No. 21-6420

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

SIMONA TANASESCU
S.T. (A MINOR)
— PETITIONERS

VS.

MATTHEW M. KREMER
MATTHEW M. KREMER, THE OFFICES OF
DORIN COROIAN
MIRELA MOSOIU
CRISTIAN COROIAN
ADRIAN COROIAN
ZOE CRISTINA SUCIU
ROBERT K.JOHNSON
ROBERT K JOHNSON, THE OFFICE OF
E. DANIEL BORS JR.
E. DANIEL BORS III
JEFFREY H. SHERTER
THE UNITED STATES
THE STATE BAR OF CALIFORNIA
— RESPONDENTS

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

SIMONA TANASESCU, PRO PER
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QUESTIONS PRESENTED

1) Whether the United States Court for the Ninth Circuit departed from the accepted and usual course of judicial proceedings as to call for an exercise of this Court's supervisory power over the lower courts' pattern of:

- intentional failures to afford equal protection of laws and precedents to the unrepresented petitioners, an indigent mother and minor child, in their actions for redress on injuries they are suffering due to the private defendants' racketeering activities in violations of 18 U.S.C. § 1962 (c) and (d) to cause fraud upon the Superior Court of California for covering up sham, unlawful and invalid cross-marriages (which according to the Bureau of Immigration Appeals have "not been recognized as enabling the alien spouse to obtain immigration benefits") with rubberstamped dissolution judgements, instead of proper nullification judgments, subsequently used in the defrauding of the United States for awarding naturalization unlawfully; and
- blatant cheating of pro se appellants/petitioners shown in the Ninth Circuit's document titled "Information for Pro Se Appellants/Petitioners" which misleads and deceives similarly situated pro se litigants in departure from Circuit Rule 30-1.2 and with mocking them by citing manufactured "Circuit Rule 30-1.1.1".

2) Whether the Superior Court of California has decided judgements of dissolution giving "validation" to sham or non bona fide cross-marriages, obtained and maintained forcefully and unlawfully for the sole purpose of circumvention of immigration laws, on the important question of federal law probing "[a] marriage that is entered into for the primary purpose of circumventing the immigration laws, referred to as a fraudulent or sham marriage" for "not been recognized as enabling an alien spouse to obtain immigration benefits" (BIA 1980), which has not been, but should be, settled by this Court.

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

RELATED CASES

STATE COURT CASES:

1) Case ED71196 in the Superior Court of California for the County of San Diego. Judgment entered May 12, 2007.

2) Case MD033805 in the Superior Court of California for the County of Los Angeles. Judgment entered April 29, 2019.

3) *Tanasescu v. Bors Jr. et al*, No. 30-2009-00310563-CU-FR-CJC, Superior Court of California for the County of Orange. Pending

FEDERAL COURT CASES:

1. *Tanasescu v. The State Bar of California et al*, No. 8:11-cv-00700-CJC-MAN, U.S. District Court for the Central District of California. Judgement entered April 19, 2012. (hereon the 2011 Action)

2. *Tanasescu v. The State Bar of California et al*, No. 12-55947, U.S. Court of Appeals for the Ninth Circuit. Judgement entered April 14, 2014.

3. *In re: E. Daniel Bors III,* No. 2:10-BK-55089-PC, U.S. Bankruptcy Court for the Central District of California. Granted full discharge Feb. 17, 2011.

4. *In re: E. Daniel Bors III: Tanasescu v. Bors III*, No. 2:12-ap-01130-PC, U.S. Bankruptcy Court for the Central District of California. Judgment entered April 5, 2012. (hereon the "2012 BK Adversary Action")

5. *Tanasescu v. Bors III*, No. 13-60018, U.S. Court of Appeals for the Ninth Circuit. Judgement entered Dec. 23, 2016.

6. *Tanasescu v. Kremer et al.*, No. 8:17-cv-01513-DOC-JDE, U. S. District Court for the Central District of California. Judgement entered case closed Oct. 18, 2019. (hereon the "2017 RICO Action")

7. *Tanasescu v. Kremer et al., No.*19-56350, U.S. Court of Appeals for the Ninth Circuit. Judgement entered May 20, 2021.

8. *Tanasescu v. the United States*, No. 1:21–cv–01289–ZNS, U.S. Court of Federal Claims. Judgement entered May 19, 2021.

9. *Tanasescu v. the United States, No.* 2021-2117, U. S. Court of Appeals for the Federal Circuit. Pending.

TABLE OF CONTENTS

INDEX OF APPENDICES

APPENDIX W:
Docket Summary of U.S. Court of Federal Claims, Case No. 21-1289, dated July 7, 2021.

APPENDIX X:
Order of U.S. District Court for the Central District of California, Case No. 8:17-cv-01513, dated June 4, 2019

APPENDIX Y:
Plaintiff Simona Tanasescu's Motion for Leave to Amend the First Amended Complaint, U.S. District Court for the Central District of California, Case No. 8:17-cv-01513, dated April 5, 2019

APPENDIX Z-1:
Appellant Simona Tanasescu's Petition for Rehearing and Review EnBanc, Ninth Circuit, Case No. 19-56350, dated June 2, 2021

APPENDIX Z-2:
Appellant S.T.(a minor)'s Petition for Rehearing and Review EnBanc, Ninth Circuit, Case No. 19-56350, dated June 2, 2021

TABLE OF AUTHORITIES CITED

CASES

STATUTES

RULES

OTHER

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioners respectfully pray for a writ of certiorari to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Ninth Circuit is unpublished.

The opinion of the United States District Court for the District of California is unpublished.

JURISDICTION

The judgment of the Ninth Circuit was entered on May 20, 2021. The Petition for Panel Rehearing and Rehearing EnBanc was denied on August 24, 2021. This Court has jurisdiction pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Article III of the U.S. Constitution provides that the judicial power "shall be vested in one supreme Court, and in such inferior Courts", and "shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States".

The oath of justices and judges under 28 U.S. Code § 453 is to "administer justice without respect to persons, and do equal right to the poor and to the rich", and to "faithfully and impartially discharge and perform all the duties incumbent" upon each of them "under the Constitution and laws of the United States".

Under the United States Bill of Rights: the First Amendment protects the freedom of speech and to petition the government; the Fifth Amendment provides

that no person shall be deprived of life, liberty, or property, without due process of law; the Fourteenth Amendment protects the right to due process and equal protection under law.

STATEMENT OF THE CASE

Introduction

Petitioners, an indigent mother and minor child, come before this Court in pro per, the same as the United States Court of Appeals for the Ninth Circuit (Ninth Circuit) ordered them to proceed without counsel (**Appendix U**) in the underlying appeal (upon denial of S.T. (a minor)'s motion for counsel **Appendix T**), and by the instant petition prepared in good faith by petitioner Simona, a non-attorney and first-generation immigrant with limitations in the English language.

The underlying action concerns the interweaving of state civil laws that provide marriage documents and federal laws which award marriage-based immigration benefits to alien spouses and their dependents in *bona fide* marriages to U.S. citizens.

The Coroian family of four visa overstays abused those laws and their American in-laws, the Tanasescus, for obtaining unlawfully and forcefully the sham and zero-day cross-marriages for avoiding removal. When the Tanasescus sought to detach from the Coroian family through proper nullification judgements pursuant to family and civil laws for correction of the false documents over their family and their child's legitimacy, the Coroian family of four formed the RICO enterprise with aid from Mrs. Suciu from La Mesa, San Diego County and corrupt family law attorneys

including petitioners' own attorneys joining in at separate times for the defrauding of the Superior Court of California into rubberstamping the dissolution judgments effectively "validating" the sham and *non bona fide* zero-day cross-marriages.

The United States Courts for the Ninth Circuit in the State of California conducted a pattern of deliberate departures from the rule of law to avoid affording the petitioners the equal protection under law and flat out cheat them of laws and precedents, in the adjudication of their grievances involving the private defendants' racketeering activities in violations of 18 U.S.C. § 1962(c) and (d) to defraud the United States into awarding naturalization to the family unit tourist-visa overstays.

The court records show a travesty of justice by judicial officers, specifically Cormac J. Carney and Peter H. Carroll in prior related actions and David O. Carter in the underlying action for their intentional failures to afford the petitioners equal protection of laws and precedents, and by the Ninth Circuit showing blatant bias in the "Information for Pro Se Appellants/Petitioners" misguiding similarly situated pro se appellants to cause them undue burdens contrary to the court's own rules while mocking them with the manufactured "Circuit Rule 30-1.1.1" cited in support.

