No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

JACQUELINE CHUI,

Petitioner,

v.

BENJAMIN TZE-MAN CHUI, MARGARET TAK-YING CHUI LEE, ESTHER SHOU MAY CHUI CHAO, and JACKSON CHEN, ESQ.,

Respondents

On Petition for Writ of Certiorari to the Supreme Court of California

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PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Does the California guardian ad litem procedure which prevents challenge, deprive a 17-year-old minor of her due process rights under the 14th Amendment of the Constitution of the United States America?

2. Does the disparate application of the California guardian ad litem procedure when applied to minors offend the equal protection clause under the 14th Amendment of the Constitution of the United States America?

PARTIES TO THE PROCEEDING

Petitioners Jacqueline Chui, her mother Christine Chui, and her brother Michael Chui were the appellants below, and respondents Benjamin Tze-Man Chui, Margaret Tak-Ying Chui Lee, Esther Shou May Chui Chao, and Guardian Ad Litem Jackson Chen, Esq. were the appellees in the courts below.

STATEMENT OF RELATED CASES

- *In re. the Matter of the King Wah Chui and Chi May Chui Declaration of Trust – Trust B and C*, Case No. BP137413, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *King Wah Chui and Chi May Chui Declaration of Trust - Trust A*, Case No. BP155345, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *In re. the Matter of Estate of King Wah Chui*, Case No. BP154245, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *In re. the Matter of the Robert and Helena Chui Irrevocable Trust Matter*, Case No. BP145642, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.

- *In re. the Matter of the King Wah Chui and Chi May Chui Insurance Trust*, Case No. BP162717, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *In re. the Matter of the Estate of Robert Tak-Kong Chui,* Case No. BP143884, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *Esther Chao v. Estate of Robert Chui Matter*, Case No. BC544149, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *In re. the Matter of the Guardianships of the Estates for Jacqueline Chui and Michael Chui*, Case No. BP145759 Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *In re. the Robert Tak-Kwong Chui Separate Property Trust Dated May 9, 2003*, Case no. 16STPB04524, Superior Court of California, County of Los Angeles, Central District. Judgement entered June 24, 2020. Appeal Pending.
- *In re. the Estate of King Wah Chui,* Case No. B306918, Court of Appeal of the State of California, Second Appellate District. Disposition and opinion issued March 2, 2022. Rehearing denied March 28, 2022.

- *In re. the Estate of King Wah Chui*, Case No. S273980, Supreme Court of the State of California. Petition for Review denied June 15, 2022.

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PETITION FOR WRIT OF CERTIORARI

Petitioner requests that a writ of certiorari issue to review the denial of petition for review to the California Supreme Court entered on June 15, 2022, and the decision of the California Court of Appeal entered on March 2, 2022.

OPINIONS BELOW

The denial of the petition for review by the California Supreme Court (Appendix p.218) entered on June 15, 2022 is reported at *In re. the Estate of King Wah Chui*, Case No. S273980, Supreme Court of the State of California. The opinion of the California Court of Appeal entered on March 2, 2022, is reported at *Chui v. Chui* (2022) 75 Cal.App.5th 873. The decision of the judgment of the Superior Court for the County of Los Angeles is unreported

JURISDICTION

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 372 of the California Code of Civil Procedure provides for the imposition of a guardian ad litem for a minor. California Family Code section 6710 provides for the repudiation of contracts by a minor. The First and Fourteenth Amendments to the United States Constitution provide for the right

to petition the court, the right of due process, and for the equal protection of laws.

STATEMENT OF CASE

I. SUMMARY OF ARGUMENT: THE GUARDIAN AD LITEM SYSTEM USED IN THE UNITED STATES DEPRIVES MINORS OF DUE PROCESS AND EQUAL PROTECTION OF THE LAW

The underlying litigation[1] concerns a series of trust (and related) disputes among family members. Petitioner Jacqueline Chui is a trust beneficiary who was brought into the underlying litigation when she was 11 years of age (she is currently 19). Due to her young age at the beginning of the litigation both her mother and Jackson Chen, Esq., have acted as her guardians in the various lawsuits.

