No. 20-_____

In the

Supreme Court of the United States

Regina B. Heisler, individually and as the executrix of the Succession of Frederick P. Heisler,

Petitioner,

v.

Girod LoanCo, LLC,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE LOUISIANA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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Admitted to United States
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September 6, 1974

QUESTIONS PRESENTED

The integrity of the judicial process is paramount and a matter within this Court's "...inherent power..." to protect, *Chambers v. NASCO*, 509 U.S. 32 (1991); Also, *Implementation of the Judicial Conduct and Disability Act of 1980, A Report by Justice Stephen BREYER* (2006); the further failure by *any* tribunal below to enforce this Court's "...lawful mandates..." in *Caperton* and *Henson* raises 28 U.S.C. § 1651(a) to the fore:

1. Did the Louisiana Supreme Court err by failing to enforce *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009) ("*Caperton*"), as to District Judge Scott U. Schlegel, who was campaigning for Louisiana Supreme Court Justice and accepted $47,500 in contributions from the Kean-Miller law firm and its client, Texas Brine? *Contemporaneous* with the contributions, Kean-Miller represented Girod LoanCo against Petitioner before Judge Schlegel, requiring *vacatur* of his infirm orders per *Caperton*.

2. Did the Louisiana Supreme Court err by failing to enforce *Henson v. Santander Consumer USA*, 582 U.S. ____ (2017) ("*Henson*") as to Girod, a "...vulture fund..." enforcing $9.8 million in shill loans purchased from the FDIC after the closure of First NBC Bank under the guise that it was a "...debt collector..." *not* required to meet Louisiana's Door-Closing laws? If so, is dismissal of all Girod judicial

demands against Petitioner required?

3. Did Judge Schlegel's (i) *sua sponte* prohibition that Petitioner's counsel not file pleadings *without* his permission, (ii) coupled with threats of contempt and (iii) his purging of public records so violate due process principles, *In re Murchison*, 349 U.S. 133 (1955), as to warrant *vacatur* of his writ of seizure and all further orders?

GVR TREATMENT

Based on *Lawrence v. Chater*, 516 U.S. 163 (1996), Petitioner avers that *Grant, Vacate and Remand* treatment is appropriate, although this Court may wish to speak to the significant national issues presented. Circumstances justifying GVR include the facts that:

- ❑ The ruling by Justice GORSUCH in *Henson v. Santander* (hereinafter *"Henson"*) as to the sale of a failed bank's loans to a *vulture fund* has never been tested;

- ❑ Petitioner's (i) advanced age of 78, (ii) liver cancer and (iii) her inability to afford counsel in her *pro se* bankruptcy is proceeding *without* benefit of the 11 U.S.C. § 362(a) automatic stay, which may require a Motion to Circuit Justice ALITO if not cured immediately;

- ❑ The manifest violation of *Caperton* by Judge Schlegel has triggered the $15 million plunder without due process of law, heightening the importance of Justice BREYER's 2006 Report on judicial misconduct;

- ❑ The mandate against "...the mere threat of unconstitutional sanctions..." *Wolff v. Selective Service Local Board No. 16* requires courts to "...*intervene at once to vindicate the threatened liberties*..."

- ❑ The ABA FORMAL OPINION 491, which cautions lawyers

representing "...silo structured..." entities in "...secrecy jurisdictions..." such as TPG and Girod LoanCo, has been mocked in the case at bar.

Lawrence v. Chater provides ample authority for GVR in this case, to-wit:

> "Insofar as Congress, through 28 U.S.C. § 2106, appears to have conferred upon this Court a broad power to GVR, the Court has the power to remand [to a lower court] any case raising a federal issue properly before it in its appellate capacity. Over the past 50 years GVR has become an integral part of this Court's practice....Whether it is ultimately appropriate depends on a case's equities."

Parties to Louisiana Supreme Court Rulings

1. Regina B. Heisler, ("Heisler") was the Petitioner at the Louisiana Supreme Court. Heisler is widowed, 78-years-old, with no significant education and no business or banking acumen. When FNBC was closed on April 28, 2017, Heisler owed $600,000, tried to pay in full, but was told the debt was $9.8 million+ and would be sold in the liquidation of the failed bank (as with RTC in the 1980's). On August 27, 2020, to protect herself from Girod's vulture tactics, Heisler filed bankruptcy. Notwithstanding *Caperton* and *Henson*, no state tribunal has afforded Heisler *any* protection.

2. Girod LoanCo, LLC, ("Girod") was the Respondent at the Louisiana Supreme Court. Girod was created in Delaware twenty-one (21) days before the $996.9 million collapse of FNBC and is *prohibited* from making judicial demands by Louisiana's Door-Closing Statute, La. R.S. 12:1354(A). Defying *Henson*, Girod claims to be a "...debt collector..." not required to meet Louisiana laws requiring foreign LLC's to seek authority to transact business in Louisiana. Girod is part of a $108,000,000,000 conglomerate of invisible "...vulture funds..." at 301 Commerce Street, Fort Worth, Texas 76102, known as Texas Pacific Group ("TPG"), traced by Petitioner to the Ugland House in the Cayman Islands, Appendix-F at 39a.

Statement Regarding Impossibility of Rule 29.6 Disclosure

Compliance with Supreme Court Rule 29.6 is *impossible*. Girod is a "...silo structure..." housed in offshore jurisdictions which keep ownership secret. Girod will *not* disclose its human owners as "...highly confidential...". New York District Judge Harold Baer is oft-quoted for his handling of a vulture fund in *Water Street Bank v. Panama*, 94 Civ. 2609 (HB),1995 WL 51160 (S. D. N. Y. Feb. 8, 1995), as follows:

> "Vulture funds tend to be secretive about their investors. Yet knowing the identity of a litigation adversary is a matter essential to defending against the claims made. In *Water Street Bank & Trust v. Panama*, Judge Baer found the plaintiff's steadfast refusal to disclose its human owners unacceptable and dismissed the case outright." *The Evolution of Modern Sovereign Debt Litigation: Vultures, Alter Egos, and Other Legal Fauna*, by Jonathan I. Blackman, available@http://www.law.duke.edu/journals/lcp.

In Eastern District Docket 17-6652, Girod described itself as follows:

> **Girod is wholly-owned by a limited liability company that is owned by three other limited liability companies. One of the members of the three limited liability companies is a limited partnership formed under the laws of the State of Delaware (the "DE LP"). To Girod's knowledge, one of the limited partners of the DE LP is a limited liability company formed under the laws of the State of Louisiana; the members of the**

LA LLC are inter vivos trusts incorporated under the Louisiana Trust Code (the "Trusts") and the settlors, trustees and beneficiaries of the Trusts are individuals who reside in Louisiana.

