

No. 21-65

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**IN THE  
SUPREME COURT OF THE UNITED STATES**

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**YVONNE BOWERS SR.**

Petitioner,

v.

**LYNX ASSET SERVICES, LLC,**

Respondent,

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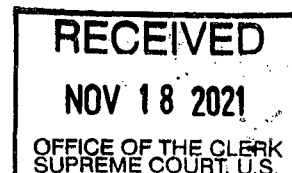
**On Petition for A Writ of Certiorari  
To The Superior Court Of New Jersey  
Appellate Division**

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**PETITION FOR REHEARING**

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**PETITION FOR REHEARING**

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this court for a rehearing of the October 4, 2021, denial of Petition For a Writ of Certiorari on the grounds of substantial intervening circumstances and substantial grounds not previously present.

On May 19, 2018, Respondent's subsequent attorney served a Reply Brief by an email attachment.

(Pet.App.83a) Petitioner refused to open up any email attachments from Respondent's subsequent attorney Curtis, because it may contain malware.

Petitioner informed Respondent's subsequent attorney (Respondent's SA) in a reply email of her refusal to open up the Reply Brief sent by email

attachment. (Pet App 84a). Petitioner's computer crashed the last time she opened up an email attachment from Respondent's SA. Petitioner alerted Hon. Judge Moore's law clerk of this unfortunate experience. In retaliation Respondent's SA, did not serve the Reply Brief by mail and Petitioner alerted the court. On May 30, 2018, Respondent's SA, sent Petitioner a barrage of harassing emails. (Pet. App. 85a) The emails claimed that Respondent's SA, did serve the documents by email and Priority Mail. Petitioner complained to the trial court so much of not being served that Hon. Judge Moore requested confirmation of service. On May 31, 2018, Respondent's SA served the Trial Court and Petitioner a receipt of confirmation of service and a

letter of the same. (Pet. App.89a) (Pet. App. 91a)

Hon. Judge Moore was satisfied that service was proper. Petitioner's creditability was questioned. On June 1, 2018, the hearing for sanctions was held. Respondent's Sa was granted sanctions in the amount of \$6,170.00. As soon as Petitioner arrived home there was a threatening email from Respondent's SA, threatening to put a lien on the property where Petitioner resides if Petitioner did not pay the \$6,170.00 within ten days. (Pet. App.93a)

This email put fear in Petitioner's heart. Petitioner was afraid that this was the beginning of a ploy to unlawfully deprive Petitioner of her property interest a second time. This was cyberbullying under the umbrella of cyberstalking. The U.S. Department of



Justice in a report on cybercrimes, describes cyberstalking as a “pattern of repeated and unwanted attention, harassment, contact, or other course of conduct directed at a specific person, that would make a reasonable person feel fear.”

Petitioner tracked the numbers on the receipt. The first tracking number on the receipt was 9505514365378139210799, that envelope was delivered successfully to the Essex County Court mailroom, on May 21, 2018. (Pet. App. 95a) But an Alert, was noted on the second tracking number on the receipt with the numbers listed as 9505514365378139210805 sheet. (Pet. App. 96a) This envelope was not delivered because there was no such number. On May 22, 2018, this envelope was sent back to Respondent’s SA. Thus, Respondent’s

SA with unclean hands was being intentionally deceptive and had the envelope with the Reply Brief in his possession all the time. (Pet. App. 97a) This intentional deception misled the trial court judge into believing Petitioner was being untruthful and had received the Reply Brief on May 21, 2018. On June 22, 2018, a Reconsideration hearing was conducted at Petitioner's request for Fraud on the Court a second time and Unclean Hands. Hon. Judge Moore's hands were tied, but Petitioner's complaints of her computer being infected by Respondent's SA, with a virus was put on record. (Pet App. 98a) It was also put on record, Petitioner's complaint of Respondent's SA cyberbullying. (Pet App. 101a) Lastly, Hon. Judge Moore put on record that Respondent's SA served the Reply Brief supposedly

to Petitioner at 43 Woodbine Avenue. (Pet. App. 102a) That address did not exist. Petitioner resided at 83 Woodbine Avenue, Newark, New Jersey 07106 not 07102. This was noted on all Petitioner's court documents. Respondent's SA explanation was that he thought 43 Woodbine Avenue was the correct address and "Ms. Bowers is either avoiding service or not actually living at 43 Woodbine Avenue in the City of Newark." On May 22, 2018, USPS sent back the envelope with the reply brief. Thus, service was not completed as Respondent's SA falsely claimed under the threat of penalty for perjury.

