ORIGINAL

No. 21-5143

IN THE

SUPREME COURT OF THE UNITED STATES

Cathy Carr, PETITIONER,

vs.

National Presto industries, Walmart Corporation and Industries and Store and unknown defendants (And all.)

The RESPONDENT(S)

*

PETITION FOR A WRIT OF CERTIORARI

From or to the Fifth Circuit Court of Appeals, case number 20-50851 and the USDC for the Western District of Austin Texas, case number A-19-cv-0191-RP.

*

PETITION FOR WRIT OF CERTIORARI

*

Cathy Carr
7610 Cameron Road
apartment 2007
Austin, Texas 78752
512-783-2840
myartcathycarr@yahoo.com
Petitioner and pro se.

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Question presented.

QUESTION: WAS THE PETITIONER DENIED FAIR DUE PROCESS AND EQUAL PROTECTION OR OTHER RIGHTS, AND ARE THERE ANY REASONS TO REOPEN OR REINSTATE HER APPEAL?

Parties to the proceedings

The petitioner Cathy Carr, was the plaintiff in the District Court and the Appellate in the 5th Circuit Court of appeals court.

The respondents are National Presto Industries and Walmart Corporation and Industries and Walmart store, and unknown defendants were the defendants in the District Court and the Appellees in the 5th Circuit Court of appeals but they never reply to anything in that court.

Related Cases

United States District Court for the Western District of Austin TX. Case no. A-19- CV-0191-RP

United States 5th Circuit Court of Appeals. Case number 20-50851. Judgment entered on July 17th 2021.

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Opinions and documents of the opinions in appendix, attached at the end.

JURISDICTION

On 6/17/2021 the United States Court of Appeals denied the reconsideration done by Judge James C Ho, and on 6/2/2021 the clerk denied the motion to reopen the case when there was good cause and excusable neglect for disability or mistake, or for any other reasons. USDC clerk should have executed the order & sent the transcript to the 5th Circuit Court of Appeals per as the petitioners request for this to be done. The petitioner was entitled to have her appeal reopened because there was excusable neglect and good cause for reopening her appeal and reconsidering it.

PETITION FOR WRIT OF CERTIORARI

INTRODUCTION AND STATEMENT OF THE CASE

I.

On 12/23/2020 the plaintiff refiled her notice of appeal. On 10/21/2020, she filed a notice for the transcripts for the appeal to be given and sent to the Fifth Circuit Court of Appeals under IFP, ***Appendix F-G-H.*** The 1st notice of appeal was on 10/02/2020, and again she requested for the court to certify and transfer the complete record meaning transcripts and everything over to the Court of Appeals, ***appendix*** 6-7-8. She filed ANOTHER motion to the court regarding the issues again and the court said quote unquote on ***(page-two of page-17 document- 91,) "if she is somehow seeking for the record to be sent to the Fifth Circuit Court of Appeals for the purpose of her appeal, the clerk's office is responsible for that").*** ***Appendix I..***

This issue confused the petitioner, but she assumed that the clerk would send these being requested, meaning everything. The court already knew that petitioner was paupers and could not afford filing let along transcripts. One of the critical issues in her case, involved with the transcript's issues, was that there was one hearing in the district court , despite petitioner asking for an evidence hearing that she never got. It was a 2–5-minute hearing over pretrial, and nothing else except for a deposition that had been taken by the defendants which the plaintiff needed, for the 5th Circuit. Being sick, she made and sent a motion to reset this hearing Apparently, the court had the hearing anyway. She never knew about a hearing until later. She suspects that it was 2-5 minutes in length from the court papers, hardly enough of a transcript to establish ending an appeal over, and not related to the appeal. She was not allowed at this time to come sick, due to the virus, or she would of came. (*)She also did not know about the court reporter, and had no phone number, address, or contact information given to her about this unknown person. The transcripts from this hearing were not related to her appeal. The petitioner had said, what she was appealing about, and it was not a pretrial issue. (*)Petitioner was without funds or reliable information and proper notice to obtain records and was also without funds to pay for these. She objects.

II.

The motion she made for these papers, was not answered clearly, or understood. She believes that based on the circumstances that she had no way to obtain the transcripts, because the only resolution offered by the magistrate (who was not consented to), or to

even hear the matter, and was being pushed upon the petitioner when she did not want him because he was not familiar with her case, and he was deciding issues that he did not know about, regarding summary judgements and all, gave a very vague answer, and the information wasn't on there to obtain anything. There was no court reporter number, name, address etc. (The petitioner never received the benefit of a judge who knew about her case and the petitioner had an interest in her case and an interest in having a judge that was familiar with the filings that she had done). (The petitioner was denied fair due process and equal protections), from the court to first consent to the magistrate or to refuse such, and more) and then to a proper review of summary, and of her evidence, and then her appeal. Evidence of the petitioners' allegations are that the magistrate did not know that she had done a deposition, or that she had done several declarations, and more. Evidence that he misunderstood consumer reports of others, who had been subjected to fires like the petitioner who had used the same unit, wherein he alleged that he did not know if it was the same unit, when this had been said in other pleadings.

Evidence that the petitioner had said the manual being used by the expert, was wrong, having a new copyright date on it, and that it was different from the 2017 manual, that the petitioner had, but speculated by the expert. The magistrate and the defendant's attorney, and expert never saw the manual in 2017, but it was accepted despite objection. Wherein he and the expert and the defendants acted like they had owned the same dehydrator in 2017 when they did not, and they could testify to nothing regarding that manual and had no testimony about the manual other than their

speculations. The magistrate apparently thought that the defendant's attorney and their expert knew, what was in the box in 2017, when the petitioner had her fire, but they did not , and the magistrate believed them. Why? When all never owned the same dehydrator and they all did not know but speculated knowing . Because the magistrate was push upon her without her consent, he also apparently knew what was in the manual somehow, even though they were all wrong despite them testifying to this as true, and the petitioner disputing this in declarations and all. Therefore, he believed speculation and wrong information and had no knowledge of the case, or what had already been disputed and all. The magistrate acted like he owned the same dehydrator and knew what was in the manual as instructions when none of them knew, other than other, consumers who had disputed such in their reports and the petitioner who actually owned a manual. Petitioner, testified to their manual as wrong in her declarations. (So, the magistrate was problematic and unaware and was complacent in the deceit of what the evidence was). All this was speculation based on no evidence by the magistrate and the expert and the defendant's attorney, an example of why the petitioner withheld her consent to the magistrate.

His answer on the requested transcripts seemed to be that the petitioner had to order something without information regarding such or that the clerk would take care of it. He knew the petitioner would not be able to pay for transcript because she had lost everything in the fire and was now extremely poor. And had still not recovered from the mold and destroyed work and all caused by the defendant's defective product.

