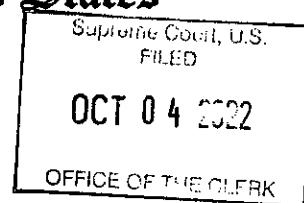


No. 22-329

In The  
**Supreme Court of the United States**

LU TUAN NGUYEN,



*Petitioner,*

v.

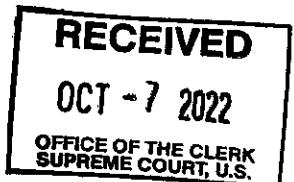
DAVID RIBAL, as Co-executor, etc., et al.,

*Respondents.*

On Petition For Writ Of Certiorari To The  
Court Of Appeal Of The State Of California,  
Fourth Appellate District, Division Three

**PETITION FOR WRIT OF CERTIORARI**

LU TUAN NGUYEN (Pro Se)  
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Garden Grove, CA 92841  
(714) 587-7625  
thichtriduc8@gmail.com



## **QUESTIONS PRESENTED**

1. Whether the sustaining of the respondent's demurrer is in violation of the Due Process Clause of the Fifth Amendment and the Fourteenth Amendment to the United States Constitution in light of the respondents and their attorneys' deception to the court and the public.
2. Whether the court was bias in ruling that Appellant is not entitled to anything in the conservatee's estate and therefore has violated the Due Process Clause of the Fifth Amendment and the Fourteenth Amendment to the United States Constitution.

## **LIST OF PARTIES TO THE PROCEEDING**

Lu Tuan Nguyen, Petitioner

David Ribal and Laura Tiano, Respondents

## **RELATED CASES**

1. California Court of Appeal, Fourth Appellate District – Division Three G060234, Estate of JOSEPH E. RIBAL, Deceased. LU TUAN NGUYEN v. DAVID R. RIBAL, as Co-executor, etc., et al., Unpublished Opinion filed on 4-20-22
2. Superior Court of the State of California County of Orange- Central Justice Center, Case No.: 30-2019-01091998-PR-PW-CJC NOTICE OF ENTRY OF ORDER, 5-28-21
3. Superior Court of the State of California County of Orange – Central Justice Center, Case No.: 30-2019-01091998-PR-PW-CJC MINUTE ORDER, 2-24-21
4. Superior Court of the State of California County of Orange – Central Justice Center, Case No.: 30-2019-01091998-PR-PW-CJC MINUTE ORDER, 2-17-21
5. Superior Court of the State of California County of Orange – Central Justice Center, Case No.: 30-2019-01091998-PR-PW-CJC Tentative Ruling, 11-18-20
6. California Court of Appeal, Fourth Appellate District – Division Three G060234, Estate of

**RELATED CASES – Continued**

JOSEPH E. RIBAL, Deceased. LU TUAN NGUYEN v. DAVID R. RIBAL, as Co-executor, etc., et al. (Denying rehearing) 5-3-22

7. California Supreme Court, Case No. S274579  
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*In Re Domestic Partnership of Ribal and Nguyen* (Mar. 4, 2015, G049594) [nonpub. Opn.] Judgment entered on October 31, 2013. (*Nguyen I*)

*In Re Conservatorship of Ribal* (Sept. 28, 2016, G052668) [nonpub. Opn.] Judgement entered on May 27, 2015. (*Nguyen II*)

*Conservatorship of Ribal* (January 18, 2019, G056105) 31 Cal.App.5th 519 Judgment entered on May 27, 2015. (*Nguyen III*)

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**OPINIONS BELOW**

1. California Court of Appeal, Fourth Appellate District – Division Three G060234, Estate of JOSEPH E. RIBAL, Deceased. LU TUAN NGUYEN v. DAVID R. RIBAL, as Co-executor, etc., et al., Unpublished Opinion filed on 4-20-22
2. Superior Court of the State of California County of Orange – Central Justice Center, Case No.: 30-2019-01091998-PR-PW-CJC NOTICE OF ENTRY OF ORDER, 5-28-21
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5. Superior Court of the State of California County of Orange – Central Justice Center, Case No.: 30-2019-01091998-PR-PW-CJC Tentative Rulings, 11-18-20

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**JURISDICTION**

The Opinion of the Court of Appeal – State of California, Fourth Appellate District, Division Three was rendered on April 20th, 2022.

