22-173

No. _____

IN THE SUPREME COURT
OF THE UNITED STATES

ROGER SWARTZ ON BEHALF OF HIMSELF, ROGER SWARTZ ON BEHALF OF HIS SON A.S., ROGER SWARTZ ON BEHALF OF HIS DAUGHTER E.A.S. A 5-YEAR-OLD CHILD,

Plaintiffs-Petitioners

-*v.*-

Amy Gutmann, The Board Of Trustees At The University Of Pennsylvania, Scott Diamond, Penn Professor And Co-Founder Of Reaction Biology Corp., The Board Of Trustees At Princeton University, Abigail Doyle, Formerly Professor At Princeton Univ., Diane Carrera, David Macmillan, Professor At Princeton University, Robert Hartman, Employee at Reaction Biology Corp., Haiching Ma, Robert Hartman, Conrad Howitz, Kurumi Horiuchi.

Defendants-Respondents

PETITION FOR A WRIT OF CERTIORARI

On Petition for a Writ of Certiorari to the U.S. Court of Appeals for the 3rd Circuit

Roger Swartz, on behalf of himself & on behalf of his minor son A.S. & 5-year-old daughter E.A.S.
100 Cambridge Street 14th Floor | Boston, MA 02114
email: rogerswar373@gmail.com | Tel: 1 617 749 0065

Appeal from the Decision, Order and Judgment of The United States Court of Appeals for the Third Circuit to require that Roger Swartz's minor children A.S. and E.A.S. be represented by counsel for claims Roger Swartz brings on behalf of his children A.S. and E.A.S. a 5-year-old child from the Memorandum-Decision and Order and Judgment of The United States District Court for the Eastern District of Pennsylvania by Judge Edwardo Rubreno entered on March 23, 2022 and Action No. 22-1568.

QUESTIONS PRESENTED

1. When one learns the practice of law limited through experiential learning because they have been deprived of their 14th Amendment Rights and many other rights by State Actors do they have has a right to function as a lawyer in the same way as lawyers that have trained in law school and passed the Bar?

2. In cases where defendants-respondents are deeply resourced and have a history of meddling into the affairs of others by influencing them to break the law without boundaries establishing there is a very high likelihood they will illegally meddle into the affairs of any council assigned to represent minor children and likely compel them to undermine the case does that provide a basis for a parent with nontraditional attorney training to represent their child?

3. In cases where the development of a case is determined by the efforts of a single individual, Roger Swartz, where it would be impossible for any other individual to develop the case without the individual, Roger Swartz, largely writing the entire dispute for the lawyer does that present such an onerous burden on the both the individual Roger Swartz, and the lawyer that the individual, Roger Swartz in this instance, should have a right to represent their minor children in the same case?

4. Is there no means for which a court may use to assess the competence of an individual to adequately represent another in a tort case seeking financial damages, not reimbursement, other than a degree from an accredited law school?

5. In cases where it is virtually impossible for a party to bring a suit forward at any point in the future without the parent developing the case for which the parent is a separate party in the case is the parent entitled to represent the child in a tort case seeking financial damages, not reimbursement?

6. Can a parent represent a child in a tort case seeking financial damages if that tort case relates to ensuring financial damages are awarded as a means to avert developmental harm caused by specific defendants-respondents, a precedent that is superior to

any tort suit-council requirement, caused by the actions of defendants-respondents?

7. Can a parent represent a child in a tort case if the outcome of the child's tort case seeking financial damages is entirely determined by the parent's self-representation of the identical tort suit that the parent is seeking for themselves and where the is no possible additional advantage for the minor to have representation not by the parent?

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The *sue sponte* Order and Judgment of The United States Court of Appeals for the Third Circuit to require that Roger Swartz's minor children A.S. and E.A.S. be represented by counsel for claims Roger Swartz brings on behalf of his children A.S. and E.A.S. a 5-year-old child is unpublished at 22-1568 at 3d. Cir. Dkt. No. 3. The opinion Memorandum and Decision of the United States District Court for the Eastern District of Pennsylvania 2:21-cv-04330-ER is available at 2022 WL 852464 and 2022 WL 852462 respectively.

JURISDICTIONAL STATEMENT

The *sue sponte* Decision, Order and Judgment of The United States Court of Appeals for the Third Circuit to require that Roger Swartz's minor children A.S. and E.A.S. be represented by counsel for claims Roger Swartz brings on behalf of his children A.S. and E.A.S. a 5-year-old child was entered on April 1, 2022. Sealed Motion for Reconsideration and Notice of Intention to Appeal the April 1 Order and Judgement to the Supreme Court of the United States (3d. Cir. Dkt. No. 13) was filed by Plaintiffs-Petitioners on April 22, 2022. Petition for a Writ of Certiorari was sent via courier in accordance with 28 U.S.C. §1254 on June 30th, 2022. The U.S. Supreme Court Clerk Scott S. Harris sent correspondence regarding corrections needed to be made to the Petition in accordance with Rules 14.1(a) and 34.1(f) due by September 6, 2022.

STATUATORY BACKGROUND AND STATEMENT OF THE CASE RELATED TO ROGER SWARTZ'S RIGHT TO REPRESENT HIS MINOR CHILDREN

Section I of the 14th Amendment states

> "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."

(U.S. Const. Amend. XIV, § 1). When a State deprives a person of career opportunities available to that person without due process of the law that state can be said to deprive that person of nearly all life, liberty and property and the State and State Actor(s) are liable under 42 U.S.C. § 1983. That is because one's choice of career is a choice that enables them to earn income to acquire property, is the means by which they live their life and almost universally the factor that enables a quality of life. It requires liberty to pursue a competitive career. Perhaps one of the primary means with which one pursues a career is through a letter of recommendation to gain access to a formalized training programs. Being deprived of such letters through the illegal action of the State or State Actors prevents access into such formalized training programs. Consequently, the desire to become a professional in such a capacity may be limited to planned or inadvertently opportunistic

experiential learning where the individual unlawfully deprived of their rights to life, liberty and property and deprived of other rights such as 20 U.S.C. § 2501 which provides Federal Assistance to states to ensure that every person has the "opportunity to gain knowledge and skills necessary for gainful maximum employment and for full participation in our society according to his or her ability" and 20 U.S.C. §1221-1 where the Congress "declares it to be the policy of the United States of America that every citizen is entitled to an education to meet his or her full potential without financial barriers", develops a level of competence in a field that surpasses that of most individuals formally trained in that professional capacity. When that profession is that of an attorney this presents an interesting question as to whether one that has been deprived of their 14th Amendment Rights and many other rights by State Actors has a right to function as a lawyer no different than lawyers that have trained in law school and passed the Bar Exam.

An attorney enjoys the right to represent others in a court of law including their minor children. While there is a common law presumption against representation by non-lawyer parents of minor children.

In seeking to represent his own best interests—as seen in the eyes of the law—and legal rights through representation of himself for years Roger Swartz developed an expertise in the practice of law.

