

ORIGINAL

Supreme Court, U.S.

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NO. 20-5810

In The Supreme Court of the United States

RUTH TORRES, Petitioner

v.

Marie Diaz, Mark Galvan, Pursuit of Excellence, Inc., et al, Dallas Fort Worth
International Airport Board, Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO

FIFTH DISTRICT AT TEXAS OF DALLAS

Fifth Court of Appeals, Cause No. 05-18-00676-CV,

And the 44th District Court for Dallas County,

Cause No. DC-16-08711, Trial Court Bonnie Goldstein

PETITION FOR WRIT OF CERTIORARI

On Interlocutory Appeal- Texas Citizens Participation Act

Ruth Torres, Pro Se
PO Box 224441
Dallas, TX 75222
Tel. (214) 680-9119
Email: t.ruth828@icloud.com

PETITIONER REQUESTS ORAL ARGUMENT

QUESTIONS PRESENTED

Issue 1: Is a state anti-Slapp restriction seeking dismissal within 60 days of the filing of claims (ignoring later legal actions) unconstitutional when the claims are baseless and the whistleblower is being retaliated against by abuse of process and suffering violations of constitutional rights?

Issue 2: When the state Supreme Court refuses to perform duty by denial of review of a lower court's order which is directly contrary to law and shows clear error, does this constitute lack of substantive due process and equal protections under the US Constitution Amendments Four, Five and Fourteen?

Issue 3: The Texas Supreme Court failed to perform duty to review and correct clear errors by the court of appeals failure to review de novo and making conclusions based on the flawed premise that a valid and enforceable contract exists and that Petitioner had access to and used POE's "trade secrets", facts hotly disputed and yet to be determined by a jury, adopting Respondent POE's conclusory and unsubstantiated claims while ignoring relevant facts and denying Petitioners ability to set hearings for pleadings and be heard.

Issue 4: The Texas Supreme Court failed to perform duty to review when the court of appeals erred in finding the motion to dismiss under TCPA is untimely, when one day late due to e-filing technical difficulty raised to the trial court 20 minute hearing for eight (8) outstanding motions which POE dominated, reflected in the record, when further record was prevented by order of trial court and during statutorily required stay. Good Cause existed to grant Petitioner's request and Texas courts have abused discretion and failed to perform duty.

Issue 5: The Texas Supreme Court failed to perform duty to review when the court of appeals erred in asserting the Act includes requirements and limitations which in fact it does not to deny relief on the merits when motion to dismiss under TCPA was timely due to over 35 legal actions which triggered new 60 day deadline, additionally new legal actions violating Petitioners constitutional rights have occurred during statutorily required stay.

Issue 6: The Texas Supreme Court failed to perform duty to review when the court of appeals erred in asserting that Petitioner did not file motions to dismiss the legal actions as dozens of Petitioners motions contents request the court deny POE's requests and provide relief while asserting violation of constitutional rights.

Issue 7: The Texas Supreme Court failed to perform duty to review when the court of appeals refused to perform ministerial duty to find orders issued during statutorily required stay are null and void in accordance with statute and not dependent on timeliness of motion which preceded the issuance of those orders. Such circular reasoning would establish a new and erroneous precedent, which is reversible error.

IDENTITY OF PARTIES AND COUNSEL & RELATED CASES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Petitioner **Ruth Torres (Pro Se)**

Respondents **Pursuit of Excellence, Inc.,
Marie Diaz,
Mark Galvan,**

**Pursuit of Excellence HR, Inc.,
Pursuit of Excellence, Northeast, Inc.,
Pursuit of Excellence Holdings, LLC.,
Pursuit of Excellence Texas LLC,
Pursuit of Excellence Texas 2, LLC.,
Pursuit of Excellence Texas 3, LLC.,
P4S Consulting, LLC.,
Cielo Creations, LLC.,
Cielo Preston Forest, LLC.**

Dallas Fort Worth International Airport Board

Trial Court: **Hon. Bonnie Goldstein, Presiding Judge**
101st District Court
George L. Allen, Sr. Courts Bldg.
600 Commerce Street, 6th Floor West
Dallas, Texas 75202
jmckinnon@dallascourts.org
(214)653-7427

Respondent: **Dallas Fort Worth International Airport Board**

Henry Wehrmann
State Bar No. 21076400
Farrow·Gillespie Heath Witter LLP
Henry@fghwlaw.com

1700 Pacific Avenue, Suite 3700
Dallas, TX 75201
(214) 361-5600

Respondent POE: Marie Diaz, Mark Galvan,
Pursuit of Excellence, Inc. et al, Pursuit of Excellence HR,
Inc., Pursuit of Excellence, Northeast, Inc., Pursuit of
Excellence Holdings, LLC., Pursuit of Excellence Texas
LLC, Pursuit of Excellence Texas 2, LLC., Pursuit of
Excellence Texas 3, LLC., P4S Consulting, LLC., Cielo
Creations, LLC., Cielo Preston Forest, LLC., et al,
Dallas Fort Worth International Airport Board,
Harold Jones, CC Wood, C. John Scheef,
Anna S. Brooks, Brandy Chambers

Trial Counsel for POE: **C. John Scheef, III**
State Bar No. 17735585
SCHEEF & STONE, LLP
John.scheef@solidcounsel.com

2600 Network Blvd., Suite 400
Frisco, Texas 75034
(214) 472-2114
Byron Henry
SCHEEF & STONE, LLP
Byron.Henry@solidcounsel.com
2600 Network Blvd., Suite 400
Frisco, Texas 75034
(214) 472-2123