A timely Petition for rehearing was filed on April 27, 2022.

The petition for rehearing was denied on May 3rd, 2022, by the Court of Appeal – State of California, Fourth Appellate District, Division Three.

The petition for review was denied on July 13th, 2022, by the Supreme Court of California.

This Court has jurisdiction pursuant to 28 U.S.C. section 1257(a).

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## **CONSTITUTIONAL PROVISIONS AND RULES INVOLVED**

### **Rules**

Federal Rule of Civil Procedure, Rule 60. Relief from a Judgment or Order

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);

(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

### **Constitutional Provisions**

#### **The Fifth Amendment: Criminal Proceedings and Condemnation of Property**

“[Section 1.] No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.”

Proposed September 25, 1789; ratified December 15, 1791

The Fourteenth Amendment to the United States Constitution of the United States Citizenship, Representation, and Payment of Public Debt

“Citizenship

SECTION 1. All persons born or naturalized in the United States and subject to the

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

Proposed June 13, 1866; ratified July 9, 1868; certified July 28, 1868

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**STATEMENT OF THE CASE**

Appellant filed a petition for rehearing in the Court of Appeal on April 27, 2022. The petition was summarily denied on May 3, 2022. Appellant filed petition for review in the California Supreme court, and the petition was denied on July 13th, 2022.

As stated in the Court of Appeal, Fourth Appellate District, Division Three that was electronically filed on 4/20/2022, the Court has issued three opinions, one published, involving Appellant and Ribal’s representatives.

The Court draws the facts from the record of this appeal and these prior opinions: *In Re Domestic*

*Partnership of Ribal and Nguyen* (Mar. 4, 2015, G049594) [nonpub. Opn.] (*Nguyen I*); *In Re Conservatorship of Ribal* (Sept. 28, 2016, G052668) [nonpub. Opn.] (*Nguyen II*); and *Conservatorship of Ribal* (2019) 31 Cal.App.5th 519, 521 (*Nguyen III*).

*In Re Domestic Partnership of Ribal and Nguyen* (Mar. 4, 2015, G049594) [nonpub. Opn.] (*Nguyen I*), the Court affirmed the ruling that Dr. Ribal did not have the capacity to register for the Domestic Partnership.

*In Re Conservatorship of Ribal* (Sept. 28, 2016, G052668) [nonpub. Opn.] (*Nguyen II*), the Court affirmed the ruling of elder abuse on the ground that Dr. Ribal did not have the capacity to approve the Appellant's expenses to help other friends and relatives and the waiver of rent for the injured tenant, and Appellant was liable for Dr. Ribal's fall in the Seal Beach park.

In *Conservatorship of Ribal* (2019) 31 Cal.App.5th 519, 521 (*Nguyen III*), the Court wrote: "Nguyen paid what the court ordered. Rogers cannot add an additional \$79,991 to that judgment just because she wishes to do so. The attorney fee motion was untimely under the statute, and should have been denied." Line 22-25, P. 526

According to the Minute Order, dated 11/06/2019, in re: Motion for Order Dissolving Permanent Injunction by Lu Tuan Nguyen, "the Court informs Mr. Nguyen that attachment 12 to the restraining order issued on 08/11/2015 is still in full force and effect, however, the personal conduct orders terminated upon the death of the Elder. Court further informs the parties

and counsel that Mr. Nguyen is not prohibited from filing a creditor's claim against the estate of the elder." CT 461: 26 and CT 462: 1-11 and CT 541. Pursuant to this ruling Appellant filed a creditor's claim. (Attached as Exhibit B). The trial Court sustained Respondents' Demurrer on the Collateral Estoppel doctrine. The Court of Appeal affirmed and denied petition for rehearing. The Supreme Court of California denied the petition for review.

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

1. The Respondents and their attorneys have come to court with unclean hands. They have manipulated the court system to be unjustly enriched against the intent of the conservatee. Respondents and their attorneys have committed fraud on the court to achieve their goals, and deprived Appellant his right to Due Process under the protection of the Fifth Amendment and the Fourteenth Amendment to the United States Constitution.
2. Appellant was denied the right to have a fair hearing when the court was bias in ruling that Appellant was not entitled to any inheritance to the Conservatee's estate because Appellant was found to be an elderly abuser when the other judge's ruling is contradictory to this ruling. This deprives Appellant his right to Due Process under the protection of the Fifth Amendment and the Fourteenth Amendment to the United States Constitution.

