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SUPREME COURT, U.S.

No. 23-0297

IN THE

Supreme Court of the United States

LAWRENCE T. NEWMAN
Petitioner,

v.

ROBERT YORK,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF INDIANA

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Indiana courts' judgments violated Newman's Constitutional rights to due process in the absence of hearings in the trial court, by impositions of punitive attorney fee awards by Indiana's appellate courts without mandatorily-required justification, and by denial of Newman's motion for relief from judgment on *res judicata* grounds.

RELATED PROCEEDINGS

STATE OF INDIANA
IN THE MARION SUPERIOR COURT 13
COUNTY OF MARION
CASE NO. 49D13-1009-ES-040244

IN RE THE MATTER OF THE
ADMINISTRATION OF THE ESTATE OF
AL KATZ, DECEASED
Special Judge James Joven

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PETITION FOR A WRIT OF CERTIORARI

Petitioner, Lawrence T. Newman, *Pro Se*, respectfully requests that this Court issue a writ of certiorari to review the Order of the Marion Superior Court 13 for Marion County, Indiana, denying Newman's "Verified Motion for Relief from Judgment Pursuant to Ind. Trial Rule 60(B)(8)."

OPINIONS BELOW

The Order of the trial court dated August 5, 2022, denying relief from judgment is set forth in Appendix page 1A. The Order of the trial court denying Newman's "Motion for Reconsideration of Order Denying Trial Rule 60(B) Motion" dated August 26, 2022, is set forth in Appendix page 3A. The Order of the Indiana Court of Appeals dated January 30, 2023, striking Newman's appellate brief and dismissing his appeal with prejudice is set forth in Appendix page 4A. The Order of the Indiana Court of Appeals dated March 7, 2023, denying Newman's Petition for Rehearing is set forth in Appendix page 6A. The Order of the Indiana Supreme Court dated June 22, 2023, denying Newman's Petition To Transfer is set forth in Appendix page 7A.

JURISDICTION

This cause arises from an Order from the trial court denying Newman's "Verified Motion for Relief from Judgment Pursuant to Ind. Trial Rule 60(B)(8)," the appeal of which was dismissed without reasoning by the Indiana Court of Appeals, after which the Indiana Supreme Court denied transfer.

Accordingly, the jurisdiction of this Court is invoked under 28 U.S.C § 1257(a).

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the following Constitutional provisions, the pertinent portions of which are set forth below:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
U.S. Const. Article. VI.

Congress shall make no law ... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.
U.S. Const. amend. I.

No person shall ... be deprived of life, liberty, or property, without due process of law ....
U.S. Const. amend. V.

.... 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.
U.S. Const. amend. XIV, Section 1.

STATEMENT OF THE CASE

This case concerns the denial by the Indiana trial court of Newman's "Verified Motion for Relief from Judgment Pursuant to Ind. Trial Rule 60(B)(8)" based on "*res judicata*," which Motion was based upon the assessment of over $167,000.00 in appellate attorney fees against Newman in the absence of grounds in the underlying trial court and in the absence of a single finding of wrongdoing by Newman in the appellate courts.

On October 22, 2019, the Marion County (Indiana) Superior Court awarded $167,437.50 in appellate attorney fees against Newman based upon prior Orders of the Indiana Court of Appeals and the Indiana Supreme Court.

The events that led to the fee award are as follows:

Petitioner Lawrence Newman ("Newman") is the son-in-law of Al Katz, a Holocaust Survivor of seven years of slave labor across Europe and domiciliary of Indianapolis, Indiana, since 1946.

Newman is a member of a very small minority in Indiana wherein virulent antisemitism has been deeply rooted for centuries.

In July 2010, at age 90, Al Katz passed away; his Estate was opened in the Marion County, Indiana, Probate Court. Newman, a licensed attorney, represented the Estate from 2010-2011.

The Estate was chronically short of liquid assets from its opening with only $400.00. Newman, as the son-in-law of Al Katz, personally paid for many of the ongoing administrative expenses of the Estate.

During the course of the Estate administration, Newman filed records supporting four motions for reimbursement of Estate administrative expenses in the aggregate amount of $50,836.81.

Newman subsequently filed time sheets for administrative expenses in the amount of $52,050.00, in payment for his attorney fees earned while representing the Estate.

Newman thereafter filed a sixth administrative expense claim relative to **$1,554.20** paid by the Newmans for 2016 property taxes on Al Katz's Indianapolis house.

The aggregate amount of Newman's administrative expenses in his six Motions totals **$104,441.01**. None of said six Motions was ever heard or otherwise determined by the trial court.

In 2016, trial court Judge Rosenberg and his supervising judge both recused themselves for cause, and Judge James Joven thereupon was appointed.

Although Judge Rosenberg had never heard or determined any of Newman's six administrative expense Motions, and the trial court's own official record, through its CCS, conclusively documented that Newman's Motions had never been heard or determined, Judge Joven and the Estate attorney, a long-time legal colleague of Judge Joven, repeatedly erroneously insisted over years that the court had previously denied Newman's Motions during Judge Rosenberg's tenure.

In said rulings for the Estate, Judge Joven never cited to any specific court order that had actually denied any of Newman's Motions.

Because the trial court never heard any of Newman's subject Motions, Newman was left without any relief by the trial court, thus denying Newman his fundamental due process rights to access to the courts and to redress of grievances.

Beginning in 2017, Newman started his quest to obtain judicial relief and due process in the Indiana appellate courts. The Estate attorney/Personal Representative was self-selected as the appellate attorney

Newman filed multiple appeals based substantially on the fact that the trial court had violated his Constitutional rights to due process by failing and refusing ever to hear and determine his six

administrative expense Motions. The Indiana Court of Appeals either dismissed or denied Newman's appeals and assessed appellate attorney fees against Newman, without stating any of the required legal grounds to assess such attorney fees. The Indiana Supreme Court denied transfer, but without jurisdiction by transfer, also assessed appellate attorney fees against Newman without stating the required legal grounds for assessing attorney fees. The Estate attorney/Personal Representative was also appellate attorney and also a hearing officer for the Indiana Supreme Court.

As a result of the actions and inactions of the trial court, the Indiana Court of Appeals, and the Indiana Supreme Court decision not to consider the issue on the merits, Newman's six administrative expense Motions remained unheard, undecided, and unpaid.

On October 22, 2019, the trial court issued its judgment granting $167,437.50 in appellate attorney fees to Judge Joven's long-time legal colleague.

