22-72

NO. 21-___

IN THE

SUPREME COURT OF THE UNITED STATES

In re Jerald Hammann, Petitioner,

and

Jerald Hammann, Petitioner,

vs.

Wells Fargo Bank, N. A., Respondent.

On Petition for a Writ of Certiorari to the Minnesota Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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ORIGINAL

QUESTIONS PRESENTED

The **first** question presented is whether a lower court is obligated to abide by the law of the case even if it claims the appellate court erred.

The **second** question presented is whether a dismissal with prejudice jurisdictionally precludes a district court from hearing a motion to vacate judgment filed pursuant to Rule 60.02.

The **third** question presented is whether the appellate court erred in dismissing the appeal.

The **fourth** question presented is whether existing judicial procedures are adequate to protect individual constitutional rights.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Hammann respectfully submits this petition for a writ of certiorari to review the judgment of the Minnesota State Courts. A state court of last resort has declined review of important constitutional questions.

OPINIONS BELOW

The orders and opinions of the Minnesota Courts are unpublished. Key documents among these are produced in the Appendix.

JURISDICTION

The Minnesota Supreme Court denied review in Case No. A21-0033 on April 20, 2021, making the petition due date September 17, 2021 (pursuant to the March 19, 2020, Order Regarding Filing Deadlines). Case Nos. A21-0429, A21-0827, and A21-1022 were subsequently filed. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a) ("where any title, right, privilege, or immunity is specially set up or claimed under the Constitution . . . of . . . the United States") and 1331 (civil injuries "arising under the Constitution of the . . . United States.").

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

No person shall . . . be deprived of life, liberty, or property, without due process of law.

Amendment V to United States Constitution

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved . . .

Amendment VII to United States Constitution

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.

Amendment XIV to United States Constitution

STATEMENT OF THE CASE

Partiality constitutes a "structural defect . . . in the constitution of the [civil disposition] mechanism. The entire conduct of the [civil case] from beginning to end is obviously affected by . . . the presence on the bench of a judge who is not impartial." *Arizona v. Fulminante*, 499 U.S. 279, 309-310 (1991). "[C]onstitutional deprivations . . . affecting the framework within which the [case] proceeds" "are not subject to harmless error." *Id.* at 210. This same logic must apply to systemic partiality which transcends the conduct of individual judges.

Respondent Wells Fargo Bank N.A., ("Wells Fargo") locked Petitioner Jerald Hammann ("Hammann") out of a residence Hammann rented from a third party against whom Wells Fargo foreclosed upon. No 90-day notice to vacate was provided to Hammann and no eviction was initiated against him. The 90-day notice was required by Minn. Stat. §504B.285(1a)(a) and the Protecting Tenants at Foreclosure Act of 2009. Wells Fargo also subsequently stated that it never attempted to enforce the writ of recovery it obtained against Hammann's former landlord and instead simply changed the locks on the home.

Hammann filed a complaint against Wells Fargo alleging the earlier-known misconduct (27-cv-hc-16-719 Index #2) which was dismissed with prejudice. He appealed without success. A16-0737 and A16-1161 January 3, 2017 Opinion at 6, review denied (Minn. Mar. 14, 2017), certiorari denied (17-489, U.S. Nov. 27, 2017).

Soon subsequent to the denial of certiorari, in *County of Hennepin v. 6131 Colfax Ln.*, 907 N.W.2d 257, 258 (2018), the Minnesota Court of Appeals clarified that "the housing court . . . lacks authority under Minnesota Statutes section 484.013, subdivision 1(a) (2016), to hear and determine any matter unrelated to 'residential rental housing.'" On March 5, 2018, the Hennepin County District Court issued a Standing Order re Certain Real Property-Related Civil Cases (the "Standing Order"), implementing in part the *Colfax* decision.

Since Hammann's claims against Wells Fargo and Wells Fargo's claims against Hammann's landlord related to foreclosed residential housing rather than residential rental housing, he brought a Minn.R.Civ.P. 60.02 motion to have the prior orders and judgments declared void. He also argued that newly-discovered evidence that Wells Fargo did not enforce the writ of recovery it obtained against Hammann's former landlord against Hammann himself, but instead simply locked Hammann out of his residence demonstrated a material factual error which would result in reversal of the judgment.