Through, this experience Roger Swartz had come to recognize that his capacity to effectively represent himself and his children in the present proceeding allowed him though the filing of this this complaint with the U.S. District Court to no longer live under the fear of himself, A.S. and E.A.S. as well as E.S. suffering additional damages for bringing a complaint against defendants-respondents after having his 14th Amendment rights denied to him, his 13th Amendment Rights denied to him, Where his career ruined and subject to multiple counts of fraud by his former doctoral advisor Abigail Doyle, his Family terribly damaged in modern day terms that is his "home was figuratively[1] burnt down by defendants" his wife subjected to a sham employment opportunity by Reaction Biology Corporation as the platform to be employment raped by Robert Hartman and Conrad Howitz through the chain of command direction of Amy Gutmann-compelled by Abigail Doyle, where additionally Scott Diamond, Kurumi Horiuchi and Haiching Ma all either state actors or aiding and abetting state actors and thus may be treated as Principals or the equivalent of State Actors for any act that they aided and abetted. See, *e.g.*, *Petro-Tech, Inc. v. W. Co. of N. Am.*, at 1357, (3d Cir. 1987). Where after having his family, career and source of income suffer a totality of damages was left with no choice by to send his son A.S., then 2-years-old, to live in another country with A.S.'s grandparents for 16 months primarily out of fear to best preserve A.S.'s well-being from the actions of specific defendants-

[1] This is an instant where the figurative term carriers far more consequences and damages than the literal term as a home is a material thing.

respondents especially Amy Gutmann and Abigail Doyle.

It was the active learning of the law through a separate mater that Roger Swartz came to realize that he had the capacity to put together the present proceeding where he could also liberate himself from the fear of him, his children A.S. and E.A.S. a 5-year old child and E.S. from suffering further damages from the actions of defendants-respondents where beyond an "extraordinary circumstance stood in his way" (quoting, *K.G. v. Sec'y of Health & Human Servs.*, No. 18-120V, 2018 WL 5795834, at *5 (Fed. Cl. Spec. Mstr. Aug. 17, 2018)) from bringing this proceeding to court sooner.

In this proceeding Roger Swartz contends that he has the right to represent his children not only because he is an attorney though self-training and experiential learning that has been deprived of his 14th Amendment Rights by State Actors that prevented his access to honest letters of recommendations but also and separately the complexity of this suit that has no remotely similar case that a lawyer may draw experience from. Thus, because Roger Swartz is representing himself and the outcome of Roger Swartz's case will entirely determine the outcome of A.S.'s and E.A.S.'s nearly equivalent tort suit there is less than a *de minimis* potential advantage conferred to A.S. and E.A.S. by having a different attorney represent them and potentially a disadvantage. Rather there is only the likely possibility that another attorney would botch their case. The very common law notion behind another's right to trained and

competent legal representation is that their case will be properly carried out by one trained in the law and with respect to adjudication of the issues presented as the basis for the complaint. See, *e.g.*, *Brown v. Ortho Diagnostic Sys.*, Inc., 868 F. Supp. 168 (E.D. Va. 1994). Although, the only way that Roger Swartz would prevail in his personal tort suit is if he meets and significantly exceeds that standard while effectively participating in the adjudication process and since the outcome of A.S. and E.A.S.'s suit is determined by the outcome of Roger Swartz's identical tort suit then it logically follows that Roger Swartz must meet the professional legal standard for A.S. and E.A.S. to prevail.

A.S. and E.A.S. are on a timeline they need the financial damages they are entitled to from this suit to avert development harm—due to the action of defendants-respondents—that could soon become irreversible if damages are not awarded in the near future. This precedent is superior to any common law tort suit-council requirement. A.S. and E.A.S. are each not in any way "non-perishable commodities able to be warehoused until the termination of in rein proceedings." (quoting *Winkelman v. Parma City School District*, at 42, 2006 WL 3805868, Brief for Petitioners). The law—speaking of the courts—has recognized factors related to parental representation of a minor child that supersede the common law presumption against it if that parent has not attended law school. Those factors including but not limited to considerations when it is difficult to find an attorney, and parents of these unique types of cases are often unable to find an attorney, when the case is made up

of such unique factors that lend themselves to costly and lengthy drawn-out legal proceedings and when the issues at hand are sufficiently uncommon as evidenced by a comprehensive search for relevant case law, additionally, "the benefits sought are intended to aid children during their childhood and, therefore, must be timely provided" (*Id.* at 416 (citing *Maldonado v. Apfel*, 55 Supp. 2d 296, at 305 (S.D.N.Y. 1999))).

RELEVANT STATUATORY PROVISIONS

U.S. Const. Amend. XIV, § 1
(See, *e.g.*, *supra.* pp. 2)

U.S. Const. Amend. XIII, § 1
(See, *e.g.*, *infra.* Appendix D pp. 20a)

20 U.S.C. § 1221–1
(See, *e.g.*, *supra.* pp. 3)

18 U.S.C. § 1341 - Frauds and Swindles – Provides the Relevant Part:

> "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious

> coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both."

42 U.S.C. § 1983 - Civil Action for Deprivation of Rights – Provides in the Partially Relevant Part:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an

> action at law, suit in equity, or other proper proceeding for redress"

Racketeer Inspired Corrupt Organizations (RICO) 18 U.S.C. § 1961

(See, e.g., *infra.* Appendix C pp. 19a)

18 U.S.C. § 1590 - Trafficking With Respect To Peonage, Slavery, Involuntary Servitude, Or Forced Labor - as a Criminal RICO Predicate Act – Provides in the Relevant Part:

"(a)Whoever knowingly recruits, harbors, transports, provides, or obtains by any means, any person for labor or services in violation of this chapter shall be fined under this title or imprisoned not more than 20 years, or both."

Chapter 77 of U.S.C. Title 18 as a Criminal RICO Predicate Act by the above 18 U.S.C. § 1590 caption.

18 U.S.C. § 241 Conspiracy Against Rights - As A Criminal RICO Predicate Act – Provides in the Partially Relevant Part:

> "If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United

> States, or because of his having so exercised the same; or
>
> If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—
>
> They shall be fined under this title or imprisoned not more than ten years, or both"

18 U.S.C. § 1343 - Fraud by Wire, Radio, or Television – Provides in the Partially Relevant Part:

> "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be fined under this title or imprisoned not more than 20 years, or both."

18 U.S.C. § 666 - Theft or Bribery Concerning Programs Receiving Federal Funds – Provides in the Relevant Part:

"(a) Whoever, if the circumstance described in subsection (b) of this section exists—

(1) being an agent of an organization, or of a State, local, or Indian tribal government, or any agency thereof—

(A) embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that—
(i) is valued at $5,000 or more, and

(ii) is owned by, or is under the care, custody, or control of such organization, government, or agency; or

(B) corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of such organization, government, or agency involving any thing of value of $5,000 or more; or

(2) corruptly gives, offers, or agrees to give anything of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or

> series of transactions of such organization, government, or agency involving anything of value of $5,000 or more;
>
> shall be fined under this title, imprisoned not more than 10 years, or both."