Newman's subsequent appeal of said attorney fee award was denied by the Indiana Court of Appeals and the Indiana Supreme Court.

After said denials, Newman had two professionals forensically independently review the trial court's CCS docket to determine whether any court orders appeared on said docket that denied any of Newman's six administrative expense motions. Both professionals independently provided affidavits that they had personally reviewed the trial court's

CCS docket and that no trial court orders denying any of Newman's administrative expense motions appeared on said CCS docket.

Thereafter, on July 20, 2022, Newman filed his "Verified Motion for Relief from Judgment Pursuant to Ind. Trial Rule 60(B)(8)" relative to the trial court's Order of appellate attorney fees, seeking to have said Order vacated on the basis that, *inter alia*, (1) his six Motions for reimbursement of administrative expenses and for payment of Estate attorney fees were never actually heard or denied by the trial court as required by law, as documented by the trial court's CCS; (2) the appellate courts never stated any reasoning for assessing appellate attorney fees against Newman as required by law; and (3) the Indiana courts in multiple ways abandoned standard probate law procedures, which three extraordinary circumstances resulted in wrongful imposition of $167,437.50 in appellate attorney fees, almost 17 times the value of the Estate. Thus, all of said facts should have compelled the trial court to exercise its equitable powers to vacate the attorney fee judgment as "a judgment which ought not, in equity and good conscience, to be enforced."

Newman requests that this Court grant his Petition for Writ of Certiorari on grounds that affect minority rights to access the courts and redress grievances in that the trial court's denial of his Motion for Relief from Judgment is a gross violation of Newman's Constitutional rights to due process; since said fee award was not only an unconstitutional abuse of power by the trial court, it was based upon and derived from unconstitutional prior actions and

inactions by the trial court, the Indiana Court of Appeals, and the Indiana Supreme Court, denying **Constitutional rights to access to the courts and to redress grievances.**

REASONS FOR GRANTING THE WRIT

THE INDIANA COURTS' JUDGMENTS VIOLATED NEWMAN'S CONSTITUTIONAL RIGHTS TO DUE PROCESS, IN THE ABSENCE OF HEARINGS IN THE TRIAL COURT, BY IMPOSITIONS OF PUNITIVE ATTORNEY FEE AWARDS BY INDIANA'S APPELLATE COURTS WITHOUT MANDATORILY-REQUIRED JUSTIFICATION AND BY DENIAL OF NEWMAN'S MOTION FOR RELIEF FROM JUDGMENT ON *RES JUDICATA* GROUNDS.

The Indiana Courts at all Levels Discriminated Against Newman as a Member of a Tiny Indiana Minority of Holocaust Survivor Families,

This case presents a perfect storm of systematic minority discrimination and denials of Constitutional due process rights by all levels of Indiana courts:

1. The trial judge was the long-time colleague to the Estate attorney;
2. The Estate attorney was also the Personal Representative;
3. The Estate attorney was also the appellate attorney;
4. The Estate attorney was also a hearing officer for the Indiana Supreme Court;

5. Newman and his father-in-law were members of a very small Indiana minority of Holocaust Survivor families.

This Court Has the Authority To Review State Court Decisions that Were Based upon State Law.

The state court decisions based upon state law in this cause raise important Constitutional due process issues which should be reviewed by this Court.

This Court's decisions affirming its judicial power to rule on state court decisions based solely upon state law are legion, dating back to the early nineteenth century.

Since at least 1813, this Court routinely has reversed state courts on state-law questions. See *Fairfax's Devisee v. Hunter's Lessee*, 11 U.S. (7 Cranch) 603 (1813) and *Martin v. Hunter's Lessee*, 14 U.S. (1 Wheat.) 304, 355-56 (1816).

The supremacy clause offers a "doctrinal basis" for this Court's practice of reversing state-court state-law judgments for state-law error. Alfred Hill, The Inadequate State Ground, 65 COLUM. L. REV. 943, 949 (1965).

In *Rogers v. Alabama*, 192 U.S. 226, 230 (1904), this Court held that its jurisdiction to protect constitutional rights "cannot be declined when it is plain that the fair result of a [state-court] decision is to deny the rights."

Davis v. Wechsler, 263 U.S. 22,24 (1923) provides one of the most frequently-cited authorities permitting state-ground reversals.

> If the Constitution and laws of the United States are to be enforced, this Court cannot accept as final the decision of the state tribunal as to what are the facts alleged to give rise to the right or to bar the assertion of it even upon local grounds.

As far back as 1930, this Court endorsed state-grounds reversal where the state court decision was either erroneous or indicated evasion. *Broad River Power Co. v. South Carolina*, 281 U. S. 537,540-41 (1930).

Marbury v. Madison, 1 Cranch 137, 5 U. S. 137 (1803) declared the **basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution**, and that principle has ever since been respected by this Court and the country as a permanent and indispensable feature of our Constitutional system.

Due process rights are considered as so fundamental that they are guaranteed in multiple clauses in the United States Constitution. See *Christopher v. Harbury,* 536 U.S. 403,415 n.12 (2002), holding the right to be "grounded in the Article IV Privileges and Immunities Clause, the First Amendment Petition Clause, the Fifth Amendment Due Process Clause, and the Fourteenth Amendment Equal Protection and Due Process Clauses."

Due process rights are the type of "fundamental rights" that are both "deeply rooted in this Nation's history and tradition" and "implicit in the concept of ordered liberty." *Washington v. Glucksberg*, 521 U.S. 702,720-21 (1997).

The Indiana Court's Denial of Newman's Motion for Relief from Judgment Solely on Grounds of *Res Judicata* Violated Newman's Constitutional Due Process Rights.

For millenia, the Holy Bible exhorts, "Justice, justice, shalt thou pursue." *Deuteronomy*, 16:20. Above the entrance to the United States Supreme Court courthouse is the **maxim**, "Equal Justice Under the Law." This case presents a sorrowful judicial abandonment of these classic legal **principals**, and it is through the means of Lawrence Newman's Rule 60(B)(8) Motion that the pursuit of equal justice can be reinforced and justice be done under the law.

