

21-909

IN THE SUPREME COURT OF THE UNITED STATES

Petitioner, Khai Quang Bui

v.

Respondent, Hernan Ruiz Cabaellero

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ON PETITION FOR WRIT OF CERITORARI  
TO THE SUPREME COURT OF VIRGINIA

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PETITION FOR WRIT OF CERTIORARI

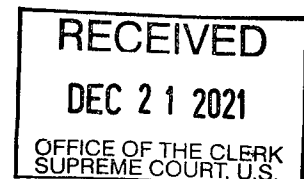
Khai Bui

1124 Duchess dr

Mclean, VA 22102

Email: [akhaibui@yahoo.com](mailto:akhaibui@yahoo.com)

Number: 571-389-0693



## **I. QUESTION PRESENTED**

The U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil contradict with the process, procedure, evidences and decision, of a court of United States in rendering an adverse decision.

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- 41. Exhibit R-45
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### **Ruling Cases**

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## II. INTRODUCTION OF PARTIES TO THE PROCEEDING

### i. APPELLANT IN SUPREME COURT OF VIRGINIA

Khai Quang Bui was the appellant for petition of appeal, Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero.

Appellant address: 1124 Duchess dr Mclean VA 22102, Telephone number: 571-389-0693, Email: [akhaibui@yahoo.com](mailto:akhaibui@yahoo.com)

### ii. APPELLEE IN SUPREME COURT OF VIRGINIA

Hernan Ruiz Cabaellero was the appellee for the petition of appeal, Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero.

Appellee address: 7602 Gaylord dr Annandale VA 22003, Telephone number: 703-909-9811, Email: [pf.ruiz2019@gmail.com](mailto:pf.ruiz2019@gmail.com)

### iii. CORPORATE DISCLOSURE

Petition for writ of certiorari is filed by and on behalf of Khai Quang Bui; a corporate disclosure statement is not required when the filing is not by or on behalf of a corporation.

iv. LIST OF ALL PROCEEDINGS

Proceedings of lower courts related to the case in this Court:

1. Fairfax County Circuit Court, CL2018-15376, Khai Bui  
vs. Hernan F Ruiz Cabaellero, ordered May 19, 2020

- (1) COMPLAINT RACIAL HARASSMENT AND  
DOMESTIC CIVIL ASSAULT-BATTERIES  
filed October 26, 2018
- (2) FAIRFAX CIRCUIT COURT NOTICE OF  
SCHEDULING filed November 7, 2018  
CONFERENCE LAW TRACK, KHAI BUI  
CONFERENCE LAW TRACK, HERNAN  
CABAELLERO filed November 7, 2018
- (3) FRIDAY MOTIONS DAY –  
PRAECIPE/NOTICE filed November 26, 2018
- (4) SUMMARY JUDGEMENT ON FAILURE  
TO ANSWER COMPLAINT filed November  
26, 2018
- (5) FRIDAY MOTIONS DAY –  
PRAECIPE/NOTICE filed November 29, 2018
- (6) MOTION SUMMARY JUDGEMENT filed

November 29, 2018

- (7) ORDER \*\*\* JUDGE STEPHEN C. SHANNON filed December 14, 2018
- (8) FRIDAY MOTION DAY – PRAECIPE/NOTICE filed December 17, 2018
- (9) MOTION FOR DEFAULT ON FAILURE TO TIMELY RESPONSE filed December 17, 2018
- (10) STATEMENT OF DAMAGES filed December 17, 2018
- (11) ORDER \*\*\* JUDGE JOHN M. TRAN filed January 4, 2019
- (12) STATEMENT OF ADMISSION FOR DAMAGES & U.S. POSTAL SERVICE CERTIFIED MAIL RECEIPT filed January 7, 2019
- (13) FRIDAY MOTION DAY – PRAECIPE/NOTICE filed January 7, 2019
- (14) MOTION FOR JUDGEMENT ON

DEFAULT TIMELY RESPONSE filed

January 7, 2019

(15) MOTION FOR JUDGEMENT ON

DEFAULT TIMELY RESPONSE & U.S.

POSTAL SERVICE CERTIFIED MAIL

RECEIPT filed January, 7, 2019

(16) RESIDENCE AND MAILING ADDRESS

filed January 11, 2019

(17) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed January 11, 2019

(18) MOTION FOR DEFAULT ON FAILURE TO

TIMELY RESPONSE filed January 11, 2019

(19) STATEMENT OF AMISSION FOR

DAMAGES filed January 11, 2019

(20) MOTION FOR DEFAULT ON FAILURE TO

TIMELY RESPONSE filed January 11, 2019

(21) STATEMENT OF ADMISSION FOR

DAMAGES & U.S. POSTAL SERVICE

CERTIFIED MAIL RECEIPT filed January

11, 2019

- (22) MOTION FOR DEFAULT ON FAILURE TO  
TIMELY RESPONSE filed January 28, 2019
- (23) RESPONSE TO COMPLAINT filed January  
30, 2019
- (24) ORDER \*\*\* JUDGE THOMAS P. MANN  
filed February 1, 2019
- (25) NOTICE OF LATE RESPONSE FILING  
AND DEFAULT filed February 7, 2019
- (26) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed February 19, 2019
- (27) MOTION TO STRIKE WITNESS  
STATEMENT filed February 19, 2019
- (28) PLAINTIFF REPLY TO “RESPONSE TO  
COMPLAINT” filed February 19, 2019
- (29) NOTICE OF IMPROPER CONTACT AND  
RETURN OF CERTIFIED MAIL filed March  
4, 2019
- (30) EMAIL: MOTION TO STRIKE filed March  
4, 2019
- (31) EMAIL: RE: MOTION TO STRIKE filed

March 4, 2019

- (32) EMAIL: RE: MOTION TO STRIKE  
STATEMENT OF ADMISSION FOR  
DAMAGES filed March 4, 2019
- (33) MOTION FOR JUDGEMENT ON  
DEFAULT TIMELY RESPONSE filed March  
4, 2019
- (34) LETTER filed March 5, 2019
- (35) ORDER \*\*\* JUDGE BRETT A. KASSABIAN  
filed March 5, 2019
- (36) ORDER \*\*\* JUDGE BRETT A. KASSABIAN  
filed March 8, 2019
- (37) DOMESTIC RETURN RECEIPT filed March  
18, 2019
- (38) NOTICE OF TAKING DEPOSITION OF  
TRIAL WITNESSES filed March 25, 2019
- (39) NOTICE OF TAKING DEPOSITION OF  
TRIAL WITNESS filed April 9, 2019
- (40) CALENDAR CONTROL ORDER\*\*\*  
MICHAEL F. DEVINE filed April 10, 2019

- (41) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed April 15, 2019
- (42) MOTION TO COMPEL FOR FAILURE TO  
ATTEND DEPOSITION filed April 15, 2019
- (43) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed April 18, 2019
- (44) MOTION TO COMPEL FOR FAILURE TO  
ATTEND DEPOSITION filed April 18, 2019
- (45) NAME OF WITNESSES filed April 29, 2019
- (46) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed April 29, 2019
- (47) COMPEL FOR FAILURE TO PROPERLY  
RESPONSE DURING DEPOSITION filed  
April 29, 2019
- (48) CERTIFICATE OF TAKING DEPOSITION  
April 7, 2019 filed May 3, 2019
- (49) ORDER \*\*\* JUDGE JOHN M. TRAN filed  
May 3, 2019
- (50) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed May 6, 2019