The instant appeal is brought from the denial of a petition for review submitted to the California Supreme Court seeking review of the due process and equal protection problems explained herein below.

Minors may appear before a court in an infinite variety of contexts: the minor may be in trouble with the criminal law, seek emancipation from her parents, seek medical treatment, or even abortion. In s*ome,* but not all instances, California

[1] The facts pertaining to this appeal are set forth in the Court of Appeal decision, see Appendix pp. 1-91.

courts require persons under the age of 18 to appear only if they are represented by guardian ad litem (hereinafter "GAL").

There are three fundamental problems with the GAL procedure in California, a procedure which is common throughout the United States.

The first problem is when the same person acts as both a GAL and an attorney for the ward. In the instant case, Jackson Chen, Esq., after being appointed GAL, also acted as attorney of record for Jacqueline Chui ("Jaqueline"). He not only made appearances on her behalf, but he actively advocated for settlement of the underlying lawsuit based upon a settlement document he negotiated and the terms of which he drafted. When informed that Jacqueline objected, he ignored her. The trial court, rather than hearing her complaint, refused to entertain Jacqueline's objection (because it had appointed a GAL, of course) and then went along with the GAL's recommendations for settlement.

When the GAL does more than act for the benefit of the ward, there is a known due process violation. The comment to section 115 of the 2017 Uniform Guardianship, Conservatorship and Other Protective Arrangements Act states:

> The section adds language not present in Section 115 of the 1997 act and the counterpart provision of even earlier versions of the act clarifying that the guardian ad litem may not be the same individual as the attorney representing a respondent. A similar statement was included in the

> comments to, but not text of Section 115 of the 1997 act. The role of the guardian ad litem is distinct from that of the attorney for a respondent, and the two often may be in conflict. The guardian ad litem typically is tasked with identifying and representing an individual's best interest. By contrast, an attorney for a respondent is tasked with advocating for the individual's wishes to the extent ascertainable (*see* Sections 204, 305, 406, and 507). Appointing the same person to take on both roles is thus incompatible with due process and does not advance the court's interest in fact-finding.

https://www.guardianship.org/wp-content/uploads/2018/09/UGCOPPAAct_UGPPAct.pdf

The second problem is that California does not allow minors to challenge or seek removal of a GAL. Federal law has long recognized that due process obliges and requires affording minors the opportunity to challenge or seek removal of their GALs. *See, e.g.*, *In re Moore*, 209 U.S. 490, 497 (1908) (overruled on other grounds) (finding a "guardian ad litem cannot, by admissions or stipulations, surrender the rights of the [minor]" and the court should ensure "they are not bargained away"); *Neilson v. Colgate-Palmolive Co.*, 199 F.3d 642, 652 (2d Cir. 1999) (collecting cases); *Dacanay v. Mendoza*, 573 F.2d 1075, 1079 (9th Cir. 1978); *Hull By Hull v. United States*, 53 F.3d 1125 (10th Cir. 1995). Yet, California law prohibits minors from challenging the actions of a GAL or seeking GAL

removal. GALs can abuse their positions with no oversight, which creates a clear violation of due process.

The third problem is one of equal protection. Under California law, a GAL is "necessary" for a minor to appear in Court: "Code of Civil Procedure section 372 recognizes that minors (as well as conservatees and individuals determined to be incompetent) are considered legally incapable of providing adequate direction to counsel. *A guardian ad litem is necessary* in such cases to stand in the role of the client." (*In re M.F* 161 Cal.App.4th 673, 680 (2008))

The claim that a GAL is "necessary" is misleading. The court claims that a GAL is necessary because a minor is "incompetent." But "incompetence" in this instance is not psychological incompetence; it is merely that the minor, by definition, is under the age of majority. Yet, the law does not treat all persons "under the age of majority" as "incompetent". It is the inconsistent application of the use of "incompetence" when based upon age, which proves the GAL procedure is irrational as both a matter of due process and equal protection.

