Plaintiff’s Amended Complaint doubled down on injunctive relief that the Court
 24 was without power to grant. For example, Plaintiff continued to request custody of her children.
 25 *See, e.g.*, Am. Compl. at 14 (“I deserve to have a relationship with my God Given children and for
 26 all involved to be accountable by law.”). Plaintiff asked the Court to “please report false child
 27

1 support and illegal wage garnering by [South Carolina],” Am. Compl. at 14, which the Court is
2 without power to grant under the *Rooker-Feldman* doctrine.

3 As discussed above, Judge Cousins had previously explained to Plaintiff that these exact
4 same requests for relief were jurisdictionally deficient. ECF No. 6 at 4. Despite Judge Cousins’s
5 warning that he would recommend dismissal should Plaintiff fail to cure these deficiencies, *id.*,
6 Plaintiff continued to request relief that the Court is without power to grant. Because these issues
7 are jurisdictional and because Plaintiff had already been explicitly notified of such by Judge
8 Cousins’s November 12, 2019 order, the Court concluded that any amendment would be futile and
9 dismissed the case without leave to amend. ECF No. 19 at 2–3. On February 6, 2020, the Court
10 also entered judgment in favor of Defendants. ECF No. 20.

11 C. Motion for Reconsideration

12 Plaintiff subsequently filed a motion for reconsideration after the Court dismissed the
13 complaint without leave to amend and entered judgment. *See* ECF No. 22. As an initial matter,
14 Plaintiff’s request was not proper under both Federal Rule of Civil Procedure 54(b) and Civil
15 Local Rule 7-9(a). Federal Rule of Civil Procedure 54(b) provides that a Court may reconsider its
16 decisions only prior to entry of final judgment. Civil Local Rule 7-9(a) similarly provides that
17 motions for reconsideration may only be filed prior to entry of final judgment, and in any event
18 requires leave of the court before such motion may be filed. Nonetheless, in the interest of justice
19 because Plaintiff was pro se, the Court reviewed Plaintiff’s motion and issued an order that could
20 aid Plaintiff in pursuing any viable claims that she might have.

21 In her motion for reconsideration, Plaintiff did not provide any basis for the Court to
22 reconsider its decision to dismiss the instant case without leave to amend. ECF No. 22; *see* Civ.
23 L.R. (providing that any motion for reconsideration must be based upon a “material difference in
24 fact or law,” “emergence of new material facts or a change of law,” or “manifest failure by the
25 Court to consider material facts or dispositive legal arguments which were presented to the
26 Court”). Instead, Plaintiff based her request for reconsideration on her insistence that she had
27 proof to substantiate her claims, including “tapes and documents that nobody has seen.” *Id.*

and reversing garnishment of her wages for child support by South Carolina. Because the Court's dismissal was premised on jurisdictional deficiencies, the Court concludes that Plaintiff's claims lack an arguable basis in law or fact. Plaintiff thus fails to present a non-frivolous issue for appeal.

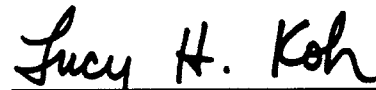
III. CONCLUSION

Based on the foregoing, pursuant to 28 U.S.C. § 1915(a)(3), the Court hereby CERTIFIES that Plaintiff's appeal is not taken in good faith and REVOKES Plaintiff's in forma pauperis status. Any further request to proceed on appeal in forma pauperis should be directed, on motion, to the Ninth Circuit in accordance with Federal Rule of Appellate Procedure 24.

The Clerk shall notify the Ninth Circuit of the Court's instant order.

IT IS SO ORDERED.

Dated: March 20, 2020



LUCY H. KOH
United States District Judge

United States District Court
Northern District of California

1 Plaintiff asserted that the Court had “violated [her] privacy rights [through] dismissal without
2 seeing proof.” *Id.*

3 Yet Plaintiff’s repeated argument that she had proof of her claims *again* failed to address
4 the deficiencies first identified by Judge Cousins in November and then in the Court’s February 6,
5 2020 dismissal order. Specifically, Plaintiff again failed to request any relief that the Court could
6 grant, despite multiple court orders so explaining. *See id.* Indeed, Plaintiff’s motion for
7 reconsideration did not identify any relief requested, nor did the motion allege any additional facts.
8 Instead, Plaintiff repeated the same conclusory allegations she made across her first three
9 pleadings: “I have numerous violations of my privacy, jailed [sic] illegally, my home proceeds
10 stolen, my children stalked and endangered for years, my children tracked without my consent and
11 knowledge.” ECF No. 22 at 2. Plaintiff’s motion for reconsideration thus did not alter the
12 conclusion that this federal court is the wrong forum for her claims. Plaintiff’s mere recitation of
13 federal statutes without requesting any relief whatsoever under those statutes is insufficient to
14 grant the Court jurisdiction. *See, e.g., Naufahu v. Bd. of Trustees*, 2010 WL 624321 (dismissing
15 pro se complaint that “provides no short and plain statement of any claim or a statement as to what
16 relief she may be entitled to under federal law”).

17 In fact, the Court explained that the Court’s dismissal without leave to amend constituted a
18 dismissal without prejudice. *See* ECF No. 19. Specifically, the Court explained:

19 [A]lthough the Court dismissed the case without leave to amend, the Court’s
20 dismissal is without prejudice, which means that the Court’s dismissal “does not bar
21 the plaintiff from refileing the lawsuit within the applicable limitations period.” *See*
22 *Semtek Int’l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 505–06 (2001).
23 Specifically, the Court’s February 6, 2020 order dismissing the case was based on
24 Plaintiff’s failure to request any relief that could be granted by this Court. *See* ECF
25 No. 19 at 2–3. For example, the Court found that Plaintiff could not bring claims on
26 behalf of her children because they are no longer minors, nor could Plaintiff seek
27 relief from state court judgments pursuant to the *Rooker-Feldman* doctrine. *Id.*

28 ECF No. 24 at 1–2. The Court’s dismissal without prejudice thus allowed Plaintiff to pursue the
relief she seeks from any state court that *would* have jurisdiction.

In sum, across at least four substantive filings with the Court, Plaintiff has repeatedly
sought relief from state court judgments, such as obtaining custody of her now adult-age children



U.S. Department of Justice

Criminal Division

Public Integrity Section

Washington, D.C. 20530

OCT 26 2020

Ms. Audrey L. Kimner
PO Box 1493
Carmel By The Sea, CA 93921-1493

Dear Ms. Kimner:

This is in response to your letter, White House # 20064198, dated September 18, 2020, to the President, noting concerns related to a case filed by you in federal court. We have been asked to respond to you on his behalf.

Pursuant to Title 28, United States Code, Section 351, if you believe that a federal judge has engaged in conduct that is "prejudicial to the effective and expeditious administration of the business of the courts," you may file a written complaint with the clerk of the court of appeals for the appropriate federal circuit. The complaint will be reviewed by the Chief Judge for the circuit. Should you wish to contact that office directly, you may write:

Molly Dwyer, Clerk of Court
Office of the Clerk
U.S. Court of Appeals for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

We rely on investigative agencies to gather the relevant facts. If you believe this matter may constitute criminal activity, please contact the Federal Bureau of Investigation (FBI), the investigative arm of the Department of Justice. The FBI will determine whether a federal investigation may be warranted. If appropriate, the FBI will refer the matter to a United States Attorney for a final determination regarding legal action.

**Additional material
from this filing is
available in the
Clerk's Office.**