Appellant alleges that Respondents and their attorneys have worked together to be unjustly enriched against the interest and intent of the conservatee, Dr. Joseph E. Ribal (is now referred as Dr. Ribal). Respondents and their attorney, Mr. Payson L. Lederman had consulted their present attorney, Ms. Cheryl L. Walsh, before appointing Ms. Linda Roger to be the conservator for Dr. Joseph E. Ribal. In 2012 when Dr. Ribal was admitted to the Long Beach Memorial hospital due to a pneumonia, Dr. Ribal's children, Mrs. Laura Tiano and Mr. David Ribal had tried to put Dr. Ribal in hospice against Dr. Ribal's intent and interest. The case manager, Ms. Sharon, told Appellant and Dr. Ribal children that if Dr. Ribal is put in hospice we need to inform all his loved one immediately since he will only have a few days to live. When Mrs. Laura Tiano went to Hawaii for a vacation, Appellant call the hospice staff and told them that Dr. Ribal was getting better and does not need to be put in hospice. When Linda Rogers was appointed to be the conservator of Dr. Ribal, she petitioned the court to put Dr. Ribal in hospice. This is against Dr. Ribal's intent and interest since Dr. Ribal needs antibiotics to fight his frequent urinary infection.

The conservator and her attorney, Ms. Cheryl L. Walsh petitioned the court to revise the will and trust and disinherited Appellant. The Court approved their petition on the ground that Appellant was found to be an elderly abuser. Appellant was found to be an elderly abuser because the court found that Dr. Ribal did not have the capacity as of January 2010 to approve all the expenses and the waiver of rent for the injured tenants that Appellant have incurred. However, in this same case

that is consolidated with another case that Respondents had filed alleging that Appellant had used undue influence to be a joint tenant with Dr. Ribal of his condo located in Hawaii, Judge Kim Hubbard, an expert in elderly abuse, found that Dr. Ribal did not lose his capacity until sometime in 2012 after he was admitted into the nursing home. Thus, Appellant was denied his due process right that is protected in the Fifth Amendment and the Fourteenth Amendment to the United States Constitution when the court was bias in depriving him of his right to Dr. Ribal's estate when Judge Kim Hubbard ruled that Dr. Ribal did not lose his capacity until sometime in 2012 after he was transferred into the nursing home.

In *Conservatorship of Ribal* (2019) 31 Cal.App.5th 519, 521 (*Nguyen III*), the Court wrote: "Nguyen paid what the court ordered. Rogers cannot add an additional \$79,991 to that judgment just because she wishes to do so. The attorney fee motion was untimely under the statute, and should have been denied." Line 22-25, P. 526

According to the Minute Order, dated 11/06/2019, in re: Motion for Order Dissolving Permanent Injunction by Lu Tuan Nguyen, "the Court informs Mr. Nguyen that attachment 12 to the restraining order issued on 08/11/2015 is still in full force and effect, however, the personal conduct orders terminated upon the death of the Elder. Court further informs the parties and counsel that Mr. Nguyen is not prohibited from filing a creditor's claim against the estate of the elder." CT 461: 26 and CT 462: 1-11 and CT 541. Pursuant to this ruling Appellant filed a creditor's claim. (Attached as

Exhibit B). The trial Court sustained Respondents' Demurrer on the Collateral Estoppel doctrine. The Court of Appeal affirmed and denied petition for rehearing.

### **Arguments in Support of Review**

1. Whether the sustaining of the respondent's demurrer is in violation of the Due Process Clause of the Fifth Amendment and the Fourteenth Amendment to the United States Constitution in light of the respondents and their attorneys' deception to the court and the public.