If legal incompetence were truly a measure of personal incompetence, then the GAL procedure would be rational. The law would require a GAL in all instances when a minor appeared before the court. But that is not how the law is being applied: a GAL is not needed when seeking medical treatment, or emancipation from one's parents, or seeking an abortion.

Yet, there is no unique basis, much less one that withstands constitutional scrutiny for this disparate treatment of minors with an economic interest before the court. And, even then, it is not invoked consistently.

The irrationality of the law has arisen due to the piecemeal recognition that legal competence is not tied to one's 18th birthday. Some persons are competent-in-fact at a younger age than others. In this case, in particular, a board-certified psychiatrist from UCLA determined that Jacqueline was competent to enter into contracts, retain an attorney, and determine her future economic interests. This information was presented to the trial court, a fact which the trial court ignored, because you see, it had appointed a GAL.

Indeed, Jacqueline was refused the right to petition the court in her own name solely because she was 17 years old and not yet 18 years of age at the time. The deprivation of her constitutional right to speak, to be heard, to retain an advocate of her own choice was denied her based upon the illogic of the GAL system. But that illogic, underscored by the myth that actual competency can be determined by calendar, is a rationale which no court or legislature actually believes is true.

The inconsistency of the application of the "age equals competence" standard creates two constitutional infirmities: (a) it is proof that depriving a minor of the right to petition the court is an irrational deprivation of her due process rights (because everyone knows in fact that a 17-year-old *can* be competent); and (b) it is proof that

distinguishing between minors, one who may petition a court, and one who may not, is irrational and an offense to equal protection.

The law of most states provides for a number of instances in which minors are deemed competent without a particularized factual determination. The fact that *some* minors can appear before the court at age 15 and *other* minors of equal mental capacity cannot appear in their own name at 17 is not rational.

For example, California law provides for a child over the age of 14 to petition in her own name to be "emancipated" from her parents. (Cal. Fam. Code § 7000, et seq.) If Jacqueline had sought emancipation from her parents, the California courts would have permitted her to appear in the action without the interference by a GAL. (Cal. Fam. Code § 7050) But since she had elected to remain in her mother's home, rather than renting an apartment for herself, the California courts treat her as incompetent. This is irrational.

For example, California law permits a minor to contest and remove a "guardian of her person" or the "guardian of her estate"[2]. (Cal. Prob. Code

[2] Federal law has long recognized that due process obliges and requires affording minors the opportunity to challenge or seek removal of their GALs. *See, e.g.*, *In re Moore*, 209 U.S. 490, 497 (1908) (overruled on other grounds) (finding a "guardian ad litem cannot, by admissions or stipulations, surrender the rights of the [minor]" and the court should ensure "they are not bargained away"); *Neilson v. Colgate-Palmolive Co.*, 199 F.3d 642, 652 (2d Cir. 1999) (collecting cases); *Dacanay v. Mendoza*, 573 F.2d 1075, 1079 (9th Cir. 1978); *Hull By Hull v. United*

§§1601, 2651) But no such petition right is afforded to contest a court-appointed GAL? Again, this is irrational.

For example, if she were charged with a crime, the court appoints no guardian to protect her interests. She must hire a lawyer and prepare a defense. The state could even bring charges against her as an adult before she attains majority.

For example, the law recognizes that those even younger than Jacqueline can make significant decisions without aid of parent or guardian. (See, e.g., *Fam. Code* § 6924 [12-year-old may consent to mental health treatment]; *Health & Saf. Code* § 123450 [unemancipated minor may petition Court to receive an abortion without parental notice or consent]; *Code Civ. Proc.* § 372(b) [12-year-old may seek injunction or temporary restraining order to prohibit harassment].) But she is "incompetent" to petition the court on a civil matter or repudiate a commercial contract? This is irrational.