For the past decade and a half, the petitioners' family of three seek to correct false documents, related to the sham, unlawful and void cross-marriages obtained and maintained through extortion and manipulation, blackmail, threats, duress, menace and fraud for ending the falsehoods, confinement and oppression over their family of three, into reflecting the reality of their family unit and S.T.'s legitimacy born in fact within the parents' ongoing 1985 marriage.

Petitioners' prior and underlying actions expose the convoluted schemes, by the private defendants' enterprise including family law attorneys as officers of the court, in abuse of state civil and family laws for silencing the petitioners in order to defraud the Superior Court of California for rubberstamping dissolution judgments to cover up the sham, unlawful and invalid cross-marriages, which according to the Bureau of Immigration Appeals (BIA) have "not been recognized as enabling the alien spouse to obtain immigration benefits".

Relevant factual and procedural background regarding the sham, unlawful and invalid cross-marriages obtained and maintained forcefully and fraudulently to benefit the Coroian family of four visa overstays :

The saga in this matter began in 1998 when Simona Tanasescu (hereon Simona) with her husband Danut Tanasescu (cumulatively the Tanasescus) from Riverside California, received the visit of their in-laws Mirela Coroian (Simona's sister) with husband Dorin Coroian and their two teenage sons (Cristian Coroian and Adrian Coroian), collectively referred to as the Coroian family-of-four, who entered the United States on six-month non-immigrant tourist visas they obtained under the pretense of visiting the American in-laws.

The Coroian family-of-four settled in the Tanasescus' house with no intention of leaving but instead invading the Tanasescus' life and privacy with blatant entitlement and turning their home into hell on earth. Simona became so torn and disturbed, she stopped talking to Dorin since beginning of 1999.

The Coroian family-of-four used emotional extortion and manipulation, threats, blackmail, duress, menace, undue influence and fraud on the Tanasescus to coerce

them into aiding their gaming of immigration laws, which award immigration benefits to alien spouses, and their alien dependents, *in bona fide marriages to U.S. citizens*, for the benefit of the Coroian family-of-four to gain residency (green cards) to substitute their illegal visa overstay status.

In June 1999, the Coroians, and subsequently the Tanasescus, filed for false divorces while their families remained in their respective longtime marriages from 1982 and 1985 respectively.

By November 1999, Mirela Coroian and Dorin Coroian (while sharing a bedroom in the Tanasescus' house) obtained from the Riverside County family court a false dissolution judgment through the default of Dorin and with a false child support agreement for their two sons, as they maintained their family unit in the reality of life. Forcefully the Tanasescus eventually cave to the Coroian family of four pounding emotional extortion and manipulation and blackmail into finalizing their false divorce by January 2000 under false pretenses of irreconcilable differences while continuing their 1985 longtime marriage in the reality of life.

In February 2000, Mirela Coroian signed the fake and non-bona fide cross-marriage[1] with Danut Tanasescu for his American citizenship to get green cards with her two sons. Mirela changed her last name from Coroian to Tanasescu only to further deceive the authorities while despising Danut even as Simona's husband.

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[1] According to the Board of Immigration Appeals (BIA): "A marriage that is entered into for the primary purpose of circumventing the immigration laws, referred to as a fraudulent or sham marriage, has not been recognized as enabling an alien spouse to obtain immigration benefits." Quoted from BIA's published decision in Matter of McKee, 17 I&N Dec. 332, 333 (BIA 1980).

The Coroian family-of-four further oppressed, extorted and blackmailed the Tanasescus for coercing Simona into signing for the fake, unlawful and invalid November 2001 zero-day cross-marriage to benefit Mirela's husband, Dorin, who was under illegal status since June 1999. Dorin changed his last name to Tanasescu also as an element to deceive the authorities. Because the cross-marriages of the in-laws were fake and both family units remained in their longtime marriages of 1982 (Mirela and Dorin Coroian) and 1985 (Simona and Danut Tanasescu) they are identified as such hereon[2] .

By 2002 the Coroian family-of-four was moved out of the Tanasescus' house but continued to oppress and confine the Tanasescus into maintaining the fraudulent cross-marriages at the bases of their fraud to gain green cards.

When Simona revolted by refusing to sign at least one document for Dorin's green card application, the Coroians forged her signature and proceeded ahead

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[2] Because Danut and Simona at all times remained in their 1985 marital relationship in the reality of life, thus they are identified hereon by their first names or collectively as "the Tanasescus", or as the "Tanasescu family-of-three" to include their child born in fact within her 1985 marriage with husband Danut.

Similarly, because Mirela and her husband Dorin continued to cohabitate in their 1982 marriage and raising their two sons, while both simply borrowed the last name of Tanasescu as part of the fake, unlawful and invalid cross-marriage schemes for the sole purpose of circumventing immigration laws, they are referenced herein either by their first names or collectively as the Coroians, or as the Coroian family-of-four with including their two sons, Cristian Coroian and Adrian Coroian.

Dorin proceeded to reinstate his last name to Coroian in a separate June 2008 name change proceeding for cutting the paper trail to the rubberstamped May 12, 2008 dissolution judgment on his petition showing "zero day" cross-marriage.

Upon obtaining the dissolution judgment by April 2009, Mirela changed her last name back to her maiden name of Mosoiu while continuing her cohabitation with Dorin in their actual 1982 marriage.

in her name no longer asking her to sign anymore documents for Dorin.

In 2004 Simona and Danut had their child, S.T., who was born to the distressed and disturbed parents, Simona suffering deep depression incapable of being a mother to her child while trapped and feeling helpless under the oppressing and confining sham cross-marriages which distorted and ruined her family of three.

By April 2006, the Coroian family of four received green cards and immediately abandoned the single-family house, purchased on Simona's credit as common asset of the fake cross-marriage, and went into hiding from the Tanasescus.

Simona located the Coroian family of four living in Palmdale where on June 9, 2007 she executed substitute service on Dorin's two sons of her petition for nullification of the sham, unlawful and invalid zero-day cross-marriage she filed on May 14, 2007 in the Riverside County family court in case no. RID 220164.

Relevant factual and procedural background regarding the RICO activities to defraud the Superior Court of California in case ED 71196 (San Diego County) and case MD033805 (Los Angeles County) into rubberstamping the respective 2008 and 2009 dissolution judgments for covering up the sham, unlawful and void cross-marriages

The Coroian family of four sought to have the sham and invalid cross-marriages to the American in-laws ended through dissolution judgements for "validating" and thus cover up the sham, unlawful and non-bona fide cross-marriages on the end goal to defraud the United States in the procurement of naturalization.

The Coroian family of four aided by Mrs. Suciu from La Mesa, San Diego County, connected with Matthew M. Kremer who became the ringleader of the RICO enterprise to aid the Coroian family of four in obtaining dissolution judgements on

the fake cross-marriages contrary to the Tanasescus seeking proper nullification of the sham and void zero-day cross-marriages for properly detaching their family from the Coroians' for correcting the false documents to reflect the reality of their family life and S.T.'s legitimacy as born within her parents' 1985 marriage.

Attorney Robert K. Johnson, and Tanasescus' own attorneys, E. Daniel Bors Jr., E. Daniel Bors III, Jeffrey Novack and Jeffrey H. Sherter becoming sellouts of their clients, joined in the RICO enterprise as they became involved in the matter.

Attorney Kremer masterminded the scheme to aid the Coroians with gaining dissolution judgements for "validating" the sham, unlawful and invalid zero-day cross-marriages against the Tanasescus' efforts to properly nullify them.

On June 19, 2007 attorney Kremer filed Dorin's petition in the San Diego County case ED 71196 for a dissolution judgement of the "zero-day" cross-marriage without showing common asset the single-family the Coroians abandoned in April 2006, and to avoid proceeding on Simona's petition for nullification served on June 9, 2007.

On July 2, 2007 attorney Johnson filed Mirela's petition in the Los Angeles County case no. MD033805, for dissolution of her fake zero-day cross-marriage.

The Tanasescus did not include their child in any of their petitions/answers for keeping their child out of the fake and invalid cross-marriages which the opposition welcomed because the court would have protected the minor's rights if notified.

The San Diego County Case

Simona retained attorney Bors Jr. and his son attorney Bors III who soon thereafter colluded with attorney Kremer in the scheme to cause Simona's Default

entered on September 4, 2007, then filed Simona's answer which the court accepted and filed on September 14, 2007, because of the nefarious situation where the Default did not show entered or "on the logs" while apparently at the hands of inside court clerk Martha A. Thomas who altered the date of mailing of the Default to September 21, 2007 and then did not strike Simona's Answer but instead left it to stand alongside the Default. The court scheduled a "default hearing".