- (51) OBJECTION TO INCONSISTENT  
STATEMENT filed May 6, 2019
- (52) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed May 6, 2019
- (53) MOTION TO STRIKE WITNESSES filed  
May 6, 2019
- (54) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed May 6, 2019
- (55) COST FOR MOTION TO PRODUCE  
DEPOSITION MATERIALS filed May 6,  
2019
- (56) NOTICE OF TAKING DEPOSITION OF  
WITNESS filed May 13, 2019
- (57) NOTICE OF TAKING DEPOSITION OF  
TRIAL WITNESSES filed May 14, 2019
- (58) ORDER \*\*\* JUDGE STEPHEN C.  
SHANNON filed May 17, 2019
- (59) NOTICE OF CONFERRING DISCOVERY  
AND PRODUCTION filed May 20, 2019
- (60) MOTION TO STRIKE WITNESSES

RESPONSE filed May 22, 2019

- (61) COST FOR MOTION TO PRODUCE  
DEPOSITION MATERIALS RESPONSE  
filed May 22, 2019
- (62) OBJECTION TO INCONSISTENT  
STATEMENT RESPONSE filed May 22, 2019
- (63) CERTIFICATE OF CONFERRING FEES  
AND BACKGROUND CHECK WITHOUT  
MOTION filed May 24, 2019
- (64) ORDER \*\*\* JUDGE MICHAEL F. DEVINE  
filed May 24, 2019
- (65) NOTICE OF TAKING DEPOSITION OF  
WITNESS filed May 28, 2019
- (66) NOTICE OF FAILURE TO COMPLIES TO  
COMPEL ORDER filed June 4, 2019
- (67) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed June 6, 2019
- (68) SANCTION FOR FAILURE TO COMPLIES  
TO COMPEL ORDER filed June 6, 2019
- (69) CERTIFICATE OF TAKING DEPOSITION

JUNE 7, 2019 filed June 10, 2019

(70) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed June 10, 2019

(71) REMEDIES FOR DISOBEYED COURT

ORDER filed June 10, 2019

(72) NOTICE OF VIOLATION OF COMPEL

ORDER AND PRODUCTION OF

DOCUMENT filed June 13, 2019

(73) NOTICE TO CONFER filed June 21, 2019

(74) ORDER \*\*\* JUDGE ROBERT J. SMITH

filed June 21, 2019

(75) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed June 21, 2019

(76) MOTION TO COMPEL DEFENDANT

WITNESSES FOR DEPOSITION filed June

21, 2019

(77) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed June 27, 2019

(78) SANCTIONS FOR FAILURE TO

COMPLIES TO COMPEL ORDER filed June

27, 2019

(79) PLAINTIFF'S AMENDED MOTION

ATTACHMENTS FOR FRIDAY 7-12-2019

filed July 10, 2019

(80) ORDER \*\*\* JUDGE ROBERT J. SMITH

filed July 12, 2019

(81) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed July 12, 2019

(82) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed July 12, 2019

(83) FRIDAY MOTION DAY –

PRAECIPE/NOTICE filed July 12, 2019

(84) CLAIMS PRIVILEGE AND PROTECTION

OF TRIAL MATERIALS filed July 15, 2019

(85) NOTICE OF TAKING DEPOSITION OF

TRIAL WITNESS filed July 15, 2019

(86) NOTICE OF DEPOSITION WRITTEN

QUESTIONS filed July 29, 2019

(87) FINAL NOTICE filed July 29, 2019

- (88) FINAL NOTICE filed July 30, 2019
- (89) NOTICE OF DEPOSITION WRITTEN  
QUESTIONS filed July 30, 2019
- (90) NOTICE OF TAKING SECOND  
DEPOSITION OF TRIAL WITNESS filed  
August 8, 2019
- (91) ORDER \*\*\* JUDGE RICHARD E.  
GARDINER filed August 9, 2019
- (92) NOTICE OF TAKING SECOND  
DEPOSITION filed August 12, 2019
- (93) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed August 22, 2019
- (94) MOTION TO STRIKE PLEADING AND  
WITNESSES AT LAW filed August 22, 2019
- (95) EXHIBIT LIST filed August 27, 2019
- (96) FRIDAY MOTION DAY  
PRAECIPE/NOTICE filed August 29, 2019
- (97) MOTION IN LIMNE filed August 29, 2019
- (98) WITNESSES AND EXHIBIT LIST filed  
August 30, 2019

- (99) ORDER \*\*\* JUDGE BRETT A. KASSABIAN  
filed September 6, 2019
- (100) NOTICE OF USE OF DEPOSITION filed  
September 10, 2019
- (101) OBJECTION TO EXHIBITS LIST filed  
September 11, 2019
- (102) OBJECTION TO EXHIBITS LIST filed  
September 11, 2019
- (103) NOTICE filed September 12, 2019
- (104) MOTION IN LIMNE filed September 12,  
2019
- (105) CALENDAR CONTROL ORDER \*\*\*  
JUDGE DAVID BERNHARD filed September  
12, 2019
- (106) ORDER \*\*\* JUDGE RANDY I. BELLOWS  
filed September 13, 2019
- (107) ORDER \*\*\* JUDGE GRACE BURKE  
CARROLL filed September 18, 2019
- (108) NOTICE OF APPEAL filed OCTOBER 10,  
2019

- (109) NOTICE OF FILING STATEMENT OF  
FACTS filed OCTOBER 22, 2019
- (110) STATEMENT OF FACTS filed OCTOBER  
22, 2019
- (111) MANDATE filed NOVEMBER 4, 2019
- (112) OBJECTION TO APPEAL STATEMENT OF  
FACTS filed NOVEMBER 12, 2019
- (113) ORDER JUDGE \*\*\* GRACE BURKE  
CARROLL filed NOVEMBER 12, 2019
- (114) MANDATE FROM THE SUPREME COURT  
OF VIRGINIA filed May 15, 2020
- (115) ORDER \*\*\* JUDGE GRACE B. CARROLL  
filed May 19, 2020
- (116) CALENDAR CONTROL ORDER \*\*\*  
JUDGE RANDY I. BELLOWS filed May 19,  
2020
- (117) FRIDAY MOTION DAY –  
PRAECIPE/NOTICE filed May 22, 2020
- (118) MOTION FOR FINAL ORDER filed May 22,  
2020

(119) REQUEST FOR WITNESS SUBPOENA

filed May 22, 2020

(120) PROOF OF SERVICE filed June 1, 2020

(121) OBJECTION TO HARRASSMENT

ACCUSATION filed June 17, 2020

(122) NOTICE OF APPEAL filed July 6, 2020

(123) NOTICE OF FILING TRANSCRIPT,  
TESTIMONIES AND OTHER INCIDENTS filed  
September 16, 2020

2. Court of Appeals of Virginia, Record No. 1644-19-4,  
Circuit Court No. CL2018-15376, Khai Bui v. Hernan F.  
Ruiz Cabaellero, order entered October 30<sup>th</sup>, 2019

3. Supreme Court of Virginia, Record No. 200007, Circuit  
Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order entered December 3<sup>rd</sup>, April 24<sup>th</sup>, 2020

(1) Petition entry date January 2, 2020 - record  
received December 17, 2019

(2) Procedural dismissal order entered April  
24<sup>th</sup>, 2020



4 . Supreme Court of Virginia, Record No. 201256, Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero, order entered March 15, 2021

- (1) Petition entry date October 15, 2020 - record received August 21, 2020
- (2) Refuse disposition on March 15, 2021
- (3) Motion to file an appeal with U.S. Supreme Court filed March 19, 2021
- (4) Treated as a Notice of appeal to the U.S. Supreme Court received March 24, 2021

### III. TABLE OF AUTHORITIES AND TABLE OF CONTENTS

The table of authorities p. 6-8 and table of contents p. 2-5 are required under rule 14.1 (c). The table of contents included items contained in the appendix volumes.

