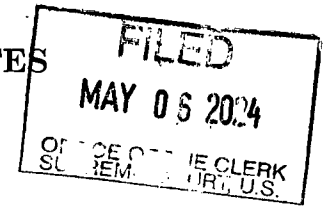
23-1366 ORIGINAL

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES



JENNY JING, ALICE CARPENTER,
MIKE BOLENBAUGH

Petitioners,

v.

JOSEPH WOMACK, CINDY ELLIOT,

Respondents.

On Petition For A Writ Of Certiorari To The Montana Supreme Court

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

In *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 US (1983), this Court ruled that the Appellate Court's affirmation of disallowing the claims pending in another court's jurisdiction violated the First Amendment's right to petition.

In *NAACP v. Button*, 371 US (1963), this Court held that a State cannot disregard constitutional rights under the guise of professional regulation.

The Montana Supreme Court did not review our requested constitutional violations and precluded the issues it previously declined to review, regarding a court-appointed attorney administrator's withholding of information. The district court deemed the decedent's domestic partner, by expressing her opinions from online research in their home, provided 'legal advice' to her domestic partner. The court disqualified her from serving as decedent designated PR to retain an attorney, thereby preventing her from pursuing the decedent's actions against the administrator and a former fiduciary pending in federal court and other state courts (including allowing the decedent's appeal reply deadline to expire).

The administrator now refuses to provide bank statements and itemized bills for his claimed $1 million "expenses", claiming beneficiaries lack standing. Despite determining it did not have jurisdiction over contract fraud, the district court granted a motion to dismiss the decedent's pending actions against the administrator and the former fiduciary with prejudice pending in other courts.

The questions presented are:

1. Did the Montana Supreme Court overlook a violation of First and

Fourteenth Amendment rights, specifically concerning free speech, petition to redress grievances, adversary rights, privacy, by penalizing private discussions between two domestic partners in their home under the guise of "Unauthorized Practice of Law" (UPL)?

2. Did the Montana Supreme Court err in precluding the issues it had previously declined to review and disregarding constitutional issues regarding loopholes in Montana precedent law, whereby the utilization of PR's authority could close the beneficiaries' access to other courts to redress former fiduciaries' breaches, when the probate court lacks jurisdiction?

PARTIES TO THE PROCEEDINGS

Petitioner Jenny Jing, Alice Carpenter, Mike Bolenbaugh are the Appellants in the appeal.

Respondent Joseph Womack, Cindy Elliot are the Appellees in the appeal.

The other interested parties not participating in the appeal are:

Andrew Billstein;

Adrian Olsen;

Ann Sargent;

Emily Sapp;

Holly M. Dudley;

Shelley Patterson;

W. Scott Green.

STATEMENT OF RELATED PROCEEDINGS

This case arises from the following proceedings:

Ian R. Elliot and Ada Elliot vs. Cindy M. Elliot, Elliot & Associates, #. CV-15-107-JTJ, U.S. District Court for the District of Montana, Billings Division. Judgment pending.

Ian R. Elliot v Joseph Womack, #. DV 21-811, Montana 13th Judicial District Court, Yellowstone County. Judgment pending.

In the Matter of the Estate of Ada Elliot, #. DA 21-0343, Montana Supreme Court. Intervention denied 5/10/2022. (15a-17a) Judgment entered 5/12/2022. (18a-35a)

In the Matter of the Estate of Ada Elliot, #. DP 17-0036, Montana 13th Judicial District Court, Yellowstone County. Judgement entered 8/10/2021. Case pending. (73a-75a)

In the Matter of the Estate of Ian R. Elliot, #. DA 23-0031, Montana Supreme Court. Judgment entered 12/19/2023. (4a-15a) Petition for Rehearing denied 2/6/2024. (1a-4a)

In the Matter of the Estate of Ian R. Elliot, #. DP 22-0034, Montana 13th Judicial District Court, Yellowstone County. Judgment entered 5/23/22 and 12/9/2022. (36a-47a) Case pending.

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PETITION FOR A WRIT OF CERTIORARI

Petitioners respectfully seek a writ of certiorari to review the Montana Supreme Court's judgments.

OPINIONS BELOW

The appeal opinions of the Montana Supreme Court are unpublished and reproduced in 4a-37a.

The Montana Supreme Court order denying rehearing is reproduced in 1a-4a.

The judgement of the 13th District of Montana is unpublished and reproduced in 38a-50a.

JURISDICTION

The Montana Supreme Court issued its opinion on 12/19/2023. Petitioners timely sought rehearing, which was denied by order dated 2/6/2024.

Petitioners' petition submitted on 5/6/2024 was returned and a 60 day extension for refiling was given by the Clerk of this Court.

This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The 1st Amendment To The U.S. Constitution, The 14th Amendment To The U.S. Constitution, and Article VI of the U.S. Constitution, are reproduced in 48a.

INTRODUCTION

A few years ago, the court's denial of celebrity singer Britney Spears' plea to end her involuntary conservatorship captured national attention and led to an increase in calls for the reform of the probate law at both the state and federal levels.

Spears' case, along with the judicial response that allowed such situations to persist for more than a decade, represents a widespread issue affecting many individuals or situations, rather than an isolated incident. Fiduciaries can exploit legal loopholes to prolong their control over beneficiaries' financial resources for personal gain. This leads to a significant imbalance in judicial protections that favor fiduciaries over beneficiaries, detrimentally injuring those whom the law is meant to protect.

In *Marshall v. Marshall,* 547 U.S. 293 (2006), this Court clarified that the probate exception doesn't prohibit federal jurisdiction over fraud and tort claims. This petition underscores the severity of loopholes in probate representative litigation rule to prevent beneficiaries' access to federal and other state courts from redressing breaches, especially when the state probate court admitted its limited jurisdiction didn't cover the pending contract fraud claims. (49a-50a, also *Matter of Estate of Pegg*, 680 P. 2d 316 (MT 1984)).

The Petitioners are senior citizens with limited years ahead. While we could have walked away with the money from our rightful inheritance of Ian Elliot's estate, the money we are going to inherit belonged to Ada Elliot and Ian, who

suffered and were unable to enjoy their own money when they were alive, and were injured by their fiduciaries. The state courts have denied our right, as beneficiaries, to seek justice for Ada, Ian, and redress a grievance for ourselves.

The Montana Supreme Court remained silent on our requests to review loopholes exploited to deprive beneficiaries of their rights under the 1st and 14th Amendments. It's imperative that this Court grants certiorari to uphold the fundamental principles of these amendments.

STATEMENT OF THE CASE

I. Relevant Facts and Court Proceedings

The following facts, sourced from court dockets, respondents' own court filings, testimonies, and emails from discoveries, were presented and undisputed in the District Court and the Montana Supreme Court.

We highlight these facts to underscore the necessity to allow adjudication and our access to the claims pending in federal and other state courts, which have yet to be litigated. The crucial issues such as whether the respondents' claimed service agreements involved fraud were never addressed by the probate courts nor reviewed by the Montana Supreme Court.

