

23-403

Case no. 22A1032

FILED

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SUPREME COURT, U.S.

IN THE

**SUPREME COURT of the UNITED STATES**

MIKE R. SERNA AND EMMA R. SERNA

v.

WILLIAM COOKSEY, et al.,

On Petition For Writ of Certiorari  
To The United States Court of Appeals  
For The Tenth Circuit

**PETITION FOR A WRIT OF CERTIORARI**

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SUPREME COURT, U.S.

## QUESTION PRESENTED

A “Void Judgment” is recognized in Amendment 5, of the United States Constitution, and it is a violation of enforcement of such Judgments, then why does an Appellate Court not have Jurisdiction to vacate such Judgments, and if a judgment issued against the wrong party and a foreclosure transpires because of such a wrongful ruling should this harmful issue not be rectified promptly before additional harm and injustice affects more people and hurts the wrong party, and the public in whole.

## LIST OF PARTIES

### Petitioners:

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### Responders:

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A. This Petition Presents an Important Question because the judges' abuse of discretion and the improper application of the United States Constitution has affected the Petitioner and future litigants in the similar positions and the significant meaning of the Constitution it self to all individuals.

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FINAL STATE JUDGMENT DISTRICT COURT

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APPENDIX B

FINAL STATE JUDGMENT DISTRICT COURT

FINAL JUDGMENT COURT OF APPEALS

Case cv-2019-04800 Transcript of Judgment from Case cv-2007-06641 made out to "Margaret Webster"

David and Margette Webster v. Mike and Emma Serna, the Trustee of the Mike R. Serna Irrevocable Living Trust

APPENDIX C

FINAL JUDGMENT FROM FEDERAL DISTRICT COURT

Case no. cv-1:20-00689-JB/KRS 04/29/2023

Emma and Mike Serna v. William Cooksey, Daniel White, David and Margette Webster.

Case dismissed.

APPENDIX D

FINAL JUDGMENT FROM FEDERAL COURT OF APPEALS

Case no. 22-2063 03/28/2023. Affirmed District Court's Judgment.

APPENDIX E

FEDERAL COURT OF APPEALS

REHEARING DENIED

Case no. 22-2063, FINAL FILED 3/20/2023

## A - JURISDICTION- continued

” See Dillon v.Dillon, 187 P. 27

“A Court has no jurisdiction to determine its own Jurisdiction, for a basic issue in any case before a tribunal is its power to act, and a court must have the authority to decide that question in the first instance.

See Rescue Army v. Municipal Court of Los Angeles,  
171 P2d 8; 331 US 549, 91 L. ed 1666, 67 S.Ct. 1409.

In the first case, cv-2015-6641 consolidated with 2015-09594 the judge did not have jurisdiction to sign the adopted judgment, and to enforce it for a a non-litigant, and against companies that did not exist or belong to the Defendant, Emma Serna, the two cases,

The one that was sued was the unknown businesses because it said Emma Serna d/b/a two non existing businesses, and he had no jurisdiction over any of the litigants.

Second case, cv-2019-04800, the claim was against the Settler, who had no dealings with the Websters in any issue or matter, and the trustee whose prime duty was to take care of any issues with the “Irrevocable Trust”, in which the Websters “never dealt with any issue or matter with the “Irrevocable Trust, this was a wrongful foreclosure, the judge did not have jurisdiction to hear such a case, and foreclose on Property that belongs to an “Irrevocable Trust”, and the “Trust” was never a Party member in any case involving the Petitioner or the Respondent.

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## CONSTITUTIONAL PROVISIONS AND RULES

2019 New Mexico Statutes Chapter 42-Actions and proceedings relating to Property, Article 8 – Replevin Section 42-8-1 [Right of action; purpose of remedy], any person having a right to the immediate possession of any good or chattel, wrongfully taken or wrongfully detained, may bring an action for the recovery thereof and for damages sustained by reason of the unjust caption or detention thereof.

1. The New Mexico Tort Act allows property to be seized without giving the possessor, any possessor, any prior notice or opportunity for hearing. These prejudgment tort provisions are unconstitutional under the Due Process Clause of the Fourteenth Amendment insofar as they deny the right to an opportunity to be heard before chattels are taken from their possessor.
2. The Petitioner has owned the property since October 28, 1993, and has paid all the taxes since 1993, has maintained the house, and does not owe any of the Responders on any mortgage or note. The Petitioners own 100% of the Property, and deeded the Property to the “Mike R. Serna Irrevocable Living Trust”, and the strength of title and right of possession is strong, and the “Irrevocable Trust” was not given a fair, and legal right to defend itself, which is the Tort law of Property. So an action to recover the wrongful

taking of property is restoration of property to its rightful owner.