The appellate court conceded that a minor has the power to disaffirm a contract made in her name. But, since the court had appointed a GAL, she was divested of that capacity. The court deprived her of the right to petition the court. And when it comes to disaffirmance of a contract, it cannot even be on the basis of some alleged incompetency: The law of California explicitly grants the power of disaffirmance to a minor: that "a contract of a minor may be disaffirmed by the minor before majority or

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States, 53 F.3d 1125 (10th Cir. 1995). Yet, California denies Petitioner this right to challenge her GAL.

within a reasonable time afterwards." (Fam. Code, § 6710 ; see, e.g., *Berg v. Traylor* (2007) 148 Cal.App.4th 809, 820, 56 Cal.Rptr.3d 140 (Berg) ["'[a] contract (or conveyance) of a minor may be avoided by any act or declaration disclosing an unequivocal intent to repudiate its binding force and effect'"].)

The GAL system is incoherent. The minor has capacity on Monday to hire a lawyer and seek to remove her parent; but on Tuesday is incompetent to hire a lawyer to remove her GAL? On Wednesday she is charged with a crime and has no guardian at all, but still must hire a lawyer. On Thursday, in an action concerning her trust benefits, she is once again incompetent and not allowed to participate.

It is Jacqueline's contention that California (and other) courts' deprivation of a minor's right to repudiate a contract and the deprivation of the right to petition the government in one's own name deprives the minor of her due process rights to petition the government, and likewise is an irrational deprivation of equal protection of the law.

II. THE CALIFORNIA COURT'S ILLOGIC

While there was a consistent refusal to permit Jacqueline the right to petition in the trial court, a notable example of her loss of rights took place in the repudiation of a settlement contract made in her name. She denounced that contract prior to the trial court taking up the petition to confirm the settlement. The trial court simply refused to hear her repudiation because it had appointed a GAL over her. It is conceded by all that

if this contract had been made in any circumstance which did not involve a court-appointed GAL, she would have been competent to repudiate the settlement and the repudiation would have been received by all courts in California. At a minimum, the trial court should have heard her objections. Instead, it chose to ignore her.

The pertinent facts and the legal justification offered are set forth succinctly by the appellate court as follows:

> 7. *The Minors' Repudiations*
>
> The Minors contend that they disaffirmed the settlement agreement and the second GAL agreement when they filed their repudiations of the agreements. They rely on the general principle that "a contract of a minor may be disaffirmed by the minor before majority or within a reasonable time afterwards." (Fam. Code, § 6710; see, e.g., *Berg v. Traylor* (2007) 148 Cal.App.4th 809, 820, 56 Cal.Rptr.3d 140 (Berg) [" '[a] contract (or conveyance) of a minor may be avoided by any act or declaration disclosing an unequivocal intent to repudiate its binding force and effect' "].) This rule exists to protect minors "against [their] own improvidence and the designs of others. The policy of the law is to discourage adults from contracting with an infant and they cannot complain if as a consequence of violating the rule they are injured by the exercise of the right of disaffirmance vested in the infant." (*Burnand*

v. Irigoyen (1947) 30 Cal.2d 861, 866, 186 P.2d 417.)

As the cases Jacqueline cites illustrate, the principle has been applied to permit minors to disaffirm a minor's execution of a deed of trust (*Lee v. Hibernia Savings & Loan Society* (1918) 177 Cal. 656, 659, 171 P. 677), a minor's contract for personal services (*Berg* , *supra* , 148 Cal.App.4th at p. 817, 56 Cal.Rptr.3d 140), a minor's execution of a deed (*Sparks v. Sparks* (1950) 101 Cal.App.2d 129, 137, 225 P.2d 238), a minor's execution of a promissory note (*Niemann v. Deverich* (1950) 98 Cal.App.2d 787, 793, 221 P.2d 178), and a minor's contract for the purchase of real property (*Maier v. Harbor Center Land Co.* (1919) 41 Cal.App. 79, 80–81, 182 P. 345). The Minors, however, have not referred us to a case in which a minor disaffirmed an agreement entered into by the minor's guardian ad litem subject to court approval.