Standards for Granting a Rule 60(B)(8) Motion

Ind. Trial Rule 60 provides (emphasis added):

> **Rule 60. Relief from judgment or order**
>
> (B) On motion and **upon such terms as are just** the court may relieve a party or .... from a judgment ... for the following reasons: . . . .
>
> **(8) any reason justifying relief from the operation of the judgment .... A movant filing a motion for reasons (1),**

> (2), (3), (4), and (8) must allege a meritorious claim or defense.
>
> (D) Hearing and relief granted. In passing upon a motion allowed by subdivision (B) of this rule **the court shall hear any pertinent evidence**, allow new parties to be served with summons, allow discovery, grant relief as provided under Rule 59 or otherwise as permitted by subdivision (B) of this rule.

Ind. Trial Rule 60(B)(8) "affords relief in **extraordinary circumstances** which are not the result of any fault or negligence on the part of the movant." *Dillard v. Dillard*, 889 N.E.2d 28,34 (Ind.Ct.App. 2008). "On a motion for relief from judgment, the burden is on the movant to demonstrate that **relief is both necessary and just.**" *Id.* at 33.

The court in *Wagler v. W. Boggs Sewer Dist., Inc.*, 980 N.E.2d 363 (Ind.Ct.App. 2012) held (emphasis added):

> The trial court's residual powers under subsection (8) may only be invoked upon a showing of exceptional circumstances justifying extraordinary relief." *Brimhall v. Brewster*, 864 N.E. 2d 1148 (Ind.Ct.App. 2007) .... This court has explained:
>
> T.R. 60(B)(8) is an omnibus provision which gives **broad equitable power** to

> the trial court in the exercise of its discretion and imposes a time limit based only on **reasonableness** .... [S]ome extraordinary circumstances must be demonstrated affirmatively. Drawing into consideration Trial Rule 60(B), *supra,* we note that its provisions are addressed to circumstances requiring specific relief from final judgments in order to **render overall fairness and justice for extenuating circumstances.**"

"As stated by Professor Harvey, "This provision should be allowed to grant relief to a party on **broad equitable grounds** where under all the circumstances a need for relief is clearly demonstrated." 4 HARVEY § 60.17, at 216 (1971)." *Stewart v. Hicks*, 182 Ind. App. 308,316 (Ind.Ct.App. 1979).

"Moreover Trial Rule 60(B)(8), *supra,* generally being asserted as a prayer for equitable relief constrains the discretion of a trial court to a standard of mutual fairness for the parties." *H A, Inc. v. Gilmore*, 172 Ind. App. 10,14 (Ind.Ct.App. 1977).

This case presents the perfect storm of "exceptional circumstances" that justify relief from judgment pursuant to the waiver and abandonment by the Indiana courts in multiple ways of standard legal procedures, including, *inter alia*:

1) judicial intransigence in repeatedly for years refusing the trial court's duties to abide by law and by

its own official CCS record, leading to multiple violations of Constitutional due process rights;
2) judicial insistence upon alleged facts that the judge knew to be false in the face of **unrefuted expert evidence before the court** and punitive judicial actions emanating therefrom;
3) hugely-disproportionate, disparate, and punitive attorney fees awarded against a minority party without application of mandatory legal standards for attorney fee awards, without consideration of the value of the Estate, and without evidence in the court's own record;
4) intervening legal and factual developments; and
5) Indiana Supreme Court punitive actions against a minority party in the complete absence of jurisdiction.

Precedential Cases Granting Rule 60(B)(8)/Federal Rule 60(B)(6) Motions

The cases granting relief pursuant to Rule 60(B)(8) do not define the meanings of the terms "extraordinary circumstances," "exceptional circumstances," or "extraordinary relief." In this respect, the factual circumstances of said cases provide a framework for the meanings of said terms and their applicability herein.

In *Fitzgerald v. Brown*, 168 Ind. App. 586 (1976), the defendant filed a Rule 60(B)(8) motion to set aside a default judgment, which motion was granted. Thus, the "extraordinary circumstances" and "exceptional circumstances" were simply the lack of notice of the lawsuit. The "extraordinary relief"

granted was simply **vacation of the default judgment,** thus permitting the defendant his day in court on the merits.

In *G.B. v. State*, 715 N.E.2d 951 (1999), a juvenile filed a Rule 60(B)(8) motion alleging denial of her right to counsel at a juvenile hearing. The "extraordinary circumstances" and "exceptional circumstances" were simply the failure of the trial court to follow the statutory requirements for a juvenile to waive her right to counsel. The "extraordinary relief" granted was simply to **reverse the trial court's adverse ruling** made when counsel had been wrongfully denied.

In *In re Adoption of I.K.E.W*, 724 N.E.2d 245 (Ind.Ct.App. 2000), potential adoptive parents were not given notice by the court of an adoption hearing. The "extraordinary circumstances" and "exceptional circumstances" were simply the failure of the trial court to give notice of a hearing. The "extraordinary relief" granted was simply to **reverse the trial court's judgment** made at the subject hearing.

In *In re Paternity of T.G.T.*, 803 N.E.2d 1225 (Ind.Ct.App. 2004), the trial court **failed to follow the statutory requirements** in a paternity/child custody action. The "extraordinary circumstances" and "exceptional circumstances" were the **failure of the trial court to follow the statutory requirements.** The "extraordinary relief" granted was simply to **require that the statutory requirements be followed.**

Thus, in Indiana cases where the appellant's Rule 60(B)(8) motion was upheld, the "extraordinary

circumstances" and "exceptional circumstances" were such typically-reversible trial court errors as lack of notice and **failure to follow statutory requirements.** The "extraordinary relief" was simply to put the appellants in the legal position they should have been in had the errors not been committed. Importantly, in each case, the trial court was found to have abused its discretion for failing to grant the appellant's Rule 60(B)(8) motion in said circumstances.

Similar to the above Indiana cases, this Court has likewise ruled on the Federal Rules of Civil Procedure's consonant Rule 60(B)(6). In *Klapprott v. United States*, 335 U.S. 601,614 (1949), the court considered a case of deportation where the petitioner was **never given a hearing on the merits** before deportation was ordered, ruling (emphasis added):

> Thus we come to the question whether petitioner's undenied allegations show facts "justifying relief from the operation of the judgment." .... In simple English, the language of the "other reason" clause, for all reasons except the five particularly specified, **vests power in courts adequate to enable them to** vacate judgments whenever such action is appropriate to accomplish justice.
>
> The judgments accordingly are reversed and the cause is remanded to the District Court with instructions to set aside the judgment by default and

> grant the petitioner a hearing on the merits of the issues raised by the denaturalization complaint

Federal Rule of Civil Procedure 60(b) "allows six avenues through which the court may vacate a judgment. Its first five clauses state specific reasons. Its sixth, the residual clause, enables courts '**to vacate judgments whenever such action is appropriate to accomplish justice**.'" *Primbs v. United States*, 4 Cl. Ct. 366,368 (1984).