3. The Court of Appeals held that a foreclosure by a person or persons with no power to foreclose is, by itself, the tort of wrongful foreclosure. Only someone with the legal authority can empower to foreclose themselves with such a task, and the authority has to have a legal standing to perform such a task, immunity or no immunity to foreclose- can oust a peaceable possessor from their home. A homeowner who has been foreclosed on by one with no right to do so-by those facts alone-sustains prejudice and harm sufficient to constitute a cause of action for wrongful foreclosure. When a non-debt holder forecloses, a homeowner (Property owner) is harmed.

4. N.M. Statute, Section 30-28-2 Conspiracy, (2018).

Knowingly combining with another for the purpose of committing a felony within or without this state. It is a federal offense to present a altered or forged document to a Bank. Mortgage payments to BBVA Compass Bank never posted, and the funds were converted without consent or an entry of approval in the mortgage contract.

5. An intentional violation of the Fourteenth Amendment of the United States Constitution to disregard the Petitioners' rights and no provision of Due process when the interest on one's life, liberty, or Property is threatened,

and due process of the law protects the Petitioner from the mistaken deprivation of life, liberty, or property.

Marshall v. Jericho, Inc. 446 U.S. 238, 24

6. Recovery of title resting on the strength of the Petitioner's rights, and interest in the property's that belong to the "Mike R. Serna Irrevocable Living Trust", and all interest, and assets, including:

Lot 2, Block 10 of Paradise Heights, Unit 1, County of Bernalillo, Albuquerque, NM in which the Responders have filed a lien on both Properties, that legally belong to the Irrevocable Trust. Therefore, since a void judgment is void even prior to reversal Judgments under federal law, which is applicable to all states, and the U.S. Supreme Court stated that is a court is "without authority, its judgments and Orders are regarded as nullities. They are not Voidable, but simply void, and form no bar to a recovery, even prior to a reversal, in which, in the second judgment, for foreclosure, the trial judge Ruled that the void judgment be issued to the Petitioners, and this was the erroneous first judgment that was made out to a company. The Irrevocable Trust was not sued or complaint against it. Mike Serna and Emma Serna were sued so the foreclosure was without legal authority, and David and Margette Webster, along with their attorney Daniel White committed the tort of wrongful foreclosure.

7. A void judgment on its face was used by the State court to steal a property from the "Mike R. Serna Irrevocable Living Trust without a without a judgment or complaint against it, and the trust gives the settler and the trustee the right to live in the premises. Responder, Daniel White had no right to interfere, and the Petitioners were protected by the Irrevocable Trust, and the assets were under the protection of the Irrevocable Trust, and the Responders are responsible for the misrepresented facts. Responder White practices law and sued with the intention to harm, and had the knowledge of an Irrevocable trust and what it stand

8. Cases in state district court 2015, cv-2007-06641 consolidated with cv-2007-09594, and case cv-2019-04800 were all granted relief, in which under the circumstances the court did not have any authority to grant, its judgment is to that extent void. ( 1 Freeman on judgments 129c). A void judgment is no judgment at all and is without legal effect.

Jordan v. Gillgan, 500 F.2d 701, 710 (6<sup>th</sup> Cir. 1974)

"a court must vacate any judgment entered in excess of its jurisdiction."

Lubben v. Selective Services System Local Bd. No. 27,453 F.2d 645 (1<sup>st</sup>. Cir. 1972). all proceedings founded on the void judgment themselves regarded as invalid. 30A Am Jur Judgments "44, 45."

A judgment which is void upon its face, and which requires only an inspection of the judgment roll to demonstrate it wants of vitality is

a dead limb upon the judicial tree, which should be lopped off, if the power to do so exists.

People v. Greene, 71 Cal. 100 [16 Pac. 197. 5 Am. St. Rep. 448].

If a court grants relief, which under the circumstances it hasn't any authority to grant, its judgment and order is to that extent void. 1 Freeman on Judgments 120c, An illegal order is forever void. A judge and a attorney are officers of the court. When either one or both commit fraud during a proceeding in the court, he is engaged in "fraud upon the court".

Bullock v. United States, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985).

The judge has not performed his judicial function, and have been directly corrupted. Fraud upon the court makes void the orders and Judgments of the court. It vitiates the entire proceedings.

The People of the State of Illinois v. Fred E. Sterling, 357 Ill. 354, 192 N.E. 229 (1934).