The State courts were silent or suggested that the issues, facts, and evidence presented by the beneficiaries pending in other courts were irrelevant to their rulings.

A. The Case against Fiduciary Cindy Elliot Pending in the Federal Court

Ada was diagnosed with Alzheimer's disease in 1998 and was blind from the

progress of her disease since 2003. Ada inherited her brother Ray Ecton's farmhouse and 1,000 acre land in 2001. After Ray's funeral, Ada's daughter Cindy took Ada for a short stay with her in Utah. When they came back, Cindy told the family that Ada owed IRS $1 million estate tax and Ray's ranch faced IRS immanent auction.

Cindy testified in the court that, Ada contracted her to live at the ranch for 10 years' agriculture operation so to fulfill an IRS special election to offset the $1 million estate tax.

In 2006, Cindy had Ada transferred the ranch properties to form a family partnership Starfire LP "so that we wouldn't end up going through the same nightmare we had with my uncle's estate", (51a) "where we nearly lost the entire ranch to a IRS estate tax auction". (54a)

Cindy contracted the farmland which generated approximately $30,000-$44,000 yearly income. She reported to the family that her selling of over $2 million worth of Ada's properties was to cover farming losses and her parents' care expenses.

In 2010, Cindy placed Ada to live in a caregiver's basement. Ada lived on her $2,000 monthly social security and teacher's retirement fund paid to this caregiver, while Cindy lived off the income from Ada's assets.

Within 4 months, Ada suffered two physical injuries in this caregivers' home, one of the injuries resulted in a 2 inch stitches in Ada's scalp.

Ian and his partner Jenny then took Ada home to live with them and became

Ada's 24/7 caregivers. After paying all of Ada's expenses, they realized that Cindy had vastly overstated Ada's past care expenses.

In 2013, Ian refused to sell the remaining 240 acres of Ada's properties under Starfire's title. He insisted on receiving transaction records for previous property sale proceeds, which Cindy failed to provide.

Claiming Starfire lacked funds unless Ian signed the property sale agreement, Cindy ceased Starfire's payments for Ian's healthcare insurance while Ian underwent chemo-radiation cancer treatment on his foot.

Cindy then retained a "Starfire Counsel", sued Ian for refusing to sell properties as "obstruction" of Starfire's operation. Ian then petitioned for Ada's guardianship and conservatorship.

In 2015, Cindy still resisted providing Ada's transaction records. Ada's conservator took her counsels' advice, withheld Ada's accounting and signed an agreement with Cindy to sell the remaining properties. Ian then filed a complaint in the federal court against Cindy for contract fraud and breaches.

After receiving back-pay for Ada's care, Ian retained trial attorney David A. Duke. Duke represented Ian and Ada in the federal court case against Cindy and appealed to remove Ada's conservator for failing to conduct Ada's accounting. Following Ada's passing, Duke represented Ian as Ada estate's temporary special administrator.

Through extensive discovery, Ian and Duke obtained records from Ray's and Ada's banks and their accountant. Following two federal court orders compelling

her, Cindy eventually produced "available" copies of Ada's personal bank and credit card statements. These records indicate:

a) Ada's filing prepared by Cindy to the IRS indicate Ray Ecton Ranch's estate tax was $152,994 and Ray left at least $135,000 cash and cash equivalents;

b) Cindy covertly borrowed a $500,000 mortgage, signing as Ada's attorney-in-fact;

c) Cindy had been using Ada's and late Ray's personal credit cards, other credit accounts, and attributed the debts to Ray and Ada.

d) No original documents or third-party records support Cindy's claimed compensation contracts with Ada, or Cindy's assertion that the substantial funds in Ray and Ada's personal bank accounts, which Cindy had sole access to, were spent for Ada or Starfire.

The federal court's jury trial was scheduled in November 2019.

B. The Case against Court Officer Womack Pending in Other State Courts

On 2/11/2020, Ian filed a complaint against Womack for stalling Ada estate's accounting to shield Cindy and accepting the alleged contracts between Cindy and Ada as legally binding.

On 7/2/2021, Ian filed his amended complaint against Womack after correcting the technical defections. The case has remained pending in another district court. Ian provided, including but unlimited to, the following facts and evidence:

1. Fraud and Collusion:

Discovery documents indicate that upon Womack's appointment as a neutral

party to administrate Ada's estate based on Cindy's counsel's recommendation, he and Cindy's counsels planned to setup Womack as Starfire's liquidating partner before the Federal Court's 6/20/19 hearing, aiming to evade potential injunctions against Cindy.

This hearing, unrelated to Ada estate's administration, was to consider Ian's motion to stop Cindy's paying herself "management expenses"— estimated $70,000-$90,000 — from the partnership after Ada's death. Cindy disregarded the Gallatin County Court order, which prohibited any payment without both Cindy and Ian's written approval or a court order.

Anticipating Ian's objection, Womack wrote to Cindy's counsel:

> "I would like to see Ian served with the Notice of the meeting from Cindy in order to force him to show up and give us an argument that the meeting is valid and binding regarding whatever decision is made." (Dkt 163, Exh B)

The following day, Womack informed Ian and Duke to meet him. Womack told Ian that he had retained Duke to help him in the federal court case, where Ada's estate is a joint Plaintiff. Unknown to Ian and Duke, Womack had already planned with Defendant Cindy's counsel against his joint Plaintiff Ian. Womack then never used Duke's service nor consulted Duke.

Days later, Womack moved to Ada's probate court for the authority to commence and withdraw the claims, and to obtain partners' agreement to appoint him as Starfire's liquidating partner.

Ada's probate court granted Womack's motion and denied Ian's request for a postponement to seek legal counsel, when Duke was unavailable due to Ian's

conflict with Womack.

After Ian refused to sign the agreement, Womack moved to the court to "enforce the agreement", insisting that in the meeting Ian orally agreed Womack's appointment without expressing the need to consult an attorney.

Before taking these actions, Womack had his assistant Lindsey Ross researched the Uniform Partnership Code. In the 4/1/2022 hearing, Ross admitted that she reported her research result to Womack.

The Uniform Partnership Code explicitly prescribed that a deceased partner's representative may exercise the rights of a transferee, who is not entitled to participate in the management or conduct of partnership's activities, against other partners' consent. (MCA 35-12-1105, 35-12-1107(l)(c), 35-12-705 and 706).

Womack never disclosed these statutes to Ian, nor to Hon. Judge Mary Jane Knisely. He also did not inform Judge Knisely that the previous presiding Hon. Judge Ingrid Gustafson had addressed the legitimacy issues of Starfire's formation, (53a-55a) and suggested a 50/50 in kind distribution of Ada's partnership shares according to Ada's Will (52a), which was in accordance with the Uniform Probate Code (UPC), (MCA 72-3-902).