### IV. CITATIONS OF ORDERS FROM THE LOWER COURTS

The lower courts orders in each case relate to the order sought for review in the petition for writ of certiorari:

- 1) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v. Hernan F. Ruiz Cabaellero, motion for Summary Judgment, order entered December 14, 2018

"The Court deems the motion to be one of default judgment under Rule 3:19 of the Rules of the Virginia Supreme Court. Defendant was served by posting VA Code § 8.01-296 has not been complied with at this time. The motion for default judgement is denied without prejudice.

The motion also cited Rule 3:20 of the Rules of the Virginia Supreme Court. Summary Judgment is not proper in the circumstances. That portion of the motion is denied with prejudice."

2) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion for default judgment,  
order entered January 4, 2019

"The motion is DENIED. The plaintiff is granted leave to file and server upon Defendant by regular mail or any mean under Rule 1:12 the Amended Complaint. The filing must be done by 01/11/2019. The defendant must file an answer or response within 21 days of service. The scheduling conference is continued to March 5, 2019 at 8:30 AM (jmt)"

3) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion for default judgment,  
order entered February 1, 2019

"The motion is denied as a timely filed responsive pleading"

4) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion to Strike a Witness

Statement attached to Respondent's Answer, order entered

March 8, 2019

"IT IS ORDERED that the Plaintiff's Motion to Strike the Witness Statement is granted, and the Witness Statement attached to the Answer shall be stricken, and it is

FURTHER ORDERED that whether or not to allow the witness, or any witness, to testify at trial shall remain up to the discretion of the trial judge."

5) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion to compel for failure to attend deposition, order entered May 3, 2019

"Juan Camacho and Marlene Vallejos are to appear in court to testify on trial date September 18, 2019. Juan Camacho and Marlene Vallejos are to attend and answer questions at plaintiff's deposition on June 7, 2019 (jmt) at 4:00 PM (jmt). Deposition will take place at Fairfax Regional Library, 10360 North st Fairfax, VA 22030."

6) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion for compelling discovery, order entered May 17, 2019

"The motion to compel is removed from today's docket so that Mr. Bui can confer with Mr. Cabaellero on an available Friday to hear this matter. If Mr. Cabaellero refuses to give Mr. Khai Bui an agreed upon Friday. Mr. Bui can set a Friday hearing date and notice Mr. Cabaellero of the hearing by an acceptable method of delivery under

Rule 1:12. Unless agreed upon in writing, email is not sufficient notice in this case.”

7) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion to compel, order entered May 24, 2019

“Motion to compel is granted. The defendant will resend discovery responses today by US mail. Motion to strike witness is denied without prejudice, as is motion objecting to inconsistent statement.”

8) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion, order entered June 21, 2019

“It appearing that the defendant handed his discovery responses to plaintiff today in court. The motion is denied without prejudice.”

9) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion to sanction for failure to comply to compel order, order entered July 12, 2019

“The Plaintiff's Motions are DENIED.”

10) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion, order entered August 9, 2019

“IT APPEARING Plaintiff’s motion was heard by this court on July 12, 2019 and denied with an order entered during that hearing.  
IT IS THEREFORE ORDERED Plaintiff’s motion is DENIED.”

11)Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion to Strike Pleading and Motion to Strike Witnesses at law, order entered September 6, 2019

“Denied Motion to Strike Pleading and Motion to Strike Witnesses at law”

12)Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, calendar control to set motion inlimne schedule, order entered September 12, 2019

“Plaintiff provided court with his cell phone showing email notice to Defendant 9/11 6:45 am. Defendant is not present. Motion inlimne will take 30 minutes. Plaintiff may have 30 minutes at beginning of trial to address motion inlimne.”

13)Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, motion inlimne, order entered September 13, 2019

“The Court does not have an exhibit list from the defendant  
The request to preclude witnesses from testifying is a matter best left for the Trial Judge.”

14) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, bench trial, order entered  
September 18, 2019

“This Court enters a verdict in favor of the  
Defendant, Hernan F. Ruiz Cabaellero against the  
Plaintiff’s allegation of assault.  
This matter is final.”

15) Court of Appeals of Virginia, Record No. 1644-19-4, Circuit

Court No. CL 2018-15376, Khai Bui v. Hernan F. Ruiz  
Cabaellero, order entered October 30<sup>th</sup>, 2019

“It appears that this Court does not have jurisdiction  
over this case. Accordingly, the case is hereby is  
transferred to the Supreme Court of  
Virginia pursuant to Code § 8.01-677.1.”

16) Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, statement of facts ordered by  
court, order entered November 12, 2019

“ORDERED, ADJUDGED and DECREED that the  
full and complete Written Statement in Lieu of  
Transcript in this matter shall include the following:  
1) the Court’s revised statement of facts  
incorporating the additions and corrections deemed  
necessary for an accurate account of the record. The  
revised statement of facts is attached to this Order.”

17)Supreme Court of Virginia, Record No. 200007, Circuit  
Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order entered December 3<sup>rd</sup>, 2019

“This case having been transferred from the Court of  
Appeals of Virginia, the appellant shall have until  
January 2, 2020 to file a petition for appeal in the  
Supreme Court of Virginia.

The appellant having paid a \$50 filing fee to the  
Court of Appeals, no additional filing fee is  
required.”

18)Supreme Court of Virginia, Record No. 200007, Circuit  
Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order entered April 24<sup>th</sup>, 2020

“Finding that the order appealed from is not a final,  
appealable order because no order has been entered  
disposing of the plaintiff’s claim of racial  
harassment brought pursuant to Code § 8.01-42.1,  
the Court dismissed the petition for appeal filed in  
the above-styled case.

This dismissal is without prejudice to the right of the  
appellant to appeal a final order of the Circuit Court  
of Fairfax County.”

19)Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.  
Hernan F. Ruiz Cabaellero, amended final order, order  
entered May 19, 2020

“THIS MATTER came to be heard on the 18<sup>th</sup> day of  
September 2019 on a bench trial for Plaintiffs

claims of Assault and Battery and Racial Harassment.

