

No. 22-253

In the
Supreme Court of the United States

CHRISTINE CHUI,
Petitioner,
v.

BENJAMIN CHUI, ET AL.,
Respondents.

**On Petition for Writ of Certiorari to the
Court of Appeal of the State of California**

REPLY BRIEF FOR PETITIONER

JAMES G. BOHM
Counsel of Record
BOHM WILDISH & MATSEN, LLP
600 Anton Boulevard
Suite 640
Costa Mesa, CA 92626
(714) 384-6500
JBohm@bohmwildish.com

Counsel for Petitioner

November 29, 2022

Becker Gallagher · Cincinnati, OH · Washington, D.C. · 800.890.5001

QUESTIONS PRESENTED FOR REVIEW

1. Whether our government can deprive real properties from parties (including wards in guardianships) on complex matters in chambers without any notice, evidentiary hearing, or due process;
2. Whether our government's officers, including judges, court appointed guardians ad litem, and lawyers can bind real parties to a settlement, by precluding real parties to participate in four inseverable versions adding or modifying 25 new material terms, in chambers, without any knowledge, consent, or participation from real parties, after the settlement was rejected 5 times by the Court, Respondents, and wards.

TABLE OF CONTENTS

QUESTIONS PRESENTED FOR REVIEW.....	i
TABLE OF AUTHORITIES.....	v
INTRODUCTION	1
ARGUMENT.....	3
I. Respondents' Opposition Evidenced that Due Process Is Critical to Ensure Justice and Fairness in Exposing Fiduciary's Fraud and Abuse.....	3
A. Fiduciary's Manufacturing Evidence and Claims Warrants Due Process	3
B. Fiduciary's Witness and Records Tampering for Their False Declarations Warrants Due Process	4
C. Fiduciary's Fraudulent Conveyance, Theft and Potential "Fraud on the Court" Warrants Due Process	6
II. Christine and Her Children Are Prejudiced and Harmed Because Their "Property and Liberty" Were Deprived Without Due Process	8

A.	Christine and Her Children Did Not Waive Their Evidentiary Hearing Rights and Due Process' 10 Elements by Jg. Henry Friendly Should Not Be at Any Judges' Discretion	8
B.	Christine and Her Children's Liberty Was Deprived Without Any Due Process	13
III.	Respondents Failed to Address that Decision Violated this Court's 200-year Precedent and this Case is the Ideal Vehicle to Prevent Fiduciary's Fraud and Unify Different Notice Proceedings Among 20 States	14
IV.	Joinder.....	16
	CONCLUSION	16
APPENDIX		
Appendix A	Notice in Guardianship Proceedings Statutory Revisions as of December 2021	App. 1
Appendix B	Michael Chui's Verified Repudiation of the Oral Settlement of May 14, 2018 and Subsequent Modifications	App. 17

Appendix C	Jacqueline Chui's Verified Repudiation of the Oral Settlement of May 14, 2018 and Subsequent ModificationsApp. 25
Appendix D	Petition in the Matter of: The Estate of Sinora ChanApp. 33
Appendix E	Letter to Julia L. Birkel from Justin B. Gold regarding the Chui TrustApp. 82

TABLE OF AUTHORITIES**Cases**

<i>Biestek v. Berryhill</i> , 139 S. Ct. 1148 (2019)	12
<i>Black v. Romano</i> , 471 U.S. 606 (1985)	9
<i>Board of Regents of State Colleges v. Roth</i> , 408 U.S. 564 (1972)	13
<i>Bush v. Gore</i> , 531 U.S. 98 (2000)	14
<i>Ford v. Georgia</i> , 498 U.S. 411 (1991)	14, 15
<i>Gagnon v. Scarpelli</i> , 411 U.S. 778, 93 S. Ct. 1756 (1973)	9
<i>Goldberg v. Kelly</i> , 397 U.S. 254 (1970)	7
<i>Goss v. Lopez</i> , 419 U.S. 565 (1975)	13
<i>Grannis v. Ordean</i> , 234 U.S. 385 (1914)	7
<i>Greene v. McElroy</i> , 360 U.S. 474 (1959)	7