Simona's attorneys did not complete the motion to set aside the default as they promised and misled her that her September 14, 2007 Answer was valid, all while attorney Kremer did not proceed to request judgment on the default pursuant to CRC Rule 3.110(h) but instead he colluded with Simona's attorney to continue the court hearing on the Default four times for a total of 210-days until May 12, 2008, passed the 180-day statute for setting aside a default.

Simona attended the May 12, 2008 hearing against Bors Jr.'s insistence not to.

Then the court moved to strike Simona's September 14, 2007 Answer to enter dissolution judgement on Simona's Default. Simona was not allowed to address the court and attorney Bors Jr. kept silent about the court's false jurisdiction by use of Mrs. Suciu address, the "common asset" not declared by Dorin and that the zero-day cross-marriage was a sham, unlawful and void which would have prompted a proper nullification judgment pursuant to civil and family laws and the policy of the law.

Simona retained attorney Jeffery Novack to set aside the default and default judgement, but he too corruptly refrained from properly pleading the extrinsic fraud, and the temporary judge assigned did not act even to protect S.T.'s rights.

The Los Angeles County case

Danut also retained attorneys Bors while oblivious together with Simona about the attorneys being sellouts of his family's interests and rights, including child S.T.

Attorney Johnson knowingly aided Mirela in her need to cover up the sham and invalid cross-marriage with a dissolution judgement for the subsequent defrauding of the United States into awarding her and two sons naturalization, and so he used intimidation, threats and trickery to prevent Danut from notifying the court of the facts supporting his request for nullification pursuant to civil and family laws.

On March 25, 2008 attorney Johnson filed Summons (Joinder) to tap into Danut's 401 (k) pension plan just to intimidate him while not serving on Danut's employer where Simona was known still as Danut's wife and working together.

In his April 9, 2008 letter (**Appendix N**) Johnson intimidated and threatened Danut and Simona for coercing them into agreeing to a dissolution judgement with the effect of "validation" of the sham cross-marriage to keep the falsehoods over their family. Attorney Johnson further tormented and intimidated Danut at the June 2008 deposition to get him to give up his family of three's right to properly detach from the Coroian family of four and end the falsehoods and defamations.

Before the September 9, 2008 court hearing, attorneys Bors abandoned Danut by signing off and filing on September 8, 2008 the substitution of attorney they had Danut sign under false pretenses at a prior date.

On February 4, 2009 attorney Johnson filed and served on Danut Mirela's Motion for Summary Judgment with the wrong hearing date of March 26,

2009 (the scheduled trial date) and not the correct date of March 18, 2009.

Danut retained attorney Jeffrey H. Sherter on limited scope representation, but he too exploited the situation and joined the RICO enterprise. Attorney Sherter ill-advised the Tanasescus on how to proceed knowing that the notice for that motion was served upon Danut in violation of Cal. Code Civ. Proc. §473c(a)(2)[3].

Instead of rejecting the motion for violation of law, attorney Sherter prepared Danut's response and went to the court hearing to meet with attorney Johnson.

At the March 26, 2009 trial, presided by a different judge than assigned in the case, attorneys Sherter and Johnson conducted a sham trial, as they conspired together to conceal the facts of the fake and void zero-day cross-marriage also obtained and maintained forcefully and unlawfully, and used the sanctuary of the trial court to confine and prevent Danut and Simona from giving full and complete testimonies while shielding Mirela from testifying, and not bringing in Dorin and two sons or their neighbors to testify as Danut requested.

Attorney Sherter told the court to "forget the immigration" to avoid presenting the facts of the fake cross-marriages where Mirela was never a wife to Danut as she cohabitated with Dorin always, and as Simona and Danut continued their longtime marriage and welcomed their child together.

Therefore, the court was not notified of the facts for adjudication on the merits when it rubberstamped the judgement of dissolution on April 29, 2009,

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[3] Cal. Code of Civil Proc. §473c(a) states in relevant part that notice of a motion for summary judgment "shall be served on all other parties to the action at least 75 days before the time appointed for hearing" and if served by mail in the State of California "required 75-day period of notice shall be increased by 5 days".

which Mirela and two sons used for covering up the sham and invalid cross-marriage in defrauding the United States to award them naturalization unlawfully.

Relevant factual and procedural background regarding Simona's action in the Superior Court of California, Case No. 30-2009-00310563-CU-FR-CJC which was consolidated with Simona's Small Claims Court Case. No. 30-2010-00380508-SC-SC-HJC

On 9-13-2009 Simona filed the unlimited civil action no. 30-2009-00310563-CU-FR-CJC in the Orange County Superior Court Central Justice Center (the Fraud Action) against her former attorneys Bors Jr. and Bors III, and opposing counsel Kremer, for conspiring to silence Simona and prevent her from properly nullifying the sham and zero-day cross-marriage for ending the falsehoods over her family.

On 6-11-2010 Simona also filed case no. 30-2010-00380508-SC-SC-HJC in the Orange County Small Claims Court in the Harbor Justice Center against attorneys Bors Jr. and Bors III for recovery of the $5,250.00 award of attorney fees paid, as ordered by the Orange County Bar Association (OCBA) on of 9-28-2009. The Small Claims court ordered the case be CONSOLIDATED on 7-27-2010 with the Fraud Action as the lead case.

On 09-22-2010, Simona filed in pro per the Third Amended Complaint (TAC) in the Fraud Action, which was demurred by attorney Bors Jr.

To avoid responding to the fraud cause of action in the TAC, attorney Bors III petitioned the bankruptcy court on 10-20-2010, in case no. 2:10-bk-55089-PC, for a chapter 7 bankruptcy discharge where he included the ongoing Fraud Action as "Mal Practice, Fraud Lawsuit" claim, but did not notify the superior court or Simona of his bankruptcy action.

On 11-30-2010, the impartial and fair judge in the Fraud Action found the TAC to plead sufficient allegations of fraud against attorneys Bors Jr. and Bors III to advance the case for jury trial on the Fraud cause of action in the TAC.

Attorney Bors III acted to game the Bankruptcy Code which affords "a fresh start" to the 'honest but unfortunate debtor.'" *Marrama v Citizens Bank of Massachusetts*, 549 U.S. 365 (2007).

Bors III informed the state court of the bankruptcy action only at the 02-07-2011 case management conference (CMC) where Simona also learned about it then.

At the 03-07-2011 CMC, Bors III used his bankruptcy discharge to strip the state court of personal jurisdiction and consequently the state court dismissed Bors III without prejudice from the scheduled jury trial on the fraud cause of action.

The Fraud Action is continued pending resolve on the fraud upon the U.S. Bankruptcy Court for the Central District of California in Bors III discharge and the unconstitutional order dismissing Simona's adversary action in departure from FRCP Rule 15(a) and Ninth Circuit precedents.

Relevant factual and procedural background regarding attorney Bors III's Chapter 7 Bankruptcy Case No. 2:10-BK-55089-PC in the United States Bankruptcy Court for the Central District of California, and Simona's Adversary Action for Revocation of Debtor Bors III Discharge in Case No. 2:12-AP-01130-PC (the 2012 BK Adversary Action)

On 10-20-2010 attorney Bors III, having bankruptcy specialized representation, filed a voluntary petition for Chapter 7 bankruptcy protection in the U.S. Bankruptcy Court for the Central District of California (Los Angeles) where he included the Fraud Action for discharge as the "Mal Practice, Fraud Lawsuit" claim.

From the start, attorneys Bors III has knowingly and willingly presented false and misleading information to avoid review by the bankruptcy court and/or the trustee on the dischargeability of the "Mal Practice, Fraud Lawsuit" claim, which is not dischargeable pursuant to 11.U.S.C. §523 subdivisions (a)(2), (a)(4), and (a)(6), by concealing and mutilating information about the claim in "Schedule-F" and "Statement of Financial Affairs" documents, Bors III singed under oath.

In a nutshell, debtor Bors III used the date of "6/2010", when the Small Claims action was filed, as the starting date of the Fraud Action (which was in fact 10/2009) to mislead a reviewer to a false perception that the ongoing Fraud Action was "Dismissed", when in reality the small claims action was Consolidated with the 10/2009 Fraud Action which was ongoing and disputed pending the state jury trial. A search in the state court's case access using the false information could not have brought up the Fraud Action record and thus its true review was obstructed.