No notice of assignment of a housing referee ever issued. A housing referee nonetheless determined without a hearing that the case had previously been dismissed with prejudice by operation of law, and therefore found without merit the Minn.R.Civ.P. 60.02 motion. A judgment was entered on November 9, 2020.

Hammann subsequently timely filed: (a) Minn. Stat. § 484.70(7)(d) Notice of Review of Referee's Recommendations; (b) Objection to Referee Pursuant

to Minn. Stat. § 484.70(6); (c) Motion to compel Court Administration to comply with the Standing Order; and, (d) Motion to Amend the Standing Order. Hammann also appealed on January 8, 2021.

On February 2, 2021, the Housing Court affirmed the referee's recommendation: "[a]fter a judgment of dismissal with prejudice is entered, the district court has no jurisdiction over the subject matter of the case and is powerless to act further in the matter." Because this finding is so clearly inconsistent with *Gams v. Houghton*, 884 NW 2d 611, 617 (Minn. 2016), Hammann submitted a letter request to file a motion for reconsideration. See *Gams* at 617 ("We do not agree, however, that [a dismissal with prejudice] thereafter precludes the district court from taking action."). In an attempt to circumvent the *Gams* precedent, the housing court found that Hammann had not filed a Rule 60.02 motion, even thought it had previously acknowledged the Rule 60.02 filing. Compare Nov. 6, 2020 referee's recommendation ("Plaintiff Jerold (sic) Hammann has file a motion to vacate judgment under Rule 60.02.") (App. 22a) and Index #74 at 1 ("Pursuant to Minn. R. Civ. P. 60.02, Plaintiff Jerald Hammann ("Hammann") hereby moves for entry of the accompanying proposed order vacating the judgment entered in the above-titled action.") to May 12, 2021 denial ("Plaintiff has made no such [Rule 60.02] motion in this case, so his cited authority is inapplicable") (App. 21a). Next, the district court refused to enter judgment and denied a motion to compel entry of judgment. Index #104 and #110.

On the entry of judgment issue, the Court of Appeals previously found that Hammann's earlier

appeal was "premature" because it was "filed before entry of judgment on a district court order ruling on a proper and timely request for judicial review under Minn. R. Gen. Prac. 611(a)." A21-0033 February 9, 2021, Order (App. 7a), citing *Dominium Mgmt. Servs. LLC v. Lee*, 924 N.W.2d 925, 928 (Minn. App. 2019).

Accompanying this ruling was dicta (because the appeal was already found premature),[1] which claimed to address the appealability of the denial of a Rule 60.02 motion. The Court of Appeals previously denied Hammann's motion to introduce new evidence on appeal, but then ruled in its dicta that Hammann could have brought this new evidence up on appeal, but did not. Compare A19-1304 Aug. 26, 2019 (motion) and Aug. 28, 2019 (denial) (App. 16a ¶¶2-4) to A21-0033 Feb. 9, 2021 Dismissal Order at 5 (App. 8a) ("Hammann could have raised [the newly discovered evidence] argument . . . in the subsequent appeal."). In the dicta, the appellate court also fails to distinguish between issues reviewable on appeal and those not. Compare *Marzitelli v. City of Little Canada*, 582 N.W.2d 904, 907 (Minn.1998) (lack of subject-matter jurisdiction may be raised at any time by the parties or sua sponte by the court) to *Thiele v. Stich*, 425 NW 2d 580, 583 (Minn. 1988) (appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below). The dicta was therefore both factually and legally erroneous.

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[1] See also Minn. R. Civ. App. P. 104.01(3) ("notice of appeal filed before the disposition of any of the above motions is premature and of no effect, and does not divest the trial court of jurisdiction to dispose of the motion").