IT APPEARING TO THE COURT that in rendering its initial decision, the Court already considered all relevant factors and arguments presented by both parties, and

ADJUDGED, ORDERED and DECREED as follows: ORDERED that this Court enters a verdict in favor of the Defendant, Hernan Ruiz Cabaellero, against Plaintiff's allegations of assault and battery and racial harassment.

This matter is final."

20)Supreme Court of Virginia, Record No. 201256, Circuit

Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz

Cabaellero, order entered March 15, 2021

"Upon review of the record in this case and consideration of the argument submitted in support of the granting of an appeal, the Court is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Court refuses the petition for appeal."

#### V. STATEMENT OF JURISDICTION FOR THIS COURT

U.S. Supreme Court by writ of certiorari granted may review final judgments rendered in lower courts including highest court of a State. Rules of the U.S. Supreme Court governing review on certiorari 10 (c) state that "a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided



an important federal question in a way that conflicts with relevant decisions of this Court. “. Fairfax County Circuit Court CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero and the Supreme Court of Virginia Record No. 201256 Circuit Court No. CL-2018-15376 Khai Bui v. Hernan Ruiz Cabaellero, rendered a decision without due process of law. The adverse decision affected the petitioner because it violates his due process provided in the U.S. Constitution Amendment XIV and U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil.

- i. The order sought to be reviewed was entered on March 15, 2021 by the Supreme Court of Virginia
- ii. The order sought to be reviewed is not a rehearing order by the Supreme Court of Virginia
- iii. This is a petition for a writ of certiorari
- iv. U.S. Constitution Amendment XIV, U.S. Constitution Amendment I, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, 28 U.S.C. § 451, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071, 28 U.S.C. § 2106, and U.S. Supreme Court Rule 10 (c) are the statutory

provision confer on this Court jurisdiction to review on  
a writ of certiorari the judgment or order in question

- v. Statement of notifications as required by Rule 29.4 (b)  
or (c) have not been made

## VI. CONSTITUTIONAL PROVISION AND STATUTES

The constitution of the United States guaranteed rights for the  
citizens of United States in the U.S. Constitution Amendment  
XIV:

“All persons born or naturalized in the United States, and  
subject to the jurisdiction thereof, are citizens of the United  
States and of the State wherein they reside. No State shall  
make or enforce any law which shall abridge the privileges  
or immunities of citizens of the United States; nor shall any  
State deprive any person of life, liberty, or property,  
without due process of law; nor deny to any person within  
its jurisdiction the equal protection of the laws.”

The U.S. Constitution Amendment XIV Section 1 Procedural Due  
Process Civil:

“Due process requires that the procedures by which laws  
are applied must be evenhanded, so that individuals are  
not subjected to the arbitrary exercise of government  
power.<sup>737</sup> Exactly what procedures are needed to satisfy  
due process, however, will vary depending on the  
circumstances and subject matter involved.<sup>738</sup>”

The U. S. Constitution Amendment I:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

The civil procedure in the case Khai Bui v. Hernan F. Ruiz Cabaellero is the rules of court of the Supreme Court of Virginia when it is ordered to use in a state lower court *see*. Constitution of Virginia Article VI Section 5:

“The Supreme Court shall have the authority to make rules governing the course of appeals and the practice and procedures to be used in the courts of the Commonwealth, but such rules shall not be in conflict with the general law as the same shall, from time to time, be established by the General Assembly.”

In the Fairfax County Circuit Court CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero, the respondent exhibit and witness list, respondent objections, his own testimonies, and his proposed defense or lack of defense had been as a matter of law rule upon during the case by court orders and rules of court written law. Discretion by a court at trial cannot overturn an interlocutory court order and literally discretion cannot interpret a written laws in way that is not a normal understanding of the written

laws. Supreme Court of Virginia refused the petition of appeal *see*.

Constitution of Virginia Article VI Section 5, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil.

U.S. Constitution Amendment XIV provide a state to make any laws under state constitution but those laws shall not deprive a person of life, liberty, or property of his person.

U.S. Supreme Court may review this case on U.S. Constitution Amendment XIV, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, U.S. Constitution Amendment I, Constitution of Virginia Article VI Section 5, Va. Code § 8.01-3, Va. Code § 8.01-42.1, Va. Code § 8.01-296, Va. Code § 18.2-57, 28 U.S.C. § 451, 28 U.S.C. § 452, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071, 28 U.S.C. § 2106.

## VII. CONCISE STATEMENT MATERIALS TO THE QUESTIONS

Due process varies in procedure “appropriate to the nature of the case”. It is nonetheless possible to identify its core goals and requirements. Procedural due process rules are to protect persons from the mistaken or unjustified deprivation of life, liberty, or property *see*. U.S. Constitution Amendment XIV, and

*Carey v. Piphus* 435 U.S. 247 (1978). Thus, the required elements of due process are those that “minimize substantively unfair or mistaken deprivations” by enabling persons to contest the basis upon which a state proposes to deprive them of protected interests. The core of these requirements is notice and a hearing before an impartial tribunal *see. Carey v. Piphus* 435 U.S. 247 (1978). A notice of complaint racial harassment and assault and batteries filed October 26, 2018. Sheriff process service was made on the same day. A notice of scheduling conference law track was issued November 7, 2018. In state of Virginia civil proceedings are under Va. Code § 8.01-3. and Constitution of Virginia Article VI Section 5. This right (protect petitioner landlord and tenant lease of value of \$600 per month and his belongings inside the room) is a “basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions. The purpose of this requirement is not only to ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and possession of property from arbitrary encroachment. Thus, notice of hearing and opportunity to be heard must be granted at a meaningful time and in a

meaningful manner. A court of United States is an impartial tribunal *see*. U.S. Constitution Amendment XIV and U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil. Petitioner rights to due process was in violation as to a right to show evidences including right to call witnesses, right to know opposing evidences, and decision based on evidence presented. In circumstances when right to due process is not exercised by a court; that constitute a deprivation of life, liberty and properties *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil and *Carey v. Piphus* 435 U.S. 247 (1978). In *Carey v. Piphus* 435 U.S. 247 (1978) syllabus (e) the U.S. Supreme Court wrote:

“Because the right to procedural due process is “absolute” in the sense that it does not depend upon the merits of a claimant's substantive assertions, and because of the importance to organized society that procedural due process be observed, the denial of procedural due process should be actionable for nominal damages without proof of actual injury, and therefore, if it is determined that the suspensions of the students in this case were justified, they nevertheless will be entitled to recover nominal damages.”

Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia is a procedure of law which require a party to identified exhibits before trial. Proceeding 1.(35) was the scheduling order for

lawsuit under these rules of court of the Supreme Court of Virginia. Proceeding 1.(40) was the order to change the trial date to September 18, 2019. The trial judge exercise discretion in admitting and excluding evidences at trial. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia is a procedure requiring to file and serve exhibits and witness(s) for the court to identified the exhibits before trial. Discretion to not admit plaintiff's injuries during trial is in violation of procedural due process civil. The discretion excludes and admit was not based on a written law.

In Fairfax County Circuit Court CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero, the exhibit and witness list *see*. Rules 1:18B Section V of the Supreme Court of Virginia has been excluded from evidence for trial on September 13, 2109 order. An interlocutory order of a matter in the case has been decided and cannot be deemed error by the same court judge *see*. U.S. Constitution Amendment XIV and 28 U.S.C. § 451, 28 U.S.C. § 1292. The interlocutory order must be appealed to a superior court *see*. 28 U.S.C. § 2071.

