

21-7614

No. _____

ORIGINAL

Supreme Court, U.S.
FILED

MAR 04 2022

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

JACQUELINE M. TAUSCHER,
Mother of Minor Children Z.H.
and A.H.

— PETITIONER

v.

PAMELA DONISON; et al.,
CATHERINE BRUNNER; et al.,
and
BRIAN SKOW

— DEFENDANT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The United States Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Jacqueline M. Tauscher

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Redwood City, California 94062

650-225-9467

QUESTION(S) PRESENTED

Does "all persons" as stated in 42 U.S.C. 1981 Equal Rights Under the Law also include the female gender? All person's does not specifically state gender.

LIST OF PARTIES

- [☒] All parties appear in the caption of the case on the cover page.
- [] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

Under Rule 60b of the Federal Rules of Civil Procedure, I intend to list more defendants. For now some are known and unknown, named and unnamed. Et. al. indicates there are other defendants.

RELATED CASES

No. CV-20-02014-PHX-NVW

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APPENDIX B	U.S. District Court for the District of AZ-ORDER Dated Feb. 12, 2021 U.S. District Court for the District of AZ-ORDER Dated April 14, 2021 U.S. District Court for the District of AA-ORDER Dated June 21, 2021
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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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STATUTES AND RULES

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix **A** to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix **B** to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the **Arizona Court of Appeals-Division One** court appears at Appendix **C** to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was December 6, 2021.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

42 U.S.C 1981 Equal Rights Under The Law

(a) Statement of Equal Rights. All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

(b) "Make and Enforce Contracts" Defined for purposes of this section, the termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.

(c) Protection Against Impairment

The rights protected by this section are protected against impairment by nongovernmental discrimination and impairment under color of state law.

Violence Against Women Reauthorization Act 2013 (P.L. 113-4)

The Federal Victims of Trafficking and Violence Protection Act of 2000 (P.L.106-386)

22 U.S.C. 7102 (2020) As defined in Federal law, the term "abuse or threatened abuse of the legal process" means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.

18 U.S.C. 2261 Interstate Domestic Violence

18 U.S.C 2261A Federal Stalking Law

The law makes it a federal offense to cross state lines with the intent to place another person in fear of death or serious bodily injury, or to use the mail or any other method of communicating across state lines for that purpose.

The Equal Rights Amendment is a proposed amendment to the United States Constitution designed to guarantee equal legal rights for all American citizens regardless of sex. It seeks to end the legal distinctions between men and women in terms of divorce, property, employment, and other matters.

Arizona has not ratified the Equal Rights Amendment

California ratified the Equal Rights Amendment in 1972

Federal Parental Kidnapping Prevention Act

Uniform Child Custody Jurisdiction Act -Lists "emergency" as a ground for jurisdiction, governs situations such as abandonment or abuse that require immediate protective action

Amendment 6-Ineffective Legal Representation or Counsel

Whether the government in any way brought about the ineffective/defective representation.

Amendment 5 of the U.S Constitution-Informed Consent

is an agreement to do something or to allow something to happen only after all the relevant facts are known. In contracts, an agreement may be reached only if there has been full disclosure by both parties of everything each party knows which is significant to the agreement.

Arizona Revised Statute 25-402 Jurisdiction

- A. Before it conducts a proceeding concerning legal decision-making or parenting time, including a proceeding to determine the legal decision-making or visitation of a nonparent, a court in this state first must confirm its authority to do so to the exclusion of any other state, Indian tribe or foreign nation by complying with the Uniform Child Custody Jurisdiction and Enforcement Act, the Parental Kidnapping Prevention Act and any applicable international law concerning the wrongful abduction or removal of children.

18 U.S.C. 3771 Crime victims rights

18 U.S.C 1951 Interference with commerce by threats of violence

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined under this title or imprisoned not more than twenty years, or both.

Common Law-Elements of a Legally Binding Contract

Contract law requires certain elements of a legally binding contract to be met in order for the agreement to be enforceable. Regardless of the type of contract, if any of these four elements are not met, the contract may not be enforceable:

1. Offer-An offer must be made in a contract. Such an offer may be to exchange goods or services for something of value, or an offer to act or refrain from acting in a certain manner. An offer may be made in person, or in writing.
2. Acceptance-Acceptance is the agreement of the other party to the offer presented. In most contracts, the method of signaling acceptance is left open. While in many contracts, both parties add their signatures to demonstrate their agreement to the terms, others assume an acceptance of the offer to be made when one or both parties perform their duties under contract.
3. Consideration-All parties to any contract must provide the other parties something of value, which entices the other party to enter into the agreement. The "something of value" is referred to as a "consideration," and it does not necessarily need to be money.
4. Mutuality-Under the doctrine of mutuality, all parties must be willing, and have intent, to perform their obligations under the contract at the time it is made. Without mutual intent, neither party would be bound by the contract. Additionally, mutuality requires any cancellation of a contract to be agreed to by all parties involved.