## STATEMENT OF THE CASE

A Property Title cannot be taken from an  
Irrevocable Living Trust without a judgment against it

On May 23, 2015, arbitration was held pursuant to David and Margette Webster's complaint, state case no. cv-06641 consolidated with the Petitioner's case no. cv-2007-09594. The case read Margette Webster vs. Emma Serna d/b/a Serna & Associates, LLC, and Serna & Associates Construction Co., in which Ms. Serna did not own either company. The arbitrator granted an award to a non-litigant, and was never in any case that involved either Serna or Webster. When it came to issuing the judgment, the judge signed the judgment David and Margaret Webster, and against Emma Serna d/b/a Serna & Associates, LLC, and Serna & Associates Construction Co., Margette Webster forged the judgment, and in her handwriting wrote, "a/k/a Margette". Responder, Cooksey, attorney for BBVA Compass Bank, involved himself in saying that Margette was Margaret, and never produced a valid I.D. that she was "Margaret". The Bank accepted Responder, Cooksey's word, and disbursed the Petitioner's property, to Margette. This continued from 2018 through 2021

when BBVA Bank was bought out. Responder, Daniel White, and Attorney for David and Margette Webster committed forgery, by falsely making a false document, a lawsuit on May 23, 2019, the title of the lawsuit to read opposite, of the judgment of May 23, 2015, purporting to have any legal efficacy with the intent to cause great damage or injury to the Petitioners. New Mexico Statute Section 30-16-10 (2018). To support any claim or title, or to cause any person to part with property, or with intent to commit fraud or the fraud may be committed, and commits fraud.

Violation Rule 16-303 (A)(a) NMRA takes an untrue statement of material fact to a tribunal Rule 16-804 NM D and H NMRS by engaging in conduct involving dishonesty, fraud, deceit, and engaging in conduct that adversely reflects on his fitness to practice law.

Dilts, 93 N.M. 131, 597, P 2d 316 (1979). Fraud- Unser v. Unser, 86 N.M. 648, 526 P2d 790 (1974).

USA Compass Bank, now owned by PNC, are federally insured banks, and they are covered when someone steals or defrauds the Bank. Responder, Cooksey, sought only to influence this Bank, and managed to convert mortgage payments, from the Petitioners, into the fraudulent writ of garnishment. A bank that is subjected to all banking laws and regulations, and the Petitioner's mortgage contract does not grant the Bank to give the Petitioner's payments to a person that says she has a judgment.

Section 1014 of the Federal criminal code provides so far as relevant to this case "whoever makes any false statement for purpose of influencing in any way the action of any Bank. The deposits of which are insured.U.S.C. 1014 His involvement aided Margette receiving the Petitioners property. An actionable fraud is a misrepresentation of a fact, known to be untrue by the maker, and made with the intent the intent to deceive. The property is owned by the Irrevocable Trust, and the claim against the Settler and the Trustee. A Irrevocable Trust is an Entity by itself, and the assets belong to the Trust, and any asset that is deposited into the Entity belongs to the Entity. N. M. Statute 46A.

The judgment, a legal document, was altered in writing without the consent of the Petitioner, trustee, and the Beneficiaries, by which its meaning and language was changed to mislead, by changing the character of the instrument, it renders it void, the validity was affected.

The facts of the May 23, 2015 judgment:

- A. Margette Webster was the true litigant that was left out of the judgment, and her name never appeared in the original issued judgment.
- B. Margette Webster never motioned the Court to modify or make changes, to the award or judgment. This judgment was from an arbitration therefore, the New Mexico rules and laws of arbitration, allow 90 days to make any corrections or changes.

New Mexico Statutes Chapter 44, Section 44-7A-21.

The judge proceeded in adopting the judgment, as it read, to David and Margaret Webster, and against the two companies that did not exist or were registered to do business in New Mexico or any state.

B. Margette and David Webster availed the instrument at hand, and wrote up a writ of garnishment that included her name, and had the court issue an order, a form of a writ of execution, against the Petitioners to take all their possessions, in which the Petitioners had to take a loan out to detain the government officials from seizing all assets that belong to the “Irrevocable Trust”.

C. In April, 2019, the Responders’, David and Margette Webster filed to foreclose on the “Mike R. Serna Irrevocable Living Trust”, without a judgment, lawsuit or complaint against the trust. The lawsuit was against Mike Serna and Emma Serna, the Settler and the Trustee. Neither Petitioner could be held responsible for the “Entity, the Irrevocable Trust, and the Trust can not be held for the Settler or the Trustee’s wrong doings. This was not a case of a wrong doing but of a deliberate deception by the three Responders, David, Margette, and Daniel White. Intentional misrepresentation of the facts made for the purpose of causing a person or persons harm and injury.