On September 18, 2019 trial court discretion to use the exhibit list during trial is a violation of procedural due process *see*. U.S.

Constitution Amendment XIV Section 1 Procedural Due Process Civil because the exhibit list has been ruled upon by court's order *see.* proceeding 1.(40), (106) *see.* 1.(95), (97), (101), (102), (104), (123) emails requesting exhibits for trial and trial transcript page 5 line 22 to page 11 line 18, Supreme Court of Virginia Record No. 200007 Circuit Court No. CL-2018-15376 Khai Bui v. Hernan Ruiz Cabaellero proceeding 3.(1) and Supreme Court of Virginia Record No. 201256 Circuit Court No. CL-2018-15376 Khai Bui v. Hernan Ruiz Cabaellero proceeding 4.(1) *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Rule 5:25 of the Supreme Court of Virginia, proceeding 1.(123). The ruling in proceeding 1.(106) was based on motion pleading, testimonies, certificate of service and evidences by the court on September 13, 2019. There are emails to support petitioner motion that respondent was noticed and failed to serve the exhibit and witness list as the Rule 1:18B Section V of the Supreme Court of Virginia required.

- i. The stage in the proceedings, in the court of first instance and in the appellate courts, when the federal question was raised are:



- 1 Fairfax County Circuit Court CL2018-15376 Khai Bui v.  
Hernan F. Ruiz Cabaellero, proceeding 1.(35) *see*. Rule 1:15  
(c), 1:18B Section V of the Supreme Court of Virginia  
“V. Exhibit and Witness List”
- 2 Fairfax County Circuit Court Trial Exhibit Procedure and  
Notice of Exhibit Procedure, *see*. appendix 46, 47
- 3 Fairfax County Circuit Court CL2018-15376 Khai Bui v.  
Hernan F. Ruiz Cabaellero proceeding 1.(98)
- 4 Fairfax County Circuit Court CL2018-15376 Khai Bui v.  
Hernan F. Ruiz Cabaellero proceeding 1.(95)
- 5 Fairfax County Circuit Court CL2018-15376 Khai Bui v.  
Hernan F. Ruiz Cabaellero proceeding 1.(101), (102), (123)
- 6 Fairfax County Circuit Court CL2018-15376 Khai Bui v.  
Hernan F. Ruiz Cabaellero proceeding 1.(97)
- 7 Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.  
Hernan F. Ruiz Cabaellero, proceeding 1.(36), motion to  
Strike a Witness Statement attached to Respondent’s  
Answer, order entered March 8, 2019

“IT IS ORDERED that the Plaintiff’s Motion to  
Strike the Witness Statement is granted, and the  
Witness Statement attached to the Answer shall be

stricken, and it is  
FURTHER ORDERED that whether or not to allow  
the witness, or any witness, to testify at trial shall  
remain up to the discretion of the trial judge.”

8 Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, proceeding 1.(106), motion  
in limine, order entered September 13, 2019

“The Court does not have an exhibit list from the  
defendant  
The request to preclude witnesses from testifying is  
a matter best left for the Trial Judge.”

9 Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, proceeding 1.(105), calendar  
control order entered September 12, 2019

10 Fairfax County Circuit Court, CL 2018-15376, Khai Bui v.

Hernan F. Ruiz Cabaellero, proceeding 1.(123) *see*.  
appendix 40, Notice of filing transcript, testimonies and  
other incidents filed September 16, 2020

11 Supreme Court of Virginia, Record No. 200007, Circuit

Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz  
Cabaellero, order entered April 24<sup>th</sup>, 2020, (on assignment  
of error) on a petition

12 Supreme Court of Virginia, Record No. 201256, Circuit

Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero, order entered March 15, 2021, on a petition assignments of error: i) exhibit list should have been excluded for noncompliance to rule 1:18B, ii) injuries pictures should be admitted, iii) evidences and testimonies of respondent should not have been admitted and result in unfair outcome iv) scheduling order rule 1:18B (v) require submission of objection before trial, v) trial court err is reversable when it enters a May 19, 2020 order for respondent on harassment and assault

- ii. This is not a review of a judgment of a United States court of appeals

#### VIII. DIRECT AND CONCISE ARGUMENT

Rule 1:18B Section V, 1:15 (c) of the Supreme Court of Virginia does require the parties to serve and file exhibits fifteen days before trial specifically identifying each exhibit to be introduced at trial. Any objections to exhibits and witnesses shall state the legal reasons except relevancy grounds, and be filed with the court in Fairfax County Circuit Court CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero. This is process and procedure for

evidences to be identified before trial and not at trial. The decision of the trial judge *see*. proceeding 1.(123) trial transcript page 5 line 22 to page 11 line 18, after hearing testimonies from the parties on the matter of exhibit and witnesses list is in violation of petitioner's right to procedure in a court of United States *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Constitution of Virginia Article VI Section 5. The rights of procedural due process civil in violation were the rights of the petitioner to be notice and discover *see*. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia. Petitioner filed exhibit and witness list and objection base on the list and not on the exhibits because respondent did not serve exhibits and witness list and objection to exhibits *see*. proceeding 1.(98), (101), (102), (123), appendix 47, and Rule 1:12 of the Supreme Court of Virginia. This is not evenhanded procedure to offer evidences because a party must identify exhibits before trial and what it will be used for in trial *see*. Rule 1:18B, 1:13, 1:15 (c), 2:1101, 2:201, 2:602, 2:603, 2:608, 2:610, 2:801 (c), 2:803, 2:302 of the Supreme Court of Virginia and U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil. An order was entered on September

13, 2019 *see.* proceeding 1.(106), U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil and 28 U.S.C. § 1292, 28 U.S.C. § 2071. Discretion base on a respondent lie statements made under oath is in violation of procedural due process *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, proceeding 1.(106), (105), (101), (123), Rule 5:25 of the Supreme Court of Virginia, proceeding 1.(107), (115), (123) trial transcript page 9 to 12. Due process depends on every proceeding and specifically proceeding 1.(1), (12), (28), motions and exhibits, discoveries, and decisions on the record pre-trial.

When the racial harassment, vandalism, violence, and assault and batteries from the respondent made the house inhabitable, Petitioner text Marlene to notice of an intention to move on June 17, 2018, July 26, 2018, August 29, 2018 and September 26, 2018 *see.* Exhibit T (on record CL2018-15376). This lawsuit racial harassment and assault and batteries require an answer to each paragraph in the claims *see.* proceeding 1.(1), (12), (28).