Case Nos. A21-0429 (App. 2a) and A21-0827 represent appeals relating what Hammann thought would be orders prior to the entry of final judgment, which Hammann filed in an abundance of caution. A21-0429 was filed after the Minn. Stat. § 484.70(7)(d) review of the referee's Recommendations was completed by the Housing Court and A21-0827 was filed after the Housing Court entered a letter informing Hammann that no judgment would be entered. A21-1022 was filed after the Housing Court denied Hammann's motion to compel the entry of judgment. App. 3a. In this manner, regardless of the specific means by which the courts desired to deny his Rule 60.02 motion and its appeal, Hammann sought to preserve for appeal each individual step in the process undertaken by the lower courts.

REASONS FOR GRANTING THE PETITION

I. LOWER COURT OBBLIGATED TO ABIDE BY THE LAW OF THE CASE EVEN IF IT CLAIMS THE APPELLATE COURT ERRED

A lower court is obligated to abide by the law of the case even if it claims the appellate court erred. "[A] court should not reopen issues decided in earlier stages of the same litigation" unless that court is "convinced that its prior decision is clearly erroneous and would work a manifest injustice." See *Agostini v. Felton*, 521 US 203, 236 (1997), citing *Arizona v. California*, 460 U. S. 605, 618, n. 8 (1983).

Here, the Court of Appeals found that Hammann's first appeal was "premature" because it was "filed before entry of judgment on a district court order ruling on a proper and timely request for judicial review under Minn. R. Gen. Prac. 611(a)." A21-0033 February 9, 2021, Order (App. 7a), citing *Dominium Mgmt. Servs. LLC v. Lee*, 924 N.W.2d 925, 928 (Minn. App. 2019). Thereafter, upon filing the "district court order ruling on a proper and timely request for judicial review under Minn. R. Gen. Prac. 611(a)," the housing court was obligated to enter judgment. It chose not to. Index #104 and #110.

The housing court is not empowered under the law of the case doctrine to find that the appellate court's prior decision is clearly erroneous, but instead only that its own decision is clearly erroneous.

Further, the "manifest injustice" contemplated by *Arizona* is not some manifest injustice to the court, but instead manifest injustice to a party. Simply

because the housing court was aware its rulings would be unsustainable on appeal before an unbiased appellate panel does not give it license to ignore the law of the case.

Because the appellate court decision was not clearly erroneous and because its application was not manifestly unjust, the housing court was therefore obligated to enter judgment after its review was complete and the resulting order filed. Moreover, the appellate court was obligated to remand the case to have judgment entered when the housing court refused to do so.

II. COURT ERRED IN DETERMINING THAT A DISMISSAL WITH PREJUDICE PRECLUDES CONSIDERATION OF A RULE 60.02 MOTION

The housing court erred in determining that a dismissal with prejudice precludes consideration of a Rule 60.02 motion. "Rule 60(b) . . . permits reopening when the movant shows 'any . . . reason justifying relief from the operation of the judgment' . . . The mere recitation of these provisions shows why we give little weight to respondent's appeal to the virtues of finality. That policy consideration, standing alone, is unpersuasive in the interpretation of a provision whose whole purpose is to make an exception to finality." *Gonzalez v. Crosby*, 545 US 524, 528-29 (2005); See also *Gams v. Houghton*, 884 NW 2d 611, 617 (Minn. 2016) ("We do not agree, however, that [a dismissal with prejudice] thereafter precludes the district court from taking action."). Minn.R.Civ.P. 60.02 mirrors in all material respects Fed.R.Civ.P. 60(b). Both rules are most frequently invoked "after

the judgment, order, or proceeding was entered or taken."

The housing court found that: "[a]fter a judgment of dismissal with prejudice is entered, the district court has no jurisdiction over the subject matter of the case and is powerless to act further in the matter." Then, in an attempt to circumvent the *Gams* precedent, the housing court found that Hammann had not filed a Rule 60.02 motion, even thought it had previously acknowledged the Rule 60.02 filing. Compare Nov. 6, 2020 referee's recommendation ("Plaintiff Jerold (sic) Hammann has file a motion to vacate judgment under Rule 60.02.") (App. 22a) and Index #74 at 1 ("Pursuant to Minn. R. Civ. P. 60.02, Plaintiff Jerald Hammann ("Hammann") hereby moves for entry of the accompanying proposed order vacating the judgment entered in the above-titled action.") to May 12, 2021 denial ("Plaintiff has made no such [Rule 60.02] motion in this case, so his cited authority is inapplicable") (App. 21a). Next, the district court refused to enter judgment and denied a motion to compel entry of judgment. Index #104 and #110.