Anna S. Brooks

State Bar No. 24074147

SCHEEF & STONE, LLP

Anna.brooks@solidcounsel.com

2600 Network Blvd., Suite 400

Frisco, Texas 75034

(214) 472-2123

Andrea Bouressa

SCHEEF & STONE, LLP

Andrea.Bouressa@solidcounsel.com

2600 Network Blvd., Suite 400

Frisco, Texas 75034

(214) 472-2123

Brandy K. Chambers

State Bar No. 24041169

CHAMBERS LEGAL, PLLC

brandy@chamberslegalpllc.com

P.O. Box 550663

Dallas, Texas 75355

(214) 315-5673

REFERENCES:

- Marie Diaz, Mark Galvan, Pursuit of Excellence, Inc. et al, Pursuit of Excellence HR, Inc., Pursuit of Excellence, Northeast, Inc., Pursuit of Excellence Holdings, LLC., Pursuit of Excellence Texas LLC, Pursuit of Excellence Texas 2, LLC., Pursuit of Excellence Texas 3, LLC., P4S Consulting, LLC., Cielo Creations, LLC., Cielo Preston Forest, LLC., et al, are collectively referred to as “POE”.
- Dallas Fort Worth International Airport Board is referred to as “DFW”.
- Fifth Court of Appeals is referred to as “COA”.
- Texas Open Meeting Act (“TOMA”),
- Public Information Act (“PIA”),
- Affordable Care Act (“ACA”),
- Family Medical Leave Act (“FMLA”),
- Texas Citizens Participation Act (“TCPA”),
- Temporary Injunction (“TI”)

NOTICE OF RELATED CASES:

- Trial Case: DC-16-08711, 44th District Court, Judge Goldstein has multiple appeals:
 - a. 05-18-00774-CV (on 16 trial court orders, dismissed due to clerk's refusal to submit record, unchallenged inability to pay on file). TX Supreme Court denied review. SCOTUS denied Writ of Certiorari, 19-5208.
 - b. 05-18-00546-CV (premature appeal dismissed on lack of jurisdiction after denying consolidation with 05-18-00774-CV, awarding costs to POE although affidavit of inability to pay on file). TX Supreme Court denied review.
 - c. 05-18-00675-CV on interlocutory order Granting DFW's Plea to Jurisdiction. Affirmed by Fifth COA on erroneous application of one case which is not consistent with the issues of this case. TX Supreme Court denied review. Appeal due to SCOTUS.
 - d. 05-18-00676-CV on interlocutory order denying Petitioner's Motion to Dismiss under TCPA. Affirmed by Fifth COA with multiple errors of fact and law. TX Supreme Court denied review.
- Trial Case: DC-17-08581, 101st District Court, Judge Staci Williams. POE appealed trial order on contempt for failing to comply with 5th order on discovery, Case No. 05-18-00672-CV. Order & Opinion issued lifting stay. Motions for Show Cause pending before trial court, POE refuses to comply with discovery requests citing the TI issued by Judge Goldstein and matter appealed to COA and here. POE 2nd set of attorneys have moved for trial court stay and withdrawal with same grounds as first attorneys, only in DC-1708581, yet not seeking withdrawal from case before the 44th district court or cases before the court of appeals, all representing the same parties. Case is pending orders on Plaintiffs motions for show cause and contempt for over a year (defendants refuse to comply with discovery and judge will not issue rulings) also pending special set for trial.
- DC-20-07071, Respondents seek default judgments against Petitioner's businesses for claims which fail to satisfy elements, are abuse of process, lack right to sue, Texas courts lack jurisdiction and are directly responsive to Petitioner speaking to DFW Airport Board. The Unauthorized Practice of Law Committee for the Supreme Court of Texas brought suit, violating Petitioners constitutional rights to free speech.

ORAL ARGUMENT

- As this is a complicated case, the Court may find oral argument beneficial to clarify and respond to questions.

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Issue 2: When the state Supreme Court refuses to perform duty by denial of review of a lower court's order which is directly contrary to law and shows clear error, does this constitute lack of substantive due process and equal protections under the US Constitutional Amendments Four, Five and Fourteen?

Issue 3: Did the Texas Supreme Court fail to perform duty to review when the court of appeals erred in finding the motion to dismiss under TCPA is untimely, when one day late due to e-filing technical difficulty raised to the trial court 20 minute hearing for eight (8) outstanding motions which POE dominated, reflected in the record, when further record was prevented by order of trial court and during statutorily required stay?

Issue 4: Did the Texas Supreme Court fail to perform duty to review when the court of appeals erred in asserting the Act includes requirements and limitations which in fact it does not. to deny relief on the merits when motion to dismiss under TCPA was timely due to over 35 legal actions which triggered new 60 day deadline, additionally new legal actions violating Petitioners constitutional rights have occurred during statutorily required stay?

Issue 5: Did the Texas Supreme Court failed to perform duty to review when the court of appeals erred in asserting that Petitioner did not file motions to dismiss the legal actions as dozens of Petitioners motions contents request the court deny

POE's requests and provide relief while asserting violation of constitutional rights?

Issue 6: Did the Texas Supreme Court fail to perform duty to review when the court of appeals refused to perform ministerial duty to find orders issued during statutorily required stay are null and void in accordance with statute and not dependent on timeliness of motion which preceded the issuance of those orders? Would such circular reasoning establish a new and erroneous precedent, which is reversible error?

Issue 7: Does the significant level of financial incentives provided to the Texas Judicial System through partisan campaign contributions, or even the appearance of such, undermine the credibility and justice available for just cause against government and big business parties, especially for minority and pro se litigants?