The legitimacy of Starfire's formation involves the litigation pending in a federal and a state court to decide whether the properties should be restituted to Ada's estate, then the court is mandated to follow the procedures of Montana Uniform Partition of Heirs Property Act (UPHPA), including:

1) Determining if the property is heirs property;

2) Appointing a commission of three independent referees if it is;

3) Allowing parties to object to the appraisal, physical partition or forced-sale, and the selection of the sale agent, etc.

These statutes mandate that the court follow sequential due process procedures to safeguard heirs and beneficiaries' property rights, thereby restricting PR's unilateral power.

2. Fraud or negligence to facilitate the later sale of additional $1.5 million properties, by deliberately underselling the two building lots and inflating accounting expenses:

a) Womack's email to Realtor Toth requesting a lower appraisal report for the two building lots, stating he needed it in case of a court inquiry;

b) Starfire consists of only two rental houses situated on one leased piece of land, with a few already subdivided tracts. Past bank statements show only 6-8 annual bills totaling about $27,000 in obligations. After selling two building lots, Womack had at least $140,000 in cash, net of $27,000, for his administration;

c) The forensic accounting conducted by Duke cost only $20,000;

d) Womack and Cindy dumped 42 boxes of documents on the accounting firm Wipfli LLP;

e) Womack's witness from Wipfli testified that they had informed Womack that dealing with the "disorganized", "unrelated", and "duplicated" 42 boxes

of documents "would be a significant undertaking".

3. Inflate the expenses and false financial report:

a) Womack's 5/29/20 report to the court stating "NONE" property transfer in Ada's life time.

b) Womack's 1/14/2021 court filing listed a monthly $3,000 payments to Cindy's management fee as his expenses after his appointment as Starfire's liquidating partner;

c) Womack admitted in the 4/22/21 hearing that he did not pay Cindy $3,000 monthly;

d) Substantially billed $300 hourly attorney rate for non-legal works such as arranging beneficiaries' visits to properties and handling lawn and house maintenance, etc.

4. Concealing a meeting record to justify withholding Ian's 25% distribution from building sale proceeds was not intended to retaliate or coerce Ian:

a) Ian's court filings stated that Womack refused to release court-ordered distribution for Ian's retainer and said he would use Ian's distribution to pay his own lawyer;

b) Mike detailed testimony, uncontested by Womack;

c) Jenny's statements in court;

d) Womack's former assistant Ross, an attorney in Cindy's counsel's law firm, testified that she attended the meetings and "made records of what was said", though "not recall the specifics";

e) Four of the five meeting attendees' consistent testimonies or statements indicate that a record was made. Three of the attendees insisted under penalty of perjury about what Womack told Ian in the meeting.

C. The District Courts Disallowed Ian's Adverse Actions Against Womack

The district court granted Womack's motion to sell the 2 houses worth of additional $1.5 million. The district court stated:

> "some of you say I want property, others say I want money or property, I just don't care, just give make it go away, make it be done." (60a)

Following the hearing, Ian became aware that the UPHPA and UPC mandate in-kind partition and distribution preference. Ian filed motion for Rule 60 Relief and argued Womack's failure to disclose these laws. Ian also notified Womack and the Realtor via emails that Womack's unilateral selection of a sale agent without allowing Ian's objection violated these laws.

Womack then accused Ian's emails to the Realtor constituted contempt of the court's verbal order, and urged Realtor Toth for a quick sale to moot Ian's appeal:

> "as long as this is done, Ian's appeal on the sale of the property will be meaningless and the appeal will be dismissed by the Montana Supreme Court." (Dkt 165, Exh H)

When Ian contested Womack's non-disclosure of the laws regarding the in-kind distribution, the district court stopped Ian:

> "This case takes, frankly, very low priority on the statutory priority of cases...
>
> ...I am not going to dedicate Department 8 to your family's estate and money for people who are deceased 100 percent of my time.
>
> So again, the scope of this hearing is not what you think the law is or what I think the law may be..." (64a, highlighted sections)

The district court then ruled Ian for contempt of its verbal order and

prohibited Ian from "obstruct" Womack's actions. (73a-75a)

Ian filed appeal. Ian's filing to the Montana Supreme Court mentioned that while preparing his appeal, Womack's counsel moved to the court requesting an order declaring Ian as vexatious and refused to extend Ian's objection deadline. Ian stated that he had to work overnight to meet the objection deadline and his blood pressure spiked to over 200.

Ian died during his appeal, before he had the chance to respond to Womack's brief.

D. The Court Disallowed Ian's Estate from Pursuing Ian's Surviving Actions against Womack Pending in Other Courts

Immediately following Ian's passing, Jenny informed Womack and Ian's nephew Adrian Olsen, that Jenny and Ian's former wife Ann Sargent each possesses a notarized Ian's Will, and Ian designated Ann and Jenny as his estate's co-personal representatives.

On 1/15/2022, Ann and Jenny notified Womack, Cindy and Adrian that, once they received Ian's death certificate, they would, under penalty of perjury, provide Ian's notarized Will to every interested party simultaneously.

Cindy admitted during the hearing that in the next day of Ann and Jenny's notice, she and her son entered Ian's house with the "permission" of Ian's tenants (who resided in a separate basement section). They searched upstairs Ian and Jenny's bedroom and found Ian's unsigned will. They then took the unsigned will to her counsels, discussed together with Womack "to work out a plan for how to handle Ian's estate". Cindy then signed a document prepared by Womack, claiming Ian

died intestate, when she already possessed Ian's death certificate.

Womack then filed petition claiming that, as the Will he possessed was unsigned and Jenny "refused to provide" a purported Will, Ian's heirs were Cindy, her son and Adrian, and asked the court to appoint Adrian or a special administrator for Ian's estate.

The district court denied Ann and Jenny repeated requests for a jury trial when Womack opposed it, despite both sides alleging criminal accusations against each other.

Nearly a dozen individuals volunteered to the hearings, stating to the court that they came to support Ian and Jenny. The District Court order did not mention that half of them testified expressing respect and appreciation for Ian, trust and support for Jenny, which contradicts Womack and Adrian's portrayal of Ian and Jenny's character and relationship.

Jenny presented Ian's text messages to Adrian, who admitted that Ian did tell him that Ian sent money from his mortgage to repair Jenny's house for sale, so Ian and Jenny could "make a tidy profit we can use to get by on for awhile".

Jenny also presented undisputed facts and evidence demonstrating that Ian and Jenny protected Ada, and their "obstruction" prevented Cindy from selling Ada's remaining properties for $1.78 million before Ada's death, and prevented Womack from selling the properties for $2.5 million in 2019. Without their "obstruction", there would have been little or no assets left, Ada's estate and Ian's estate might not have existed, let alone the estates' significant property

appreciation during the pandemic.

The district court stopped Jenny's attempts to argue the merits of Ian's actions against Cindy and Womack pending in other courts, agreeing with Cindy and Womack that Jenny's arguments and facts were irrelevant.