However, modifying factual findings for the purpose of attempting to circumvent precedent does not actually circumvent the precedent.

III. APPELLATE COURT ERRED IN DISMISSING APPEAL

The appellate court erred in dismissing the appeal. While it is unclear what legal basis the appellate

court relied upon to support dismissal, all bases lead to the same conclusion.

As an initial matter, the bases cited in the A21-0033 case were moot. "It has long been settled that a . . . court has no authority to give opinions upon moot questions or abstract propositions." *Church of Scientology of Cal. v. United States*, 506 US 9, 12 (1992). Once the court in the A21-0033 case found the appeal "premature" because it was "filed before entry of judgment on a district court order ruling on a proper and timely request for judicial review under Minn. R. Gen. Prac. 611(a)" (App. 6a), all other matters before it became moot. See also Minn. R. Civ.App. P. 104.01(3) ("Premature Appeal. A notice of appeal filed before the disposition of any of the above [described] motions is premature and of no effect . . .").

Even had these bases not been moot, they are both factually and legally erroneous. Factually, the Court of Appeals previously denied Hammann's motion to introduce new evidence on appeal, but then ruled in its moot dicta that Hammann could have brought this new evidence up on appeal, but did not. Compare A19-1304 Aug. 26, 2019 (motion) and Aug. 28, 2019 (denial) (App. 16a ¶¶2-4) to A21-0033 Feb. 9, 2021 Dismissal Order at 5 ("Hammann could have raised [the newly discovered evidence] argument . . . in the subsequent appeal.") (App. 8a). In its dicta, the appellate court also fails to distinguish between issues reviewable on appeal and those not. Compare *Marzitelli v. City of Little Canada*, 582 N.W.2d 904, 907 (Minn.1998) (lack of subject-matter jurisdiction may be raised at any time by the parties or sua sponte by the court) to *Thiele v. Stich*, 425 NW 2d 580, 583

(Minn. 1988) (appellate court may not base its decision on matters outside the record on appeal, and may not consider matters not produced and received in evidence below). These bases were therefore both factually and legally erroneous.

Finally, several of the issues on appeal in the A21-0033 action were themselves constitutional or jurisdictional. Petitioner's Statement of the Case to the appellate court noticed the following issues:

> Are the time for appeal provisions unconstitutionally ambiguous as they relate to counter-signed referee recommendations confirmed without review?
>
> Does the housing court referee system violate the requirements of the Minnesota Constitution that the person "assigned to hear and decide any cause over which the court to which he is assigned has jurisdiction" be either a "district judge" "elected by the voters from the area which they are to serve" or a "retired judge"? Minn. Constitution Art. 6 Secs. 4, 8, and 10.
>
> Does the judicial practice of counter-signing referee recommendations without independent judicial review violate the Minnesota Constitution?
>
> Did district court administration err by not re-filing the case as a Civil-Other case?
>
> Did district court administration err by not filing a notice of assignment of a housing court referee?

Did the district court error by not permitting any time to object to the assignment of a referee?

Did the district court err by entering judgment without providing an opportunity to object to the housing referee's recommendations?

Are the orders and judgments entered in the prior 27-cv-hc-13-7239 action and/or the present 27-cv-hc-16-719 action void?

Should the orders and judgments entered in the present 27-cv-hc-16-719 action be vacated based on newly-discovered evidence?

"On every writ of error or appeal, the first and fundamental question is that of jurisdiction, first, of this court, and then of the court from which the record comes. This question the court is bound to ask and answer for itself, even when not otherwise suggested, and without respect to the relation of the parties to it." *Steel Co. v. Citizens for Better Environment*, 523 US 83, 94 (1998), citing *Great Southern Fire Proof Hotel Co. v. Jones*, 177 U. S. 449, 453 (1900). As evident, the appellate court addressed the first issue on appeal, but ignored the next seven issues to address the final issue on appeal. Constitutional and jurisdictional issues were required to precede this final issue. Therefore, the court of appeals erred.