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*NOTE: Pro Se Petitioner lacks access to public law library resources to prepare Writ due to Covid-19 closures. Therefore, Petitioner lacked access to research federal cases.

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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

For cases from the state courts:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

reported at; or,

has been designated for publication but is not yet reported; or,

is unpublished. Fifth Court of Appeals, Texas. 05-18-00676-CV (Tex. App. 2019); Ruth Torres v. Marie Diaz, Mark Galvan, Pursuit of Excellence, Inc. Dallas/Ft. Worth International Airport, et al.

The opinion (orders) of the trial court appears at Appendix B to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

are unpublished.

For cases from the state courts:

The date on which the highest state court decided my case was December 6, 2019, Denying Petition for Review and on January 31, 2020 Denied Motion for Rehearing.

A copy of both decisions appear at Appendix C.

JURISDICTION

The jurisdiction of this Court is applicable under 28 U.S.C. § 1257(a), as Texas' anti-Slapp legislation, The Texas Citizens Participation Act, includes a restriction which is unconstitutional in denying ability to seek relief from constitutional violations if motion to dismiss is not brought within 60 days of original claim filing. This restriction should be declared unconstitutional as it is directly contract to and repugnant to the Constitution of the United States. TCPA, as written at the time applicable to this case and subsequently weakened, limits the right to seek dismissal within 60 days of claim filing and failure to do so allows for years of violations of constitutional rights. Further, immunity is claimed under the Constitution allowing for constitutional violations by government entities with impunity. The result of these is repugnant to the Constitution and of such importance to the jurisprudence and in the interest of justice and public policy that it requires correction by The Supreme Court of the United States.

The varying state anti-Slapp laws and lack of a federal anti-Slapp statute, exposes conscientious citizens participating in government and revealing illegal acts to retaliation and significant harm which is repugnant to the Constitution and of such importance to the jurisprudence and denial of justice that it requires correction by The Supreme Court of the United States.

Further, denial by the Texas Supreme Court to review and correct COA errors denies the Petitioner substantive due process and equal protection rights and allows ongoing retaliation against a whistleblower and indigent pro se party with

egregious abuses of process and violations of Petitioners constitutional rights presents errors of such importance to the jurisprudence, public policy and denial of justice that it requires correction by The Supreme Court of the United States.

In addition, the COA failed to provide de novo review, has allowed trial court orders which were an abuse of discretion, without reference to and directly contrary to guiding rules and principles, to stand. The COA also incorrectly applied law restricting protections provided under Texas' anti-Slapp statute the Texas Citizens Participation Act ("TCPA") in a manner that Act does not specify. The ambiguous language of TCPA as to "legal acts" was clarified by case law which the COA refused to recognize.

The significant financial and partisan campaign contributions to Texas judges undermines equity and justice, especially for minority and indigent parties with claims against government entities and big business.

STATEMENT OF THE CASE

1. In underlying employment case, POE alleges breach of contract, tortuous interference, defamation, misappropriation of trade secrets, HACA, against Petitioner and her businesses (for which the court lacks jurisdiction and POE lacks right to sue as abuses of process to gain default judgments against indigent pro se party). POE claims are retaliation for Petitioner reporting POE and DFW for illegal acts violating various state and federal laws. POE's claims are wholly retaliatory, conclusory, fail to satisfy claim elements or establish a prima facia case. POE's retaliatory actions against Petitioner and Petitioner's business entities have been numerous, on-going and egregiously violate statutes and Petitioners constitutional rights since the filing of suit and continuing the last 4 years due to trial court denial to grant dismissal citing the state's anti-Slapp restriction of seeking dismissal within 60 days of service, ignoring statute establishing duty to accept when one day late due to technical difficulty and ignoring case law clarifying ambiguous statute language defining legal acts that trigger new 60 day period.
2. Texas courts have an absolute requirement of motion for dismissal under the Act within 60 days, therefore resulting in four years and counting of significant harm and violation of Petitioners constitutional rights. Subsequently, the Texas legislature weakened the anti-Slapp act increasing the risk of retaliation to whistleblower workers.

3. On interlocutory appeal, The Fifth Court of Appeals asserts a premise of facts, that a legal contract exist, which is a matter hotly disputed not yet determined by the jury to deny review on the merits alleging motion was untimely, refusing to adhere to statute and case law to recognize legal actions as grounds for dismissal of claims and making a mistake of fact in alleging Petitioner did not raise the technical difficulty issue to explain one day of delay in e-filing motion. Additionally, the trial court issued seven orders during statutorily required stay. The Fifth COA refused to perform ministerial duty to declare orders issued during stay as being null and void. The Texas Supreme Court denied review.

4. Every time the Petitioner has exercised her right to petition either in the court or speaking to a government body bringing the allegations and facts of this case to their attention, Respondents have further retaliated and infringed upon Petitioners constitutional rights including during the statutorily required stay by filing complaint with suit brought by Unauthorized Practice of Law Committee for the Supreme Court of Texas, for a situation outside of the purpose of the committee, and seeking to deny Petitioner due process and equal protections via injunction to notify the court it lacks jurisdiction for the claims against Petitioners businesses and Respondents lack right to sue to prevent default judgments simply because Petitioner cannot afford legal representation for the businesses as required by Texas law.

5. The level of financial incentive in the Texas Judicial system undermines the credibility of the Courts and reveals root cause of inequities and injustices, favoring government and big business and disproportionately impacting minority and pro se litigants. The Texas Judicial system is compromised by campaign donations that have maintained a one party control system for decades at the Texas Supreme Court (with over \$13.5 Million in donations) as well as at the Fifth Court of Appeals until 2018.