This Court's cases illustrate federal Rule 60(b)(6)'s breadth, addressing both **(1) legal errors apparent at the time of the judgment and (2) those based on intervening legal developments.** For instance, Rule 60(b)(6) was the "proper" subsection for relief where a trial judge erroneously failed to follow a federal statute requiring recusal at the time of trial. *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847,850-51,863 n.11 (1988). So too, Rule 60(b)(6) governed a motion raising a Sixth Amendment violation at trial. *Buck v. Davis*, 137 S. Ct. 759,772 (2017). Rule 60(b)(6) was the vehicle for a movant to argue that a denaturalization judgment against him "was unlawful and erroneous," based on the dismissal of his co-defendant's case for insufficient evidence. *Ackermann v. United States*, 71 S. Ct 209 (1950).

In all state and federal cases cited above, **the rationale for granting relief was "to accomplish justice" by vacating unfair or inequitable judgments;** and the vehicle to "accomplish justice" is Rule 60(B).

This Case Presents Extraordinary Circumstances that Justify Relief from Judgment.

This case presents the extraordinary circumstances to justify relief from judgment, as it has been demonstrably established that Newman did not receive justice and fairness at any stage of the various legal proceedings at issue herein.

Throughout these proceedings, in both trial court and appellate levels, Newman, as a minority, was **deprived of "equal justice under the law."** At the trial level, the judge refused to set Newman's subject administrative expense Motions for hearing, and then the successor judge falsely and knowingly insisted that Newman's Motions had previously been denied, without any records thereof appearing on the court's CCS, and refused to identify a single purported court order of denial.

A trial court's duty to review its own record, particularly when one party is before the court *pro se*, as was Newman, is discussed in detail by federal Chief Judge Magnus-Stinson in her Order dated March 5, 2019, in *Littler v. Martinez*, United States District Court Southern District of Indiana Terre Haute Division, Case No. 2:16-cv-00472-JMS-DLP, discussing the rights of ***pro se* litigants to "equal justice under the law"** (emphasis added):

> In all of these cases, **the Court cannot and will not treat filings and evidence submitted by *pro se* prisoners differently** than that submitted by

> represented parties. Counsel litigating against *pro se* prisoners cannot either. Every time they do, it erodes the perception of equal justice under law that this Court and all attorneys should seek to promote.
>
> [Opposing counsel] Crandall conveys that Mr. Littler, a *pro se* prisoner, is a nuisance and a less deserving litigant. But Mr. Crandall, and all those litigating against *pro se* parties, must understand that this Court does not share this view and will not accept it from counsel appearing before it. The undersigned, like all Judges of this Court, takes the judicial oath to "administer justice without respect to persons, and do equal right to the poor and the rich" with the utmost seriousness. 28 U.S.C. § 453. Abiding by this oath requires the Court to treat cases, filings, and evidence submitted by a *pro se* prisoner no differently than those filed by counsel.

Judge Magnus-Stinson further in her order quoted a statement made by the former *pro se* litigant's later counsel, as to the importance for a court to review its own record (emphasis added):

> [W]e are only here because of some *perfect storm* of an exceedingly competent *pro se* litigant and the Court's willingness to . . . take an

> active role in the discovery process and analyze the *pro se* pleadings and hundreds of pages worth of exhibits. And it is not at all difficult to imagine how under even slightly different circumstances, this case would be over, and judgment would have been [wrongfully] awarded in favor of all Defendants.

Had Judge Joven's court acted in the scrupulous manner of Chief Judge Magnus-Stinson's court and actually upheld its own record, it would have admitted its false accusations against Newman and granted his 60(B) Motion.

Newman filed his Rule 60(B)(8) Motion for Relief on the bases that:

(1) his six (6) Motions for reimbursement of administrative expenses and for payment of Estate attorney fees filed **beginning in 2013** were never denied by the trial court and, in fact, were never even given a hearing by the trial court. Later statements by the trial court that it had "long ago" denied said Motions were **erroneous and in direct contradiction to the official CCS record of the trial court**, which CCS decisively documents that no orders were ever issued by the trial court denying any of Newman's administrative expense Motions and no such hearings were ever conducted. The trial court's (1) failure to grant Newman any hearings on his administrative expense Motions; (2) failure to issue a ruling on any of said Motions, and (3) the trial court's knowing intransigent fallacious insistence that it purportedly

had "long ago" denied said Motions when said erroneous representations were directly contradicted by its own official CCS record and expert sworn affidavits all served to deny Newman "equal justice under the law." Unlike Judge Magnus-Stinson's "**Court's willingness to . . . take an active role**" in the case and even to "**analyze ... hundreds of pages worth of [*pro se*] exhibits,**" Judge Joven's "active role" was to insist upon non-existent purported orders of denial, which the judge knew to be non-existent.

(2) the matter of the trial court's denial of Newman's Constitutional due process rights by its failures to give Newman notice of and hearings for his administrative expense Motions, its failures to rule on any of said Motions, and the trial court's fallacious and factually-unsupported insistence that it had previously denied Newman's subject Motions were issues that were never actually considered and determined by any Indiana appellate court at any level in any appeal previously made by Newman.

(3) Newman was assessed multiple times by Indiana appellate courts for appellate attorney fees without any trial court orders of denial in evidence before them and without a single appellate court ever making the mandatory determination as required by law that Newman was liable for an award of said fees under Indiana Rule of Appellate Procedure 66 and applicable law. See *Poulard v. Laporte County Election Bd.,* 922_N.E.2d_734 (Ind.Ct.App. 2010) and *Thacker v. Wentzel,* 797 N.E.2d 342 (Ind.Ct.App. 2003).

(4) Newman was assessed a punitive attorney fee by the trial court extraordinarily beyond reason relative to: the value of the **meager/insolvent Al Katz Estate**, the appellate work purportedly performed by the Estate's attorney, and the evidence before the trial court regarding said fees to litigate regarding orders that the judge and the Estate attorney knew never existed.