"The fundamental purpose of § 727(a)(4)(A) is to insure that the trustee and creditors have accurate information without having to do costly investigations." *United States Tr. v. Zhang* (*In re Zhang*), 463 B.R. 66, 86 (Bankr.S.D.Ohio 2012); see also *Boroff v. Tully* (*In re Tully*), 818 F.2d 110 (1st Cir.1987) (stating that the purpose of § 727(a)(4)(A) "is to make certain that those who seek the shelter of the bankruptcy code do not play fast and loose with their assets or with the reality of their affairs. The statutes are designed to insure that complete, truthful, and reliable information is put forward at the outset of the proceedings, so that decisions can be made by the parties in interest based on fact rather than fiction.").

Also, it was established that the requisite false oath may involve either and affirmatively false statement or an omission from the debtor's schedules. Fogal Legware of Switz., Inc. v. Wills (In re Wills), 243 B.R. 58, 62 (9th Cir. BAP 1999).

At a minimum debtor's false and misleading statements included in debtor's "Schedule-F" and "Statement of Financial Affairs" are "statements under oath".

Bors III knowingly made the false and misleading statements and did not reveal that the "Mal Practice, Fraud Lawsuit" claim was Disputed, Unliquidated and Contingent because the Fraud Action was on-going and pending jury trial on the fraud cause of action against the debtor for his misconduct in a fiduciary capacity, which also sets the "Mal Practice, Fraud Lawsuit" claim to be an exception from discharge under 11 U.S.C. 523 (a)(2), (a)(4), and (a)(6).

Attorney Bors III by his skilled bankruptcy attorney succeeded in misleading and deceiving the bankruptcy court into granting Bors III full discharge on 02-17-2011, and the case was closed on 3-4-2011.

On 1-31-2012 Simona filed and served the First Amended Complaint in the adversary action for revocation of Bors III discharge in case no. 2:12-ap-01130-PC.

At the 4-3-2012 court hearing no tentative ruling was presented and the court dismissed Simona's complaint prepared in pro per, without leave for a single amendment of the complaint and "without prejudice to [Simona's] filing of a complaint under 11.U.S.C. § 523" (Order in **Appendix R**).

By 2-7-2013 Simona appealed the unconstitutional order to the Ninth Circuit.

On 6-17-2013 Simona filed her Opening Brief, setting Bors III's Response Brief due by 7-16-2013. On 10-18-2013, 93-days past the Response Brief due date, the Ninth Circuit gave Bors III additional 14 days to file his response brief. Still, attorney Bors III did not respond.

Simona filed the 10-18-2016 Notice of Discrepancy in the Ninth Circuit with noting that more than 44 months passed since the Notice of Appeal was filed in the

case which well exceeded the Ninth Circuit's own calculated timeline for a civil appeal of approximately 12-20 months from the date of the Notice of Appeal.

On 12-23-2016 the Ninth Circuit entered directly its Memorandum affirming the prejudicial and unconstitutional order of the bankruptcy court.

Relevant factual and procedural background regarding U.S. District Court for the Central District of California Case No. 8:11-cv-00700-CJC-MAN (2011 Action), and U.S. Court of Appeals for the Ninth Circuit, Case No. 12-55947

On May 9, 2011, Simona filed the civil complaint in the U.S. District Court for the Central District of California Case No. 8:11-cv-00700-CJC-MAN (2011 Action) under 42 U.S.C.§ 1983, against The State Bar of California and five attorneys identified as E. Daniel Bors Jr. , E. Daniel Bors III, Matthew M. Kremer, Robert K. Johnson, and Jeffrey H. Sherter.

The complaint alleged the violation of Simona's rights, and implicitly her minor child's rights, under Section 1983 for the private attorneys' use of state power in the defrauding of the San Diego County and Los Angeles County family law courts for the rubberstamping of the dissolution judgements, because absent the fraud on the court, the respective courts would have entered nullification judgments in the sham cross-marriages, obtained and maintained through fraud, undue influence, menace, duress, extortion and manipulation, pursuant to civil and family laws.

The defendants, except Bors Jr who defaulted, filed motions to dismiss pursuant to FRCP Rule 12(b)(6) which Simona opposed and some defendants filed replies.

The complaint alleged the State Bar of California's failure to enforce its policies enacted for protection of the public, in the failure to enforce Simona's award of

attorneys' fees granted by the OCBA, and for aiding and abetting attorney Kremer with the July 6, 2011 letter (**Appendix M**) exculpating him on Simona's June 4, 2011 letter to attorney Kremer, the State Bar was carbon copied and opened an Inquiry to respond when the agency had a backlog of 3,000 new complaints.

On March 26, 2012, the Report and Recommendation by the magistrate judge (**Appendix O-1**) was entered, and Simona Objected to the R&R on April 16, 2012.

On April 19, 2012, Judge Cormac J. Carney enter the Order Accepting the R&R (**Appendix O-2**).

On May 21, 2012, Simona appealed the Judgement dismissing the 2011 Action.

On May 22, 2012, the Ninth Circuit provided Simona with the "Information for Pro Se Appellants/ Petitioners" (**Appendix P-1**)

On December 11, 2012 Simona filed the Opening Brief. Only the State Bar of California and attorney Sherter filed Response Briefs.

On April 14, 2014, the Ninth Circuit entered its Memorandum affirming the Judgment in the 2011 Action (**Appendix Q**).

Relevant factual and procedural background in the U. S. District Court for the Central District of California, Case No. No. 8:17-cv-01513-DOC-JDE, and in the U.S. Court of Appeals for the Ninth Circuit Case No.19-56350.

The underlying civil action is the latter in the series of federal actions decided on the Tanasescu family of three's efforts to set out the truth and correct the false documents over their family for properly detaching from the Coroian family of four with establishing the reality of their continued 1985 marriage and their child's legitimacy born in fact within the parents' 1985 marriage, to restore their family of three's reputation and constitutional rights. The federal courts' departure from the

accepted and usual course of judicial proceedings further injures the petitioners.

On August 31, 2017 Simona filed the underlying action together with minor child S.T. as co-plaintiff, but erred on the time she had for executing service.

On September 8, 2017, the Court appointed Simona GAL for S.T. (a minor) with 30 days leave to retain an attorney.

On October 4, 2017, Simona filed an application for appointment of counsel for S.T. (a minor) because she could not obtain an attorney on contingency fee basis and the "parents have no resources to retain counsel for the child".

On November 6, 2017, the Court entered Order Dismissing "the claims in the [original] Complaint purportedly brought on behalf of and in the name of minor S.T.", and Denied Simona's motion for appointment of counsel. (**Appendix B**)

On November 30, 2017 the Court issued Order to Show Cause why the Case should not be dismissed for lack of prosecution.

On December 13, 2017 Simona responded with showing excusable neglect and error of law, and requested extension of time to execute service also expressing her consideration to amend the complaint "to reduce its size, correct mistakes and further explain the claims if this Court also grants leave to amend the complaint prior to executing service upon all the parties".

On December 18, 2017, the Court granted extension of time for service or for filing of an amended complaint.

On December 27, 2017 Simona filed the First Amended Complaint (FAC) as the operative complaint she served on all defendants.

The FAC has seventeen Claims For Relief: the First through Thirteenth are claims for monetary relief, and the Fourteenth through Seventeenth are claims for injunctive relief, as follows:

FOURTEENTH CLAIM FOR RELIEF, against Dorin:
For Permanent Injunction Modifying the Dissolution to a Nullity of Marriage in family law case no. ED71196 in the San Diego County Superior Court

FIFTEENTH CLAIM FOR RELIEF, against Mirela, Cristian and Adrian:
For Permanent Injunction Modifying the Dissolution to a Nullity of Marriage in the family law case number MD033805 in the Los Angeles County Superior Court

SIXTEENTH CLAIM FOR RELIEF, against Bors III:
For Permanent Injunction Revoking Bors III Discharge in the Chapter 7 Bankruptcy action no. 2:10-bk-55089-PC in the U.S. Bankruptcy Court for the Central District of California

SEVENTEENTH CLAIM FOR RELIEF for Simona and Danut:
For Permanent Injunction Vacating the Dissolution Judgment entered in the family law case no. 99D006301 in the Orange County Superior Court

The FAC pleads claims against the defendants as follows:

"a) private attorneys Matthew M. Kremer, and Matthew M Kremer, The Law Offices of (Kremer); Robert K. Johnson, and Robert K. Johnson, The Law Offices of (Johnson); E. Daniel Bors Jr.; E. Daniel Bors III; Jeffrey H. Sherter; and parties Mrs. Zoe Cristina Suciu, Dorin Coroian (aka Dorin Tanasescu), Mirela Mosoiu (aka Mirela V. Coroian, Mirela V. Tanasescu), Cristian Coroian and Adrian Coroian (collectively identified as RICO defendants) for their racketeering activities in violation of 18 U.S.C.§ 1962(c) and 18 U.S.C. § 1962(d) related to: obstruction of justice under 18 U.S.C. § 1503; the tampering with a witness, victim, or an informant under 18 U.S.C. § 1512; and the racketeering activity relating to procurement of citizenship or naturalization unlawfully under 18 U.S.C. § 1425.

b) the State Bar of California, for employees, name unknown, who failed to act upon the Bar's published rules and procedures to protect the public, and

Deputy Trial Counsel Diane J. Meyers in aiding and abetting the misconduct of attorney Kremer; and

c) the United States for the wrongful acts by identified and unknown federal employees including judicial officers in the Central District of California, the Bankruptcy Court, and the Ninth Circuit for the documented misinformation directed to pro se appellants."