By not fully answering the issue to the petitioner, the magistrate created confusion regarding the transcripts or the record. And he also ignored provisions related to pro se IFP litigants who have no way of ordering transcript or paying for these.

In Texas courts, when someone is indigent, the court reporter has to give the appeals court, the transcripts. In fact, it would be good news if the deposition or transcripts would be filed in the record, which would help the administration justice since the court reporters have already received something for their work and the only issue is really duplication of their work. Contacting an unknown reporter about paying for transcripts after being given IFP statues and all seems moot when no funds are available to pay these people. The party initiating the court reported or hiring them, should have to pay for the transcripts, and they ought to be put in the file and placed in the file with a docket number. **Forcing the poor, who have been granted IFP, to contact an unknown reporter and make arrangement for payment without funds is ridiculous. (*)[(Wherein the petitioner was denied fair due process and equal protection, because she could not pay for the transcripts wanted by the 5th Circuit Court of Appeals)]**. When the petitioner did the deposition with the defendants, she was told by the court reporter that the cost for these was 500 dollars, which she could not afford. The clerk never took care of it and never said who to contact or what phone number to call, or even the name of the reporter and it was never listed in the court record either, nor was it listed in the 5th Circuit Court of Appeals record either, so unknown information never given to the petitioners but required performance, was not doable and not fair due process.

III.

Confusion is always a good reason to grant excusable neglect., and unknown information is another reason to grant it. The Court has held that the Due Process Clause protects against practices and policies that violate precepts of fundamental fairness. The standard query in such cases is whether the challenged practice or policy violates "a fundamental principle of liberty and justice which inheres in the very idea of a free government and is the inalienable right of a citizen of such government, appeals are fundamental. A statute or rule may be so vague or so threatening to constitutionally protected activities, that it can be pronounced unconstitutional on its face, and here it should be, and technically the transcripts were requested by the petitioner. *Lambert v. California, 355 U.S. 225 (1957). Failure to act under circumstances, should alert the doer to the consequences of a deed not done."* The petitioner did not know her case would be dismissed, over such and she had no way of paying the court reporter, or no way to act. Among other things the 5th Circuit Court of Appeals never told her that her case was going to get dismissed over it and sent a dismissal that she didn't get. She requested that the transcripts be sent over then she made a motion for these in the USDC. She believes that she has been denied fair due process and equal protection. Petitioner had an interest in her appeal because she had been denied a fair hearing by the unconsented to magistrate. The plaintiff had the defendants' radiographic pictures because they were given to her by the man taking pictures for the defendants, who saw defects like she did when the defendant's attorney and the expert walked out of the room. This man said that there were defects in the

unit and the plaintiff already knew there were because she looked at the pictures with him and could see such. Petitioner has had experience in reading radiographic pictures and had studied about herbs. She had done product analysis and was a product developer and in fact had 15 different product lines that were destroyed by the defendant's dehydrator fire which caused flooding and mold issues. **Wherein, petitioner lost her life's work and other intellectual properties to include music and formulas**, that she had invented or developed, books and music, recipes, stories, and all she had written. She had put some on metal tapes and other devices. These books were excellent books, and her art was excellent and had sold in the past for **$1500, for a single print alone**, and she had over 3000 high quality scanned items that she could have sold or left to her grandchildren or etc. that went up in smoke and were destroyed because of the water damaged and mold issue, etc. **Petitioner noticed on the radiographic pictures that 2-wires were defective because she could see these as they were light in color and would have been darker if not defective. Among other things, she could see that the fan blades were broken and that the pieces were close to the fan motor and laying and scattered everywhere**. The design was on the bottom of the unit, and if anything dripped on these open wires, **it would instantly cause a fire**!!! And the petitioner would swear that this is what caused the fire, because the wires were open and anything even water touching the wires would of caused a fire if it had been dripped on., and if other items would have touched the wires even metal could have caused a fire. **This was an extreme fire hazard over stuff cooking on top and dripping towards the bottom, over a design defect** of the bottom heating component placement

and the trays being too wide and placing these on the bottom of the unit rather than the top. Petitioner did a *Fishbone analysis* and determined that the allegations that the fireman made regarding the smoldering object as stated in the fire report was the dehydrator or the only thing that had burnt even though smoke had exploded above and everywhere over the fire stopper. She knew that a fan blade would not break without having particles everywhere that could get into the heating elements and also into the motor area that appeared blown-out at the bottom of the unit. She also noted that the fan blades were broken completely in the spot where the fire went up and burnt upward melting the trays and the top of the unit downwards. Among other things the defendants said or Intertek said that the dehydrator fan blades were missing and distorted, however this was fictitious and deceitful and a lie because the fan blades were not missing, instead they were broken and laying all over the place and they were close to the opening that went to the motor and a fan blade would not break in a straight line and there would be particles from the fan blades that had broken, all over the place within the unit. Under the circumstances this dehydrator was an extreme fire starter, and this was not an analysis based on speculation. It was based on the facts related to the case and evidence. Radiographic pictures do not lie, here the pictures have 3-defects that can be seen by simply looking at them, and the petitioner could point these out for the jury who would believe that a fan connected with a heating element, not working, was a fire hazard. They would believe that defective wires dripped on would cause fires because everyone knows this. Among other things this summary judgment was determined in conflict with Congressional reports, that also

concluded that fans that do not work in dehydrators **are fire hazards**. This was not speculation, but the defendant's expert claimed that the plaintiff used speculation when he was speaking about himself. Defendants' expert stated that the petitioner used herbs, **but herbs do not cause fires**. And there are other problematic issues with their expert because he came to Texas **without a private-eye license, and he cannot do this under the laws of Texas. Under Texas law, an expert must have a private-eye license in order to determine causation of someone else's product, and it must be from the State of Texas.** He was fictitious about having an office in Arizona because the plaintiff went with her friend to Arizona and saw that his office was nothing but a post office box. And the pictures on his website were from the surrounding areas by the post office. Petitioner also contacted Arizona and different authority agencies related to Private-eyes and licensing and contacted Texas and he had no license. (*)**(The petitioner is entitled to protections of Texas law that deny people coming here from other places without proper conditions or credentials)** and had an interest in this protection, and objects to the insurance related expert who decided his evaluation in 1-hour, on the day of inspection, when no other expert would or could do such. This is absolutely impossible; it takes over a month or more to decide anything if a real expert does the evaluation. Among other things, there is no degree called Forensic Fire Science and this was fictitious as well. This expert was merely ex-police officer who had taken arson classes and the classes that he listed on his analysis are online and the plaintiff read them online. There were not any classes, that were anything special, or that could determine anything about dehydrators or herbs or etc. and this expert was not qualified