The general principle the Minors rely on—that a minor may disaffirm a contract before reaching majority—is subject to the proviso: "Except as otherwise provided by statute." (Fam. Code, § 6710.) Code of Civil Procedure section 372, subdivision (a)(1) expressly provides that a court-appointed guardian ad litem "shall have power, with the approval of the court in which the action or proceeding is pending, to compromise the same, to agree to the order or judgment to be entered therein

for or against the ward ..., and to satisfy any judgment or order in favor of the ward ... or release or discharge any claim of the ward ... pursuant to that compromise." This statute thus authorizes a guardian ad litem to make settlement agreements in judicial proceedings subject only to the approval of the court. (See *County of Los Angeles, supra*, 91 Cal.App.4th at p. 1311, 111 Cal.Rptr.2d 471; *Safai v. Safai* (2008) 164 Cal.App.4th 233, 245, 78 Cal.Rptr.3d 759.) To allow a minor to disaffirm a contract negotiated by the guardian ad litem would negate this authority. It thus falls squarely within the "otherwise provided by statute" exception to the general rule under Family Code section 6710 allowing minors to disaffirm contracts.

The exception is also supported by sound policy. The policy of discouraging adults from contracting with a minor is outweighed by the policy that favors settlement of litigation; if a minor could disaffirm a settlement agreement negotiated by his or her guardian ad litem, litigants opposing minors would have little incentive to seek a settlement with the minor, resulting in a waste of the litigants' and judicial resources. The policy concern supporting the general rule of protecting minors against their own improvidence and the design of others is accommodated by the requirement that the court must approve the agreement reached by the guardian ad litem.

(*Chui v. Chui*, 75 Cal.App.5th 873, 902-03 (2002))

It is the contention of Jacqueline Chui that this "sound policy" deprives her of her constitutional rights to due process and equal protection under the law. Worse, the appellate court has established a road map for its trial courts to ignore minors by simply appointing a GAL whenever they are at risk of being questioned by the minor.

III. A MINOR HAS A DUE PROCESS RIGHT TO PETITION THE COURT

The requirements of due process under the Fourteenth Amendment of the United States Constitution apply to state action. (*Board of Regents v. Roth*, 408 U.S. 564, 569 (1972) The same standard applies to the application of the due process clause under the Fifth and Fourteenth Amendments. (*Geneva Towers Tenants v. Federated Mortgage* (9th Cir. 1974) 504 F.2d 483, 487 ["The standards utilized to find federal action for purposes of the Fifth Amendment are identical to those employed to detect state action subject to the strictures of the Fourteenth Amendment. (*See United States v. Davis*, 482 F.2d 893, 897 n. 3 (9th Cir. 1973)"])

Minors, as well as adults, are protected by the Constitution and possess constitutional rights." (*Planned Parenthood of Missouri v. Danforth* (1976) 428 U.S. 52, 74; *Bellotti v. Baird* (1979) 443 U.S. 622, 633 ["A child, merely on account of his minority, is not beyond the protection of the Constitution. "]; *In re Gault* (1967) 387 U.S. 1, 13 ["neither the Fourteenth Amendment nor the Bill of Rights is for adults alone."])

The right to petition the government is fundamental to our system of government:

> The First Amendment provides, in relevant part, that "Congress shall make no law . . . abridging . . . the right of the people . . . to petition the Government for a redress of grievances." We have recognized this right to petition as one of "the most precious of the liberties safeguarded by the Bill of Rights, *"Mine Workers* v. *Illinois Bar Assn.*, 389 U.S. 217, 222 (1967), and have explained that the right is implied by "[t]he very idea of a government, republican in form," *US* v. *Cruikshank*, 92 U.S. 542, 552 (1876). (*BEK Constr. Co. v. NLRB* (2002) 536 U.S. 516, 524-25.) This includes the right to bring a petition to the court: "the right of access to courts for redress of wrongs is an aspect of the First Amendment right to petition the government."