The weight of due process at trial depends on manifest facts in the case *see.* Rule 2:104 (b), 2:103 (a) of the Supreme Court of Virginia and evidences properly made trial materials, discoveries,

deposition, and file and serve exhibits and witnesses. The form of action is the complaint and statement of admission of damages pleadings that initiate the lawsuit and festered continuing facts during the case *see*. Rule 3:4 of the Supreme Court of Virginia. The record shows that respondent filed an answer and an alibi late *see*. Rule 3:8 (a) of the Supreme Court of Virginia. Default judgment was decided early in the case *see*. proceeding 1.(19), (24), Va. Code § 8.01-296. The record shows that respondent filed a witness statement and was ruled as not admissible *see*. proceeding 1.(4), (36). The record shows that respondent witnesses alibi for harassment and vandalism of properties were given notice and deposition but failed to show and did not comply with court order and subpoenas for deposition *see*. proceeding 1.(38), (42), (44), (45), (66), (71), (76), (78), (87), (88). Respondent witnesses alibi for harassment and vandalism of properties did not complies with court orders *see*. Rule 2:602, 2:603, 2:610 of the Supreme Court of Virginia and proceeding 1.(106). The Rules of the Supreme Court of Virginia decide the admissibility or exclusion of a hearsay testimonies in court *see*. Constitution of Virginia Article VI Section 5, Rule 2:803 of the Supreme Court of

Virginia. The Rules of the Supreme Court of Virginia decide the manifest continuing facts of the law case *see*. Rule 2:104 (b) of the Supreme Court of Virginia, proceeding 1.(1), Va. Code § 8.01-42.1, Va. Code § 18.2-57 and proceeding 1.(11).

Petitioner was deprived of the opportunities to discover evidences in a civil lawsuit *see*. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia, *see*. proceeding 1.(35), (98), appendix 36, appendix 37, U.S. Constitution Amendment XIV, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, 28 U.S.C. § 451, 28 U.S.C. § 452. The trial court deprive petitioner of notice, confrontation and cross examination and discovery pre-trial but allow for confrontation and cross examination and discovery in trial. This procedure is nowhere to be found in the civil procedure *see*. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia. Liabilities of racial harassment and assault batteries are in the lawsuit as it has matured *see*. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia. In the trial the court discretionary to exclude Exhibit R-21 (on record CL2018-15376) *see*. proceeding 1.(123) transcript p.67 line 4-15, p.19(direct) p.37(cross) *see*. appendix 44 and Exhibit R-23 (on record CL2018-15376) *see*. p.67

line 4-15, p.19(direct) p.37(cross) *see.* appendix 45 petitioner two injuries are again in violation of evidences rules. The Exhibits were proffered in proceeding 1.(1), (6), (123) transcript p.19(direct) p.37(cross), and p.45(direct) p.93(cross) *see.* Rule 1:18B, 1:18B (V), 1:15 (c) 2:104 (b), 2:103 (a), 2:302, 3:4 of the Supreme Court of Virginia. Discretion to exclude Exhibit R-21 and Exhibit R-23 is contrary to the statue of procedural due process *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Constitution of Virginia Article VI Section 5, Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia, Va. Code § 18.2-57 which applies fairness of due process of law when it admits evidence.

On the contrary the trial court could not weight testimonies of respondent's claim of hearing racial words and other evidences that were not plead in respondent response to complaint *see.* proceeding 1.(23), (51), (53), (55). Respondent could not establish a defense on the stand as a witness without pleadings and notice *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Va. Code § 8.01-3, Constitution of Virginia Article VI Section 5, Rule 1:15 (c), 1:18B, 1:18B (V) of the Supreme Court



of Virginia states “.....any exhibits not so identified and filed will not be received in evidence, .....unless the admission of such exhibit or testimony would cause no surprise or prejudice to the opposing party .....”. Petitioner did know in discoveries that respondent claimed he work for Marriott International, he heard petitioner said something on August 21, 2018, his claimed work hours, he claimed that there are more than four people in the house, and his children weekends visitation. Respondent had no witnesses testified to his claims that they lived in the house or heard anything in the assault and batteries morning. Respondent offered a work letter from Gaylord hotel as his employment which is a different company from his interrogatories response and his work hours were not admit evidence *see*. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia, proceeding 1.(123) emails request exhibits and witness list before trial.

Petitioner filed exhibits on pleadings of the case, summary motion, exhibit and witnesses list, and mailed respondent exhibits during discoveries *see*. appendix 36, 37, and proceeding 1.(98). The rights of petitioner to rent and have personal belongings in the room would have been until July 2019 “but for“

the respondent's racial slur, harassments, vandalism, and assault and batteries *see*. CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero Exhibit T text July 17, 2018 – July 26, 2018, August 25, 2018 – August 29, 2018, September 22, 2018 – September 29, 2018. In law “but for” means that without the causation of respondent racial harassment from May – August 2018 and assault and batteries on August 21, 2018, the petitioner would not have been injured and moved. Petitioner would have moved because of racial harassment to redress the situation *see*. Exhibit R-21 *see*. appendix 44, Exhibit R-23 *see*. appendix 45, *see*. proceeding 1.(123) transcript p.99 and CL2018-15376 Khai Bui v. Hernan Ruiz Cabaellero Exhibit T, Exhibit U (on record CL2018-15376).

Right to due process is not deprive if respondent had opportunities to response. Respondent made the same claims as the petitioner's complaint title “racial harassment and assault and batteries” *see*. Rule 1:18B, 1:15 (c), 2:201, 2:1101, 2:603, 2:608, 2:610 of the Supreme Court of Virginia define discoveries and evidences. It is the rules to admit evidence of a manifest facts but respondent did not serve trial exhibits or

provide those exhibits in discoveries when he had the opportunities to serve *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia. Respondent opening statement and testified to something that he did not plead *see*. proceeding 1.(23) paragraph (v), 1.(123) transcript p.18 line 9, and p.138 line 11.

Racial harassment and assault and batteries are claimed in the lawsuit *see*. proceeding 1.(1), (12), (28). In procedural due process civil, the oppose party has the opportunity to discover any materials that is not reasonably in his possessions or unattainable. If respondent did not participate in discoveries, he is not following due process. Due process procedural is for the parties to show the characters of their claims. Petitioner has shown the characters of evidences of his claims and opportunities was provided for respondent in discoveries. His failures to submit evidences of his counter claims or defense in pleadings and discoveries was his doing. Notice in procedural due process civil is required as in *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil:

“An elementary and fundamental requirement of due

process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.”<sup>754</sup> This may include an obligation, upon learning that an attempt at notice has failed, to take “reasonable follow up measures” that may be available.<sup>755</sup> In addition, notice must be sufficient to enable the recipient to determine what is being proposed and what he must do to prevent the deprivation of his interest.<sup>756</sup> Ordinarily, service of the notice must be reasonably structured to assure that the person to whom it is directed receives it.<sup>757</sup> Such notice, however, need not describe the legal procedures necessary to protect one’s interest if such procedures are otherwise set out in published, generally available public sources.”

*see. City of West Covina v. Perkins* 525 U.S. 234 (1999).

Rule 1:18B, 1:15 (c), 1:12 of the Supreme Court of Virginia, appendix 46, 47 required the exhibit and witnesses list to be filed and serve before trial and a certificate of service. The order September 13, 2019 *see. proceeding 1.(106)*, the court does not have an exhibit list from the respondent. Respondent did not file a certificate of service for exhibit and witness list *see. Rule 1:12* of the Supreme Court of Virginia and claimed that it was his first time in a lawsuit. *Proceeding 1.(123)* is proof of petitioner’s emails requesting for exhibits before trial that respondent said he emailed and mailed. The trial due process civil in the U.S. Constitution Amendment XIV Section 1 Procedural Due Process

Civil is in violation and the trial court should not have overturn an interlocutory order for the purpose of admit respondent's exhibits at trial. Evidences and testimonies have shown that there were perjuries on the testimonies, inconsistent statements, no alibi witness, and extrinsic matter introduced. If that is the case here, the respondent evidences that violate the rules of court cannot be considered good faith and admit.

