

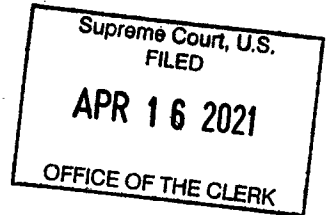
No.

20-1495

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

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**KAREN V. McINTYRE**

*Petitioner,*

*v.*

**KEVIN L. McINTYRE, ET. AL.,**

*Respondents.*

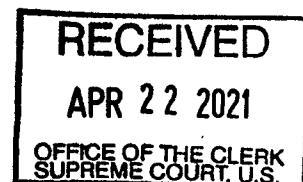
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**ON PETITION FOR WRIT OF CERTIORARI  
TO THE MARYLAND COURT OF APPEALS**

**PETITION FOR WRIT OF CERTIORARI**

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### **QUESTIONS PRESENTED**

Should a state court be allowed to recognize a trust accounting produced by the trustee of an inter vivos trust as meeting the requirements of state law, that was 1) submitted only as a result of legal actions brought against the trustee by a beneficiary of the trust and 2) produced only during the discovery phase of a trial; thereby allowing a court to use its judicial discretion to interpret and/or redefine a trustee's obligation under state law and/or the terms of the trust instrument, that clearly state what the trustee is required to do to satisfy the beneficiaries request for a full, complete and timely accounting of the trust?

Should state courts be allowed to dismiss a case before it has answered an open petition for contempt of court properly filed against a trustee based on state law that mandated the court remove a fiduciary who has "willfully disregarded an order of the court;" thereby violating its oath of office to uphold the laws of the state?

### **LIST OF PARTIES**

A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

The Honorable Yvette Bryant, Judge,  
Circuit Court of Baltimore City  
- *Respondent*

Honorable Matthew Fader, Chief Judge  
Maryland Court of Special Appeals  
- *Respondent*

Honorable Andrea M. Leahy  
Maryland Court of Special Appeals  
- *Respondent*

Honorable Deborah S., Eyler, (Senior Judge, Specially Assigned)  
Maryland Court of Special Appeals  
- *Respondent*

John H. Doud III, Esquire  
Counsel for Kevin L. McIntyre  
- *Defendant – Respondent*

Ronald E. McIntyre,  
- *Defendant - Respondent*

Carolyn E. Wilson  
- *Plaintiff – Respondent*

### **RELATED CASES**

*In the Matter of the Petition of Charles T. McIntyre*, Case No. 24-C-17-003638. Judgement entered November 8, 2013.

*In The Matter Of Charles T. McIntyre Revocable Trust U/A Dated 9/12/12*, Case No. 24C13005487. Judgement entered September 5, 2018.

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**IN THE**  
**SUPREME COURT OF THE UNITED STATES**  
**PETITION FOR WRIT OF CERTIORARI**

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

The opinion of the Maryland Court of Appeals appears at Appendix C to this petition and is unpublished. The opinion of the Maryland Court of Special Appeals appears at Appendix A to this petition and is unpublished.

**JURISDICTION**

In March 2020, this Court extended the time for filing all certiorari petitions due on or after March 19, 2020, to 150 days from the date of, as relevant here, the order denying rehearing. 589 U.S. (Order dated March 19, 2020). The Maryland Court of Appeals denied rehearing in this case on November 20, 2020. A copy of that decision appears at appendix C. This petition is timely filed within 150 days of November 20, 2020, the date petition for writ of certiorari was denied in the Maryland Court of Appeals. The jurisdiction of the U.S. Supreme Court is invoked under 28 U. S. C. §1257(a).

## **CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED**

**Article V, United States Constitution in pertinent part provides:**

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

**Article XIV, Section 1, United States Constitution in pertinent part provides:**

**No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.**



## **STATEMENT OF THE CASE**

### **A. Procedural History**

On July 14, 2017, Petitioner Karen V. McIntyre, filed a complaint against her brother, Respondent Kevin L. McIntyre, trustee of the Charles T. McIntyre Irrevocable Trust, dated September 17, 2012, for Removal of Fiduciary in *Karen V. McIntyre, et al. v. Kevin L. McIntyre, et al.*, Case No. 24-C-17-003720 in the Circuit Court for Baltimore City. Count I of the complaint stated that Kevin had shown himself incapable, with fault to perform properly the duties of his office and had breached his duty of good faith and loyalty in the management of property of the trust, under Maryland Rule ET 15-112 and Maryland Rule 10-712(b). Petitioner requested that the circuit court 1) remove Kevin as trustee of the trust, 2) appoint a substitute trustee, 3) appoint an auditor to examine trustee's administration of the trust, and 4) award money judgments. Count II referred to the doctrine of equitable accounting and asked the court to grant the relief sought in count I. Trial was set for August 22, 2018.