MAY IT PLEASE THE JUSTICES REGARDING RULE 29.6:

This ephemeral illusion is an international fraud, causing the United Nations Council on Human Rights to rank vulture funding ahead of human trafficking and the maltreatment of leprosy. See, *United Nations Human Rights Council Condemns Vulture Funds, infra.* Nothing we say or how we say it is hyperbole or stated "...for atmospheric purposes..." as Justice KAGAN observed about lawyers' penmanship in *Merrill Lynch v. Manning*, 578 U.S. ___ , 136 S. Ct. 1562 at 1568 (2016). In two Writ Petitions to the Louisiana Supreme Court at Appendix C at 36a and Appendix E at 38a, the focus was on lack of *in personam* jurisdiction when one party is a "...silo-structured..." ghost veritably disappearing into the "...atmosphere..." over the Cayman Islands. Rule 29.6 requires a juridical party to have *identifiable* humans involved, as Judge Harold Bear insisted in *Water Street Bank & Trust v. Panama, supra.*

Related Proceedings

The following related proceedings are listed and marked (*) for highest significance:

04/09/07 *Succession of Frederick P. Heisler*, Orleans Parish Docket No. 2007-3219;

05/11/18 *Charles Schwab v. Girod LoanCo and Regina Heisler*, Orleans Parish Docket No. 2018-4693; an interpleader holding $2.1 million left by Frederick P. Heisler to his widow and heirs;

(*) 03/12/19 *Girod LoanCo v. Regina Heisler*, Jefferson Parish Docket No. 793-014, Judge Scott U. Schlegel manifestly violating *Caperton*;

(*) 03/22/19 *United States v. Gregory St. Angelo*, USDC (E.D. La.) Docket CR-19-55, Bill of Information for Conspiracy to Commit Bank Fraud;

(*) 07/01/20 *United States v. Gary R. Gibbs*, USDC (E.D. La.) Docket CR-20-60, Bill of Information for Conspiracy to Commit Bank Fraud, Appendix G at 40a;

(*) 07/10/20 *United States v. Ashton Ryan*, USDC (E.D. La.) Docket CR-20-65, 46-Count Indictment for Conspiracy to Commit Bank Fraud, Bank

Fraud, False Entries and Notice of Forfeiture.

(*) 08/26/20 *United States v. Gary R. Gibbs*, Factual Basis, ¶ 26: "...Beginning in and around 2011, Ryan, Burnell, Calloway and Gibbs concealed the true purpose of certain nominee loans....falsely stat[ing] that a given loan was for one borrower's business purposes, when the true purpose of the loan was to pay another borrower's loans and overdrafts..."

08/27/20 *In re: Regina B. Heisler* (pro se debtor), USBC (E.D. La.) Docket No. 20-11509; on January 6, 2021, the bankruptcy court *lifted* the stay required by 11 U.S.C. § 362(a), not yet ripe for submission to this Court or Circuit Justice ALITO pursuant to Supreme Court Rule 23;

09/01/20 *Regina Heisler v. Secretary of State Kyle Ardoin and Attorney General Jeff Landry* East Baton Rouge Parish Docket No. 699-345, Appendix J at 51a;

09/23/20 *Girod LoanCo v. Regina Heisler*, Louisiana Supreme Court Docket 2020-1130 seeking review of appellate approval of self-denied recusal.

01/20/21	All Writs DENIED by Louisiana Supreme Court, Appendix C at 36a, Appendix D at 37a and Appendix E at 38a.

Individuals Involved in the Related Proceedings

For the Justices' convenience, the following persons played significant roles in the Related Proceedings:

Michael G. Bagneris ("Judge Bagneris-Ret.") was lead counsel for Petitioner in Writ Applications 20-643 and 20-1324, which focused primarily on *Henson v. Santander*; in denying Writ 20-643, the Louisiana Fourth Circuit Court of Appeals "*...pretermitted...*" ruling on the *Henson* issue; the Louisiana Supreme Court was silent on *Henson*.

(*) Robert Calloway ("CALLOWAY") was indicted on July 10, 2020 at CR-65 for Conspiracy to Commit Bank Fraud. CALLOWAY participated in the shill-loan-kiting scheme which included Petitioner as a *nominee borrower*;

Richard Ducote, ("Ducote"), was a candidate for Supreme Court Justice who exposed Judge Schlegel for amassing $47,500.00 in contributions by Texas Brine and Kean Miller (*Scott Schlegel's Funds*, Appendix M at 66a);

(*) Gary Gibbs ("GIBBS") was *the* Mississippi Developer who used Petitioner as his *nominee borrower* to deceive regulators; when the bank failed, GIBBS owed FNBC $125 million. After Fred Heisler's death, GIBBS hired

Petitioner's daughter (struggling post-divorce and a daughter with Asperger's Syndrome) at a lucrative salary and easy hours to bilk the Heisler family and further his shill-loan-kiting scheme[1]. On July 1, 2020, GIBBS pled guilty to Conspiracy to Commit Bank Fraud.

Holley Haag ("Haag") was *the* loan officer who called GIBBS' Mississippi office for money to cover overdrafts or arrange new loans whenever regulators were at the door. Haag e-mailed notes to Petitioner *without* (i) applications, (ii) financials, (iii) loan officer approval or (iv) board approval; Haag intends to invoke the 5th Amendment.

Dorothy Jacobs ("Jacobs") was GIBBS' top lieutenant who warned Dayna Heisler *not* to let Succession and family lawyer Henry Klein get involved, lest he collapse the shill-loan-kiting scheme).

Dayna Lehman (now "Dayna Heisler"), is Petitioner's daughter. She was

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1 "While Gibbs has not been targeted by regulators for the loans made to him by First NBC, a civil lawsuit filed in Jefferson Parish district court claims that as part of the borrowing scheme, ***Gibbs duped a New Orleans widow, Regina Heisler, into signing over part of her dead husband's estate to cover millions of dollars of [his] loans.***" Anthony McAuley, New Orleans Advocate Staff Writer Sep 7, 2019:

hired by GIBBS right after her father's death. GIBBS bullied Dayna into getting her mother to sign the Heisler notes GIBBS used to defraud regulators.

(*) Judge Scott U. Schlegel ("Judge Schlegel") is *the* state-court district judge who signed the *ex parte* $9.8 million writ of seizure that triggered the plunder at issue. All requests for expedited consideration of defense motions were DENIED by Judge Schlegel as set forth at page 14, *infra.* Allegedly because Petitioner's counsel sent "...threatening and disrespectful..." messages to his law-clerk, Judge Schlegel ordered undersigned counsel "...to *Show Cause Why Attorney Should Not Be Held in Contempt* in open court on October 29, 2019 at 10:00 a.m...", Appendix A at 5a. On October 17, 2019, Petitioner's counsel noticed his intent to invoke 5th Amendment rights. After the matter was removed and remanded for failure to exhaust state remedies, Judge Schlegel re-set the contempt order *sua sponte,* this time by zoom (less intimidating).

(*) On June 3, 2020, Judge Schlegel prohibited Petitioner's counsel from filing pleadings *without permission* and ordered clerks to *purge* pleadings filed on Petitioner's behalf, a matter considered in *Palowsky v. Campbell,* 285 So. 3d 466 (La. 2019), Appendix-B at 11a. The allegations in *Palowsky*

were about actions not-dissimilar from the case at bar:

> *"Essentially, plaintiffs allege the law clerk '...spoliated, concealed, removed, destroyed, shredded, withheld, and/or improperly handled court documents...' and that the judges either aided or concealed these actions."*

Per curiam, the *Palowsky* Court analyzed the difference between *adjudicative* actions and *administrative* actions in six opinions on judicial immunity. The case pends.

(*) On August 3, 2020, Petitioner filed a Motion to Recuse Judge Schlegel and Disqualify Kean-Miller, DENIED without a hearing, Appendix-N at 78a. At Judge Schlegel's *second* contempt hearing on June 3, 2010, he warned Petitioner's counsel that "...you will be charging yourself [with criminal contempt]..." by *including* any proposed pleading when asking "...for permission to file...".

(*) Kean-Miller, LLP ("Kean-Miller") was *the* law firm representing Girod in disregard of ABA FORMAL OPINION 491, which warns against "...turning a blind eye..." as to clients preparing to engage in fraud or crime from "...secrecy jurisdictions..." known to protect money-laundering, tax-evasion, terrorism and vulture funding, Appendix-R at 157a.

Joseph P. LoPinto, III ("LoPinto"), was *the* foreclosing sheriff on Judge Schlegel's order; LoPinto's staff *backdated* the sheriff's deed and recorded it notwithstanding 28 U.S.C. § 1446(d), Appendix K at 56a.