<i>Griffin v. Griffin</i> , 327 U.S. 220 (1946)	8
<i>ICC v. Louisville & N.R. Co.</i> , 227 U.S. 88 (1913)	7
<i>Ingraham v. Wright</i> , 430 U.S. 651 (1977)	12
<i>People v. Arreola</i> , 7 Cal.4th 1144, 31 Cal. Rptr. 2d 631, 875 P.2d 736 (Cal. 1994).....	9
<i>People v. Dolezal</i> , 221 Cal. App. 4th 167, 163 Cal. Rptr. 3d 901 (2013)	9
<i>People v. Winson</i> , 29 Cal.3d 711, 175 Cal.Rptr. 621, 631 P.2d 55 (1981)	9
<i>Tennessee Secondary Sch. Athletic Ass'n v. Brentwood Acad.</i> , 551 U.S. 291 (2007)	9
<i>Willner v. Committee on Character & Fitness</i> , 373 U.S. 96 (1963)	7
<i>Wisconsin v. Constantineau</i> , 400 U.S. 433 (1971)	13

Other Authorities

National Center for State Courts, State Court
Caseload Digest 2018 Data 7-8 (2018),
https://www.courtstatistics.org/__data/assets/pdf_file/0014/40820/2018-Digest.pdf 15

INTRODUCTION

For nearly two centuries, the right to be heard and notified has been a fundamental right inherent in the liberty of the person and protected under the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

The bulk of Respondents' opposition rested on their manufactured facts and attack on the children of Petitioner Christine Chui ("Christine"), who did not have any notice, participation, or consent in the settlement or the guardianship proceedings.¹

Respondents did not spill any ink to address key issues on Christine: despite her 10 requests, Christine was never afforded an evidentiary hearing or cross examination of Respondents related to her rights, interests and claims, before her "Liberty" of good name and "Property" of \$35 million were deprived. Christine's Petition for Writ of Certiorari ("CW") at 19-22.²

¹ The trial court found five times that Respondents had no standing against Christine's children on GAL's petitions. *See, e.g.*, 21 AA T-77 8950:5 (Respondents "are not interested parties"); 21 AA T-77 8953:13-14 (Respondents have no standing "under Prob. Code § 48 and CCP § 372"). Respondents' opposition against Christine's children should be stricken.

² For the past 10 years, the only evidentiary hearing was on the minors' compromise, in which the Courts explicitly precluded hearing Christine's rights and interests. Through cross examinations, Respondents filed voluminous declarations were proved to be false. GAL Chen's First Petition was denied with

Respondents' opposition demonstrates that this Court's review is imperative to close a legal loophole – one in which fiduciaries can claim that “the sky is green” and, without any due process, their misstatement is published as fact.

Without this Court's review, our congested Courts' system will continue to be impaired, if they allow Respondents to file **500** motions and petitions to bury the truth of their estate trafficking fraud of \$100 million (21 AA T-76 8886-8895), without allowing **a single** evidentiary hearing for Christine to expose fiduciary's fraud, despite her 10 requests. CW 19-22.

The essence of due process is fairness. If published, the decision will be a free pass for fiduciaries' fraud and abuse, without any oversight, a cloud hanging over our nation, as evidenced by the startlingly statistics. CW 36-38.

prejudice and Respondents were suspended. (App. to Pet. 184; 192.)

ARGUMENT

I. Respondents’ Opposition Evidenced that Due Process Is Critical to Ensure Justice and Fairness in Exposing Fiduciary’s Fraud and Abuse

A. Fiduciary’s Manufacturing Evidence and Claims Warrants Due Process

Respondents railroaded the courts with manufacturing evidence from third parties (Br. in Opp’n, 4-5), a product of their perjury, suborning perjury and abuse of discovery, which highlights the importance for due process and cross examinations.