Three days prior to Petitioner filing her complaint, on July 11, 2017, Kevin filed a Petition for Assumption of Jurisdiction of Trust, *In the Matter of the Petition of Charles T. McIntyre*, Case No. 24-C-17-003638. On January 18, 2018, the circuit court consolidated the two cases, with Petitioner's complaint becoming the lead case.

On August 22-24, 2018, the Baltimore City Circuit Court conducted a bench trial, and on September 5, 2018, at the conclusion of the trial, the court granted both parties request for assumption of jurisdiction of the trust, denied all relief sought by Petitioner under the complaint filed in Case No. 24-C-17-003720 and ruled in favor of Kevin in his petition, filed in Case No. 24-C-17-003638, stating that in no way had he breached his duties as trustee. App. A41 - A42

Incorporated in the circuit court order, was an order that Kevin, as trustee, along with his counsel, meet with Plaintiffs and their counsel, to provide them with a final accounting, and any supporting documents pertaining to the accounting that were not provided prior to August 24, 2018, and that supported any changes in the most recent accounting provided to plaintiffs. Defendant was ordered to supply Petitioners with the above said accounting by October 26, 2018. It was further ordered that, no later than November 6, 2018, Defendant Kevin submit to the court, a courtesy copy of the final accounting. App. A42 –A43. Defendant did not comply with either mandate in the order.

On September 4, 2018, Petitioner filed a Motion for New Trial, which the court denied on October 5, 2018. On October 17, 2018, Petitioner noted the instant appeal.

On February 19, 2019, Plaintiff filed a petition for contempt of court, in the Baltimore City Circuit Court against Defendant for his failure to provide both Petitioner and the court with the mandated accounting. On March 11, 2019, the court stayed Plaintiff's petition for contempt, "pending resolution of the matter on appeal." According to the court record today, the circuit court case has been dismissed, and the appeal has been denied. But Kevin still has not complied with order of the court, the stay placed on the petition for contempt of court has not been lifted, and the petition remains unanswered.

### **B. Facts of the Case**

The request for appeal was file with the appellate court based on the following allegations:

- 1) Trustee has refused to provide beneficiaries with the accounting outlined in Section 9.11 of the trust document.
- 2) Accountings provided by Trustee were inaccurate and unsubstantiated.

- 3) The trust stated that, upon Settlor's death, Trustee was to distribute beneficiaries' share "outright and free of trust." However, trust assets have been held bound to the trust to date, and
- 4) Trustee funded the trust with assets not listed on the trust schedule.
- 5) Settlor's funds were transferred to personal accounts and/or withdrawn, and
- 6) Official documents were completed with false information.

This petition addresses the first allegation.

### **1. The Baltimore City Circuit Court**

Paragraph 18g of the complaint Petitioner filed in the circuit court alleged that Kevin had breached his duties as fiduciary by "failing and refusing to provide any accounting to the beneficiaries, as would have been required under trust paragraph 9.11, as well as by Maryland law." Paragraph 9.11 of the trust agreement states, "My trustee must make the trust financial records and documents available to beneficiaries at reasonable times and upon reasonable notice for inspection." This is exactly what Petitioner expected Kevin to do – nothing more, nothing less.

Prior to rendering its ruling at trial, the court questioned defense counsel about Kevin's failure to provide Petitioner with a full accounting of the trust before she filed her complaint; and referred to it as "the elephant in the room" – referring to the underlying documentation that Kevin, as trustee, had not supplied Petitioner with under Section 9.11 of the trust agreement."

Furthermore, in the actual ruling from the bench the court stated:

I do find that Mr. Kevin McIntyre upon attempting to finally close the trust and obtain a release failed to make available the supporting documents to Ms. Karen McIntyre and to Ms. Carolyn Wilson's satisfaction. App. A67.