Louisiana Attorney-General Jeffery Martin "Jeff" Landry ("Louisiana AG Landry") is a defendant in Heisler's Citizen's Suit filed September 1, 2020, Appendix-J at 51a.

Louisiana Secretary of State Kyle Ardoin ("Louisiana SOS Ardoin") is a co-defendant with Attorney-General Landry in Heisler's Citizen's Suit.

(*) Girod REO, LLC ("REO") was the *only* bidder at the sheriff's sale on the Succession's shopping center paying $11,250 in monthly cash-flow and a $50,000 annual bonus. REO, which did not exist when it bid at the sheriff's sale, has been enriched by $500,000 highly-likely in the Caymans.

(*) Ashton J. Ryan, Jr. ("RYAN") was the FNBC CEO who approved "*nominee borrower*" loans made to Petitioner (and others) to deceive regulators, *United States v. Ryan* Louisiana Eastern District Docket CR-20-065.

(*) Gregory St. Angelo ("ST. ANGELO") was General Counsel to FNBC who

aided and abetted the scheme to use "*nominee borrowers*" to conceal his and FNBC's financial condition; at closing, ST. ANGELO owed $46.7 million.

(*) Texas Brine Company ("Texas Brine") is the largest brine producer in the United States, supplying 30 percent of the brine requirements of the chlor-alkali industry. In the $100,000,000.00 litigation in the Eastern District of Louisiana, Kean-Miller was lead counsel for Texas Brine at Docket Numbers 12-2059, 12-2246, 12-2354, 12-2363, 12-2611, 13-4952, 13-5016, 13-5038, 13-5045, 13-5227, 13-5408, 13-5563, 13-5549, 13-5793, 13-6026 and 13-6412. After Texas Brine and its subsidiaries paid $45,000.00 to the Schlegel campaign, Kean-Miller's New Orleans office paid Schlegel's campaign $2,500.00 four (4) days after Petitioner filed a *Henson* Motion to Dismiss. The motion was DENIED from the bench, followed by CONTEMPT citations and due process violations.

The Financial Levels Involved in *Caperton* and *Henson* Issues

$108,000,000,000.00. The size of Texas Pacific Group ("TPG"), a $108 Billion conglomerate of vulture funds housed at 301 Commerce Street, *virtual* Suite 3300, Fort Worth Texas, further traced by Petitioner's counsel to the Ugland House in the Caymans, Appendix F at 39a. Strict adherence to *Henson* would help in the United States.

$100,000,000.00. When the *Caperton*-prohibited contributions were made, the Texas Brine litigation was heading for the Louisiana Supreme Court. In the case at bar, the New Orleans Office of Kean Miller paid $2,500 to Judge Schlegel's campaign *four days* after Petitioner filed a *Henson*-based motion to dismiss, DENIED from the bench.

$15,000,000.00. The Girod litigation *sub judice* is fleecing Petitioner and the Succession despite FDIC's stated policy on qualifications of bidders for failed bank assets, which would have disqualified Girod LoanCo, Appendix S at 170a.

The October 12, 2019 Election for Louisiana Supreme Court Justice

Kean-Miller/Texas Brine contributions to Judge Schlegel's campaign fund, not counting family members, appears to have been about 22% of his total election chest. The results of the October 12, 2019 election were as follows:

	William J. Crain	38.6%	73,534 votes
	Hans J. Liljeberg	32.5%	61,859 votes
(*)	Scott U. Schlegel	17.5%	33,242 votes
	Richard Ducote	11.5%	21,810 votes

In *Caperton,* Brent Benjamin won the race for Associate Justice on the West Virginia Supreme Court of Appeals, creating an illusion of a fair fight. In the case of Judge Schlegel, he was always behind and when the contributions were made, his campaign was moribund. When Kean-Miller sent Judge Schlegel $2,500.00 four (4) days after a *Henson* motion was filed by Petitioner, the wolf "...didn't bother to dress in sheep's clothing..." Good reason to enforce *Caperton.*

2019-2020 Chronology Instructive on the Three Questions Presented:

	08/19/19	Petitioner moved for dismissal based on *Henson*;
	09/05/19	Petitioner's *Henson* motion to dismiss was re-filed;
(*)	09/09/19	$2,500 paid to Judge Schlegel's campaign by Kean-Miller;
(*)	09/20/19	Petitioner's *Henson* motion DENIED from the bench;
(*)	10/07/19	*Sua sponte* ORDER for criminal contempt on October 29;
	10/17/19	Foreclosure was REMOVED to federal court;
	10/29/19	Contempt hearing cancelled due to REMOVAL;
	12/26/19	Foreclosure was REMANDED for non-exhaustion of remedies;
(*)	01/02/20	Petitioner moved for an ACCOUNTING of seizures; DENIED.
	03/10/20	Petitioner filed results of INVESTIGATION of Cayman Islands;
(*)	05/27/20	Petitioner moved for *NASCO* fraud investigation; DENIED.
	06/03/20	Judge Schlegel held a *sua sponte* contempt hearing by ZOOM;
(*)	06/03/20	Judge Schlegel purged and returned pleadings by Petitioner.

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Appendix

Table of Authorities Cited

Cases:

Constitutional Provisions, Statutes and Rules

Other Authorities:

Constitutional, Statutory and Rule Provisions Implicated

United States Constitution, 1st Amendment:

> Congress shall make no law respecting...the right of the people...to petition the Government for a redress of grievances.

United States Constitution, 5th Amendment:

> No person shall....be deprived of life, liberty, or property, without due process of law.

United States Constitution, 14th Amendment:

> 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.

United States Code, 11 §301. Voluntary cases:

> A voluntary case under a chapter of this title is commenced by the filing with the bankruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

United States Code 11 §362. Automatic stay:

> (a) Except as provided in subsection (b) of this section, a

petition filed under section 301, 302, or 303 of this title....operates as a stay, applicable to all entities, of (1) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title; and/or (2) the enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of the case under this title; (3) any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate; (4) any act to create, perfect, or enforce any lien against property of the estate; (5) any act to create, perfect, or enforce against property of the debtor any lien to the extent that such lien secures a claim that arose before the commencement of the case under this title; (6) any act to collect, assess, or recover a claim against the debtor that arose before the commencement of the case under this title; (7) the setoff of any debt owing to the debtor that arose before the commencement of the case under this title against any claim against the debtor...

United States Code, 28 U.S.C. § 455(a):

Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

United States Code, 28 U.S.C. §1257(a):

> Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

United States Code, 28 U.S.C. § 1651(a):

> The Supreme Court and all courts established by an Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

United States Code, 28 U.S.C. § 2106:

> The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances.

Louisiana Law:

Louisiana Door-Closing Statute, R. S. 12:1354:

> No foreign corporation transacting business in this state shall be permitted to present any judicial demand before any court in this state unless it has been authorized to transact such business, if required by and as provided in this Chapter. The burden of proof shall rest upon the limited liability company to establish that it has been so authorized, and the only legal evidence thereof shall be the certificate of the Secretary of State or a duly authenticated copy thereof.

Louisiana Election Code, R.S. 18:1505.2:

> The following contribution limits are established for contributions made to candidates or the principal campaign committee and any subsidiary committee of a candidate for the following offices:
>
> (i) Major office - five thousand dollars.

Louisiana Code of Civil Procedure:

Art. 151. Grounds for recusal

> A judge of any court shall be recused when he....
>
> (4) Is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that he would be unable to conduct fair and impartial

proceedings.

Art. 154. Procedure for recusation

A party desiring to recuse a judge of a district court shall file a written motion therefor assigning the ground for recusation. This motion shall be filed prior to trial or hearing unless the party discovers the facts constituting the ground for recusation thereafter, in which event it shall be filed immediately after these facts are discovered, but prior to judgment. If a valid ground for recusation is set forth in the motion, the judge shall either recuse himself, or refer the motion to another judge or a judge ad hoc, as provided in Articles 155 and 156, for a hearing.