In this case, the Court of Appeal wrote: "Nguyen has not explained why these alleged misrepresentations would invalidate the prior rulings denying him an interest in Ribal's assets, which underlie the trial court's application of collateral estoppel. Nor has Nguyen provided any authority showing a court can refuse to apply collateral estoppel based on unclean hands or fraud when the wrongful activity is unrelated to the claim at issue. P. 8 line 1-6

The Court of Appeal further wrote: "The conservator's statements regarding the judgment amount are not tantamount to, nor do they warrant application of the unclean hands doctrine (to the extent either has any application here). P. 8, line 15-18

In addition, the Court of Appeal wrote: "Though *Estate of Kraus* did not expressly consider how the penalty under section 859 is calculated, as *Nguyen III* did, it can be read to support the conservator's

interpretation of the judgment since it affirmed the trial court's penalty. Foot note 2. P. 9 line 7-9

In the footnote 2, the Court wrote: "We also note that at least one appellate court had disagreed with *Nguyen III*'s interpretation of section 859 and agreed with the construction applied in *Estate of Kraus*. (See, e.g., *Estate of Ashlock* (2020) 45 Cal.App.5th 1066, 1076.)

In *Trendsetta USA, Inc. v. Swisher International, Inc.*, No. 20-56016 (9th Cir. 2022) 761 F. App'x 714 at 718, DAR April 18, 2022 pages: ii & 3652

The Court held:

"Initially, it bears emphasizing that a party seeking to establish fraud on the court must meet a high standard. See *Latshaw v. Trainer Wortham & Co. Inc.*, 452 F.3d 1097, 1104 (9th Cir. 2006). "We exercise the power to vacate judgments for fraud on the court with restraint and discretion, and only when the fraud is established by clear and convincing evidence." *United States v. Estate of Stonehill*, 660 F.3d 415, 443 (9th Cir. 2011) citations and internal quotation marks omitted).

Our precedent "emphasize[s] that not all fraud is fraud on the court." *United States v. Sierra Pacific Indus, Inc.*, 862 F.3d 1157, 1167 (9th Cir. 2017) (citation and internal quotation marks omitted). "In determining whether fraud constitutes fraud on the court, the relevant inquiry is not whether fraudulent conduct prejudiced the opposing party, but whether it harmed the integrity of the judicial process." *Id.* at 1167-68 (citations and internal quotation marks omitted); see also

*Levander v. Prober (In re Levander)*, 180 F.3d 1114, 1119 (9th Cir.), as amended (explaining that “[f]raud upon the court should . . . embrace only that species of fraud which does or attempt to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.”) (citation and internal quotation marks omitted).

Additionally, “mere nondisclosure of evidence is typically not enough to constitute fraud on the court, and perjury by a party or witness, by itself, is not normally fraud on the court.” *Sierra Pacific Indus., Inc.*, 862 F.3d at 1168 (citations, alteration, and internal quotation marks omitted). “However, perjury may constitute fraud on the court if it involves, or is suborned by, an officer of the court . . .” *Id.* (citations and internal quotation marks omitted). “Under the high standard for a Rule 60(d)(3) motion, a mere discovery violation or non-disclosure does not rise to the level of fraud on the court. . . .” *Id.* at 1171 (citation omitted). “[O]ur case law requires that a party show willful deception rather than simply reckless disregard for the truth . . .” *Id.* at 1172 (citation omitted).

Here, the Minute Order and the final Statement of Decision confirm that the amount of the judgment is \$179,982.04. The former Conservator’s attorney, Ms. Cheryl L. Walsh who prepared the proposed judgment filed a declaration dated August 1, 2015, case no. 30-2011-00504928-PR-CP-CJC, (This case no. is not correct. The correct case no. is 30-2012-00557942-PR-CP-CJC)

declaring under the penalty of perjury under the law of the State of California that "Due to my long and intensive practice in the field of probate and trust litigation, the legal services rendered by me in this matter served to greatly benefit Conservatee, Joseph E. Ribal, resulting in an return of funds and double damages totaling approximately \$180,000. CT 463, CT 568: 9-13 (The case no. 30-2011-00504928-PR-CP-CJC, listed in the declaration is not correct. The correct case no. is 30-2012-00557942-PR-CP-CJC).

On March 10th, 2016 the Conservator's Attorney, Ms. Cheryl L. Walsh, filed a declaration in support of ex-parte application for a new trial date in case no. 30-2014-00760690-PR-CP-CJC, dated 3/10/16, declaring under the penalty of the laws of the State of California that "There is an appeal pending with regards to an elder abuse matter wherein a judgment was entered against NGUYEN (Appellant) and in favor of ROGERS as conservator of RIBAL's estate, in the amount of \$259,973.07, plus attorneys' fees and costs totaling approximately \$100,000" (the "Appeal") CT 463: 24-26 and CT 464: 1-4, CT 571: 12-15 On April 2, 2016, the Conservator's attorney, Ms. Cheryl L. Walsh, filed an affidavit with the Circuit Court of the First Circuit State of Hawaii, dated April 2, 2016, being duly sworn on oath deposes and says as follows: " . . . that the judgment is \$259,973.06 . . ." CT 464: 5-8, CT 574-575.