to determine such or to allege anything about herbs or dehydrators and was merely a fire arson inspector and nothing else. He mentioned candles in the wind and cell phone chargers, but these items were not even in the apartment, nor could he prove these allegations, and these were speculations. Real experts cannot speculate about something, if they cannot find a cause, they must rule non-conclusive, but he did not. A one-hour inspection on the one day of his analysis would not be worth the paper it was written on. Twenty other experts, called said the same. Wherein **a one-hour inspection is absolutely worthless, unless you have the magistrate that the Petitioner had, then it counts**, and the bad case law in Texas of ***Andrew vs Dial Corp***, then it counts wrongly. He did no experiments, and his analysis was not backed by empirical data or scientific or true, or based on experience, or the facts. Defendants misrepresented that the fan blades were missing and distorted, because in the radiographic pictures, the blades are there, **they're just lying all over the place and broken. This is a huge fire hazard, mixing plastic with fire and particles all over, so he lied about the fan blades being distorted or missing because they are there,** they were **just all over the place and can be seen on the radiographic** pictures, and of course, particles would fall into the motor area and cause a blowout **shown on the dehydrator. Petitioner also did research on combustion and polyurethane trays and also on smoldering objects. And found a NASA document about this, and the coloring was exactly the same, showing that there was combustion inside the dehydrator unit, connected with polyurethane trays.** Proving overheating and fire, within the dehydrator, rather than outside sources like the alleged candle in the wind and other

speculation from the defendant's expert. He ignored the fire department that talked about a smoldering object and searched for candles in the winds and alleged these could have caused the fire. **The fire department also determined that the dehydrator caused the fire**, but defendants expert alleged outside sources, without being able to backed this up by any evidence, **say what these other sources were**, and without any witnesses or any evidence to support this, and he was never at the scene, nor did he review the scene and nor did he review appropriate pictures because everything had changed from the night of the incident or the night of the fire and people had gone in there afterwards and took pictures etc. Their expert also did not talk to witnesses and such, but the magistrate granted them summary judgment, vs concrete evidence based on Texas case law which discriminates against poor litigants who are not able to afford transcripts for one thing, and experts for another thing, see ***Andrew versus Dial Corp, 143 federal supplement 3rd edition 522 (WD Texas) 2015***, Even if this expert was fictitious, the one thing that the defendants had going for them, is that they could call somebody an expert, wherein his analysis or expertise was in question.

IV.

Texas case law is suspected as being unconstitutional and in violation of the Constitution. The petitioner deserved a chance at justice and to protect the issue and was not given a fair chance over the transcripts, and this case law, and of course because she did not receive notices from the 5th Circuit Court of Appeals that her case was going to be dismissed over failing to provide transcripts, wherein, she had acted and sought to provide these along time ago in the first place. The plaintiff did not

consent to the magistrate deciding her summary judgment and nor did she consent to him deciding if she deserved to have the transcripts and who would pay for these and how she would get these, etc. and she objects.

Either way his ruling was inconsistent and vague and did not give notice to the plaintiff of the correct procedures and did not afford her away to pay for the transcripts and did not enforce her request to send the transcripts over to the Fifth Circuit Court of Appeals when she was entitled to a proper record on appeal and denied such in violation of Fair Due Process and Equal Protection law which caused her case to be dismissed wrongfully and denied reconsideration and all by the 5th Circuit Court of Appeals. Petitioner's case was important to her because she had developed over 15 product lines, one was Flea Free Naturally for dogs and cats, a natural remedy that keeps fleas off your animal almost indefinitely. Among other products in this line was a miss spray, a rug cleaner, a conditioner, a soap for cleaning your dog or cat, and a shampoo. The plaintiff had spent countless years perfecting this and the ingredients in this formula or these formulas and had tested these on people's animals and etc. and her products worked. She had first made all the products for herself. She invented a suntan lotion that was made from pecan shells and that product line which lasted a very long time and did not leave your skin orange. And a Roach formula that you spray around your house, which protected your house from bugs in general. Petitioner invented the Reversal Theory Process in general and the elements of it and how it was used, and all this theory was complex and used in her products. She had a car design and a components kit. A tile kit that was not made from clay and was absolutely

beautiful. She had a product line called Water Dressing and that product line. She had a product line called Soap to Go, which was a cream in a jar that you took with you which conditioned your skin. She had a product that was called the Reversal Theory Cream which made your skin look 20 years younger. And which made your skin feel like a baby skin. She had another product that was a recyclable product that actually was used for asphalt and filling holes in roads. She had a product line called Berry Delicious., and other inventions and product lines. She also had books to include the Joey Kangaroo and All the Right Stuff book series. Tapes that she had done in the studio, a Statue of Liberty book and other books that she had written and music that she had developed, created, and made, and other items that were important to her. The magistrate treated her case as unimportant. If the Court of Appeals or this court does not allow her to reopen her case, then she will be left with the loss of her life's work and a lot of intellectual property to include more because she wrote songs and music compositions and books and other items. These were destroyed when everything got wet and mold was everywhere and etc. and wherein stuff was thrown away without the petitioners consent or knowledge and when she talked to an attorney about this issues, he told her that anything that happened regarding the fire was because of the fire and that I needed to sue the people that had caused the fire rather than people that had come in afterwards and try to throw away things or allegedly clean up things when they did not know otherwise and should not have been there and this also injured the plaintiff, because she lost items that were treasures to her and sentimental to her

and all pictures that were in the unit and birth certificates and everything else to include degrees and photographs and baby stuff and more.

V.

The case was extremely important to the plaintiff and if she would have received the notice in January, as alleged when she did not, she certainly would have made a motion to reopen the case in 45 days and would have had her appeal on track in spite of any of the issues, but she did not receive such. *Some courts have reasoned that good cause applies only to request for extension of time made before the original filing a notice has expired, but excusable neglect applies to request made afterwards see Kaubish v. Weber, 408 F 3rd 540, 543 (8th Cir, 2005); United States v. Torres, 372 F. 3d 1159, 1163-64 (10th Cir. 2004).* Petitioner believes that any instructions that she had received were vague and did not seem doable, or possible or they were confusing. Good cause also applies when there is confusion or when the post office fails to deliver a notice, because these are situations that are beyond the control of the petitioner. During this time there were a lot of things regarding the mail and the post office was also handling mail from the election and there were issues in general with the mail. If she would have received the documents in January, she would have acted promptly to cure all the defects that were mentioned in any letters that might have been sent, but she did not receive this from the 5th Circuit Court of Appeals. If sent the information about what to do and how to resolve the issue, petitioners appeal would be on track, and she could strive to obtain some sort of justice under the circumstances. She is entitled to the benefit of the doubt and the clerk has no proof that she received anything

