No._____

IN THE

Supreme Court of the United States

LEO F. KRAMER; AUDREY E. KRAMER, IN PRO PER

Petitioners,

v.

JPMORGAN CHASE BANK, N.A.; et al

Respondents.

APPLICATION TO THE HON. ELENA KAKAN, ASSOCIATE JUSTICE, FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT, CASE No. 20-15095

LEO KRAMER, in pro per
AUDREY KRAMER, in pro per
Petitioners in Pro Per

2364 Redwood Road
Hercules, CA 94547
Telephone: (510)708-9100
audreykramer55@yahoo.com

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicants, Leo Kramer, in pro se and Audrey Kramer, in pro se respectfully seek a 60 day extension of time, until June 24, 2022, in which to file a writ of certiorari petition seeking review of the 9th Circuit's ORDER issued January 25, 2022, in Kramer v. JPMorgan Chase Bank, et al (attached as Appendix A). Applicants timely filed a petition for Panel Rehearing and Rehearing En Banc that the Ninth Circuit Court denied on January 25, 2022, stating that:

> *" The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. See Fed. R. App. P. 35."* (attached as Appendix A)

1. The district Court had jurisdiction under 28 U.S.C. 1331. The Ninth Circuit had jurisdiction under 28 U.S.C. § 1291. This Hon. Court has jurisdiction under 28.U.S.C. § 2101.

2. Applicants will file a petition for writ of certiorari seeking review of the Ninth Circuit's decision in LEO KRAMER; AUDREY E. KRAMER v. JPMORGAN CHASE BANK, N.A,; et al. Under Rule 13.3, the time for Applicants to file their petition, unless extended, will expire on April 24, 2022. Thus, Applicants are filing this application for an extension of time more than "10 days before the date the petition is due." Rule 13.5

3. This case presents a substantial and important question of federal law: Whether a material point of fact or law was overlooked and or disregarded by the Ninth Circuit Court of

Appeals. Moreover, whether consideration by the full Court is necessary to secure or maintain uniformity of the Court's decision; the proceeding involves a question of October 20, 2021, attached hereto as (Appendix B), directly conflicts with an existing opinion by another court of appeals, the Supreme Court, and substantially affects a rule of national application in which there is an overriding need for national uniformity. Fed. R. App.P.35(b); 9th Cir. R. 35-1.

4. Rehearing en banc is warranted under FRAP 35(b)(1) because the panel decision conflicts with decisions of the Supreme Court and the Ninth Circuit Court.

Specifically, the panel's determination that:

"*We reject as meritless the Kramers' contentions that the district court was required to state findings of fact and conclusions of law in its post-judgment order, see Fed. R. Civ. P. 52©, or that they were entitled to an evidentiary hearing.*" (DktEntry: 51-1, at. P. 2., ¶ 3.)

This decision conflicts directly with the Supreme Court's decisions in *Universal Oil Prods. Co. v. Root Refining Co.*, 328 U.S. 575, 580 (1946), where the United States Supreme Court specifically recognized that the "inherent power of a Federal Court to investigate whether a judgment was obtained by fraud, is beyond question." *See, Universal Oil Prods. Co. v. Root Refining Co.*, 328 U.S. 575, 580 (1946) (citing *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 332 U.S. 238 (1944)). *See, Mathews v. Eldridge where the Supreme Court held* that "[S]ome form of

hearing is required before an individual is finally deprived of a property [or liberty] interest." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). "Parties whose rights are to be affected are entitled to be heard." *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 233 (1863).

5. **INTRODUCTION / BACKGROUND:**

Appellants/Petitioners filed the underlying motion under Fed. R. Civ. R. 60(b) and under Fed. R. Civ. R. 60(d)(3) to challenge the validity of the judgment, which is the subject of this Appeal, after discovering that **Kent F. Larsen Esq. Nevada Bar No. 3463**, an Officer of the Court, JPMorgan Chase Bank, N.A., and Smith Larsen & Wixom, a law corporation, knowingly, purposely, and intentionally filed fabricated "Assignment of Deed of Trust", fabricated Purchase and Assumption Agreement, fabricated Proof of claim, fabricated expired Limited Power of Attorney as evidence to obtain judgment in the United States District Court in their zeal to deprive Appellants/Petitioners of all pecuniary and beneficial interest in their real property commonly described as: 1740 Autumn Glen Street, Fernley, NV 89408 ("the Subject Property").