This case shows a consistent pattern of "exceptional circumstances" of unequal justice under the law in the trial court actively denying Newman his rights to access the courts to hear Newman's Motions for reimbursement and his compensation and then punishing him for exercising his Constitutional rights to access the courts to redress grievances.

Newman, from a very small minority presence in Indiana, as a member of a Holocaust Survivor family, has been extraordinarily punished by the Indiana judicial system for exercising his Constitutional rights.

Additionally, **extraordinary "intervening legal developments" occurred since said prior Appeals were concluded**, including, *inter alia*: (1) the Estate's groundless actions in the trial court intended to leave the elderly minority couple homeless and jobless by falsely accusing them of fraudulent transfer of their Indianapolis house to a charity years before; (2) filing *lis pendens* on said house; (3) continuing harassment of the Newmans through litigation of said baseless fraudulent transfer action; (4) causing the Newmans many months of stress and emotional distress; (5) the Estate freezing the Newmans' sole bank account

holding $43.00; and (6) unwarranted intrusion into the Newmans' personal lives through the Estate's collection efforts.

The Trial Court Never Heard or Made a Determination on Any of Newman's Six Administrative Expense Motions.

There is no question that the trial court never held a hearing on or made a determination of any of Newman's six administrative expense Motions. **This issue is determinative,** because Newman was subjected to punitive sanctions via awards of appellate attorney fees because of Newman's *pro se* repeated and unwavering efforts to have his subject Motions given a determination on the merits by the Indiana courts.

While Judge Joven of the trial court stated in various rulings made years later that the trial court had "long ago" denied Newman's subject Motions and such rulings were adopted by the appellate courts, said assertions were proven demonstrably-false by the court's CCS. In repeatedly making this false accusation, Judge Joven and the appellate courts never once identified any such purported trial court Orders of denial, despite Newman's repeated efforts for the courts to provide any of said purported Orders.

In 2022, the Estate persisted in its collection actions. by filing proceedings supplemental against the Newmans and in filing a baseless Motion To Set Aside Fraudulent Transfer, all such actions being derived from the wrongful actions of the trial court

which Newman's Rule 60(B)(8) Motion sought to correct.

The very fact that no court in many years of litigation ever referenced or provided even a single Order speaks to the Order of Chief Judge Magnus-Stinson emphasizing the judicial duty to support court rulings with evidence.

When Newman obtained two experts to independently review the case's CCS in order to locate any of the six purported Orders of denial, no such Orders were found by either expert per affidavits under oath. Even in the face of said uncontested objective evidence, Judge Joven intransigently refused to reverse his attorney fee Order which he knew to be outrageously punitive and based upon Judge Joven's own fallacious actions - "exceptional circumstances."

Relative to Newman's Rule 60(B)(8) Motion, Judge Joven again evidenced his unwillingness "to take an active role" in ascertaining the facts and again avoided producing any such court Orders of denial, for the simple reason that no such court Orders ever were made or existed. The principles of justice adopted for Rule 60(B)(8) demand certiorari review be made by this Court with recognition that Newman was grossly ill-served and punished without cause by the Indiana courts and eventually made subject to prohibitively-punitive sanctions because of his perseverance in demanding "equal justice under the law."

Newman as a minority and *pro se* party appears to have been treated as "a nuisance and a

less-deserving litigant," as in the *Littler* case; such that **no court regarded the official record of the case.**

In *City of Indianapolis v. Hicks*, 932 N.E.2d 227,232 (Ind.Ct.App. 2010), the court ruled (emphasis added):

> The CCS meets the general requirements for a valid memorial .... See Ind. Trial Rule 77(B) (**CCS is "an official record of the trial court**").
>
> In addition, it is well settled that **the trial court speaks through its CCS or docket,**

Further in this respect, **Ind. Trial Rule 77(B)** provides (emphasis added):

> The judge of the case shall cause CCS entries to be made of all judicial events .... **The CCS is an official record of the trial court** ....

Had the trial court granted Newman's five administrative expense reimbursement Motions documented with hundreds of receipts, Newman would have merely been made whole for the over $53,000.00 **out-of-pocket payments he made from his personal money** for Estate administrative expenses.

All of the appellate attorney fees imposed upon Newman emanate from the Estate attorney litigating six "Orders" that he and the Judge knew to be non-existent, and the trial court therefore abused its

discretion in denying Newman's Rule 60(B)(8) Motion.

Newman Was Denied Constitutional Due Process for His Unheard Administrative Expense Claims.

The trial court's failure to hold hearings on Newman's subject Motions and its dispensing of Newman's Motions in the absence of any lawful grounds for doing so, and the appellate courts' affirmation of same, were a direct assault on Newman's federal and state Constitutional rights to **equal justice under the law, due process, and access to the courts to redress grievances**:

> .... 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.
> **U.S. Const. amend. XIV, Section 1.**

> All courts shall be open; and every person, for injury done to him in his person, property, or reputation, shall have remedy by due course of law. Justice shall be administered freely, and without purchase; completely, and without denial; speedily, and without delay.
> **Ind. Const. art I, §12.**

Due process has been interpreted by this Court as preventing the states from denying litigants use of established adjudicatory procedures, when such an

action would be "the equivalent of denying them an opportunity to be heard upon their claimed right[s]." *Boddie v. Connecticut*, 401 U.S. 371,380 (1971).

It is a violation of due process for a state to enforce a judgment against a party to a proceeding without having given him an opportunity to be heard sometime before final judgment is entered." *Postal Telegraph Cable Co. v. Newport*, 247 U.S. 464,476 (1918).

In the instant case, Newman had no "opportunity to be heard" on the underlying issues before final judgment of more than $167,000.00 in insurmountable life-long debt was entered against a minority elder living on Social Security for exercising his protected Constitutional rights.

"... [A]n individual ... may not be punished for exercising a protected statutory or constitutional right." *United States v. Goodwin*, 357 U.S. 368,372 (1982).

In this respect, "[F]airness can rarely be obtained by secret, one-sided determination of facts decisive of rights," *Joint Anti-Fascist Committee v. McGrath*, 341 U.S. 123,170 (1951). If indeed, the trial court had actually **blanket-denied every cent** of all six of Newman's administrative expense claims without hearing and without the Orders of denial thereto appearing on the court's CCS, such actions by the trial court would be "secret, one-sided" actions in gross violation of Newman's Constitutional rights.