IV. STATE COURT DENIED PETITONER'S INDIVIDUAL CONSTITUTIONAL RIGHTS

"The Constitution, by its terms, does not mandate any particular remedy for violations of its own provisions." *United States v. Gonzalez-Lopez*, 548 U.

S. 140, 157 (2006). However, "[t]he very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury." *Bivens v. Six Unknown Named Agents*, 403 U.S. 388, 397 (1971), citing *Marbury v. Madison*, 1 Cranch 137, 163 (1803). At the federal level, 28 U.S. Code § 1331 empowers the federal courts to address civil injuries "arising under the Constitution of the . . . United States." And 28 U.S. Code § 1257 empowers this court to review state court decisions "where any title, right, privilege, or immunity is specially set up or claimed under the Constitution."

The rights or privileges specially set up to Hammann under the Constitution that are in question within this petition are: (a) to have his case presided over by an impartial decision-maker; (b) to not have his case marred by the unequal protection afforded favorably towards Wells Fargo; (c) to not have his case marred by the unequal protection afforded disfavorably against unrepresented parties; (d) to have the right to a trial; and, (e) to have the right to a jury trial.

"The 'equal protection of the laws' is a more explicit safeguard of prohibited unfairness than 'due process of law,' and, therefore, we do not imply that the two are always interchangeable phrases. But, as this Court has recognized, discrimination may be so unjustifiable as to be violative of due process." *Bolling v. Sharpe*, 347 US 497, 499 (1954). The conduct of partial decision-makers, decision-makers favoring Wells Fargo, decision-makers disfavoring unrepresented litigants, decision-makers disfavoring persons wishing to have a trial, and decision-makers

disfavoring persons wishing to have a jury trial is not reasonably related to any proper governmental objective, and thus this conduct imposes upon Hammann a burden that constitutes an arbitrary deprivation of his property rights in violation of the Due Process Clause.

"Liberty under law extends to the full range of conduct which the individual is free to pursue, and it cannot be restricted except for a proper governmental objective." Id. at 500-01. The conduct described immediately above also imposes upon Hammann an unfair burden to protect his property rights and this burden constitutes an arbitrary deprivation of his liberty in violation of the Due Process Clause.

Hammann's right under the Constitution: (a) to have his case presided over by an impartial decision-maker; (b) to not have his case marred by the unequal protection afforded favorably towards Wells Fargo; and, (c) to not have his case marred by the unequal protection afforded disfavorably against unrepresented parties, constitutes a violation of the Equal Protection Clause.

"[J]uries in our constitutional order exercise supervisory authority over the judicial function." *United States v. Haymond*, 139 S. Ct. 2369, 2376 (2019). However, the Minnesota State Court System has driven civil jury trials below 0.1%, effectively eliminating any supervisory authority over their collective conduct. This elimination of supervisory authority has permitted the Minnesota State Court System to select winners and losers in civil actions not based on the merits of their arguments, but instead based simply on the characteristics of the litigants

themselves. Wells Fargo should have lost some of its contested cases before the court, and yet it remains undefeated. In contrast, unrepresented litigants fare twice as poorly as represented ones. Hammann should win his present case against Wells Fargo, but he will not.

Federal civil terminations data reveal a fundamental change in court behavior beginning in 1986. Researchers Alexandra Lahav and Peter Siegelman documented that in the third quarter of 1985, federal court plaintiffs won almost 70% of federal cases that were adjudicated to completion. Ten years later in 1995, plaintiff win rates in federal courts dropped to 30%.[2] Lahav's and Seigelman's research relies upon the Administrative Office of the US Courts Civil Terminations dataset (1980-2009). Plaintiffs' win rates vacillated in the 30%-47% range from 1995 to 2009, averaging around 35% with a moderate downward trend. Id. "As you've probably realized, the elephant in the room (or, in this case, the study) is judicial attitudes."[3] This Civil Terminations data demonstrates that, since 1995, the federal courts have been more likely to intentionally deny equal protection and due process rights to plaintiffs than to respect them. More than half of plaintiffs who would have prevailed had their action been brought in 1985

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[2] Lahav, Alexandra D. and Siegelman, Peter, The Curious Incident of the Falling Win Rate (July 7, 2017). Accessible at SSRN: https://ssrn.com/abstract=2993423 or http://dx.doi.org/10.2139/ssrn.2993423.