Art. 221. Kinds of contempt

A contempt of court is any act or omission tending to obstruct or interfere with the orderly administration of justice, or to impair the dignity of the court or respect for its authority.

Art. 223. Procedure for punishing

A person who has committed a direct contempt of court may be found guilty and punished therefor by the court forthwith, without any trial other than affording him an opportunity to be heard orally by way of defense or mitigation. The court shall render an order reciting the facts constituting the contempt, adjudging the person guilty thereof, and specifying the punishment imposed.

Louisiana Civil Code:

Article 7: Acts in derogation of the public interest

Persons may not by their juridical acts derogate from laws enacted for the protection of the public interest. Any act in derogation of such laws is an absolute nullity.

Art. 2652. Sale of Litigious Rights

When a litigious right is assigned, the debtor may extinguish his obligation by paying to the assignee the price the assignee paid for the assignment, with interest from the date of the assignment.

Additional Authorities:

ABA FORMAL OPINION 491:

Model Rule 1.2(d) prohibits a lawyer from advising or assisting a client in conduct the lawyer"knows" is criminal or fraudulent. That knowledge may be inferred from the circumstances, including a lawyer's willful blindness to or conscious avoidance of facts. Accordingly, where facts known to the lawyer establish a high probability that a client seeks to use the lawyer's services for criminal or fraudulent activity, the lawyer has a duty to inquire further to avoid advising or assisting such activity. Even if information learned in the course of a preliminary interview or during a representation is insufficient to establish "knowledge" under Rule 1.2(d), other rules may require the lawyer to inquire

further in order to help the client avoid crime or fraud, to avoid professional misconduct, and to advance the client's legitimate interests....If the client or prospective client refuses to provide information necessary to assess the legality of the proposed transaction, the lawyer must ordinarily decline the representation or withdraw under Rule 1.16.

Stop the Vultures Act, 2009 H. R. 2932:

THE CONGRESS FINDS THE FOLLOWING:

(7) So-called "vulture" creditors acquire by purchase, assignment or other form of transaction, the defaulted obligations of and sometimes actual court judgments against [debtors]. Vulture creditors usually acquire the debt for the payment for a sum far less than the face value of the defaulted obligation. They do so for the sole purpose of collecting through litigation, seizure of assets or other means, payment on the defaulted debt on terms and in amounts far in excess of the amount paid by the vulture creditor to acquire the debt.

FDIC Final Statement of Policy on the Acquisition of Failed Banks:

The FDIC is issuing a Final Statement of Policy on Qualifications for Failed Bank Acquisitions. This Final Statement provides guidance to private capital investors

interested in acquiring or investing in failed insured depository institutions regarding the terms and conditions for such investments or acquisitions.

Secrecy Law Jurisdictions: The Proposed Policy Statement prohibited investors in entities domiciled in bank secrecy jurisdictions from making a direct or indirect investment in an insured depository institution unless the investors are subsidiaries of companies subject comprehensive consolidated supervision, as recognized by the Board of Governors of the Federal Reserve System. Among other things, such investors also would be required to agree to provide information to their primary Federal regulator, abide by statutes and regulations administered by U.S. banking agencies, consent to U.S. jurisdiction, and cooperate with the FDIC.

A "Secrecy Law Jurisdiction" is defined as a country that applies a bank secrecy law that limits U.S. bank regulators from determining compliance with U.S. laws or prevents them from obtaining information on the competence, experience and financial condition of applicants and related parties, lacks authorization for exchange of information with U.S. regulatory authorities, does not provide for a minimum standard of transparency for financial activities, or permits off shore companies to operate shell companies without substantial activities within the host country.

Prohibited Structures: Complex and functionally opaque ownership structures in which the beneficial ownership is difficult to ascertain with certainty, the responsible parties for making decisions are not clearly identified, and ownership and control are separated, would be so substantially inconsistent with the principles outlined above as not to be considered as appropriate for approval for ownership of insured depository institutions. Structures of this type that have been proposed for approval have been typified by organizational arrangements involving a single private equity fund that seeks to acquire ownership of a depository institution through creation of multiple investment vehicles, funded and apparently controlled by the parent fund.

Senators' Comments: The Senators' comments urged FDIC to eliminate the ability of investors domiciled in secrecy jurisdictions to invest in failed U.S. banks and thrifts based on the history offshore structures have with financial fraud, money laundering, tax evasion and other misconduct.

Statement of Jurisdiction

This Court has Jurisdiction to hear matters decided by the highest court of a state pursuant to 28 U.S.C. §1257(a). This Court also has jurisdiction pursuant to 28 U.S.C. § 1651(a) and the inherent right to determine if there was a fraud perpetrated upon the court(s), *Chambers v. NASCO*, 509 U.S. 32 (1991).

Finality I: Judge Schlegel's Sabotage

The "Final Judgment" requirement of § 1257(a) was sabotaged by Judge Schlegel's (i) refusal to allot the Recusal Motion to another judge; (ii) engaging in the infirm practice of "Judge Schlegel Judging Judge Schlegel"; *In re Murchison, supra*, at 349 U. S. 136; cf. *Tumey v. Ohio*, 273 U. S. 510, 532 (1927); and (iii) refusal to assign a date for Petitioner to take *that* matter to the Court of Appeals. In the process, Judge Schlegel reasoned that the original writ of seizure was a "final judgment" blocking appellate review and he didn't do anything wrong. Recent rulings under the *Rooker-Feldman Doctrine* teach that this Court has exclusive jurisdiction to review state court judgments involving federal questions and "...correct wrongs of constitutional dimensions...", *Sanchez-Llamas v. Oregon*, 548 U.S. 331, 345-46, citing *Smith v. Phillips*, 455 U. S. 209, 221 (1982): *(Federal courts hold no supervisory authority over state judicial proceedings and may intervene only to correct wrongs of constitutional dimension).* The actions at bar have reached "...wrongs of constitutional dimensions...".

Finality II: Disregard of Vance v. Federal National Mortgage Association

Threatening counsel with contempt, Judge Schlegel declared that "...this case is over..." after he DENIED the second *Henson* motion. Inexplicably, all courts below disregarded *Vance v. Federal National Mortgage Association*, 237 So.3d 524 (5th Cir.2018) providing a 3rd avenue to defeat foreclosures by executory process: "...defects that are substantive in character and strike at the foundation of the executory

proceeding...":

> "The general rule, therefore, is that defenses and procedural objections to a proceeding by executory process may be asserted only (1) through an injunction to arrest the seizure and sale, or (2) by a suspensive appeal from the order directing the issuance of a writ of seizure and sale, or both. Our courts, however, *have recognized an exception to this general rule*: which is that the jurisprudence holds that a mortgagor who has failed to enjoin the sale of property by executory process, or who did not take a suspensive appeal from the order directing the issuance of the writ of seizure and sale, may institute and maintain a direct action to annul the sale on certain limited grounds, provided that the property was adjudicated to and remains in the hands of the foreclosing creditor. The 'certain limited grounds' upon which an action may be maintained to annul the sale are where the defects are 'fundamental' defects. Other appellate decisions have characterized these grounds as defects in the proceedings that are *'substantive in character and strike at the foundation of the executory proceeding.*" (Internal citations omitted).

Finality III: Fraud in Recording the Sheriff's Deed

The *Vance* "exception" disappears when the sheriff records the deed of sale. Girod knew this and hurried the sheriff into recording the deed on October 25, 2019, although the case was removed to federal court on October 17, 2019. Thickening the

plot, the deed was *backdated* to October 9 to beat the clock. *That* fraud was "...substantive in character and str[uck] at the foundation of the executory proceeding...". If that *legerdemain* is pierced by a court of law, the property is still in the hands of the foreclosing creditor, Girod REO.