The defendants, except attorneys Bors Jr., Bors III, Robert K. Johnson and Robert K. Johnson, The Law Office, filed responses at various times in the form of motions to dismiss the FAC under FRCP Rule 12(b), and the private parties including Mrs. Suciu and the Coroian family of four filed answers while represented by the same law firm.

On March 2, 2018, Simona filed Motion for Relief from the November 6, 2017 Order dismissing S.T. (a minor), upon which the Court entered the April 23, 2018 R&R denying the motion, and Simona objected on May 4, 2018.

On April 13, 2018, Simona filed the Application for Court Appointment of Counsel for S.T. (a minor).

April 23, 2018, the Court enter the R&R (**Appendix C-1**) denying the Motion for Relief from the November 6, 2017 Order, which Simona objected on May 4, 2018.

On May 15, 2018, Judge David O. Carter enter the Order (**Appendix C-2**) denying relief from the November 6, 2017 order and appointment of counsel to represent minor S.T. noting the reasons in the pertaining R&R.

The lower court systematically dismissed the defendants:

- attorney Kremer and his law office, and attorney Sherter by the May 18, 2018 Order (**Appendix E-2**) accepting the May 1, 2018 R&R (**Appendix E-1**);

- the State Bar of California by the June 15, 2018 (**Appendix F-2**) Order accepting the May 25, 2018 R&R (**Appendix F-1**);
- the United States by the May 15, 2018 Order (**Appendix D-2**) accepting the April 23, 2018 R&R (**Appendix D-1**);
- defendants Mrs. Suciu, Dorin Coroian, Mirela Mosoiu, Cristian Coroian and Adrian Coroian by the Order (**Appendix G**) granting their Motion for Judgment on the Pleadings.

The court picked up defendants Mrs. Suciu and Coroian family of four's dishonest argument that Simona "cannot validly assert the stand-alone claims for injunctive relief in the FAC", to avoid addressing the causes of action for the fraud on the courts in the rubberstamping of the dissolution judgements which were in fact pleaded throughout the FAC and further detailed in the Fourteenth and Fifteenth Claims for injunctive relief.

Without minor S.T., for whom the clock on the statues of limitation did not start running on all the claims in the FAC, the lower court changed from initially arguing RICO claim preclusion in dismissing Kremer and Sherter to miscalculating the RICO statute of limitation to avoid considering Simona's simultaneous actions and the wrongful dismissal of the 2011 Action.

On May 9, 2019, the lower court' Order (**Appendix H**) denied Simona's Motion for Leave to Amend the FAC (**Appendix Y**).

The June 4, 2019 Order (**Appendix X**) notes the defaulting parties.

On September 4, 2019, the lower court's Order (**Appendix I**) denied Simona's

Motion for Reconsideration of the May 9, 2019 Order.

The court abruptly closed the 2017 RICO Action on October 18, 2019 (**Appendix J**), upon denying Simona leave for a single meaningful amendment of the FAC in response to any of defendants' scrutiny of the FAC, using the dishonest argument that it afforded amendment of the original complaint in the entry of the December 27, 2017 FAC which was the sole operative complaint served on all defendants.

Petitioners appealed to the Ninth Circuit on November 16, 2019, where the court missed to consider minor S.T. as it was included on the Notice of Appeal, until the clerk eventually added the minor on April 2, 2020 in appeal number 19-56350.

On May 20, 2021, the Ninth Circuit affirmed the dismissal of the 2017 RICO Action on the conclusion that "the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F. 2d857, 858 (9th Cir. 1982)" for deflecting from looking into the Ninth Circuit's own use of the documented misguidance (**Appendices P-1 and P-2**) it provided to pro se appellants similarly situated, and from addressing judges Carney and Carroll in prior actions and judge Carter's intentional failures to afford the petitioners equal protection of laws and precedents as summarized in the foregoing.

Petitioners' separate Motions for Panel Rehearing and Rehearing EnBanc (**Appendices Z-1 and Z-2**) were denied on August 24, 2021 (**Appendix K**).

On April 19, 2021, the petitioners filed in pro per the Complaint in the U.S. Court of Federal Claims (USCFC), case no. 1:21-cv-01289 under the Contract Disputes Act of 1978 for breach of the implied in fact and law contract to afford

petitioners equal protection under law as shown in the judgements entered in the 2011 Action and the 2012 BK Adversary Action, and in the underlying action for the intentional failure to appoint counsel to protect minor S. T.'s rights as well as for the Ninth Circuit's unconstitutional misguidance directed to pro se litigants.

On May 19, 2021, the USCFC dismissed the action (**Appendix V**) arguing "lack of jurisdiction" as it has sole jurisdiction under the Contract Disputes Act of 1978.

Upon filing appeal no. 2021-2117 in the U. S. Court of Appeals for the Federal Circuit (USCAFC), the lower court summary docket ("for the Court only") revealed that on April 27, 2021, the petitioners' Complaint was "reviewed by Staff Attorney Office before filing; Staff Attorney Advice Memo forwarded to chambers" (see **Appendix W**) and was altered from showing petitioners' Nature of Suit noted on their Cover Sheet under code 114 for Breach of Contract (implied by fact or law) by agency DOJ to code 528 for Miscellaneous-Other, and from the monetary and injunctive relief sought to only monetary relief for $1,000,000.

The USCFC did not consider the petitioners' claims under the Contract Disputes Act of 1978 ("CDA", Pub.L. 95–563, 92 Stat. 2383)[4] while having sole jurisdiction for resolution of claims and disputes relating to Government contracts awarded by executive agencies[5]. The CDA applies to any express or implied contract made by an executive agency for the procurement of services (41 USC § 7102(a)(2)). The petitioners complied with the CDA. The appeal is pending review.

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[4] Codified, as amended, at 41 USC §§ 7101 – 7109

[5] The term "executive agency" means an executive department as defined in 5 USC § 101, relevant here is the Department of Justice (DOJ).

REASONS FOR GRANTING THE WRIT

This case meets all the conventional requirements for certiorari under Supreme Court Rules 10(a) and 10(c), for the following:

- The Ninth Circuit's decision that the questions raised in the underlying appeal "are so insubstantial as not to require further argument", citing United States v. Hooton, 693 F.2d 857, 858 (9th Cir. 1982) (**Appendix A**), constitutes a dereliction of duty from conducting review over the adjudication of the 2017 RICO Action in which the district court continued the pattern of intentional failures to afford equal protection under law to the petitioners as in the prior related litigations and over the Ninth Circuit's own bias and intentional violation of due process to similarly situated pro se litigants through misguidance and use of manufactured "Circuit Rule 30-1.1.1" (contrary to actual Circuit Rule 30-1.2), and also as it denied S.T. (a minor)'s Motion For Appointment Of Counsel on Appeal in disregard of the Ninth Circuit's own holding in Johns v. County of San Diego, 114 F.3d 874, 876 (9th Cir. 1997) that minors who "have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected" thus leaving the minor to proceed without counsel on appeal, all which call for the exercise of this Court's supervisory power.
- The Superior Court of California, while defrauded into becoming instrumental to immigration fraud, decided on the important question of federal law probing "[a] marriage that is entered into for the primary purpose of circumventing the

immigration laws, referred to as a fraudulent or sham marriage" (BIA 1998). The background state court cases made the decisions to "validate" the sham and non bona fide zero-day cross-marriages, which are not recognized under federal law for awarding immigration benefits, through granting dissolution judgments even contrary to civil and family laws. In the Los Angeles family law case, attorney Sherter told the court to "forget the immigration" which was the reason the sham cross-marriage was obtained and maintained. The letters from attorneys Kremer and Johnson (**Appendices L and N**) show the attorneys' clear understanding the cross-marriages were not institutions of marriage under family laws but instruments for circumvention of immigration laws, yet they proceeded to abuse the family law court for achieving their clients' goals to hide the cross-marriages under dissolution judgements. The state courts' decided the dissolution judgments which the Coroian family of four subsequently used into defrauding the United States for granting them naturalization unlawfully.