Indeed, Respondents have had a pattern of giving experts false declarations or assumptions to draw false conclusions then taking their testimonies out of context – a demonstration of “Garbage in and Garbage out.”³

Respondents perjured themselves by claiming that Trustor King had dementia in 2004 (Br. in Opp’n 5) contradicting Respondent Margaret’s own testimony that from 2004 to 2011, King had actively managed his business. *See* Christine’s Request for Judicial Notice in Support of Petition for Review to California Supreme Court, (“RFJN”), Exhibit 1,

³ The lower court found: “... Ben established numerous false assumptions” in expert’s opinion, “which made his analysis unreliable.” App. to Pet. 174.

attachment 5, 18 of 1790 or 93:11-14; 71:20-23; 71:24-25; 71: 55-79.

Notably, Respondents omitted dates on their claims. (Br. in Opp'n 4-5.) In reality, Respondents' claims are time barred since their alleged theft were King's distributions to Christine's family in their co-owned business during 2004 to 2006, a period when King had actively managed his business as evidenced by King's voluminous handwritten records. *See* RFJN, Exhibit 1, attachments 26, 30, 31, 36, or pp. 389-521.

Cross examinations will evidence that Respondents filed 500 motions/petitions as a "smoke screen" to cover up their own theft of \$100 million. *See* 21 AA T-76 8886-8895.

B. Fiduciary's Witness and Records Tampering for Their False Declarations Warrants Due Process

Evidentiary hearings will also evidence that the settlement was induced by Respondents' abusing discovery, tampering with records and witnesses, and false claims to frame Robert, who died unexpectedly during litigation, as evidenced by their lawyer's "hijacking of discovery" emails. 19 AA T-62 7852.

Respondent Esther, who had threatened to sue her parents for money since 1990's (*see* 10 AA T-34 3782:17-21) and initiated the litigation, declared that her expert Mr. Switlyk was not subject to any cross examinations, after filing false declarations for third parties as assumptions to draw their false conclusions,

yet are cited by Respondents extensively as their facts. Br. in Opp'n 4-5; *see* App. to Reply 84-85.

Witness Mr. Petrillo (the security director) disclosed that the part-time housekeepers' declarations, which experts relied on, are false and that Respondents attempted to bribe him as well:

“The caregivers told me that Esther often tried to bribe them by offering them a car or a house. Esther also told me that she wanted to pay for me many times, which I refused.”

Mr. Petrillo listed various checks from Respondents to Witnesses, paid just prior to their filing false declarations. 30 AA T-102 14517:3–16.

Mr. Creal, a Forensic Accountant detailed how Respondents had suppressed evidence, tampered with trust records, and abused discovery to induce Christine into a fraudulent settlement. RFJN, Exhibit 3 at 6:7-28, 7:1-32.

Benjamin cannot dispute that he has had a pattern of threatening witnesses, including Christine (the spouse of his father) and Nancy (the spouse of his mother), as evidenced by his email that he planned to hire someone to kill Christine “despite of what this mortician thinks” (21 AA T-74 8704), and the police report no. PA2022-6503 and the restraining order petition No. 22PDR001113 from Nancy which alleged Benjamin’s threat of others since 2004 and a recent

assault resulting in her head injury requiring 6-staples. App. to Pet. 217-223.

Cross examination is an essential tool to expose fiduciary fraud on tampering with witnesses and records to file false declarations, the basis for the lower courts' decision.

C. Fiduciary's Fraudulent Conveyance, Theft and Potential "Fraud on the Court" Warrants Due Process

Respondents alleged that \$100 million claim is not in the record. (Br. in Opp'n 15, fn. 8.) Untrue. Christine itemized Respondents' theft and filed her claims. Cross examination will expose Respondents' estate trafficking fraud of \$100 million by framing Robert and Christine. *See* 21 AA T-76 8886-8895.