Fast forward to June 2021. Petitioner was finalizing her petition for a writ of certiorari. But the last week before serving the petition, all of Petitioner's scanned documents were altered. Petitioner did not realize

this until she copied it to her flash drive to make final copies. Petitioner became unhinged and time was running out. Petitioner, became overwhelmed with the fear that the computer was infected with a virus again and time was short. Not realizing it, Petitioner proceeded to leave out the subsequent trial hearing and Respondent's SA is not even mentioned in the petition for a writ of certiorari argument section. Since, Fraud on the Court was discovered in the subsequent trial it was an error due to intervening circumstances related to computer hacking and history of cyberbullying. When Petitioner was sent the deficiency notice, she was instructed not to make any change to the substance of the petition. (Pet. App. 103a) So, Petitioner made virtually no changes to the petition.

## BACKGROUND

On November 29, 2017, before the summary judgment hearing, Petitioner filed a motion for Fraud on the Court, Denial of Due Process and Equal Protection. But, Petitioner filed it in the New Jersey Supreme Court (NJ Supreme Ct.) instead of the Superior Court. The NJ Supreme Ct. held on to the documents until December 29, 2017, before rejecting the motion. The NJ Supreme Ct. had no jurisdiction and did not transfer the files to Superior Court that had jurisdiction. Hon. Judge Moore refused to grant Petitioner a continuance before the January 5, 2018, summary judgment hearing because Hon. Judge Moore did not know if he had the authority at this point to grant an adjournment. (Pet. App. 106a) (Pet. App.107a) On January 5, 2018, summary judgment

in part was granted to discontinue the lis pendens, but not granted in barring Petitioner from filing future actions, motions and notices of lis pendens... So, on January 17, 2018, Respondent's SA filed the same summary judgment motion barring Petitioner from filing future actions, motions. But this time with Hon. Floria, AJSC. On February 15, 2018, Hon. Judge Floria, AJSC, denied the motion and advised Respondent's SA to next time file for sanctions. (Pet. App. 106a) On March 6, 2018, Petitioner filed another Motion for Fraud on the Court, Denial of Due Process and Equal Protection, but this time in the NJ Superior Court, which was later denied. On March 22, 2018, Respondent's SA did as was advised by Hon. Judge Floria, AJSC and started the Sanction Process with a Notice of Frivolousness and a Notice

to Withdraw. Petitioner did not withdraw and on May 3, 2018, Respondent's SA filed a Motion For Sanctions. On June 1, 2018, Sanctions were granted. On June 22, 2018, Reconsideration was denied. The NJ Appellate Division affirmed the trial court's decision. The NJ Supreme Ct. denied the Petition For Certification and Stay on January 19, 2021. On July 16, 2021, the Petition For a Writ of Certiorari was filed and docket number 21-65 was given. On October 4, 2021, Petition For a Writ of Certiorari was denied. Petitioner is presently filing a Petition For Rehearing.

## REASON FOR GRANTING THE PETITION

Some New Jersey laws supersede Federal law and this Court's precedent. The NJ Supreme Ct. has determined that an attorney's unethical behavior may be an egregious misconduct as defined by the Federal Court and this Court. But, that egregious misconduct is still not actionable in the New Jersey Courts. Any complaints implicating an attorney will be sent to the Ethics Committee for an investigation. See Brundage v. Estate of Carambio, 951 A. 2d 947, 963 N.J. 575 (2008); Boston Univ. v. Univ. Med. & Dent. Of N.J. 176 N.J. 141, 147, 820 A. 2d 1230 (2003) The Ethics Committee will dismiss the complaint even where the attorney has displayed egregious misconduct. See Kingsdolf v. Kingsdolf, 797 A.2d. 206,351 N.J. Super. 144 (App. Div. 2002);



Nolan v. Lee Ho, 577 A. 2d 143, 120 N.J. 465 (1990)

The NJ Supreme Ct does not give the lower State Courts the “power to sanction or dismiss a case based on the attorney’s misconduct and will ‘reverse the decision if the attorney’s client was innocent’”

