

**In The
Supreme Court of the United States**

ELIZABETH RICHERT on behalf of herself
and all others similarly situated,

Petitioner,

v.

KATHLEEN WHITE MURPHY and THOMAS WHITE,
as co-administrators of the estate of ANNA M. WHITE,

Respondents.

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Seventh Circuit

PETITION FOR REHEARING

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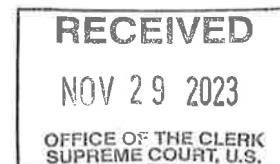


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PETITION FOR REHEARING

Petitioner, Elizabeth Richert (Richert), respectfully petitions this Court to rehear its October 30, 2023 Order denying her *Petition for Writ of Certiorari* (Appendix A).

REASONS FOR GRANTING REHEARING

Richert is mindful that the United States Supreme Court rarely grants a private party petition. Nevertheless, this Court's Rule 44.2 authorizes a petition for rehearing based upon "other substantial grounds not previously presented." The Illinois district court's of record, persistent departure from the accepted and usual course of judicial proceedings was at best, a gross violation of Richert's constitutional rights to equal protection and due process. The Seventh Circuit Court of Appeals' cursory treatment of Richert's appeal sanctioned that departure. Against all odds, Richert filed her Petition for Writ of Certiorari because left in tact, the underlying proceedings have and will continue to cause Richert irreparable harm.

Richert's assertion that 'The lower court's refusal to enforce Appellant's summary judgment while certifying Plaintiffs' judgment, put the lower court's stamp of approval on Plaintiffs' fraud, forgery, breaking and entering, and theft by force of the Buffalo Grove property and property therein, *the value of which exceeds Plaintiffs' judgment*, and **granted Plaintiffs unfettered permission to continue stealing from Appellant beyond Illinois, and far beyond that which the lower court erroneously awarded them**," could not have been more

accurate (Appendix B, p. 21), but the post-trial, *sua sponte* actions of the magistrate judge shocked! [Emphasis added].

In part, Richert's *Petition for Writ of Certiorari* sought this Court's exercise of its supervisory power to {grant, reverse and remand (GVR)}¹ that which occurred in the Illinois district court and the Seventh Circuit Court of Appeals. Richert's Petition for Rehearing beseeches this Court to do so for the reasons and "other substantial grounds not previously presented."

I. The Illinois District Court Magistrate Judge's May 27, 2021 Memorandum Opinion and Order (*Writ*, Appendix D)

When the smoke of the magistrate judge's 86 page, vitriolic, defamatory Memorandum Opinion and Order clears (*Writ*, Appendix D), the Judgment (Appendix D; Appendix E) falls apart.

A. Resurrection of the Count I Receipt and Release

1. On August 28, 2018 the Illinois district court granted summary judgment to Richert for Plaintiffs Kathleen White Murphy's and Thomas White's (Murphy/Whites') July 17, 2015 *Petition for Production of Deed and Accounting* (Appendix F) later, *First Amended Complaint, Count I* (Appendix G), and Minute Order, (Appendix H). [Emphasis added]. Murphy/Whites' 2015 Count I included their **only claims** for an "order against Richert for a deed transferring title to Anna's current residence (49 Willow Parkway, Buffalo Grove, Illinois) to Anna, for an order dissolving the **Receipt and Release** (a copy of which was attached to their 2015

¹ Richert was unaware of (GVR) when she filed her Petition for Writ of Certiorari.