5. New Mexico Statute Chapter 30. Section 30-16-10: Forgery, Falsely making or altering any part of, any writing purporting to, have any legal efficacy with intent to injure or defraud. In which the Petitioner's were injured by the use of this altered document. The altered judgment was used to deprive the "Irrevocable Trust", and the Beneficiaries of their rightful property, and Daniel White filed a Special Warranty Deed on the Irrevocable Trust Property, with the aid of a Special Master, without the Settler's or the Beneficiaries or the Trustee's confirmation of conveyance of property. The approval is mandatory as an Irrevocable Trust can not be modified or changed without the approval of all of the Beneficiaries, and the Settler.

New Mexico Chapter 46A, Uniform Trust Code 46A-4-411.

None of the Responders have ever been Beneficiaries of the "Mike R. Serna Irrevocable Living Trust.

6. Attorney's owe a duty of care to a non-client under certain circumstances involving justifiable third party reliance on representations made by the attorney. Attorneys have a duty on the part of the person furnishing the information and the person receiving the information must have a right

to rely on it. The attorneys harmed the non-client by falsely fabricating that the Petitioners have a mortgage or note with the Responders. This is "False". The Petitioners only do business with Banks or mortgage companies. Responders, Cooksey and White owed a duty to the Petitioners, and injury was foreseeable. Attorney's liability, to one other than immediate client, for negligence in connection with legal duties.

61 A.L.R. 4<sup>th</sup> 615 (1988 Supp. 1997). The attorney's intended that Responders, David and Margette Webster, receive all of the Beneficiaries interests, and without a rightful contract, and their actions were created by fraud, collusion, and criminal acts.

Leyba v. Whitley N.M. 768 ,761 P.2d 172, 175, (1995).

7. A homeowner who has been foreclosed on by one with no right to do so by those facts alone sustain prejudice or harm sufficient to constitute a cause of action for wrongful foreclosure.

The Petitioner's, and the "Entity" do "NOT owe on any mortgage or note to any of the Responders. The Responders had no legal right or viable interest to take Property that legally belongs to the "Entity".

The Petitioner's nor the "Irrevocable Trust" owe the Responders on any

lawsuit or judgment, and this demonstrated acts of fraud, deceivement, and harm. The Responders had no legal authority to foreclose on a Property that had not harmed or injured, and is a non-Debtor with a void judgment, and no mortgage or note.

The Appellate Division Second Department (*Kluge v. Fugazy*, 145 AD2d 537, 538 [2d Dept 1988], held that a foreclosure of a house without a mortgage may not be brought by one who has no title to it and absent transfer of the debt, the assignment of the house and mortgage is a nullity.

Citing *Kluge v. Fugazy*, the Court (*Katz v. East-Ville Realty Co.* 249 AD 2d 243 [1<sup>st</sup> Dept 1998] held that Responders' attempt to foreclose upon a mortgage in which he had no legal or equitable interest was without foundation in law or fact.

A void judgment which includes judgment and order entered by a court which lacks jurisdiction over the parties or the subject matter, or lacks inherent power to enter the particular judgment or an order by fraud, can be attacked at any time, in any court, either directly or collaterally, provided that the party is properly before the court.

See *Long v. Shorebank Development Corp.*, 182 F.3d 548 (C.A. 7 Ill. 1999). The Master signed a deed for the Websters

in May, 2022, and a illegal deed which brought on all the misconduct, and injuries.

A judgment and order are void if court that rendered Judgment lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with Due process.

Federal Rules of Civil Procedure, R 60 (b)(4), 28 U.S.C.A.

Constitution of the U.S. Amendment 5 – Klugh v. U.S.,  
620 F. Supp. 892 (D.S.C. 1985).

It is illegal to knowingly and with intent to defraud, file a bankruptcy petition or other document, or make false or fraudulent representation, claim. 18 U.S. 157.

This statute is based on the wire, mail, and bank fraud Statutes.

See 18 U.S. 1341, 1343, and 1344 respectively.

This applies to David and Margette Webster who filed a fraudulent claim with the Bank, BBVA Compass Bank, in order to gain possession of the Petitioner's property.

a federal offense. Responder Cooksey who aided and abetted the other Responders by taking into his possession a \$10,000.00 mortgage payment, made out to BBVA

Compass Bank, by the Petitioners, and with the intent of never allowing the Bank to post as payment or returning the funds. Cashier's check

#2598921 Sandia Laboratory

8. The Petitioner brought the matter of a void judgment to federal court, and the answer was that they could not recognize state court judgments, and especially when there was a state court loser complaining of his losses.

The losses that the Petitioners received were caused by, Respondent, Margette Webster, altering, and forging the Legal document, and all the lower courts turning their heads, and avoiding the abuse, harm, fraud, and injuries she has deliberately bestowed upon the Petitioners with help of the courts. A void judgment is when the court rendered a judgment or order, and lacked jurisdiction of the subject matter, or of the parties. How can a court have jurisdiction over an individual that is not a party member to the case, and the defendant does not exist, and has never been registered with the state to do business or has a representative.