Brundage at 951 A. 2d 963; Kosmowski v. Atl. City Med. Ctr., 175 N.J. 568, 575-76, 818 A. 2d 319 (2003)

This goes against public policy, due process and equal protection, when an innocent victim is denied recourse. The innocent victim or the opposing party was deprived of the opportunity for a fair and unimpeded trial and the judge was deprived of an opportunity to correct a wrong. The NJ Supreme Ct. acknowledges “this court has been reluctant, and rightly so, to visit the offenses of the attorney on his or her innocent client preferring to enforce our rules

with punishment, that instead affects only the offending attorneys.” Brundage at 951 A. 2d 947; (quoting Kosmowski at 818 A. 2d 319) This is a travesty of justice that further erodes public trust. The NJ Courts define Fraud on the Court as some Federal Courts. Fraud on the Court occurs:

“Where it can be demonstrated clearly and convincingly that a party has sentiently set in motion some unconscionable scheme calculated to interfere with the judicial system’s ability to impartially adjudicate a matter by improperly influencing the trier of unfairly hampering the presentation of the opposing party’s claim or defenses.” Triffin v.

Automatic Data Processing Inc., 411 N.J.  
Super. 292, 298 (App. Div. 2010) (citing Aoude  
v. Mobil Oil Corp., 892 F. 2d 1115, 1118  
 (1<sup>st</sup> Cir. 1989))

In the New Jersey Courts where Fraud on the Court is ruled, it is mostly between adversary parties where one committed perjury unbeknownst to the judge who ruled in their favor. This occurs frequently in divorce cases where the husband has committed adultery, but was not truthful to the judge. The judge will rule Fraud on the Court which makes the divorce judgment voidable but not void. See Shammas v. Shammas, 88 A. 2d 204, 9 N.J. 321 (1952); Pavlicka v. Pavlicka, 202 A. 2d 200, 84 N.J. Super. 357, 366 (App. Div. 1964) There is misconduct but it is not egregious. Petitioner never had a cause

of action in the NJ Courts, as long as the Respondent continued to sit back and let the attorneys do all the dirty work necessary in order to secure a favorable judgment. The NJ Supreme Court sum up their reverence for their attorneys, even where the attorneys demonstrated egregious misconduct:

“In all disciplinary cases, we have felt constraint as a matter of fairness to the public, to the charged attorney and to the justice system to search diligently for some credible reason other than professional and personal immorality that could serve to explain and perhaps extenuate egregious misconduct.”

Yaccarino, Matter of, 564 A.2d 1184, 117 N.J. 175 (1989)

In the meantime, the Equal Protection Clause was violated because there was no balance between the perpetrator of the egregious misconduct and the injured party as a result of the attorney's egregious misconduct. The unfairness in this broken system was unspeakable. For the injured party, addressing the injustice was fruitless.

The Federal Courts and this Court have no qualms about implicating an attorney for perpetrating Fraud on the Court. As a matter of fact the Third Circuit Court has articulated a definition for Fraud on the Court that places an officer of the court like an attorney as one of the elements for Fraud on the Court. Fraud on the Court occurs when "(1) there is an intentional fraud; (2) by an officer of the court; (3) which is directed at the court itself; (4) deceives the

court. Also, Fraud on the Court is implicated only by the most egregious misconduct supported by clear and convincing evidence.” Herring v. U.S. 424 F. 3d 384 (3<sup>rd</sup> Cir. 2005): In re Coordinated Pretrial Proceedings in Antibiotic Anti Trust Actions, 538 F. 2d 180, 195 (8<sup>th</sup> Cir. 1976) In the Federal Courts a Fraud on the Court is not concerned with the misconduct of opposing parties, but rather the focus is on court officers like attorneys. This is in stark contrast with the NJ Courts. Also, egregious misconduct is something on the level of “ bribery of a judge or member of a jury, or fabrication of evidence by a party, in which an attorney is implicated. Weese v. Schukman, 98 F. 3d 542 (10<sup>th</sup> Cir. 1996) (quoting Rozier v. Ford Motor Co. 573 F. 2d 1332 (5<sup>th</sup> Cir. 1978) This Court’s precedent is Hazel-Atlas Glass