This Court should settle the state decision on federal laws for closing the immigration fraud loophole and for the petitioners to properly detach from the cross-marriages for true documents reflective of reality, for S.T.'s legitimacy and the family's freedoms and dignity. The decision by the state court to enter dissolution judgements with the effect of "validating" sham and zero-day cross marriages privileged the Coroian family of four to gain naturalization unlawfully while continuing to defame the Tanasescu family of three and own their freedoms.

This Court's exercise of supervisory power over the lower courts' departure from

the accepted and usual course of judicial proceedings, and settlement power over the state decision on the questions of federal law in this matter is dire more so because the petitioners could not and cannot have impartiality and fairness in the United States Courts for the Ninth Circuit in the State of California as it appears that these federal courts are politically influenced by the State's intentional governmental "sanctuary state" policies which favor and/or cover up acts taken for circumvention and/or in violation of immigration laws.

The United States was named defendant in the 2017 RICO Action for the intentional failure of judicial officers to afford the petitioners equal protection under law in dismissing the 2011 Action and the 2012 BK Adversary Action, and defendant State Bar of California for aiding a member's misconduct and for failure to apply its policies. The court in the 2017 RICO Action refrained from taking as true the allegations in the FAC and from affording the petitioners equal protection under law and the fact-finding process for adjudication of grievances on the merits.

I. The United States Courts for the Ninth Circuit intentionally failed to afford petitioners the equal protection of laws and precedents in the 2011 Action:

1) Intentionally failed to apply FRCP Rules 17, 18, and 19 to protect S.T. (a minor)'s rights and interests.

The March 26, 2012 R&R in the 2011 Action (**Appendix O-1**) found that Simona's allegations prepared in pro per "purporting to rest portions of her claims on asserted injuries that her child has suffered, are improper and not cognizable, because plaintiff's child is not a party to this case and plaintiff, who is proceeding *pro se*, may not assert her child's rights in this action without retaining counsel."

(**Appendix O-1**, FN at page 59)

The court acknowledged that S.T. (a minor) had an interest therefor the court should have enjoined the minor, under to FRCP Rules 18 and 19, and with giving Simona time to obtain an attorney or find means to protect S.T.'s rights and interests. The district court also ignored Simona's request in her Objection to the R&R to have S.T. (a minor) join in the action through amendment of the complaint.

The court also did not act to protect the minor's interest under FRCP Rule 17(c).

2) Intentionally failed to afford Simona equal protection of FRCP Rule 15(a) and precedents for leave to amend the operative complaint with complex factual, procedural and legal issues prepared in pro per by the non-attorney litigant and first-generation immigrant with limited English.

The court did not grant Simona leave to amend the complaint not even for the opportunity to clarify the court's finding of "unclear", in FN at pg. 59, if the *Rooker-Feldman* doctrine barred review and adjudication on the requests for declaratory judgements over the state court judgments of dissolution obtained through fraud upon the Superior Court of California.

3) Intentionally failed to exercise federal power to review and adjudicate the allegations of fraud on the Superior Court of California in the granting of the dissolution judgements which further the falsehoods on the petitioners.

First, that court acknowledged that Simona sought nullification judgments[6] as the proper judgments the state courts would have entered, absent the RICO

[6] An annulment (nullification judgment) is different than a divorce (dissolution judgement), in that in a divorce, the parties end a legal marriage. In an annulment, the court rules the marriage was never legally valid. In other words, the marriage never happened.
The sham and fraudulent cross-marriages were not obtained and maintained freely and did not exist in reality as the in-laws continued their actual marital

enterprise's frauds and pursuant to family and civil laws.

Secondly, the court noted throughout the R&R (**Appendix O-1**) and specifically at page 3 that Simona's allegations "weave a lurid tale of, inter alia, blackmail, sham marriages, bigamy, immigration fraud, and deception in court proceedings" but refrained to address Simona's right to properly nullify the sham cross-marriage.

Federal Rule 60(d)(3) gives the federal court power to grant relief without limiting its power to "set aside a judgment for fraud on the court", while the *Rooker-Feldman* doctrine does not bar a district court from reviewing and adjudicating redress on judgments obtained through fraud upon the respective state courts.

The Ninth Circuit applying its general formulation from *Noel v. Hall*, 341 F.3d 1148, 1164 (9th Cir. 2003) concluded in the case of *Kougasian v. TMSL, Inc.* 359 F.3d 1136 (9th Cir. 2004) as follows:

> "It has long been the law that a plaintiff in federal court can seek to set aside a state court judgment obtained through extrinsic fraud. In *Barrow v. Hunton*, 99 U.S. (9 Otto) 80 (1878), the Supreme Court distinguished between errors by the state court, which could not be reviewed in federal circuit court, and fraud on the state court, which could be the basis for an independent suit in circuit court.
> ...
> Extrinsic fraud on a court is, by definition, not an error by that court. It is, rather, a wrongful act committed by the party or parties who engaged in the fraud. Rooker-Feldman therefore does not bar subject matter jurisdiction when a federal plaintiff alleges a cause of action for extrinsic fraud on a state court and seeks to set aside a state court judgment obtained by that fraud."

The complaint in the 2011 Action pleaded the misconduct by the RICO defendants with help from corrupt inside court clerk Martha A. Thomas to cause Simona's default which her own attorneys refrained to set aside to cause her to lose

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relationships and family units established as of 1982 for the Coroians, and as of 1985 and ongoing for the Tanasescus.

the right to address the court in the only case hearing of May 12, 2008 when Simona witnessed her family of three's freedoms and rights been violated while she was further defamed and humiliated as Dorin lied under oath about irreconcilable differences and unsuccessful marriage counseling when in fact Simona did not even talk to the brother-in-law since early 1999, and attorney Kremer "lumped together 6 months in California" on the residence requirements of 3 months in the San Diego County and 6 months in California to conceal the court had no jurisdiction because Dorin used Mrs. Suciu's San Diego address since he was living with Mirela and sons in Palmdale, Los Angeles County. Also, in the Los Angeles County case Simona and Danut were prevented from giving full and complete testimony on the facts supporting nullification of that sham, unlawful and void zero-day cross-marriage.

4) Intentionally failed to apply the cited Ninth Circuit precedents in the case of *Brown v. Roe*, 279 F.3d 742, 744-45 (9th Cir. 2002) cited by judge Cormac J. Carney's in his April 19, 2012 Order.

Judge Carney's Order **(Appendix O-2)** is muddled to give the false impression that he applied the precedent in *Brown v. Roe*, 279 F.3d 742, 744-45 (9th Cir. 2002) when in fact the decision to dismiss the complaint without granting Simona a single time leave to amend the FAC and for pleading her RICO claim she raised for the first time in her objection to the R&R, only shows the judges' intentional failure to afford petitioners the equal protection of the cited precedent where the Ninth Circuit found abuse of discretion in the refusal of the district court to consider *Brown*'s newly raised claim in his objection to the R&R.

The muddled order did not address Simona's request made for the first time in

the objection to the R&R to add a second cause of action "under the Racketeer Influenced and Corrupt Organizations Act for a number of acts defined by 18 USC § 1961", a similarity the Ninth Circuit in *Brown v. Roe* found abuse of discretion.

Even as Judge Carney's order was muddled on the application of the cited precedent in *Brown v. Roe* with noting consideration of the Exhibits included in Simona's Objection to the magistrate's R&R, those exhibits A through G supported Simona's claims of fraud upon the state courts in the entry of the dissolution judgements Judge Carney's court had unlimited power under Federal Rule 60(d)(3) to "set aside a judgment for fraud on the court", and subject matter jurisdiction to review the judgements obtained by fraud upon the state courts as held in *Kougasian v. TMSL, Inc.* 359 F.3d 1136 (9th Cir. 2004) that "[i]t has long been the law that a plaintiff in federal court can seek to set aside a state court judgment obtained through extrinsic fraud".

Upon Simona's notice of appeal from the judgement of dismissal, Judge Carney's certification that Simona's appeal was taken in bad faith because an amendment would have been futile was disingenuous and directed to hinder the review on appeal of his dishonest order to dismiss the 2011 Action without leave to amend.

Like the Ninth Circuit's holding in *Brown*, Judge Carney's Order "is very brief, stating without elaboration that it conducted a *de novo* review of the magistrate's findings and recommendations" and also ignored that Simona "was a *pro se* petitioner at all relevant times and was making a relatively novel claim under a relatively new statute" (at a minimum, the request to amend the complaint to add

the RICO claim). The judge certified that Simona's appeal was "taken in bad faith" knowing he did not afford petitioners the equal protection under law.