6. If this Court denies review, this Court would reinforce the extreme inequity, lack of justice, due process and equal protections that this case reveals within the Texas Judicial System and thereby be complicit.

Reasons for Granting the Petition

Issue 1: Is a state anti-Slapp restriction which requires motion to dismiss within 60 days of the filing of claims (ignoring later legal actions) thereby causing whistleblower to suffer on-going violations of constitutional rights due to non-filing within 60 days, unconstitutional?

Is restriction on request for relief from infringement on constitutional rights unconstitutional?

1. No restriction to seek relief or dismissal of claims should be applicable when there is an infringement to constitutional rights. Any such restriction violates U.S. Const. Amend. 1, as the constitutional amendment prohibits any law from violating or abridging the freedom of religion, freedom of speech, right to assemble, and right to petition for redress of grievances without time frame restrictions.
2. There is a lack of federal statute that allows for dismissal of baseless and retaliatory claims due to a party exercising constitutional rights. Texas implemented an ambiguous anti-Slapp statute, Texas Citizens Participation Act (“TCPA”), TEX. CIV. PRAC. & REM. Code §27, which requires a dismissal motion within 60 days of service, (a statute which has been further watered down during the course of this case). The limitation to seek relief within 60 days of suit thereby imposes severe harm to be inflicted for years without cause during the legal proceedings. No restriction to seek dismissal of claims should be applicable when there is an infringement to constitutional rights. Such

restriction violates U.S. Const. Amend. 1, because the statute prohibits or abridges the freedom of speech, right to assemble, and right to petition for grievances, without time frame restriction.

3. Due to Texas Courts strict adherence to this 60 day limitation, ignoring statute provision and reason to accept when one day late due to technical difficulty, and refusal to recognize Texas case law clarifying ambiguous TCPA language as to “legal acts” which trigger a new 60 day period, Petitioner has been egregiously harmed and constitutional rights violated for four years and counting.
4. The ambiguous language of TCPA statute did not define “legal acts” which triggered a new 60 day period, however, state case law did finding that any legal act including petitions or requests to the court which extended from the claim(s) triggered a new 60 day period, law which the COA refused to recognize and Texas Supreme Court denied review, thereby denying the Petitioner substantive and procedural due process and equal protections.
5. The “king” can and does do wrong, far too often and with impunity. The United States of America is neither a monarchy or dictatorship. We were established to be governed by the people, FOR the people. The ethical and legal compliance standards for those in positions of power within any of the three

branches of government should be of a higher standard, not lower than private sector or non-existent. Government immunity is applicable when the actions are in the best interest of the people for which the body is responsible and should no longer be used as venue to abuse the positions and people they were elected or appointed to represent without accountability.

6. If this Court refuses to grant review, it allows government entities to displace and violate state and federal laws through illegally issued contracts to perform illegal acts with reasonable knowledge that the government agency vendor (POE) would not be in compliance with Affordable Care Act (“ACA”) or Family Medical Leave Act (“FMLA”) from contract issuance, allows for FMLA retaliation against whistleblower for opposing or complaining about Respondents unlawful practice under FMLA. It allows government entities to fail to perform ministerial acts to enforce compliance with federal laws and contract terms such as the Prompt Pay Act while enjoying credit for utilization of a woman / minority contractor thereby abusing the W/MBE program, which is intended as adjustment for historical inequities, while hiding behind governmental immunity. It allows for the court system to be used to attack whistleblowers undermining individuals’ duty to act according to Biblical principles, civic duty and participation in government, which are public policy issues.

7. Further, the implications and ramifications of this case are significant for national impact as the side-stepping of compliance with the Affordable Care Act via misclassification of workers as 1099 contractors in violation of FLSA or use of temporary staffing firms or temporary worker classification (terminating and hiring workers between different names of temp agencies often without any new hire paperwork to claim the employee is temporary even when the individual is working the same job, at the same location, with the same supervisor, for consecutive years) has been utilized by federal, state and government entities as well individual employers affecting hundreds of thousands of American workers who are working more and getting less benefits, losing access to group medical benefits (the intent of ACA) but now also losing paid-time off such as vacation, sick pay, as well as unemployment benefits, workers compensation benefits, wage payment enforcement, etc. (protections only available to "employees" not 1099 contractors), due to misclassifications and violations of the Federal Labor Standards Act. Misclassified workers are disproportionately women and minorities whom also have higher mortality rates due to lack of access to insurance. These abuses against workers have now been allowed almost unchecked to private employers due to cost of litigation and defunding of government enforcement agencies such as the Department of Labor. The abuses with impunity afforded via government immunity undermines justice. Law firms lack interest to represent due to inability to gain attorney fees from government entities.

8. The constitutional rights of US citizens and residents are being violated due to the ability of government entities to act with impunity protected by immunity as well as denial of duty, due process and equal protections by a biased court system. The lack of reasonable protections against retaliation and infringement of constitutional rights via abuse of the court system by wealthy businesses and their unethical attorneys is exasperated by court bias against pro se litigants and limited resources available to indigent litigants within the civil court system.

9. When parties conspire to violate state and federal laws, then retaliates against a whistleblower including but not limited to denying earned wages, violates the whistleblowers constitutional rights by unreasonable search and seizure of personal property, infringes upon Petitioners freedom of speech, freedom to petition, freedom to participate in government, freedom of religion, causing Petitioner to suffer abuse of process and denial of due process and equal protections, such harm should not continue for years due to lack of federal anti-Slapp legislation and strict adherence to state anti-Slapp requirement within 60 days of the filing of claims while ignoring subsequent legal actions which violate constitutional rights.

