

**20-5559**  
Docket No. \_\_\_\_\_

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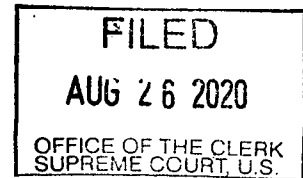
IN THE  
SUPREME COURT OF THE UNITED STATES

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**Tim Sundy**  
Petitioner

vs.

**FRIENDSHIP PAVILION ACQUISITION CO. LLC**  
**Charles Baker**, Clerk of the Superior Court of Hall  
Respondents



**ORIGINAL**

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PETITION FOR A WRIT OF CERTIORARI

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to the Supreme Court of Georgia from a determination in case S20M1044

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**TIM SUNDY**  
227 Sandy Springs Place, Ste. D-465  
Sandy Springs, GA 30328  
email: dstshall@earthlink.net  
*Pro se Petitioner*

with motion and affidavit accompanying  
for permission to proceed in forma pauperis

## **Questions presented for review**

- 1) Given that Art. I, Sec. II, Par. I, of the Constitution of Georgia of 1983 states. (a) "Public officers are the trustees and servants of the people and are at all times amenable to them," and OCGA § 9-2-3(b) states that "For every right there shall be a remedy...", does the refusal of Georgia courts to provide a Georgia litigant any "plain, speedy, and efficient" remedy to officers of the Georgia courts tampering with the court record in the litigant's cases, while also denying the litigant any declaration that the litigant is immune from criminal activity, impose unusual hardship and deprive the litigant of protections guaranteed by the First and Fourteenth Amendments of the U.S. Constitution?
- 2) Whether the retaliatory pattern and practice of Georgia court officers removing and/or withholding documents from the court record of an active civil case, or tampering with documents in the court record of an active civil case, to deprive a litigant of the consideration of all relevant factors and subject a litigant to clear errors of judgment, amounts to inconsistent due process and deprives the litigant of protections guaranteed by the First and Fourteenth Amendments of the U.S. Constitution?

## **A list of all parties to the proceeding**

In compliance with Rule 12.6 Rules of the Supreme Court of the United States, all parties listed below have an interest in the outcome of the judgment sought to be reviewed and promoted the judgment via inconsistent due process and/or Fraud upon the court.

Charles Baker; Clerk of the Superior Court of Hall County

Friendship Pavilion Acquisition Company, LLC; a Delaware corporation

## **Corporate Disclosure Statement**

The Petitioner is not a corporation.

## **List of All Proceedings**

Pursuant to Rule 14(b)(iii)- Rules of the Supreme Court of the United States, the list in State and Federal trial and appellate courts, including proceedings in this Court, that are directly related to the case and the Judgment sought to be reviewed in this Court as follows:

### **Cases in the State Magistrate Court of Hall County Georgia:**

Case **MV2015150183**- Friendship Pavilion Acquisition Company, LLC. v. Mediterranean Dining Group, affidavit for summons of dispossessory, filed 9 June 2015 and transferred to Superior Court of Hall County ("HCSC") on 2 July 2015 as HCSC case **2015CV1366**.

### **Cases in the Superior Court of Hall County Georgia:**

Case **2015CV1366**- Friendship Pavilion Acquisition Company, LLC. v. Mediterranean Dining Group, Defendant, and Tim Sundy and David Sundy, Intervenor Defendants and Third-party Plaintiffs vs Michael Weinstein, ARSENAL REAL ESTATE FUND II-IDF, L.P.; Thomas Ling, Gary Picone, Third-Party Defendants. Judgment entered December 3, 2016 and December 6, 2016

Case **2016CV0982** -Tim Sundy v. C. Andrew Fuller, et al., a *Brown v. Johnson*, 251 Ga. 436 (Ga.1983) mandamus action. Judgment entered August 22, 2018.

Case **2017CV0031** -David Sundy v. Charles Baker, et al., a *Brown v. Johnson*, 251 Ga. 436 (Ga.1983) mandamus action. Judgment entered April 3, 2017.

Case **2017CV1125J** Charles Baker v. David Sundy and Tim Sundy. Judgment entered July 10, 2018

Case **2018CV00502** -In re: David Sundy, Still Pending.

## **Cases in the Georgia Court of Appeals:**

Case Number: **A17D0476** (*Docket Date: May 31,2017*)  
Style: DAVID SUNDY v. MARTHA C. CHRISTIAN, JUDGE  
ET AL.  
COA Status: Denied 06/21/2017  
Trial Court Case #: 2015CV1366

Case Number: **A17D0476** (*Docket Date: May 31,2017*)  
Style: DAVID SUNDY v. MARTHA C. CHRISTIAN, JUDGE  
ET AL.  
COA Status: Granted 06/21/2017  
Trial Court Case #: 2017CV31A

Case Number: **A17D0525** (*Docket Date: June 19,2017*)  
Style: DAVID SUNDY ET AL. v. FRIENDSHIP PAVILION  
ACQUISITION COMPANY, LLC ET AL.  
COA Status: Dismissed 07/17/2017  
Trial Court Case #: 2015CV1366

Case Number: **A18A0170** (*Docket Date: August 14,2017*)  
Style: DAVID SUNDY v. MARTHA CHRISTIAN ET AL.  
COA Status: Lower Court Affirmed 03/28/2018  
Trial Court Case #: 2017CV000031

Case Number: **A18A0290** (*Docket Date: September 13,2017*)  
Style: TIM SUNDY ET AL. v. FRIENDSHIP PAVILION  
ACQUISITION COMPANY, LLC ET AL.  
COA Status: Dismissed 10/03/2017  
Trial Court Case #: 2015CV1366

Case Number: **A18D0215** (*Docket Date: November 29,2017*)  
Style: TIM SUNDY ET AL. v. FRIENDSHIP PAVILION  
ACQUISITION COMPANY, LLC ET AL.  
COA Status: Dismissed 12/28/2017  
Trial Court Case #: 2015CV1366

Case Number: **A19D0108** (*Docket Date: September 21,2018*)  
Style: TIM SUNDY v. FRIENDSHIP PAVILION  
ACQUISITION CO., ET AL.  
COA Status: Denied 10/19/2018  
Trial Court Case #: 2016CV982

Case Number: **A19D0345** (*Docket Date: February 15,2019*)  
Style: TIM SUNDY v. FRIENDSHIP PAVILION  
ACQUISITION COMPANY, LLC  
COA Status: Dismissed 03/15/2019  
Trial Court Case #: 2015CV1366