The district court also denied to appoint Ann and Jenny only temporarily for them to engage an attorney to simply file a reply brief to the Montana Supreme Court, taking Womack's advice that the attorney retained by Ann and Jenny would act "in a manner that - that they want him to do...", (76a) "the Court will be inundated with another brief and a bunch of materials..." (88a)

The Montana Supreme Court rejected Ian's appeal after the 60 day extension expired. The district court then ordered Ian's Will as valid, and granted Womack's petition to annex Ian's designated PRs, stating that allowing Jenny as the PR to "pick up what Ian left out" would "detriment the estate".

E. The Order Turned Ada's Probate Court Proceedings into a Non-Adverse Process

Following Attorney Andrew Billstein's appointment, he made it clear to the court that he did "whatever he is ordered to do" to "wind down" Ian's "litigation strategy" and avoided conflict with Womack. Billstein did not respond to Ian and Jenny's evidence that Womack evaded the accounting for Ada's personal finance, and did not question Womack's accounting result.

Billstein immediately approved Womack's "Interim Bills" which Ian opposed. When Jenny questioned Billstein whether it was "reasonable" for Womack to charge $300 hourly fees for non-lawyer work, the district court halted further inquiry.

After Billstein provided Wipfli's accounting report, we noticed that contrary to Womack's testimony claiming he conducted Ada's accounting, Wipfli's report did not include most Ada's personal bank and credit accounts. We filed a motion for Rule 60 relief based on Womack's fraud on the court.

The district court denied our motion. The Montana Supreme Court affirmed district court's order, did not review the constitutional issues, and the evidence we presented. (Page 3-11)

Despite oppositions by beneficiaries holding 78.33% of Ian estate's interests, the district court granted Billstein's motion to:

1) Accept the least favorable tract re-divided by Womack, where the cost of building a road to access this tract could potentially exceed its value.

2) Dismiss Ian's claims against Cindy and Womack with prejudice, with a specific clause to bind the beneficiaries.

REASONS FOR GRANTING THE WRIT

Although a State Court has its final authority to the state laws and rules, the Supremacy Clause within Article VI of the U.S. Constitution dictates that federal law is the "supreme law of the land." This Court has assured "that state courts will not be the final arbiters of important issues under the federal constitution". *Minnesota v. National Tea Co.*, 309 U. S. 551, 557 (1940).

The questions presented are of widespread interest and recurring. This petition is a good vehicle for this Court to resolve the differences in the State high courts, to review the constitutionality of UPL, and the states' common rule which

disallows the beneficiaries to seek redress on behalf of themselves.

I. This Case Is a Good Vehicle for This Court to Review the Constitutionality of UPL and Resolve the States' Differences

A. This Court's Precedents Appeared Some Acknowledgement that Legal Opinion Is Protected Under First Amendment

This Court had previously granted certiorari on a state's UPL issue but did not address whether nonlawyers' expressing legal opinions or "legal advice" is under the First Amendment protection.

In *NAACP v. Button*, 371 US 428-429, (1963), this Court did not endorse a state's professional and association regulations and held that NAACP's activities in furtherance of litigation,

> "are modes of expression and association protected by the First and Fourteenth Amendments".

In *Johnson v. Avery*, 393 US 483 (1969), this Court reversed the 6th Circuit Court's ruling against a prisoner for giving legal advice and assisting other prisoners prepare their habeas corpus petitions, when there was practical difficulties to obtain the lawyer's assistance. Although this Court did not directly address the constitutionality of a broad definition of UPL, Justice William Douglas, in his concurring statement pointed out:

> 'Laymen—in and out of prison—should be allowed to act as "next friend" to any person in the preparation of any paper or document or claim, so long as he does not hold himself out as practicing law or as being a member of the Bar.'

Then, this Court ruled differently in *Shaw v. Murphy*, 532 U.S. 223 (2001), held that the prisoners did not enjoy all of the First Amendment rights. This appears like an acknowledgement that, expressing legal opinions or "legal advice" is

an average citizen's (although not a prisoner's) First Amendment right.

B. The Attorney's Services Are Unavailable For Most Of The Average Citizens

For centuries, the legal services are either unaffordable or unavailable to the majority population in this nation. The government statistics indicate that, low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems. (Legal Services Corporation: "The 2022 Justice Gap Study")

What is noteworthy in our instant case, is that Ada and Ian should not have lived on their meager $2,000 or $1,000 monthly retirement incomes from the government. Ada owned assets worth millions of dollars. Ian was entitled to at least 1/2 of Ada's assets. Yet, they were unable to afford an attorney because their fiduciaries controlled their assets. Cindy and Womack not only paid themselves hundreds of thousands dollars service fees, but also had or have retained multiple law firms to protect themselves using Ada's and Ian's money.

What is even more disturbing is that Ian had secured counsel after saving enough money to retain one. Yet Womack took away and "caged" Ian's counsel. Womack then withheld Ian's money for nearly a year, despite knowing that another experienced trial attorney, Jock West, was waiting for the retainer to represent Ian.

C. The States and the Law Enforcement Disagree How to Define UPL

In the last two decades, the Department of Justice (DOJ) and the Federal Trade Commission have urged the American Bar Association (ABA) and states to narrow the definitions on the practice of law and UPL. Relying on the antitrust law, they argued that lawyers' monopoly on legal services disadvantages consumers.

In 2003, the Utah legislature adopted the law of the Colonial period, limiting the practice of law to representation in court only. The Utah Supreme Court then tried to redefine the practice of law with some exceptions.

In 2010, the Montana Supreme Court decided that it did "not have the constitutional authority to define the practice of law". It reject a broad definition of UPL and dissolved its UPL Commission. (52a, In *re Dissolving Com. on the Unauthorized Prac. of Law*, 356 Mont. 109 (MT 2010))

In New York, North Carolina and South Carolina, the courts are also grappling how to define UPL. (*Upsolve v. James*, 22-1345-cv, 2nd Cir, pending)

When state highest courts disagree on how to define UPL, or determined it did not have the constitutional authority to define UPL, or did not review our appeal involving UPL, it leaves the constitutional authority and duty of interpretation to this Court.

D. The Court Order Violated the Free Speech and Expression, and Intruded Privacy

In *Stanley v Georgia*, 394 U.S. 557 (1969), the defendant possessed and viewed pornography in his home. This Court unanimously held:

> "Whatever may be the justifications for other statutes regulating obscenity, we do not think they reach into the privacy of one's own home. If the First Amendment means anything, it means that a State has no business telling a man, sitting alone in his own house, what books he may read or what films he may watch."

Similarly in our case, whether there is a defined or undefined UPL in Montana, the state has no business on whatever document Jenny read online, what notes she wrote, and what opinions she expressed to Ian in their own private home. Nor did

the state have a business to intrude how Ian and Jenny dealt with their financial hardship in borrowing from Ian's mortgage to repair Jenny's house for sale; nor the difference of $2,000 or $8,900 in a year they spent for their private life living in New Jersey is the matter of the court, when Womack and Cindy failed to prove any financial exploitation or undue influence.