Intentional Infliction of Emotional Distress

> "The tort of intentional infliction of emotional distress (IIED) occurs when one acts abominably or outrageously with intent to cause another to suffer severe emotional distress, such as issuing the threat of future harm."

Intentional Infliction of Emotional Distress *prima facie* claim in Pennsylvania (See, *e.g.*, *Manley v. Fitzgerald, at 1241,* 997 A.2d 1235 (Pa. Commw. Ct. 2010))

> "a prima facie claim, Plaintiff must plead facts demonstrating that (1) a person who by extreme and outrageous conduct (2) intentionally or recklessly caused (3) severe emotional distress to another"

FACTUAL BACKGROUND

COMPREHENSIVE CASE INTRODUCTION

Defendants-respondents undermined well-being and most fundamental rights of Roger Swartz and E.S. where some defendants-respondents including Amy

Gutmann broke an untold number of laws where the totality of damages that defendants-respondents brought onto Roger Swartz and E.S. resulted in their children A.S. and E.A.S. being affected (Also see Sealed Causes of Action E.D. Pa. Dkt. No. 11 and Sealed Motion for Reconsideration 3d. Cir. Dkt. No. 13) and because both their parents Roger Swartz and E.S. had sustained damages brought onto them by specific defendants-respondents in a way that makes things like of arson of one's home—that is

> "Here the conduct of Reaction Biology Corporation defendants fits seamlessly under the Restatement provision definition cited by *Petro-Tech, Inc. v. W. Co. of N. Am.*, (3d Cir. 1987) and all of their supporting caselaw that is internally cited. Looking closely at *Smith v. Thompson* (Ct. App. 1982) that held an employer liable for encouraging employee to burn down Plaintiff's house we see a great deal of parallelism that is figuratively speaking Reaction Biology Corporation defendants though aiding and abetting via chain of command from University of Pennsylvania defendants"... Amy Gutmann and Scott Diamond where Amy Gutmann was compelled by her daughter Princeton University defendant-respondent Abigail Doyle ..."had done far worse than burn down Plaintiffs' homes they actually burned down part of Plaintiffs' lives. Being that there was no physically

> injury Plaintiffs[-Petitioners] would substantially preferred having their home literally burnt down rather that figuratively. This is one of those instances where the figurative sense carries a far worse consequence on Plaintiffs-[Petitioners] than the literal term. A home is a material thing but how does one replace lost years. Really the only way to do that is to improve quality of life with financial damages awarded to Plaintiffs." [and bring those responsible to justice].

(E.D. Pa. Dkt. No. 50 pp. 30)—look like a parking ticket in comparison to the things that these specific defendants-respondents did through premeditated and chain of command efforts that undermined every major aspect of the life of Roger Swartz and E.S. Plaintiffs-Petitioners stated many times throughout out their filings that "when both parents of child are undermined, the damage caused on the child far exceeds the damage of the sum of the two parents separately sustaining that harm." ("a" omitted as an error) (E.D. Pa. Dkt. No. 1 pp. 9 ¶ 21)

The laws broken by specific defendants-respondents are extensive: Amy Gutmann through chain of command to Scott Diamond while being compelled by her daughter Abigail Doyle violated the rights of Roger Swartz and E.S. and broke many laws including their 14th Amendment Rights, 18 U.S.C. § 241 Conspiracy Against Rights, curtailed Roger Swartz's 13th Amendment Rights subjecting him to

involuntary servitude a violation of Criminal RICO based on 18 U.S.C. § 1590 as a predicate act, civil RICO and also Chapter 77 of U.S.C. Title 18. Abigail Doyle also compelled Gutmann to break 18 U.S.C. § 1343 and 18 U.S.C. § 666(a)(1)(A). See, *e.g.*, E.D. Pa. Dkts. No. 56 pp. 38 and No. 1 pp. 45-50).

Furthermore, Abigail Doyle committed three counts of Fraud against Roger Swartz including First,

> "Abigail Doyle led Roger Swartz on into thinking that he could earn a PhD thereby causing Roger Swartz to exert extensive time and effort in a manner that is not sustainable. Although, through her ill intent Abigail Doyle undermined this effort not on the basis of job performance"... "where Abigail Doyle defrauded Roger Swartz out of completing work at a specific intensity when she had no intention to support his completion of his PhD. Additionally, Abigail Doyle sought to bring career harm to Roger Swartz by leading him down a path that led him to think he had a fair chance to obtain a PhD when she had no intention of supporting it"... while ..."placing unusually disproportionate demands on him led Roger Swartz to exert efforts that outstripped other lab members in order to meet the disproportionate requirements Abigail Doyle placed on him"

(*Id.* at ¶ 49) Where "These demands forced Roger to work 100 hours a week or more or about 30 hours per week more than other Doyle group members" (*Id.* at pp. 59 ¶ 80) that were all initially same year graduate students as Roger Swartz and later in Roger's second year of graduate school encompassed both first and second year graduate students. Second, during the PhD candidacy exam writing period

> "Abigail Doyle attempted to create a sort of fraud and misrepresentation"... ..."in that she instructed Roger Swartz to report the purpose of his research was something that it was not as a means to undermine him. Writing in the "Specific Aims" section that the purpose of one's research is to accomplish or investigate something already done with no new science incorporated was a clear ground for one to both have the graduate student's credibility questioned but also to lose the authorship rights of their work. That is it was a basis to be failed on one's general exam a point that was made quite clear to graduate students not to conduct research that is a repeat of already completed research. Although, one cannot avoid partially overlapping with the research of others in the field the "Specific Aims" section allowed a graduate student to explain the uniqueness of their research and what specifically they were trying to accomplish to demonstrate the

> originality of one's research. Roger Swartz wrote the actual reason of his research in the "Specific Aims" section of his thesis dropping the thesis off to Abby on or about January 4th, 2010" (see Dkt. No. 1 pp. 17 - 18 ¶¶ 28).
>
> Plaintiff Roger Swartz not carrying out this fraud resulted in a negative consequence on Roger Swartz being push[ed] out of his research program and could also be viewed as an additional fraud if not part of the same fraud since Doyle punished Roger Swartz for not committing the fraud rather than for a legitimate reason."

(quoting E.D. Pa. Dkt. No. 56 pp. 19). Abigail Doyle likely developed a motive to steal the research credit from Roger Swartz and simply give it to another lab member. Why would she do that? Well initially she received an order from Diane Carrera the right-hand person to David MacMillan. But later Abigail Doyle saw that Roger Swartz had made significant research breakthroughs in the lab and that his work over a period of 12 months comprised several publications. Finally, after no longer being a member of Abigail Doyle's lab

> "Roger Swartz requested Abigail Doyle write him a letter of recommendation for employment opportunities Abigail Doyle verbally told Roger Swartz she would only support him to work in a lab

> restricting him from other opportunities[2] as she attempted to subject Roger to involuntary servitude violating his 13th Amendment Rights"

(quoting E.D. Pa. Dkt. No. 1 pp. 41 ¶ 51). Additionally, when Roger Swartz mentioned his interest in non-laboratory work to Doyle

> "Abigail Doyle essentially [3] told Roger Swartz that he could try to apply and interview for other employment opportunities, but they would not result in an actual job." (Dkt. No 1 pp. 44 ¶¶ 52) and additionally "Abigail Doyle essentially stated to Roger Swartz that she would only present him in a light to get specific types clearly implying that she would portray him in a different light to prevent him from obtaining another type of job." (Dkt. No 1 pp. 44 ¶¶ 52)."