Case Number: **A19E0011** (*Docket Date: September 19,2018*)  
Style: DAVID SUNDY ET AL. v. CHARLES BAKER ET AL.  
COA Status: Denied 09/19/2018  
Trial Court Case #: 2017CV1125

Case Number: **A19E0011** (*Docket Date: September 19,2018*)  
Style: DAVID SUNDY ET AL. v. CHARLES BAKER ET AL.  
COA Status: Denied 09/19/2018  
Trial Court Case #: 2016CV982

Case Number: **A19E0011** (*Docket Date: September 19,2018*)  
Style: DAVID SUNDY ET AL. v. CHARLES BAKER ET AL.  
COA Status: Denied 09/19/2018  
Trial Court Case #: 2015CV1366

Case Number: **A19E0011** (*Docket Date: September 19,2018*)  
Style: DAVID SUNDY ET AL. v. CHARLES BAKER ET AL.  
COA Status: Denied 09/19/2018  
Trial Court Case # 2018CV502

Case Number: **A20D0016** (*Docket Date: July 29,2019*)  
Style: TIM SUNDY v. FRIENDSHIP PAVILION  
ACQUISITIONS CO., LLC et al.  
COA Status: Dismissed 08/27/2019  
Trial Court Case #: 2015CV1366

Case Number: **A20E0037** (*Docket Date: March 13,2020*)  
Style: TIM SUNDY v. FRIENDSHIP PAVILLION  
ACQUISITIONS LLC et al.  
COA Status: Denied 03/13/2020  
Trial Court Case # 2015CV1366

Case Number: **A20D0398** (*Docket Date: June 10,2020*)  
Style: TIM SUNDY v. FRIENDSHIP PAVILLION  
ACQUISITIONS LLC et al.  
COA Status: Denied 07/07/2020  
Trial Court Case # 2015CV1366

## Cases in the Supreme Court of Georgia:

Case Number: S17O1606 (*Docket Date: May 10, 2017*)  
Style: SUNDY v. BAKER et al.  
GSUP Status: Dismissed 05/30/2017 Reconsid. Denied: 06/30/2017  
Trial Court Case # 2015CV1366

Case Number: S18C0377 (*Docket Date: May 10, 2017*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 05/30/2017  
Trial Court Case # 2015CV1366

Case Number: S18C0475 (*Docket Date: November 13, 2017*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 05/07/2018  
Trial Court Case # 2015CV1366

Case Number: S18C0710 (*Docket Date: January 19, 2018*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 05/07/2018  
Trial Court Case # 2015CV1366

Case Number: S18C0395 (*Docket Date: November 8, 2018*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 06/03/2019; Recons. Denied 07/01/2019  
Trial Court Case # 2016CV982

Case Number: S19D0602 (*Docket Date: January 2, 2019*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Transferred to COA 01/31/2019  
Trial Court Case # 2015CV1366

Case Number: S19D0838 (*Docket Date: February 25, 2019*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Transferred to COA 03/20/2019  
Trial Court Case # 2015CV1366



Case Number: S18C0395 (*Docket Date: November 8, 2018*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 06/03/2019; Recons. Denied 07/01/2019  
Trial Court Case # 2016CV982

Case Number: S18C0943 (*Docket Date: March 20, 2019*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 11/04/2019  
Trial Court Case # 2015CV1366

Case Number: S19O1351 (*Docket Date: June 13, 2019*)  
Style: SUNDY v. CHRISTIAN et al.  
GSUP Status: Dismissed 08/05/2019; Recons. Denied 08/20/2019  
Trial Court Case #

Case Number: S20M1044 (*Docket Date: March 25, 2020*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: Denied 03/31/2020  
Trial Court Case #

Case Number: S20C1075 (*Docket Date: April 2, 2020*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: pending  
Trial Court Case # 2015CV1366

Case Number: S21C0007 (*Docket Date: July 30, 2020*)  
Style: SUNDY et al v. FRIENDSHIP PAVILLION  
ACQUISITION LLC et al.  
GSUP Status: pending  
Trial Court Case # 2015CV1366

**Cases in the U.S. District Court – Northern District of Georgia:**

Case Number: 2:15-cv-00149-RWS (*Docket Date: July 10, 2015*)  
Style: FRIENDSHIP PAVILLION ACQUISITION LLC v.  
MEDITERRANEAN DINING et al.  
USDC Status: Remanded to Hall County Superior Court 12/04/2015  
Trial Court Case # 2015CV1366

Case Number: 2:16-cv-00123-WCO (*Docket Date: June 14, 2016*)  
Style: SUNDY v. FRIENDSHIP PAVILLION ACQUISITION  
LLC et al.  
USDC Status: Remanded to Hall County Superior Court 08/31/2016  
Trial Court Case # 2016CV982

Case Number: 2:18-cv-0112-SCJ (*Docket Date: July 10, 2018*)  
Style: SUNDY v. FRIENDSHIP PAVILLION ACQUISITION  
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Style: SUNDY v. FRIENDSHIP PAVILLION ACQUISITION  
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USDC Status: Denied (most documents restored by SCJ prior to USCA  
ruling)  
Trial Court Case # 2:18-cv-0112-SCJ

Case Number: 19-10445 (*Docket Date: April 11, 2019*)  
Style: SUNDY v. FRIENDSHIP PAVILLION ACQUISITION  
LLC et al.  
Sundy's injunctive petition regarding documents  
missing from 2:18-cv-0112-SCJ  
USDC Status: Denied (most documents restored by SCJ prior to USCA  
ruling )  
Trial Court Case # 2:18-cv-0112-SCJ

Case Number: 19-11391 (*Docket Date: February 4, 2019*)  
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Case 19-8491- In re: Tim Sundry, pending.

Case 19-7600-Title: Tim Sundry, Petitioner v. Friendship Pavilion Acquisition  
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Case 19-6694-Tim Sundry, Petitioner v. Martha C. Christian, Judge, et al....for writ  
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## **PETITION FOR A WRIT OF CERTIORARI**

*Pro se* Petitioner Tim Sundy, unwilling to acquiesce to an incomplete record in the courts below, respectfully petitions for a writ of certiorari to review the decision of the Supreme Court of Georgia in S20M1044, Sundy's EMERGENCY MOTION FOR A SUPERSEDEAS PURSUANT TO RULE 9 OF THE SUPREME COURT OF GEORGIA. Insofar as applicable, the form of a petition for a writ of certiorari as prescribed by this Court's Rule 14 is followed.

### **I. OPINIONS BELOW**

The Supreme Court of Georgia's opinion in case S20M1044 is unpublished. Sundy's Motion was denied on 31 March 2020. See Appendix at **A001**.