PETITION FOR WRIT OF CERTIORARI

Petitioner Regina Heisler, individually and as the executrix of the Succession of Frederick P. Heisler, respectfully petitions the United States Supreme Court for Certiorari for the compelling reasons set forth below.

Preamble Advancing Argument

As a matter of first impression, Petitioner provides the following preamble which sharply and efficiently focuses on Question Presented Number One and *Caperton*:

Chronology of Illegal Campaign Contributions to Judge Schlegel

July 1, 2019:	Texas Brine Sales and Distribution, LLC	$ 5,000
July 1, 2019:	Texas Brine Company, LLC	$ 5,000
July 1, 2019:	TBC Underground Services	$ 5,000
July 1, 2019:	Underground Storage, LLC	$ 5,000
July 1, 2019:	United Brine Services, LLC	$ 5,000
July 23, 2019:	Texas United Management Corporation	$ 5,000
July 23, 2019:	United Brine Pipeline Company	$ 5,000
July 23, 2019:	Louisiana Salt, LLC	$ 5,000

July 23, 2019: Pure Salt, LLC	$ 5,000
September 9, 2019: Kean-Miller	$ 2,500
Total Illegal Contributions:	$47,500

Pursuant to Louisiana Revised Statute 18:1505.2, *supra*, limiting contributions to $5,000, the use of subsidiaries, affiliates and other alter egos are equally prohibited. The Louisiana Public Ethics Committee took no action; the Louisiana Secretary of State, in charge of elections for public office, took no action.

Richard Ducote's Exposure of "...Scott Schlegel's Funds..."

On July 17, 2019, Richard Ducote, a candidate for Louisiana Supreme Court Justice, posted the following *sub nomine* "Scott Schlegel's Funds", Appendix-I:

> "In his July 15 campaign finance report, Scott Schlegel's team disclosed that his campaign took $25,000 from Texas Brine Co., a large Houston based company involved in many Louisiana lawsuits in which it stands to lose or gain millions of dollars. The $25K was all paid on July 1, and broken up into 5 payments of $5K each by Texas Brine and its 4 subsidiaries (all with the same Houston address of 4800 San Felipe Street) to avoid the $5K corporate contribution limit.... There is no doubt that much of Texas Brine's fate will be decided by the Louisiana Supreme Court in a number of appeals.... There is no question that Texas Brine believes that Schlegel is a good investment for them. Why would a Texas outfit otherwise care who sits on the Louisiana

Supreme Court?"

Chronology of DENIALS by Judge Schlegel

Compelling evidence of bias is based on the following DENIALS:

08/20/19 DENIAL of Exception of *Lis Pendens*.

08/20/19 DENIAL of Request for Stay.

09/30/19 DENIAL of Motion to Dismiss per *Henson*.

09/30/19 DENIAL of Motion to Dismiss per *Louisiana Paddlewheels*.

09/30/19 DENIAL of Request the Notes be Declared *Unenforceable*.

01/02/20 DENIAL of Motion for *Vacatur* of Executory Process Writ.

06/03/20 DENIAL of Motion per *Chambers v. NASCO*, 501 U.S. 32.

06/03/20 DENIAL of Motion to file Document Under Seal.

06/03/20 ORDER PROHIBITING filings without *advance permission*.

06/24/20 DENIAL of Motion to Order Sterling Properties to *Account*.

07/02/20 DENIAL of Motion to Apply LaCCP 1573 to Regina Heisler.

07/02/20 DENIAL of Motion for More Definite Statement re *Contempt*.

07/14/20 DENIAL of Leave to file Pleadings Regarding Indictments[2].

08/10/20 DENIAL of Motion to Recuse Judge Schlegel/Disqualify Kean-Miller.

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2 DENIED for failure to ask permission.

Material Proceedings Below

04/28/17 State regulators closed the First NBC Bank and appointed FDIC as liquidator, *In the Matter of First NBC Bank, a Louisiana Banking Corporation*, Orleans Parish Docket No. 2017-4057.

2017-2019 Petitioner filed multiple pleadings regarding her right of litigious redemption and Girod's infirm rights to file judicial demands per Louisiana Door-Closing Statute and *Henson*.

03/12/19 Girod filed a foreclosure by executory process, *Girod LoanCo, LLC v. Regina B. Heisler*, Jefferson Parish Docket 793-014, Judge Schlegel presiding.

03/14/19 Petitioner removed the foreclosure to federal court on constitutional grounds; the case was remanded for failure to exhaust state remedies.

06/25/19 Judge Schlegel signed, *ex parte*, Girod's $9.8 Million writ of seizure on loans to Heisler, *(nominee Borrower F)*, which were never funded.

08/19/19 Petitioner (i) moved to dismiss based on La. R.S. 12:1354(A), *Henson* and *Milburn v. Proctor Trust*, 989 F.Supp. 54 (1945), (ii) waived oral argument and (iii) requested expedited consideration, all DENIED by Judge Schlegel.

09/05/19 Petitioner's *Henson* motion to dismiss was re-filed.

09/09/19 Kean-Miller paid $2,500 to Judge Schlegel's campaign.

09/24/19 Judge Schlegel DENIED Petitioner's *Henson* motion.

10/07/19 Judge Schlegel issued *sua sponte* rule for criminal contempt.

10/09/19 Sheriff's sale on Succession's shopping center.

10/17/19 Foreclosure case was REMOVED to federal court.

10/25/19 Sheriff's deed BACKDATED and RECORDED.

01/02/20 Post-REMAND, Petitioner moved for *vacatur* of writ.

05/27/20 Petitioner filed *NASCO* motion, DENIED without a hearing.

06/03/20 Judge Schlegel PROHIBITED pleadings without permission.

08/10/20 Petitioner filed Motion to Recuse, DENIED without a hearing.

08/27/20 Petitioner filed for Bankruptcy Protection, Docket 20-15509[3].

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3 It appears Petitioner will be seeking Rule 22 and 23 relief from Circuit Justice ALITO. Thus, some details regarding the Heisler Bankruptcy are provided.

12/02/20 Bankruptcy Court lifted the Automatic Stay[4].

12/08/20 Girod filed a 543-page Motion for Relief from Stay[5].

12/16/20 Petitioner moved for summary judgment based on *Pepper v. Litton, Hosking v. TPG* and *Caperton v. Massey.*

01/06/21 At a *telephonic conference* described as a "hearing" Petitioner's (i) Motion to Compel Disclosure[6], (ii) Objection to Girod's $7,869,608.10 Proof of Claim and (iii) Objection to the lifting of the stay took place *without* testimony or any evidence presented. Petitioner's Objection to the Girod Proof of Claim was "...held in abeyance..." pending the Louisiana Supreme Court rulings on three writs filed by Petitioner.

Statement of the Case

On April 28, 2017, the First NBC Bank in New Orleans was closed by state regulators. FDIC was appointed Liquidator, *In re: First NBC Bank.* The $1 Billion

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4 *This* lift-stay was *limited* by agreement so Petitioner could proceed before the Louisiana Supreme Court. The Bankruptcy Court has since DENIED subsequent motions to re-instate the automatic stay, resulting in imminent liquidation of valuable assets, Appendix T at 180a.

5 *This* motion was hotly contested, yet considered as a telephone matter of "Motion Day", reserved for routine matters; Petitioner's requests for an evidentiary hearing have been DENIED.