Yet, the court, concluded,

I do not find there was a failure to provide an accounting. Certainly, by the time of discovery in this case, everything had been provided. App. A68.

Regarding the equitable accounting Petitioner requested, the ruling says,

The Court denies that request as was the case in 11-13 when Judge Pierson had this case before it. All of the documents have been provided. Plaintiffs have the backup documentation. They received that through discovery and at this point there is no accounting to be ordered. App. A81.

As concerning the appointment of an auditor or examiner, the court stated,

I do not find the need to appoint an auditor or an examiner, given the fact that the parties have exchanged all the documentation available up until the time of trial through the discovery process. App. A82.

The court then concluded that the trust documentation Kevin provided during the discovery phase of the trial, was sufficient to meet his legal requirement according to the terms of the trust, to supply Petitioner with a lawful accounting of the trust.

The “case in 11-13” stated above refers to an earlier circuit court case in 2013. In fact, the decision of the circuit court in 2018 was heavily influenced by the ruling in that case. Here Petitioner discusses the ramifications of that case on the circuit court case in 2018.

**a. In the Matter of Charles T. McIntyre Revocable Trust U/A Dated 9/17/12,  
Case No. 24C13005487.**

Petitioner’s first action brought against the Kevin in the Baltimore City Circuit Court was, *In the Matter of Charles T. McIntyre Revocable Trust U/A Dated 9/17/12*, Case No. 24C13005487. Similarly, that petition requested that the court assume jurisdiction of the trust, for the purposes of 1) ordering the trustee to render an accounting, 2) removing the trustee, 3) appointing a successor trustee, and such other relief as justice required. On November 8, 2013, the court denied the petition. Petitioner represented herself, pro se, in the case. Here are the facts:

In the 2013 hearing, Petitioner argued three specific points, using Section 9.11 as the foundation of her argument.

1. Kevin had not made trust financial records and documents available for inspection.

2. Kevin had not responded to Petitioner's formal request for an accounting in a reasonable time, and
3. Kevin did not make the records available "upon reasonable notice for inspection."

Each point is addressed more fully below and is accompanied by the court's ruling.

1. Kevin did not make the trust documents available for inspection.

It was Petitioner's undisputed testimony in court, that Kevin had not provided Petitioner with any trust documentation prior to her filing the petition in circuit court.

In its ruling from the bench, the court summarized its view of an accounting as,

Something in writing that fully accounts to the beneficiaries for every all the assets that have come into the trustee's hands, any income or receipts that have been generated by those assets, any disposition that's been made of the assets, or the receipts, including any expenditures that have been made, such that the beneficiaries are made fully aware of all of the actions that the trustee has taken, and, every, action that has been taken with respect to the assets that are part of the trust. It does not mean all of the underlying records, except to the extent that the accounting is in question. App. A99.

2. Kevin did not respond to Petitioner's request for an accounting in a reasonable time.

The legal definition of the term "reasonable time" is "the time needed to do what a contract requires to be done, based on subjective circumstances."<sup>1</sup> and, 2) is defined as "the time frame seen in similar circumstances."<sup>2</sup>

Petitioner testified in court that, on the eve of the court hearing, Kevin sent her an email containing 44 trust bank statements. Petitioner also testified that she made her request for a full accounting of the trust by certified mail, in November of 2012, a full year earlier. Therefore, Petitioner argued that supplying trust documents a year after a beneficiary had made a formal request for an accounting cannot be considered a "reasonable time".

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<sup>1</sup> Find a legal form in minutes

Reasonable Time Law and Legal Definition | USLegal, Inc.

<sup>2</sup> Mary McMahon Last Modified Date: February 04, et al. "In Law, What Is Reasonable Time?" *Info Bloom*, [www.infobloom.com/in-law-what-is-reasonable-time.htm](http://www.infobloom.com/in-law-what-is-reasonable-time.htm).

The court excused Kevin refusal to provide trust documentation per Petitioner's request, by adopting Defendant Ronald E. McIntyre's response to the court when ask what is a reasonable period of time. Ronald said that in his view, "what is reasonable is in the eye of the beholder," App. A100. The court further elaborated on his statement explaining that,

"what's reasonable is beheld from very different perspectives, from the person or persons who are requesting the information, or the person or persons who are supplying the information." App. A100.

