No. 21-507

In The
Supreme Court of the United States

LAWYERS UNITED INC., EVELYN AIMEE De JESUS, and ALLAN WAINWRIGHT,

Petitioners,

v.

UNITED STATES, ET AL.,

Respondents.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The District Of Columbia Circuit

PETITION FOR REHEARING

W. PEYTON GEORGE
663 Bishops Lodge Rd., #27
Santa Fe, NM 87501
Phone (505) 690-4001
Peyton@georgelegal.com

JOSEPH ROBERT GIANNINI
Counsel of Record
12016 Wilshire Blvd.,
Suite 5
Los Angeles, CA 90025
Phone (310) 804-1814
j.r.giannini@verizon.net

COCKLE LEGAL BRIEFS (800) 225-6964
WWW.COCKLELEGALBRIEFS.COM

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A.

The highly controversial pending Mississippi and Texas abortion cases, like this case, present an important question concerning the limits of Article III court judicial power.

This case, however is much easier to decide for several reasons. Initially, this United States Supreme Court has never decided the merits of the question presented. This Court does not have to revisit any prior constitutional rulings.

The *Federal Rules of Civil Procedure* "govern the procedure in all civil actions and proceedings in the United States district courts." FRCP 1. Hence, the scope applies to all federal actions and proceedings. The purpose is "to *secure the just, speedy, and inexpensive determination of every action* and proceeding." (Emphasis added) *Ibid.* The *Federal Rules of Civil Procedure 83(a)(1)* further *specify*: "A local rule must be consistent with . . . federal statutes and rules adopted under 28 U.S.C. § 2072." The challenged Local Rules do not "secure the just, speedy, and inexpensive determination of every action": (i) when all lawyers in 1/3 of the District Courts can obtain *general* admission privileges by filing a certificate of good standing, and paying a District Court admission fee of $200; (ii) other lawyers admitted by reciprocity or UBE transfer can obtain *general* admission privileges by filing a certificate of good standing, paying a District Court admission fee of $200, and paying a $1,000 poll tax to a mandatory state bar association; (iii) and lawyers in

the Golden State can obtain *general* admission privileges by filing a certificate of good standing, paying a District Court admission fee of $200, paying an almost $2,000 poll tax to a mandatory state bar association, and then having to reinvent the wheel and pass a 100% subjective entry-level licensing test that has a *standard error of measurement* shoddier than .48, and fails more than 60% of experienced attorneys on the July bar exam. Lawyers who seek admission in the Florida district courts must also undergo tortuous rite of passage. A blind person can see these non-uniform Local Rules defeat the scope and purpose of the *Federal Rules of Civil Procedure*.

Madison, writing in *The Federalist* 47, explicitly promised that the Article III courts would have limited jurisdiction and forewarned against the tyranny that would result if Judges were to self-appoint themselves as legislators:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.
>
> ....
>
> Again: "Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for THE JUDGE would then be THE LEGISLATOR."

The challenged Rules enacted by the District Judge vote carried out behind closed doors undermines *The Federalist* 47. These Rules undermine *The Federalist* 80, "the peace of the WHOLE ought not to be left at the disposal of a PART." There can be no question these Local Rules are far in excess of authorized Article III court limits.

This case is also far easier to decide because the question presented is not concerned with the right to abortion, which is nowhere found in the text of the Constitution. This case is concerned with the textually-embedded Bill of Rights to speech, expressive association, the right to petition the government with counsel for the redress of grievances. These Local Rules compel citizens in all 50 states to choose a lawyer from the forum state or forfeit the right to counsel. They grant a monopoly; a patent on the First Amendment substantive rights. Congress in promulgating and amending 28 U.S.C. § 2072(b) commanded that Local Rules "shall not abridge, enlarge, or modify any substantive rights." Thus, the challenged Local Rules on their face in a single sweep "abridge" and "modify" every enumerated Constitutional and substantive right enacted by Congress and double-down by "enlarging" and providing a monopoly and patent on access to the District Courts to forum state licensed lawyers. The Bill of Rights freedoms to speech, association, and to petition the government with counsel on their face have been abridged, modified, and enlarged.

In contrast to the Mississippi and Texan abortion cases, this case is a no-brainer. There is no dispute as

to any material fact. This Court can easily and summarily reverse the decisions below in a five-page opinion. Moreover, this Court could not enter any decision that would provide greater accolades to it from American lawyers and citizens then would follow from abrogating this local rule licensing discrimination that stems from the separate but equal era. If this court were to grant review, and the questions presented were held up in the antiseptic noonday spotlight, petitioners submit that not a single Justice would vote to affirm this federal discrimination.

These local rules are identical to a sign on the United States Courthouse door saying BLACKS and JEWS barred from entering. This Court cannot go on summer vacation and leave these sordid signs behind without undermining the rule of law and this Court's fiduciary duty to serve as a trustee of the United States Constitution.

B.

The Senior District Judge dismissed Petitioners' claims challenging the Local Rules of the District Courts in California and Florida and Petitioners' claims challenging the Ninth and Eleventh Judicial Council's failure to abrogate these Local Rules under FRCP 12(b)(2) holding it did not have personal jurisdiction over these out-of-state defendants. The District Judge's decision is not published and it is not precedent. The D.C. Circuit's one paragraph decision affirming is not published and it is not precedent. The decisions below put a band-aid on a massive deprivation of civil rights carried out under the guise of Local

Rules that implicate the viability of the United States as a single entity and this Court's supervisory duty as a trustee of our Constitution.