STATEMENT OF THE CASE

- 1. This case started with Plaintiff, Jacqueline Tauscher's intentions of filing a petition for Dissolution of Marriage in 2013.**
- 2. Plaintiff had what she believed was a contract with Attorney, Pamela Donison (Defendant). Plaintiff was misled when Service of Process was not completed by her attorney Ms. Donison and mediation was conducted instead. Plaintiff did not give informed consent to pursue mediation only. This lack of Service of Process was hidden by Ms. Donison with the intent of keeping this important information from Plaintiff. Plaintiff was misled by her own attorney who had a fiduciary obligation to represent Ms. Tauscher's interests.**
- 3. Plaintiff had shared with Ms. Donison that she was open to negotiations (mediation) but believed under the circumstances that the legal process for dissolution of marriage should be followed.**
- 4. Under the Violence Against Women Act 2013 AND UCCJEA, Plaintiff sought emergency jurisdiction in Redwood City, California where she had significant connection and safety.**
- 5. Ms. Donison and other agents of the court then carried on the "scheme" by demanding my return with 2 minor children to Maricopa County, Arizona.**
- 6. Jurisdiction by Maricopa County, Arizona was acquired by fraud and Plaintiff and children became victims of the misuse of the legal system-Abuse of Process.**
- 7. What ensued is 8 years of false imprisonment through abuse of process. Plaintiff faced ongoing and escalating Post Separation Abuse (See Appendix H).**
- 8. The Abuse of Process was used as a method to circumvent current federal and state laws to coerce and extort Ms. Tauscher.**
- 9. The scheme was used to force Ms. Tauscher to give up property in exchange for custody of her minor children.**
- 10. Despite numerous court appearances and interaction with administrative agencies and agents of the court-not one person mentioned abuse of process or recommended dismissing the case.**
- 11. Plaintiff may have been prejudiced by her own attorney because the service of process was to be made by Ms. Donison on behalf of Ms. Tauscher.**
- 12. Plaintiff was so misled that she believed she had a decree of dissolution (See Appendix D).**

13. Went on to file an Appeal believing she had an unfair decree of dissolution (See Appendix C).

14. Plaintiff relied on the legal advice of her attorney, Pamela Donison who failed to mention the abuse of process and carried on the scheme. This despite her fiduciary duty to advise Ms. Tauscher of the law.

15. With no evidence of abuse of process due to the lack of a legal service of process, Plaintiff began to ask why her family court case seemed to never end with repeated hearings etc.

16. During this time Plaintiff was facing on-going stalking and harassment that became a form of domestic terrorism. Plaintiff left Arizona in July 2019 seeking relief from the trauma and seeking an order of protection in Redwood City, California.

17. The domestic terrorism continued to escalate through various individuals that Plaintiff believes were hired to witness tamper and intimidate. This happened despite relocating to California.

18. By November 2019, Plaintiff is being threatened with permanent loss of custody of her two minor children. Ms. Tauscher writes a letter to Judge Dawn Bergin in Maricopa County, Arizona (See Appendix E)

REASONS FOR GRANTING THE PETITION

- 1. There is no legal law (remedy) available at this time to grant a woman the legal right to enforce or negotiate contracts which include marriage and divorce in Arizona.**
- 2. But for her gender, Plaintiff and other women are not able to negotiate during the contract process or the final signing of a contract in Arizona. But for her gender, Plaintiff has suffered damages based on her gender alone and for no other legal reason.**
- 3. Interpreting 42 U.S.C. 1981 to include gender would provide a legal remedy to those states, such as Arizona that lack an equal rights law or have not ratified the Federal Equal Rights Amendment.**
- 4. Arizona receives federal funding for programs that mandate no discrimination based on gender but yet are allowed to do just that, through the lack of a gender equality law at the state level, or ratification of the Federal Equal Rights Amendment.**
- 5. Arizona is allowed to benefit financially from federal funding while facing no accountability for civil rights violations of women (and children). This violates the spirit of public policy in which the intent is to provide federal funding to improve the lives of those who receive it.**
- 6. This scheme is playing out repeatedly in various areas of Arizona's government(s) with dire consequences for women and children that seek to leave an abusive relationship (essentially a "contract"). Indeed Arizona receives a considerable amount of it's funding from the federal government. Many in the social services, legal, physical/mental health fields benefit from this federal funding. Unfortunately, even well meaning individuals are being pushed to violate law and ethics of their professions or risk not receiving federal funding. Arizona consistently ranks in the top 5 states for gender violence/homicide.**
- 7. The lack of protection for women in the contract formation process has allowed for opportunistic criminality and domestic terrorism to cause harm. The threats and criminality are infiltrating areas of the legal system as well as the commerce sector. Abusive male partners/spouses benefit from this conduct while escaping accountability for abusive behavior, extortion and coercion. In other words, society and the taxpayer pay for an individuals' criminal behavior.**
- 8. 42 U.S.C. 1981 could be a strong deterrent to abuse of process schemes which can extend for years in Arizona. Some advantages are:**
 - longer statute of limitations than personal injury lawsuits**
 - individual liability-government (state officials) and nongovernment**
 - uncapped damages-to serve as a deterrent rather than the cost of business**
 - tolling can address ongoing extortion and coercion tactics that abusers and others use to time out the statute of limitations**
 - can be used to address misconduct in the contract formation process.**

9. Plaintiff refused to be coerced and extorted into signing away her property or an unequal settlement in a divorce. As a final act of retaliation, the judiciary of Maricopa County, Arizona issued orders taking away custody of minor daughters. This very act is a symptom of the infiltration of domestic terrorism into a judicial system. This is cause for alarm to a society that relies upon courts to settle contract matters, especially women and their children. Plaintiff has endured over 8 years of litigation for no other reason than her gender and retaliation for respectfully exercising her and her children's civil rights.

10. Plaintiff points to *Comcast Corp. v. National Association of African American-Owned Media*, 140 S. Ct. 1009 (2020) (See Appendix F and Appendix G) A case that involved bias against an African American business seeking a contract with Comcast. Justice Ginsburg issued an opinion highlighting the but-for causation for the discrimination. She opined that the but-for applied through the life of the contract including the process leading up to a signed contract. She further argued that if discrimination was the reason for a denial of a contract, then Comcast should be held liable. Justice Ginsburg hinted at the "but-for" cause for discrimination being applied to gender. She implied that 42 U.S.C. 1981 could provide a legal remedy to women in states that do not have an Equal Rights Amendment.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Jacqueline M. Tauscher

Date: March 4, 2022