Under Federal Law which is applicable to all states, the U.S. Supreme Court stated that if a court is "without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification; and all persons concerned in executing such judgments or sentences, are considered, in law, as

trespassers."

Elliot v. Piersol, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828).

9. The Petitioner had economic losses with all the writs that the state court granted the Respondent with , and for an innocent Entity to lose to the egregious Responder, assets that are for the named Beneficiaries, this is corruption in the system. No mortgage, note, or causation of harm, and with such malicious intent towards the Settler and trustee, and detrimental to the Beneficiaries.

A void judgment is one which, from its inception was a complete nullity and without legal effect.

See Lubben v. Selective Service System Local Bd.

no. 27, 453 F.2d 645, 14 A.L.R. Fed 298 (C.A. 1 Mass 1972 14.

Rule 1-060(B)(4) motion to void the judgment can be brought at any time, does not permit the trial court to exercise discretion to deny the motion.

The motion was stricken by the trial court.

Classen v. Classen, 1995 – NMCA- 022, && 10, 13, 119 N.M. 582, 893 P.2d 478, and does not require proof of a meritorious defense

Peralta v. Heights Medical Ctr., Inc. 485,  
U.S. 80, 86-87, 108 S. Ct. 896, 900, 99 L. Ed (1988)..

Relief from judgment and order.

10, Judicata consequences will not be applied to a Void Judgment  
which is one which, from its inception is a complete nullity.

People v. Rollant, 581 N.E. 2d 907 (Ill AP p.4 Dist. 1991).

11. Rule 1-060 (B)(4) Relief from a judgment because of a mistake  
inadvertence, surprise, excusable neglect newly discovered evidence,  
or fraud. The Responders did everything they could to take the  
Petitioners Property, and took property without a valid reason other  
than to injure the Petitioners. The trial judge would not listen to any  
argument or evidence that the Petitioners presented. The complaint  
had no cognizable cause of action against the "Irrevocable Trust" for  
a cause of foreclosure due to the fact that the Petitioners were the ones  
sued, and the Irrevocable Trust had no dealings of any kind with the  
Responders. The judge, in either case, had no Jurisdiction to carry out  
any judgments or orders.

Orders and judgments exceeding jurisdiction of the Court where the

validity of the judgment comes into issue it is not entitled to enforcement...

all proceedings founded on the void judgment are themselves regarded as invalid. 30 Am Jur. Judgments '44,45.

Neither judgment, case cv-2009-06641 consolidated with cv-2007-09594, have validity nor the judgment or order from state judgment cv-2019-04800.

#### 14<sup>th</sup> AMENDMENT, SECTION 1, UNITED STATES CONSTITUTION.

No "State" shall make or enforce any Law which shall abridge the privileges or immunities of any person of life, liberty, or property, without due process; nor deny to any person within its jurisdiction the equal protection of the law.

The state violated Amendment 14, and took the "Irrevocable Trust," protected property, and gave it to David and Margette Webster, and the assessors' office refused to delete or vacate the Special Warranty Deed because it was written up by a "Special Master" without jurisdiction, and the written permission from the Settler, and the Beneficiaries.

The Special Master filed the Special Warranty Deed, because the Webster's attorney told him to go along with his scheme to deprive the Petitioner's and the "Irrevocable Trust from ownership. This "Property"

is located at 10812 Olympic St., N.W., Albuquerque, NM 87114

Lot 1, Block 10, belongs to the "Mike R. Serna Irrevocable Living Trust.

The Petitioner filed for "Wrongful Foreclosure", and the Court refused.

David and Margette continued their misconduct by filing a lien on the

Irrevocable Trust other property Lot 2, Block 10, Paradise Heights, Unit1,

Paradise Heights, Bernalillo County, Albuquerque, New Mexico 87114.

This is a vacant residential property owned by the Irrevocable Trust.

#### A.. THE JUDGMENT AND ORDER ARE VOID

The First Amendment to the United States that all Entities have the mandatory right of an adequate, complete, effective, fair, meaningful, and timely access to the Court. The Entity, which is a "Irrevocable Trust" never harmed or injured, and never had any issue or matter with any of the Responders. A court allowed a wrongful Foreclosure with a "Void judgment, and no Jurisdiction.

The State Supreme Courts have held that those who aid, abet, advise, act upon, and execute the order of a judge who acts without jurisdiction are equally guilty. They are equally guilty of a crime against the United States Government.

The first judgment was created from an arbitration award made out to a person that was not in the case, a Margaret Webster, and had never been a litigant in any case in Webster v. Serna or Serna v. Webster.

The judgment was against businesses that did not exist, and State District court has an affidavit stating that David and Margette Webster sued a company that was a limited liability Company.