10. Petitioner, Ruth Torres, pleads this Court to grant Writ of Certiorari as failure to do so allows injustice on public policy issues on matters of national

importance, a failure to protect whistleblowers from retaliation and infringement on their constitutional rights, enables the court system created to promote and ensure justice as a weapon of abuse and injustice on pro se and indigent parties by powerful governmental entities and large employers which undermines future would-be whistleblowers from disclosure of illegal acts based on fear of retaliation, knowing that they would suffer the same as previous whistleblowers. The lack of nationwide, consistent, unambiguous, unnecessarily restrictive Whistleblower protections for workers of all worker classifications (employee, 1099 contractor, temporary) working for the government entity or any of its contractors or sub contractors, prohibiting retaliatory actions for participation in government, causes significant harm to whistleblowers for years as well as denial of substantial due process and equal protections denies justice for indigent and pro se litigants, important public policy issues for which the US Supreme Court's intervention is necessary.

11. If this Court refuses to hear and rule on Plaintiffs Petition, injustice will occur, which is a public policy issue affecting not just the Petitioner but all individuals harmed by the actions at the root of this case; and other similar situations which are bound to exist and reoccur. At the root of this case is Petitioner's actions as a whistleblower reporting Respondents for violating various state laws on government procurement and contract processes, public information and open meetings statutes, worker's compensation laws, etc., and

federal laws including: US Customs and Immigration statutes, Federal Labor Standards Act, Affordable Care Act and Family Medical Leave Act which potentially harmed several hundred workers under contracts totaling at least \$20 Million, as well as reporting a fire/ explosion hazard which violated OSHA. Failure to grant certiorari allows government entities to displace and violate state and federal laws through contracts while hiding behind governmental immunity. It allows for the court system to be used to attack whistleblowers undermining individuals' duty to act according to Biblical principles, civic duty and participation in government, which are public policy issues.

12. If Respondents are again successful in abusing the Courts to hide illegal acts, wont it set precedent and perpetuate their strategy? Won't it embolden others to do the same? Since attorneys fees may not be recovered from government entities law firms will not take the case on contingency and non-profit groups lack the resources to accept this type of litigious and burdensome case, nor will they be involved with cases involving government entities. Therefore, the significant level of financial incentives from partisan elections by wealthy businesses and law firms further undermines access to justice. How can the indigent or pro se receive a fair trial in civil courts? How many cases will not be filed or responded to by Pro Se litigants and therefore injustice will prevail in more?

13. Respondent POE initiated this case against Petitioner in retaliation of Petitioner reporting violations of law to government entities and exercised constitutional rights, including but not limited to:

- a. The Fire Department for a fire/explosion hazard threatening several dozen unknowing persons with threat of serious injury or death by use and storage of propane tanks with open flames in the basement of a 42 story office building, City Place Towers near downtown Dallas;
- b. DFW Airport Board, a government entity whose voting board is appointed by the city councils of Dallas and Fort Worth, for its contractor's (POE) breach of contract, violations of state and federal laws including but not limited illegally issuing contracts contrary to state procurement statutes, violating open meetings act and public information requirements, to outsource workers depriving potentially hundreds of predominantly minority and women workers from health and benefits they were otherwise entitled to by avoiding and displacing compliance with the Affordable Care Act and Family Medical Leave Act while knowing the contractor (POE) was violating the contract, various state and federal laws including lacking workers compensation for workers at an international port,

violations of USCIS by shifting workers between entities to avoid compliance with ACA and failing to properly complete I9 forms required and purposefully misclassifying workers as 1099 contractors in violation of FLSA, while insulating DFW from liability under governmental immunity.

14. POE brought claims against Petitioners businesses, which had no legal interactions with POE and therefore POE has no right to sue, and for which Texas court lacks jurisdiction, in order to obtain default judgments due to lack of Petitioners financial ability to hire an attorney. POE amended to bring claims against a Florida entity which never operated in the State of Texas and was dissolved five years before POE brought claims and against a Texas Limited Liability Corporation which did not exist at the time of POE's alleged claims but whose only involvement between the parties was when Petitioner completed a required speaker form and named Petitioners employer to appear before DFW Airport's board, exercising participate in government. Subsequently, during this case being on statutorily required stay through the appeals process, POE directly or through their attorneys filed a complaint with the Texas Supreme Court Committee for Unauthorized Practice of Law against Petitioner for responding on behalf of Petitioners closed Florida corporation and Texas LLC informing the trial court of the abuse of process in bringing claims against Petitioners business entities for which POE had no right to sue

and challenging the courts jurisdiction thereby attempting to prevent default judgments as such challenge to jurisdiction preventing default judgments is allowed by state case law, yet the trial court struck Petitioners pleading in its entirety during the statutorily required stay, a violation of due process and equal protections under U.S. Const. Amend. 14. The Texas Committee for the Unauthorized Practice of Law has now determined to participate in the retaliation against Petitioner bringing suit against Petitioner to gain a permanent injunction which is contrary to the purpose of the committee since Petitioner has not been compensated by any nor asserted that Petitioner is an attorney but merely exercised right to petition and inform the court of the facts. This action further harms and violates Petitioners constitutional rights under U.S. Const. Amend. 1, and 14.

