No. _____

In the Supreme Court of the United States

Wendy Alison Nora,
Petitioner

v.

Office of Lawyer Regulation,
Respondent

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF WISCONSIN

Wendy Alison Nora, Petitioner, and
a member of the bar of this Court
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QUESTIONS PRESENTED

Whether Petitioner was denied procedural due process in the lawyer disciplinary proceeding.

Whether Petitioner is being denied due process in the lawyer disciplinary proceeding because she is being punished for attempting to present evidence that forged documents are being used by mortgage foreclosure claimants in judicial foreclosure and bankruptcy proceedings.

PARTIES TO THE PROCEEDINGS BELOW

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INTRODUCTION

Petitioner, Wendy Alison Nora, respectfully petitions for a Writ of Certiorari to review the July 14, 2020 Opinion and Order of the Wisconsin Supreme Court suspending her right to practice law before the Wisconsin Supreme Court. On October 21, 2020, Petitioner's Motion for Reconsideration was denied. Petitioner was aware since well-before the initiation of the disciplinary proceeding that OLR was not providing her the rights guaranteed under Section 1 of the Fourteenth Amendment to the Constitution of the United States (hereinafter "Due Process Rights"). Anyone can lose their liberty or have their property rights taken by state action if fundamental Due Process requirements are allowed to be violated.

OPINIONS BELOW

The July 14, 2020 Opinion and Order of the Supreme Court of Wisconsin is reported as *Office of Lawyer Regulation v. Nora (In re Nora)*, 2020 WI 70, 393 Wis.2d 359, 945 N.W.2d 559 (Wis. 2020). The July 14, 2020 Opinion and Order in its original form is Appendix A (1a-53a) and the October 21, 2020 Order Denying Reconsideration is Appendix B (54a-55a). The referee's August 9, 2017 Report and Recommendation is Appendix C (App. 56a-127a)

JURISDICTION

This Court's jurisdiction arises under 28 U.S.C. sec. 1257(a). On July 14, 2020, the Wisconsin Supreme Court filed its Opinion and Order suspending Petitioner's right to practice law before the Wisconsin Supreme Court (Appendix A). Petitioner's Motion for Reconsideration was denied on October 21, 2020

(Appendix B). The July 14, 2020 Opinion and Order of the Wisconsin Supreme Court is the final judgment of the Wisconsin Supreme Court. This Petition is being filed within 150 days following the entry of the Order denying Petitioner's Motion for Reconsideration under Rules 13.1 and 29.2 pursuant to this Court's standing Order entered on March 19, 2020 at Order List: 589 by which this Court extended the time for filing Petitions for Writs of Certioriari as the result of the COVID-19 national emergency.

CONSTITUTIONAL AMENDMENTS AND ETHICS RULES INVOLVED

The First Amendment to the United States Constitution guarantees:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

By the incorporation doctrine followed in *Gitlow* v. *New York*, 268 U.S. 652, 666 (1925), the First Amendment to the Constitution of the United States applies to the States under the Fourteenth Amendment[1]. Under *Gitlow*, supra, the Fourteenth Amendment provides that the States " shall make no law . . . abridging . . . the right of the people . . . to petition the Government for a redress of grievances" (hereinafter "Petition Rights)[2].

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[1] The incorporation doctrine was only used once before *Gitlow*, supra. The incorporation doctrine first appeared in *Chicago, Burlington & Quincy Railroad Co.*, 166 U.S. 226, 17 S.Ct. 581, 41 L.Ed. 979 (1897).

[2] *Gitlow*, supra, does not specifically incorporate Petition Rights because First Amendment issue in *Gitlow* was Freedom of the Press, not Petition Rights. In *De*

Section 1 of the Fourteenth Amendment to *the Constitution of the United States* includes the Due Process and Equal Protection Clauses and applies to state action and reads:

> All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Wisconsin Rules of Professional Conduct which Petitioner was charged with violating are SCR 3.1, SCR 3.2, and SCR 8.4(g) for violation of SCR 40.15. The Wisconsin Supreme Court Rules of Professional Conduct (SCR) involved in the disciplinary proceedings are:

> **SCR 20:3.1 Meritorious claims and contentions**
> (a) In representing a client, a lawyer shall not:
> (1) knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law;
> (2) knowingly advance a factual position unless there is a basis for doing so that is not frivolous; or
> (3) file a suit, assert a position, conduct a defense, delay a trial or take other action on behalf of the client when the lawyer knows or when it is obvious that such an action would serve merely to harass or maliciously injure another.

