

No. 21-7944

In the  
Supreme Court of The United States

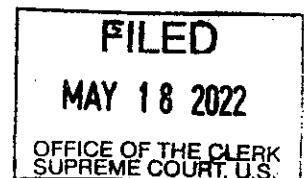
Linda A. Petralia,

*Petitioner,*

v.

AMERICAN EXPRESS NATIONAL BANK,

*Respondent.*



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**ON PETITION FOR A WRIT OF CERTIORARI TO  
THE NEW HAMPSHIRE SUPREME COURT OF APPEALS**

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**NH Supreme Court Case No. 2021-0468  
NH Superior Court Case No. 226-2021-CV-00078**

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**PETITION FOR WRIT OF CERTIORARI**

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May 18, 2022

## **QUESTIONS PRESENTED**

- 1. Is it plain error when the N.H. Superior Court abused discretion and when it allowed for the malicious litigation of a second, same-named breach of contract claim against the Rule of Law, *Res Judicata*, thereby violating the Defendant/Petitioner's due process and other Constitutional Rights?**

## LIST OF PARTIES

All parties appear in the caption of the case on the cover page and are detailed below:

*Pro Se*<sup>1</sup> Defendant/Petitioner is Linda A. Petralia of 12 Fernwood Drive, Merrimack, N.H., 03054. Petitioner moved as the Defendant in the N.H. Superior Court and the Appellant in the N.H. Supreme Court.

Named Plaintiff/Respondent to this proceeding includes: American Express National Bank<sup>2</sup>, by and through its Attorneys Zwicker & Associates, P.C.,<sup>3</sup> including Attorneys Lawrence Gagnon<sup>4</sup> (filed the complaint with the same N.H. Superior Court and did not file an Appearance in the N.H. Supreme Court however was given "participatory privileges"). Attorney Gagnon is currently N.H. Deputy Attorney General with the N.H. Department of Justice and also represents the named Plaintiff/Respondent) and Richard Tirrell (filed the original complaint with the N.H. Superior Court and did not file an Appearance in the N.H. Supreme Court), Amie Joof Senghore (who claimed via her two filed objections to represent American Express National Bank and participated mid-case, was heard by the lower court however filed without an Appearance into the N.H. Superior Court), Matthew Stephen LaValley (filed Appearance mid-case in the both N.H. Superior Court and N.H. Supreme Court and then withdrew mid-case prior to the brief), and, Britney Millay (filed an Appearance in N.H. Supreme Court mid-case prior to her brief.). (*Above footnotes appear at the bottom of page iv.*)

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<sup>1</sup>*Pro Se* Defendant/Petitioner kindly requests this Court construe this Petition "liberally and held to less stringent standards than lawyers" according to *Haines v. Kerner, Warden of Illinois State Penitentiary at Menard*, (1972) 404 US 519 (1972). Additionally, the *Pickering v. Pennsylvania Railway*, (151 F2d.240) Third Circuit court of Appeals ruled: "the court should endeavor to construe the [sic] pleading without regard to technicalities."

<sup>2</sup>American Express National Bank is a highly recognized international financial institution based in the United States and allows the use of its corporate name and influence for purchased debt-collection efforts, and is the named but not the Plaintiff and owner of the alleged debt, as erroneously claimed in the case caption of these actions. (A fact the N.H. Superior and N.H. Supreme Courts, named Plaintiff/Respondent and attorneys faithfully and diligently conspired to conceal.)

<sup>3</sup>Zwicker & Associates, P.C., operates as an independent 3<sup>rd</sup>-party debt collection firm who purchases debt collection rights.

<sup>4</sup>Attorney Lawrence Gagnon, who filed the second complaint in the N.H. Superior Court while working with Zwicker & Associates, P.C., on behalf of the named Plaintiff/Respondent, American Express National Bank, commenced his current position as N.H. Deputy Attorney General on October 8, 2021, one day prior to the lower court's abrupt termination of the Defendant/Petitioner's right to further defend her position before unexpectedly closing the case, and then later, in his capacity as Deputy Attorney General, he was allowed to simultaneously participate in the Appeal of same in the N.H. Supreme Court for the Plaintiff/Respondent, American Express National Bank with Zwicker & Associates, without an Appearance and in an apparent conflict of interest. Additionally notable, is that Attorney Gagnon held a previous position with the Security Exchange Commission (SEC). Also notable, Chief Justice Gordon MacDonald of the N.H. Supreme Court was the prior Attorney General for the State of N.H. and took office during this case being heard in the lower court.

## RELATED CASES

There is a second, same-named case directly related to this case and is also on Petition for Writ of Certiorari with this Court<sup>5</sup>:

- American Express National Bank v. Linda A. Petralia, No. 226-2020-CV-00517, Hillsborough, N.H. Superior Court, Southern District. Two final judgment entered December 2, 2020 and second judgment on July 16, 2021.
- American Express National Bank v. Linda A. Petralia, No. 2021-0315 N.H. Supreme Court of Appeals. Judgment entered January 14, 2022 and rehearing on February 18, 2022.