In this respect, the trial court's Order awarding appellate attorney fees against Newman is "a judgment which ought not, in equity and good conscience, to be enforced," as **said Order was based upon "facts" known to the judge to be untrue.** See *National Surety Co. of New York v. State Bank of Humboldt*, 120 F. 593 (8th Cir. 1903).

As held by this Court in *Armstrong v. Manzo*, 380 U.S. 545,551-552 (1965) (emphasis added):

> A fundamental requirement of due process is the opportunity to be heard. *Grannis v. Ordean*, 234 U. S. 385. It is an opportunity which must be granted at a meaningful time and in a meaningful manner. The trial court could have fully accorded this right to the petitioner only by granting his motion to set aside the decree and consider the case anew. Only that would have wiped the slate clean. Only that would have restored the petitioner to the position he would have occupied had due process of law been accorded to him in the first place. His motion should have been granted.

This Court should apply its ruling in *Armstrong* by reversing the trial court's denial of Newman's Rule 60(B)(8) Motion and require the trial court to "wipe the slate clean" and "consider the case anew" as to Newman's six administrative expense claims and by vacating the trial court's appellate

attorney fee award of $167,437.50, because said award was based upon fallacious "facts."

The Trial Court's Punitive Attorney Fee Award Was Grossly Excessive.

By any normal standard, the appellate attorney fee award against Newman in the amount of $167,437.50 was grossly excessive and cannot be supported by logic or law, given that said fee award was **17 times the value of the Estate**, which value is a necessary factor in assessing fee awards.

Prudence, logic, and law dictate that probate attorney fees cannot exceed the value of the estate from which they emanate. A fiduciary should not be permitted by the court to overcharge for work that is essentially worthless. Notably, the Estate attorney and self-selected appellate attorney are one and the same. **The estate attorney is duty-bound as fiduciary of the estate to refrain from accruing charges relative to the estate in gross excess of its value.** Specifically, the attorney fees accrued of $167,000.00+ exceeded the $10,000.00 estimated value of the Estate by over $157,000.00; were approximately 17 times the value of the Estate; and became **punitive instruments** against Newman, benefitting the Estate attorney, with no benefit to the Estate.

Even if Newman had prevailed regarding his Motions for administrative expenses, the Estate's total exposure could not have exceeded its actual value, presumably less than $10,000.00 in assets. **Critically, the Estate's actual value remains unknown today since 2015, as the trial court has given the**

Personal Representative/Estate attorney license to file no mandatory Estate accountings in over eight years.

A punitive attorney fee award of 17 times the maximum potential loss to the client presents the "**extraordinary circumstances**" which impel a court to grant Rule 60(B)(8) relief.

The trial court's extraordinarily-punitive fee award violated this Court's rulings, which rulings are binding upon all Indiana trial and appellate courts. "The court should exclude from the fee calculation hours that were not 'reasonably expended.' .... Hours that are not properly billed to one's client also are not properly billed to one's adversary." *Hensley v. Eckerhart*, 461 U.S. 424,434 (1983).

Particularly "extraordinary" and onerous is the fact that every minute of legal services spent on the instant case was based upon litigation involving non-existent court orders. Thus, **no legal fees were "properly billed ... to one's adversary."**

In the instant case, the only consequence of abuse of the court's authority was against the minority victim.

Newman's Meritorious Defenses Justify Rule 60(B)(8) Relief.

Newman established that Rule 60(B)(8) relief is justified because he has meritorious defenses, as set forth below.

With respect to Trial Rule 60(B)(8)'s requirement that the movant establish a meritorious claim or defense, we observe that a meritorious defense for the purposes of Rule 60(B) is "one that would lead to a different result if the case were tried on the merits." *Butler v. State*, 933 N.E.2d 33,36 (Ind.Ct.App. 2010) . "Absolute proof of the defense is not necessary, but there must be 'enough admissible evidence to make a prima facie showing' that 'the judgment would change and that the defaulted party would **suffer an injustice if the judgment were allowed to stand.**'" *Id.*

Newman's meritorious defenses include:

1) the trial court's CCS does not document any hearings on any of Newman's administrative expense Motions or any orders denying said Motions;
2) the trial court violated Newman's Constitutional due process rights by its failure to give Newman notice of and hearings for his administrative expense Motions;
3) the trial court's appellate attorney fee award in the amount of $167,437.50 was grossly punitive and cannot be supported by law;
4) the doctrine of *res judicata* does not apply to Newman's Rule 60(B)(8) Motion;
5) the Court of Appeals and the Indiana Supreme Court did not make any of the mandatory findings of wrongdoing against Newman in ordering awards of appellate attorney fees;
6) the Indiana Supreme Court acted **without jurisdiction** in its assessment of appellate fees against Newman;

7) a hearing was required for the trial court to rule on Newman's Rule 60(B)(8) Motion, but the trial court summarily denied the Motion.

The Doctrine of *Res Judicata* Does Not Apply to Newman's Rule 60(B)(8) Motion.

This Court should reverse the trial court's denial of Newman's Rule 60(B)(8) Motion based upon the doctrine of *res judicata* because *res judicata* is not a bar to the grant of Newman's Rule 60(B)(8) Motion. *Res judicata* does not apply herein because a **Rule 60(B)(8) motion is authorized and permitted** even if a prior judgment has been taken through the appellate process to the Indiana Supreme Court and even to the United States Supreme Court. Indeed, Indiana courts have ruled that even after a litigant has "**unsuccessfully appealed the original judgments all the way to the U.S. Supreme court .... [t]he only procedural means ... would be a motion for relief from the original judgments pursuant to Indiana Trial Rule 60(B)(8).**" *Wagler v. W. Boggs Sewer Dist., Inc.*, 29 N.E.3d 170,174 (Ind.App. 2015).

It is unquestionable that this entire case, at the trial court level and subsequently at the appellate level, has been an **abject prejudiced miscarriage of justice**. Pursuant to Newman's Rule 60 (B)(8) Motion, the trial court was once again provided the opportunity to correct grievous wrongs done to Newman, or to prove him wrong by specifically producing the purported court Orders that actually denied each of Newman's administrative expense Motions. The trial court **intransigently again rejected this opportunity**, instead initially summarily denying

Newman's Rule 60(B)(8) Motion without reasoning and subsequently denying Newman's Motion for Reconsideration/Motion To Correct Errors on the erroneous basis of *res judicata*.

At neither juncture did the trial court endeavor to rescind its punitive judgment, as the trial court knew there never had been any Orders denying Newman's subject Motions.