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[2] To the extent that an opportunity required that Abigail Doyle to be a reference or furnish a letter of reference. Effectively, this encompassed virtually every employment opportunity.

[3] What is meant by this specific instance of essentially is that this was the crystal clear, without other possible interpretation, take away from the conversation, but no quotations are provided. That is, "Abigail Doyle had attempted to undermine the well-being of Roger Swartz by trying to force him into roles via stating restrictions on being a reference only to specific roles." (E.D. Pa. Dkt. No. 1 pp. 43 ¶ 52) and Roger Swartz's inquiry into nonlaboratory-based roles was met with as close to an exact comment from Abigail Doyle as possible sating "you could try but it would be unlikely to result in a job"

(quoting E.D. Pa. Dkt. No. 56 pp. 18) It is important to understand the use of essentially in this second instance as one where that there was no other conclusion that is possible. Or in other words it was a 1 + 1 = 2 conclusion.

The Early Summer Start at Princeton University's Doctoral Program in Chemistry

Roger Swartz initially joined the lab of David MacMillan at Princeton University as a PhD student as part of an early summer 2008 start 2 months before the start of the regular school year. While meeting and exceeding the 9am – 11pm, with 2-hour evening break laboratory schedule in MacMillan's lab Roger recognized that he needed to also prepare for placement exams scheduled at the beginning of September. Thus, Roger made a first then second request to take 2 additional hours out of the lab schedule for 4 weeks so that he could strictly and solely prepare for 4 different rather extensive placement exams. David MacMillan agreed and asked Roger to leave the lab the following week but only after completing the project assigned to him. Upon completing the project about 3½ months later MacMillan told Roger to leave the lab that day. While making his way to the main entrance of the building with his things post-doctoral associate Mark Scott said to Roger Swartz that he'd better go David MacMillan's office and beg him, literally beg, him to take him back. The post-doctoral associate was explained to Roger there would be trouble if he did not go to David MacMillan and literally beg him for

another chance. In other words Mark Scott was threating Roger Swartz as to his well-being and future if he did not go and beg to David MacMillan for another chance to take him back. It was a very clear threat as to Roger Swartz's well-being threat Mark Scott was making on David MacMillan's behalf that he was making towards Roger. As if Roger would be required to engage in types of begging behaviors that are equivalent to having their career and in turn their well-being spared figuratively speaking or something along those lines. This was not 100% surprising to Roger Swartz. A few months earlier during the summer of 2008 Tristram Lambert now professor at Cornell University but then a professor at Columbia University was invited to a MacMillan Group bar-bee-cue where Tristram was asked to give a speech a significant portion of the speech, greater than half, focused on how David MacMillan did not like a graduate student and appeared to single handedly dismantle the well-being of this individual, their career and the opportunities available to them. This talk by Tristram Lambert was followed by a rather more friendly talk by fifth year graduate student Diana Carrera who then was considered a kind of right-hand person to David MacMillan. Only two people other than David MacMillan spoke at the bar-bee-cue Tristram Lambert and Diane Carrera. With this history in mind and recollecting back to David MacMillan's summer bar-bee-cue the threat looming from David MacMillan delivered on his behalf by Mark Scott started to appear consistent with other observations made of David MacMillan. On the other hand, it was certainly rather surprising for Roger Swartz to observe this behavior from Mark Scott who

appeared to be a rather placid person to deliver threats. Then again, Mark Scott did speak of participating in a number of very small gatherings that including a couple other post docs, but not all other post docs, and David MacMillan. Roger Swartz chose not to beg MacMillan.

Abigail Doyle's Three Counts of Fraud and Doyle's Extensive Undermining of Roger Swartz

Over time in communicating with another faculty Roger Swartz joined the lab or Abigail Doyle who was then a first-year faculty member in the chemistry department. Sometime thereafter less than a month after Roger Swartz started in Doyle's lab Diane Carrera then the so called "right hand person" to David MacMillan went with Abigail possibly for a lunch or coffee. That is, it was on or about noon and Abigail Doyle and Diane Carrera went somewhere together in their coats and were gone for a little more than an hour. Diane Carrera had a reputation to be sort of the right-hand person of David MacMillan. Immediately following Abigail Doyle's lunch with Diane Carrera there was an animosity from Abigail towards Roger Swartz. As if their working relationship went from friendly that morning to Abigail functioning in such a way to be very difficult to communicate and work with that afternoon forward. It virtually and immediately became quite clear that Abigail was violating employment laws by creating unusually different standards for students that are supposed to be considered at the same level.

Abigail Doyle committed three counts of Fraud against Roger Swartz. (See, *e.g.*, *supra.* pp. 15-19).

Amy Gutmann's Undermining the Entire Family of Roger Swartz including Ordering the Rape of E.S. the wife of Roger Swartz when his son A.S. was 1 year old.

After leaving Princeton in June 2010 Roger Swartz enrolled in the PhD program in Materials Engineering at his alma mater Drexel University. Although, it quickly became apparent that the situation at Princeton found its way into the graduate program at Drexel University. This ultimately caused Roger Swartz to have to leave Drexel after 9 months when his son A.S. was then 3 months old.

Consequently, Roger Swartz chose to start a test prep and tutoring business with the idea that he could try and support his family without having to rely on references that would try and force him into suppressive roles. Although, it became apparent with time that about 50% of the persons hiring Roger for tutoring were done so by the influence of Amy Gutmann, University of Pennsylvania and in some instances Princeton University Department of Chemistry.