6. In the instant case, the United States District court failed to investigate whether the judgment which is the subject of this Appeal was obtained by fraud. Appellants/Petitioners

further contend that evidentiary hearing is one of the many tools the District Court should have utilized to investigate as to whether JPMorgan Chase Bank and its Attorneys fabricated Assignment of Deed of Trust and Purchase Assumption Agreement they claimed was provided to them by FDIC. Had the United States District Court conducted an investigation as provided in *Universal Oil Prods. Co. v. Root Refining Co.*, Id., it would have discovered that JPMorgan Chase Bank and its Attorneys orchestrated an unconscionable plan or scheme and made willful and callous misrepresentations directed at the judicial machinery in their schemes to commit fraud upon the court by proffering fabricated Assignment of Deed of Trust", fabricated Proof of Claim, fabricated expired Limited Power of Attorney, and Fabricated Purchase and Assumption Agreement as evidence to obtain judgment in the United States District Court. This Hon. Court also found that court judgment may be set aside for fraud on the court. *Please, see, Pumphrey v. K.W. Thompson Tool Co.*, 62 F.3d 1128, 1130 (9th Cir. 1995).

Further, the Supreme Court has noted that relief from judgment for fraud on the court is "available to prevent a grave miscarriage of justice." *United States v. Beggerly*, 524 U.S. 38, 47 (1998).

7. Rehearing en banc is warranted under FRAP 35(b)(1) because the panel decision conflicts with decisions of the

Supreme Court and this Court. Specifically, the panel's determination that:

> *"The district court did not abuse its discretion by denying the Kramers' motion for reconsideration under Rule 60(b) because the motion was filed more than one year after the entry of judgment and relied on evidence that was available before the entry of judgment. See Fed. R. Civ. P. 60(c)(1) (requiring a motion under Rule 60(b) to be made within a reasonable time, and for reasons (1), (2), and (3) no more than a year after the entry of the judgment); Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc., 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth grounds for relief under Rule 60(b))."* **(DktEntry: 51-1, at. p. 2., ¶ 1.) (attached as Appendix B).**

conflicts with the Supreme Court's decisions in *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244 (1944), where the United States Supreme Court specifically held that the doctrine for relief from judgment procured by fraud upon the court allows relief from judgment for "after-discovered fraud". *Please see, Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 244 (1944). And this court's decision in *Greenawalt v. Stewart*, where this Court held that "Relief under section 60(b)(6) is reserved for 'extraordinary circumstances[,]' " id., and "is to be utilized only where extraordinary circumstances prevented a party from taking timely action to prevent or correct an erroneous judgment[,]". *Please see* this Court's own decision in *Greenawalt v. Stewart*, 105 F.3d 1268, 1273 (9th Cir. 1997).

Here, Appellants/Petitioners did not and could not have discovered the fraud because of the willful concealment of material facts which were known only to JPMorgan Chase Bank and its Attorneys which Appellants/Petitioners, despite exercising reasonable diligence, Plaintiffs/Appellants/Petitioners could not have discovered, did not discover, and was prevented from discovering, the fraudulent Assignment of Deed of Trust and the wrongdoings complained of herein until June 8, 2019 when Appellant hired a licensed private investigator, William Paatalo, in a wrongful foreclosure action in the State of Nevada in case #:18-CV-00663. The State Court in that Case allowed Appellants/Petitioners to conduct Discovery. In the United States District Court however, Appellants/Petitioners were denied their right to conduct Discovery. Subsequently, on December 23, 2019,

(**approximately six (6) months upon discovering the Fraud**, Appellants/Petitioners filed their motion to vacate the judgment based on fraud upon the court in the United States District on December 23, 2020. **(ECF-84),** four (4) days later on December 27, 2020, the United States District Court summarily denied Appellants/Petitioners' motion. **(ECF-86).**

Moreover, the lower court denied and prevented Appellants/Petitioners from conducting Discovery in this case.