This is a violation not only to Jenny's right of free speech and expression under the protection of the First Amendment, but also Ian and Jenny's private life, under the protection of the 14th Amendment. Yet the Montana Supreme Court was silent to our requests for its review.

E. A Broad Definition of UPL in the Information Age Is Not Sustainable

The UPL is intended to prevent low quality legal services. It's not for the purpose of keeping people ignorant to the law, or preventing people from educating themselves or expressing opinions based on their own understanding about the law. Such purposes violate the First Amendment, as affirmed in *Button*:

> "For a State may not, under the guise of prohibiting professional misconduct, ignore constitutional rights." At 439.

Especially in the information era of the 21st century, enforcing state regulations to prevent people from expressing their opinions on legal issues through online research is unrealistic and unsustainable.

The opposing attorneys used UPL to intimidate Ian and Jenny multiple times. Now, Womack has moved the court for an order to prohibit Jenny from talking with Alice and Mike, who joined with Jenny against him. It is deeply troubling that as an officer of the court and the law, Womack has been leveraging every advantage to

intimidate his adversaries and ask the court to blatantly violate the Petitioners' 1st Amendment rights to free speech and expression, free association, and the right to petition.

This Court's review of our petition to give a clear, direct constitutional interpretation of UPL, is critical to protect the innocent citizens from being criminalized, punished, or intimidated.

II. It's A Denial of Due Process to Preclude Issues Not Addressed By the District Court Nor Reviewed by the Appellate Court

A. The Court's Reliance on a Court Officer's Suppression of Controlling Laws and Material Facts Impaired Due Process

Womack never disputed the facts that he knowingly withheld information favoring Ian and adverse to his own position, during his planning, execution, and enforcement of a claimed oral agreement, seeking an additional lucrative position and authority to liquidate the properties.

The Montana Supreme Court's unpublished opinion on 5/12/2022 (19a-37a) affirmed the order based on Womack's shifted position, arguing the agreement issue was irrelevant because he was appointed by the court's discretion (despite the court order explicitly titled to grant his motion to enforce the agreement).

This Court has consistently held that, "a court should always turn to one cardinal canon before all others" and, "when the words of a statute are unambiguous, then, this first canon is also the last: 'judicial inquiry is complete.'" *Connecticut Nat'l Bank v. Germain*, 503 U.S. 249, 253-54(1992)

Had Womack truthfully disclosed the laws to Ian and the court, which favor

Ian's adverse actions against Womack's positions, the court's discretion should not have been invoked. As stated in *Caminetti v. United States*, 242 U.S. 470, 485 (1917), "the duty of interpretation does not arise, and the rules which are to aid doubtful meanings need no discussion."

When the statutes are explicit, specific, straightforward, and unambiguous in disfavoring Womack's appointment to liquidate the properties, the judicial inquiry should be considered complete. "[T]he sole function of the courts is to enforce it [the law] according to its terms." *Id.*

As stated in the UPHPA, "a forced sale of a person's property has always been viewed as an extraordinary remedy which undermines fundamental property rights." Prefatory Note, p2, ¶1.

The right to property is as important as life and liberty in the Constitution, particularly considering real properties. Real properties are a protection against economic fluctuations and inflation, especially during the time of economic uncertainty. They preserve every family's generational securities and contribute to family prosperity. They also provide psychological benefits by maintaining emotional attachments for heirs' and beneficiaries.

In recent years, the national legislative and executive branches have made efforts to help heirs and beneficiaries retain their properties from court-forced sales. Congress passed "Agriculture Improvement Act of 2018" (the Farm Bill) to enable the FSA to provide loans to "assist heirs with undivided ownership interests to resolve ownership and succession on farmland that has multiple owners". (Public

Law No. 115-334, Sec. 5104, 7 U.S. Code § 1936c(c)).

After its enactment, state legislatures nationwide acted promptly to assist heirs qualifying for the FSA's relending program, helping them to keep their farmland.

However, it appears that Montana's judicial branch has lagged behind. Despite efforts by the other two government branches to protect families' property during generational transfers, the judiciary has treated such issues as "low priority" or "just don't care".

B. Allowing a Court Officer's Employing Artifices to Take Advantages of His Opposing Party Compromised Due Process

Due process encompass the fundamental principle of fair play. Treating a court-appointed attorney's employing artifices to take advantages of his unrepresented opposing party in the court proceedings as "intrinsic" denies fair play.

When Womack immediately created multiple actions in the court just days after he took away Ian's counsel, it was impossible for a pro se like Ian to handle such a disadvantageous situation.

To compound matters, Womack's actions were secretly planned with Ian's opposing party Cindy and her counsels. They prepared arguments against Ian before Womack's setup, then presented these arguments to the court while withholding information beneficial to Ian and adverse to Womack's arguments.

The Montana Supreme Court's opinion that the alleged Womack's fraud (even if by a court officer and a trustee), is "intrinsic" and was not egregious enough to void the judgement, is in conflict with this Court's ruling established in *Hazel-Atlas*

Glass Co. v. Hartford-Empite, 322 US 238 (1944).

Hazel-Atlas held that the matter justifying to void the judgement is the attorneys' conduct itself, not the effectiveness or relevancy of the attorneys' action in obtaining the favorable judgement. ("Hartford's officials and lawyers thought the article material...They are in no position now to dispute its effectiveness." at 247).

C. The State Courts' Preclusion of Unreviewed Issues Contradicts This Court's Ruling

In *Jennings v. Stephens*, 574 US 271 (2015), this Court ruled that when the appellate court affirmed the order on alternative grounds, issue preclusion shifted to the alternative ground, no longer attaching to the original issue.

The State Court precluded Womack's conduct in enforcing the liquidation agreement in our appeal, deeming us to be relitigating the matter which it previously declined to review. This judgment contradicts this Court's ruling in *Jennings.*

Also, the issue and evidence regarding whether Womack and Cindy's dumping of 42 boxes of documents to the accountant involved fraudulent manipulation or negligence to inflate accounting or administration expenses to pretext the sale of additional $1.5 million properties, were never addressed or reviewed. State courts ruled that "due to unorganized documents, many of them irrelevant to StarFire", under laws allowing property sale for administration expenses, "complete in-kind distribution was not possible here". (30a-32a)

Therefor, we were not re-litigating the judgments made on alternative grounds.

D. The State Court's Preclusion of Events That Occurred After the First Suit Contradicts This Court's Ruling

In *Lawlor v. National Screen Service Corp.*, 349 U.S. 322 (1955), this Court ruled that, claims in the second suit, arising from events occurring after the first suit, were not barred even though "both suits involved essentially the same course of wrongful conduct".

Ian discovered the facts and evidence after the court's 4/22/2021 hearing, regarding Womack and Cindy's counsels planning to set him up.