15. Therefore, if this Court refuses to hear and reverse orders issued, it allows parties violating state and federal laws to successfully use the court system to abuse, avoid accountability and retaliate against whistleblowers. POE has already learned its strategy is effective in avoiding accountability when it brought the exact same wholly conclusory causes of action as brought against Plaintiff against its former accountant who informed POE's client, a prime contractor of Dallas Area Rapid Transit (DART) of POE's illegal acts in billing. (DC-10-14994, DC-10-07197). Since POE was successful using the court

processes to attack the whistleblower in that case, it emboldened POE to use the same strategy against Petitioner.

16. The new case filed by the Unauthorized Practice of Law Committee (DC-20-07071) is an action which has occurred during the statutorily required stay in this case and is retaliation for Petitioner's exercise of freedom of speech and should thereby trigger a new 60 day period to dismiss all claims and all related cases per the application of the existing law which is unconstitutional with the 60 day limitation. However, based on Texas Courts prior rulings, Petitioner has cause to believe a motion and appeal would end with the same results; denial of review.

Issue 2. Denial of Review would deny Petitioner substantive due process under the 1st, 4th, 5th Amendments and due process and equal protections under 14th Amendment of the US Constitution.

17. This Honorable Court should grant the Writ for Certirari as the Texas courts have abused their discretion and issued orders without reference to and directly contrary to guiding rules and principles and thereby denied Petitioner due process. The trial court and 5th Court of Appeals reasoning limiting the Act (which existed at the time) and denying Petitioner dismissal under TCPA is contrary to the facts in this case as well as statute and prior rulings, including but not limited to:

1. *Hawxhurst v. Austin's Boat Tours*, 550 S.W.3d 220, 225-26 (Tex. App. 2018)
2. *Hersh v. Tatum*, 526 S.W.3d 462, 466 (Tex. 2017)
3. *ExxonMobil Pipeline Co. v. Coleman*, 512 S.W.3d 895, 898 (Tex. 2017)
4. *Serafine I*, 466 S.W.3d at 357
5. *Galbraith Eng'g Consultants, Inc. v. Pochucha*, 290 S.W.3d 863, 867 (Tex. 2009).
6. *Lippincott v. Whisenhunt*, 462 S.W.3d 507, 509 (Tex. 2015)

18. Petitioner has not only been harmed by Respondent POE's baseless claims but by the ongoing actions of all Respondents, the TX Courts and officers connected to this case including but not limited to violation of Petitioners rights to freedom of speech, freedom to petition, freedom of religion, freedom from search and seizure of personal property, rights to substantial due process and equal protections. The trial court orally ordered the Petitioner to agree to a TI, which is void on its face due to failure to comply with statute and lacked a bond. The TI restricted Petitioners rights to freedom of speech, freedom to participate in government and required Petitioner to submit to seizure of Petitioners personal property of an Iphone and laptop, without defining how long the property would be retained in advance which was seven (7) weeks, (See *Terry v. Ohio*, 392 U.S. 1, 88 S. Ct. 1868, 20L.Ed. 2d 889, *United States v. Place*, 462 U.S. 696 (1983), and *Soldal v. Cook County Ill*, 113 S. Ct. 538 (2017)) to invade Petitioners privacy for the devises contents to be "mirror imaged"

copying all of Petitioners data thereby invading Petitioners privacy and damaged Petitioners property due to Respondents allegation that Petitioner proof of Respondents illegal acts were actually Respondent POE's "trade secrets" absent anything other than Respondents testimony alleging items which failed to meet the statutory definition of "trade secrets". The Petitioners personal property of a laptop and Iphone were held for seven weeks by the trial courts appointed "IT Expert" then damaged as petitioners hard drive was completely wiped clean of all files, over seven years worth of work and personal files as well as the loss of valuable software and the property was physically damaged showing damage bring being dropped with cracks and malfunctioning. These actions violated Petitioners constitutional rights per U.S. Const. Amend. 4, U.S. Const. Amend. 5 and U.S. Const. Amend. 14.

19. When Petitioner still had legal access to the documents supporting Plaintiffs allegations of Respondents illegal acts and used them to support Petitioners pleadings before the trial court and in a related case, the trial court held Petitioner in contempt and struck Petitioners pleadings with prejudice after the trial court received ex parte communications from Respondent POE's attorney urging the contempt. The void on its face TI has been repeatedly used by all Respondents in this case and the related case before Judge Williams to avoid complying with discovery. The trial court refused to allow Petitioners pleadings to be scheduled for hearing. The trial court refused to grant

sanctions or hold Respondents in contempt for their actions. The trial court refused to issue orders on Petitioners motions. These actions denied petitioner due process and equal protections under U.S. Const. Amend. 14.

20. The trial court refusing to adhere to the statutorily required stay, held a pre-trial hearing where the trial court ordered the Petitioner to destroy evidence or be held in contempt and be placed in jail. During the statutorily required stay based on Plaintiffs motions for recusal and interlocutory appeals, the trial court issued seven orders. The district and COA clerks then denied Petitioner records as required to be released by statute resulting in Petitioners Mandamus (0518-00774-CV) being denied by the COA for lack of records. The COA and TX Supreme Court denied Petitioner due process in this manner as well denying records and review on the merits, dismissing for lack of records two days later and the TX Supreme Court denied review as did the US Supreme Court. Since then, Petitioner has not been noticed on issuance of all orders and has to check the docket. Texas COA and TX Supreme Court have refused to perform ministerial duty to find orders issued during the stay as null and void as required by statute. These actions denied petitioner due process and equal protections under U.S. Const. Amend. 14.