The second judgment was against Mike and Emma Serna, and foreclosure on The "Mike R. Serna Irrevocable Living Trust Property. Mike and Emma do not own this Property, the Irrevocable Trust owns the Property, and

the Property is protected in the Irrevocable Trust. These two Websters do not have a note, mortgage, or any kind of lien that is valid, and the only way a person can foreclose on a Property is if there is a mortgage, and the payments are in default.

Margette Webster altered the judgment, and the Petitioner provided evidence to the judge, and the pleading with the exhibit of evidence was stricken.

The judge was bias and prejudice, and used abuse of discretion. Margette never proved she was Margaret Webster, and the judge simply accepted the erroneous pleading of lies, and this went on in every aspect of the court.

Therefore, if a litigant is deprived of due process rights, or where fraud was involved in the attempted procurement of jurisdiction, is sufficient for an Order or judgment to be void. See, *Potenz Corp. v. Petrozzni*, 170 Ill. App. 3d 617, 525 N.E 2d 173, 175 (1988). The law states that the orders and Judgments are void ab initio and not voidable because they are already void. It is a direct violation of Constitutional rights, and the violation of due Process, and the judge is acting as a private citizen, and not in the capacity of a judge, therefore, is no jurisdiction

The government had no right to take the "Irrevocable Trust Property," and this is fraud and a corrupt action of the judge, Benjamin Chavez, David and Margette Webster, taking of the deed of property, the Attorneys, Daniel White and Charles Lakins initiating the criminal enterprise, and the

deputies for aiding and abetting the eviction, and the Special Master executing a Special Warranty Deed to David and Margette Webster while an Appeal was in session, and holding a sale on the property of The “Irrevocable Living Trust.”

Therefore, under Federal Law which is applicable to all states, the U.S. Supreme Court stated that if a court is “without authority, its judgments and orders are regarded as nullities, and form no recovery sought, even prior to a reversal in opposition to them. Anyone concerned in executing such Judgments are considered, in law, as trespassers. Judicial immunity does not exist when a judge engages in criminal activity, and the Petitioner has sustained damages by the judge’s connivance with, aiding and abetting criminal activity. The judge violated 18 U.S.C. Section 2, 3, 4, one judge was reported and convicted, by the Petitioners, therefore other judges are as guilty as the convicted judge.

## B. THE IRREVOCABLE TRUST

The Petitioner, filed all his assets into the Irrevocable Trust, and being that all assets were placed in the Irrevocable Trust, the assets can not be obtained for any creditor's claims, against the Petitioner, and this why they are protected assets, they were filed into the Irrevocable Assets, and now are in the Irrevocable Trust. This is where "equal protection of the law" comes into play, the judge did not have Jurisdiction in either case to deprive the Petitioner of his property that he had placed in an Irrevocable Trust", the "Irrevocable Trust" now has ownership of the assets, and the judges, in state district court, were erroneous in there actions, and without a legal possessory action. Federal Rule of Civil Procedure 17 (a)(1) which requires that "[a]n action must be prosecuted in the name of the real party in interest. In re Jacobson, 402 B.R. 359, 365-66 Bankr. W.D. Wash. 2009, 1-6 18. Void judgments are those rendered by court which lacked jurisdiction, either of the subject matter or the party . Wahl v. Round Valley Bank, 39 Ariz. 411, 300 P. 955 (1931); Tube City Mining & Milling Co. v.

Otterson 16 Ariz. 305, 146 P. 203 1914; and Milliken v. Meyer, 311 U.S. 457, 61 S. Ct. 339, 85 L.Ed. 2d 278 (1940).

3. A void judgment is one, from its inception, was a complete nullity and without legal effect, Rubin v. Johns, 109 F.R.D. (D. Virgin Islands 1985.

A void judgment is one which, from its inception, is and forever efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect what-ever, and incapable of enforcement in any manner or to any degree- Lloyd v. Director, Dept. of Public Safety, 480 So. 2d 577 (Ala. Civ. App. 1985). The Defendants illegally enforced the void judgment, and took possession of the title, by replacing the "Mike R. Serna Irrevocable Living Trust Property" deed with a "Illegal Special Warranty Deed" in the Defendant's name, which has no legal force and or effect.