A final order of a civil case was based on manifested factual findings, evidences, testimonies, interlocutory and orders *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, 28 U.S.C. § 451, 28 U.S.C. § 452, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071, 28 U.S.C. § 2106. Factual findings of petitioner's claim of racial harassment and assault and batteries were noticed in *see*. proceeding 1.(1), (6), (12), (28). Petitioner reply to respondent response *see*. proceeding 1.(28), (28)(k), (28)(v), (23). Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia regarding witness deposition of respondent claim was used in proceeding 1.(38), (42), (44), (45), (66), (71), (76), (78), (87), (88). Petitioner witness and exhibit list was filed and serve *see*. proceeding 1.(98). Pre-trial

motions orders in the case were ordered *see.* proceeding 1.(36), (49), (64), (74), (105), (106). Respondent response to the complaint *see.* proceeding 1.(23). His filing of the response is late *see.* Rule 3:8 (a) of the Supreme Court of Virginia. Respondent exhibit and witness list was filed not serve and was ordered not received by court *see.* proceeding 1.(36), (95), (105), (106), appendix 38, Rule 1:18B, 1:15 (c), 2:603, 2:608, 2:610 of the Supreme Court of Virginia, appendix 40, 46, 47. At trial lower court gave respondent opportunities to testified on matter he did not know about motion in limne and on matter he served the exhibit and witness list. Respondent lie under an oath *see.* proceeding 1.(123) emails request exhibits and witness list, 1.(74), (105), (123) transcript p.5 to p.10, p.9 line 4 "I wasn't aware of that motion", line 20 "Yes, that's correct, I did", p.10 line 5 "No, just the list", line 7 "just the list", line 10 "No, not at all". The lower court discretion to hear respondent exhibits and witnesses list are in violation of petitioner right to procedural due process civil and fair trial *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Constitution of Va. Article VI Section 5, Rule 1:18B, 1:12, 1:15 (c), 2:103 (a), 2:104 (b), 2:201, 2:603, 2:608, 2:610,

2:1101, 2:302 of the Supreme Court of Virginia, appendix 46, 47. For the assault and batteries, respondent testified *see*. proceeding 1.(123) p.118 line 7-8 “When I was coming out of the room, I saw like the door it just kind of slam over me”, line 11 “he opened really hard on me”, line 12-14 “I turn around and I looked at him. And he – and the first thing was, okay, what’s your problem?”, p.120 line 12 “I’m going to sue you motherfucker”, p.18 line 8-9 “plaintiff start telling me that he is going to sue me; I’m an MF and so many bad words”. Previous statement made in proceeding 1.(28)(v) “defendant disagrees. Plaintiff said” what is your problem spanic criminal”. Previously Officer Armstrong testified *see*. p.42(direct) [After exiting his room, respondent walk down the hall, and when near the laundry the petitioner opened the laundry door into his face. Respondent then walk around petitioner and asked “what the hell is your problem”.]. Respondent testimonies is impeached as to the August 21, 2018 assault and batteries contrary facts of being hit with the closet door, heard racial harassment, and where he first saw petitioner within statement *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Rule 2:608 of the Supreme Court

of Virginia, proceeding 1.(123) transcript p.138 line 11-12  
petitioner cross-examination of the assault and batteries incident.  
Respondent witness statement of racial harassment and assault  
batteries was not in court to testified to respondent defense that  
the witness has knowledge of the incident and other sexual  
harassment allegation *see*. U.S. Constitution Amendment XIV  
Section 1 Procedural Due Process Civil, Rule 2:608, 2:602, 2:801  
(c), 2:803 of the Supreme Court of Virginia. Respondent four  
roommates were not in court to testified to respondent defense of  
vandalism and noise *see*. U.S. Constitution Amendment XIV  
Section 1 Procedural Due Process Civil, Rule 2:608, 2:602, 2:801  
(c), 2:803 of the Supreme Court of Virginia. Respondent kids were  
not in court to testified to respondent claims of harassment and  
noise *see*. U.S. Constitution Amendment XIV Section 1 Procedural  
Due Process Civil, Rule 2:608, 2:602, 2:801 (c), 2:803 of the  
Supreme Court of Virginia. Juan was in court but could not  
testified *see*. proceeding 1.(49), U.S. Constitution Amendment  
XIV Section 1 Procedural Due Process Civil, Rule 2:608, 2:602,  
2:801 (c), 2:803. Respondent testified on (cross) *see*. proceeding  
1.(123) transcript p.138 line 11-16 is contrary to his statement *see*



*also.* p.120 line 12-13, p.45 line 5 *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, Constitution of Virginia Article VI Section 5, Rule 2:803 of the Supreme Court of Virginia. That testimony is contrary to respondent claim of harassment on occasion when he encounters petitioner in the house and what he heard on August 21, 2018. Respondent attacked petitioner at the closet door *see.* appendix 41, 42, 43, 44, 45 *see.* proceeding 1.(123) transcript p.60-61, p.54 line 9-11, p.67 line 13-15 and p.19, p.37 *see.* Constitution of Virginia Article VI Section 5, Rule 1:8B of the Supreme Court of Virginia. The evidence record of trial shows respondent was the aggressor to petitioner standing at the closet, assault and batteries petitioner twice with racial discrimination that caused petitioner's injuries *see.* proceeding 1.(123) transcript p.18(direct) p.37(cross), p.45(direct) p.93(cross) p.99(redisect) and respondent made racial slur *see.* proceeding 1.(123) transcript p.52(direct) line 4-5 on a weekend of his visitation *see.* proceeding 1.(123) p.104-105(direct), Rule 1:18B, 1:15 (c), 2:103 (a), 2:104 (b), 2:201, 2:603, 2:608, 2:610, 2:801 (c), 2:803, 5:25 of the Supreme Court of Virginia, U.S. Constitution Amendment I, U.S. Constitution

Amendment XIV Section 1 Procedural Due Process Civil. Petitioner has two injuries as a result of the assault and batteries and respondent has no injuries. Respondent said "Asian filth, you are scaring my kids" is a racial sentence because petitioner is an Asian person that he was speaking loudly to *see*. proceeding 1.(123) transcript p.52 line 4-5. Racial speech that he made is not protected by the U.S. Constitution Amendment I, U.S. Constitution Amendment XIV, Constitution of Virginia Article VI Section 5, Va. Code § 8.01-42.1. Evidences on record of the case and trial shows that respondent is liable for damages of his racial words. Asian is a group of ethnic or a class of citizens and cannot be discriminate in this manner *see*. proceeding 1.(28)(k), Va. Code § 8.01-42.1, U.S. Constitution Amendment I, U.S. Constitution Amendment XIV, Constitution of Virginia Article VI Section 5. The evidence on record of this case shows that petitioner was not served evidence and exhibits for trial *see*. Rule 1:18B, 1:15 (c) of the Supreme Court of Virginia. Petitioner testimonies and officer testimonies of injuries and petitioner having to move was result of assault and batteries *see*. Va. Code § 18.2-57.