Notably, weeks before the decision was made, Mr. Kode Li came to Christine's residence, alleging that his sister Sinora (Benjamin's late wife), prior to her death, had prepared evidence to expose GAL Chen and Benjamin's conspiracy. GAL Chen, who has been the pawn for the Respondents to harm Christine's children, has concealed his law firm's business relationship with Respondents. This potential "Fraud on the Court" warrants due process and investigation of GAL Chen and Benjamin's collusion. *See* Decl. of Gerard Fox in Supp. of Christine Chui's Pet. for Reh'g ¶¶5-25.

Not surprisingly, recently, Benjamin (who has never had any job at the age of 41 and has lived off his

father Robert's largess) filed a petition alleging that he lost \$20 million of assets he illegally parked with third parties. App. to Reply 33. Benjamin's fraudulent conveyance is clear evidence that he knew that his claims framing his late father, designed to induce Christine into a fraudulent settlement, are meritless.

Indeed, the Trial Court's ruled that Respondents' 10-year litigation is fraudulent:

“Indeed, substantial question has been raised whether the theory of co-trustees' claims of wrongdoing by Christine even makes sense.”

App. to Pet. 188-189.

The settlement cannot be a product of fraud. This Court has explicitly held that in almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse witnesses. See, e.g., *ICC v. Louisville & N.R. Co.*, 227 U.S. 88, 93–94 (1913); *Willner v. Committee on Character & Fitness*, 373 U.S. 96, 103–104 (1963); *Greene v. McElroy*, 360 U.S. 474, 496–497 (1959); *Goldberg v. Kelly*, 397 U.S. 254, 269–70 (1970).

In *Grannis v. Ordean*, 234 U.S. 385 (1914), this Court also ruled, “The fundamental requisite of due process of law is the opportunity to be heard.” Petitioner contends that, if she had actually been “heard,” the merits of her case would have prevailed.”

Respectfully, this judgement, issued solely based on Respondents' false declarations, without any due process or cross examinations from Christine to expose Respondents' fraud must be vacated. "Due process" requires that no other jurisdiction shall give effect, even as a matter of comity, to a judgment obtained without due process." *Griffin v. Griffin*, 327 U.S. 220, 229 (1946).

II. Christine and Her Children Are Prejudiced and Harmed Because Their "Property and Liberty" Were Deprived Without Due Process

A. *Christine and Her Children Did Not Waive Their Evidentiary Hearing Rights and Due Process' 10 Elements by Jg. Henry Friendly Should Not Be at Any Judges' Discretion*

Respondents alleged the lower courts "relied on case-specific waiver and harmlessness determinations to waive evidentiary hearing" and that Christine waived her children's rights for evidentiary hearing. Br. in Opp'n 15-16, 18. Untrue.

Christine made 10 requests for evidentiary hearings. CW 19-22. Christine even told the Judge in-fact that her children wanted to be present at the hearing. (7 RT 1376:15-22.) Christine's children also detailed their 10 specific requests for evidentiary hearings. (Michael's Reply Br., 8-9.)

All of their 10 requests were denied. Indeed, GAL Chen has never notified or met with Christine's children, who are adults now in guardianship or settlement proceedings.

Respondents' reliance on *Tennessee Secondary Sch. Athletic Ass'n v. Brentwood Acad.*, 551 US 291, 303 (2007) is only further evidence of this failure. Br. in Opp'n 18. In *Tennessee*, the court found that any claim of prejudice was unsupported despite "nearly a decade" between the time that the litigants were denied process and the time this Court reviewed their claims. That's not what happened here. At every turn, the lower courts denied Christine and her children 10 requests for evidentiary hearings or cross examinations mandated by due process. CW 19-22. The idea that a litigant was fully deprived of her constitutional right to an evidentiary hearing, in which she and her children could cross examine witnesses and investigate fabricated claims designed to extort "property" of \$35 million and deprive "liberty" of good name from her, is a "commonsense conclusion" for which no "empirical data" is required. *People v. Dolezal*, 221 Cal. App. 4th 167, 178, 163 Cal. Rptr. 3d 901, 910 (2013).