in January and her address had not changed and when she found out about the matter, she acted to quickly preserve her claim by making a motion to reopen the case, even though it was past the 45 days and was denied her rights because she did not receive such. Petitioner sought to preserve her claim and explained some of the circumstances and made a declaration which was denied because it was past the 45 days by the 5th Circuit Court of appeals wrongfully. Then for good cause or excusable neglect she made a motion for reconsideration which Judge Ho, from the 5th Circuit Court of Appeals denied wrongly. Petitioner had already been denied justice from the District Court because they refused to send the transcripts over after she requested these, and when they left her with no ability to pay for a court reporter's reports in the first place and when they gave her vague information and answers that she was supposed to order the transcripts which would have included her paying which could not be done. She did not want the magistrate on her case because he was confusing and not only that she had not consented to him, deciding everything on her case. Among other things, he was vague, and it was hard for her to understand him or what he wanted from her and at best she could not make arrangements with a court reporter when she could not afford to pay the court reporter in the first place. Regarding the defendants, court reporter in Texas if somebody is indigent the appeals court makes the court reporter hand over the documents for the appeals. Petitioner knows that Texas law is important to the defendants because they paraded it all over the place, with the case, *Andrew vs. Dial*, a case that discriminates on its face and grants litigants who are poor no justice versus the ones who can afford justice or an expert. This case claims: that experts are almost

always needed and that regarding design defects, that you always have to have an expert to explain the design defects when the design defects in the petitioner's case were simple. She stated a claim for a failure to warn on the box. The heated components were on the bottom of the unit and not on top and could drip down and cause fires. Among other things, defendants said in their own manual that if smoking occurred, that a person should unplug the machine. In fact, the defendants knew this was a defect, because the mesh was uncovered, and stuff was apparently dripping down into the motor area that was on the bottom of the unit. The temperature gauge was one setting and according to empirical data, only meat can be cooked at this temperature on a dehydrator and other items take a temperature of 65 to 95 degrees for vegetables, fruits and around 65 for herbal products. Therefore, everything was overcooking in the unit and that was a design defect and having one temperature and 1 gauge despite the fact that different temperatures were required and needed, was a design defect. The trays were too wide, and anyone could see that food would fall or drip down or might fall down over the wide trays, another design defect. And there were other design defects with this unit as well and they were easy and understandable for any jury member who would have been able to decide such. The petitioner believes that she would have been believed over the experts alleged candle in the wind and etc. Among other things a broken fan in a product, is not only a fire hazard "but a manufacturers defect". Among other things a broken fan, having moving pieces in a unit, which are not supposed to be there is a defect, and damaged wires over fan pieces moving around, with smaller particles moving around in heat related areas, is also a defect and a fire

hazard, and this can be seen on the radiographic pictures, and pointed out to the jury who could have decided that the petitioner was absolutely correct. Because broken sharp fan blades moving around would cause damage to the wires and open them up, a fire was caused over the fan blades damaging the wires and damaged wires, dripped upon are high fire risk, and dangerous! Instead, the magistrate voted for the defendants because they had an expert and their expert may have only done one hour on the day of inspection, and nothing more than a visual inspection and no experiments and speculated about everything, but they had somebody that they could call an expert. Andrew vs Dial, Corp. is suspected as being unconstitutional and infringing upon the rights of poor people to obtain justice, fair hearings and equal access to the jury and denying concrete evidence and opting for experts who make fictitious statements regarding such. There was nothing speculative at all about petitioner's analysis that she had done in a 1-89 defense of the summary sent, which was signed with a declaration from the petitioner at the end that everything was related and true, in the unit. The defendants did not have summary in favor of them but for *Andrew vs Dial* Corp, and this magistrate and unconstitutional case law.

Petitioner had experience, Consumer Reports, NASA experimental documentation, which showed combustion inside the dehydrator or that a fire started inside the dehydrator, and her analysis that she used which was called Fishbone Product Analysis. Among other things she had been a member of the Inventors Society in San Francisco and an officer, a member of the CJ Society and an officer, and a member of hacker spaces, wherein they had components, 3D printing, laser printing, CNC

machines and wiring and product making and woodworking and many other machines and she was familiar with herbs as well because her mother was a reflexologist person who did reflexology and petitioner had studied herbs when she was in her 20s. **Petitioner indeed had enough experience to be her own expert and requested such but was ignored rather than answered by the magistrate.** Regarding the Circuit Court, **when attorneys make mistakes they are given excusable neglect especially when they are not familiar with federal cases and etc., because of their lack of understanding and the plaintiff or petitioner** presented a case on this as well to include a declaration and all, see *United States vs Brown, 133 F 3d 993, 996 (7th Cir. 1998), affirming excusable neglect in a case involving a lawyer who was handling only one federal case with the rest of his practice being confined to state courts not only being allowed reconsideration over not understanding the rules, but his appeal. Petitioner is entitled to the same and did not failed to prosecute anything and was serious about her case. Also Judge Kleinfeld's said in the Pioneer 507 U.S. at 395, 26 Id. at 388. 27 Id. at 395, that mistakes made in good faith with no prejudice to the other party are excusable neglect and that ignorance of the law can indeed be classified as excusable neglect,* therefore if the petitioner was ignorant about anything, this could be classified as excusable neglect wherein the case should have been reopened and reconsidered. **The petitioner has fought her case diligently with two cataracts in her eyes and glaucoma pressure in one eye and had done all of her pleadings and had fought her case for over 2-years. (*)(Petitioner believes that the issues herein have denied her fair due process and equal protection and that the case was wrongly not reconsidered and wrongly not reopened),**

and that there is excusable neglect or good cause to reopen her appeal and that she deserves justice and fair due process and protection and that her case mattered and that her case should be granted a reopening and that she should be granted her appeal). Regarding *Andrew versus Dial Corp.*, which alleges an expert is almost always needed, and that when it's a product design defect they're always needed according to this case, this is obviously not the case. Therefore, the rich are being given gracious understanding and kindness if they have an expert and can afford justice and an expert, versus the poor, without experts even when they have concrete evidence. Over unconstitutional case law that is not granting justice with an even hand over demanding experts from people who cannot afford them like the petitioner.

VI.

If the magistrate meant that the clerk was going to take care of something then the petitioner would have been entitled to that as well, although he was vague on what the clerk would do Petitioner had requested the complete record to include the transcripts and all, wanting these because she had a disability and needed them as a reasonable accommodation over disability. She had filed many records and defended her case and had done a 1-89 answer to the defendant's motion and backed it up with evidence and a declaration stating that everything was related and true and correct, which was ignored by the magistrate, wherein the 5th Circuit Court of appeals could see that she had fought her case diligently and didn't consider that. A major theme with fair due process is that you provide notice, and you tell someone what is going to happen if they do not comply with what you tell them to do. The plaintiff would never have imagined

that her case would be dismissed and denied reopening and reconsideration over a two-to-five-minute transcript hearing. This is excessive, and over baring and unfair, considering her appeal was dismissed over it. The Appeals Court could have elected and could have determined that any documents not sent to the court would not be reviewed or consider and then could have moved ahead and decided the brief without them. No one ever told petitioner that her case would be dismissed over a two-to-five-minute issue, and this is absolutely not in the interest of justice or fair justice at all under the circumstances. (*)(Therefore, the petitioner did not received justice from the District Court or from the Court of Appeals and has no other means to protect her claim, than to go to the Supreme Court of the United States and ask for justice, she believes that there are important issues over an

equal process and justice and believe that this writ involves fair due process and equal protections for herself and others).