Petitioner was harassed, racial harassment and vandalism from May – August 2018 and text landlord *see*. CL2018-15376 Khai Bui v. Hernan Ruiz Cabaellero Exhibit T May 14, 2018 – June 20, 2018, July 24, 2018 – September 19, 2018. Petitioner want to move because of racial harassment and vandalism *see*. Va. Code § 8.01-42.1. Respondent was under oath in court and perjured to the judge. Respondent testimonies are impeached as to his stories on assault and batteries and he had not alibi witnesses in court on racial harassment and vandalism. Respondent defense alibi witnesses did not testify for him in court. If the interlocutory order was not overturn at trial, respondent testimonies cannot out weight evidence against him *see*. proceeding 1.(106), appendix (39), 28 U.S.C. § 1292, 28 U.S.C. § 2071, Constitution of Virginia Article VI Section 5, Rule 1:8B, 1:15 (c), 1:13 of the Supreme Court of Virginia.

Petitioner evidences on record in this case proved the complaint of racial harassment and assault and batteries and liabilities damages in civil case by a preponderance of evidence as it is all that he was required to do under circumstances at trial *see*. proceeding 1.(1), (12), Va. Code § 8.01-42.1, Va. Code § 18.2-57,

U.S. Constitution Amendment XIV, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, U.S. Constitution Amendment I, Constitution of Virginia Article VI Section 5, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071. Furthermore, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil requires the respondent exhibit and witness list to be served before trial. He didn't serve it by mail or email then he did not have evidence or witness for trial. Discretion to include respondent exhibits is in conflict with the constitution. His perjuries statement of mailing and email exhibits and false allegation testimonies of being hit testimonies are untrue and meritless. The lower court decision of Fairfax County Circuit Court CL2018-15376 Khai Bui v. Hernan F. Ruiz Cabaellero process, procedure, evidences and decisions is in conflict with the constitution *see*. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil. Trial judge ordered *see*. proceeding 1.(107), 1.(123) transcript p.147 line 16 - p.151. Trial judge ordered *see*. proceeding 1.(112), (113). The statement of facts is not accurate for appeal purposes *see*. Rule 5:25 of the Supreme Court of Virginia. Petitioner appeal

to Court of Appeals of Virginia *see.* court proceeding 2. was transfer to Supreme Court of Virginia *see.* court proceeding 3., 4., 1.(114). Trial judge amended final order *see.* proceeding 1.(115). The Supreme Court of Virginia ordered *see.* appendix 1 and proceeding 4.(1) on a petition assignments of error *see.* U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil guarantees a full and fair civil trial *see. Hagar v. Reclamation Dist.*, 111 U.S. 701, 708 (1884).

“Due process of law is [process which], following the forms of law, is appropriate to the case and just to the parties affected. It must be pursued in the ordinary mode prescribed by law; it must be adapted to the end to be attained; and whenever necessary to the protection of the parties, it must give them an opportunity to be heard respecting the justice of the judgment sought. Any legal proceeding enforced by public authority, whether sanctioned by age or custom or newly devised in the discretion of the legislative power, which regards and preserves these principles of liberty and justice, must be held to be due process of law.” *Id.* at 708; *Accord, Hurtado v. California*, 110 U.S. 516, 537 (1884).

Petitioner asks this Court to grant a writ of certiorari to the Supreme Court of Virginia to reverse and remand the order up for review *see.* U.S. Constitution Amendment XIV, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, U.S. Constitution

Amendment I, Constitution of Virginia Article VI Section 5, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, U.S.C. § 2071, 28 U.S.C. § 2106. The Fairfax County Circuit Court CL2018-15376 case should be reverse and remand for liabilities damages of Virginia statues in court of Fairfax County of Virginia where the original lawsuit was served and trialed *see*. U.S. Constitution Amendment XIV, U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil, U.S. Constitution Amendment I, Constitution of Virginia Article VI Section 5, 28 U.S.C. § 1257, 28 U.S.C. § 1292, 28 U.S.C. § 1651, 28 U.S.C. § 1652, 28 U.S.C. § 2071, 28 U.S.C. § 2106.

#### IX. APPENDIX

1. Supreme Court of Virginia, Record No. 201256 Circuit Court No. CL-2018-15376, Khai Bui v. Hernan Ruiz Cabaellero, order March 15, 2021
2. U.S. Constitution Amendment I
3. U. S. Constitution Amendment XIV
4. U.S. Constitution Amendment XIV Section 1 Procedural Due Process Civil
5. 28 U.S.C. § 451

6. 28 U.S.C. § 452
7. 28 U.S.C. § 1257
8. 28 U.S.C. § 1292
9. 28 U.S.C. § 1651
10. 28 U.S.C. § 1652
11. 28 U.S.C. § 2071
12. 28 U.S.C. § 2106
13. Constitution of Virginia Article VI Section 5.
14. Va. Code § 8.01-3
15. Va. Code § 8.01-42.1
16. Va. Code § 8.01-296
17. Va. Code § 18.2-57
18. Rule 1:12 of the Supreme Court of Virginia p.24
19. Rule 1:13 of the Supreme Court of Virginia p.25
20. Rule 1:15 (c) of the Supreme Court of Virginia p.27
21. Rule 1:18B of the Supreme Court of Virginia p.60
22. Rule 2:103 (a) of the Supreme Court of Virginia p.108
23. Rule 2:104 (b) of the Supreme Court of Virginia p.109
24. Rule 2:201 of the Supreme Court of Virginia p.112
25. Rule 2:302 of the Supreme Court of Virginia p.116

26. Rule 2:602 of the Supreme Court of Virginia p.141
27. Rule 2:603 of the Supreme Court of Virginia p.142
28. Rule 2:608 of the Supreme Court of Virginia p.147
29. Rule 2:610 of the Supreme Court of Virginia p.149
30. Rule 2:801 (c) of the Supreme Court of Virginia p.162
31. Rule 2:803 of the Supreme Court of Virginia p.164
32. Rule 2:1101 of the Supreme Court of Virginia p.186
33. Rule 3:4 of the Supreme Court of Virginia p.198
34. Rule 3:8 (a) of the Supreme Court of Virginia p.203
35. Rule 5:25 of the Supreme Court of Virginia p.431
36. Pre-trial disclosure of evidence
37. Second package evidence package
38. MOTION IN LIMNE filed August 29, 2019
39. MOTION IN LIMNE filed September 12, 2019
40. NOTICE OF FILING TRANSCRIPT, TESTIMONIES  
AND OTHER INCIDENTS filed September 16, 2020
41. Exhibit R-45
42. Exhibit R-48
43. Exhibit 1B
44. Exhibit R-21



45. Exhibit R-23

46. TRIAL EXHIBIT PROCEDURE

47. NOTICE OF PROCEDURE FOR TRIAL EXHIBITS

Date: December 17, 2021 Khai Bui

Khai Bui

1124 Duchess dr

Mclean, VA 22102

Email: [akhaibui@yahoo.com](mailto:akhaibui@yahoo.com)

Number: 571-389-0693