6 The Motion to Compel that was DENIED sought (a) the price Girod paid for the debt purchased, (b) the due diligence by Kean-Miller as required by ABA 491, (c) a copy of the front and back of the $2,500.00 check to Judge Schlegel's campaign and (d) a copy of the front and back of the $2,075,000.41 check to the sheriff at the October 9, 2019 auction before Girod REO was in existence.

failure was one of the largest in the United States history and the "...*loan-kiting scheme*..." (an exponential variation of check-kiting), was unprecedented. While it takes 2 banks to float a kite, the FNBC did it alone. That criminality was *compounded* by the FDIC's irresponsible November 13, 2017 sale of FNBC shill loans to Girod — a vulture fund. That criminality was further *compounded* by the Kean-Miller law firm, willing to ignore ABA FORMAL OPINION 491, Appendix R at 157a. On May 10, 2017, Petitioner's counsel met with FDIC liquidators at the bank in an attempt to pay all debts owed in full. The FDIC advised that the debt was $9.8 million (a result of the loan-kiting scheme), but would not produce the loan files fifty (50) feet from the Board Room where we met, instructingcounsel to file a FOIA request, which yielded *no* production after six months. *Not one single document.* Counsel filed multiple requests for enforcement of the right of litigious redemption pursuant to Louisiana Civil Code Article 2652, which would have cost Petitioner $300,000[7].

> "When a litigious right is assigned (sold), the debtor may extinguish his obligation by paying to the assignee the price the assignee paid for the assignment, with interest from the date of the assignment."

Over Petitioner's objections, the FDIC sold circa $800 million in FNBC loans to Girod at a deep discount, a hallmark of vulture funding. The sale to Girod, a "silo

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7 See, *Litigation for Sale*, once known as "...Champerty and Maintenance...", 144 University of Pennsylvania Law Review 1529 (1996).

structure", violated FDIC's Final Policy Statement on Policy on the Acquisition of Failed Banks, Appendix S at 172a. On February 21, 2018, Kean-Miller sent Petitioner demands for $9.8 million in alleged loans as to which Petitioner *never* received *any* consideration. Girod has already recovered 800% of the original $600,000 the Heislers owed. Petitioner and the Succession were victimized by Gary R. Gibbs and FNBC operatives, who concealed over $125 million in shill loans to Gibbs by engaging in the loan-kiting scheme which broke the bank. Unable to obtain any relief from Judge Schlegel or two Courts of Appeal, Petitioner filed three Louisiana Supreme Court writs, Appendix-O at 92a, Appendix-P at 114a and Appendix Q at 142a. All three were DENIED on January 20, 2021 without comment. Writ 463, penned *pro bono* by Petitioner co-counsel Judge (Ret.) Michael G. Bagneris, stated "Writ Denied" but inexplicably "...pretermitted..." the no right of action aspect based on *Henson*. Petitioner is surviving on Social Security. Writ Application 1130, also penned *pro bono* by undersigned counsel, was denied in rubber-stamp fashion, evidencing the type of "...guild favoritism..." Justice BREYER addressed in his report to Justice RHENQUIST, *Implementation of the Judicial Conduct and Disability Act of 1980*:

> "The federal judiciary, like all institutions, will sometimes suffer instances of misconduct. But the design of any system for discovering (and assessing discipline for) the misconduct of federal judges must take account of a special problem. On the one hand, a system that relies for investigation upon persons or bodies other than judges risks undue interference

> with the Constitution's insistence upon judicial independence, threatening directly or indirectly distortion of the unbiased handling of individual cases that Article III seeks to guarantee. On the other hand, a system that relies for investigation solely upon judges themselves risks a kind of undue "guild favoritism" through inappropriate sympathy with the judge's point of view or de-emphasis of the misconduct problem."

The denial of writs by the Louisiana Supreme Court appears to have been the result of Justice BREYER's second point above. Here, Judge Schlegel engaged in the infirm practice of "...Judge Schlegel Judging Judge Schlegel...", a matter violating the maxim that:

> "...no man is allowed to be a judge in his own cause; because his interest would certainly bias his judgment, and, not improbably, corrupt his integrity.", *Federalist 10.*

The criminality at FNBC was remarkable. The $996.9 million loss was the largest in the United States since the mid-2000s financial crash one of the largest in history. As to Heisler's Citizen Suit, Appendix J at 51a, the Secretary of State and Attorney General have partly demurred under the "...discretionary exception..." to citizen's lawsuits, as set forth at 25 E. L. R. 10141, *Citizen Suits: The Teeth in Public Participation*, to-wit:

> "U.S. Citizens have a long history of distrusting their government. In keeping with that tradition, Congress has

> never put complete faith in government agencies to protect [the public interest]....Under the long-standing doctrine of enforcement discretion, the rights of citizens to participate in government decisions is subject to an important exception. That doctrine denies citizens a voice in agency decisions on whether and when to use government enforcement power."

So long as there is a "...law to apply...", government does not have wide discretion to ignore the demands of "...private attorney generals...", *Middlesex County v. National Sea Clammers Ass'n*, 453 U.S. 1, 14 (1981) "...when there is a law to enforce..."

Argument on Question One

> Did the Louisiana Supreme Court err by failing to enforce *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), as to a state-court district judge, Scott U. Schlegel ("Judge Schlegel") who was campaigning for Louisiana Supreme Court Justice and accepted $47,500 in contributions from a law firm (Kean-Miller) and its clients ("Texas Brine") in a multi-million dollar case brought *contemporaneously* against Petitioner by the *same* law firm involved in the contributions?

YES. As succinctly stated by Justice KENNEDY in *Caperton*:

> Under our precedents there are objective standards that require recusal when "the probability of actual bias on the part of the judge or decision-maker is too high to be constitutionally tolerable." Withrow v. Larkin, 421 U. S. 35, 47 (1975). Applying those precedents, we find that, in all

the circumstances of this case, due process requires recusal.

In *Caperton*, the Court looked to some aggravating circumstances, such as the percentage level of the contributions and the effect on the election. This Court has also applied the same test we suggested *without* success: whether an average reasonable man, knowing all of the facts at issue, would "...harbor doubts..." about impartiality, *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847 (1988), among others:

> "If we focus on fairness to the litigants, a careful study of Judge Rubin's analysis of the merits of the litigation suggests that there is a greater risk of unfairness in upholding the judgment in favor of Liljeberg than there is in allowing '...a new judge to take a fresh look at the issues'....The guiding consideration is that the administration of justice should reasonably appear to be disinterested as well as be so in fact, *Public Utilities Comm'n of D.C. v. Pollack*, 343 U.S. 451, 466-467 (1952)"

Here, Judge Schlegel provided much more in the realm of aggravating circumstances that eliminated any "...doubt..." for the average reasonable man to "...harbor...". The foreclosure case was by *executory* process, which must be applied *stricti juris*. Every element required must be by authentic evidence and the foreclosing party can present nothing outside the record, *Read v. Meaux*, 292 So. 2nd 557 (1973)[8].

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8 Days after Petitioner's *Henson*-based motion, Kean-Miller paid $2,500.00 to the Schlegel campaign and filed a 335-page pleading changing its "...theory of the case...", accusing Henry Klein of

As soon as the foreclosure was filed, Petitioner's counsel communicated to Judge Schlegel's law clerk that the order should not be signed *ex parte* and a status conference should be held due to at least the criminality at issue. Judge Schlegel's availability was limited by his campaign for Supreme Court Justice.