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<sup>5</sup> Requesting that the above Case No. 226-2020-CV-00517 be reviewed prior to this second Case No. 226-2021-CV-00078 as the established protections of the Rule of Law, *Res Judicata* in the first case are relevant to re-litigation protections of this additional second case.

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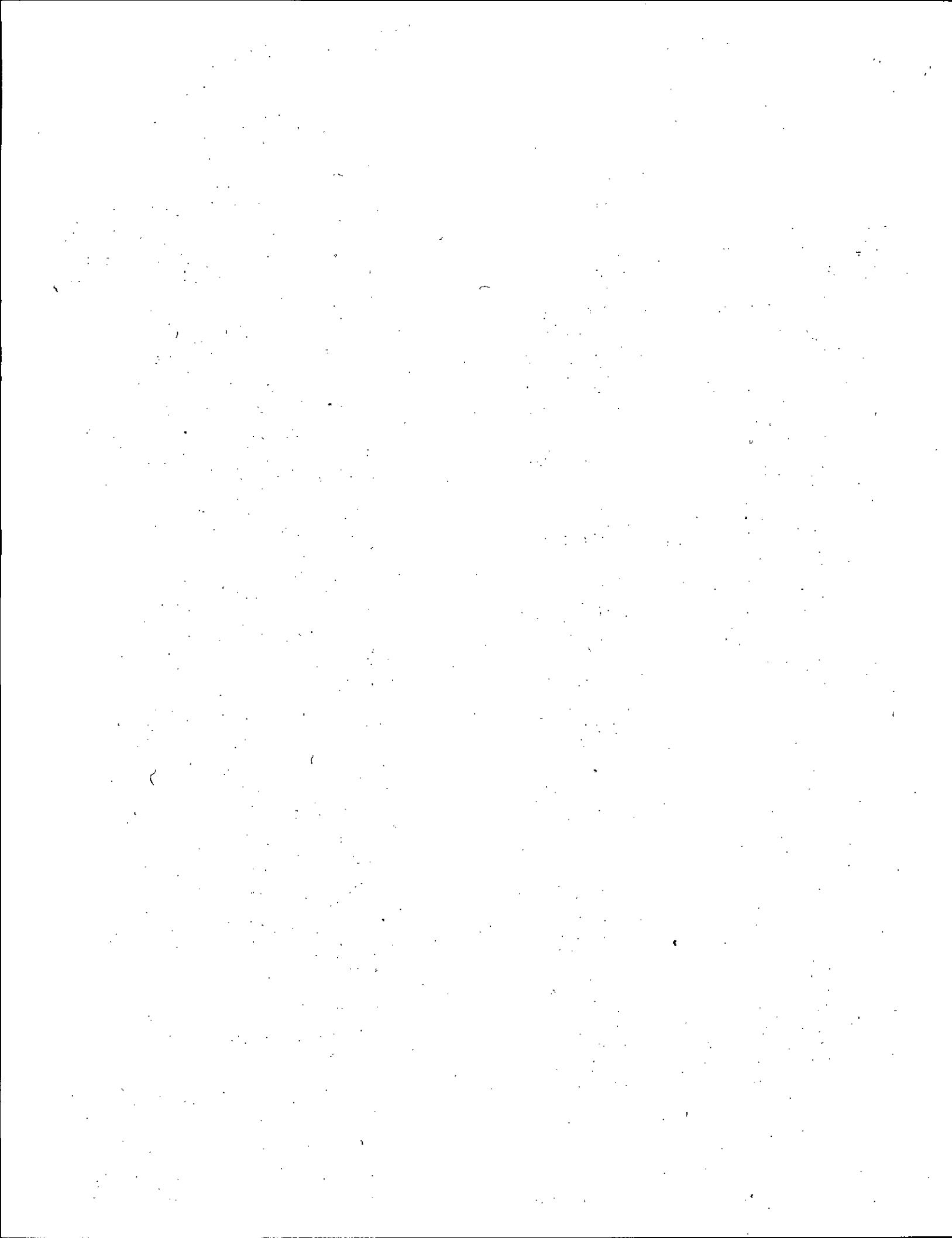
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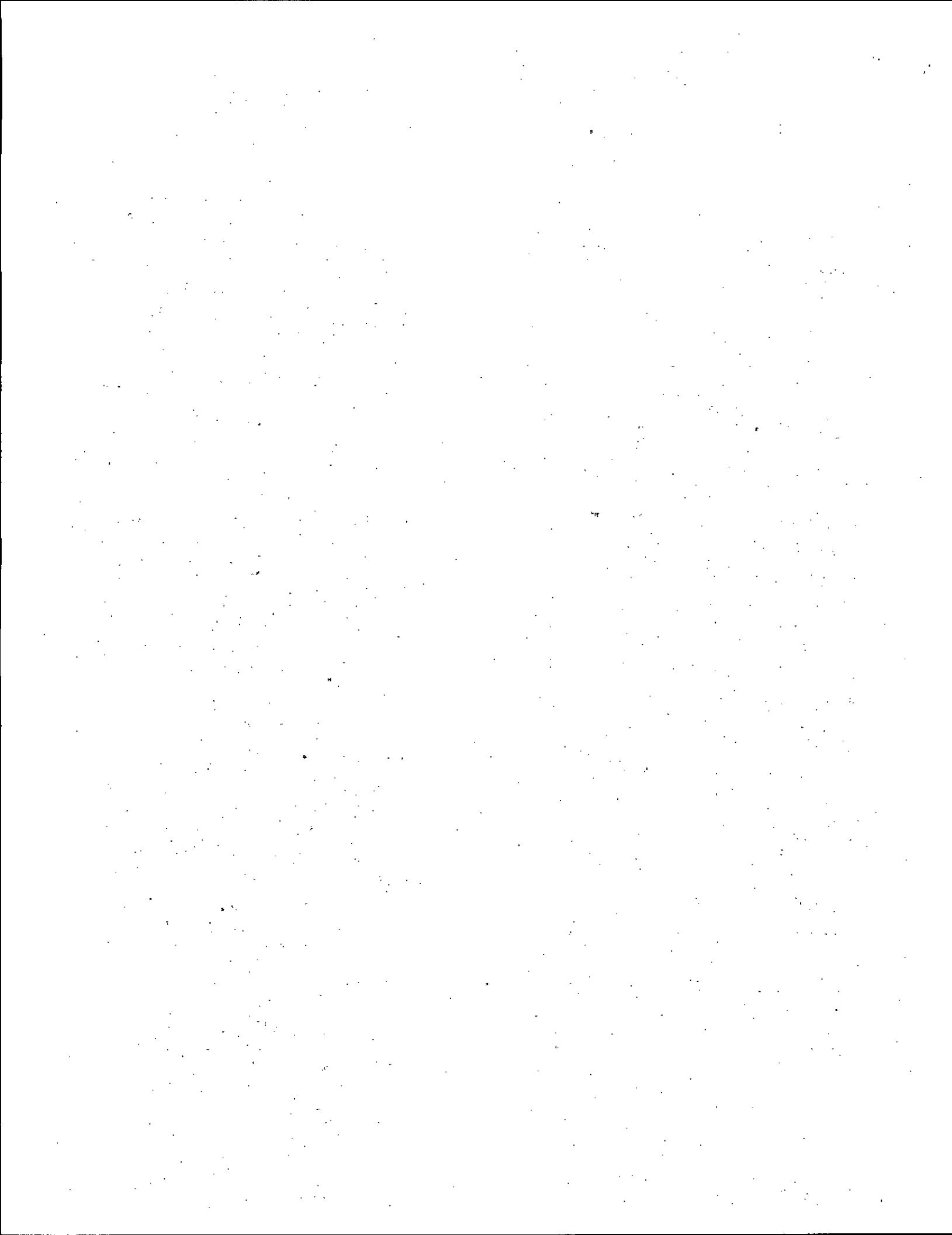
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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