3. Lastly, Kevin did not make the records available "upon reasonable notice for inspection."

Petitioner argued that she was not given reasonable notice for inspection, since she was not provided with any trust documentation until the night before the hearing, and that could not be considered sufficient time for inspection.

The court did not address the lack of notice in its ruling.

In the end, the court ruled that there was no basis for the court to order an accounting, or for the court to remove Kevin as trustee, based on its view that Petitioner had received an adequate accounting and an adequate view of the underlying records of the trustee. The court ruled that this was sufficient to satisfy the requirement of the trust. Therefore, it ruled that that Kevin's actions did not warrant his removal and that it would not order any further accounting of the trust. App. A100.

Most importantly, the court acknowledged and stated on the record that Petitioner had to file an action in court to obtain trust documentation from Kevin. App. A100.

**b. Karen V. McIntyre, et al. v. Kevin L. McIntyre, et al., Case No. 24-C-17-003720**

In the ruling of Case No. 24-C-17-003720, the circuit court repeated the language in the 2013 ruling almost verbatim, stating that Defendant Ronald E. McIntyre "waxed the most eloquent" when he said, "what's reasonable in pretty much in the eye of the beholder." App. A68.

The court, using this as the basis for its ruling, stated, “I do not find there was a failure to provide an accounting. Certainly, by the time of discovery in this case, everything had been provided.” App. A68.

Just as the circuit court in 2013 accepted Kevin’s last-minute email, the night before court, containing trust bank statements as an ‘adequate’ accounting of the trust, so likewise the circuit court in 2018 accepted Defendant’s pre-trial discovery documentation as an equitable accounting of the trust. Both came after the petition was filed and before the trial date.

**c. The Petition for Contempt of Court**

As previously stated, on February 19, 2019, Petitioner filed a petition for contempt of court in the Baltimore City Circuit Court against Kevin for his failure to provide both Petitioner and the court with the court-ordered final accounting. On March 11, 2019, the court stayed Petitioner’s motion for contempt. To date, Defendant has not complied with order of the court, and the petition for contempt of court remains open and unanswered.

It is notable, that the court did not issue a stay on the court order itself. Therefore, the order remains in force to date. Put another way, Kevin has not been relieved of his legal obligation to supply Petitioner and the circuit court with the accounting mandated in the order because of the stay place on the contempt of court petition. The stay on Plaintiff’s petition for contempt did, once again, effectively deny Petitioner of the relief she sought, and right now the court record indicates that Case No. 24-C-17-003720 has been “Dismissed by court.”

Therefore, to summarize:

- Kevin has not complied with the order of the court,
- The court order has not been enforced by the court,
- The stay placed on the petition for contempt of court has not been lifted,

- The petition for contempt of court remains undecided, and
- The court record indicates that the case has been dismissed.

## **2. The Maryland Court of Special Appeals**

The appellate brief was filed with Maryland Court of Special Appeals on October 1, 2020. One of the many issues set before the court in the brief was the fact that Kevin has refused to supply Petitioner with trust documentation apart from litigation. In the Majority Opinion rendered by the court, it deferred completely to the lower court's findings, affirming its ruling on all points. Regarding the specific question as to whether Defendant had provided Petitioner with a full and equitable accounting, the Majority Opinion stated,

The trial court found, by a preponderance of the evidence, that Kevin did not fail or refuse to provide an accounting. App. A32.

The court further concluded that,

The record supports the trial court's finding that Kevin did not fail to provide an accounting and, although he did not provide supporting documentation until discovery, everything was provided to Appellants. It is unclear what more they are seeking. App. A32.

The opinion also rested heavily upon credibility given to Kevin's testimony at trial.

With regards to the various contentions that he failed to provide accountings, Kevin notes that he provided all of the documents for inspection at pre-trial discovery, which was an appropriate response given the "history and threat of litigation in this case." App. A33 – A34.

Note the court concluded that Kevin's provision of trust documentation during pre-trial discovery was "an appropriate response." Lastly, the court affirmed the circuit court's ruling stating,

The trial judge specifically found that Kevin "provided the accounting," that "he did report an accounting to this Court's satisfaction," and that she "did not find there was a failure to provide an accounting." The court also noted that "certainly by the time of discovery in this case, everything had been provided." There is absolutely nothing before us to suggest that the trial court's findings are erroneous. App. A38.