By Amy Gutmann being compelled in part by her daughter Abigail Doyle, Amy Gutmann through chain of command ordered Scott Diamond to have Reaction Biology Corporation undermine the family of Roger Swartz. Amy Gutmann spurs this by Scott Diamond having Reaction Biology Corporation create a bogus project where E.S. was hired by Reaction Biology to work on that bogus project. Haiching Ma hired E.S. where the bogus project served as the means for Kurumi Horiuchi to abuse E.S. while Robert Hartman sexually harassed E.S. and committed employment rape on E.S. This employment rape was misrepresented by the District Court Judge Eduardo Robreno as sexual harassment (See, *e.g.* E.A. Pa. Dkt. No. 70, pp. 5) when in fact it was rape where rape has a single definition. Additionally, Conrad Howitz committed employment rape on E.S. Or in other words:

> "By giving E.S. a project that was fundamentally flawed and unsuitable in nature it impaired E.S.'s ability to make progress this allowed her to harassed by her supervisor Kurumi Horiuchi and this acted to threaten the employment of E.S. cause her to give into sexual harassment and employment rape. Kurumi Horiuchi would verbally abuse E.S. and threaten her on her performance followed by repeated verbal sexual

> harassment by Robert Hartman. Thus, E.S. was being sexually harassed when her job was at threat thus placing E.S. in a very vulnerable position because she felt as if she had limited recourse because her performance was already in question."... due to the bogus project assigned to her... "**This led to a form of employment rape on E.S. in a process that she felt her ability to provide for her**" **...then one year old... "child A.S. depended on.** At about the same time Roger Swartz who then worked as a tutor saw a dramatic decrease in demand from existing customers resulting in earnings losses while at the same time also having some customers act in unfavorable ways towards him. All these so to speak suddenly unfavorable customers had links to University of Pennsylvania or Princeton University. That is they had parents or grandparents that were either employed by these institutions"

(quoting E.D. Pa. Dkt. No. 1 ¶ 60). In the weeks leading up to the employment rape of E.S. by Robert Hartman, Roger Swartz saw a dramatic loss in income because it became clear and apparat that

many of Roger Swartz's customers were planted[4] by Amy Gutmann and other defendant(s)-respondent(s).

THE TOTALITY OF DAMAGES SUSTAINED FROM THE ACTIONS OF SPECIFIC DEFENDANTS-RESPONDENTS BROUGHT DEVELOPMENTAL HARM TO A.S. AND E.A.S. THE CHILDREN OF ROGER SWARTZ.

THIS HARM TO BOTH CHILDREN OF ROGER SWARTZ WAS LED BY THE CRIMINAL AMY GUTMANN COMPELLED BY HER DAUGHTER ABIGAIL DOYLE AND CARRIED OUT IN PART BY THE CRIMINAL AND RAPIST ROBERT HARTMAN.

THESE CRIMINALS AMY GUTMANN AND ROBERT HARTMAN ARE GUILTY OF SERIOUS CRIMES SIMILAR TO PREMEDIATED MURDER IN ROGER SWARTZ'S OPINION.

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[4]After the time of the employment rape of E.S. there was an extensive number of Shock the Conscience comments made by customers to Roger Swartz, experiences planted by Amy Gutmann (See, *e.g.*, P.A. Ed. Dkt. No. 13 pp. 21-25 **Emphasis Added**) Additionally, because of their timing and relation to the whole of the events also were significantly shocking to the conscience. Although it is recognized that, "the measure of what is conscience-shocking is no calibrated yard stick," *Lewis*, 523 U.S. at 847, 118 S.Ct. 1708, and that "[d]eliberate indifference that shocks in one environment may not be so patently egregious in another." Id. at 850, 118 S.Ct. 1708." (Citing, *United Artists Theatre Cir., Inc. v. Twp. of Warrington, PA*, 316 F.3d 392 at 399 (3d Cir. 2003))" The context is critical.

"These damages sustained to Roger Swartz and E.S. from defendants-respondents have brought potential developmental harm to A.S. and E.A.S. This developmental harm could soon become irreversible if A.S. and E.A.S. are not awarded damages." (quoting E.D. Pa. Dkt. No. 1 ¶ 88).

"[W]hen both parents of a child are undermined, the damage caused on the child far exceeds the damage of the sum of the two parents separately sustaining that harm." (E.D. Pa. Dkt. No. 13 pp. 18 citing E.D. Pa. Dkt. No. 1 pp. 9 ¶ 21). Or stated differently "When both parents of E.A.S. are undermined E.A.S. is even further undermined far greater than the sum of each parent being undermined separately." (E.D. Pa. Dkt. No. 1 ¶ 3) That same can be said of A.S. (*Id.* at ¶ 4).

> "When both parents are severely undermined neither parent makes up for the difference and now the child is being raised by people that have had their constitutional rights taken from them in such a way that the developing child understands their rights from the perspective of the rights the parents have. But also, the complaint on behalf of the children relates to the future wellbeing of the children in an increasingly competitive society due to the actions of"...

...Amy Gutmann, Abigail Doyle, Scott Diamond, Haiching Ma, Kurumi Horiuchi, Robert Hartman,

Conrad Howitz and potentially other Princeton University defendants-respondents....

> ..."Because of the inextricable link between a child and parent and that child's need for their parents to have equal rights to others in society, their parents need to not have their efforts undermined by others especially illegally with ill intent, their parents need for a preservation of their 14th Amendment Rights of liberty and in turn property because of the codependence of liberty and property."... ...Additionally...
> ..."events such as employment rape that act to undermine the long-term well-being of the parent while also tending to undermine the career preparation of the parent that serves as the parent's means to earn a living. That career preparation is substantially harmed and undermined when the person is hired for a role because of that career preparation and is then subjected to a sham project, harassing events and employment rape. Further, such career harm can take a long-term toll on the individual until they feel they have gotten some justice from the unlawful activities. When any of these human rights, liberties and protective laws are compromised any child of such parent also suffers because a child's wellbeing is linked to the wellbeing of the parent. Additionally,

> that child's perception of the opportunities available to them also depends on the parent's perception of opportunities available to them. When a party acts purposefully to undermine those rights and to undermine one's perception to those rights, they also act to undermine their depend[ent] children because of a child's dependence on their parents for a sense of security and sense of well-being."

(*Id.* at ¶ 96).

> "Although, by undermining E.S. Robert Hartman also undermined the children A.S. and later E.A.S. born some years later that depend on E.S. to feel that she has had a fair shot in society, that she felt she was treated with dignity and respected in a humane way. Robert Hartman undermined all these rights of E.S. and in turn the children of E.S. suffered a developmental blow."

(*Id.* at ¶ 85).

Equitable Tolling Factors

Plaintiffs-Petitioners describe at length in numerous filings (E.D. Pa. Dkts. No. 13, pp. 15, No. 26 pp. 10, No. 50 pp. 20, No. 56 pp. 5-7, 16-17, No. 63 pps. 14-16, No. 67 pp. 20-22, 31-32) the extraordinary events that stood in the way of bringing this case to court sooner. Through, a series of events that took place for years Plaintiffs-Petitioners were horribly undermined in every major aspect of life (See, *e.g.*, E.D. Pa. Dkt. No. 1 in entirety also see E.D. Pa. Dkt. No. 13 pp. 5). Where

> "The U.S. Supreme Court has observed that equitable tolling of a limitations period should be permitted "sparingly." *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96, (1990). To obtain it, a litigant must establish "(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way" to filing the claim. *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005). The appropriateness of permitting equitable tolling is, however, to be determined on a case-by-case basis without rigid application of such overarching guidelines. *Holland v. Florida*, 560 U.S. 631, 649–50 (2010); accord *Arctic Slope Native Ass'n v. Sebelius*, 699 F.3d 1289, 1295 (Fed. Cir. 2012)."