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 \_\_\_\_\_ 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 \_\_\_\_\_ to the petition and is  
[ ] reported at \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

**[X] For cases from **state courts**:**

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is  
[X] reported at \_\_\_\_\_ unknown \_\_\_\_\_; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the lower court appears at Appendix B to the petition and is  
[X] reported at \_\_\_\_\_ unknown \_\_\_\_\_; 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 \_\_\_\_\_.

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 writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date)

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 on February 22, 2022 (Decision).

A copy of this decision appears at Appendix A.

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 \_\_\_\_.

This Petition for Writ Certiorari is filed under the United States Supreme Court Rule 11.

The jurisdiction of this Court is invoked under 28 U.S.C. §1257(a), 28 U.S.C. §1651, and 5 U.S.C. §705.

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

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## STATEMENT OF THE CASE

On February 22, 2021, named Plaintiff/Respondent, American Express National Bank, by their attorneys, Zwicker and Associates, an independent 3<sup>rd</sup>-party debt collection firm who purchases collection rights, filed a second, same-named complaint with the N.H. Superior Court against the *Pro Se* Defendant/Petitioner, Linda A. Petralia, alleging the same breach of contract claim brought by the same-named Plaintiff/Respondent, through attorney, Randall L. Pratt, also from a 3<sup>rd</sup>-party debt collection firm, that was previously *dismissed with prejudice* for the *Pro Se* Defendant/Petitioner by the same lower court and judge, Charles S. Temple, on December 2, 2020, and protected by the Rule of Law, *Res Judicata*, and currently on petition for writ of certiorari with the U.S. Supreme Court (See U.S. Supreme Court filing for N.H Superior Court Case No. 226-2020-CV-00517 dated May 18, 2022). Regardless of the protections afforded under *Res Judicata*, the named Plaintiff/Respondent was afforded the opportunity to file this second duplicate action with the lower court, despite its obvious illegality under the law. (See Court Decision and *Defendant's Motion to Dismiss*, Appendix B, pp. 31-33.)

Furthermore, this second complaint filed with the lower court, consisting of a couple of paragraphs, offered no material fact or evidence to corroborate the Plaintiff's/Respondent's legal standing to bring forth the claim as the current owner of the alleged debt.