> **SCR 20:3.2 Expediting litigation**
> A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Jonge v. State of Oregon, 299 U.S. 353, 363-365, 57 S.Ct. 255, 81 L.Ed. 278 (1937), this Court applied the incorporation doctrine to the right to assemble. In 83 years since *Gitlow* and 71 years since *DeJonge*, it has never been seriously questioned that the States may not abridge the Petition Rights of the People.

SCR 20:8.4 Misconduct
It is professional misconduct for a lawyer to:
. . .
(g) violate the attorney's oath; . . .

SCR 40.15 Attorneys oath.

The oath or affirmation to be taken to qualify for admission to the practice of law shall be in substantially the following form:

I will support the constitution of the United States and the constitution of the state of Wisconsin;

I will maintain the respect due to courts of justice and judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, or any defense, except such as I believe to be honestly debatable under the law of the land;

I will employ, for the purpose of maintaining the causes confided to me, such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law;

I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with my client's business except from my client or with my client's knowledge and approval;

I will abstain from all offensive personality and advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which I am charged;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay any person's cause for lucre or malice. So help me God.

The Wisconsin Supreme Court Rules (SCR) of Procedures for the Lawyer Regulation System appear in SCR Chapter 21 and 22. Among the procedural rules at issue in the proceedings below, Petitioner contends that SCR 22.11(2) was disregarded.

SCR 22.11 provides:

SCR 22.11 Initiation of proceeding.
(1) The director shall commence a proceeding alleging misconduct by filing a complaint and an order to answer with the supreme court and serving a copy of each on the respondent.

> (2) **The complaint shall set forth only those facts** and misconduct allegations **for which the preliminary review panel determined there was cause to proceed** and may set forth the discipline or other disposition sought. Facts and misconduct allegations arising under SCR 22.20[3] and SCR 22.22[4] may be set forth in a complaint without a preliminary review panel finding of cause to proceed.
> (3) The director may retain counsel to file, serve and prosecute the complaint.
> (4) The complaint shall be entitled: In the Matter of Disciplinary Proceedings Against [name of respondent], Attorney at Law; Office of Lawyer Regulation, Complainant; [name of respondent], Respondent. The complaint shall be captioned in the supreme court and contain the name and residence address of the respondent or the most recent address furnished by the respondent to the state bar.
> (5) The complaint may be amended as provided in the rules of civil procedure. (Emphasis added.)

Petitioner attempted to defend against the (ever-changing) charges of violations of SCR 20:3.1(a) on the basis that her actions were protected by the First Amendment, that her legal positions were supported by existing law, that her factual statements were true, and that she did not bring the actions merely to harass or injury another. She attempted to defend against the charges of violations of SCR 3.2 on the basis that she was pursuing meritorious defenses for her clients. Petitioner balanced her duties and obligations under SCR 40.15 (the Attorneys' Oath). She gave priority to the duty and obligation "to never reject, from any consideration personal to myself, the cause of the defenseless or oppressed". Families whose homes are being foreclosed by the use of false pleadings, based on

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[3] SCR 22.20 applies to summary proceedings on criminal conviction of an attorney and does not apply to the proceedings from which review by certiorari is sought.

[4] SCR 22.22 applies to reciprocal disciplinary proceedings and does not apply to the proceedings from which review by certiorari is sought.

forged documents, authenticated by falsely sworn affidavits are defenseless without legal representation and are oppressed by false foreclosure claims.

STATEMENT OF THE CASE

This case presents important constitutional questions regarding the Due Process rights of lawyers in state disciplinary proceedings. This Court held *In the Matter of John Ruffalo, Jr., Petitioner,* 390 U.S. 544, 551, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968):

> These are adversary proceedings of a quasi-criminal nature . . . absence of fair notice as to the reach of the grievance procedure and the precise nature of the charges deprived petitioner of procedural due process.