(quoting, *K.G.*, 2018 WL 5795834, at 5). Where defendants-respondents brought "damages are of a severe enough nature and the Plaintiffs-Petitioners has reason to believe that they could suffer additional damages from defendants-respondents for taking any action that could be reason enough for that person not to bring an action forward." (quoting E.D. Pa. Dkt. No. 13 pp. 14). Roger Swartz feared for the well-being of his children. Plaintiffs-Petitioners have proof "that they have been pursuing their rights diligently in other capacities." (See, *e.g.*, 3d. Cir. Sealed Dkt. No. 13 pps. 5-10, 24-26)

PROCEEDINGS BELOW

Complaint Filed in the U.S. District Court of the Eastern District of Pennsylvania.

Roger Swartz on Behalf of Himself, Roger Swartz on behalf of A.S., Roger Swartz on behalf of E.A.S. commenced this complaint on September 30, 2021 for $260 Million in Damages for harm brought to his marriage, career, life, liberties, ability to acquire property and children by specific defendants-respondents. Plaintiffs-Petitioners had suffered an extensive amount of damages where numerous laws were broken by defendants-respondents in bringing damages against Plaintiffs-Petitioners including "20 U.S.C. § 2501; 20 U.S.C. § 1221–1; 13th Amendment as it relates to involuntary servitude, 14th Amendment as it relates to a deprivation of life, liberty and property,"... ..."18 U.S.C. § 1341; 18 U.S.C. § 1030; 18 U.S.C. § 1039; 18 U.S.C. § 1038; 42 U.S.C. § 1983; 18 U.S.C. § 241; 28 U.S.C. § 1332; 29

CFR Subtitles A and B;" (quoting E.D. Pa. Dkt. No. 1 ¶ 20) and Sealed Federal Laws (See, *e.g.*, E.D. Pa. sealed Dkt. No. 11). Additionally, violations against Plaintiffs-Petitioners included RICO 18 U.S.C. §§ 1961–1968 based on 18 U.S.C. § 1590 as a predicate act by Doyle and Gutmann and Diamond with Hartman, Howitz, Horiuchi and Ma aiding and abetting (E.D. Pa. Dkt. Nos. 50 pp. 21-24, 56 pp. 19-22, 37 and 67 pp. 10-11), 18 U.S.C. § 2 as a predicate act and based on civil RICO (see E.D. Pa. Dkt. No. 56 pp. 35-36), Chapter 77 of U.S.C. Title 18 as a predicate act (see E.D. Pa. Dkt. Nos. 50 pp. 21-22, 56 pp. 19-22, 38 and 67 pp. 10-11), Doyle Compelling Gutmann to undermined Plaintiffs-Petitioners under 18 U.S.C. § 241 Conspiracy Against Rights (see E.D. Pa. Dkt. No. 56 pp. 36-37), Similarly, Gutmann ordering Diamond to undermine Plaintiffs-Petitioners is a Violation of 18 U.S.C. § 241 Conspiracy Against Rights (*Id.*). Similarly, Diamond ordering Reaction Biology Corporation Defendants-respondents including Conrad Howitz, Robert Hartman, Kurumi Horiuchi and Haiching Ma to arrange the employment rape of E.S. and thereby causing an intentional infliction of emotional distress on Roger Swartz is a Violation of 18 U.S.C. § 241 (*Id.*), Doyle compelling Gutmann to bring harm to Plaintiffs-Petitioners in such a way so as to curtail Roger Swartz's 13th Amendment Rights subjecting him to involuntary servitude is a violation of Criminal RICO based on 18 U.S.C. § 1590 and also Chapter 77 of U.S.C. Title 18 and also civil Rico based on *Petro-Tech, Inc. v. W. Co,* 824 F.2d at 1356, Doyle further compelled Gutmann to undermine Plaintiffs-Petitioners to break 18 U.S.C. § 1343 and 18 U.S.C. §§ 666(a)(1)(A) (see E.D. Pa. Dkt. Nos. 56 pp. 38 and

1 ¶¶ 55-61). Carrera compelling Doyle to bring harm to Roger Swartz can be classified as a violation of Criminal RICO based on 18 U.S.C. § 1951 (see, E.D. Pa. Dkt. No. 56, pp. 20-21) and Furthermore MacMillan (see E.D. Pa. Dkt. Nos. 1 ¶¶ 103-104 and 56 pps. 20-22, 40-41) who compelled Carrera (see E.D. Pa. Dkt. Nos. 1 ¶¶ 78-81 and 56 pps. 20-22, 39-40) to act against Roger Swartz can be classified as Civil RICO based on *Petro-Tech, Inc. v. W. Co. of N. Am.*, (3d Cir. 1987).

Following a series of Motions to and replies by each group of defendants-respondents (E.D. Pa. Dkt. Nos. 10-1, 18 and 18-1; 47-1, 55 and 55-1; and, 51-1, 64 and 64-1) and a series of Oppositions and replies (E.D. Pa. Dkt. Nos. 13 and 26; 50 and 63; and 56 and 67 respectively) to defendant-respondents' motions by Plaintiffs-Petitioners the District Court Judge Eduardo Robreno was in complete support of defendants-respondents where the Robreno failed to address the entirety of the complaint, was unusually biased in favor of defendants-respondents, presented facts in a distorted light favoring defendants-respondents, provided a superficial analysis of the case ignoring essential details to allow for an easy dismissal, used inappropriate and nonapplicable caselaw to determine that Penn and Princeton University defendants-respondents are not State Actors so that it could determine that Plaintiffs-Petitioners could not pursue a claim under 42 U.S.C. § 1983 for a Constitutional Violation committed against Plaintiffs-Petitioners, (Generally, see 3d. Cir. Dkt. No. 24 pps. 4-7, 1-52) where the District Court dismissed the complaint in entirety with prejudice.

Appeal to the United States Courts of Appeals for the Third Circuit.

The notice of appeal to the U.S. Court of Appeals for the Third circuit was filed on March 28, 2022 Certificate of Service Filed on April 1 2022. On April 1, 2022 the 3rd Circuit Court sue Sponte issued a Decision and Order (3d. Cir. Dkt. No 3) to require that Roger Swartz's minor children A.S. and E.A.S. be represented by counsel for claims Roger Swartz brings on behalf of his children A.S. and E.A.S. Plaintiffs-Petitioners Principal Brief (3d. Cir. Dkt. No. 24) was timely filed on May 9, 2022.

REASONS TO GRANT CERTIORARI

ROGER SWARTZ IS AN ATTORNEY BY THE HIGHEST OF STANDARDS INCLUDING THOSE OF THE SUPREME COURT OF THE UNITED STATES BUT HAS LEARNED THE PRACTICE NOT THROUGH LAW SCHOOL AND WITHOUT MENTORSHIP BEYOND THAT OF EXPERIENTIAL LEARNING FROM JUDGES AND THE DEFENSE.