In conclusion, the Maryland Court of Special Appeals ruled that,



We find no error in the trial court's findings or its conclusions that there was "absolutely no basis for the complaint against Mr. Kevin McIntyre" and "no basis to remove him as trustee." App. A39.

### **3. The Maryland Court of Appeals**

The writ of certiorari Petitioner filed in The Maryland Court of Appeals argued that The Maryland Court of Special Appeals violated Petitioner's rights to property under the "due process" clause of the Fourteenth Amendment of the United States Constitution. Petition pointed directly to the opinion in The Maryland Court of Special Appeals, and the Maryland law, statutes and case law set as its standard of review – in particular, Maryland Rule 8-131(c),

When an action has been tried without a jury, the appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

and *Walker v. Grow*, 907 A.2d 255 (Md. Ct. Spec. App. 2006),

"Where the order involves an interpretation and application of Maryland statutory and case law, our Court must determine whether the lower court's conclusions are 'legally correct' under a de novo standard of review." App. A13 – A14.

Petitioner argued that the court applied neither in its review of the case. First, a thorough reading of the Majority Opinion reveals that the court did not review the case in light of Maryland trust law which was the basis for Petitioner's complaint. Petitioner argued that the opinion did not address Maryland ET 15-112, Maryland Rule 10-712, or the many other Maryland statutes put forward and argued in the lower court. Instead, the court gave enormous weight to Kevin and Ronald's testimony, over and above the law and the 33 exhibits entered into evidence in the case. Additionally, the court deferred entirely to the lower court's judicial discretion on all points, thereby violating its legal obligation to review the case by applying the "de novo" standard of review.

Equally important, the writ covered both questions presented before this court. To address the first question concerning pre-trial discovery submission of supporting documentation for the trust, Petitioner here cites verbatim the language incorporated in the writ filed in the Maryland Court of Special Appeals:

**“Karen testified at trial, that Kevin did not respond to any of her requests for an accounting — not one. The only way Karen was able to get Kevin to respond was through court action. In September of 2013, Karen filed a petition in trial court. Then, the night before the hearing on November 6, 2013, Kevin through his counsel, sent 44 trust bank statements via email to Karen. This was the first time Karen had received any official documentation on the trust. Then, only after Petitioners filed another complaint in the circuit court in July of 2017, Kevin provided additional documentation on the trust through discovery.”**

Regarding the second question presented in this writ pertaining to the petition for contempt of court filed with the lower court, Petitioner presented a compelling argument in the writ, stating that had the court “reviewed the case 1) based on the law and the evidence, and 2) based on the 'de novo' standard of review, if nothing else, it should have lifted the stay on the motion for contempt, found Kevin in contempt of court, and removed him as trustee, purely based on the fact that he had defied the court order.” But the court did not address the contempt of court argument at all.

To conclude, the decision of The Maryland Court of Appeals, denying review under the writ of certiorari, effectively closed the door for any further litigation Petitioner could avail herself of in pursuit of legal remedies in this case. To review where things stand at this point in Petitioner's litigation, 1) the circuit court case has been dismissed, 1) no equitable accounting has been provided to Petitioner, as outlined in Section 9.11 of the trust agreement, 2) no accounting has been provided to Petitioner as mandated in the court order, 3) the stay remains on the petition for Contempt of Court, and 4) the order of the circuit court has not been enforced by any state court.

The result now stands that, the Charles T. McIntyre Irrevocable Trust, dated September 17, 2012 is still active (it has been over 10 years since its creation), and Defendant has not provided

any beneficiary with an accounting of the trust since his accounting summary provided in November of 2017. Consequently, Petitioner has been deprived of her right to her father's property held in the trust, by way of the 'due process' clause of the Fourteenth Amendment of the Constitution of the United States.

## **REASONS FOR GRANTING THE PETITION**

### **A – State Acceptance of Pre-Delivery Accounting**

The implications of this case are far-reaching, and they do redefine what Maryland courts deem to be a legally acceptable trust accounting under Maryland trust law. In Petitioner's pursuit, simply to get her brother, Defendant Kevin L. McIntyre, trustee of the Charles T. McIntyre Irrevocable Trust dated, September 17, 2012, to fulfill his legal duty to provide all beneficiaries with a full, complete, accurate and timely accounting of their father's trust, she has presented her case before four separate Maryland courts; two circuit courts and two appellate courts; and been denied the relief sought on all four occasions.