Petitioner's defense to the disciplinary action involved her good faith efforts to introduce evidence in foreclosure bankruptcy cases which would show that forged documents authenticated by perjured affidavits are being used in judicial proceedings. Petitioner intended to demonstrate that the voluminous exculpatory evidence she provided to the investigator for the Office of Lawyer Regulation (OLR) for review and which was required to be provided to the Preliminary Review Committee was not included in the Investigative Report. OLR failed to follow SCR 22.11(2) to establish the facts upon which the allegations of misconduct were based. OLR and the referee precluded Petitioner's defenses. The voluminous documents demonstrated the use of false pleadings, false filings and false affidavits in both of her clients' cases which were the basis for the Complaints. The exculpatory evidence she provided to OLR in the investigative stage of the disciplinary process included the *Wells Fargo Home Mortgage Foreclosure Attorneys Manual, Version 3*

(Appendix S, 789a-943a) which formed the basis of the Motion for Relief from the adverse disposition in the United States District Court for the Eastern District of Wisconsin which was ignored by the Federal District Court and the Seventh Circuit Court of Appeals when Petitioner was subjected to sanctions. *See* also Appendix R, 773a-788a.

The referee allowed the filing of OLR's Second Amended Complaint[5] by Order dated August 16, 2016 (Appendix K, 391a-397a) without granting relief from the Scheduling Order. Petitioner immediately filed Motions for Relief, including relief from the Scheduling Order on August 17, 2016 (Appendix L, 398a-403a) because her deadline for naming witnesses had lapsed [6] and her deadline for submitting documentary evidence under the then-current Scheduling Order was about to expire.

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[5] OLR filed the initiating Complaint on November 30, 2015 (Appendix D, 128a-151a) which was filled with false allegation which OLR would have known were false if its investigator had actually reviewed the voluminous exculpatory evidence Petitioner provided in accordance with her duty to cooperate with the investigation. After Petitioner moved to dismiss the action on December 22, 2015 and requested a probable cause hearing based on the extent of the false allegations (Appendix E, 152a-238a) and gave notice of her intent to seek sanctions if the false statements were not withdrawn (Appendix F, 239a-266a), OLR filed a First Amended Complaint on January 19, 2016 (Appendix G, 267a-290a) which failed to cure most of the false allegations.

[6] Petitioner did not need any witnesses, other than herself until the major defect in the First Amended Complaint was allowed to be cured by the Second Amended Complaint. OLR argued that the amendments were minor and at one point asserted that the errors were "typograpical" and the referee agreed that the amendments were minor and refused to allow Petitioner to conduct the additional discovery she sought after the Second Amended Complaint was allowed to be filed.

On August 18, 2016, OLR filed its Second Amended Complaint (Appendix M, 404a-427a). The referee withheld ruling on Petitioner's August 17, 2016 Motions until September 20, 2016 (Appendix M, 557a-563a) and then declared that the Motion for Relief from the Scheduling Order was "moot" because the hearing date had been rescheduled, but none of the pre-trial deadlines had been corresponding adjusted. Petitioner submitted voluminous documents at the rescheduled pre-trial conference in October, 2016 as her Offer of Proof. See, e.g. Appendix S, 773a-943a.

On September 7, 2016, Petitioner answered the Second Amended Complaint, preserving her Motions to Dismiss. *See* Appendix N (428a-556a). On January 17, 2017, Petitioner fell on ice and hit her head on concrete. She suffered from post-concussion syndrome for several years. Nevertheless, hearing was held on March 22, 23, 24, and 27, 2017. Petitioner was struggling on March 24, 2017 and her co-counsel requested that the hearing terminate early for the day. The hearing continued on March 27, 2017.