On March 10, 2021, *Pro Se* Defendant/Petitioner, Linda A. Petralia, received the named Plaintiff's/Respondent's complaint in a Summons of Civil Action.

On April 7, 2021, *Pro Se* Defendant/Petitioner was compelled by the lower court, against her Constitutional rights, to file yet another *Appearance* and *Email Notification* along with a *Motion to Dismiss* stating her defense, which was previously decided and granted *with prejudice* in the lawful, proper, and just December 2nd, 2020 final and binding court order of the named Plaintiff's/Respondent's first claim. (See *Defendant's Motion to Dismiss* on file with the N.H. Superior Court.)

On April 12, 2021, the named Plaintiff/Respondent filed an objection to *Defendant's Motion to Dismiss*, and in fewer than 10 days from the filed motion the court denied the *Defendant's Motion to Dismiss*. The lower court's denial stated, without consideration to the threshold issue of legal standing and the fact that the Defendant/Respondent was protected, in plain sight, under *Res Judicata*, stating "Denied the complaint sets forth a claim for relief (breach of contract)." (See Court's Decision within *Defendant's Motion to Dismiss* on file with the N.H. Superior Court.) Importantly, the court ruling failed to address the required threshold issue of legal standing, that is, the legal right to bring their claim legally forward, an issue consistently raised in all *Pros Se* Defendant's/Petitioner's motions throughout the action.

On April 23, 2021, *Pro Se* Defendant/Petitioner filed yet another motion; a *Motion to Reconsider Motion to Dismiss*, re-asserting that the named Plaintiff/Respondent had no legal standing to bring forth this action because they had sold and no longer owned the alleged debt and therefore should not have legally and lawfully been able to proceed with this claim. (See *Motion to Reconsider Defendant's Motion to Dismiss* on file with the N.H Superior Court.)

On April 29, 2021, named Plaintiff/Respondent filed an objection to *Defendant's Motion to Reconsider Defendant's Motion to Dismiss*, once again absent any material fact, or proof, in support of their legal standing with regard to the then current ownership of the alleged debt. Then, again, on May 6, 2021, the lower court erroneously denied Defendant's *Motion* pursuant to Rule 12(e), asserting that the named Plaintiff/Respondent presented "sufficient facts" when more accurately they failed to meet their burden of proof in support of their standing (the clear fact was, that the burden of proof was wrongfully and repeatedly reversed onto the *Pro Se* Defendant/Petitioner throughout this case, thus steering the case in a favorable winning trajectory for the named Plaintiff/Respondent who could not show legal standing from the onset.). Purposely ignoring this fact, the court incorrectly continued to mix its own words in an irrelevant response given the fact that the threshold issue of legal standing had still not been satisfied despite the court's legal duty to ensure so, and then attempting to gaslight the *Pro Se* Defendant/Petitioner in order to advance the court's desired trajectory for the named Plaintiff/Respondent

when stating,

“The defendant is conflating the summary judgment standard with the applicable dismissal standard. The plaintiff has alleged sufficient facts to establish standing in its complaint and set forth a claim for relief (Breach of Contract). (See Court’s Decision in *Motion to Reconsider Defendant’s Motion to Dismiss* on file with the N.H. Superior Court.)

On June 8, 2021, the lower court via *sua sponte* served the *Pro Se* Defendant/Petitioner with a *Notice of Default* from the Clerk of Court, Amy M. Feliciano, erroneously stating, “Failure to file Timely Answer”, and then proceeded to state “Case is continued for entry of judgement upon compliance with superior court rule 42.” (See *Notice of Default* on file with the N.H. Superior Court.) However, contrary to the *Notice of Default*, *Pro Se* Defendant/Petitioner, in fact, did file a timely answer in the form of an *Appearance*, *Email Notification* and *Motion to Dismiss* within the allotted 30-day period in accordance with procedural Rule 42 of the Superior Court. Importantly, the court did not reference any other law(s) other than Rule 42 on the default notice.

Between June 16, 2021 and June 24, 2021, *Pro Se* Defendant/Petitioner initiated three exhaustive attempts for clarification through *TurboCourt* online *Help Requests*, tickets #579865700, #579916414 and #581153486, specifically requesting the corresponding law or laws the court applied and thus cause for ordering the *sua sponte* *Notice of Default* based according to Rule 42. *Pro Se* Defendant’s/Petitioner’s requested clarification on the specific law or laws the court

applied to default the *Pro Se* Defendant/Petitioner, as no specific law other than Rule 42 was referenced on the *Notice*. The court's help responses were continually directed back to Superior Court Rule 42, and only Rule 42. Therefore, *Pro Se* Defendant/Petitioner relied on Rule 42 when she argued her *Motion to Strike Notice of Default*. (See *Defendant's Motion to Strike Notice of Default* on file with the N.H. Superior Court.)