#### **1– Pre-Discovery Accountings**

The decision of the Baltimore City Circuit Court in 2013 set the precedent the remaining Maryland courts adopted and indeed did reinforced in their rulings – to recognize a pre-trial accounting as the sole requirement a trustee must meet 1) to fulfill his obligation to provide beneficiaries with the trust accounting required by Maryland courts; and 2) to avoid removal as trustee. By implication, its decision stated that, under Maryland trust law, no trust accounting – by that Petitioner means the accounting dictated by the terms of the trust – is required prior to a legal action having been initiated against a trustee. That decision was then utilized as the basis for the 2018 circuit court decision, which extended the court's acceptance of trust documentation to include a pre-discovery trust accounting as legally recognizable by state courts.

Unfortunately, the final step and the conclusion to the matter came first by affirmation of the circuit court decision in The Maryland Court of Special Appeals, and

second, the denial of review in The Maryland court of Appeals. Petitioner argues that this manner of trust accounting is not currently recognized in any other state in the union as fulfilling the lawful duty of a trustee to provide beneficiaries with an account of a trust.

Furthermore, the rulings rendered by Maryland state courts conflict with *Huie v. DeShazo*, 922 S.W.2d 920, 923 (rex. 1996), where The Supreme Court of Texas ruled, regarding trustee's duty to provide trust documentation to beneficiaries, that the duty of disclosure "exists independently of the rules of discovery, applying even if no litigious dispute exists between the trustee and beneficiaries."

## **2 – The Terms of the Trust take precedence**

Secondly, the Maryland state circuit court decisions conflicted with the terms of the trust agreement. The trust states, without qualification that the trustee "must make the trust financial records and documents available to beneficiaries." Both circuit court decisions admitted that Kevin did not willingly "make the trust financial records available. It took Petitioner initiating litigation to force Kevin to fulfill his duty to provide a trust accounting – to include trust documentation.

Secondly, in each case, Kevin provided less than a full and complete accounting of the trust. *In re McCabe's Estate*, 220 P.2d 614, 616 (Cal. Ct. App. 1950) stated that "trustee is obligated to provide beneficiaries with a 'full account of all their dealings with the trust property'" The key word is "all." However, in the 2013 ruling from the bench, the circuit court overruled the terms of the trust, stating that a trustee was not required to supply beneficiaries with all the underlying documents of the trust upon request; that a trustee is only required to do so, when a discrepancy arises between a trust report and trust

documentation. App. A99. In *Branch v. White*, 239 A.2d 665 (N.J. Super. Ct. App. Div. 1968), the court stated:

The extent of the duties of a trustee depends primarily upon the terms of the trust. Where there is no provision, express or implied, in the terms of the trust, the duties of a trustee are determined by principles and rules which have been evolved by courts of equity for the governing of the conduct of trustees.

Similarly, the 2018 circuit court order acknowledged that Kevin again did not provide Petitioner with a full accounting. It ordered Kevin to provide Plaintiffs with any supporting documents pertaining to the accounting that 1) were not provided prior to August 24, 2018 (the trial date) and, 2) support any changes in the most recent accounting provided to Plaintiffs. Furthermore, it rationalized and excused Kevin's failure to provide Petitioner with an accounting.

That's where the family dynamic comes in for this Court. Because counsel for Mr. McIntyre, as trustee of the trust, said to the Court that once he got the letter in January, he took time to find a lawyer and he got representation to address the issue of the accounting and before all of that could be done the lawsuits got filed. App. A71.

*Thompson v. Trustees of Phillips Exeter Academy*, 196 A.2d 42, 45 (N.L. 1963) found "that trustee is not relieved of duty to administer trust according to terms of trust instrument even if he acts in good faith."

### **3 – Reasonable times and Upon Reasonable Notice**

The 2013 decision also strained the reach and boundaries of judicial discretion regarding the phrases, "reasonable times" and "upon reasonable notice" to include the lead up to and including pre-trial submission of trust documentation, after a petition has been filed. That ruling allowed Respondent Ronald E. McIntyre to define the term "reasonable

times” to vaguely mean “what is reasonable is in the eye of the beholder.” Quoting Ronald’s line of testimony again, the 2018 circuit court extended this ruling even further to include pre-discovery submission of trust documentation. Finally, the appellate court affirmed the 2018 ruling, stating that the circuit court decision was “an appropriate response given the ‘history and threat of litigation in this case.’”