With Cindy's assistance, Womack inserted a proceeding to prolong his service and substantially increase his service fees. Subsequently, Womack and Cindy joined actions in courts to prevent Ian from intervening Womack's actions to dismiss the claims against Cindy with prejudice, and their manipulated accounting results and process.

Despite Ian presenting these facts and evidence, the courts neither addressed nor reviewed them, deeming that Ian provided no evidence of collusion.

After Ian's death, Womack received documents stolen by Cindy from their adversary's residence, planned and acted together with Cindy again to prevent Ian's designated PRs from pursuing Ian's surviving action against them.

Neither the district court addressed nor did the Montana Supreme Court review whether these new actions constituted unlawful collusion, occurring after Ian's appeal.

The Montana Supreme Court's denial of relief, by precluding the fraud and collusion issues as relitigation, contradicts this Court's rulings in both *Jennings*

and *Lawlor*.

III. Disallowing Beneficiaries To Redress Grievances Violates The 1st And 14th Amendments

A. It's A Party's Constitutional Right to Protect Its Right to Property and Redress

This Court has long rejected the negativity in courts' stance towards lawsuits: "[t]hat our citizens have access to their civil courts is not an evil to be regretted; rather, it is an attribute of our system of justice in which we ought to take pride." (*Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 643 (1985)). And "we cannot accept the notion that it is always better for a person to suffer a wrong silently than to redress it by legal action." (*Bates v. State Bar of Arizona*, 433 US, 350, 376 (1977)).

In *Bill Johnson's Restaurants, Inc. v. NLRB*, 461 U.S. 731, 741 (1983), this Court upheld that access to court is the First Amendment right to redress grievances to the government, regardless of whether the employer violated labor law.

Ian and Jenny only opposed Womack's actions that harmed Ian's interests. Ian's actions were in good faith and supported by substantial evidence of harm to Ada and Ian, and it was not some evil "litigation strategies".

The State court's refusal to allow Ann and Jenny to serve as PR to "pick up what Ian left" contradicts this Court's consistent rulings, and deprives our right to redress grievances.

B. The State Courts Disagree on the Circumstances to Allow the Beneficiaries to Redress on Behalf of Themselves

Most states enforce a rule that denies beneficiaries standing to address a breach against a third party directly, or on behalf of themselves, despite there is hardly such statutes in many states.

This rule originates from the privity doctrine, where beneficiaries are represented by their trustees. See *Matter of Estate of Long*, 732 P. 2d 1347 (MT 1987); *Kittrell v. Fowler*, 870 SE 2d 210 (VA 2022); *Matter of Estate of Calvin*, 2021 S.D. 45.

Exceptions allowing beneficiaries to seek redress are limited, such as the ones prescribed in *Restatement (Third) of Trusts*, 2012, §107(2)(a) and (2)(b), the FRCP Rule 24(a)(2) and the Rule Committee's 1966 amendment note, but are non-binding to the state courts.

Some states relied on other authorities and alternative interpretations, allowed the beneficiaries to redress against a party related to the former or current trustee's breaches. (See *King v. Johnson*,178 Cal. App. 4th 1488, 1502 (2009). Holding that "[t]he liability of the third party is to the beneficiaries, rather than to the trustee." citing *Scott on Trusts*, (4th ed., § 282, §294, at 1502); *Wolf v. Mitchell, Silberberg & Knupp*, (76 Cal. App. 4th 1030, 1037 (1999), a beneficiary had standing to sue trustee's attorney). In *Parker v. Parker*, 185 So. 3d 616, 619 (Fla. 4th DCA 2016), the Florida Appellate Court held that the beneficiaries could bring claims without joining estate's PR. It reasoned that the transferred properties had already been conveyed "inter vivos" and were not part of the decedent's estate in PR's possession.

Several other states also found their reasons to allow the beneficiaries bring

claims on behalf of themselves when the trustee refused to bring claims for them. see *In re Estate of Bleeker,* 168 P. 3d 774, (Okla, 2007); *Anderson v. Dean Witter Reynolds, Inc.*, P. 2d 742, (Utah, 1992); *Schaefer v. Schaefer*, 89 Wis.2d 323 (App.1979); *Taylor v. Maile,* 127 P. 3d 156, 142, (ID 2005); *Moore v. 1600 Downing Street, Ltd.,* 668 P.2d 16, 19 (Colo. App. 1983), etc.

C. The Prerequisite for Beneficiaries' Standing to Redress Violates the 1st and 14th Amendments

Montana is among the states which strictly reject the beneficiaries' right to redress against a 3rd person or intervene on behalf of themselves, unless the beneficiary obtain favorable ruling against their current trustee's fraud, collusion, conflict of interest, etc. The reason is, a beneficiary's bringing claims,

> "would defeat the entire purpose of representative litigation and would likely result in the affairs of the estate becoming hopelessly entangled." *Long, Supra.*

This clarifies that this probate representative litigation was created for the courts' interest to control their dockets.

However, limiting the litigation does not satisfy the strict scrutiny to achieve a compelling government interest to justify limiting the right under First Amendment. *Button,* at 438.

While the trustees are duty-bound to protect the interest of the beneficiaries, many 3rd party trustees do not have a personal stake in the outcome of the controversies. Especially for some attorney trustees, who often are more interested in maximizing their own service fees.

In our case, Womack shirked his duty by claiming 'saving litigation expenses' to

dismiss the case against Cindy with prejudice. Yet he orchestrated with Cindy to expand his authority, instead of following Montana statutes and Rule 1 of Civil Procedures "speedy, and inexpensive determination of every action and proceeding".

Womack's prolonged administration costs more than $1 million, and led to the suffering and eventual death of one of Ada's heirs. He then initiate litigation in Ian's probate to further expand his compensations and obstruct beneficiaries from redressing their breaches, contradicting his claim of 'saving litigation expenses'.

In contrast, Attorney Duke pursued damages and charged only $21,600 (plus $20,000 from Eide Bailey LLP's forensic accounting report) in two years, completed discovery despite Cindy's resistance, and prepared for a jury trial by 2019. Ada's probate could have been resolved by then.

Therefore, giving the trustee the 'discretion' to deny a beneficiary's right to redress creates a loophole. This loophole enables a trustee with possible or actual collusion, fraud, or negligence.

Furthermore, transferring the beneficiary's cause of actions to the trustee is akin to putting the cart before the horse, because:

> "primarily it is the beneficiaries who are wronged and who are entitled to sue". *Scott on Trust, Supra.*

The beneficiaries' constitutional right to redress grievances on their own behalf should not be deprived under trustee's 'discretion'.

D. Limiting the Beneficiaries to Bring Claims No Longer Achieves the Purpose to Save The Court Economy

Restricting beneficiaries' litigation may have once streamlined court

proceedings, but with a growing aging population and longer life expectancies, it no longer serves this purpose.