4. Once the assets were deposited into the Irrevocable Trust, the Irrevocable Trust owns the assets, and when the Responders, David and Margette Webster, filed a claim against the trustee and the settler, the false creditor generally cannot satisfy those claims by seizing the assets in the "Irrevocable Trust". The Internal Revenue Depart. Is the only one who has access to its assets or if the Irrevocable Trust itself harms another. In this case, none of the Responders ever had any issue or matter with the "Mike R. Serna Irrevocable Living Trust", and no lien or lis pendens can be filed or be activated against the Irrevocable Trust Property, as the Property is protected

by the trustee, for the Trust, and the Entity stands by itself, and therefore claims cannot be satisfied against the settler or trustee, who were the ones that were sued, and the Entity was not sued, and has NO claim against it. Therefore, a void judgment or order are subject to attack, is simulated judgment devoid of any potency because of jurisdictional defects. *Ward v. Terriere*, 386 P.2d 352 (Colo. 1963).

5. Relief from void writ of garnishment, and writ of execution, and judgment of January 03, 2022. The Respondents, David and Margette Webster, have committed a federal offense, and collected \$61,000.00 from the Petitioners with the aid of deputies, and the presentation of a the void judgment, and writ to BBVA Compass Bank, on April, 2018, and thereafter through 2022, from monthly mortgage payments made, by the Petitioners, to their mortgage, and were directed to Margette Webster, on behalf of Margaret Webster's judgment, a non-litigant, with the assistance of Respondent, William Cooksey, who committed fraud, and their attorney, Respondent, Daniel White, who submitted the complaint for the Illegal Wrongful Foreclosure where the Petitioners residence was fraudulently conveyed to the Respondents maliciously, and with greed, and state trial judge is aiding and abetting for Respondents with writs, and the United States, 42 U.S.C. 1983 provides a mechanism by which the Petitioner who has had their constitutional right violated may seek a remedy against individual

state actors. Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or Territory or the District of Columbia, subjects, or causes to be subjected any citizen of the United States or other person within the jurisdiction there of to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

6. The judgment of January 3, 2022, without Jurisdiction, was for \$57,000.00 in which the Responders had already collected over \$61,000.00, and the judge, to egregiously punish the Petitioner, wrote out an order of foreclosure on the Irrevocable Trust Property. The Respondent, Margette Webster, had already altered the original judgment, given to Margaret Webster, and fraudulently collected the Petitioner's funds. The Petitioner's pleadings, motion, etc. were all stricken, therefore the Petitioners could not defend themselves in a competent court of law.

See *Crown Life Ins. Co. v. Candlewood, Ltd.*, 112 N.M., 633, 818 P.2d 411 (1991).

Responder, Daniel White; a person who has filed or has offered to record, in the office of a filing Officer, a document purporting to created a nonconsensual common law lien against real or Personal property, knowing or having reason to know that the document is forged or groundless, contains

a material of misstatements or false claim or is otherwise invalid, shall be liable to the property affected for actual damages or five thousand (\$5,000.00) whichever is greater, plus costs, and attorney fees. Lawyers are officers of the court.

They are ethically prohibited from engaging in deliberate deception. Fraud on the court has been committed intentionally by making an intentional misrepresentation of fact, and made for the purpose to deceive, and gain access to the "Irrevocable Trust Property" without a judgment.

### C. FRAUD ON THE COURT

1. A fraudulent document was submitted to the State court, to a Bank, to the sheriff's department, and the assessors' office.
2. False statements, perjury committed when Margette Webster stated she was Margaret, the judgment holder, and William Cooksey stated that he would vouch that she was Margaret Webster.
3. Margette presented the fraudulent document to a Bank to receive money on a false writ of garnishment. This was a federal offense. 18 U.S.C. 1344.
4. The judge refused to dismiss the fraudulent case even after he was presented with proof that the case had to be dismissed, and he did not have jurisdiction or exceeded his jurisdiction because he did not have an original judgment against Mike Serna or Emma Serna.
5. This was a case of conspiracy to deprive the Petitioners' of their money and property. The trial judge allowed the foreclosure of property that belonged to an Entity. The trial judge aided in the collection by writing out writs lawyers are officers of the court. They are ethically prohibited from engaging in deliberate deception.

See *Hazel-Atlas Co. v. Hartford Co.* 332 U.S. 238 (1943). The Supreme Court reversed a 12 year old judgment for fraud upon the Court, because of a fraudulent article written to deceive the Patent office. See App. Pp 109-234.

In this case, (7) year old judgment for fraud upon the court, because the two Respondents sued companies that do not exist, and in June 26, 2019 a fraudulent case title was written and submitted to deceive the Petitioners out of their money, and the court to submit to the Respondents' victor Officers of the court committed intentional fraud. The intentional fraud was directed at the court itself, therefore, the intentional fraud deceived the court by Attorney Daniel White, Attorney Charles Lakins, and Judge Benjamin Chavez. There was a misrepresentation of a material fact; by these two attorneys who knew that the material fact was false, and they intended to defraud. The schemes were considered unconscionable, as they attempted to deceive and make misrepresentations through the court system. The fraudulent activity was directed at the judicial machinery itself.