Roger Swartz exceeds the expected standard required of a lawyer, understands the law at the standard expected of lawyers admitted to practice in The Supreme Court of the United States and can write legal memoranda at the standard expected of lawyers admitted to practice in this court. Roger Swartz can and has conducted the primary element of a trial from filing the dispute, to discovery, to preparation of exhibits to questioning witnesses, to analyzing the record, to writing resulting memoranda, to appealing and negotiating. Roger Swartz is highly proficient in the review and analysis of caselaw using online tools including Westlaw, LexisNexis and with locating the fine details of filings through PACER. Roger Swartz understands how to draw links between different statues so as to demonstrate the effect one statute has on another. And collectively the filings by Roger Swartz on behalf of himself, A.S. and E.A.S. have established that he has done this on numerous instances. (See, *e.g.*, E.D. Pa. Dkt. Nos. 1, 11, 13, 26, 50, 56, 63 and 67 also see 3d. Cir. Dkt. Nos. 13 and 24). Thus, Roger Swartz is more than capable to represent A.S. and E.A.S. as gauged against the

standard set for lawyers permitted to practice in any court.

It is through the illicit actions of specific defendants-respondents that virtually every important element of the Plaintiffs'-Petitioners Roger Swartz, A.S. and E.A.S. human experience suffered a totality of damages (See, *e.g.*, *supra*. pp. 4-7, 12-19, 25-29).

DEFENDANTS-RESPONDENTS ARE STATE ACTORS—INCLUDING AMY GUTMANN, ABIGAIL DOYLE, DAVID MACMILLAN AND SCOTT DIAMOND OR AIDED AND ABETTED—INCLUDING HAICHING MA, ROBERT HARTMAN, CONRAD HOWITZ AND KURUMI HORIUCHI STATE ACTORS AND THUS MAY BE TREATED AS STATE ACTORS.

Where

> "One who has aided and abetted the commission of two predicate offenses is guilty of those offenses. *Standefer v. United States*, 447 U.S. 10, 100 S.Ct. 1999, 64 L.Ed.2d 689 (1980); *United States v. Provenzano*, 334 F.2d 678, 691 (3d Cir.1964); *United States v. Kegler*, 724 F.2d 190, 201 (D.C.Cir.1984) ("[a]n individual can be indicted as a principal for commission of a substantive crime and convicted by proof showing him to be an aider and abettor"). The doctrine of aiding and abetting is simply one way

> that an individual can violate the substantive criminal laws. See 18 U.S.C. § 2 ("[w]hoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal"); *Kegler*, 724 F.2d at 200"

(Citing *Petro-Tech, Inc. v. W. Co. of N. Am.*, at 1357 (3d Cir. 1987)). These State Actors and equivalent principals via aiding and abetting collectively caused a severe deprivation of Plaintiffs-Petitioners' basic rights. (See, *e.g.*, *supra.* pp. 4-5, 12-19, 25-29).

"[O]ur opinion in *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, 937, 102 S.Ct. 2744, 2753, 73 L.Ed.2d482 (1982), in which we held that the deprivation of a federal right may be attributed to the State if it resulted from a state-created rule and the party charged with the deprivation can fairly be said to a state actor."

(quoting, *Nat'l Collegiate Athletic Ass'n v. Tarkanian*, 488 U.S. 179, 109 S. Ct. 454, at 190*, 102 L. Ed. 2d 469 (1988)). In *Lugar v. Edmondson Oil Co.*, the U.S. Supreme Court stated

> "Conduct allegedly causing the deprivation of a constitutional right protected against infringement by a State must be fairly attributable to the State. In determining the question of "fair attribution," (a) the deprivation

> must be caused by the exercise of some right or privilege created by the State or by a rule of conduct imposed by it or by a person for whom it is responsible, and (b) the party charged with the deprivation must be a person who may fairly be said to be a state actor, either because he is a state official, because he has acted together with or has obtained significant aid from state officials, or because his conduct is otherwise chargeable to the State. Pp. 2754–2755."

(quoting *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, at 923*, 102 S.Ct., 2744, 2753, 73 L.Ed.2d, 482 (1982)). The first requirement of fair attribution that the deprivation of rights brought onto Roger Swartz and E.S. and in turn their children was due to a right or privilege created by the State is clearly supported since

> "13th and 14th Amendment Arguments Against University of Pennsylvania Defendants and Princeton University Defendants Get Government Funding in an Unbridled Way and Thus May be Held Accountable as a Government Actor without any Government-Related Protections.
>
> 1. It is the funding from government sources that gives faculty the freedom to explore almost completely unbridled to the extent that if they choose to they could engage in ill will and malice

> towards others and thus must be treated as if they are the government while also forfeiting any protections that government may have because of the amount of power that is derived from this funding relationship. Thought this funding relationship the government has effectively become the unknowing conduit"... ...and specific defendants-respondents the aggressor... ..."Although, a key issue at hand was the unbridled power that such persons are afforded thought this funding relationship that effectively must make them equivalent to the government in their liabilities but not protected in the same way due to the unbridled nature of the relationship."

(citing, E.D. Pa. Dkt. No. 50 pp. 42) That is the State is enabling this behavior by providing extensive funding without a check and balance in place there by enabling the exercise of a privilege that is attributable to the State. The second question of whether the defendants-respondents are

> "fairly be said to be a state actor, either because he is a state official, because he has acted together with or has obtained significant aid from state officials, or because his conduct is otherwise chargeable to the State."

(quoting, *Lugar v. Edmondson Oil Co.*, 457 U.S. 922, at 923*, 102 S.Ct., 2744, 2753, 73 L.Ed.2d, 482 (1982)) is also clearly conduct that is otherwise chargeable to the State. (See, *e.g.*, 3d. Cir. Dkt. No. 24 pp. 45-47 and pp. 8-10) (See, *e.g.*, *supra.* pp. 2-5).

THERE IS AN INVISIBLE BOUNDARY WITH RESPECT TO TORT CASES SEEKING FINANCIAL DAMAGES THAT COURTS STRUGGLE TO DETERMINE ON WHAT BASIS CAN A PARENT REPRESENT A CHILD AND THAT IS AN INJUSTICE TO SOME MINORS.

A common law rule should not be blindly adhered to so as to be the cause of injustice to children that would benefit. Consistently, cited in many judicial memoranda is the common law rule for representation of a party by an attorney that is trained in law school. There is an interest of the courts and the legal profession to maintain specific legal standards and standards of practice with respect to carrying out a case while ensuring a case is properly adjudicated. The thinking that a law degree with passed bar exam for that state sets the minimum threshold for representation of a party. The courts have made a number of exceptions to this rule especially in cases of parental representation of their children. These exceptions are guided by principles that are established to be of greater importance than preserving the common law rule. Judges can often, but not always, recognize when rigid adherence to common law rules with respect to parental representation can cause minors to have a less favorable outcome. Thus, exceptions have been made.