Rather than granting the relief sought in Newman's Rule 60(B) Motion, the trial court instead simply **disregarded/discarded the objective irrefutable facts** and ignored this key issue in its Orders, thus wrongfully perpetuating the gross miscarriage of justice inflicted upon Newman, as "the perfect storm" described in the *Littler* case.

In this respect, as stated in the Affidavit of James L. Patterson, Jr., made on July 19, 2022:

> **I reviewed approximately 93 pages of court entries** beginning in 2013.
>
> **In my review, I did not find any court orders denying motions for reimbursements of estate administrative expenses filed by Lawrence T. Newman, and I did not see any orders denying Lawrence Newman's petition for payment of estate legal fees in the court docket.**
>
> **I am an experienced award-winning editor and writer having reviewed tens**

> of thousands of documents over my professional career, including legal documents and official court entries and other writings for over 40 years. I was a Reporter, Editor, Editorial Board member and Columnist with *The Indianapolis Star* for over 16 years. I also have served as Editor of the *Indianapolis Recorder*, and an adjunct professor at Butler University, Martin University, and Holy Cross College at Notre Dame. I have ghost-written four books and edited numerous other manuscripts and professional writings.

Similarly, as stated in the Verified Affidavit of Nancy K. Sweazey made on July 19, 2022:

> On July 18, 2022, I personally reviewed the attached docket for the above named case. I found no orders issued by the court denying reimbursement of administrative expenses to Lawrence T. Newman or denying legal fee compensation to Lawrence T. Newman.
>
> I have over forty years of professional experience and accomplishments in not-for-profit, banking, consumer research and consulting organizations. In the ten years prior to my retirement in 2017, I worked for the Catholic Diocese of Evansville, Indiana, in a variety of positions at Saints Mary and

John Catholic Church, including Office Administrator, Property Manager, Outreach Services Manager and Grant Writer.

The "**extraordinary circumstance**" in this case is judicial intransigence and prejudice even in the face of indisputable **unrefuted** objective facts. This court has now the singular opportunity, via this Petition for Writ of Certiorari, to correct grievous errors and miscarriages of justice imposed upon Newman in Indiana's appellate courts.

First, the precept of *res judicata* does not apply to Newman's Rule 60(B)(8) Motion, as **the entire intent of T.R. 60(B)(8) is for the Indiana courts to correct significant errors** in previously-issued judgments, meaning that **every case requiring Rule 60(B)(8) review has a *res judicata* factor in play**.

Nowhere in T.R. 60 is there any limitation of the Rule's applicability to any form of judgment, in particular, there is no limitation prohibiting use of the Rule with respect to final judgments or judgments that have gone through the appellate process. In fact, the entire purpose of the Rule is for the Indiana courts to **revisit and reevaluate judgments** "to grant relief to a party **on broad equitable grounds** where under all the circumstances **a need for relief is clearly demonstrated**." 4 HARVEY § 60.17, at 216 (1971).

The trial court has an obligation to prevent errors in cases before it, and if the court does not, then it is perpetuating the errors. As stated by Judge Magnus-Stinson in *Littler v. Martinez*, No. 2:16-cv-

00472, U.S. District Court, Southern District of Indiana, Order dated January 30, 2020 (emphasis added):

> [The defendant] seems to have based its litigation strategy on the hope that neither the district court nor this panel would take the time to check the record. Litigants who take this approach often (and we hope almost always) find that they have misjudged the court.

Courts recognize that the completed appeal of a matter does not bar the assertion of Rule (60(B)(8) relief on grounds of *res judicata*; rather, courts have determined that such a completed appeal is a *prerequisite* to the assertion of Rule 60(B) relief. In *Cotto v. U.S.*, 993 F.2d 274, 278 (1st Cir. 1993), citing U.S. Supreme Court rulings thereto, the federal court ruled with respect to the consonant federal Rule 60(B)(6) (emphasis added):

> Rule 60(b)(6) may not be used as a back-door substitute for an omitted appeal, and, in all but the most exceptional circumstances, a party's neglect to prosecute a timely appeal will bar relief under the rule. *See Ackermann,* 340 U.S. at 197-202, 71 S.Ct. at 211-213.

As of July 2022, the trial court's CCS includes "intervening legal developments" in the form of signed verified expert affidavits in support of Newman's Rule

60(B)(8) Motion. Said objective verifiable unrefuted evidence was never weighed by the trial court, which continued to impose an insurmountable lifetime debt on an elderly minority party without legal basis.

Based upon the above facts and law, the trial court abused its discretion by denying Newman's Rule 60(B)(8) Motion on the basis of *res judicata*.

No Appellate Court Made Any Mandatory Findings of Wrongdoing by Newman Required To Award Appellate Attorney Fees.

Because the Court of Appeals and the Indiana Supreme Court did not make any of the mandatory findings of wrongdoing against Newman in ordering the award of appellate attorney fees, there were no grounds for the trial court to impose the maximum amount of appellate attorney fees sought ($167,437.50), and it was **"manifestly unjust"** for the trial court to do so.

In both of Newman's prior Appeals, the appellate courts made no required findings that Newman's Appeals were "frivolous or in bad faith," which findings are **mandatory in order for a court to "assess damages" under App. R. 66.** Since **the law was discarded** when said pre-requisites were never met, only a *de minimis* amount of appellate fees ($1.00) **could be assessed pursuant to law.**

The Indiana appellate courts' failure to make any of the necessary findings of wrongdoing and their impositions of appellate attorney fees against Newman in the absence of said necessary findings of

wrongdoing violated Newman's Constitutional due process rights. As ruled by this Court in *Giaccio v. State Of Pennsylvania*, 382 U.S. 399 (1966) (emphasis added):

> Certainly one of the basic purposes of the Due Process Clause has always been to **protect a person against having the Government impose burdens upon him except in accordance with the valid laws of the land.**

Newman was never protected against government impositions of "burdens upon him ... in accordance with" valid laws

"The history of liberty has largely been the history of observance of procedural safeguards." *McNabb v. United States*, 318 U.S. 332,347 (1943). The history of this case has largely been the history of the Indiana courts discarding "procedural safeguards" and laws. This case is replete with **governmentally-imposed insurmountable financial burdens in contradiction to valid laws** and equity.

Unintentional judicial errors are remedied by the responsible court, but the intentional falsehoods herein were disregarded; wherein lies the determinative factor of knowing falsehoods versus unknowing errors. In contradiction to the official court record and consonant expert sworn statements thereto, no Indiana court ever remedied it grievous prejudiced wrongs against this minority litigant.