5) Intentional misguidance provided to similarly situated pro se litigants.

The United States Court of Appeals for the Ninth Circuit provided Simona with intentional misguidance in the "Information for Pro Se Appellants/Petitioners" (**Appendix P-1**) regarding submittal of excerpts of record on appeal, also with citing the manufactured "Circuit Rule 30-1.1.1" in support, which contradicted the actual rule for unrepresented litigants, Circuit Rule 30-1.2[7] (**Appendix P-2** is a true copy of 3 pages from the 2012 Circuit Rules).

By the same token, the Ninth Circuit used the manufactured rule for evading the factual and procedural wrongs shown in the record of the 2011 Action when finding that "[plaintiff/petitioner]'s contention that the district court ignored portions of her complaint and objections to the report and recommendation is unsupported by the record" (**Appendix Q**), which is a misleading play on words since no record was provided on appeal by Simona, the appellees or the lower court. Therefore, also the finding of futility was disingenuous as detailed in the foregoing.

II. The United States Bankruptcy Court for the Central District of California knowingly failed to afford equal protection of law and precedents in Simona's 2012 BK Adversary Action regarding debtor attorney E. Daniel Bors III Chapter 7 Bankruptcy Discharge:

The United States Bankruptcy Court for the Central District of California knowingly failed to afford Simona equal protection of FRCP Rules 15(a) and Ninth

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[7] The 2012 Circuit Rule 30-1.2 stated: *"Appellants and appellees proceeding without counsel need not file the initial excerpts, supplemental excerpts or further excerpts of record described in this section. (New 1/1/05; Rev. 12/1/09)".*

Circuit precedents when dismissing Simona's 2012 BK Adversary Action without leave to amend but "without prejudice to plaintiff's filing of a complaint under 11 U.S.C. §523". **(Appendix R)**

FRCP Rule 15(a) provides in relevant part that "[t]he court should freely give leave when justice so requires", and the Ninth Circuit has noted "on several occasions ... that the 'Supreme Court has instructed the lower federal courts to heed carefully the command of Rule 15(a), F[ed].R.Civ.P., by freely granting leave to amend when justice so requires.' " *Gabrielson v. Montgomery Ward & Co.*, 785 F.2d 762, 765 (9th Cir.1986)", also with written findings explaining the court's belief the plaintiff is not able to state a claim (*Dcd Programs Ltd v. W Leighton*, 833 F. 2d 183 (9th Cir. 1987)).

Judge Peter H. Carroll's April 5, 2012 Order did not show futility and was unconstitutional for adding undue procedural and financial burdens on Simona for a new filing and for disrupting the clock on 11 U.S.C. § 727 setting her for uphill and heightened pleadings in the limitation to 11 U.S.C. § 523.

III. The United States District Court for the Central District of California knowingly failed to afford petitioners the equal protection of laws and precedents in the 2017 RICO Action before it:

A) Intentionally dismissed appellant/petitioner S.T. (a minor) with her individual and intertwined claims against all defendants upon denying the minor the equal protection of laws and precedents:

On November 6, 2017 Judge Carter entered "Order Dismissing Action as to Minor Plaintiff S.T." **(Appendix B)** upon the intentional failure to apply FRCP Rules 15, 17, 18, 19; 28 USC § 1915; and its own cited precedent in Wilborn v.

Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) for protection of S.T. (a minor)'s rights and interests. S.T. (a minor), for whom the clock on all applicable statutes of limitation has not start running, is a necessary party to the 2017 RICO Action, and S.T.'s dismissal without prejudice is altering the minor's position with the intertwined claims and cause the minor undue burdens and further delay on the notion that "justice delayed is justice denied" as seventeen years already passed.

The statement at page 7 that "S.T.'s rights to pursue the action remain, either by the retention of an attorney or by her own decision to pursue the action upon achieving the age of majority" is dishonest and egregious for further harming S.T.'s young mind and life with having to learn the poisonous facts of the case which are causing S.T. the irreparable harm since birth and adds burdens for heightened pleadings to overcome expected defenses with claims of preclusion.

Judge Carter relied on the August 31, 2017 original complaint, he found "sprawling" as prepared by non-attorney Simona, for giving the impression of evaluating S.T. 's "likelihood of success". On one hand Judge Carter followed the principles held in the case of Johns v. County of San Diego, 114 F.3d 874, 876 (9th Cir. 1997) that "a parent or guardian cannot bring an action on behalf of a minor child without retaining a lawyer", but intentionally left out what the following:

> "It goes without saying that it is not in the interest of minors or incompetents that they be represented by non-attorneys. Where they have claims that require adjudication, they are entitled to trained legal assistance so their rights may be fully protected."

Judge Carter used the Complaint prepared in pro per by non-attorney Simona for determining the "likelihood of success" he also did not directly relate to the individual and intertwined claims of minor S.T. who is undoubtedly innocent and therefore there can be no doubt on the "likelihood of success" by S.T. (a minor).

At page 4 of the order, Judge Carter intentionally left out again important statements from *Wilborn v. Escalderon* for arguing as follows:

> "Under Section 1915(e), a court may only request an attorney to represent an indigent party in exceptional circumstances, which requires an evaluation of 'likelihood of success on the merits' of the action'. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)."

Judge Carter's argument was crafted to cheat the petitioners of the Ninth Circuit complete holding in *Wilborn v. Escalderon* which added the following:

"A finding of exceptional circumstances requires an evaluation of both 'the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.' *Weygandt v. Look,* 718 F.2d 952, 954 (9th Cir.1983), *quoted in Kuster,* 773 F.2d at 1049. Neither of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under section 1915(d)."

The November 6, 2017 Order is dishonest and muddled for concluding that Simona "has made no evidentiary showing of an inability to comply with the Court's Sept. 8 Order or with statutory support for her demand that the Court appoint counsel to represent S.T. in this action", because judge Carter intentionally left out from the precedent in *Wilborn v. Escalderon* that both "the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved" "must be viewed together before reaching a decision on request for counsel". Judge Carter did not want to appoint

counsel even for minor S.T., in violation of section 1915(e) and FRCP Rule 17(c).

Judge Carter also refrained to act upon the Ninth Circuit precedent in *Harris v. Mangum*, 863 F.3d 1133 (9th Cir. 2017) which held that a "district court has broad discretion to fashion an appropriate safeguard that will protect an incompetent person's interests". Judge Carter contention that his September 8, 2017 order, appointing Simona as guardian ad litem for S.T. (a minor) for 30 days to retain an attorney for the minor, sufficed as "appropriate steps" to protect the minor's rights and interests as he intentionally refused to take as true Simona's pleadings of indigency because he found that Simona paid the case filing fee, which is the equivalent of an hourly rate for an attorney, but refrained to find that Simona was proceeding without the protection of an attorney.

B) Intentional failure to address the conduct of Judge Carney in the 2011 Action

The May 1, 2018 R&R (**Appendix E-1**) recommending the dismissal of Kremer and Sherter shows the lower court's intentional failure to take as true the allegations in the FAC and intentional refusal to address the prior courts' misconducts in the dismissals of the 2011 Action and the 2012 BK Adversary Action, and instead considered the challenged dismissals of those actions to find knowingly in error (at pg. 16) that when "[i]n the 2012 Objection, [Simona] did seek leave to add her 'minor child as plaintiff and to include a second cause of action under the RICO Act against all defendants'" "[t]he District Court considered, and rejected [Simona's] arguments in accepting the Report and Recommendation in the 2011 Action" which is a creative way of evading the allegations in the FAC for the

subsequent argument of Claim Preclusion to avoid review of the RICO claims.

The May 1, 2018 R&R stated further in false as follows:

"As noted, the Ninth Circuit affirmed the judgement finding that the District did not abuse its discretion by denying [Simona's] request to amend her complaint because 'the proposed amendments would have been futile'. Tanasescu, 569F. App'x at 502-03. Thus, the only allegations that [Simona] specifically alleges were not adjudicated in the 2011 Action were, in fact, adjudicated, and affirmed on appeal."

The November 6, 2017 Order at pgs. 5-6 summarizes Simona's litigations in:

1) Simona Tanasescu v. The State Bar of California, et al., "the 2011 Action" (DC case no. 8:11-cv-00700- CJC-MAN);

2) Simona Tanasescu v. The State Bar of California, et al. "Appeal of the 2011 Action" (Ninth Cir. case no. 12-55947);

3) Simona Tanasescu v. E. Daniel Bors III appeal in the Ninth Cir. case no 13-60018 "Bors Bankruptcy Appeal" [which was from Simona's 2012 Bankruptcy Adversary Action regarding the discharge of E. Daniel Bors III and is identified better herein as "the 2012 BK Adversary Action" including the appeal]; and

4) Simona Tanasescu v. The Kroger Co., et al. appeal [from Simona's 2014 Civil Rights Action in the District Court] identifying is as "the Kroger Appeal" (Ninth Cir. case no. 15-56662)[8].