Once again, *Pro Se* Defendant/Petitioner was compelled to her disadvantage to file yet another motion against her rights, and on June 28, 2021, with reliance on the court's help responses and information within the lower court's *Notice of Default*, the *Pro Se* Defendant/Petitioner argued Rule 42 in the filed *Motion to Strike Notice of Default* along with the required *Affidavit of Defense* per Rule 42. (See *Defendant's Motion to Strike Notice of Default* and *Affidavit of Defense* on file with the N.H. Superior Court.) The *Pro Se* Defendant/Petitioner asserted in said *Motion* that she had previously satisfied Rule 42, in a timely manner, as the court already had evidence of such per the official court case record.

On June 30, 2021, Ms. Amie Joof Senghore, an unknown participant, filed a first objection to the *Defendant's Motion to Strike Notice of Default*, yet Ms. Senghore had not filed the original complaint or the legally required Appearance at any time with the N.H. Superior court in this case in violation of Superior Court procedural Rule 17(d). Regardless of this fact, on July 7, 2021, it appears the court accepted her filing, heard her plea and considered it in the court's decision to deny

*Pro Se* Defendant's/Petitioner's said *Motion to Strike Notice of Default* stating,

"Denied", "The defendant's motion to dismiss has been denied by the court. The defendant still has not filed an answer. Additionally, the affidavit of defense fails to set forth the specific facts on which the defense is based." (See Court's Decision within *Defendant's Motion to Strike Notice of Default* on file with the N.H. Superior Court.)

However, the *Pro Se* Defendant/Petitioner did provide an *Affidavit of Defense* with sufficient basis, as legal standing is a threshold issue and duty of the court to ensure from the onset of a claim.

On July 15, 2021, *Pro Se* Defendant/Petitioner again filed a *Motion to Reconsider Defendant's Motion to Strike Notice of Default* along with an Appendix, asserting the named Plaintiff's/Respondent's insufficient legal standing. (See *Motion to Reconsider Defendant's Motion to Strike Notice of Default* on file with the N.H. Superior Court.)

On July 23, 2021, yet again, Ms. Amie Joof Senghore, filed a second objection to the *Defendant's Motion to Reconsider Motion to Strike Notice of Default*. To reiterate, Ms. Senghore was an unknown participant who did not file the original complaint and never filed an Appearance with the Superior court in this case. And again, on August 2, 2021 the court accepted Senghore's filing, heard her plea, and considered it in its decision to again deny *Defendant's Motion to Reconsider Motion to Strike Notice of Default*, stating,

“Denied”, “Denied pursuant to Superior Court Rule 12(e). The defendant failed to file an answer in violation of Rule 9(b) and the Court issued a default in compliance with Rule 42.” (See Court’s Decision on *Defendant’s Motion to Reconsider Motion to Strike Notice of Default* on file with the N.H. Superior Court.)

Notably, even after *Pro Se* Defendant’s/Petitioner’s several exhaustive attempts to obtain clarification regarding the specific law within Rule 42 that the lower court applied for cause for default in its *Notice of Default*, the court had never referenced anything regarding 9(b) in any of their previous orders and decisions or even their *TurboCourt* online *Help Request* court e-mail responses, furthermore, 9(b) was not part of the court reason for default within the court’s *Notice of Default*. (See *Notice of Default* on file with the N.H. Superior Court.) Importantly, the court violated its legal duty and responsibility when it failed to notify and inform *Pro Se* Defendant/Petitioner in writing of each and every applicable law applied within the court’s orders that *Pro Se* Defendant/Petitioner violated so that she could legally and properly defend herself through pleadings to the court, and not after the fact as was orchestrated by the court in this case.

In yet another orchestration by the court, on September 13, 2021, without a motion for default judgment and absent affidavit filed by the named Plaintiff/Respondent, and without notification to the *Pro Se* Defendant/Petitioner, the lower court, via *sua sponte* and against Rule 42 entered a “*Default Judgment*”

on the *Case Summary* by “(Judicial Officer: Temple, Charles S.)”. Additionally, the *Case Status* on the record was stated as “Closed” as of “9/13/2021”. (See *Defendant’s Motion to Correct Case Register of Actions/Case Summary to Reflect a True and Accurate Depiction of Events* in Appendix B, pp. 34-40.)

On September 20, 2021, *Pro Se* Defendant/Petitioner queried the lower court via *TurboCourt* online *Help Request*, ticket #591623433, with the following:

“According to the case file, the judge entered a default judgment on 9/13/2021. However, defendant did not receive an email to this effect. There is no mention (icon) of official paper work on this order along with judgment on the portal. Please respond with the official paperwork including the envelope number from the 9/13/2021 default judgement”.

Tammy from the N.H. Superior court responded,

“Good day, a default judgment order has not been issued, you may see it as an entry in the portal, but it has not been issued and sent out yet; the attached ‘notice of default’ was emailed on 06/08 and opened on 06/08.” (See *TurboCourt Help Response* ticket #591623433 email within in the Defendant’s *Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events* in Appendix B, p. 40.)

The Superior Court was caught tampering with the official court record in an attempt at rapidly advancing the case in favor of the named Plaintiff/Respondent.

On September 22, 2021, *Pro Se* Defendant/Petitioner filed a *Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events*, in which the *Pro Se* Defendant/Petitioner requested that the lower court remove the incorrect default judgment and change the inaccurate “Closed” case status back to “Pending”, as is proper and just pursuant to Superior Court Rules

42(d), and 42(e), and in order for Defendant/Petitioner to continue to preserve her rights. (See *Defendant's Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events* in Appendix B, pp. 34-40.)