According to the National Counsel on Aging, substantial elder abuse incidents involve elder person's family members and adult children. The term "elder abuse is the crime of the 21st century" heightens the urgent need to remove restrictions on beneficiaries' access to redress.

To disallow heirs and beneficiaries to bring claims has actually caused more disputes and more claims brought to the court dockets now.

The latest statistics from the insurance broker Ames & Gough survey (Mar. 2023) reveal that the top leading legal malpractice claims in recent years, have come from the trust and estate practices. The ABA Standing Committee on Lawyers' Professional Liability also acknowledged this trend.

Under Montana precedent law, we must first sue our current trustee Billstein and win the case against him, before we can bring claims against Cindy and Womack. Not only is this unfair to Billstein because he was simply following the court order, but this also will create even more unnecessary controversies to the court.

It's the reality that someone in a position of power can easily find ways to make life difficult for others. Cindy stopped Ian's health insurance. Womack withheld Ian's distribution. They all used the excuse of "management expenses", not a coercion or retaliation. Ms. Spears tearfully expressed her misery to the court when she rebelled against her conservator. Similarly, Ian conveyed his suffering in a text

message during his final months, describing Womack as the "Big Bad Wolf at the door."

This serves as compelling evidence of the unreasonable and harmful nature of the law, forcing beneficiaries to endure misery against their current trustee, before they are allowed a right to redress other fiduciaries' breaches.

IV. The Court's Special Treatment of Its Officer Contravened Equal Protection

The Equal Protection Clause of the 14th Amendment ensures that no "disparity in treatment by the State between classes of individuals" in similar situations and circumstances. *Ross v. Moffitt*, 417 US 600, 609(1974).

Under equal protection, the court must treat Womack and Ian equally under the law. Chart 1 suggests, at least in appearance, a "disparity in treatment": Womack's motions received immediate, same-day scheduling orders, while Ian's motions received no response.

Chart 1 (Docket Entries: DP 17-0036)

Dkt	Entry Date	Filing Party	Subject	Court Response
61	6/20/2019	Womack	Motion: Request authority to commence and terminate litigation	Granted
62	6/21/2019	Distr. Court	Set Hearing Date	
70	7/31/2019	Womack	Motion: Enforcing agreement to dissolve Starfire, and appoint Womack as Liquidating Partner	Granted
71	7/31/2019	Distr. Court	Set Hearing Date	
72	8/5/2019	Womack	Motion: Sell real property of Starfire	Granted
73	8/5/2019	Distr. Court	Set Hearing Date	
92	7/6/2020	Womack	2nd Motion to sell Starfire's property	Granted

93	7/9/2020	Distr. Court	Set Hearing Date	
159	6/9/2021	Womack	Motion: Show cause of Ian's contempt	Granted
161	6/15/2021	Distr. Court	Set Hearing Date	
97	2/11/2020 7/23/2021	Ian	Complaint, Motion for Leave to amend the complaint against Womack (Case No. DV 20-0244)	No Response For 14 months
82	3/16/2020	Ian	Motion: Expedite Hearing to enforce agreement to distribute 1/4 building sale proceeds	No Response
109	8/11/2020	Ian	Motion: Appointment of counsel (Ian will pay Counsel's expenses)	No Response
110	8/11/2020	Ian	Motion: Stay proceedings	No Response
115	8/21/2020	Ian	Motion: Disqualify Womack	No Response Denied

A. The Disparate Treatment to Parties' Requests to Enforce the Agreement

1. Womack's motion to enforce a claimed oral agreement appointing him as Starfire's liquidating partner. Ian objected, asserting that any agreement must be under parties' free intention. Under the law, Ian's refusal to sign indicated his rejection, nullifying any alleged oral agreement.

2. Ian's motion to enforce an agreement reached during the court hearing. The court order, drafted by Womack and signed by the court, explicitly directed Womack to distribute Cindy and Ian each with 25% of the building lot sale proceeds with no strings attached. (90a)

3. Ian's motion went unopposed by the opposing parties for more than 5 months. The district court immediately scheduled a hearing on Womack's motion and subsequently granted it, did not respond to Ian's motion at all. As a result, Womack withheld the funds for nearly a year, coercing Ian must first agree to sell additional

$1 million properties.

B. The Disparate Treatment to Parties' Asserted "financial hardship"

1. Ian provided his financial documents under penalty of perjury, demonstrating he lived on a limited $1,000 monthly social security and retirement fund, including paying Ada's end-of-life hospice care and cremation funeral expenses.

2. Womack did not provide any supporting documentation for his alleged financial hardship. Ian raised objections to Womack's substantial $300 hourly rate for non-legal work, especially when property management companies typically charge only 8% of total rental fees for managing rental properties.

It's undeniable that Ada estate's funds belong to Ada's heirs, Cindy and Ian. However, in contrast to Ian's claimed financial hardship receiving no response, the district court swiftly scheduled a hearing for Womack's claimed financial hardship to pay his "interim fees".

C. The Disparate Treatment to Alleged Contempt of Court Orders

Ian alleged Womack of contempt for paying a deliberately inflated accounting expenses to sell additional properties. The Court's 8/13/19 written order was unequivocal:

> "5. Liquidating Partner shall not have the authority to sell the assets of the LP or pay or compromise creditor claims having a direct nexus to either Ian, Cindy, or Starfire, L.P. without the written agreement of all partners of Starfire, L.P. or in the alternative, an Order of this Court." (93a-94a)

Comparing the 4/22/21 verbal order, which granted Womack's motion to sell properties:

"the roadblocks in this estate are going to come to an end. I am happy to allow you, as I told you all, to participate in some form of mediation." (60a)

Ian's emails informed Womack and the Realtor that Womack's unilateral selection of the sales agent violated the law by not allowing parties to object. Womack admitted that the court's verbal order did not prevent Ian from opposing his actions (70a). Therefore, Womack failed to prove that Ian intentionally and knowingly violated an ambiguous verbal order.

Ian explained that, due to the court not having issued its written order for over a month, he filed a motion requesting clarification, and inferred that the court might be considering his motion regarding the law on in-kind distribution, which had not been addressed previously (71a-74a). Additionally, the "roadblocks" could indicate the court's intention for mediation.

Once again, the district court deemed Womack not in contempt of its explicitly written order, while ruling Ian in contempt of its ambiguous verbal order.

In *Douglas v. Buder*, 412 U.S. 430 (1973), this Court ruled that when the district court and the Missouri Supreme Court retroactively applying an unforeseen law that treated a traffic citation as the equivalent of an arrest, thus holding the petitioner in contempt, they deprived the petitioner of due process notice, irrespective of it's considered a state law.

The Montana Courts retroactively treated a court's ambiguous verbal statement, which followed by a mediation suggestion, as an order already prohibited Ian from opposing Womack. This deprived Ian of due process of fair warning or notice, contradicting this Court's ruling in *Douglas*.

Furthermore, our judicial system employs the adversary system in its courts. Prohibiting Ian from taking adverse actions against Womack, denied Ian his constitutional right in an adversarial process.