REASONS FOR GRANTING THE PETITION

A. The questions presented have not been decided by this Court.

This Court has been careful to assure that lawyer disciplinary proceeding do not violate the First and Fourteenth Amendments to the *Constitution of the United States*. See *In re Sawyer*, 360 U.S. 622, 640, 79 S.Ct. 1376, 3 L.Ed.2d 1473 and *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1038, 111 S.Ct. 2720, 115 L.Ed.2d 888 (1991). See also *NAACP v. Button*, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963) and *In re Edna Smith Primus,* Appellant, 436 U.S. 412, 98 S.Ct. 1893, 56

L.Ed.2d 417 (1978). It appears that this is the first case in which the issue clearly arises for review of whether or not a lawyer may be punished for assisting her clients in exercising their Petition Rights.

In re Edna Smith Primus, Appellant, 436 U.S. 412, 422-424, 98 S.Ct. 1893, 56 L.Ed.2d 417 (1978), this Court wrote:

> In *NAACP v. Button*, supra, the Supreme Court of Appeals of Virginia had held that the activities of members and staff attorneys of the National Association for the Advancement of Colored People (NAACP) and its affiliate, the Virginia State Conference of NAACP Branches (Conference), constituted "solicitation of legal business" in violation of state law. *NAACP v. Harrison*, 202 Va. 142, 116 S.E.2d 55 (1960). Although the NAACP representatives and staff attorneys had "a right to peaceably assemble with the members of the branches and other groups to discuss with them and advise them relative to their legal rights in matters concerning racial segregation," the court found no constitutional protection for efforts to "solicit prospective litigants to authorize the filing of suits" by NAACP-compensated attorneys. *Id.*, at 159, 116 S.E.2d, at 68-69.
>
> This Court reversed: "We hold that the activities of the NAACP, its affiliates and legal staff shown on this record are modes of expression and association protected by the First and Fourteenth Amendments which Virginia may not prohibit, under its power to regulate the legal profession, as improper solicitation of legal business violative of [state law] and the Canons of Professional Ethics." 371 U.S., at 428-429, 83 S.Ct., at 335. The solicitation of prospective litigants,14 many of whom were not members of the NAACP or the Conference, for the purpose of furthering the civil-rights objectives of the organization and its members was held to come within the right " 'to engage in association for the advancement of beliefs and ideas.' " *Id.*, at 430, 83 S.Ct., at 336, quoting *NAACP v. Alabama*, 357 U.S. 449, 460, 78 S.Ct. 1163 1170, 2 L.Ed.2d 1488 (1958).

B. The questions are clearly presented here and are matters of great importance.

This Court has been reluctant to interfere with attorney disciplinary proceedings and decisions by state authorities as a matter of comity and federalism,

deferring to state court disciplinary proceedings except where Due Process violations occur as in *Ruffalo*, or where First Amendment Rights are implicated. See *Middlesex County Ethics Committee v. Garden State Bar Association*, 457 U.S. 423, 102 S.Ct. 2515, 73 L.Ed.2d 116 (1982). This Court has granted Petitions for Writs of Certiorari in cases involving a lawyer's First Amendment Rights like *Sawyer*, supra, 360 U.S. at 640, *Gentile*, supra, at 501 U.S. at 1038, and *In re Edna Smith Primus*, supra.

Petitioner's duty to assist her clients in the exercise of their fundamental right to petition the judiciary for redress of grievances resulted in punishment through a series of Due Process violations which prevented her from defending herself at a meaningful time and in a meaningful manner. *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191, 14 L.Ed.2d 62 (1965).

C. Petitioner's First and Fourteenth Amendment Petition and Due Process Rights were consistently raised and preserved.

To demonstrate that the federal issues were timely raised and consistently preserved required by Rule 14.1(g)(i), Petitioner has produced a true and correct copy of OLR's November 30, 2015 Amended Complaint as Appendix D, 128a-151a, along with her Motions to Dismiss (Appendix E, 152a-238a) and the subsequent pleadins and Motions to demonstrate that she timely raised the federal issues below as required by Rule 14.1(g)(i). Petitioner has endeavored to demonstrate her strenuous efforts to preserve the federal issues in the proceedings below.