21. As a result of Respondents retaliatory actions, whistleblower Petitioner has not been paid for work performed, has been blacklisted, petitioners career and businesses have been defamed and harmed, therefore petitioners income and

earnings have been harmed, petitioners privacy has been invaded when personal property was unreasonably seized, mirror imaged, damaged physically and its contents wiped, petitioners dependent children have been harmed in their lifestyle, stability, and mental health, petitioners education achievements have been dramatically undermined, petitioners has been threatened with civil contempt incarceration for refusing to destroy evidence, incarceration would harm Petitioner and Petitioner's minor daughter, Petitioners health has been harmed. Yet, the most egregious harm to Petitioner has been Respondents interference with Petitioners freedom of religion.

22. Plaintiff is a devout practicing Christian who relocated from Miami in 2014, leaving family behind, to live in Dallas to be a member at a specific church, Oak Cliff Bible Fellowship under Pastor Dr. Tony Evans. Plaintiff and Plaintiffs child was very involved with church activities and relied upon church members as a support network. Facts Respondents knew and therefore purposefully interfered with to try and force Petitioner to drop the counter-claim and leave town, after all other efforts failed, by interfering with Petitioners freedom of religion by issuing a subpoena for deposition and production on Petitioners pastor, Dr. Tony Evans, absent advance notice for subpoena on 3rd parties as required by court rules thereby preventing a motion to squash, abusing process to illegally gain access to privileged communications between Petitioner and petitioner's pastor and making

Petitioners pastor a 3rd party to the case, causing termination of Petitioners ability to continue as a member to that church nor have any home church because attorneys for Respondents informed Petitioner that if Petitioner discussed or asked for prayer from any church or pastor in regards to the matters before the court and impacting Petitioners life in every way, such parties would be subject to disclosure and threat of deposition and subpoena. Respondents and their attorneys have thereby intentionally interfered with Petitioners freedom of religion, violations of U.S. Const. Amend. 1.

23. If this Court refuses to hear and rule on Plaintiff's Petition, it further violates Petitioner's constitutional rights which have already been harmed these last four years and counting. If this Court fails to grant Writ of Certiorari it allows orders which demonstrate clear error, bias, are contrary to law and justice to stand undermining the credibility of the Court system and furthers inequity in the courts against indigent and pro se parties. Combined with strict application and ambiguous language of a state anti-Slapp statute, which has since been further weakened by state legislators, there is little to no protection for the exercise of constitutional rights due to a lack of federal anti-Slapp legislation causing whistleblower Petitioner ongoing egregious harm via abuse of process and violations of Petitioners constitutional rights against unreasonable search and seizure, to freedom of speech, right to association, right to petition, right to participate in government, and freedom of religion for

four years and counting for retaliatory and baseless claims, violations of U.S. Const. Amend. 1, 4, 5 and 14.

24. If this Court fails to grant Writ of Certiorari, it allows violation of Petitioner's right to due process and equal protections under the US Constitution's Fifth and Fourteenth Amendment due to the state's high court refusal to perform duty to review due to clear error and prevention of record, and Texas Courts refusal to perform ministerial act to find orders issued during statutorily required stay are null and void.

25. Per TEX. R. APP. PROC. § 56.1(b)(1), the Texas Supreme Court had a duty to review the petition unless there is no error that requires reversal or lacks importance to jurisprudence of the state. The Texas anti-Slapp statute had ambiguous language which case law more clearly defined to find that the claims in the underlying cause must be dismissed, not just the procedural legal action as the Court of Appeals asserts revealing reversible error that must be corrected in the interest of law and justice.

26. Further, there were clear errors that have occurred in this case which require reversal as contained in Petitioner's seven issues before the Court, including the trial court issuing orders during statutorily required stay. The denial of this Court to review and correct the clear errors denies the Petitioner of

substantial due process. These issues are important matters, because the issues in this case involve public policy issues, state and federal violations.

27. The trial court failed to allow record in preventing testimony, motions to be scheduled, or discovery to be obtained. The Fifth COA's order reveals failure to review *de novo* and adopts Respondents unsupported and conclusory claims. The Texas Supreme Court's refusal to review therefore denied Petitioner substantial due process.
28. If this Court denies Petitioners Writ, it undermines the credibility of the Courts in administering unbiased justice and due process as it allows orders which are contrary to statutes, case law to stand and allows violations of the code of judicial conduct. The trial court, the 5th Court of Appeals and The Texas Supreme Court have repeatedly denied Petitioner justice in this and related cases. The orders show clear partiality and injustice undermining substantial due process and equal protections, concluding and misrepresenting facts not in evidence.
29. Racial segregation and inequity prevails in Dallas where women, minority and litigants in poverty are significantly challenged in obtaining justice in courts, civil and criminal. Pro Se litigants actually obtain rulings in their favor at JP, district court, court of appeals and supreme court levels are beyond an anomaly. While there has been some effort to provide resources for Pro Se litigants for family cases, judges display a clear, open and prevailing bias

against pro se litigants undermining presenting of arguments and giving far greater weight to attorneys conclusions without demanding support or full evidentiary hearing and rule against pro se litigants even when contrary to statute and case law. Based on Petitioner's observations and research of a number of Pro Se cases, there is a clear bias in the Texas courts against Pro Se litigants, even when the Pro Se litigant follows the rules and correctly seeks application of law, as in this case and related cases.