On October 1, 2021, named Plaintiff/Respondent, filed an objection to *Defendant's Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events*. Yet again, on October 7, 2021, the court not only denied *Defendant's Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events* but it obstructed her access to exercising her rights when it nonsensically stated,

“Denied-see Orders dated July 7, 2021 and August 2, 2021. The defendant has failed to appeal the denial of the motion to reconsider in a timely fashion. As such, this case remains, closed. Any future pleading filed in this case by the defendant shall be administratively rejected by the Clerk.” (See Court’s Decision on *Defendant's Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events*, Appendix B, p. 35.)

Notably, in fact, this harsh ruling was the lower court’s fifth denial out of five *Pro Se* Defendant/Petitioner motions to the court in an undeniably unlawful, illegal, improper, unjust, rigged action from the onset. By *sua sponte*-ing the default judgment, which was done in blatant violation of N.H. Superior Court Rule 42, and by the lower court’s refusal to correct the violation, the *Pro Se* Defendant/Petitioner was then forced to exercise her legal right by appeal to the higher court. The lower

court, the judge, named Plaintiff/Respondent, and attorneys and other representatives who were party to the gaslighting and gang-stalking in this case, and who knew or should have known of these violations of the law and procedural rules in addition to other illegalities, perjured their legal oaths by each and all of their actions and omissions.

Interestingly to note, prior to *Defendant's Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events* on 09/22/21, the official *Case Summary* record with the lower court reflected the entry: “09/13/2021 **Default Judgement**, (Judicial Officer: Temple, Charles S)” along with the *Case Status* field stating “09/13/2021 Closed”. (See Case Summary printed on 9/20/2021 within *Defendant's Motion to Correct Case Register of Action/Case Summary to Reflect a True and Accurate Depiction of Events* in Appendix B, pp. 38-39.) However, after the Appeal application with the N.H. Supreme Court filed on October 10, 2021, and before the Appeal Court’s review and subsequent reversal, the September 13, 2021 entry was then altered by the N.H. Superior court to read: “09/13/2021 **Default Continued for Judgment** (Judicial Officer: Temple, Charles S)” and the *Case Status* field was also subsequently altered to read: “10/19/2021 **Appealed to Supreme Court**”, however these entries no longer reflected the previously entered statuses and true, accurate historical account of the case.

Most troubling, *Pro Se* Defendant/Petitioner never received legal notification from the lower court on any of these official changes made by an official court officer to the official record, further evidence of a nefarious plot in motion.

Aside from the most compelling fact that the N.H. Superior court, the named Plaintiff/Respondent, and the attorneys were conspiring against *Res Judicata*, equally troubling was the fact that during this entire second case, which ran for nine months, the named Plaintiff/Respondent, American Express National Bank, never once filed a motion into the Superior Court, yet the case rapidly moved forward in the last couple of months, especially, via the lower court's frequent abuse and the generous assistance of *sua sponte* (to the point of default judgment and to the degree the lower court broke their own Rule 42), culminating to an advanced order of default judgment that was actually never ordered but erroneously placed on the official case record as such and without the Defendant's/Petitioner's notification, as N.H. Superior Court Rule 42 requires. It largely appears as though the judge used *sua sponte* in lieu of the named Plaintiff/Respondent from having to litigate their claim.

Remarkably, it is otherwise impossible for a Plaintiff to move a claim forward, not to mention a case lasting nine months, without ever once motioning the court, a fact that supports collusion between the lower court and the complicit participants. The lower court's avid abuse of *sua sponte*, too, greatly afforded the named Plaintiff/Respondent in evading the very sticky issue of legal standing, an

issue that was repeatedly raised by the Defendant/Petitioner since the named Plaintiff/Respondent was never required to prove legal standing and the burden of proof was wrongfully reversed onto the Defendant/Petitioner.

This, too, also explains why the named Plaintiff/Respondent never once filed a single motion during the entire case. It is simply illuminated by the fact that the required motion and affidavit under N.H. Superior Court Rule 42, if filed by the named Plaintiff/Respondent, would have had to disclose and declare its legal standing and the right to collect the alleged debt, which the named Plaintiff/Respondent could not substantiate from the onset of the action unless they risk perjury. (It is a well-known fact, particularly in legal circles, that debt is traded on the debt market.). The lower court judge, knowing this, therefore assisted the named corporate Plaintiff/Respondent, American Express National Bank, in its avoiding having to prove legal standing by continually denying all the Defendant's/Petitioner's motions (as in the first case). Collusion between the courts and the named Plaintiff/Respondent and the attorneys is abundantly evident here. They each knew or should have known, in each of their official capacities, that both cases were unlawful and illegal and that it is criminal to sustain an otherwise false narrative for some self-serving end-goal against the Rule of Law. Because of this fact, they each and all participated in perjurious, if not treasonous, acts, inactions, and/or omissions against the Rule of Law, the Defendant/Petitioner, and consequently, We The People.