Nonetheless, Judge Schlegel signed the order for executory process on June 25, 2019. Petitioner first filed an exception of *Lis Pendens* because the issue of Girod's *right* to file judicial demands in Louisiana was prohibited by Louisiana's Door-Closing law, La. R.S. 12:1354(A) and *Milburn v. Proctor Trust*, 949 F.Supp. 54 (1945), a matter already "...pending..." in other courts. Thinking the issue was clear, Petitioner waived oral argument, which was DENIED, forcing Petitioner to re-file and set a hearing date far into the future. The exception was DENIED. Based on *Henson*, Petitioner filed a second exception of no right of action, which was jurisdictional. That exception was DENIED as "...duplicative...". During the frustrating gap between the two hearings, petitioner's counsel communicated to Judge Schlegel's law clerk that the court could (and should) vacate the order *sua sponte*, unaware that Judge Schlegel had an interest in keeping Kean-Miller happy, see Appendix H at 42a. On October 2, 2019, counsel sent an e-mail under the title "Last Try at an Olive Branch", Appendix L at 59a, to Judge Schlegel's law clerk. Judge Schlegel called *that* e-mail a threat to the court and issued a show-cause order "Why Henry Klein Should Not Be Held in [criminal] Contempt of

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taking the $9.8 million. Judge Schlegel allowed the twist to take place and the Court of Appeals followed.

Court." Petitioner removed the case to federal court on the constitutional grounds that Judge Schlegel's order had a *chilling effect* on her lawyer's right to advocate. This Court has held that threats of sanctions are the "...most lethal enemies of the First Amendment...", *Keyishian v. Board of Regents*, 385 U.S. 589 (1968). Realistically, after October of 2019, Petitioner's lawyer was "...gagged..." by the first citation for contempt of court. At *Wolff v. Selective Service Local Board No. 16*, 372 F.2d 817 (1967), the 2d Circuit Court of Appeals, citing *NAACP v. Button*, 371 U.S. 360 (1964), said this:

> "Since it is the mere threat of unconstitutional sanctions which precipitates the injury, *the courts must intervene at once to vindicate the threatened liberties."*

Whether a judge should self-disqualify is not only a *constitutional* mandate, but can rise to a level of misconduct, as set forth by the Louisiana Supreme Court at *In Re: Cooks*:

> "We hold that....where the circumstantial evidence of bias or prejudice is so overwhelming that no reasonable judge would hear the case, *failure of a judge to recuse [himself] is a violation of the Code of Judicial Conduct as well as the Louisiana Constitution."*

On June 3, 2020, Judge Schlegel took the extraordinary action of prohibiting Petitioner's counsel from filing further pleadings *without* his permission, accusing Heisler's counsel of engaging in "...abuse of process..." by filing only two (2) defensive

pleadings, violating 1st Amendment access-to-court principles. See, *A Right of Access to Court Under the Petitioning Clause of the First Amendment*, Carol Rice Andrews, 60 Ohio State Law Journal 557.

As to Question One, the specter of facing contempt for filing pleadings without permission "...strik[es] at the foundation..." of due process and First Amendment liberties, *Wienman v. Updegraff*, 344 U.S. 183 (1952), *(The use of any law as a "chilling" mechanism has been outlawed by the Supreme Court for over 50 years.)* See, *Fear, Risk and the 1st Amendment: Unravelling the Chillling Effect*, 58 Boston University Law Review 685 (1978).

Subsidiary Questions Fairly Included in Question One

Pursuant to Rule 14(1)(a), these subsidiary questions are included in Question One:

- ❑ Whether Judge Schlegel's orders threatening Heisler's counsel with criminal contempt for filing pleadings *without his permission* manifested bias related to the receipt of campaign contributions from Kean-Miller?

YES. Judge Schlegel blocked Heisler's counsel at the intake desk, were clerical employees simply accept filings and collect filing fees without regard to what the pleading says. The fact that *no* level of review took up this *unprecedented* action by a district judge who likely gained popularity in his televised campaign is a testament to

Justice BREYER's comment about "...guild favoritism..." over forty years ago[9].

- ❑ Whether Judge Schlegel's purging of pleadings from the public records violated Heilser's *right to access to courts* protected by the petitioning clause in the 1st Amendment to the United States Constitution?

YES. Purging records and destroying public property in the files of the Jefferson Parish Court mocked the public records doctrine and constituted all of the wrongs the Louisiana Supreme Court considered in *Pawlosky, supra.*

- ❑ Whether Judge Schlegel's orders threatening Heisler's counsel with criminal contempt constituted a "chilling effect" on Heisler's counsel's *freedom of speech and right to advocate his client's case*?

YES. As Regina Heisler fights for her fiscal life, her lawyer is being chilled by a judge we now realize was *impermissibly* compromised by $47,500 donated by opposing counsel and its wealthy clients. Moreover, Judge Schlegel's campaign was moribund.

Argument on Question Two

Did the Louisiana Supreme Court err by failing to enforce *Henson v. Santander Consumer USA*, 582 U.S. ___ (2017) as

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9 Judge Schlegel was popular among his peers, supporting Justice BREYER's comment on guild favoritism. See, Judge Scott Schlegel – A Legal Rebel With A Cause, published by **RIGHT** on Crime.

> to Girod LoanCo, LLC, a Delaware "...vulture fund..." collecting $9.8 million in shill loans it PURCHASED from the FDIC after the closure of First NBC Bank in New Orleans under the guise that it was a "...debt collector..." *not* required to meet Louisiana's Door-Closing laws?

Because Girod was the OWNER of the debt ruthlessly enforced against Petitioner, Girod is *not* a "debt collector" and must pay the penalty set forth by LA R.S. 12:1354(A):

> No foreign limited liability company transacting business in this state shall be permitted to present any judicial demand before any court of this state unless it has been authorized to transact such business as required by and provided in this Chapter.

Fatal to its litigation tactics, Girod did *not* qualify to do business in Louisiana pre-litigation and *cannot* be found anywhere other than in the Cayman Islands, as our investigations have established. Girod's only address of any kind is in Texas, where the Secretary of State has "...no record..." of Girod's *de jure* and/or *de facto* existence. Girod's bravado is based on an illusory exclusion for debt-collectors. But Girod OWNS the paper it purchased from the FDIC. *No* court below enforced the black-and-white letter of the law, making GVR a perfect tool to respect this Court's "...lawful mandates...", *Chambers v. NASCO*, *supra*, at 43:

> "Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum, in their presence, and submission to their lawful mandates."

In the unanimous decision authored by Justice GORSUCH, this Court held that:

> "...the [Unfair Debt Collection] Act defines debt collectors to include those who regularly collect debts 'owed....another'. And by its plain terms this language seems to focus our attention on third party collection agents working for a debt owner — not on a debt owner seeking to collect debts for itself. Neither does this language appear to suggest that we should care how a debt owner came to be a debt owner — whether the owner originated the debt or came by it through a later purchase. All that matters is whether the target of the lawsuit regularly seeks to collect debts for its own account or does so for 'another'."

Because *vulture funds* refuse to name their "investors", we don't even have the identity of who the "...another..." is. An affidavit used by GIROD to stay alive in federal court against Petitioner swore that "...[t]he ownership of Girod is highly confidential..." *Henson* ends the inquiry and this Court should expeditiously enforce the law the Louisiana Legislature intended when it required foreign corporations or LLCs to "...pay to play..."

The Importance of Door-Closing Laws

Allowing Girod to come to Louisiana for the sole purpose of engaging in vulturing its citizens out of billions of dollars is not an insignificant matter. In the documentary: *A Proposed Minimum Threshold Analysis for the Imposition of State Door-Closing Statutes* by Robert M. Denicola, 51 Fordham L. Rev. 1360 (1983), the following explanation is given:

> "Door-closing statutes bar a corporate plaintiff from pursuing an action based on an intrastate claim in a state's courts if the corporation has been conducting intrastate business in that state without having qualified to do so. Their purpose is to encourage foreign corporations to qualify to conduct intrastate business and to pay the state taxes."