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8 This appeal taken from the judgement in Simona's Civil Rights action in the District court with case no. 8:14-cv-01437- MWF-SP has no relation to petitioners' claims and/or the defendants in the underlying actions presented to this Court because they arose from unrelated facts pertaining to Simona's plain action (on slip and fall injuries she suffered in 2011) in the Superior Court of California where presiding judge Munoz and subsequently judge Griffin intentionally failed to afford Simona equal protection of laws and precedent when allowing the removal from the action of defendant Kroger to replace it with the illegitimate entity "Ralphs Grocery Company d.b.a. Food 4 Less" by the mere administrative acts of intake court clerk(s) whom by the holding in People v. Funches (1998) 67 Cal. App.4th 240, 244, have "no power to decide questions of law nor any discretion in performing" their duties and "must act in strict conformity with statutes, rules, or orders of the court" defining their duties. The presiding state judges accepted the improper documentation in the license for sale of alcohol beverages (also showing surrendered at all relevant times) in lieu of proper fictious business name statements filed with the county clerk-recorder pursuant to Cal. Bus & Prof Code § 17900 et seq. for entity "Ralphs Grocery Company d.b.a. Food 4 Less", thus permitting the

Those litigations, except at 4) addressed briefly in the footnote, are relevant to the 2017 RICO Action for the misconduct by their presiding judges as pleaded throughout the FAC and in more detail in the Fifth and Sixth claims for relief.

Judge Carter considered the challenged arguments of "futility" to avoid taking as true Simona's allegations of abuse of power by judges Carney and Carroll and thus refrain from adjudicating them on the merits. Judge Carter's May 1, 2018 R&R also manipulated the Ninth Circuit's statement that "[Simona]'s contention that the

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illegitimate entity "Ralphs Grocery Company d.b.a. Food 4 Less" to act in the lawsuit contrary to Cal. Bus & Prof Code § 17918 and under the false information provided in the surrendered license for sale of alcohol, all which achieved the defense's scheme to shield parent/owner company Kroger and suppress the critical evidence and its spoliation to prevent Simona from presenting her claims with the supporting evidence produced and maintained by Kroger. Entity "Ralphs Grocery Company d.b.a. Food 4 Less" was noncompliant with Cal. Bus & Prof Code § 17900 et seq. , enacted *"to protect those dealing with individuals or partnerships doing business under fictitious names"* (Cal. Bus & Prof Code § 17900), during all relevant times in the litigation. Los Angeles County Clerk-Recorder's records show that "Ralphs Grocery Company d.b.a. Food 4 Less", conducted the D.B.A. business in the county of Los Angeles since 1988 only to became compliant with the Cal. Bus & Prof Code § 17900 et seq. as of April 24, 2014. Simona's Appeals in the Fourth District Court of Appeal, Division Three, with case nos. G056119 and G055578 were reviewed and decided by the same three-justice panel named defendants in their official capacity in the underlying action they reviewed (Simona's Appeal with case no. G051032 from her 2013 personal injury action) on their interpretation of Cal. Bus & Prof Code § 17918 as that "by its terms and annotations does not apply to tort actions", which departed from § 17918 that states "any action" with no exceptions, and the three justices' decision not to publish their interpretation which satisfied CRC Rule 8.1105(c) for publication, only showed the three justices' consciousness of falsity in their interpretation of § 17918.
There could be no doubt that review on appeal by the same three justices Aronson, Bedsworth and Ikola complained about in their official capacity for their false interpretation of § 17918 in the complaint was a violation of the fundamental principles of impartiality and fairness. The three justices did not recuse themselves and instead proceeded to review and uphold their own erroneous interpretation of §17918 for departing from that law to favor the big company Kroger represented by powerful attorneys to evade liability on injuries to the powerless.

district court ignored portions of her complaint and objections to the report and recommendation is unsupported by the record", to read that the Ninth Circuit "further found [Simona's] arguments that the district court erred to be 'unsupported by the record'" to avoid addressing the fact that there was no record on that appeal upon the misguiding document in Appendix P-1 as Simona did not file an excerpt of the record per Circuit Rule 30-1.2, and the district court as well as the responding appellees did not submit any record in the appeal.

C) Judge David O. Carter did not disqualify himself for his bias and appearance of bias towards Judge Carney at a minimum, and Simona's June 1, 2018 Motion for Disqualification of Judge David O. Carter was denied in the June 13, 2018 Order

The June 13, 2018 Order (**Appendix S**) at page 3 found that Judge Carney is not a defendant because "although the United States was named as defendant in this action, the federal judicial officers identified in the FAC were not named as defendants" and so Simona's argument that Judge Carter may be biased in favor of "a party" must be rejected because Judge Carney is not "a party".

The argument that because Judge Carney's actions were performed in his judicial capacity thus "judicial immunity is 'plainly applicable'"(pg. 4), and the subsequent denial of Simona's request to add the judicial officers in their individual capacity did set the rogue judges' escape pathway from their abuse of power which obstructed justice and injured the petitioners regardless their judicial immunity.

D) Failed to apply FRCP Rules 15(a) and precedents for amendment of the operative complaint at least ones for an opportunity to cure any one of defendants' scrutiny of the FAC.

The May 9, 2019 Order (**Appendix H**), dismissing Simona's Motion for Leave to Amend the FAC (**Appendix Y**), argued on page 2 as follows:

" Here, the current operative complaint is the First Amended Complaint ('FAC')(Dkt. 19), as the Court previously granted [Simona] leave to amend the complaint (Dkt. 18). In the instant Motion, Plaintiff seeks to add an eighteenth claim for fraud on the court and extrinsic fraud."

The statement is dishonest and misleading because it intentionally left out the date of December 18, 2017 when the court granted the only leave to amend the original August 31, 2017 complaint upon Simona's December 13, 2017 showing of intent to amend the complaint prior to service for the first time on all defendants.

Further, Simona's April 5, 2019 Motion did not exactly seek "to add an eighteenth claim for fraud on the court and extrinsic fraud". Instead, the motion requested the leave to amend the FAC for gathering the claims of fraud upon the state and bankruptcy courts already pleaded throughout the FAC for supporting the injunctive reliefs sought which the court found to be standalone requests for relief after it dismissed all other claims but without addressing the frauds on the courts. The motion also requested to add in individual capacity the parties initially named in their official capacity. All of the orders by Judge Carter and his magistrate judge do not name nor acknowledge that the FAC does name the "judicial employees" or "respective judicial officers" as mostly judges Carney and Carroll, and Deputy Trial Counsel Meyers, and especially as the United States did not waive sovereignty immunity. Judge Carter afforded absolute judicial immunity to the rogue judges who intentionally obstructed the rule of law in the prior cases pleaded in the FAC.

CONCLUSION

This case concerns over a decade and a half of litigations with a pattern of judicial acts in departure from the rule of law over the convoluted facts with the evil

in the details, and complexity of law the non-attorney petitioners did their best to present within this 40-page petition, as the only means they have to access this Court as the last and only forum they have for justice to correct the defamatory, oppressive and confining false documents covered with the dissolution judgements.

This Court's exercise of supervisory power over the lower courts' departures from the accepted and usual course of judicial proceedings, and of settlement power on the state decision to "validate" (by dissolution judgements) the sham and zero-day cross-marriages over the important question of federal law probing "[a] marriage that is entered into for the primary purpose of circumventing the immigration laws, referred to as a fraudulent or sham marriage" (BIA 1980), are dire for promotion of justice and public trust, and to promulgate the petitioners' truthful reputation and reinstate their freedoms which continue to be own by the Coroian family of four.

For the foregoing, this Court should grant the petition for a writ of certiorari to afford the powerless petitioners without counsel, under the impossible burden to meet all the technical requirements for the petition, the equal protection under law, and discourage the apparent political influence on the United States Courts for the Ninth Circuit in the State of California by the State's intentional governmental "sanctuary state" policies for departure from the impartial and fair judicial process to muzzling the petitioners from exposing the immigration frauds and thus cover up the use of the Superior Court of California in the defrauding of the United States for procurement of naturalization unlawfully.

Respectfully submitted:
November 19, 2021

Simona Tanasescu

Simona Tanasescu for herself and S.T. (a minor)