On December 20, 2021, Appellant/Petitioner filed her brief into the N.H. Supreme Court of Appeals under Rule 7 Mandatory Appeal. (See Brief for Defendant/Appellant on file with the N.H. Supreme Court.)

On February 22, 2022, the N.H. Supreme Court essentially “Affirmed” and remanded the lower court’s erroneous decisions and abuses of discretion. (See N.H. Supreme Court’s Decision, Appendix A pp. 25-30.)

### **REASONS FOR GRANTING THE PETITION**

Plain error, according to N.H. Supreme Court Rule 16-A, is error that affects substantial rights and may be considered even though it was not brought to the attention of the trial court or the supreme court. Plain error is an error declared by an Appellate court to be patently obvious in a lower court’s decision or action and caused a reversal of events.

In this case, when the attorneys for the named Plaintiff/Respondent, American Express National Bank, entered their complaint on February 22, 2021 to the lower court and the lower court on February 23, 2021 accepted a second, same-named identical claim of breach of contract by the named Plaintiff/Respondent, the N.H. lower court committed plain error because it knowingly violated Rule of Law, *Res Judicata*, which is in full force and effect. In fact, the case had been directly and explicitly decided final and binding by the N.H. Superior Court’s granted

Dismissal *with prejudice* for the *Pro Se* Defendant/Petitioner, Linda A. Petralia, on December 2, 2020, in a prior identical action, breach of contract, before the same lower court.

“*With prejudice*” is a purposeful legal distinction from its counterpart “*without prejudice*.” The dismissal “*with prejudice*” is a final and binding “matter judged” protected under the Rule of Law of *Res Judicata*, strictly barring further duplicate action within a case or a subsequent, same-named claim, as clearly stated in *Workmen of Cochin Port Trust vs. Board of Trustees of the Cochin Port Trust* AIR 1978 SC 1283, where the Supreme Court said,

“that if by a judgment or order any matter in issue has been directly and explicitly decided, the decision operates as *Res Judicata* and bars the trial of an identical issue in a subsequent proceeding between the same parties.”

*Res Judicata*, “limits a litigant to one opportunity to litigate aspects of the case to prevent inconsistent results and multiplicity of suits and to promote finality and judicial economy.” *Dorrance v. Lee*, 90 Hawai‘i 143, 148-49, 976 P.2d 904, 909-10 (1999).

Additionally, when the N.H. Superior Court went against *Res Judicata*, when Justice Temple revoked his own previously granted final and binding order of December 2, 2020, “dismissed *with prejudice*”, it allowed the case to continue against the Rule of Law and in violation of Defendant’s/Petitioner’s legal Constitutional rights. Clearly, “A . . . court abuses its discretion whenever it

exceeds the bounds of reason or disregards rules or principles of law or practice to the substantial detriment of a party.” *Shanghai Inv. Co., Inc. v. Alteka Co., Ltd.*, 92 Hawai’i, 482, 491-92, 993 P.2d 516, 525-26.

The named Plaintiff/Respondent and the attorneys as well as the N.H. Superior Court and judge, Charles S. Temple, knew or should have known that the named Plaintiff/Respondent is barred from filing another case on the same claim, breach of contract, and that dismissal *with prejudice* is a final and binding judgement and the case becomes *res judicata* on the claims that were or could have been brought in it. The fact is that, the named Plaintiff’s/Respondent’s five attorneys, the lower court judge, Temple, as well as the Clerk of Courts, Amy Feliciano, all licensed professionals who each and all knew or should have known the law, yet chose to disregard it, all violated their legal oaths and perjured themselves by their actions and omissions.

Furthermore, when the N.H. Superior Court violated *res judicata*, and then allowed the named Plaintiff/Respondent to continue re-litigation of a second same-named claim, breach of contract, and subsequently allowed for the malicious prosecution of “a matter judged,” it lacked competent jurisdiction and was an improper venue; and, therefore, it did not have the authority to function as an Appellate Court. In doing so, however, the N.H. Superior Court knowingly accommodated the named corporate Plaintiff’s/Respondent’s, American Express National Bank, aggressively vexatious re-litigation strategy, of “If you don’t

succeed, try, try, and try again,” to the disadvantage, detriment, and abuse of process of Defendant’s/Petitioner’s Constitutional rights. Both the judge and the lower court, along with the named Plaintiff/Respondent, by and with their attorneys, again, each knew or should have known their legal duty and by proceeding in this matter willingly colluded by their actions and omissions as well perjured their legal oaths. Notably, and sadly, not one of these licensed legal professionals stood up for the law, truth or justice, or even withdrew their appearances in the face of blatant illegalities and unlawfulness regarding the name Plaintiff’s/Respondent’s claim.

The court’s decision to grant the named Plaintiff’s/Respondent’s second claim and third attempt to try said claim, (the first being the decided case, *dismissal with prejudice*, then the re-ligation within the first case, and subsequently, this second claim filing), directly conflicts with the court’s prior uncontested final and binding granted dismissal *with prejudice* for the *Pro Se* Defendant/Petitioner dated, December 2, 2020. Importantly, by falsely acting as if an Appellate court and allowing the illegal re-litigation and malicious prosecution of a previous “matter judged”, the N.H. Superior Court did in fact render another diametrically opposing determination and failed to “prevent inconsistent results” as well as failed to “promote finality and judicial economy”, as *Res Judicata* states it shall.