(*Sure-Tan, Inc. v. Nat'l Labor Relations Bd.* (1984) 467 U.S. 883, 896-97; *Bill Johnson's Rests., Inc. v. NLRB,* 461 U.S. 731, 741 (1983) ("[T]he right of access to the courts is an aspect of the First Amendment right to petition the Government for redress of grievances."); *California Motor Transp. Co. v. Trucking Unlimited,*404 U.S. 508, 510 (1972) ("The right of access to the courts is indeed but one aspect of the right of petition."); *see also Monsky v. Moraghan, 127 F.3d 243, 246* (2d Cir. 1997) ("It is well established that all persons enjoy a constitutional right of access to the courts."). This right to petition is grounded into the fabric of the Constitution:

> "Meaningful access to the courts is a fundamental constitutional right, grounded in the First Amendment right to petition and the Fifth and Fourteenth Amendment due process clauses." *Chrissy F. v. Mississippi Dept. of Public Welfare,* 925 F.2d 844, 851 (5th Cir. 1991) (footnotes omitted)" *Johnson v. Atkins* (5th Cir. 1993) 999 F.2d 99, 100
>
> It is well established that all persons enjoy a constitutional right of access to the courts, although the source of this right has been variously located in the First Amendment right to petition for redress, the Privileges and Immunities Clause of Article IV, section 2, and the Due Process Clauses of the Fifth and Fourteenth Amendments. See Morello v. James, 810 F.2d 344, 346 (2d Cir. 1987); see also Simmons v. Dickhaut, 804 F.2d 182, 183 (1st Cir. 1986) (collecting cases).

Monsky v. Moraghan (2d Cir. 1997) 127 F.3d 243, 246. Any continued infringement upon her fundamental rights can only be permitted to continue if the party seeking to restrict her rights can pass strict scrutiny review:

> The Due Process Clause protects individual liberty against "certain government actions regardless of the fairness of the procedures used to implement them." *Daniels v. Williams*,474 U.S. 327, 331, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986). In a substantive due process analysis, we must first consider

> whether the statute in question abridges a fundamental right. *Reno v. Flores*,507 U.S. 292, 302, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993) (explaining that the analysis begins with a "careful description of the asserted right"). If it does, the statute will be subject to strict scrutiny and is invalidated unless it is "narrowly tailored to serve a compelling state interest." *Id*. If not, the statute need only bear a "reasonable relation to a legitimate state interest to justify the action." *Washington v. Glucksberg*,521 U.S. 702, 722, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997).

(*United States v. Male* (9th Cir. 2012) 670 F.3d 999, 1012)

This deprivation of her rights was not made under strict scrutiny or any other weighing of rights. Rather, it met the "sound policy" concerns of the appellate court, without regard to the minor's constitutional rights.

Accordingly, Jacqueline was deprived of her due process rights. She respectfully requests that this Court review this matter to protect both her and those similarly situated who likewise have been deprived of their right to petition.

IV. THE IRRATIONAL DISTINCTIONS BETWEEN WHEN A MINOR MAY OR MAY NOT EXERCISE HER DUE PROCESS RIGHTS AND RIGHT TO CONTRACT OFFEND THE EQUAL PROTECTION OF THE LAW

The equal protection clause applies to even a class of one who has suffered an irrational distinction in the law:

> Our cases have recognized successful equal protection claims brought by a "class of one," where the plaintiff alleges that she has been intentionally treated differently from others similarly situated and that there is no rational basis for the difference in treatment. See *Sioux City Bridge Co.* v. *Dakota County*, 260 U.S. 441 (1923); *Allegheny Pittsburgh Coal Co.* v. *Commission of Webster Cty.*, 488 U.S. 336 (1989). In so doing, we have explained that "`[t]he purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within the State's jurisdiction against intentional and arbitrary discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents.'" *Sioux City Bridge Co., supra*, at 445 (quoting *Sunday Lake Iron Co.* v. *Township of Wakefield*, 247 U.S. 350, 352 (1918)).