### **II. STATEMENT OF JURISDICTION**

This Court has appellate jurisdiction over the Supreme Court of Georgia's denial on 31 March 2020 of Sundy's Emergency Motion. This Petition in the United States Supreme Court, being put in U.S. priority mail on **26 August 2020**, is timely under this Court's MARCH 19, 2020 ORDER on filing deadlines in light of the ongoing public health concerns relating to COVID-19, as well as Rule 13.1 and Rule 30.1: Rules of the Supreme Court of the United States.

The relief sought in case S20M1044 was an attempt by Sundy to enforce his right to a complete record in Georgia civil court case 2015CV1366 in Hall County Superior Court ("HCSC").

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). Additionally, the Petitioner is attempting to invoke the equity jurisdiction of this Court. Fraud upon the court confers equitable jurisdiction on a court to set aside a



judgment where the unsuccessful party has been prevented from exhibiting fully his case, by fraud or deception practiced on him by his opponent, as by keeping him away from court. *Luttrell v. U.S.*, 644 F. 2d 1274, 1276 (9<sup>th</sup> Cir. 1980).

### **III. RELEVANT CONSTITUTIONAL PROVISIONS**

The Fourteenth Amendment to the United States Constitution guarantees that Petitioner Sundy is immune from criminal activity. The purview of the Fourteenth Amendment to the United States Constitution is in agreement with the Constitution of the State of Georgia Art. 1 § 1¶ 2: Protection to person and property; equal protection. Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws.

The purview of the First Amendment right to petition for redress of grievances and access to the court is also implicated, as well as the Fourth Amendment right to be secure in one's papers. Rights and remedies are inextricably intertwined.

### **IV. STATUTE INVOLVED**

Section 1512(c)(1)(2) of Title 18, added to the United States Code as part of the Sarbanes-Oxley Act of 2002, documents the criminal nature of tampering with a court record and states: "(c) Whoever corruptly- (1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object's integrity or availability for use in an official proceeding..." Section 1512(f)(1) of Title 18 states that an official proceeding need not be pending or about to be instituted at the time of the offense.

## V. INTRODUCTION

Under the U.S. Constitution, the right of access to the courts is guaranteed and protected from unlawful interference and deprivations by the state. Georgia's lower courts and appellate courts have invaded Sundy's private substantive and procedural legally protected interests guaranteed by the statutes and constitution of the United States while requiring ineffectual activity on the part of *pro se* Sundy. The principal motivating factor appears to be to cover up the malfeasance and misfeasance of court officers by denying Sundy his right of access to the courts, thereby violating Sundy's constitutional rights under the Fourteenth Amendment.

As has been said, "A mere formal right of access to the courts does not pass constitutional muster." Courts have required that the access be "adequate, effective, and meaningful." *Bounds v. Smith*, 430 U.S. 817, 97 S.Ct. 1495, 52 L.Ed.2d 72 (1977); *see also Rudolph v. Locke*, 594 F.2d 1076, 1078 (5th Cir. 1979). Interference with the right of access to the courts gives rise to a claim for relief under 42 U.S.C. § 1983. *Sigafus v. Brown*, 416 F.2d 105 (7th Cir. 1969) (destruction by jail guards of legal papers necessary for appeal supports claim for damages under § 1983); *McCray v. Maryland*, 456 F.2d 1, 6 (4th Cir. 1972) ("Of what avail is it to the individual to arm him with a panoply of constitutional rights if, when he seeks to vindicate them, the court-room can be hermetically sealed against him by a functionary who, by refusal or neglect, impedes the filing of his papers?"); *Crews v. Petrosky*, 509 F. Supp. 1199, 1204 n. 10 (W.D.Pa. 1981). ("An allegation that a clerk of state court has negligently delayed the filing of a petition for appeal, and that the

delay has interfered with an individual's right of access to the courts, may state a cause of action under 42 U.S.C. § 1983.").

This Court has characterized this right of access in the following terms:

The right to sue and defend in the courts is the alternative of force. In an organized society it is the right conservative of all other rights, and lies at the foundation of orderly government. It is one of the highest and most essential privileges of citizenship, and must be allowed by each state to the citizens of all other states to the precise extent that it is allowed to its own citizens. Equality of treatment in this respect is not left to depend upon comity between the states, but is granted and protected by the Federal Constitution. *Chambers v. Baltimore Ohio Railroad*, 207 U.S. 142, 28 S.Ct. 34, 52 L.Ed.

This Court has also long held that "[t]he hallmark of property . . . is an individual entitlement grounded in state law, which cannot be removed except 'for cause.'" *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 102 S.Ct. 1148, 1155, 71 L.Ed.2d 265 (1982). *See also Goss v. Lopez*, 419 U.S. 565, 95 S.Ct. 729, 735-36, 42 L.Ed.2d 725 (1975); *Board of Regents v. Roth*, 408 U.S. 564, 92 S.Ct. 2701, 2708-09, 33 L.Ed.2d 548 (1972). Under O.C.G.A. § 9-11-11.1, Sundry has a property interest in a complete court record, with the Georgia Legislature declaring that the valid exercise of the constitutional rights of petition and freedom of speech should not be chilled through abuse of the judicial process

Court officers of Georgia's Hall County Superior Court ("HCSC") have abused the judicial process by withholding Sundry's documents from the court record and/or tampering with Sundry's documents in the court record of civil action HCSC 2015CV1366, creating an incomplete record that is misleading, false, and which materially misrepresents facts. The Georgia courts have refused Sundry any "plain, speedy, and efficient" remedy to the superior court's tampering with the record and

the restraint of Sundy's liberty, while also depriving Sundy of any declaration that Sundy is immune from criminal activity as guaranteed by the constitutions of both the State of Georgia and the United States. Sundy has been deprived of his substantive right of access to the courts. Sundy has been deprived of his right to procedural due process under the First, Fifth and Fourteenth Amendments. Sundy has also been deprived of any adequate state remedy by Georgia's appellate courts, with appellate court clerks going so far as to falsify the appellate record(s) to predetermine that Sundy's cause is futile

Petitioner Sundy has a statutory and constitutional right to a complete record of proceedings in the courts below, as well as consistent due process without undue interference. Sundy is respectfully seeking that this Court issue a writ of certiorari to the Supreme Court of Georgia to review the case below so that Petitioner's rights may be honored. Such relief is warranted by the extraordinary nature of this case. Sundy has suffered actual prejudice and irreparable injury as the result of court officers' repeated actions of removing and/or withholding Sundy's pleadings from the court records, as well as court officers' statutory violations, misstatements and misleading statements in lower court documents to commit fraud upon the court.