VII.

Petitioner was denied statutory rights when the clerk failed to reopen the case and when the judge denied her reconsideration over the issues herein and all. At best, (*)(The Court of Appeals should have given her the benefit of the doubt). Her case was important because she had lost her life's work. but not only that because other consumers had been injured by the defendant's dehydrator. Defendants had another product that they could sell that corrected the issues, and they could have replaced the defective one with the correct one, but Walmart was selling old outdated products wherein in 2020 the plaintiff was made aware that full price was paid for a product

and when it was not working right, they try to call Technical Support to help them, and Technical Support needed a serial number in order to give them support and Walmart had said it was a special buy, and once they were able to find the hidden serial number, they found out that the product was 15 years old and that it had been manufactured in 2005 and sold in 2020, and it was defective because the unit had old software in it, wherein Walmart sells defective and old merchandise. And they are obviously aware of this, and they do not care. The case was important because other consumers had fires also, and if the defendants keep getting away with causing fires to people somebody, eventually they may kill someone in the United States over selling defective products. Petitioner's suffering was enormous, because she had lost everything, and now because of all here in she will be stuck with, and erroneous judgment of summary granted to the defendants, case law that discriminates against her being used to determine such and a wrong judgment from the 5th Circuit Court of Appeals who denied her appeal over all herein and left with concrete evidence showing defects, and no way to remedy it. The interest of justice has not been served.

If she would have got the papers in January, she would have acted to of cured the defects, and would have done whatever the 5th Circuit Court of Appeals wanted to be done under the circumstances whether that meant signing away papers that she actually needed or not. if it meant closing her appeal. Wherein petitioner, called the court to find out what was going on and then she received the information that her case had been dismissed and asked them what to do and what should she file, and she did everything that they requested but still her case was closed. Then she called and asked

what she could do about them denying her motion to reopen, and they said that she could make a motion for reconsideration with the judge, and she did that as well and the blame is not truly upon her when she had asked several times for the transcripts to be sent over. She believes that (*)(in the interest of justice, that her case should have been reopened and reconsidered) rather than dismissed and she does not believe that she failed to prosecute her case. If there were any failures it was because she couldn't afford to prosecute her case and the magistrate had not given her a clear Avenue to do so, and the Fifth Circuit Court of Appeals in not opening her case, have denied her fair justice and equal protection under the circumstances. Among other things the district magistrate knew that she had been given IFP. Petitioner challenges the vague rules that caused the dismissal of her appeal in violation of Fair due process and equal protection after the status of IFP was granted.

The petitioner needs her case to be reopened and reinstated and for her appeal to be heard. She needs her case reopened because a jury would have ruled for the plaintiff's evidence over the defendants in this situation. And because the defendants were not entitled to summary judgment and because Andrew versus Dial Corporation discriminates and is unconstitutional. Petitioner needs her case reopened because the radio graphic pictures showed effects.

The radiographic picture showed that the fan blades are there but that they are broken and that pieces are laying everywhere, and the boxes would have been being moved and the particles and pieces could have fallen anywhere, and it is probable that particles fell in the motor because the motor area had blowout on the bottom of the

unit. The petitioner did not really know what would be important to the Court of Appeals pertaining to transcripts so she asked for them all, and Petitioner can prove that she asked this several times. And she has been denied fair due process and equal protection that others get. She had previously been told by the defendant's court reporter, that she would need $500 for the private transcripts, which she could not afford and did not even know who the court reporters would be with the USDC to make any arrangements with them in the first place, nor could this cost be arranged for over poverty. She had requested the documents ahead of time because she did not want anything to go wrong. Later the plaintiff just simply decided to fill out the form and claimed that she didn't need any transcripts when she in fact did need the private transcripts because they showed proof that the defendant's picture taker had said there was something wrong with the dehydrator and had given her nine of the pictures even though there were more pictures than the 9, she received. She reviewed 9 pictures, over and over and over for about a month and saw something wrong with the dehydrator. The plaintiff is aware of fuses and such and knows how to change fuses and all of this and learned this after she had the fire and has worked with components to include other devices. Excusable neglect is covered when there is confusion and when there are issues herein like in the petitioner's case, and because a case can be opened for any reason to include good cause. The Court of Appeals could have elected to hear the appeal without the two-to-five-minute transcript and the plaintiff was under the impression that the clerk's office was responsible for the complete record which would have included the transcripts. *[The plaintiff should not be forced have a magistrate

forced upon her and this was done over and over and over and over and as evidence when you look at the mobile app concerning all the referrals, it was almost like the original judge was referring everything to the magistrate and well the plaintiff did not consent to this full force of his insertion into her case and is entitled to relief]. .

VIII.

The opinion of the USC of Appeals for the 5th Circuit appears is in ***appendix (A)*** done with **Judge James C Ho, and** ***Appendix (F-G-H)*** is from THE USDC for the Western District of Austin, Texas SHOWING that transcripts were REQUESTED by the PETITIONER and a request for the complete record was done as well. As far as the plaintiff knows the records contained the transcripts. Petitioners asked for these documentations and made a motion for these, and **the magistrate said the district clerk was in charge of this.** Apparently, they wanted the petitioner to fill out a form that she could not see, and wherein she did not know who the court reporters would be and was never told their names and so the form was very problematic because nothing was known and there was no way to figure out who the court reporter was, to order anything from them and no way to pay her or him in the first place. **Defendants could have provided the private ones to the Court of Appeals, but no order was made allowing such**. In Texas, when IFP is granted, the courts require a record from the court reporter for free to be sent to the Texas Courts of Appeals. Petitioner did not have $500 like others have to buy transcripts and asked for the transcripts under government cost or for a copy to merely be sent to the Court of Appeals SINCE the court reporter had given her A correction that had COPY on it to correct her deposition with WHICH HAD A

BIG COPY notice ON IT, and she could have used those documents to refer to but the court needed something that they could actually see better than that, AND THE PETITIONER WANTED TO REFER TO THESE BECAUSE they showed evidence of a defect in the deposition and that she had testified to such.

The Writ Should Be Heard Because:

If the case is not given a chance, the evidence will be on the record with defects and never taken care of and justice will not have been fairly served or done.

(*)[The Court of Appeals should have granted reconsideration of her case for good cause or for excusable neglect or for any other reasons, to include a USDC clerk mistake]. *[Plaintiff is entitled to notice that she can perfect and understand and that she can comply with rather than a notice that is meaningless and which she cannot in fact do in the first place, based on circumstances or otherwise].