[3] Frankel, Allison; "Stunning drop in federal plaintiffs' win rate is complete mystery – new study" Reuters, June 28, 2017. Accessible at www.reuters.com/article/us-otc-mystery/stunning-drop-in-federal-plaintiffs-win-rate-is-complete-mystery-new-study-idUSKBN19J2MB.

or prior are now no longer receiving the due process – the justice – to which they are entitled. Indeed, the fundamental change in court behavior was and is that federal judges stopped caring about providing equal justice under the law and instead are intentionally providing unequal justice.

What statistics show occurred and occurs within the federal courts also occurred and occurs within the Minnesota State Courts. As one example, research conducted by Hammann shows that Wells Fargo has not lost a single contested state court case since prior to 2014, despite participating in 4,765 cases as a first-named plaintiff or first-named defendant during the five-year time period from January 1, 2014, through December 31, 2018. App. 24a-37a. Hammann discovered numerous instances where the Minnesota District and Appellate Courts made seemingly intentional judicial errors to prevent litigants from prevailing against Wells Fargo. App. 32a-37a. Wells Fargo, having numerous opportunities to contest Hammann's research and conclusions, has remained silent. As is evident from the Lahav research, this phenomenon has likely been going on for a great deal longer than the 5-year period Hammann researched.

Not only is it clear that large corporations like Wells Fargo have been the beneficiaries of the unequal protection practiced by the federal and state courts, but it is also clear that unrepresented litigants are one class of victims of this practice. As one example, research conducted by Luke Grundman and others documented the outcomes of eviction actions presided over by the Hennepin County Housing Court. They discovered that represented litigants and litigants receiving limited representation prevailed

against their eviction actions at twice the rate of unrepresented litigants (compare 28 litigant wins over 129 cases (equaling 22%) to 24 unrepresented litigant wins over 219 cases (equaling 11%)).[4] 73.2% of Minnesota civil court system cases disposed of in 2018 had at least one unrepresented litigant.[5]

Recognizing this outcomes disparity, the city of Minneapolis, Hennepin County, and the Pohlad Family Foundation recently provided significant additional financial support to provide some form of representation to more litigants who would otherwise participate in eviction proceedings unrepresented. Id. Not able to change the judiciary, these entities are instead spending money on trying to reduce a source of judicial and judicial process bias.

Not only has the judiciary been intentionally suppressing equal protection rights, but it has also been intentionally suppressing trial and jury trial rights. In 1938, the civil trial rate was 18.16% for all federal court cases.[6] From 1962-1968, civil trial rates occurred within the 11%-12% range for all federal court cases.[7] For the 12-month period ending

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[4] Grundman, Luke, et. al. "In eviction proceedings, lawyers equal better outcomes." Bench & Bar of Minnesota (February 2019).

[5] N. Waters, K. Genthon, S. Gibson, & D. Robinson, eds. Last updated 20 November 2019 Court Statistics Project DataViewer. Accessible at www.courtstatistics.org.

[6] Burbank, Stephen B., "Keeping our Ambitions Under Control: The limits of Data and Inference in Searching for the Causes and Consequences of Vanishing Trials in Federal Court. 1 J. Empirical Legal Stud. 571, 575 (2004).

[7] Galanter, Marc, and Angela M. Frozena, "A Grin without a Cat: The Continuing Decline & Displacement of Trials in American Courts," 143 Daedalus 115, 117 Fig. 1 (2014).