## **VI. STATEMENT OF THE CASE**

Petitioner Tim Sundy is not a lawyer but a citizen with the constitutional right to be secured in his person and papers. *Pro se* Petitioner Sundy is subject to judges and clerks of court in Georgia's appellate courts and Hall County Superior Court (as well as in the federal court) – in or proximate to Atlanta -- removing and/or tampering

with papers in the records of civil actions in conflict with the First, Fourth, Fifth, and Fourteenth Amendments of the U.S. Constitution. Since December 2015, Petitioner Sundy has been deprived of his civil rights by court officers tampering with the court record to criminally interfere with Sundy's access to the court, depriving Sundy of his right to defend himself against civil liability, and pursue meritorious claims against billion-dollar corporate entity Friendship Pavilion Acquisition Company Inc. LLC ("Friendship") in an *in rem* proceeding. Because court officers are tampering with the records in Sundy's cases, the court records are not complete and do not reflect the proof of all orders, notices, objections, etc. to the court, causing Petitioner Sundy to be procedurally deficient or falsely exposing Petitioner to sanctions.

The face of the record in civil case 2015CV1366 in Hall County Superior Court ("HCSC") does not plainly reveal error. Hidden from the reviewer is the fact that Sundy's December 20, 2016 "joint objection" was removed from the record of 2015CV1366 for 18 months and restored on 10 July 2018. The order restoring the joint objection is absent from the record, depriving the court of any evidence that Sundy's joint objection was missing and depriving Sundy of appeal of the order. There is no response in the record to Sundy's joint objection by the trial court or adverse parties.

The face of the record does not reveal HCSC mandamus actions 2016CV982 and 2017CV031, initiated by Sundy to force the court to restore the joint objection to the record. The face of the record does not reveal the action initiated by Respondent Clerk of Court Baker, HCSC 2017CV1125, to restore Sundy's joint objection after Clerk Baker was dismissed with prejudice from the mandamus

action because the mandamus judge said that the court couldn't find the missing document in the record. The face of the record does not reveal that Clerk Baker has continued to delay docketing or withhold Sundy's documents from HCSC court records.

The face of the record does not reveal that from March 2018 through July 2018, HCSC subjected Sundy to a retaliatory secret, oral injunctive filing order whereby Respondent HCSC Clerk Baker refused to accept, or accepted but failed to file Sundy's pleadings and documents in violation of Baker's purely administrative duties.

The face of the record does not reveal that the same day the Sundys initiated civil action **2:18-CV-0112** in U.S.D.C. Northern District of Georgia – Gainesville Division ("USDC"), disqualified HCSC Judge C. Andrew Fuller *sua sponte* issued a written, open-ended injunctive filing order **A002** whereby, as unlawfully enforced by the Clerk of Court and Hall County Sheriff's Office, Sundy was refused physical access to the office of the clerk of court and intimidated by threat of arrest.

The retaliatory, unjustified and unbounded injunctive filing order, although issued only in HSCS 2016CV0982 without notice to Sundy and with no substantive findings by any court that Sundy's pleadings are frivolous or in bad faith, has been unlawfully applied to the entire Hall County Superior Court system though not filed in any other case, with the Real Estate Division of the HCSC Clerk's Office even refusing to file Sundy's papers germane to USDC 2:18-CV-0112. The unbounded injunction infringes on Sundy's right of access to the courts and has been used by

HCSC to repeat an ongoing pattern of material falsity, i.e., concealing the material fact of Sundy's documents/pleadings while depriving Sundy of rights under color of law.

Because the injunctive filing order is absent from the record of HCSC 2015CV1366, Sundy can neither appeal it nor provide documentary evidence of denial of constitutional rights of access, equal protection and due process. To prevail on appeal, a defendant "must be able to show reversible error, and he must do so on the existing record." *Collier v. State*, 834 S.E.2d 769 (Ga. 2019). The existing record is incomplete in 2015CV1366 HCSC as well as every other case in which Sundy is a party and the filing injunction has been used by HCSC court officers to strategically deprive Sundy of access to the courts while ensuring that *pro se* Sundy is legally disadvantaged. Despite Sundy's every attempt to remedy the incomplete record(s), Georgia's appellate courts have refused to make available a means to remedy the deprivation.

In November 2018, defying the terms of his own injunctive order **A002**, disqualified Judge Fuller neither reviewed Sundy's 14 November 2018 INTERVENORS' STANDING OBJECTIONS TO ALL VOID ORDERS AND PROCEEDINGS, AND NOTICE TO THE COURT OF PENDING MATTERS IN FEDERAL COURT ("**2018 Objection**") submitted by certified mail, nor did Respondent Baker file Sundy's **2018 Objection**. Instead, two weeks later, by hand written ORDER stamp-filed in HCSC court on 26 November 2018 at 11:38 am **A004**, disqualified judge Christian commanded the Clerk to file Sundy's **2018 Objection** -after a 10:00 am calendar call unconstitutionally held with Sundy's 2018 Objection missing from the record.

On 19 February 2020 *pro se* Sundy submitted a STANDING OBJECTION in HCSC 2015CV1366 to a 2 March 2020 hearing via certified mail. To underscore, because Sundy is prohibited from physically entering the HCSC Clerk's Office under threat of arrest, and illegally enjoined from the normal filing of papers by a disqualified judge who recused himself three-years prior, Sundy's STANDING OBJECTION was submitted by certified mail and was received by the Clerk's Office on 21 February 2020. The HCSC docket obtained from HCSC on 2 March 2020 **A005 EXHIBIT 4's- Exhibit E**, prior to the 9:30AM hearing, shows that Sundy's STANDING OBJECTION is nowhere to be seen. The docket of 9 March 2020 **A006 EXHIBIT 4's- Exhibit F** shows that Sundy's STANDING OBJECTION has now been "docketed" but there is no filing order from the court nor anything to provide evidence of the two week filing delay **and the fact that Sundy's objection was not filed until after the 2 March 2020 hearing.**

The systematic pattern and practice employed by HCSC Clerk Baker and other HCSC court officers to deprive *pro se* Sundy of access to the court is only consistent in its discrimination. *Pro se* Sundy never knows what qualifies him to have his papers docketed because there is no legal standard uniformly applied to Sundy's papers and the pretext used by the court is different each time. Sundy only knows that his liberty is restrained and his papers will not be TIMELY docketed, if they are docketed at all. Sundy also knows that the court will hold unconstitutional hearings with the record incomplete, denying Sundy full access to the court as well as due process of notice that Sundy's papers will be withheld from the court record.