Village of Willowbrook v. Olech (2000) 528 U.S. 562, 564. Yet the State of California has made irrational

distinctions among minors who are indistinguishable on any salient ground and has thus subjected some to irrational discrimination in the exercise of their due process rights: "The State may not rely on a classification whose relationship to an asserted goal is so attenuated as to render the distinction arbitrary or irrational." (*Cleburne v. Cleburne Living Center, Inc.* (1985) 473 U.S. 432, 446)

The California Supreme Court given the opportunity to rectify this irrationality declined to do so. [Appendix p.218] However, since the rights involved are granted under the Constitution of the United States, those rights can be vindicated by this court.

V. JACQUELINE SUFFERED ACTUAL PREJUDICE

The degree to which the GAL system can act to simply disregard the best interest of the minor occurred here.[3] The GAL never actually met or spoke to the minor ward in 7 years of representation. When, as here, the GAL was a much older male attorney who ended up taking over $500,000 from his wards (he was also the GAL of

[3] Jacqueline is well-aware that factual allegations require evidentiary support from the record. However, petitioner also wishes to avoid unduly burdening this Court with more paper than is necessary to understand the legal issue applied. These facts are attested in petitioner's briefing before the California Court. Accordingly, that brief has been submitted as part of the record, which brief cites to the appellate record in California. Should Jacqueline be permitted to address this Court on the merits of her claim, she will provide the evidence which underlies the briefing.

petitioner's brother), the arrangement has overtones of certain biases of which the law should be shorn.

Moreover, this GAL also acted as the ward's attorney and served in both roles. And yet he denied that he owed any duty to the ward. While one may argue that the system provides protection by furnishing an adult and an attorney: when a 17-year-old woman found by a board-certified psychiatrist to be competent to contract and retain counsel finds herself silenced by the judicial system, and "represented" by a GAL/attorney who owes the real party in interest no duty, that claim is hollow and due process has been sacrificed.

In this instance, the GAL went a step further. He repeatedly demonized the ward's family. He called her and her mother liars in court papers. It cannot be "due process" to be saddled with a lawyer/guardian who actively dislikes his ward. Moreover, no court would allow the attorney for an adult to behave in such a juvenile manner and insult his own client; how then is it not an equal protection violation for a minor to have to suffer such insults?

Finally, the trial court had in its possession a sworn statement of the minor that demonstrated that she was contesting this wrongdoing; but the courts of California have concluded that 17-year-old women have no right to complain in their own name, upon appointing of a GAL. How convenient. She lost her inheritance rights in favor of her half-brother and aunt who were represented by very expensive and well-placed attorneys who diligently protected their own clients. Jacqueline was betrayed by the lawyer who "represented" her; and then denied the opportunity to raise her concerns in the trial court

because that court had already appointed him as GAL.

And so both the incoherence of the legal regime pertaining to minors, and the unfairness suffered by petitioner argue in favor of this Court's review.

VI. REASONS FOR GRANTING

The legal regime throughout the United States has undergone significant revision when it comes to the constitutional rights of minors. However, this work has been piecemeal and inconsistent. We can treat a minor as an adult when she is accused of some crimes. And yet, we forbid that same minor constitutional protections and rights when she seeks to vindicate her rights in a civil forum, but only some minors and some cases.

As our understanding of human nature changes, the application of the law will change. In *Muller v. Oregon* (1908) 208 U.S. 412, this Court used language and reasoning pertaining to "female … employment" which this Court would be unlikely to presently use. While the protections of due process may not have changed, our understanding of the human beings to whom the law does apply most certainly has changed.

This change in understanding as to the rights of minors is undergoing significant change throughout the United States. Yet, this Court has not provided sufficient direction for the States and for the federal courts as to how this change interacts with the constitutional protections of due process and equal protection. Such direction would be of significant help to the entire country.

VII. CONCLUSION

It is respectfully requested that this Court take this action and provide such guidance.

Jacqueline joins in the writ petitions of her mother, Christine Chui, and brother, Michael Chui.

Dated: September 13, 2022

Respectfully submitted,

__/s/_____
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