Concluding issues.

A motion to reopen is an important statutory mechanism. It allows existing orders to be vacated. Supposedly in January, according to the clerk on the telephone, the petitioner's case was dismissed because the plaintiff did not fill out form DKT-FORM 13 related to the transcripts. However, petitioner never got ANY DISMISSAL OR ANYTHING SENT OUT to her in January. She had no idea that anything was wrong with her case. If the petitioner would have received the alleged, sent-out dismissal over this issue, she would have acted IN ORDER TO preserve her claim, like she did when she found out such later on when she made a motion with the court to reopen it when she found out about it and would have done so within 45

days if she would have known about the issue and has not, knowing-ly failed to prosecute her case. The plaintiff also requested reconsideration and believes that she had valid reasons for reconsideration to reopen the case. The Court of Appeals clerk also does not have proof that this was sent and or that the petitioner ever received such or that it was even mailed. The plaintiff has diligently fought her case for several years. It is unfair, because the plaintiff was IFP AND HAD asked for the transcripts after she made her motion for an appeal. The plaintiff not only asked for these to be sent and given to her, but that these be sent to the 5th Circuit Court of Appeals, see *(APPENDIX-F-G-H) TO INCLUDE MORE REQUEST THAT WERE MADE*.

(A).

The 5th Circuit Court of Appeals wrongfully dismissed her case, alleging that she failed to prosecute her case when this is **absolutely not true**. The petitioner did not receive meaningful access to the courts and to her appeals because of cost and the Texas case law issues. The petitioner also states that confusion is also a reason to grant excusable neglect and reopen a case. For good cause or for excusable neglect or for any reason under the sun the petitioner was/is entitled to have her case reopened, because the USDC clerk failed to execute the request, needed, for the Court of Appeals. Then the petitioner motioned for reconsideration, which was denied from the 5th Circuit Court of Appeals wrongfully. Good cause has been given to attorneys when they have been not familiar with appellate procedures and made mistakes and the plaintiff is a pro se IFP litigant who doesn't have full understanding of the court but has done her best to prosecute her case because she could not afford an attorney

to do it for her and it has been a lot of work to end up being dismissed over a two minute transcript that the Court of Appeals could have deemed not related to the matter which was up on appeal and they could have proceeded with a lesser remedy for the petitioner. The plaintiff had requested the transcripts to be sent over to the Fifth Circuit Court of Appeals.*[The petitioner and all was entitled to rely upon the judge's statements that the district clerk takes care of that. If the District Court was going to take care of that, then they should have given her the names of the people associate with the transcripts or the court reporter's name in the 1st place but never instructed her clearly on the issue and she was not given correct information or informed of such. It is impossible to believe that she could have ordered transcripts from an unknown person. And it's impossible to believe that she could take care of an exorbitant cost after she had lost everything in the fire due to mold or etc. and did not even have socks to wear or under garments over it all. She was entitled to cure her defects timely and to get the notice from the Court of Appeals and should be given the benefit of the doubt. Her case was extremely important to her because there is *[Case law in Texas alleging that [experts are almost always needed for product defects and also for design defects when this is simply not the case and it is causing the rich to be served justice while denying an even Hand to the poor, over the poor not being able to buy somebody and alleged that they are an expert. As far.as the plaintiff is concerned, she could have been her own expert and requested such. Because Texas case law needs to be reviewed wherein poor people cannot afford experts and are being denied fair due process and equal protection, because in fact

design defects can be determined without an expert based on circumstantial other evidence the case law in ***Andrew versus Dial Corp*** is incorrect and wrong. So, petitioner has a lot of evidence and has a great chance or at least a good chance at reversal if the appeal is heard the writ should be granted. And because there is evidence and other issues here in this case the rich should be granted. And the rich should also be granted to ensure justice for all. The writ should be granted because Texas case law is denying poor people trials and access to justice and a denial of a hearing and a fair determination in the courts of Texas and this is unjust and unfair and not in line with science or the evidence in these cases and is suspected as being unconstitutional and it is an important matter to hear, over treating the poor less favorable than others, to include granting or denying summary motions to a party because they're rich when they don't even have evidence goes against equal justice for all. And the plaintiff believes that the jury would have decided otherwise and actually decided in her favor. **Without her appeal or her case being reopened this case law will be on the books for other poor people to be injured by when it is incorrect law and was not an element put on the list of elements for defective products in the first place.** Here the case is protecting the rich over the poor and denying the poor meaningful justice who are getting no justice at all. The defendant said that the plaintiff had no expert. And that under Texas law expert testimony is generally encouraged if not required to establish a product liability claim, when this is not the case. Among other things, the jury could see the defective wires because they are a lighter and less prominent or dark then the non-defective wires. The petitioner used

NASA documents to show smoldering combustion in the unit because the fire was internally inside the dehydrator and all of the witnesses backed up the plaintiff's analogy as well. It was the defendant's expert that alleged stuff that could not cause a fires, like he claimed the plaintiff had used herbs, but herbs do not cause fires, and his analysis was not based on empirical data and it was because the magistrate was not familiar with the case and had been thrust upon the petitioner without her consent in deciding her summary judgment and other orders as well and had not given the petitioner a full hearing on the evidence and she objects. The plaintiff had common knowledge about herbs because she used herbs all of her life and her mother studied herbology and she had studied herbology and had read several books on the subject. She was a member of the hackerspaces for a time and had also studied and had done components, and 3D printing and laser printing and plastic mold injection, and other design techniques and wiring and etc. classes and all. She had experience with radio graphic pictures, and these were used in art and in shipping and etc. and they were sometimes portable and showed cracks in different things to include wiring issues sometimes. In fact, she could change a fuse in that dehydrator if she had to and the defendant's own picture taker said that there was something wrong with the fuse and other defects and she put this in her deposition and also in her declarations. The causation was not speculated from the petitioner, but it was from the defendants, and there were defects. The plaintiff was qualified as an officer of the Inventor Society elected by her peers and as an officer of the Criminal Justice Society and had been elected by her peers and the expert, he read some classes online and put these in his

list of credentials for determining the causation because the plaintiff found his list of classes online and read them too. He could not come to Texas and determine causation or anything else because he lacked a Private Eye license, from Texas to determine causation if he's from a different state or not connected to the product. *[The plaintiff is entitled to Texas law that protects her from unscrupulous people coming without credentials and trying to determine causation when they don't have the qualifications or license for doing so, and this one, he didn't even have an office in Arizona because the plaintiff went with her friend, and she saw that his alleged business was nothing, but the post office and the surrounding areas, were the pictures were related to such. She called over 20 different experts and they said there is no degree called Fire Forensic Science, and while there may have been a degree called fire science, it did not cover herbs or dehydrators or herbs that would cause fires and his allegations were not based on empirical data. This expert was connected with insurance companies and was not even paid the amount of money that normal experts would be paid because most of them charge $20.000-$30,000 and the evaluation takes over a month when it is done correctly and this one, he did it in one hour on the day of inspection.