Petition (Appendix F, pp. 11-12)..., and an accounting for the Robert L. Richert Trust," (*id.*, p. 5, Prayer for Relief). [Emphasis added]. Murphy/Whites' 2015 Count I *Petition*, also included their admission that "[T]he Current Residence (49 Willow Parkway, Buffalo Grove, Illinois) remains in the Robert Trust, **of which Anna is no longer a beneficiary as a result of the Receipt and Release...Richert is now the sole beneficiary**," (*id.*, p. 4, ¶ 13). [Emphasis added].²

2. The September-November 2020 trial was **limited** to Murphy/Whites' **only** remaining allegation against Richert, that "Exhibit C is a counterfeit document which Elizabeth Richert altered and forged by replacing the dispositional language in the authentic Robert Trust...", (*Appendix G, First Amended Complaint, Count II*, p. 3, ¶ 28), Minute Order (*Appendix I*, limiting trial to Murphy/Whites' Count II), May 27, 2021 Memorandum Opinion and Order (*Writ Appendix D*, pp. 1-2) admitting, "[T]his case proceeded to a bench trial over nine days in September, October, and November 2020 on two **narrow** claims: (1) **plaintiffs' claim** that defendant breached her fiduciary duty to Anna White by creating a counterfeit version of the Robert Trust that purported to distribute to defendant an additional

² The Illinois district court used February 2013 to determine when the statute of limitations began to run for Murphy/Whites' Count I, (*Appendix F*, p. 2, ¶ 8; *Appendix N*, p. 10), but a letter dated May 23, 2013 (*Appendix J*, p. 21), sent to Richert by one of Murphy/Whites' Illinois attorneys (*Appendix F*, p. 4, filing attorney information) **more than** 2 years immediately preceding Murphy/White filing their July 17, 2015 *Petition*, established a date certain when Anna White was fully aware of Murphy/Whites' **desire** to pursue Richert regarding the Robert Trust (barring both Murphy/Whites' 2015 Count I and 2017 Count II), and a final invoice sent to Anna White by the same Illinois attorney, establishing that Anna White terminated his services shortly thereafter (*Appendix L*). [Emphasis added]. At trial, Murphy admitted that the allegation in Count I was Murphy/Whites', **not** Anna White's (*Appendix O*, p. 551, lines 19-25, p. 553, lines 1-2).

forty-seven percent of the Robert Trust's assets to which she was not entitled under the genuine trust instrument; and (2) **defendant's counterclaim** that a contract between defendant and Anna White known as the **Receipt and Release** requires plaintiffs to indemnify her for the fees and costs she incurred in this case," (Appendix J, pp. 10-11, ¶¶ 49-51). [Emphasis added].

3. In spite of the foregoing, **post-trial**, the magistrate judge *sua sponte* resurrected the Receipt and Release from the ashes of Richert's August 28, 2018 summary judgment, (Appendix H), asserting, "the Receipt and Release, which also purports to extinguish any claim Anna had against defendant respecting the distribution of her share of the trust assets, does not bar plaintiffs' claim because (1) there was no consideration for Anna White's promise to release her claims against defendant, and (2) the release is ineffective because **it is undisputed** that Anna White was unaware that there were multiple versions of the Robert Trust and that the competing versions of the trust documents might form the basis for a claim against defendant," (*Writ* Appendix D, pp. 2-3). [Emphasis added].

(a) The magistrate judge's assertion that "there was no consideration for Anna White's promise to release her claims against defendant" was **erroneous**. [Emphasis added]. The Receipt and Release expressly states the consideration for "Anna White's promise to release her claims against defendant," to-wit: "KNOW ALL MEN BY THESE PRESENTS that the undersigned, Anna M. White, being of full age, does hereby acknowledge receipt from Elizabeth K. Richert, as Personal Representative and Trustee of the Estate of Robert Louis Richert, deceased, of the

property she is entitled to under the Last Will and Testament of Robert Louis Richert and the Robert Louis Richert Revocable Trust Dated June 12, 2008, in full payment and satisfaction of the bequest(s) to her, **"and in consideration thereof..."** and **"THIRD: Agree that the undersigned does hereby indemnify and hold harmless..."** (Appendix F, p. 11), (emphasis added); and