The facts suggest that the docketing of Sundy's papers has nothing to do with an objective determination of whether they should be filed in an existing case **A002**. Instead, the actual prejudice of the Court is at issue, in violation of Sundy's civil rights, and the need of the court to "sanitize" the record so that Sundy cannot prevail on appeal.

Sundy's refusal to acquiesce to court officers' systematic pattern of bias, tyrannical partiality, and violations of Sundy's rights of equal protection and full access to the court has provoked the angst of the Court despite the fact that Sundy is simply heeding the Court's own instruction to litigants:

"[N]o matter how erroneous a ruling of a trial court might be, a litigant cannot submit to a ruling or acquiesce in the holding, and then complain of the same on appeal. He must stand his ground. Acquiescence deprives him of the right to complain further." (Footnote omitted.) *Roberts v. First Ga. Community Bank*, 335 Ga. App. 228, 230 (1) (779 SE2d 113) (2015). See also *Davis v. Phoebe Putney Health Systems*, 280 Ga. App. 505, 506-507 (1) (634 SE2d 452) (2006) ("A party cannot participate and acquiesce in a trial court's procedure and then complain of it.")

This is an unpopular case which has raised an unpopular question – are court officers who are derelict, violative or abusive of their duties, and conspiring in a pattern to deprive *pro se* parties of constitutional protections while violating state statutes, subject to a declaration of their constitutional responsibilities by a state or federal court? There is a second unpopular question - Can a "Property Owner's Affidavit," filed into a state government entity under conditions of RICO by an affiliate of a \$5-billion-dollar corporation which possibly has retirement investment holdings of state court officers, and denied review in the state court by those same state court

officers, be examined and reviewed by any court to address Sundy's injury of being deprived of private property without just compensation?

If the Attorney General of Georgia had protected the Sundys as is his primary duty under the Constitution, this case might have ended long ago. Instead, in addition to using their official capacity to exonerate each other from violations of State of Georgia statutes, officers of the court have aided HCSC 2015CV1366 Plaintiff Friendship to prevail in its scheme of prevention of performance, despite law to the contrary, whereby Friendship concealed the material facts of road construction from the defendant Sundy and filed a false affidavit in a Georgia government entity using the US mail (implicating RICO), defrauding Sundy and his family of over \$300,000. HCSC used its

## **VII. REASONS FOR GRANTING THE PETITION**

### **A. Sundy is denied access to the court**

Hall County Superior Court officers, as well as officers of the Georgia Supreme Court and the Georgia Court of Appeals, have concealed court orders, transcripts, Sundy's papers, and other documents from the record in civil proceedings, subjectively denying Sundy access to the courts. Court officers have withheld Sundy's procedurally-required objections, notices, etc. from the record while holding hearings and making rulings upon an incomplete record, depriving Sundy of equal protection and due process. Instead of dealing with the statutory violations and ethical violations committed by court officers and documented by Sundy, the courts have retaliated by implementing a purely subjective filing injunction against Sundy. As documented above, the court ignores the procedural

components of its own injunction, instead hanging a subjective Damoclean sword over Sundry's head whereby the court may delay filing Sundry's documents or never file Sundry's documents.

There is causal link between the 2018 retaliatory filing injunction issued by disqualified Judge Fuller and the behavior of judges and clerks, as well as adversarial parties, to commit fraud upon the court by altering the court record while depriving Sundry of the complete record necessary for appeal.

A complete record functions to ensure procedural due process on appeal.  
*U.S. v. Mancilla*, 226 Fed. Appx. 945, 946 (11<sup>th</sup> Cir. 2007)

Sundry has not been informed of what he is called upon to do or to refrain from doing in order to comply with the subjective and purposefully open-ended injunction. Instead, the injunction has been wielded by the courts as an arbitrary weapon to strip Sundry of a complete court record, depriving Sundry of procedural due process, and further deny Sundry access to the court.

"Loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347; 6 S. Ct 2673; 49 L. ed. 2d (1976);

The important facts in this litigation originally centered around a dispossessory affidavit falsely sworn by HCSC Plaintiff Friendship in an *in rem* proceeding, and Sundry's claims of Friendship's affirmative RICO activity and scheme of prevention of performance, with Sundry seeking counter means for damages. Those facts have been obscured by five years of collateral issues created by HCSC court officers violating Georgia statutory laws, while systematically depriving Sundry of Constitutional due process, equal protection and liberty interests.

Under the guise of the open-ended injunction, HCSC court officers have conspired to block *pro se* Sundry from filing documents in existing case(s), restraining Sundry's liberty and depriving *pro se* Sundry of full access to the courts, while ensuring Sundry's court record in each case is defective. The trial court has established that it will ignore aspects of the law that do not favor HSCS Plaintiff Friendship, including Friendship's actual default, and ignore Friendship *et al.*'s prevarications and misrepresentations on the record with Sundry's objections and other documents missing from the record.. The courts have retaliated against Sundry's demonstrated perseverance and zealous self-advocacy by legally inconsistent rulings and conflicting instructions.

"if state officers conspire . . . in such a way as to defeat or prejudice a litigant's rights in state court, that would amount to a denial of equal protection of the laws by persons acting under color of state law." *Dinwiddie v. Brown*, 230 F.2d 465, 469 (5th Cir.), *cert. denied*, 351 U.S. 971, 76 S.Ct. 1041, 100 L.Ed. 1490 (1956).

The First Amendment "right of the people ... to petition the Government for a redress of grievances," which secures the right to access the courts, has been termed "one of the most precious of the liberties safeguarded by the Bill of Rights." *BE & K Const. Co. v. NLRB*, 536 U.S. 516, 524–25, (2002) (internal quotation marks omitted, alteration in original). Restricting access to the courts is a serious matter. "[T]he right of access to the courts is a fundamental right protected by the Constitution." *Delew v. Wagner*, 143 F.3d 1219, 1222 (9th Cir.1998). This Court has placed the court access right in the Privileges and Immunities clause, the First Amendment petition clause, the Fifth Amendment due process clause, and the Fourteenth Amendment equal protection clause).

The actions of Georgia courts have impinged upon Sundy's fundamental right of access protected by the Constitution. Georgia courts have made no substantive findings of frivolousness or harassment as regards Sundy but have abused their power to empower the trial court to issue void orders upon an incomplete record and deny Sundy equal protection and due process. By burying the injunctive order in HCSC 2016CV0982, the judges have conspired to ensure that Sundy can neither appeal nor mitigate the injunction.