(B).

The dismissal is extremely unjust, and the Fifth Circuit Court of Appeals should have taken clear methods to make sure that the plaintiff got the dismissal, so that she would have been provided with the opportunity that others get to cure the defects in 45 days and to have her case reopened. Because no measures were taken to ensure

such due process was going to properly notify the petitioner, the plaintiff's case was dismissed and refused a route of opening it by the 5th Circuit Court of Appeals and has been denied a fair hearing over a case wherein.

(C).

The petitioner had asked for early transcripts and all of this as a reasonable accommodation because of her disability and these should have been sent and taken care of. This case was extremely important the petitioner and was also extremely important to other consumers all over America and in Texas. Justice is to be served with an even hand rather than granted to the rich one and denied to the poor. Apparently, the transcripts were so important that the petitioner could receive no meaningful justice without them therein she had an interest in receiving these and in receiving meaningful fair due process and equal protection and in notices regarding her case before it was dismissed, so that she could act to take care of any issues that were involved or that needed to be corrected involving the 5th Circuit Court of Appeals. She believes that she has been denied fair due process and equal protection and court notices that she could do and correct, that others get.

(D).

The Supreme Court recognizes that a "motion to reopen is an 'important safeguard' intended 'to ensure a proper and lawful disposition' of proceedings." Kucana v. Older, 558 U.S. 233, 242 (2010) (quoting Dada v. Mukasey, 554 U.S. 1, 18 2008)). See U.S.C. § 1229 a (b) (5) (C).3 2. A motion to reopen is a statutory motion even if it is filed more than 90 days after an order upon a showing that the deadline

merits equitable tolling. Equitable tolling is a principle that entitles litigants to an extension of non-jurisdictional filing deadlines if they act diligently in pursuing their rights but are nonetheless prevented from timely filing by some extraordinary circumstance. See, e.g., Holland v. Florida, 560 U.S. 631 (2010). Petitioner had requested that the transcripts be sent to the Fifth Circuit Court.

*[Therefore, for good cause or any other reason, the 5th Circuit Court of Appeals should have reopened the case and reconsidered the issues. The Court of Appeals documents were important to the plaintiff's appeal and the District Court knew that she was in paupers and had suffered great losses over the fire and all or her life's work and she had a right to be able to perfect her appeal whether poor or not. *(*)Andrew versus Dial Corporation* is wrong. A product design defect is also a failure to warn, dripping being caused because the elements were on the bottom rather than the top and one being the temperature gauge which was one setting and herbs are not cooked at 165 degrees unless these are meat, this is based on empirical data. The plaintiff did NASA studies based on polyurethane combustion and smoldering. The plaintiff had done a product analysis and had done an analysis called Fishbone which proved that the dehydrator broken fan blade pieces would have been moving around, when the box was moved or shipped, having sharp broken blades in the area, the blades damaged the wire that would have open wires, and anything dripping on them would cause a fire. Even if these wires, would have touched other medal , it would cause a spark or more, leading to a fire. These are all defects that a

jury could see or be explained to about, that supported a summary judgement for the plaintiff.

(E).

Due process requires that the procedures by which laws are applied must be evenhanded. The issues herein are offensive to the concept of fundamental fairness. Procedural due process rules are meant to protect persons not from the deprivation, but from the mistaken or unjustified deprivation of life, liberty, or property, and court process probably applies as well." Thus, the required elements of due process are those that "minimize substantively unfair or mistaken deprivations" by enabling persons to contest the basis upon which they have been deprived of a protected interest. (1) Notice, and indeed proper notice, like a certified letter and etc., would have changed everything, and would have allowed the petitioner to correct any issues for a dismissal. "Is an elementary and fundamental requirement of due process in any proceeding which is to be accorded finality, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." This may include an obligation, upon learning that an attempt at notice has failed, to take "reasonable follow up measures" that may be available. In addition, notice must be sufficient to enable the recipient to determine what is being proposed and what they must do to prevent the deprivation of their interest. Ordinarily, service of the notice must be reasonably structured to assure that the person to whom it is directed receives it. Here the notice of the dismissal was never received but would not have been an issue if the orders

from the judge to the district clerk in the first place would have been executed. Among other things the case is important because a gross wrong determination was made on the summary and if left in place, the petitioner will be denied protections from Texas law that she has an interest in and denied fair due process over all herein but also because of Texas case law rules, which is kicking out poor litigants' cases, if they do not have an expert even though there is clear and concrete evidence of a defect with this dangerous defective products, the petitioner will never receive any justice.. The public and consumers and the petitioner deserve more. All are entitled to relief and meaningful justice and processes and protections of their property interests. The issue of the "unconstitutional conditions" doctrine, held that, "even though a person has no 'right' to a valuable government benefit and even though the government may deny him the benefit for any number of reasons, it may not do so on a basis that infringes his constitutionally protected interests. The exclusiveness of the record is fundamental in administrative law. Plaintiff-petitioner has been denied her appeal and trial and all. If the petitioner would have received the documents in January, the petitioner would have cured the defects in 45 days and her appeal would have been reinstated, for the Court of Appeals, but she never got it, she objects.

(F).

[*]**Therefore, a timely petition for reconsideration was denied by the United States Court of Appeals and it was timely because the plaintiff acted as soon as she found out about what had occurred. The date that the petitioner requests the transcript was *appendix 6-7-8 she made a motion to the court for these transcripts on (docket USDC***

87-0/2/2020 and docket 90, 10/27/2020 and docket 91 10/30/2-2- and docket 92, 11/5/2020 and more), and she objects. In the record it says what petitioner is supposed to do but this was never told to her. Petitioner's case is important because it has to do with denied fair due process and denied equal protection, and access to the courts, and justice. It also relates to unconstitutional laws and case law in Texas ending and depriving the poor of their cases over not being able to afford experts, and Texas favoring experts who do evaluations in one hour, based on speculations and no proof vs the poor with proof but without an alleged expert, wherein the petitioner had proof that there was a defect in the dehydrator related to a heating element when the fan blades were discovered broken on the radiographic pictures and the pieces were all over the place in heating element areas, with particles everywhere. The motor and the pieces would not have broken without distributing particles into the motor and all. *Congress even says that when a fan is defective or broken it can cause a fire and is considered a high potential fire hazard, per as Congressional reports from expert testimony in Congress related to dehydrators* supplied to the judge who never seemed to read these. Other important issues are that the petitioner and all, was entitled to the protections of Texas law, and objects regarding such over harm done. Therefore, defendants did not have a proper expert themselves. Because he could not make determination of causation because he did not have Texas credentials. Or a private detective license from Texas backing him up. He also did not have an office in Arizona and fictitiously demonstrated that he did, on his website alleging Forensic Fire Science when there is no degree for this, nor did he have any degree associated with