D. Petitioner's Rights under the First and Fourteenth Amendments were violated.

1. Lawyers' First Amendment Petition Rights

In re Sawyer, 360 U.S. 622, 640, 79 S.Ct. 1376, 3 L.Ed.2d 1473 (1959), this Court held:

> [I]t hardly needs elaboration to make it clear that the question of the total insufficiency of the evidence to sustain a serious charge of professional misconduct, against a backdrop of the claimed constitutional rights of an attorney to speak as freely as another citizen, is not one which can be subsumed under the headings of local practice, customs or law.

In *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1038, 111 S.Ct. 2720, 115 L.Ed.2d 888 (1991)

> We have held that "in cases raising First Amendment issues . . . an appellate court has an obligation to 'make an independent examination of the whole record' in order to make sure that 'the judgment does not constitute a forbidden intrusion on the field of free expression.'" *Bose Corp. v. Consumers Union of United States, Inc.*, 466 U.S. 485, 499, 104 S.Ct. 1949 1958, 80 L.Ed.2d 502 (1984) (quoting *New York Times Co. v. Sullivan*, 376 U.S. 254, 284-286, 84 S.Ct. 710, 728-729, 11 L.Ed.2d 686 (1964)).

The Wisconsin Supreme Court, sitting in the capacity of an appellate court overseeing the conduct of its own employees, did not make an independent examination of the record. It delegated the writing of the Opinion and Order (Appendix A) to unelected Court Commissioners. In Wisconsin, lawyer disciplinary opinions are not written by the justices, but are delegated to law clerks designated as Court Commissioners under Section III.H. of the Wisconsin Supreme Court's *Internal Operating Procedures Manual* (IOP) presently retrievable at https://www.wicourts.gov/sc/IOPSC.pdf (most recently retrieved on March 19, 2021).

2. Lawyers' Due Process Rights in Disciplinary Proceedings

Mr. Justice Frankfurter has said that "(t)he history of American freedom is, in no small measure, the history of procedure." *Malinski v. New York*, 324 U.S. 401, 414, 65 S.Ct. 781, 787, 89 L.Ed. 1029 (1945) (separate opinion). With respect to occupations controlled by the government, the Fifth Circuit Court of Appeals recognized that "(t)he public has the right to expect its officers . . . to make adjudications on the basis of merit. The first step toward insuring that these expectations are realized is to require adherence to the standards of due process; absolute and uncontrolled discretion invites abuse.' *Hornsby v. Allen*, 326 F.2d 605, 610 (CA5 1964).

In *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 572-,92 S.Ct. 2701, 33 L.Ed.2d 548 (1972), this Court provided a thorough analysis of the liberty interest of which Petitioner has been deprived by the violation of her Due Process Rights documented herein and wrote:

> 'While this court has not attempted to define with exactness the liberty . . . guaranteed (by the Fourteenth Amendment), the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized . . . as essential to the orderly pursuit of happiness by free men.' *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042. In a Constitution for a free people, there can be no doubt that the meaning of 'liberty' must be broad indeed. See, e.g., *Bolling v. Sharpe*, 347 U.S. 497, 499-500, 74 S.Ct. 693, 694, 98 L.Ed. 884; *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551.
>
> Petitioner has been deprived of the right to engage in the common

occupations of life, i.e. that of a legal secretary, law clerk or legal assistant in the State of Wisconsin under the extraordinary provisions of SCR 22.26 (2)[7]. *See* below.

. . .

> For '(w)here a person's good name, reputation, honor, or integrity is at stake because of what the government is doing to him, notice and an opportunity to be heard are essential.' *Wisconsin v. Constantineau*, 400 U.S. 433, 437, 91 S.Ct. 507, 510, 27 L.Ed.2d 515; *Wieman v. Updegraff*, 344 U.S. 183, 191, 73 S.Ct. 215, 219, 97 L.Ed. 216; *Joint Anti- Fascist Refugee Committee v. McGrath*, 341 U.S. 123, 71 S.Ct. 624, 95 L.Ed. 817; *United States v. Lovett*, 328 U.S. 303, 316-317, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252; *Peters v. Hobby*, 349 U.S. 331, 352, 75 S.Ct. 790, 801, 99 L.Ed. 1129 (Douglas, J., concurring). See *Cafeteria & Restaurant Workers v. MeElroy*, 367 U.S. 886, 898, 81 S.Ct. 1743, 1750, 6 L.Ed.2d 1230. In such a case, due process would accord an opportunity to refute the charge before University officials. In the present case, however, there is no suggestion whatever that the respondent's 'good name, reputation, honor, or integrity' is at stake.