" Whether an access claim turns on a litigating opportunity yet to be gained or an opportunity already lost, the very point of recognizing any access claim is to provide some effective vindication for a separate and distinct right to seek judicial relief for some wrong ....[M]eaningful access to the courts is a right of constitutional significance." *Christopher v. Harbury*, 536 U.S. 403, 415 (2002))

**B. Georgia Courts have nullified the efficacy of extraordinary writs**

.... According to legal theory in the State of Georgia, Sundy prevailed in his Mandamus case in Hall County Superior Court because -- although a mandamus was never issued -- Sundy obtained the relief sought, i.e., Sundy's 20 December 2016 document was finally restored to the court record in July 2018 by the clerk who removed it. *See Robinson v. Glass*, 302 Ga. App. 742 (Ga. Ct. App. 2010). ("Moreover, *Glass* "prevailed" because he obtained the relief sought, even though it was provided without the necessity of a writ of mandamus from the trial court...")

Sundy sought Mandamus relief in the 11th Circuit Court of Appeals to have missing papers restored to the record of **USDC 2:18-CV-0112** with the Court applying RULE 302 F.R.E. which provides "*In a civil case, state law governs the effect of a presumption regarding a claim or defense for which state law supplies the rule of*

*decision.*” As defined and consistent with *Robinson v. Glass*, Sundy again prevailed for the relief sought – most missing documents were restored to the record– even though no mandamus was issued.

Sundy also applied for injunctive relief in the Supreme Court of Georgia, asking GASUP to “*enjoin Clerks Castlen and Barnes from conspiring to not docket transferred case S19D0838.*” Consistent with *Robinson v. Glass*, Sundy again prevailed, obtaining the relief sought even though no actual injunction issued and Respondents Friendship *et al.* defaulted, admitting every allegation as though it were true. Less than 30 days after Sundy filed his Verified Injunction in S19O1351, case A20D0016 was docketed in the Georgia Court of Appeals -- almost five months after the transfer order had been issued. And, true to form, no court officer was publicly implicated.

From this pattern, Sundy has discovered how Georgia courts define “frivolous” cases. A “frivolous” case is when Sundy files a legally-sound action implicating court officers, such as a Mandamus, and then there will be a phone call or under-the-table, verbal order issued by the Court granting the relief sought while the court officers escape any public guilt. The unwritten, undocketed order is often only given after Sundy is forced to appeal, and during the pending appeal, so that when the violation is cured, the Court and Respondents can then characterize both Sundy’s Mandamus and the Appeal as “frivolous”.

Despite the obvious futility of appealing upon an incomplete record, *pro se* Sundy may stand his ground and avail himself of the appellate process in order to correct error, pursue valid legal claims and clearly justiciable issues of law or fact. *Pro se* Sundy will support his claims with factual assertions as well as cogent legal

arguments, and citation to relevant legal authorities which other courts have already accepted. But the incomplete court records, and the appellate courts' refusal to hold court officers culpable for statutory violations, ensures that Sundy remains in the custody of court officers, denied full access to the courts and deprived of the ability to fully present meritorious claims..

Rather than enforcing the efficacy of extraordinary remedies, remedies forced upon a litigant when a court fails to perform a clear legal duty, Georgia's courts actually participate in and help to circumvent what the public perceives as the sedition of court officers. Georgia's appellate courts directly, or indirectly, unnecessarily expand proceedings by forcing litigants to expend costs and time as a direct result of the court's own failure to follow the law.

**C. Petitioner has no “plain, speedy and efficient” remedy to officers of the Georgia courts tampering with the court record,**

Petitioner Sundy's resort to state court remedies has failed to produce a full and fair adjudication of Sundy's federal contentions, including his right to be secure in his papers, equal protection and consistent due process.

When the Georgia Court of Appeals (“GCOA”), imputed as the State of Georgia, issued an order in A18E0011 denying Sundy's Emergency Motion for Process to be issued in HCSC 2017CV1125 and then, *sua sponte*, also issued the ORDER in independent, non-consolidated cases HCSC 2015CV1366, 2016CV0982, 2018CV502A contrary to GCOA's own stated rules and case law, the GCOA was affirmative of its direct intention to not correct any act involving criminal activity, undue interference or tampering by a court officer.

As long as the order in GCOA A19E0011 has not been set aside and is in full force and effect, there is no sufficient, adequate, effective, and "meaningful" appeal that can derive from a record that has been tampered with by court officers and is incomplete because of removed documents.

GCOA's objective is to ensure the official record to be incomplete and lacking the documentary evidence of court officers' abuse of the legal process. (see case 18-5506 in this court as Judicial Notice). The GCOA has affirmatively acted to effectively deprive Sundy of any meaningful remedy in Georgia's lower courts to Sundy's claims of denial of access, due process and equal protection.

The *pro se* Petitioner has sought relief below in multiple forms in State and Federal courts from the malfeasance, malpractice and/or bad behaviour which precipitates prejudice to Petitioner's Fourth Amendment right to be secure in his papers as well as his First Amendment right of access to the court. Sundy has been purposefully denied a written order in the nature of an extraordinary remedy in Sundy's favor by every court, while court officers collude to ensure that the malfeasance of court officers can evade judicial review, utilizing phone calls, *ex parte* and under-the-table orders to correct and restore missing portions of the record so as to render Sundy's valid legal claims as moot. Sundy is denied an adequate appeal since the record in every case is incomplete. Without this Court's intervention, Sundy and other *pro se* litigants in Georgia, will be subjected to the same actions again and again, and the two-tiered system of justice which allows court officers to commit crimes and avoid punishment will remain in place.



"It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of person and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments thereon." *Boyd v. United States*, 116 U.S. 616, 635 (1886)

"We have long appreciated that more "searching" judicial review may be justified when the rights of "discrete and insular minorities"—groups that may face systematic barriers in the political system—are at stake. *United States v. Carolene Products Co.*, 304 U.S. 144, 153, n.4, 58 S.Ct. 778, 82 L.Ed. 1234 (1938)

Georgia appellate courts have consistently demonstrated over the past five years that *pro se* Sundry will not be afforded enforcement of his constitutional rights under the First, Fourth, and Fourteenth Amendments and that the pattern and practice of Atlanta-area courts maintaining court records with substantial and significant omissions and material falsities is not a matter of public concern in Georgia. This has been Sundry's experience since the day he obtained partial disclosure of Respondent Friendship Pavilion Acquisition Company's scheme of prevention of performance, RICO activity, and false affidavit filed in a government entity stating that Friendship had no tenants despite having signed a lease with Sundry's family-owned company almost two months prior.