Per Rule 44, Petitioners aver grounds for rehearing are presented as the Petitioners repackaged and filed the identical claims challenging the Local Rules of the District Courts in California and Florida and Petitioners' identical claims challenging the Ninth and Eleventh Judicial Council's failure to abrogate these Local Rules in *Lawyers United Inc. et al. v. United States et al*. in the Northern District of California on January 3, 2022. Petitioners did not challenge the Local Rules of the District of Columbia.

Petitioners in that Complaint recounted Judge Janice Rogers Brown's violation of the recusal statute and other reasons that undermine the validity of the District of Columbia Circuit Court of Appeals' one-paragraph decision below. Petitioners attached to that complaint the exhibits establishing the California bar examination for experienced attorneys is less reliable than flipping a coin and the Congregational Reporter Notes in regard to 28 U.S.C. §§ 2071-72, 332(d)(4), that are also set forth in the Appendix.

Petitioners aver this Court should thus grant rehearing in light of this related complaint filing in the interests of judicial economy, to avoid the multiplicity of lawsuits, to preserve the appearance of justice, to answer an increasingly important question of nonuniform federal law that implicates the viability of the United States as a single entity, and to adhere this United States Supreme Court's fiduciary duty as a trustee of the Constitution.

C.

"A trustee is held to something stricter than the morals of the market place. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior." *Pegram v. Herdrich*, 530 U.S. 211, 225 (2000). This case concerns the fiduciary non-delegable supervisory duty of the Supreme Court of the United States to serve as a trustee of our Constitution, the Court's abdication of this *supervisory* duty, and lower court judges enacting Local Rule legislation far in excess of Constitutionally and statutorily defined narrow limits. It is about Article III Court judges not recusing themselves when they have a statutory duty to do so.

Some may recall, that while representing the United States government in Vietnam, Lt. Calley was angry that some of his men were killed. He believed he had the right to exceed authorized discretion and line up and destroy the lives of Vietnamese citizens. He did so because he believed he could get away with this behavior because no one was watching. The Judges below have become angry by the Petitioners challenging their authority. Like Lt. Calley, they believe they have the right to destroy the civil rights of American citizens because they can get away with it because no one is watching. This Honorable Court represents the United States of America. As such, this Court cannot allow this deprivation of the Petitioners' civil rights to continue for one more day without trespassing its fiduciary duty as a Constitutional trustee. A trustee has an undivided duty of full disclosure, good faith and fair

dealing. The punctilio of an honor the most sensitive, is then the standard of behavior.

The D.C. Circuit Court of Appeals below in a one paragraph decision has suppressed Petitioners' claims that the nonuniform Local Rules trespass Federal Rules of Civil Procedure 1, 83(a)(1) and Section 2072 because they are nonuniform and they interfere with the just, speedy, and inexpensive determination of every action.

The D.C. Circuit Court of Appeals below has suppressed Petitioners' claims that the nonuniform Local Rules abridge, enlarge, and modify every Constitutional and substantive right set forth by Congress in a single sweep.

The D.C. Circuit Court of Appeals below has suppressed Petitioners' claims that the nonuniform Local Rules contradict 28 U.S.C. § 1738 and *United States v. Windsor*, 133 S.Ct. 2675 (2013).

The D.C. Circuit Court of Appeals below has suppressed the Petitioners' claims that these nonuniform Local Rules trespass the separation of powers doctrine and 28 U.S.C. § 1738, the full faith and credit statute.

The D.C. Circuit Court of Appeals below has suppressed the Petitioners' claim that this Court's decision in *NIFLA v. Becerra* 138 S.Ct. 2361 (2018), rejecting the so-called professional speech doctrine, when the *Howell* decision squarely rests on the professional speech doctrine.

In *West Virginia Bd. of Ed. v. Barnette*, 319 U.S. 624, 638 (1943), this Court held the state could not compel citizens to salute the flag. This case presents a parallel important issue, whether District Judges are authorized to enact Local Rules that compel all citizens to salute the state flag and pay dues to a mandatory bar association in order to exercise their Bill of Rights protected freedoms in the District Court.

In *Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc*., 508 U.S. 49 (1993), this Court, in construing the right to *petition*, held that litigation could only be enjoined when it is subjectively and objectively a sham. This case presents a parallel important issue, whether Local Rules can enjoin the filing of lawsuits by licensed attorneys in good standing from 49 states that are neither subjectively nor objectively a sham.

This Court has granted certiorari when the States of Texas and Mississippi enacted legislation banning or restricting abortion. This case presents a parallel issue, whether District Judges can enact legislation banning and restricting the Bill of Rights-protected freedoms to speech, association and to avoid compelled association, counsel, and the People's sacred right to petition the government for the redress of grievances.

These local rules are identical to a sign on the United States Courthouse door saying BLACKS and JEWS barred from entering.

This Court cannot turn its back on Petitioners' petition for certiorari and rehearing without trespassing the rule of law and undermining its own credibility as a trustee of the Constitution.

Respectfully submitted,

W. PEYTON GEORGE
663 Bishops Lodge Rd., #27
Santa Fe, NM 87501
Phone (505) 690-4001
Peyton@georgelegal.com

JOSEPH ROBERT GIANNINI
Counsel of Record
12016 Wilshire Blvd.,
Suite 5
Los Angeles, CA 90025
Phone (310) 804-1814
j.r.giannini@verizon.net

RULE 44 REHEARING CERTIFICATE

Counsel certifies that this petition is presented in good faith and not for delay. It is presented to avoid delay and to avoid the multiplication of litigation.

JOSEPH ROBERT GIANNINI
Counsel of Record