D. The Disparate Treatment in Interpreting the Word "Any" in the Statutes

Jenny argued that Womack lacked standing to contest Ian's will, as he himself admitted he wouldn't receive anything regardless of Ian leaving a will.

Despite Womack then claimed as Ian's estate creditor, it was undisputed that Ian signed a "loan" agreement after Womack clarified in writing that the "loan" was in name only and was actually a partial distribution of Ada's estate.

Womack has the authority from Ada's probate court, and had already offset the "loan" from the cash in his possession owed to Ian. Womack's situation paralleled that of the IRS subtracting a taxpayer's overpaid withholding or a bank subtracting a linked savings account balance from a depositor's checking account's overdraft, when they have sufficient positive balance.

The State court deemed Womack satisfied as "any"' interested party under the UPC, despite his "loan" not requiring any involvement from Ian's probate court. Additionally, an attorney's initiation of frivolous litigation also violated Rule 11 of civil procedure and Rules 3.1-3.3 of professional conduct.

Conversely, the State court denied Ann and Jenny as "any" interested party when they filed a motion to intervene. (15a-17a) Despite Ian, Ann, and Jenny repeatedly requesting a jury trial, the courts denied their requests, disregarding the language of "all" in the Montana Constitution (49a), and "any" in the UPC (MCA

72-1-208):

> "any proceeding in which any controverted question of fact arises as to which any party has a constitutional right to trial by jury."

Given that both sides alleged criminal and legal causes in our case, jury trials are entitled under both federal and state constitutions.

Due process includes a "standard of state decisional consistency." *Bouie v. City of Columbia*, 378 U. S. 347 (1964).

The State Court's inconsistent treatment of the language "any" in the UPC, along with its prior interpretations confirming the entitlement to jury trial (See *Safeco Ins. Co. v. Lovely Agency*, 652 P. 2d 1160 (MT 1982), warrant this Court's review.

E. The Disparate Treatment of Womack vs. Ian and Jenny Regarding 'Inference' and 'Conflict of Interest'

a) Womack inserted the proceedings which expanded and prolonged his administration, resulting in him charging substantially unnecessary fees. He admitted during the hearing that Ian did not obstruct his administration in his first year and he could have completed accounting then.

b) Ian's Will explicitly directed that his house be left to Jenny and that the estate should pay his debts. Ian estate's distribution to other beneficiaries does not involve Ian's house and mortgage.

The court denied Womack's conflict of interest, stating he never represented Ian personally, while ignoring undisputed fact of the estate trustee's suppression of vital information in seeking to windup the partnership. It also disregarded its

precedent *In re Rinio's Estate*, 19 P.2d 322, 325 (Mont. 1933), where it ruled the PR had conflict of interest in administering estates and winding up partnership, causing delay in estate's distribution.

Contradicting to UPC and *Sveen v. Melin*see, 584 US (2018), which confirm that estate "default rule" is to identify or "confirm decedent's intent"; or a "bedrock principle" (*In re Estate of Kuralt*, 15 P. 3d 931, ¶17 (MT 2000), the State courts disallowed decedent's lawful intent to redress grievances against Womack.

The State Court these inconsistencies are in conflict with *Bouie, supra.*

Chart 2 lists the transactions (EX. V) that the court used as evidence of Jenny's 'conflict of interest', (37a), to disallow her pursuit of Ian's wishes.

Chart 2:

Page #	Date	To /From Jenny	Amount		Previous Balance	Balance
P1	12/10/2020	EFT J JING	900.00	-		364.67
P2	12/21/2020	EFT J JING	1,500.00	-		2,399.79
P2	12/21/2020	EFT J JING	1,000.00	-		1,399.79
P6	2/1/2021	EFT J JING	1,000.00	-		0.00
P9	3/12	EFT J JING	500.00	-		883.76
P14	6/1	EFT J JING	500.00	-		1,104.92
P14	6/8				1,203.88	
P14	6/8	EFT JENNY JING	1,000.00			2,203.88
P15	6/16				1,646.47	
P15	6/17	EFT JENNY JING	500.00			2,146.47
P15	6/21	EFT J JING	2,000.00	-		
P15	6/28	EFT J JING	2,000.00	-		
P16	7/8	EFT J JING	1,000.00	-		422.28
p28	11/10	EFT JENNY JING	5,000.00	-		1,955.52
p30	12/09				5,435.54	
p30	12/10	EFT JENNY JING	5,000.00			10,435.54
Total Debit			$15,400	Womack's Calculation		
Total Credit			- $6,500			
Total Transfers			21,900.00	Cindy's Calculation:		($15,400+$6,500)
Net Transfers			8,900.00	Jenny's Calculation:		($15,400-$6,500)

Please note the "-" followed by withdrawals in EX.V, and the decrease or

increase from previous balance. It's easy to see that Cindy's $21,900 and Womack's $15,400 were both miscalculations. Jenny's correction to $8,900 was accurate.

Jenny's inadvertent error, her integrity were also collaborated by the testimony from Ian's loan cosigner, affirming her commitment to pay off Ian's *entire* mortgage to ease his concern; and Jenny testified that she received an estimated $30,000 for her house repair, closely matched the actual amount. (76a-81a, 85a-87a)

Jenny's challenging these miscalculations, is fundamental to due process and should be upheld rather than used against her. The court's choosing to penalize Jenny by arbitrarily selecting her accusers' miscalculations, is unjust.

Also, Cindy is not listed in Ian's Will and is the defendant against whom Ian sought damages. The court's defending Womack as acted 'in inference' not only contradicted common sense, but also ignored Womack's breach of fiduciary duty of impartiality by siding with Cindy to claim Ian/Ian's estate shares.

In contrary, the State Courts discredited Jenny for a $2,000 estimation mistake without access to bank statements, and held Ian in contempt for inferring an ambiguous verbal order. While Womack received the benefit of the doubt, Ian and Jenny did not.

In *Village of Willowbrook v. Olech*, (528, 564, U.S.), this court held that the disparity in treatment to a party in the same situation violated due process of equal protection and was "irrational and wholly arbitrary."

A pro se litigant's reputation and integrity hold equal significance to that of a court officer. If Womack, as a private party, does not represent the court, then Ian

and Jenny are entitled to the same level of protections as Womack is entitled to.

The state court discredited Ian and Jenny so carelessly without requiring the burden of proof or reasonable doubt, and punished them very harshly, while treating court officer Womack with undue protection.

This disparity in treatment violated the equal protection of the laws under the 14th Amendment. Disallowing Ian and Jenny from taking adverse actions against Womack also violated both the 1st and 14th Amendments.

CONCLUSION

This Court should grant our petition to protect the constitutional right of beneficiaries from deprivation.

DECLARATION

I declare under penalty of perjury that the information I set forth herein is true and correct.

Respectfully submitted: 6/26/2024

Jenny Jing, Alice Carpenter, Mike Bolenbaugh