September 30, 2019, the total federal civil trial rate was 0.7% and the civil jury trial rate was 0.5% of the 0.7%.[8]

In December 2003, the Civil Justice Initiative Task Force of the American Bar Association's (ABA) Litigation Section sponsored a symposium on the "vanishing trial," revealing results from its Vanishing Trial Project study. The ABA's intensive research and organized focus on the judiciary's suppression of trial and jury trial rights did not change judiciary conduct, and the suppression only continued to worsen.

Like with the suppression of equal protection rights, what occurred and occurs within the federal judiciary also occurred and occurs within the Minnesota state judiciary. The civil trial rate is the sum of the civil jury trial rate and the civil bench trial rate. In 1992, the Minnesota State Court civil jury trial rate was approximately 6.8%. At that time, the average bench trial rate for 10 reporting states (including Minnesota) was 4.3%.[9] By 2002, Minnesota's civil jury trial rate had declined to approximately 4.3%, representing a 38% decline over 10 years. [10] In 2018, Minnesota reported disposing of

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[8] Accessible at https://www.uscourts.gov/statistics/table/c-4/judicial-business/2019/09/30.

[9] Brian J. Ostrom, Shauna M. Strickland, and Paula L. Hannaford-Agor, "Examining Trial Trends in State Courts: 1976-2002," Journal of Empirical Legal Studies 1, no. 3 (November 2004): 755-782, Figs. 11, 13.

[10] Id. Fig. 13.

1,792 (1.03%) civil cases though bench trial and 201 (0.12%) cases through jury trial.[11]

Hammann's research has uncovered that the actual number of civil jury trials is less than the reported number. For the 42 Contract and Other Civil case types where jury trial activity was indicated in 2018, 8 of these cases did not actually have any jury trial activity (i.e., the Register of Actions stated, "Jury Trial (Held)", but no jury trial was actually held). Hammann also discovered that for 2 of these cases, a jury trial began but did not reach a verdict (1 settled and 1 was dismissed by the judge during trial). App. 38a. Actual jury trial activity appears to be 24% (considering jury trials begun) - 31% (considering jury trials completed) overstated, meaning that a more accurate count of jury trial activity would be 139 (0.08%) to 153 (0.09%) jury trials for calendar year 2018 (denominator of 174,450).[12] It is highly probable that the bench trial statistics are similarly overstated, suggesting that the total 2018 state civil trial rate is 0.79%-0.87%. In summary, since 1992, Minnesota civil trial rates have declined 93% and civil jury trial rates have declined 99%. If trials were an organism, they would be classified as "Extinct in the Wild".[13]

Hammann's right under the Constitution to have a jury trial and to not have his case handled differently because he has requested the right to a

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[11] N. Waters, K. Genthon, S. Gibson, & D. Robinson, eds. Last updated 20 November 2019 Court Statistics Project DataViewer. Accessible at www.courtstatistics.org.

[12] See Footnote 12.

[13] See www.nationalgeographic.org/media/endangered/.

jury trial constitutes a violation of his right to a Civil Jury Trial.

CONCLUSION

Ralph Ellison framed the plight of the "invisible man" as a racial issue: "I am invisible, understand, simply because people refuse to see me." Ellison, R. (1952). Invisible Man. New York: Random House (Prologue). While invisibility is certainly a racial issue, it is also one of economics. Corporations are attributed by the courts with greater societal worth than individuals, resulting in corporations like Wells Fargo being largely immune to valid civil claims while individuals are marginalized and denied fair access to a means for redress of their injuries, especially if these injuries are caused by large corporations.

This is not the first time I have made these arguments to this court. One year ago, I informed the court that this misconduct would happen if it did not act. Minn. A19-1304 and A19-1816. This petition was inevitable. One more petition will be inevitable. See Henn. County 27-CV-19-10382. I know it. The Minnesota courts and this Court would know it if Hammann were not invisible. Anyone who is paying attention knows it. And yet, no one is paying attention.

The courts suppress individual constitutional rights. A person has little available means to protect these individual constitutional rights against this suppression. These suppressive trends only get worse with each passing year. We need action. Today. The

Supreme Court must do its part. Petitioner respectfully prays that the Court grant this petition.

Respectfully submitted,

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