30. Pro Se Petitioner has had substantial difficulty in getting motions set for hearing and getting judges to issue rulings, for up to 18 months and counting. When motions are set, respondents attorneys receive clear and preferential treatment in time to argue and in courts defer to the attorneys arguments even absent support. Every order issued by the trial court gave preference to respondents predominantly without an explanation or findings in fact and law. The trial court even had ex parte communications with respondents attorneys where the attorneys asked the trial court to hold Petitioner in contempt for Petitioner filing support for Petitioners claims and showing Respondents filed knowingly false documents in the related case before Judge Williams to undermine the discovery process and the trial court in fact, immediately subsequent to the ex parte communication, held Petitioner in contempt and struck Petitioners claims with prejudice. Then the COA adopted the respondents conclusory and baseless claims as established facts and the Texas Supreme Court denied review. Respondents, Texas courts and officers actions

are egregious, coordinated and determined prevention of justice against a whistleblower, indigent pro se party and is a public policy issue.

31. The lack of justice in Texas Courts is well documented revealing bias based on political contributions by attorneys and business entities as well as appointment without election. See Exhibit 4: Texas NAACP Addresses Important Issues to Facilitate the Discussion Regarding Proposed Changes for Selecting Members of Texas' Judiciary In the Aftermath of the George Floyd Tragedy (and its Appendix).
32. The trial court in this case, Bonnie Goldstein, is currently pursuing election to the Fifth Court of Appeals, Dallas. The attorney for DFW Airport, Henry Wehrmann is listed as a sponsor Judge Goldstein's fundraising campaign. See Exhibit 5. While campaign reports are still outstanding for the 2020 election, Littler & Mendelson (POE's original attorneys), Sheef & Stone (POE's current attorney) are both large firms and major contributors regularly appearing before the Fifth Court of Appeals & Texas Supreme Court. Sheef & Stone is also a Cornerstone contributor to Southern Methodist University's School of Law, the predominant law school of Texas justices. Additionally, Brandy Chambers (POE's attorney) is currently seeking election to the Texas House.
33. Scheef & Stone has donated \$36,000 directly to 12 Republican candidates. While that may not appear like much, nothing prevents Scheef & Stone from

donating to the Texas Republican Party and through that entity contribute to Appellate and Supreme Court Candidates. See Exhibit 6.

34. While the 2020 election season is not over and all reports are not yet in, per the nonpartisan, nonprofit National Institute on Money in Politics (NIMP), “Follow the Money.org” website, the current Texas Supreme Court Justices have received a total of \$13,582,520 in campaign donations. In the last 3 elections 2016, 2018 and 2020 (to date, all reports not final), total contributions to Texas Appellate courts and Texas Supreme courts were \$17.9M and \$9.6M respectively. With just 46 days left until the 2020 general election, Petitioner has seen no commercials, no yard signs, no mailers, no advertising at all for any of these candidates nor any Republican judge for the 5th Court of Appeal, Dallas or Texas Supreme Court race during the last 6 years. The following donation totals for Texas Supreme Court are detailed in Exhibit 6. In summary:

- Justice Hecht, \$5 Million
- Justice Guzman, \$2.138 Million
- Justice Lehrmann, \$1.663 Million
- Justice Busby, \$ 1.5 Million
- Justice Boyd, \$844 Thousand
- Justice Devine, \$ 884 Thousand
- Justice Bland, \$884 Thousand

- Justice Blacklock, \$639 Thousand

35. Further, due to Covid-19, the burden and harm to pro se and indigent parties is even worse due to dependence on access to public law libraries and one hour per day limitation on Westlaw case research. Local law libraries are usually housed within state courthouses which continue to be closed to the public for months. Therefore, indigent and pro se parties lack access to resources to prepare petitions and motions throughout the US court system.

36. Government and court system are established based on Biblical principles. Romans 13:1-7. Judges are called and appointed to show no partiality, to give justice to the poor. Exodus 18:13-27, Deuteronomy 16:18-20, Leviticus 19:15, James 2:1-13, Luke 18:1-8, Proverbs 21:3, 13 and 15. Each judge swears an oath and is obligated to adhere to Codes of Judicial Conduct. Perhaps there is justice in many cases. However, even one case that allows injustice that affects people's lives and should not be considered a light matter.

PRAYER

Petitioner respectfully requests the Court grant the Writ of Certiorari and all relief allowed by law and justice.

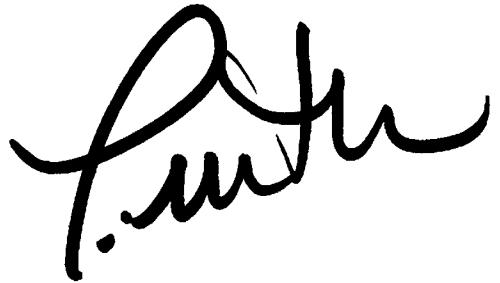
CERTIFICATIONS

The pro se Petitioner certifies that this document contains 4,483 as determined by Microsoft Word 2010.

I hereby certify that a true and correct copy of the foregoing instrument of 5,568 words has been delivered to all parties and/or counsel of record on June 29, 2020,

resubmission with corrections per July 22, 2020 notice from Supreme Court Clerk and Rule 14.5 on September 18, 2020.

1. Byron Henry: Byron.Henry@solidcounsel.com
2. Andrea Bouressa: Andrea.bouressa@solidcounsel.com
3. John Scheef: John.scheef@solidcounsel.com
4. Anna Brooks: Anna.brooks@solidcounsel.com
5. Brandy Chambers: Brandy@chamberslegalpllc.com
6. Henry Wehrmann: Henry@fghlaw.com

A handwritten signature in black ink, appearing to read "Ruth Torres".

Ruth Torres
PO Box 224441, Dallas, TX 75222
Email: T.ruth828@icloud.com
(214) 680-9119