Indeed, due process requires specifically: "the right to confront and cross-examine adverse witnesses." *Gagnon*, at p. 786, 93 S. Ct. 1756; *Black v. Romano*, 471 U.S. 606, 612 (1985); *People v. Winson*, 29 Cal.3d 711, 716, 175 Cal.Rptr. 621, 631 P.2d 55 (1981); *Vickers*, at p. 457; *Arreola*, 7 Cal.4th at pp. 1147, 1152-1153.

Most importantly, Respondents cannot dispute that this case contains deviation from ten elements of “Some Kind of Hearing” outlined by Judge Henry Friendly, CW 18-19:

1. An unbiased tribunal

The Judge changed his ruling nearly 180 degrees after being embroiled in a lawsuit in which Christine’s counsel, Mr. Bohm, was named as a witness. CW 24-26.

2. Notice of the proposed action and the grounds asserted for it

Christine was precluded from participating in and given no notice regarding the second, third and fourth agreements. *See* 1 RT 84:7-14; 1 RT 88:23-24; 20 AA T-64 7996-7997, 8008-8016. No notice was given to Christine’s children on GAL Chen’s appointments or any of settlement terms and hearings.

3. Opportunity to present reasons why the proposed action should not be taken.

Christine was repeatedly denied an opportunity to present evidence as to the flaws in the settlement. CW 19-22.

4. The right to present evidence, including the right to call witnesses.

Christine was repeatedly denied an opportunity to cross examine witnesses, especially Respondents, despite her 10 requests. CW 19-22.

5. The right to know opposing evidence

Respondents engaged in discovery abuses (19 AA T-62 7852, RFJN, exhibit 3 at 6:7-28, 7:1-32) and engaged in witness tampering. 30 A T-102 14517:3–16. In contrast, Christine was denied the opportunity to review the false claims being levied against her.

6. The right to cross-examine adverse witnesses

Christine was plainly denied the opportunity to cross-examine adverse witnesses, despite her 10 requests. CW 19-22.

7. A decision based exclusively on the evidence presented

The lower courts prevented Christine and her children from participating in all material terms and exposing an estate trafficking fraud of \$100 million. Christine's Appellant's Opening Br. 57-65, 94-100.

8. Opportunity to be represented by counsel

Mr. Brar, the counsel of records for Christine on 5 of 9 cases to the settlement was not even present on

the settlement date. Mr. Brar had declared that he would have advised Christine not to enter into the settlement if he were present. 6 AA T-23 255:3-28; 28 AA T-95 14146:9-14148:7.

9. Requirement that the tribunal prepare a record of the evidence presented

The lower court took Respondents' false declarations as fact, including concluding GAL's 2nd Petition was better. Br. in Opp'n 11.

How can the lower courts possibly conclude that GAL's 2nd Amended petition is better than the first, in which GAL cannot tell any amount? App. to Pet. 165; Br. in Opp'n 11.

10. Requirement that the tribunal prepare written findings of fact and reasons for its decision

The judge changed his ruling 180 degrees from July 18, 2019, to March 3, 2020, solely based on Respondents' false declarations, without conducting any evidentiary hearings. CW 22-26.

In short, these facts led to a complete failure on 10 mandated elements of due process, one which can only be corrected by this Court's review. See *Biestek v. Berryhill*, 139 S. Ct. 1148, 1162 (2019) (Gorsuch, N.; Ginsburg, R, dissenting) ("The principle that the government must support its allegations with substantial evidence, not conclusions and secret evidence..."); *Ingraham v. Wright*, 430 U.S. 651, 678 (1977) ("We have found frequently that some kind of

prior hearing is necessary to guard against arbitrary impositions on interests protected by the Fourteenth Amendment”).

B. Christine and Her Children’s Liberty Was Deprived Without Any Due Process

“The Due Process Clause also forbids arbitrary deprivations of liberty. ‘Where a person’s good name, reputation, honor, or integrity is at stake because of what the government is doing to him,’ the minimal requirements of the Clause must be satisfied.” *Wisconsin v. Constantineau*, 400 U.S. 433, 437 (1971); *Board of Regents v. Roth*, 408 U.S. at 573; *Goss v. Lopez*, 419 U.S. 565, 574 (1975).