In enforcing the judgment, the conservator's attorney, Ms. Cheryl L. Walsh, had filed an abstract of judgment (CT 169-176, 543-550), the writ of execution (CT 272-274, 552-553), and the

garnishment of wages, claiming that the amount of judgment is \$259,973 with the Orange County Superior Court in the State of California, and the California public agencies, and the Circuit Court of the First Circuit, State of Hawaii and the Hawaii public agencies (CT 182-190, CT 555-556). This is an imposition of fraud on the Courts and the public agencies. CT 464: 16-22.

On January 9th, 2017, the Conservator's Attorney, Ms. Cheryl L. Walsh also filed another declaration in the case no. 30-2011-00504928-PR-CP-CJC, (The case no. 30-2011-00504928-PR-CP-CJC listed in the declaration is not correct. The correct case no. is 30-2012-00557942-PR-CP-CJC), dated 1/9/17, declaring under penalty of perjury, under the laws of the State of California, that ". . . Due to my long and intensive practice in the field of probate and trust litigation, the legal services rendered by me in this matter served to greatly benefit RIBAL (the Decedent), resulting in and Order for the return of funds and double damages totaling approximately \$180,000." CT 464:9-14, CT 586:14-16. (The case no. 30-2011-00504928-PR-CP-CJC listed in the declaration is not correct. The correct case no. is 30-2012-00557942-PR-CP-CJC).

In *Trendsetta USA, Inc. v. Swisher International, Inc.*, No. 20-56016 (9th Cir. 2022) 761 F. App'x 714 at 718, DAR April 18, 2022 pages: ii & 3652, the Court wrote:

"However, perjury may constitute fraud on the court if it involves, or is suborned by, an officer of the court . . .

... ” “[O]ur case law requires that a party show willful deception rather than simply reckless disregard for the truth ... ” *Id.* at 1172 (citation omitted).

Here, Attorney Cheryl L. Walsh is an officer of the Court.

The misrepresentations through Respondents' Modus Operandi, all throughout these cases would have tainted the judgments that Respondents have relied on to deny the Appellant's interest in Dr. Ribal's estate. Collateral estoppel will not be applied if injustice would result or if the public interest requires that re-litigation not be foreclosed. *Consumers Lobby against Monopolies v. Public Utilities Com.* (1979) 25 Cal. 3d 891, 902.

In *Hazel-Atlas Glass v. Hartford-Empire Co.*, 322 U.S. 238 (1944) the Court held that there is no statute of limitations for bringing a fraud upon the Court claim. P. 244 According to the ruling In *Hazel-Atlas Glass v. Hartford-Empire Co.*, 322 U.S. 238, the judgment obtained by fraud on a court must be set aside.

According to *Hazel-Atlas Glass v. Hartford-Empire Co.*, 322 U.S. 238 and Fed. R. Civ. P. 60(d)(3) a judgment can be put aside when the attorneys and their clients had committed fraud on the court.

Here, Attorney Cheryl L. Walsh and the Respondents have committed fraud on the courts in California, Orange County and Hawaii, Oahu County.

In *Kenner v. Comm'r of Internal Revenue*, 387 F.2d 689, 691 (7th Cir. 1968), the Court held that: “a

decision produced by fraud is not a decision at all and never become final."

Fair trial in fair tribunal is basic requirement of due process. U.S.C.A. Const.Amend. XIV. Appellant did not receive a fair hearing when respondents and their attorneys have committed fraud on the court.

2. Appellant was denied the right to have a fair hearing when the court was bias in ruling that Appellant was not entitled to any inheritance to the Conservatee's estate because Appellant was found to be an elderly abuser when the judge Kim Hubbard's ruling is contradictory to this ruling. This deprives Appellant his right to Due Process under the protection of the Fifth Amendment and the Fourteenth Amendment to the United States Constitution.