For those very valid reasons, Petitioner's citizen suit merits serious consideration by the District Court in Baton Rouge and support by this Court as one of the *Subsidiary Issues Presented.* At footnote 1, Professor Denicola states "...[a]s of 1981, all fifty states, as well as the District of Columbia, had statutes that precluded a foreign corporation from bringing an action in their courts...] absent qualifying. In the case at bar, Girod decided to qualify in May of 2020, raising the issue resolved by the court in *Milburn v. Proctor Trust, supra*: a non-qualifying foreign corporation cannot wait until it "...got caught..." to qualify. In *Milburn*, a foreign bank purchased a multitude of loans and foreclosed for ten years without qualifying. When caught, the foreign bank decided to qualify, causing the following comment to be correctly made:

> "More than that, the construction of the statute urged on behalf of the plaintiff would invite and foster the very evil it was intended to prevent. It would enable foreign corporations to do business in this state in defiance of our laws until some party, perchance, pleaded its noncompliance in an action brought by it to enforce a demand against him. Then it would comply, and the action would proceed. Such a construction is contrary to the letter and spirit of the statute, and, if adopted by the court, would directly tend to defeat the public policy sought to be enforced by its enactment. The most efficient way to compel obedience to this statute is to enforce it as it reads, and not amend it by judicial construction so as to enable foreign corporations to avoid the consequences of a noncompliance with its terms by complying after the penalties have been incurred.", *Id.*, at 994.

Girod has been "...caught red-handed...", but the courts below have failed to give due deference to *Henson* and regulators have failed to "...regulate..."

Subsidiary Questions Fairly Included in Question Two

The following subsidiary questions are included in Question Two:

- Whether Heisler's Citizens suit against the Louisiana Secretary of State and Attorney General for failure to enforce laws passed for the protection of the public interest as to vulture funding and collection of taxes from vulture funds *constitutes an impermissible breakdown* of Separation of

Powers principles?

Louisiana Revised Statute 12:1353 imposes upon the Secretary of State the obligation to be the state's *gatekeeper* and gives the Secretary the authority to enforce a multitude of laws that are being mocked by Girod and other vultures who have descended upon Louisiana citizens like Heisler. Madison and his Angels at Federalist 51 may be turning in their graves. The legislative branch passed good laws that the executive branch has ignores and to date, the judicial branch has forced the widow Heisler to *this* High Court to vindicate her fundamental rights. In Louisiana, the Secretary of State has allowed the vilest of invaders to cross the border.

The next subsidiary question related to Question Presented Two is this:

- ❑ Whether Heisler's requests to the Louisiana Secretary of State and Attorney General to enforce the Louisiana Door-Closing Statute and to collect taxes from vulture funds is subject to the *discretionary exception* to citizen's requests for law-enforcement, as in, *e.g. Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1971)?

In *Citizens to Preserve Overton Park*, this Court considered the actions and non-actions of the Secretary of Transportation under circumstances not alike the facts of this case, but applicable as a matter of administrative law and review. The point we make is applicable to the second issue, the discretionary exception applicable when a citizen's suit seeks to compel regulators to regulate. The point is simple and

straightforward: the exemption for action "...committed to agency discretion..." does not yield when there is a "...law to apply...".

The Louisiana Legislature passed its own "Door-Closing Statute" at La. R.S. 12:1354(A) as have all other 50 states and the District of Columbia. The Secretary of State is the "...gatekeeper..." at Louisiana's border and simply let a vulture fund cross over to fleece Louisiana citizens as Girod has is attempting to fleece Petitioner. Separation of Powers principles must be honored. The Legislative Branch has spoken. The Executive Branch has disobeyed. The Judicial Branch must mandate obedience when there is "...a law to apply...". The same for the Louisiana Attorney General who must collect taxes from the vilest form of visitors to the State. Particularly so when the FDIC violates its guidelines and ABA FORMAL OPINION gets no respect.

Argument on Question Three

> Did Judge Schlegel's order that Petitioner's counsel not file pleadings *without* his permission, coupled with threats of contempt and the purging of public records so violate due process principles, *In re Murchison*, 349 U.S. 133 (1955), as to warrant *vacatur* of his writ of seizure and all subsequent orders?

We rest our case by referencing one of the most often-quoted portions of this Court's history from *Withrow v. Larkin*, 421 U.S. 35 (1975) as follows:

> "a fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U. S. 133, 349 U. S. 136

(1955).... Not only is a biased decision-maker constitutionally unacceptable, but 'our system of law has always endeavored to prevent even the probability of unfairness.' *In re Murchison,* supra at 349 U. S. 136; cf. *Tumey v. Ohio*, 273 U. S. 510, (1927). In pursuit of this end, various situations have been identified in which experience teaches that the probability of actual bias on the part of the judge or decision-maker is too high to be constitutionally tolerable. Among these cases are those in which the adjudicator has a pecuniary interest in the outcome...."

This Case is Worthy of Supreme Court Review

In *NASCO v. Chambers*, Justice WHITE used the term "...inherent power..." or variations over 70 times regarding the integrity of the judicial process. This Court's lawful mandates in *Caperton* and *Henson* have been mocked in the Louisiana courts below. We cite the following from *NASCO* and urge this Court to enforce the law of the land as to both Judge Schlegel's conduct and Girod LoanCo's vultering a 78 year-old widow victimized by criminality not seen in decades.

The abuse of Petitioner in the fiscal pillaging which continues to this day is constitutionally unacceptable. The lady did no wrong and was defrauded without any apparent remedy at law or equity:

> "Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum, in their presence, and submission to their lawful mandates. These powers are 'governed not by rule or statute, but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.' Of particular relevance here, the inherent power also allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court.... '...tampering with the administration of justice in [this] manner involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public.'" (internal citations omitted). *Id.*, at pp 45 and following.

Conclusion

Few cases bring to this High Court as *compelling* a case as this. The collapse of FNBC Bank was monumental; the cascade of governmental checks and balances was and continues to be disturbing; the corrupting of Judge Schlegel by Kean-Miller clients through campaign-contributions "...defiles the very temple of justice..." intended to protect society. Petitioner closes with the sage opinion by Justice FRANKFURTER in *Universal Oil Products Co. v. Root Refining Co*, 328 U.S. 575 (1946):

> "The inherent power of a federal court to investigate whether a judgment was obtained by fraud is beyond question. Hazel-Atlas Co. v. Hartford Empire Co., 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250. The power to unearth such a fraud is the power to unearth it effectively. Accordingly, a federal court may bring before it by appropriate means all those who may be affected by the outcome of its investigation. But if the rights of parties are to be adjudicated in such an investigation, the usual safeguards of adversary proceedings must be observed. *No doubt, if the court finds after a proper hearing that fraud has been practiced upon it, or that the very temple of justice has been defiled, the entire cost of the proceedings could justly be assessed against the guilty parties.*"

The invitation to Judge Schlegel to conduct a *NASCO* hearing fell upon deaf ears. So too, for the appellate tribunals in Louisiana, leaving the task to *this* temple of

justice. But first, Regina Heisler must be set free. Thereafter, the chips will fall where they may. Girod, of course, is a mirage, but ABA 491 might have teeth and guilty parties abound. This High Court should order *vacatur* of Judge Schlegel's infirm orders and dismiss all Girod claims, *nunc pro tunc*. The Heisler Bankruptcy is proceeding apace *without* the automatic stay pursuant to 11 U.S.C. 363(a) and the purloining of an innocent widow's estate and that of her heirs continues unabated with no shame or mercy. The Questions Presented are of nationwide import and judicial misconduct has no boundaries. FDIC recklessness has no consequences and at least two governmental branches have no leaves. The collapse of Separation of Powers principles is certain to have Madison's Angels turning over in their graves, *Federalist 51*. Should the Court grant the Petition and request expeditious briefing, Petitioner's Counsel is ready to further address the *gravity* at hand without delay. Time is of the essence. The fiscal alligators in the Cayman Islands are feasting on American dollars never to be seen again.

Respectfully submitted,

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Supreme Court Bar
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