In this respect, the court in *Wagler v. W. Boggs Sewer Dist., Inc.*, 29 N.E.3d 170,174-75 (Ind.App. 2015) ruled as follows in order to justify the imposition of appellate attorney fees, none of which required findings was ever made by any Indiana appellate court (emphasis added):

> As a final matter, West Boggs asserts that it is entitled to appellate attorneys' fees under Indiana Appellate Rule 66(E), which provides, "The Court may assess damages if an appeal, petition, or motion, or response, **is frivolous or in bad faith** ...." "**Our discretion to award attorney fees under Indiana Appellate Rule 66(E) is limited to instances when an appeal is permeated with meritlessness, bad faith, frivolity, harassment, vexatiousness, or purpose of delay.**" *Thacker v. Wentzel*, 797 N.E.2d 342,346 (Ind.Ct.App 2003). "[W]hile Indiana Appellate Rule 60(D) provides this Court with discretionary authority to award damages on appeal, **we must use extreme restraint when exercising this power** because of the potential chilling effect upon the exercise of the right to appeal." *Id.*

Because no appellate court made any of the mandatory findings of wrongdoing by Newman, said courts' **extraordinary impositions of punitive appellate attorney fees** were an abuse of said courts' discretion.

A "proceeding infected with fundamental procedural error, like a void judicial judgment, is a legal nullity." *Winterberger v. Gen. Teamsters Auto Truck Drivers & Helpers Local Union 162*, 558 F.2d 923,925 (9th Cir. 1977).

The trial court, "like all other decisionmaking tribunals, **is obliged to follow its own Rules.**" *Ballard v. Commissioner of Internal Revenue*, 544 U.S. 40, 125 S. Ct. 1270, 161 L. Ed. 2d 227 (2005).

As this Court held in *Hollingsworth*, *Hollingsworth v. Perry*, 558 U.S. 183,192 (2010), that rules of court, no less than other regulations, are binding, not just on the parties, but on the court itself. "**If courts are to require that others follow regular procedures, courts must do so as well.**" 558 U.S. at 199. "The Court's interest in ensuring compliance with proper rules of judicial administration is **particularly acute when those rules relate to the integrity of judicial processes.**" *Id.* at 196.

Due process has been interpreted by this Court as **preventing the states from denying litigants use of established adjudicatory procedures**, when such an action would be "**the equivalent of denying them an opportunity to be heard upon their claimed right[s].**" *Boddie v. Connecticut*, 401 U.S. 371,380 (1971).

Newman's due process rights were trampled multiple times: by Indiana's appellate courts in assessing fees against him without any stated grounds; by the trial court in assessing the maximum amount of fees requested by the Personal

Representative/Estate attorney/appellate attorney in the absence of said grounds; and by the Indiana court's magnifying said damage by denying Newman's Motion for Relief from Judgment on the baseless basis of *res judicata*.

This Court Historically Has Enforced Rights to Relief from Wrongful Judgments in Order To Accomplish Justice.

Ind. Trial Rule 60(b) tracks **Fed. R. Civ. Proc. 60**, which similarly provides (emphasis added):

> RULE 60. RELIEF FROM A JUDGMENT OR ORDER .... On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: .... **(6) any other reason that justifies relief.**

Fed. R. Civ. Proc. 60(b)(6) "enables courts '**to vacate judgments whenever such action is *appropriate to accomplish justice*.**'" *Primbs v. United States*, 4 Cl. Ct. 366,368 (1984).

This Court's cases illustrate federal Rule 60(b)(6)'s breadth as a vehicle for addressing both **(1) legal errors apparent at the time of the judgment and (2) those based on intervening legal developments.** Rule 60(b)(6) was the "proper" subsection for relief where a trial judge erroneously failed to follow a federal statute requiring recusal at the time of trial. *Liljeberg v. Health Servs. Acquisition*

Corp., 486 U.S. 847,850-51,863 n.11 (1988). Rule 60(b)(6) governed a motion raising a Sixth Amendment violation at trial. *Buck v. Davis*, 137 S. Ct. 759,772 (2017). Rule 60(b)(6) was the vehicle for a movant to argue that a denaturalization judgment against him "was unlawful and erroneous." *Ackermann v. United States*, 71 S. Ct 209 (1950).

In all state and federal cases cited above, **the rationale for granting relief was "to accomplish justice" by vacating unfair or inequitable judgments;** and the vehicle to "accomplish justice" is Rule 60(b).

This Court has considered the issue of the right to an award of attorney fees in numerous cases. See, *inter alia, Alyeska Pipeline Service Company v. The Wilderness Society, et al.*, 421 U.S. 240, 95 S.Ct. 1612, 44 L.Ed.2d 141 (1975); *Hensley v. Eckerhart*, 461 U.S. 424, 103 S.Ct. 1933, 76 L.Ed.2d 40 (1983); *Martin v. Franklin Capital Corp.*, 163 L.Ed.2d 547, 546 U.S. 132, 126 S. Ct. 707 (2005); and *Octane Fitness, LLC v. Icon Health*, 134 S.Ct. 1749, 188 L.Ed.2d 816 (2014).

This Court has described due process as "the protection of the individual against arbitrary action." *Ohio Bell Tel. Co. v. Pub. Serv. Comm'n,* 301 U.S. 292, 302 (1937).

By assessing over $167,000.00 in attorney fees against Newman, in the documented absence of any trial court hearings or Orders denying Newman's administrative expense motions, and, in his appeals thereto, in the absence of any findings of wrongdoing by Newman by any Indiana appellate court in their multiple assessments of attorney fees, Newman has

been grossly abused and discriminated against by the Indiana judiciary, which has trampled his Constitutional due process rights multiple times in multiple ways, which judicial abuse and discrimination scream for intervention by this Court to right these grievous inequities and Constitutional abuses by the very court system that is tasked with protecting those Constitutional rights.

CONCLUSION

This Petition for Writ of Certiorari should be granted to protect minorities, in particular, grossly abused in the Indiana judicial system via pervasive, systemic Constitutional violations in the absence of all legal grounds for doing so, and in denying relief from judgment solely on the basis of *res judicata*, all of which decisions so substantially violated Constitutional due process rights as to compel the complete reversal of the Indiana courts' Orders.

Respectfully submitted,

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