In colluding in this blatant injustice and disregard for the law, the named Plaintiff/Respondent, court and the attorneys manipulated the course of the case,

reversing the burden of proof wrongly onto the *Pro Se* Defendant/Petitioner in order to steer the action toward a favorable, albeit a knowingly illegal and unlawful, win for the corporate entity, American Express National Bank. In fact, the parties' lack of acknowledgement of their omission of the Rule of Law demonstrates something more nefarious was at play, such as a consorted effort in concealing their illegal debt collection scheme and theft by fraud, for personal interest and professional gain. Importantly and surprisingly, not one party in this case having professionally legal licensure or legal knowledge mentioned the Rule of Law, *Res Judicata*, or withdrew their appearance from this unlawful, illegal, improper, unjust action and by not doing so, each and all perjured their legal oaths, including Randal L. Pratt, the named Plaintiff/Respondent attorney in the first action that is currently on petition for writ of certiorari with the U.S. Supreme Court. This, too, may explain why Senghore never filed an Appearance with the lower court in order to keep a legal distance from the illegal activities.

In this case, when the lower court abused its discretion by violating *Res Judicata*, the judge and court as well as the named Plaintiff/Respondent and the attorneys simultaneously obstructed *Pro Se* Defendant's/Petitioner's freedoms and Constitutional right to due process, in particular but not exclusively. The N.H. Superior Court subjected and compelled the *Pro Se* Defendant/Petitioner, against her freedom, will, and legal rights to participate in continued hostile legal warfare, after her granted dismissal *with prejudice*; and, when *Pro Se* Defendant/Petitioner

attempted to seek relief for injustices of the N.H. Superior Court throughout the action, uncalled for retaliation, admonishment, and punishment were deployed in their various forms and intensities.

As for the N.H. Supreme Court's February 22, 2022 decision in response to the four significant issues on Appeal within the Defendant's/Appellant's *Brief* dated December 20, 2021, it was a disappointing ruling based in the "stuff" of misapplied rules and non-applicable, if not erroneous, case precedence, and its best attempt to confuse, conflate and divert a reader of this case with an intentionally naïve, misleading, faulty, deceptive, and fraudulent defense and justification of the lower court's "broad discretion" against both the simple and impeccable Rule of Law, *Res Judicata*, and the true and accurate facts of this case, in order to justify the lower court's abuse of discretion at the violation and costly expense of Defendant's/Petitioner's lawful and legal entitlement and inalienable Constitutional rights.

In summary, this petition for Writ of Certiorari, and/or All Writs, should be granted for the following listed considerations also mentioned or related herein, and not in any particular order:

- (a) To dispose of this action and uphold the Defendant's/Petitioner's protections under Rule of Law, *Res Judicata*.
- (b) To answer the Defendant's/Petitioner's questions on petition for Writ of Certiorari with the U.S. Supreme Court.

- (c) Address the State of N.H. Courts' serious indiscretions and gross injustice which conflict with the proper and just application of the law as well as deviate from the usual course of judicial proceedings.
- (d) Address the State of N.H. Courts' decisions, in this case, that violate Constitutional Rights and Civil Liberties.
- (e) Address the decisions of the State of N.H Courts that conflict and contradict with Rule of Law, Law of the Land, and the Constitution.
- (f) The Rule of Law is being insidiously devolved under the guise of judicial "broad discretion" in an ensuing threat of tyranny against We The People.
- (g) This case involves biased, collusive, criminal racketeering and treasonous activities between the two State of N.H. Courts, the judges, attorneys and named client corporation, American Express National Bank, contrary to their professional oaths and entrusted duties and responsibilities which necessitate inquiry.
- (h) This case involves important public interest: the protection and preservation of entitled rights under the Constitution.

## **CONCLUSION**

In this case, the Superior Court's abuse of discretion and process involved obvious indiscretions that are erroneous, unlawful, illegal, unreasonable, unsustainable and despicable which intended to deceive as well as caused loss and harm to the *Pro Se* Defendant's legal entitlement to victory by giving the named

Plaintiff/Respondent, American Express National Bank, an unfair litigation advantage and win by allowing the improper use of the court and legal system for ulterior purpose as well as personal and financial gain, each and all well-knowing that the named Plaintiff/Respondent, American Express National Bank, did not have legal standing of ownership of the alleged debt. Therefore, each and all, by their willful perjurious actions and omissions, perjured along with judge, Charles S. Temple, the N.H. Superior Court and Supreme Court and Justices. It is clear and obvious from their actions and omissions they were complicit in concealing some illegal debt collection scheme and criminal conspiracy to commit fraud. The deceptive and fraudulent actions herein require further immediate inquiry and necessitate the corrective action by the appropriate agencies.

This petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Linda Mitchell".

Date: May 18, 2022