In the present case, Petitioner's good name, reputation, honor and integrity is at stake because, as this Court can plainly see from the Opinion and Order of the Wisconsin Supreme Court (Appendix A), Petitioner has been found to have engaged in "serious misconduct" for which she has not shown sufficient remorse, because none of the exculpatory evidene she proffered was considered. Note that there is no mention of the *Wells Fargo Home Mortgage Attorneys Manual, Version 3* or the favorable result obtained in *In re Carrsow-Franklin*, 524 B.R. 33 (Bankr. S.D.N.Y. 2015) based on that very same evidence.

> Similarly, there is no suggestion that the State, in declining to re-employ the respondent, imposed on him a stigma or other disability that foreclosed his freedom to take advantage of other employment opportunities.

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[7] To the best of Petitioner's knowledge, no other jurisdiction imposes such a limitation. Petitioner works with lawyers in California, Hawai'i, Minnesota, Nevada, Texas, and Washington in a legal research, legal assistant, and investigative capacities.

> The State, for example, did not invoke any regulations to bar the respondent from all other public employment in state universities. Had it done so, this, again, would be a different case. For '(t)o be deprived not only of present government employment but of future opportunity for it certainly is no small injury . . .' *Joint Anti-Fascist Refugee Committee v. McGrath*, supra, 341 U.S. at 185, 71 S.Ct. at 655 (Jackson, J., concurring). See *Truax v. Raich*, 239 U.S. 33, 41, 36 S.Ct. 7, 10, 60 L.Ed. 131. The Court has held, for example, that a State, in regulating eligibility for a type of professional employment, cannot foreclose a range of opportunities 'in a manner . . . that contravene(s) . . . Due Process,' *Schware v. Board of Bar Examiners*, 353 U.S. 232, 238, 77 S.Ct. 752, 756, 1 L.Ed.2d 796, and, specifically, in a manner that denies the right to a full prior hearing. *Willner v. Committee on Character*, 373 U.S. 96, 103, 83 S.Ct. 1175 1180, 10 L.Ed.2d 224. See *Cafeteria Workers v. McElroy*, supra, 367 U.S. at 898, 81 S.Ct. at 1750. In the present case, however, this principle does not come into play.

In the present case, Petitioner is not only deprived of her professional occupation of over 40 years but is precluded by a uniquely draconian prohibition on even the common occupation in as a legal assistant, legal secretary or law clerk by employment in the State of Wisconsin only under SCR 22.26(2) and (3), which provides:

> **SCR 22.26 Activities following suspension or revocation.**
> . . .
> (2) An attorney whose license to practice law is suspended or revoked or who is suspended from the practice of law may not engage in this state in the practice of law or in any law work activity customarily done by law students, law clerks, or other paralegal personnel, except that the attorney may engage in law related work in this state for a commercial employer itself not engaged in the practice of law.
> (3) Proof of compliance with this rule is a condition precedent to reinstatement of the attorney's license to practice law.

In the Matter of John Ruffalo, Jr., Petitioner, 390 U.S. 544, 556, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968), Justice White, joined by Justice Marshall wrote, concurring,

> I would hold that a federal court may not deprive an attorney of the opportunity to practice his profession on the basis of a determination after the fact that conduct is unethical if responsible attorneys would differ in appraising the propriety of that conduct.

Petitioner's proffered defense was that her conduct was not frivolous because responsible attorneys agree and have prevailed on the basis of the same evidence as that which Petitioner sought to present within days of receiving the *Wells Fargo Home Mortgage Foreclosure Attorneys Manual, Version 3* along with the authentication from the attorney who obtained the evidence in discovery in *In re Carrsow-Franklin*, 524 B.R. 33 (Bankr. S.D.N.Y. 2015).