Here, the good name, integrity and reputation of Christine and the legacy of Robert, were irreparably harmed by false claims without due process. CW 19-22.

Christine’s children also repudiated the settlement without their consent or participation and have sought to clear up their beloved late father’s name and legacy through the judicial system. App. to Reply 21 at ¶¶b, e; App. to Reply 29 at ¶¶b, e.

Christine’ family’s “liberty” to pursue truth and defend their family’s priceless good name and integrity was deprived, without due process.

III. Respondents Failed to Address that Decision Violated this Court’s 200-year Precedent and this Case is the Ideal Vehicle to Prevent Fiduciary’s Fraud and Unify Different Notice Proceedings Among 20 States

Respondents concluded that this Court cannot exercise its discretion to grant certiorari. Br. in Opp’n 24-25.

However, it is this Court’s duty to review a state’s inconsistent and irregular application of its own rules when due process and constitutional issues are raised. *Ford v. Georgia*, 498 U.S. 411, 423 (1991).

This Court explicitly held:

Though we generally defer to state courts on the interpretation of state law—see, e.g., *Mullaney v. Wilbur*, 421 U.S. 684 (1975)—there are of course areas in which the Constitution requires this Court to undertake an independent, if still deferential, analysis of state law.

Bush v. Gore, 531 U.S. 98, 114 (2000).

Respondents point to no law that explain how lower courts could have reached the conclusion that no due process, no hearing, no notice, no cross examinations, no participation, and no consent from 4 of 6 real parties were needed in a contested settlement (CW 14-18, 29-32) and why the 5-time rejected

settlement can be revived without Christine and her children’s consent and participation, in clear violation to this Court’s 200-year precedent. CW 33-36.

The review will correct this bad precedent for the Courts to deprive people’s “property” of \$35 million and “liberty” of good names and integrity, without any notice, due process, consent, and participation in the settlement or guardianship proceedings.

Such a deviation from well-established rules presents a glaring constitutional issue that requires this court’s immediate review. *Ford, supra*, at 423.

Moreover, 20 states currently have different rules of notice in guardianships. *See App. to Reply 1-16.* The issue begs for this Court’s clear guidance.

Lastly, the review has national significance. About 1.5 million wards with assets of \$250 billion in Guardianships sorely require this Court’s timely protection to prevent abuse (CW, pp. 36). Millions of people who settle annually need this Court’s guidance to ensure due-process and mandate that all real parties must agree with all settlement terms to prevent non-parties of judges, lawyers and GAL from depriving their “properties and liberties” without due process, their knowledge, participation or consent.⁴

⁴ Notably, there were 83.5 million civil cases in 2018 among 27 states which were largely settled. CW 36-38. National Center for State Courts, *State Court Caseload Digest 2018 Data* 7-8 (2018), https://www.courtstatistics.org/_data/assets/pdf_file/0014/40820/2018-Digest.pdf.

The review will effectively prevent billions from being wasted by fiduciaries' making a mockery of our justice, without any oversight of due process, a cloud hanging over our nation.⁵

IV. Joinder

Christine joins all arguments from Michael and Jacqueline on this Writ and Reply.

CONCLUSION

Christine respectfully requests this Court to review and reverse this unconstitutional decision.

Respectfully Submitted by:

JAMES G. BOHM
Counsel of Record
BOHM WILDISH & MATSEN, LLP
600 Anton Boulevard
Suite 640
Costa Mesa, CA 92626
(714) 384-6500
JBohm@bohmwildish.com

Counsel for Petitioner

⁵ Here, Fiduciaries' 500 motions and petitions wasted the Courts' resources and could have been largely eliminated by mandating a single evidentiary hearing in the settlement and the guardianship proceedings, enshrined by our Constitution.