## REASONS TO GRANT WRIT

The First Amendment to the U.S. Constitution States that all persons and Entities have the mandatory right of an adequate, complete, effective, fair, meaningful and timely access to the court. The Entity, which is an "Irrevocable Trust" never harmed or injured, and never had any issue or matter with any of the Responders yet a state court allowed a wrongful foreclosure, with a Void judgment, and no jurisdiction. The State Supreme Courts have held that those who aid, abet, advise, act upon and execute the order of a judge who acts without jurisdiction are equally guilty. They are equally guilty of a crime against the U.S. Government.

The loss of a home is an irreparable harm, and considering hearing about the unjustifiable acts and claims that has left the title of our residence with an unfavorable cloud, and the scars of violence, abuse, and loss of money, and the United States Constitution provides that no one is liable, and will not get hurt by double jeopardy. The Responders entitled themselves by a altered judgment, with cash, then with foreclosure of a Property valued at more than their final void judgment was worth. The judge did not allow individual rights to exist, and violated all the Constitutional rights, and Bill of Rights for a wrongful cause, and without jurisdiction.

The Responders, and the judge have all committed criminal acts, and willfully violated the Constitution of the United States, and of New Mexico. When fraudulent acts are so noticeable, and are enforced for gain there has to be a law that cures immunity, and protects the people from such harmful acts. The review of this Petition, and the cure of the trespassers of the law, in which the judges and the Responders are all guilty of treason the Highest Court has to step in.

Respectfully requested

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IN THE SUPREME COURT OF THE  
UNITED STATES

CONCLUSION

The Petition for a writ of certiorari should be granted for the following reasons:

1. The adopted judgment of 2015, case no.

cv-2007-00641 consolidated with case no.

cv-2007-09594, was issued to a non-litigant, and against non-litigants, and was altered by one of the Responders.

There was a lack of jurisdiction or the power to change, alter, or modify the fact, and the judgment had no legal manifestation other than it was a void judgment.

1. In case 2019-04800, Responders sued the Petitioner's to foreclose on Property owned by an "Irrevocable Trust". This is a direct liability of fraudulent conveyance claim against the two

Responders, the Websters, and the claim is only actionable against the transferor or transferee, and the fraudulent conveyance was performed for the two Websters, and these two Responders were the receivers, and they now have illegal title to the property.

Paradigm Bio Devices, Inc. 842 F. Supp.2d at 667-68.

Mack v. Newton, 737 F.2d 1343, 1261, (5<sup>th</sup> Cir. 1984).

1. Recovery of Property: Paradigm Biodevices, Inc., 2012 WL 360414, at 4.

Mack v. Newton, 737 F.2d 1343, 1361, (5<sup>th</sup> Cir. 1984).

Holding that a fraudulent conveyance action is properly brought against a Party who received the transferred property. 11 U.S.C. 550 (a)(2) Strictly liable for whose benefit the transfer was

made. Fraudulent conveyance. It is mandatory that the beneficiaries sign off on any conveyance of property, that's in "Irrevocable Trust. Statute of N.M."

4. This "Court" has the power to ensure Laws are faithfully applied and rule on cases involving the Constitution, federal laws, treaties, and disputes.

Judicial review on void judgments and Orders where the lower courts do not have the power.

5. Petitioners approached both state and federal courts concerning the following judgments: May 23, 2015, from a arbitration award, and January 3, 2022, and federal courts could not review state judgments, and the state complied with a forged judgment, and causation of the

misconduct, by Responders, has caused severity of the injuries, the fraud and deceit, and intentional infliction of emotional distress, and the loss of the Irrevocable Trust Property.

6. The Petitioners have 100% interest in in the Property. Live on the property and paid the taxes since 1993, and maintain the property.

7. The government took private property, and devalued it, and gave the title, that legally belongs to the "Irrevocable Trust" for a non-legitimate complaint against the Settler and the trustee. A complete violation of the Constitution of the United State. The Courts had the sheriff's dept. violate the Fourth Amendment, seizures of property, and unreasonable searches,

8. An illegal or unwarranted break in the titles chain of ownership. The only ownership this property has ever had is Mike and Emma Serna, the Petitioners. Double injury, and violation of the Fifth Amendment of the United States. the Responders, the two Websters, manipulated the system with the altered judgment and gained access to property that belonged to the trust and to the Petitioners.

9. The judge exceeded his jurisdiction. Federal decisions addressing void state Court judgments. *Kalb v. Feuerstein* (1940) 308 US 433, 60 S Ct 343, 84 L. ed 370. A void judgment does not create any binding obligations.

10. The judges issued an unconstitutional Order barring the Petitioners from Defending themselves, in a court of law.