"Of what avail is it to the individual to arm him with a vesture of constitutional rights if, when he seeks to vindicate them, the courtroom door can be hermetically sealed against him by a functionary who, by refusal or neglect, impedes the filing of his papers?" *McCray v. State of Maryland*, 456 F.2d 1, 6 (4th Cir. 1972)

The pattern of inconsistent due process established by HCSC, withholding or removing Sundy's papers from court record and then making improper factual determinations and conclusory findings with evidence and argument missing from the record, establishes more than just deprivations under the Fourth and Fourteenth Amendments. Sundy is required by HCSC to participate in a hearing upon an incomplete record and adverse parties are never required to file a written response or opposition to Sundy's missing papers.

The adversarial nature of civil proceedings has been skewed by HCSC court officers in favor of billion-dollar-corporate-subsidary Respondent Friendship. Georgia appellate courts have demonstrated that they are more interested in protecting court officers from Sundy's viable claims of misfeasance, malfeasance and dereliction of duty than in protecting and upholding Sundy's constitutional rights.

Litigants proceeding *pro se* are already at a disadvantage in the unfamiliar world of law because they lack the specialized training of attorneys. *Jourdan v. Jabe*, 951 F.2d 108, 110 (6th Cir. 1991). When Sundy's papers and documents supporting material facts are removed and/or hidden from the record, so that Sundy is procedurally and/or substantively disadvantaged in the defense or prosecution of a cause of action, the disadvantage is elevated to a deprivation of rights under color of law. 18 U.S.C. § 242.

As Sundy has argued steadily in every action catalogued in the **List of All Proceedings**, he is injured by an incomplete record and subject to inconsistent due process and a denial of equal protection. On one hand, the ORDER showing how Sundy's **2015 JOINT OBJECTION** was restored to the record of HCSC 2015CV1366

is missing from the record. On the other hand, the hand written ORDER A004 to showing how Sundy's 2018 OBJECTION was restored to the record is present. On one hand, the injunctive Order by disqualified judge Fuller A002 is absent from the record of 2015CV1366 yet the Georgia Court of Appeals, *sua sponte* and without jurisdiction, filed its A19E0011 controlling order into the record of 2015CV1366. The incomplete record in 2015CV1366 cannot support all of Sundy's claims on appeal, and the court and its officers continue to create gaping holes in the record to harm Sundy's appeal while subjecting Sundy to inconsistent due process.

“Consistent with federal authority, we now hold that a judgment is void if the court which rendered it acted in a manner materially inconsistent with due process.” *Johnson v. Mayor c. of Carrollton*, 249 Ga. 173 (Ga. 1982)

To have a “**plain, speedy and efficient**” remedy it is conclusive there must a complete record. The relief sought by Sundy from this Court is not available in any other court in the state of Georgia. Trial court officers collude to willfully falsify, destroy, remove, conceal and alter Sundy's pleadings as well as other parts of the court records. Respondent Clerk Baker has previously certified a record on appeal as true and complete while knowing the record was incomplete and therefore false. The Georgia Supreme Court and the Georgia Court of Appeals have tampered with Sundy's appeals by re-docketing documents a second time with a new filing date to create fake motions, creating a fake petition for certiorari from a discretionary application for appeal, delaying transfer of an appeal for months to allow more chicanery in the trial court, etc. No reasonable person can conclude Sundy has a remedy anywhere but in this Court, or a congressional appeal.

“Not only is a biased decision maker constitutionally unacceptable, but our system of law has always endeavored to prevent even the probability of unfairness.” *Withrow v. Larkin*, 421 U.S. 35, 47 (1975) (quoting *In re Murchison*, 349 U.S. 133, 136 (1955))

“...it is still the ultimate responsibility of the court to consider all potential remedies if it finds that the ones the plaintiffs offer do not suffice. It has always been Congress's intent that “[t]he court should exercise its traditional equitable powers to fashion the relief so that it completely remedies...” *Southern Christian Leadership Conference v. Sessions*, 56 F.3d 1281 (11th Cir. 1995).

## VIII. SUMMARY OF ARGUMENTS

Petitioner Sundy is seeking a writ of certiorari as a remedy for an extraordinary situation. Petitioner Sundy has spent more than five years in the state superior court fighting to obtain a complete record while judges and court officers conspire to ensure that the record is incomplete, removing properly-filed papers from the record(s) of the superior court cases in which Sundy is a party.

Sundy views the practice of Georgia courts to cause reciprocal nullification of any extraordinary remedies, while denying Sundy any order that documents the malfeasance/misfeasance of court officers, is corrupt. When an extraordinary remedy is filed by Sundy seeking to restore a missing document, the missing document may be restored without an order on the record, however, an official (such as Respondent Clerk Baker) will then cause another document to come up missing. The restored document moots the issue raised in the formal extraordinary remedy, but the document subsequently removed means the record is still incomplete. Then Sundy must file another extraordinary petition seeking remedy or to have the subsequent missing document restored. The record in State court always maintains an incomplete status, as Sundy has experienced for the past five years. For Sundy

and the other citizens of Georgia, there is nothing plain, speedy or efficient about justice.

When Sundry requested this Court on May 10, 2020 in pending case 19-8492 to issue an order in the nature of a prohibition (“extraordinary remedy”), to prohibit any ruling on Sundry's OCGA § 9-11-60(d)(2)(3) post proceeding Motion while the record in Hall County Superior Court case 2015CV1366, the trial court swung into action. Despite Sundry's motion having been in limbo for 17 months since it was filed on 13 December 2018, the trial court made a determination of post proceedings upon an incomplete record on June 3, 2020. True to pattern, the issue in case 19-8492 was caused to become moot yet Sundry's claims of denial of due process, equal protection and First and Fourth Amendment protections were ignored and the record is still incomplete.

Sundry initiated USDC No. 2:18-cv-0112-SCJ (now pending in this Court as 20-5401), in part, to obtain declaratory relief regarding the constitutional violations and deprivations committed by court officers in the state court. However, the same due process irregularities and violations occurred in the record of the U.S. District Court with docket items missing, including a motion properly-filed by Sundry on 17 December 2018.

Moreover, the constitutional protections which Sundry sought to vindicate were violated by the very court in the State of Georgia from which Sundry sought protection, prejudicing Sundry's efforts to enforce his legal rights. (With the Gainesville Division district court physically located directly across the street from Hall County Superior Court and employees/court officers of both courts fraternizing

with regularity, and with irregularities appearing on the federal record which directly mirrored the violations in Hall County Superior Court, Sundry still doesn't know if they collaborated or if they train each other.)