The conduct for which Petitioner is being punished was decided by a referee based on the dictation of findings of fact by OLR which OLR claims to have proved at a hearing at which Petitioner was deprived of the right to call witnesses in her defense and denied the opportunity to present essential, exculpatory documentary evidence, precluding her defenses and denying her a full and fair hearing.

E. The Due Process Clause of the Fourteenth Amendment to the *United States Constitution* requires full and fair hearing before Petitioner's right to practice her profession may be taken by state action.

It is well-established that due process must be accorded before a property right is taken by state action. Due process requires notice of charges and an opportunity for a hearing. *Mathews v. Eldridge*, 424 U.S. 319, 334, 96 S.Ct. 893, 902, 47 L.Ed.2d 18 (1976). The hearing must be held in a meaningful manner and at a meaningful time. *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191,

14 L.Ed.2d 62 (1965). Petitioner was denied her right to call witnesses in her defense and produce exculpatory documentary evidence, e.g. Manual, Appendix S.

While Petitioner was permitted a hearing, it was not held in a meaningful manner because she was precluded from presenting testimonial evidence from witnesses other than herself (OLR wanted to call her as a witness against herself so that it could try to attack her credibility and give the referee the opportunity to make factual inferences based on his "beliefs") when she could not get relief from the Scheduling Order after the Second Amended Complaint was allowed to be filed on August 18, 2016. She was left with the pre-trial deadlines on the January 19, 2016 Scheduling Order which had expired or were on the cusp of expiring. The referee even acknowledged she perceived she had been "tricked" because he did not deny her Motion for Relief from the Scheduling Order until September 20, 2016 (Appendix O, 557a-563a) after the deadlines for naming witnesses and presenting documentary evidence for consideration at the hearing had expired but for the new date of the hearing and he declared Petitioner's Motion "moot".

F. Lawyer disciplinary proceedings may not be used to punish a lawyer for assisting her clients in exercising their right to Petition the Judiciary for Redress of Grievances under the First Amendment to the *United States Constitution.*

In Bordenkircher v. Haynes, 434 U.S. 357, 363, 98 S.Ct. 663, 54 L.Ed.2d 604 (1978) the United States Supreme Court held, "To punish a person because he has done what the law plainly allows him to do is a due process violation of the most basic sort . . . and for an agent of the State to pursue a course of action whose

objective is to penalize a person's reliance on his legal rights is "patently unconstitutional."

Because Petitioner's claims were not frivolous as a matter of fact in violation of SCR 20:3.1(a)(2) or unsupported by law in violation of SCR 20:3.1(a)(1), she cannot be held to have filed claims which she knew or when it was obvious that doing so would "merely serve to harass or maliciously injure another" in violation of SCR 20:3.1(a)(3). She cannot be found to have delayed proceedings by defending her clients' homes by raising meritorious claims or to have violated her oath. Petitioner has been punished for doing what the law plainly allows her to do. The punishment of the Petitioner in the proceedings below is patently unconstitutional.

CONCLUSION

Rather than address Petitioner's Due Process issues and allow her a full and fair hearing, the Wisconsin Supreme Court refused to address the failure of the proceedings to meet the Wisconsin Supreme Court's own Due Process requirements established in *State v. Hersh*, 73 Wis.2d 390, 243 N.W.2d 178 (Wis., 1976). The Wisconsin Supreme Court has held that an attorney's constitutional due process rights involve "only his right to prior notice of charges, his right to prepare to defend these charges and his right to a full hearing on these charges." *State v. Hersh*, 390 Wis.2d at 398, 243 N.W.2d at182. A full hearing must also be a fair hearing with the opportunity for the lawyer to be heard at a meaningful time and in a meaningful manner. *Armstrong v. Manzo*, supra. Petitioner implores this Court

to grant her Petition for Writ of Certiorari.

Dated at Madison, Wisconsin this 19th day of March, 2021.

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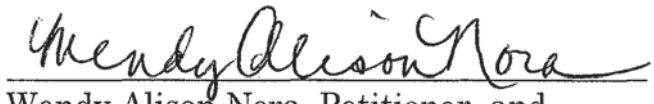

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