Kevin’s behavior in the administration of his father’s trust has been egregious; and the unintentional consequence of each Maryland court decision is that they have encouraged the continuation of Kevin’s abuse behavior throughout the life of this litigation up to and including this point in time. To date he still has not provided Petitioner with any kind of trust accounting in an attempt to at least comply with the court order. It is not far-fetched to conclude, that were it not for Petitioner having brought her legal actions against Kevin over the past nine years, she would have nothing in the form of an accounting, except for the one-page accounting summary Kevin provided her with in December of 2016.

#### **B – Contempt of Court and Dismissal of a Case**

Maryland Estates and Trusts § 15-112(a)(1)(iii) states, “A court shall remove a fiduciary who has willfully disregarded an order of court. The language in § 15-112(a)(1) which states “A court shall remove a fiduciary,” stands in stark contrast to the language in § 15-112(b)(1), which states, “A court may remove a fiduciary,” and can only be interpreted to mean without exception. In other words, the order in this statute is not left to the judicial discretion of the presiding court, as to whether it should or must carry it out.

Furthermore, this order is distinct from all other arguments raised in the writ, in that this is not an order with instructions to a party of a suit; no, this order instructs the court as to its duty. The obvious question is, "Should a court be required to abide by its own laws?"

In the writ of certiorari filed in the Maryland Court of Appeals, this is what Petitioner argued verbatim:

- 1) "an appeal does not negate the lower court's legal duty to remove a fiduciary who knowingly defies a court order,
- 2) this was a dereliction of duty on the part of trial court, and
- 3) if the Court of Special Appeals had reviewed the case based on the 'de novo' standard of review, it would have lifted the stay on the motion for contempt, found Kevin in contempt of court, and removed him as trustee, purely based on the fact that he has defied the court order."

The issues raised in the questions put before this court, were also raised in the Maryland Court of Appeal. Yet, there appears to be no concern in Maryland's appellate courts, to the extent that this case has been dismissed without addressing 1) mandatory statutes in Maryland trust law, and 2) a contempt of court order that remain unanswered.

Petitioner is left to conclude that the courts have either intentionally looked the other way or deliberately refused to:

- 1) address the faulty reasoning underlying the court's opinion regarding accepting pre-trial discovery as a legitimate accounting of a trust, and/or
- 2) execute its duty to remove trustee for contempt of court as required by law.

Either way, Petitioner is left with no further legal recourse other than to file this writ with The Supreme Court of the United States, under the Fifth and Fourteenth Amendments of the Constitution, praying that she will at last see equity and justice prevail under both the state and federal laws of this union.



Petitioner would like to leave this court with this experience. In the past several months, Petitioner was in Washington, D.C., visiting its historical structures. While there, Petitioner drove to the Supreme Court, and stood out front. While standing there, Petitioner was struck by the caption atop the front of the building that reads, “Equal Justice Under the Law.” Curious as to the origins of the phrase, Petitioner did a little research and was amazed to learn that the phrase is based upon Fourteenth Amendment jurisprudence, which has become the foundation upon which she has filed this writ of certiorari.

The phrase speaks to the rule of law – “the rule of law” meaning that “everyone must obey the law, and no one is above the law.”<sup>3</sup>

Once again this made a deep impression upon Petitioner; the reason being that Respondent Carolyn E. Wilson has repeated stated throughout the course of this litigation over the past 9 years, because of the decisions of every Maryland court, that Kevin L. McIntyre believes he is above the law.

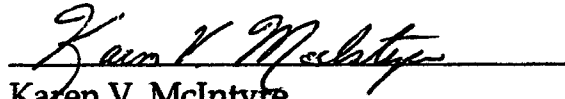
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<sup>3</sup> USCIS [https://www.uscis.gov/sites/default/files/document/lesson-plans/Intermediate\\_Judicial\\_Branch\\_handouts.pdf](https://www.uscis.gov/sites/default/files/document/lesson-plans/Intermediate_Judicial_Branch_handouts.pdf)

**CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, reading "Karen V. McIntyre", is written over a horizontal line.

Karen V. McIntyre

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