Those exceptions rest consistently on a foundation that has established:

A) There is a perfect alignment of interests between parent and child. (See, *e.g.*, *Machadio v. Apfel*, 276 F.3d 103, 107 (CA2 2002))

B) The parent is a separately real party of interest in the same proceeding and thus would be representing themselves and their minor child again supporting an alignment of interests. (*Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 127 S. Ct. 1994, 167 L. Ed. 2d 904 (2007))

C) There is an immediate or nearly immediate developmental need for the child to access what is sought or at stake. "A prime example is the virtually indistinguishable context of non-lawyer parents seeking judicial review of their children's adverse Supplemental Security Income (SSI) disability decisions. The courts confronting that context have consistently held that non-lawyer parents may bring their children's claims pro se." *Winkelman v. Parma City School District*, 2006 WL 3805868, Brief for Petitioners referring to *Machadio,* 276 F.3d, 103); *Harris v. Apfel*, 209 F.3d 413, 416 (CA5 2000); *Maldonado*, 55 Supp. 2d, at 305.

D) The courts have also recognized that when the minor party is likely to go without representation in cases where a lawyer would be too costly (See, *e.g.*, in *State v. Ritchie*, 757 P.2d 1247 (Idaho Ct.

App. 1988)) or where lawyers would be reluctant to take on the case that has already established itself to be voluminous with highly-highly specialized legal issues across many areas of specialization, without a significant retainer—This is not a viable option. Such cases are more than likely to go with no representation at all or with representation that is more interested in serving the best interest of the lawyer—such as seeking for a quick settlement that is favorable for the lawyer's efforts but unfavorable for the children.

E) The parent is recognized as a separate party in the same suit (See, *e.g.*, *Winkelman v. Parma City School District*, 127 S. Ct. 1994 at 517 (2007)) Furthermore, "It is not novel for parents to have a recognized legal interest in their child's education and upbringing." (*Id.* at 517)

The case for Roger Swartz's representation of A.S. and E.A.S. passes the litmus test for every one of these considerations in near perfect fidelity.

Although, the courts are blinded and have hindered themselves from applying any of these principles to tort suits where financial damages, not reimbursement, is sought. Courts have consistently held in such tort suits that permitting guardians to bring pro se litigation invites abuse (see *Cheung v. Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 61 (CA2 1990) cited by 540 cases in Westlaw) Rather, it is that very attitude that permits abuse of the decision-making process for when to permit and when

not to permit such representation. The courts must use the same degree of deliberation in reaching a parental decision on tort cases seeking financial damages as that of any other deliberation. Although, the courts consistently present a one-sided argument against parental representation of their minor children in tort suits seeking financial damages.

There is not a single tort suit seeking financial damages identified that judges have allowed a parent without a traditional law degree to represent a child. It is statistically impossible that in none of those tort suits the argument for parental representation did not supersede that argument against. Additionally, Judges have been reluctant to apply any balanced legal analysis to consider the possibility of parental representation in such tort cases demonstrating that their rigid and dogmatic adherence to this common law rule—that is not demonstrated to be the intent of congress—is self-defeating and a violation of the common law principal that a given rule should not contradict a principle of law that is superior to it. Rigid adherence to elements or the laws that impose potential harms on society run counter to the notion of an effectively functioning legal system that is in place to protect persons from harm rather than subject them to harm though a confused hierarchal regime.

BOTH A.S. AND E.A.S. HAVE WHAT IS ON THE VERGE OF BECOMING IRREVERSIBLE DEVELOPMENTAL HARM FROM THE ACTIONS OF DEFENDANTS-RESPONDENTS ON THE ROGER SWARTZ AND E.A.S. (SEE, *E.G., SUPRA.* PP. 25-29).

Perhaps the most paramount consideration in making a case for parental representation of a child in a tort suit seeking financial damages would be that of when the child needs the financial damages to reduce the likelihood of permanence from a developmental harm brought onto them by defendants-respondents. In cases where awarding monetary damages can be the basis to avoid developmental harm to a minor whose developmental process is a perishable commodity no legal authority can make a cogent argument that the seeking of monetary damages forms the basis for determining whether a parent can represent a child or not as other factors must weigh in.

This is not a products liability suit (*Brown,* 868 F.Supp. at 168, nor a medical malpractice suit (*Osei-Afriyie by Osei-Afriyie v. Med. Coll. of Pennsylvania,* 937 F.2d 876 (3d Cir. 1991)), nor a suit that has many equivalent cases—none for that matter—from which attorneys may draw from similar case experience and directly applicable caselaw.

THE CASE AGAINST PARENTAL REPRESENTATION OF MINORS LAY UPON A COMMON LAW NOTION THAT IS NOT EXPRESSLY STATED BY THE LEGISLATURE BUT IS WRITTEN BY THE COURTS. THUS, THERE SHOULD NOT BE A BLIND ADHERENCE TO A RULE NOT WRITTEN BY THE LEGISLATURE ESPECIALLY WHEN IT INVOLVES PARENTAL REPRESENTATION OF A MINOR IN A SUIT THAT THE PARENT HAS A NEAR IDENTICAL SUIT THEY ARE BRINGING ON THEIR OWN BEHALF.

> "And there is a need for A.S. and E.A.S. to immediately access monetary damages so they can bridge the gaps that are caused by defendants undermining of their parents. "Furthermore, it [is] obvious that awarding financial damages on the order of the amount sought will redress much of the injury. That is because injury that is not permanent can be redressed with sufficient investment in repair."

(quoting E.D. Pa. Dkt. No. 50 pp. 27-28)" (3d. Cir. Dkt. No. 13, pp. 16) Although, that does not mean that A.S. and E.A.S. may be undercut and subjected to unfair or inequitable monetary damages.

IF "ROGER SWARTZ WAS TO FIND COUNCIL FOR A.S. AND E.A.S. WITH ABSOLUTE CERTAINTY DEFENDANTS-RESPONDENTS WILL ILLEGALLY MEDDLE INTO THE AFFAIRS OF SUCH COUNCIL AND LIKELY COMPEL THEM TO PURPOSELY UNDERMINE THEIR CASE. THUS, FINDING COUNCIL FOR A.S. AND E.A.S. IS NOT AN OPTION FOR ROGER SWARTZ AND ROGER SWARTZ MUST REPRESENT" A.S. AND E.A.S. (3D. CIR. DKT. NO. 26 PP. 32).

Roger Swartz can demonstrate that he is just as competent to legally represent the interests of A.S. and E.A.S. as any lawyer admitted to practice in this court. And with respect to the issues at stake Roger Swartz has formed strong legal arguments for their case and such arguments have no legal precedent. Although, a lack of legal precedent does not mean that there is not a case but only the issues are unique and uncommon but they meet the basic requirement that that they have been aggrieved where both A.S. and E.A.S. have "been harmed by an infringement of legal rights." Black's Law Dictionary 73 (8th ed. 2004),

CONCLUSION

This Petition for a Writ of Certiorari should be granted.

Respectfully Submitted on June 30, 2022

8/8/2022

Roger Swartz On behalf of himself, Roger Swartz on behalf of his son A.S., Roger Swartz on behalf of his daughter E.A.S. a 5-year-old child.

APPENDICES

OPINIONS, ORDERS AND MEMORANDUM

STATUTES, RULES AND REGULATIONS

CONSTITUTIONAL PROVISIONS