Under circumstances where the integrity of the adjudicative processes of the state courts are suspect, Sundry is effectively excluded from the court and no appeal at a later date can correct that prejudice. This Court has explained that "post judgment appeals generally suffice to protect the rights of litigants..." *Mohawk Indus., Inc. v. Carpenter*, 558 U.S. 100, 109 (2009). Such is not the case for Sundry because the incomplete record cannot support Sundry's issues on appeal.

Petitioner Sundry has been denied equal protection and deprived of access to the court, contrary to the First and Fourteenth Amendments of the Constitution, by court officers refusing to file properly submitted documents into a civil action and/or removing and/or withholding properly submitted documents from a civil action. Despite OCGA § 9-6-22: Sundry has been denied the right of a complete record on appeal by Respondent Baker's failure to perform the Clerk's duties.

If any sheriff, clerk, or other officer fails to discharge any duty required of him by any provision of Title 5.... No party shall lose any right by reason of the failure of the officer to discharge his duties when the party has been guilty of no fault himself and has exercised ordinary diligence to secure the discharge of such duties. **OCGA § 9-6-22**

Sundry has been injured and continues to be injured and is without remedy in Georgia.

"...the City overlooks the fact that the loss of a procedural right "is itself an injury" sufficient to provide standing "without any requirement of a showing of further injury." *Bertulli v. Independent Ass'n of Continental Pilots*, 242 F.3d 290, 295 (5th Cir. 2001). Additionally, "the right to procedural due process is 'absolute' in the

sense that it does not depend upon the merits of a claimant's substantive assertions and [therefore] the denial of procedural due process [is] actionable for nominal damages without proof of actual injury." *Carey v. Phipus*, 435 U.S. 247, 266, 98 S.Ct. 1042, 55 L.Ed.2d 252 (1978). *Wessel v. City of Albuquerque*, 299 F.3d 1186, **1193** (10th Cir. 2002)

When facts are missing from the record or in dispute, how can full and fair consideration be given? Does the standard of *Mincey v. Head*, 206 F.3d 1106, 1125 (11th Cir. 2000) apply in the state court? ("For a claim to be fully and fairly considered by the state courts, where there are facts in dispute, full and fair consideration requires consideration by the fact-finding court...")

*Pro se* Sundy's attempt to maintain the status quo, *i.e.*, obtain a complete court record, is an uphill battle against court officers who have the power to manipulate the outcome of HCSC 2015CV1366 and every other case. The legally unsophisticated Sundy is placed in the unconstitutional condition of having to acquiesce to the corrupt and incomplete court record or abandon any meaningful appeal. Regardless of how Sundy might attempt to debate with the courts about missing documents, a challenged factual issue based upon the record, Sundy is unable to combat the abuse of power by biased court officials.

It is a manifest injustice that Sundy has no remedy to prohibit Respondent Baker and other court officers from tampering with the record of any of Sundy's cases, including removing Sundy's papers and withholding items from the docket, to deprive Sundy of Notice and equal protection as well as the full and fair litigation of issues and claims.

It is a manifest injustice that Sundry has no remedy to prohibit Respondent court officers from delaying filing and/or backdating or changing the stamp-filed date on documents.

It is a manifest injustice that GASUP Clerk of Court Therese Barnes can, in S19O1351, falsify court records and acti intentionally and with premeditation to prejudice Sundry's claims and appeal(s). By Judicial Notice, Clerk Barnes created a false motion for sanctions in S19O1351 to injure Sundry while denying Sundry Notice once she had filed the fake motion in the record.

"The right of access to the courts, upon which *Avery* [*Johnson v. Avery*, 393 U.S. 483, 89 S.Ct. 747, 21 L.Ed.2d 718 (1969)] was premised, is founded in the Due Process Clause and assures that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights." *Wolff v. McDonnell*, 418 U.S. 539, 94 S.Ct. 2963, 41 L.Ed.2d 935 (1974)

Respondent Friendship Pavilion Acquisition Company LLC ("Friendship") and its officers and agents took a calculated risk in 2011 that it could successfully perpetrate a scheme of prevention of performance and fraud upon Petitioner Sundry, his brother, and their family-owned restaurant company. Friendship *et al.* knew that what it was doing was deceitful, fraudulent and illegal, and could cost the Sundys' their livelihood, but calculated that imposing obstacles upon the Sundys' restaurant of condemnation, road construction and the secret conveyance of its property frontage -- obstacles not contemplated within its contract with the Sundys--was a risk FPAC was willing to take. When Friendship's calculation proved wrong and the Sundys also obtained documentary evidence of Friendship's



scheme and breaches of contract, Friendship hired multiple attorneys and sought to avail itself of the Sundys' nonperformance.

Since then, for still unknown reasons, court officers in the Northeastern Judicial Circuit of Georgia have demonstrated an actual interest in the outcome of the original *in rem* proceeding, even at one point adopting HCSC Plaintiff Friendship's MOTION TO LIFT LIS PENDENS in court officers' mandamus response.

### CONCLUSION

Sundy has been in custody for five years with his rights and liberties denied and/or restrained. Friendship and HCSC court officers, including judges and clerks, have given every appearance of conspiring to shield Friendship from the consequences of Friendship's own scheme and allow HSCS Plaintiff Friendship to prevail with unclean hands.

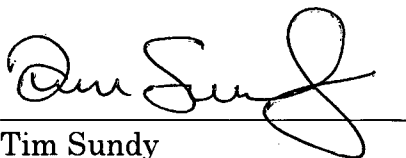
*Pro se* Sundy is ignorant of the nuances of the law. *Pro se* Sundy, however inarticulate, is a literalist who believes that if the law states that judge must rule on a motion in 90 days (OCGA 15-6-21(b)), or the docket is to be consecutively numbered (FRCP 79), or as in *Wolff v. McDonnell*, when it states the assurance "... that no person will be denied the opportunity to present to the judiciary allegations concerning violations of fundamental constitutional rights", then that is what is supposed to happen. Either the law is applied to every one or the law is applied to no one.

In observing the List of All Proceedings, none of the pending cases present a remedy as a matter of right. Despite the fact that Sundy has at least three more potential petitions to be filed in this court, the State of Georgia has clearly

demonstrated that is not going to allow or afford Sundry a complete court record.

Therefore, a writ of certiorari should be granted.

Timely and respectfully submitted, 26 August 2020.

A handwritten signature in black ink, appearing to read "Tim Sundry", written over a horizontal line.

Tim Sundry

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