On May 18th, 2017, Judge Kim Hubbard found that Dr. Joseph E. Ribal did not lose his capacity until sometime in 2012 after he was admitted into the nursing home. However, Judge Glenn Salter granted Dr. Joseph E. Ribal's two children, Laura Tiano and David Ribal's petition to annul the domestic partnership in April 2012 on grounds Dr. Ribal lacked legal capacity in January 2010 to enter into a domestic partnership. (Dr. Joseph E. Ribal is now referred as Dr. Ribal)

Then, in February 2014, Linda Rogers, the former conservator of Dr. Ribal and his estate filed a petition against the Appellant in probate court. She sought return of Dr. Ribal's property and damages for financial and physical elder abuse based on acts occurring in early 2010 through early 2012.

A trial on this petition was held before Judge Geoffrey Glass in December 2014. Following trial, the court concluded among other findings "Ribal was incapable of caring for his or her property or transacting business or understanding the nature or effects of his acts from at least the 1st of January 2010 onward."

To find Appellant liable for elderly abuse financially and physically is against the legislative intent when Judge Kim Hubbard, an expert in elderly abuse, in her ruling dated May 18, 2017, found that Dr. Ribal, the deceased, did not lose his capacity until sometime after he was admitted into the nursing home in 2012. Because Dr. Ribal was able to approve all of Appellant's expenses and the waiver of rent for the injured tenant. And Appellant should not be found negligent for Dr. Ribal's fall.

Therefore, Judge Gerald Johnston's ruling on August 4, 2017 that "Even though Mr. Nguyen enjoyed a long relationship with Dr. Ribal, his actions during the Conservatee's years of incapacity have been found to be abusive and self-serving. Whatever positive relationship and intimacy Mr. Nguyen once enjoyed with Dr. Ribal has been compromised and negated by his many acts against Dr. Ribal's interests. It is difficult to imagine Dr. Ribal, if still competent, would wish to continue to support or provide any gifts, bequests or benefits to Mr. Nguyen" (CT 258:5-15)

This ruling is not consistent with the intent and interest of Dr. Ribal, and it is against public interest and public policy in providing access to justice

for all. This ruling is also in violation of Appellant's right to Due Process because of bias. Public interest and public policy would require the Court to give Appellant the right to share with the Respondents the estate of Dr. Ribal according to his intent and wishes.

According to *Caperton v. A.T. Massey Coal Co., Inc.*, 129 S.Ct. 2252, 556 U.S. 868, 173 L.Ed. 2d 1208, on remand 690 S.E. 2d 322, 225 W.Va. 128.

"In lieu of exclusive reliance on personal inquiry by judge, or on appellate review of judge's determination respecting actual bias, the Due Process Clause is implemented, in area of judicial recusal, by objective standards which do not require proof of actual bias; in defining these standards, court asks whether under a realistic appraisal of psychological tendencies and human weakness, the interest in question poses such a risk of actual bias or pre-judgment that practice must be forbidden if guarantee of due process is to be adequately implemented. U.S.C.A. Const. Amend. XIV.

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## CONCLUSION

Appellant was found to have committed elderly abuse under the California Probate Code sections 850(a)(1)(D) & 859; California Welfare & Institution Code section 15600 et seq. because the Deceased, Dr. Joseph E. Ribal, was found not to have the capacity by January 2010. However, Judge Kim Hubbard who has been in charge of handling Elderly Abuse cases and RO's (Restraining Order), found that Dr. Ribal did not

lose his capacity until sometime after he was admitted into the nursing home in 2012. Thus, under this ruling Dr. Ribal was able to approve all of the Appellant's expenses in helping friends and relatives and the waiver of rent for the injured tenant. Appellant should not be found liable for Dr. Ribal's fall in the Seal Beach park.

Appellant respectfully requested the Supreme Court to grant the Writ of Certiorari because Appellant was denied his right of Due Process that is protected in the Fifth Amendment and the Fourteenth Amendment to the United States Constitution and it is against the legislative intent, the public policy and public interest to penalize an innocent party. Furthermore, it is vital to secure uniformity of decision as to the calculation of the judgment under the California Probate Code §859. (Cal. Rules of Court, Rule 8.500(b)(1).)

Date: October 4, 2022

Respectfully submitted,  
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