Co. v. Hartford -Empire Co., 322 U.S. 238 (1944). It was determined by this Court that all Federal Courts have the power to set side a judgment for Fraud on the Court, with no time constraints and an attorney may be implicated for Fraud on the Court. Unlike the NJ Supreme Ct., that will vacate a decision by the lower court, where an attorney was implicated and the client was not involved in the egregious misconduct. So, in this matter the lower courts are powerless. Respondent's SA fabricated evidence by submitting a receipt to the court as proof of service that showed the contrary. (See Pet. App. 89a) Hon. Judge Moore did not have the power to change any of the judgments, but he did put the egregious misconduct of Respondent's SA on record. It was not until February 2017, that Petitioner

discovered that the deed to the Belleville Property was recorded on January 20, 2012, in Burlington County. Burlington County is in the Southern part of New Jersey, the property was located in the Northern Part of New Jersey, Essex County. (See Pet. App. 56a-63a, on record) The sheriff was obligated to hold on to the deed until the trial. N.J.Ct.R. Rule 4:65-5 The deed was improperly recorded in order to hide from the Court and Petitioner the fact that at the time of the trial on March 9, 2012, Petitioner's property interest had already been extinguished. Petitioner is now aware that an attorney can not be implicated for a Fraud on the Court. It makes sense that Petitioner would be deemed frivolous, because she was fighting a system that even the lower courts are powerless to change.



Thus, the lower courts in NJ are prevented from carrying out due process or equal protection.

Petitioner can be sanctioned, but not the party who hired the attorney that demonstrated Fraud on the Court. As per direction of the NJ Supreme Court, sanctioning or dismissal was not allowed. See

Brundage at 951 A. 2d 963; Kosmowski at 818 A. 2d 319. Denying Petitioner her property interest was a “deliberately planned and executed scheme.”

Robinson v. Audi Aktiengesellschaft, 56 f. 3d 1259,

1266 (10<sup>th</sup> Cir. 1995); See Hazel-Atlas Glass at 322

U.S. 245 But this Court has the power to resolve this conflict and make the system more equitable and just. The NJ rule addressing Fraud on the Court provides under R.4:50-3 relief from a judgment based on Fraud on the Court with no constraints of time.

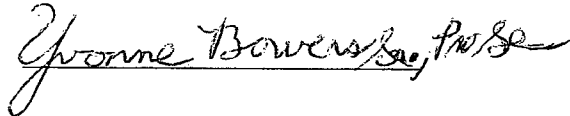
R. 4:50-3. The Fed. R. Civ. P. 60 (d)(3), also provides relief from a judgment based on Fraud on the Court with no time constraints. Fed.R.Civ.P. 60 (d)(3)

These two rules on their face are the same, but the NJ Supreme Ct's interpretations conflicts with the Federal Court's interpretation and this Court's. The opposing party who has been injured by an attorney's egregious misconduct has no recourse, and they are expected to acquiesce and move on, in the NJ Courts. The Federal Courts and this Court are much more even handed and balanced when making decisions based on Fraud on the Court. An attorney would not get a free ride in the Federal Court or this Court. The attorney has to be held accountable after discovery where Fraud on the Court was uncovered. Hazel at 322 U.S. 238; Herring at 424 F.3d 384.

## CONCLUSION

For the foregoing reasons, the petition for rehearing should be granted.

Respectfully submitted,

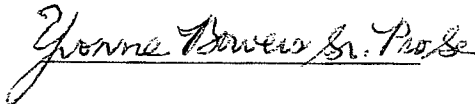
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Yvonne Bowers Sr., Pro Se

Date: November 13, 2021

## CERTIFICATION OF COMPLIANCY

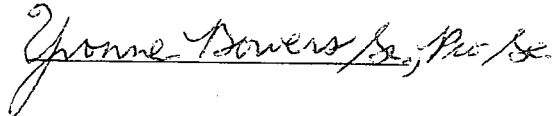
I, declare under penalty of perjury that 2760-word count statement as true and correct as reported on computer. Executed on November 13, 2021.

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Yvonne Bowers Sr., Pro Se

**CERTIFICATION OF PRO SE**

I hereby certify that this petition for rehearing is presented in good faith and not for delay. I, declare under penalty of perjury that the foregoing statements are true and correct.

A handwritten signature in cursive script that reads "Yvonne Bowers Sr., Pro Se". The signature is written in dark ink and is positioned above the printed name.

Yvonne Bowers Sr., Pro Se

Date: November 13, 2021