Forensic anything. He was merely working for insurance and had studied online classes reviewed by the petitioner, regarding arson. His causation about the plaintiff misusing herbs was fictitious and herbs were on the box and herbs do not cause fires. Him going to different seminars did not matter because the petitioner had done the same as a member of the Criminal Justice Community being elected at the time by her peers as the vice president of such, and in fact she was the one who put some of the seminars together for the association. And she could read the radiographic pictures and stated this in a declaration. Texas has been making reporters provide transcripts to their Court of Appeals Courts in Texas courts when a party is indigent, and the magistrate could have ordered the defendants in the district case to provide these to the COURT OF APPEALS. Petitioner also wanted Texas case law to be reviewed, over its effect upon poor people and defective product claims. Among other things the fire department determined that the dehydrator had caused the fire. The defendants paraded all over that the plaintiff had no expert, but the fact of the matter is, defendants didn't have an expert either because their expert could not come to Texas without a Private-Eye license and the plaintiff is entitled to Texas law that protects her against people coming here without proper credentials and she objected to this expert and requested that he be removed from the case. In this case above the defendants alleged that an expert is almost always needed according to this case that actually discriminates against people who cannot afford an expert. Andrew versus Dial and the case ruling, which discriminates against poor people and demands experts for the poor who cannot afford them and favors the rich with an uneven hand

given to the rich and denied to the poor granting no meaningful justice and unfair due process and equal protection for poor litigants in Texas to include everywhere. The issue should be corrected so that other consumers can be protected from dangerous products, wherein the defendants had a product that replaced the dangerous product but refused to sell it at Walmart because Walmart sells old defective items and claims that they are special buys especially when they are old and defective. The plaintiff included several Consumer Reports where consumers had had fires and who had the same issues and who had had fires within one hour after plugging their machines, in or on, just like the plaintiff did. Among other things the plaintiff was a witness to a product that was bought in 2020, wherein a computer was bought in 2020 and it had a manufacturing date of 2005 on it and had been bought at full price from Walmart who said it was a special deal. When tech support, asked for the codes on the back of it, because it did not work, these codes were not seeable, so the computer had to be taken to a place so that they could see the serial number of the product sold by Walmart, and it was found to have been manufactured in 2005 and the updating of the software because it was old was causing glitches in the system, making the unit, old and defective wherein the computer was to old to work being 15 years old, but sold as a brand new product. So, Walmart sells old products, and they also sell damaged products and the plaintiff had evidence. The plaintiff has been denied all of her rights regarding Court administration and processes of records and transcripts in violation of the Constitution , the petitioner should not have to suffer this erroneous loss after losing her life's work over the defective dehydrator,

and Texas case law that needs to be corrected. **Petitioner's case should have been reopened and reconsidered for good cause or for excusable neglect or for any other reason under the sun because she did no wrong and did not fail to prosecute her.** If she would have received the documents in January of a dismissal, she would have cured the defects in 45 days and there would be no problem. *[Therefore, there is excusable neglect or good cause FOR REOPENING THE CASE]. The plaintiff was denied statutory rights to administrative Justice. She is entitled to relief and to have her case reopened and reconsidered and put back on the docket sheet for the 5th Circuit Court of Appeals. And the Court of Appeals Judge Ho should have granted her reconsideration of the clerk's dismissal as a matter of justice, she is entitled to the benefit of the doubt and relief. The 5th Circuit Court of Appeals could have used a lesser remedy than what was used against the plaintiff..The petitioner had a statutory right to have the records and transcript because they were connected to her appeal and without them, she could not appeal at all, she had a right to know who the District Court reporters would have been so that she could make a request from them. A petitioner is entitled to information that preforms, rather than vagueness of someone telling her to do something that she cannot do over cost. The confusion or otherwise is enough reason to determine excusable neglect or good cause. Plaintiff was denied fair due process and equal protection because she wasn't even told who she was supposed to get the transcripts from or what their phone number was or how to reach them or where they lived or where they were holding an office at and etc. She was totally in the dark regarding this information and the clerk never did send

this information or this contact information to her and she objects. Among other things she should not have to beg for transcripts when the court already knows that she is IFP.

*[The petitioner and appellant has been denied fair access to justice and fair due process and equal protection] and believes that her civil rights and constitutional rights have been violated in regard to access to the courts and equal protection and fair due process. *[Petitioner had a statutory right to have the documents transferred, and she had a statutory right to documents that she needed for her appeal, if this was going to dismiss her appeal and the judge or the magistrate should have ordered these sent. If the Supreme Court denies such then the plaintiff will be left discriminated against without a remedy to justice or a way to correct the issue and she has suffered enough. The Supreme Court Writ of Certiorari is timely and within the time limits because it was decided on June 17th, 2021. The jurisdiction of the U.S. Supreme Court is invoked herein.

REASONS FOR GRANTING THE PETITION.

If this case is not granted, justice will never be corrected or served. This leaves the petitioner with unconstitutional laws denying her summary judgments and a trial because of Texas case law, and an unfair dismissal of her appeal to correct these issues, in the interest of justice, and effects other consumers who poor as well.

Law and argument.

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 .In Texas, case law is denying such, and all herein has contributed to denied rights, the petitioner is entitled to relief..

CONCLUSION.

Petitioner has been denied her appeal and trial and all herein, she is entitled to relief, and request that her writ be heard and granted, and all.

Respectfully submitted,

Cathy Carr

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512-783-2840
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Petitioner and pro se.

Certificate of Compliance

Petitioner has less than 40 pages, she used Word, 365 old version. The type of lettering is Century 12 points. Sides are one inch and she believes everything is in her writ that needs to be there. It is double spaced, and the clerk said to send 1 cope rather than 11 copies over covid. The writ is believed to in compliance with the rules.

S/CATHY CARR.

The proof of service sheet is attached:

(*)Defendants were served by email, or mail, certification next page, attached.

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Cathy Carr—PETITIONER

vs.

National Presto industries, and Walmart Corporation and Industries and store and other unknown defendants.
RESPONDENT(S)

PROOF OF SERVICE

I, Cathy Carr, do swear or declare that on this date, today is 7-13-, 2021, as required by U.S. Supreme Court Rule 29, I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by either depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days, or by email to their attorney

The names and addresses of those served are as follows: defendant's attorney Timothy Schupp, tschupp@meagher.com or by mailing it to his address at: 33 S 6 St Ste 4400 Minneapolis MN 55402 phone number 612-338-0661 and fax number 612-877-3107.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 7-13-, 2021

(Signature)S/Cathy Carr

Cathy Carr