As such, Appellants/Petitioners did not discover the fraud until Appellants/Petitioners were given opportunity to conduct discovery in State court in Appellants/Petitioners' unlawful foreclosure action. During discovery in States Court's action, Appellants/Petitioners hired a licensed private investigator William Paatalo who uncovered that the Assignment of Deed of Trust and the Proof of claim which formed the basis of JPMorgan Chase Bank's claims were in fact fabricated and summited as evidence by Attorney **Kent F. Larsen Esq. Nevada Bar No. 3463**, an Officer of the Court and a named partner of Smith Larsen & Wixom, Chartered, and Smith Larsen & Wixom, a law corporation to obtain judgment in favor of JPMorgan Chase Bank, N.A.

8. Rehearing en banc is warranted under FRAP 35(b)(1) because the panel decision conflicts with decisions of the Supreme Court and this Court. Specifically, the panel's determination that:

> "The district court did not abuse its discretion by denying the Kramers' motion for reconsideration under Rule 60(d)(3) because the Kramers failed to demonstrate any basis for relief. See United States v. Estate of Stonehill, 660 F.3d 415, 443-45 (9th Cir. 2011) (a party must establish fraud on the court by clear and convincing evidence)." **(DktEntry: 51-1, at. p. 2., ¶ 2.) (attached as Appendix B**

conflicts with the United States Supreme Court's opinion in *United States v. Throckmorton*, where the Court held in

pertinent part that: "***Where the unsuccessful party had been prevented from exhibiting full his case, by fraud or deception practiced on him by his opponent,... a new suit may be sustained to set aside and annul the former judgment or decree, and open the case for a new and fair hearing.***" *See, United States v. Throckmorton*, 98 U.S. 61, 25 L.Ed. 93 (1878). **Furthermore, this court decision (Appendix B),** conflicts with this court's decision in *United States v. Estate of Stonehill*, 660 F.3d 415, 443-45 (9th Cir. 2011) where this court noted that "one species of fraud upon the court occurs when an 'officer of the court' perpetrates fraud affecting the ability of the court or jury to impartially judge a case." And in *Pumphrey v. Thompson Tool Co.*, 62 F.3d 1128, 1130 (9th Cir. 1995); *see also Weese v. Schukman*, 98 F.3d 542, 553 (10th Cir. 1996) (noting that "fraud on the court should embrace only that species of fraud which does or attempts to, subvert the integrity of the court itself, or is a fraud perpetrated by officers of the court") (citation omitted); *Kerwit Med. Prods., Inc. v. N. & H. Instruments, Inc.*, 616 F.2d 833, 837 (11th Cir. 1980). The fabrication of evidence by a party in which an attorney is implicated, will constitute fraud on the court. *Please see,* Rozier v. Ford Motor Co., 573 F.2d 1332, 1338 (5th Cir. 1978).

9. Furthermore, rehearing en banc is warranted under FRAP 35(b)(2) because the issues presented by this case are of "exceptional importance." When Officers of the Court intentionally, and knowingly, proffered fabricated evidence to induce the Court to render judgment in favor of their client, to take real property from homeowners and to deprive homeowners of their pecuniary and beneficial interest in their real property, subverts the integrity of the court, and defile the court itself, so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication. *Please see, Anand V. CITIC Corp.* (In Re Intermagnetics Am., Inc.), 926 F.2d 912, 916 (9th Cir. 1991). Furthermore, '[T]ampering with the Administration of Justice in the manner indisputably shown here, involves far more than an injury to Appellants/Petitioners, Leo Kramer and Audrey Kramer; it is a wrong against the institutions set up to protect and safeguard the public, institutions in which fraud cannot.

10. Petitioner, Audrey Kramer has a very serious personal family matter involving an aging parent who is 90 years of age. The matter entails extenuating circumstances concerning medical issues beyond petitioner's control which will require petitioner's full focus and attention over the next several weeks. Petitioner's parent has no one else to care for

them at this time. Petitioner believes a 60 day extension would provide enough time to address the family matter and allow Petitioner adequate time to prepare and submit Petitioners' writ of certiorari to this Hon. Court by June 24, 2022.

There is good cause for a 60-day extension. Accordingly, Applicants/Petitioners respectfully request that the Court extend the time in which to file a petition for writ of certiorari for sixty (60) days, until June 24, 2022.

Respectfully Submitted,

Audrey Kramer/Applicant/Petitioner in pro per

LEO KRAMER, in pro per
AUDREY KRAMER, in pro per
Petitioners in Pro Per

2364 Redwood Road
Hercules, CA 94547
Telephone: (510)708-9100
audreykramer55@yahoo.com