(b) The magistrate judge's assertion that "the release is ineffective because **it is undisputed** that Anna White was unaware that there were multiple versions of the Robert Trust and that the competing versions of the trust documents might form the basis for a claim against defendant," was **erroneous**. [Emphasis added]. Richert testified that she gave copies of Murphy/Whites' *First Amended Complaint, Count II*, Exhibits A/B and C to Anna White (Appendix O, p. 718, lines 22-25). Richert testified that she and Anna White distributed the Robert Trust together and that Anna White knew everything (*id.*, p. 719, lines 1-5; Appendix B, p. 19). It is a matter of record that on at least 02/03/2010 and 02/11/2010, Anna White had unfettered contact with Fidelity (Appendix K), where copies of Murphy/Whites' *First Amended Complaint, Count II*, Exhibits A/B (Appendix G) were on file, and at trial, Murphy admitted that Richert showed Anna White Murphy/Whites' *First Amended Complaint, Count II*, Exhibit C (Appendix G, p. 2, ¶ 27).

4. However, Murphy/Whites' claim for dissolution of the Receipt and Release was resolved in favor of Richert and against Murphy/White, when the Illinois district court granted Richert summary judgment for Murphy/Whites' July 17, 2015 *Petition for Production of Deed and Accounting* (Appendix F) later, *First Amended*

Complaint, Count I (Appendix G). Richert's summary judgment left the Receipt and Release in tact and enforceable, barring Murphy/Whites' derivative *First Amended Complaint, Count II*, and certainly barring the magistrate judge from post-trial, *sua sponte* resurrecting a claim, **admittedly not before the court**, ¶ 2, *supra*, for no other reason than to move forward with finding in favor of Murphy/White and against Richert, for Murphy/Whites' **derivative First Amended Complaint, Count II.**³

5. Murphy/White did not appeal Richert's August 28, 2018 summary judgment, rendering it a final, res judiata, adjudication on the merits. *Rein v. David A. Noyes & Co.*, 665 N.E.2d 1199 (Ill. 1996), Ill. Sup. Ct. R. 273. (Appendix M, pp. 2-3, ¶ 4; *Petition for Writ of Certiorari*, pp. 28-20).

B. Judgment for Murphy/Whites' Derivative *First Amended Complaint, Count II*

6. Assuming arguendo, that the Illinois district court's trial limited to Murphy/Whites' derivative *First Amended Complaint, Count II* was lawful, the burden of proof was on Murphy/White to prove that "Exhibit C is a counterfeit document which **Elizabeth Richert altered and forged** by replacing the dispositional language in the authentic Robert Trust...," (Appendix G, *First Amended Complaint, Count II*, p. 3, ¶ 28. [Emphasis added]).⁴ Murphy/White failed

³ The magistrate judge also denied Richert's counterclaim (Appendix J, pp. 10-11, ¶¶ 49-51), for indemnification pursuant to the Receipt and Release (*Writ*, Appendix D, p. 3), and Richert's *Motion for Attorney's Fees and Costs*, (N.D. Ill. 15-cv-08185, Doc. 477).

⁴ "Defendant denied altering or forging anything related to the Robert Trust" (Appendix B, p. 11).

to introduce any evidence whatsoever, at trial or otherwise, that Richert "altered and forged" Murphy/Whites' Count II Exhibit C, Murphy/White failed to introduce any evidence whatsoever, at trial or otherwise that anyone "altered and forged" Murphy/Whites' Count II Exhibit C, and the magistrate judge's post-trial, credibility analysis against Richert on behalf of Murphy/White, upon which the magistrate judge based her finding that Murphy/White "proved by a preponderance of the evidence that defendant breached her fiduciary duty to Anna White by (1) creating a counterfeit version of the Robert Trust....," was not only improper, but was contrary to the evidence that **was** presented at trial.⁵

7. During her deposition and at trial, Murphy consistently testified that her "lawyers" told her Murphy/Whites' Count II Exhibit C was "altered and forged" (Appendix Q; Appendix R; Appendix B, p. 11). At trial, in spite of being shown his own email to the contrary, Thomas White perjuriously denied that Murphy/White hired a private investigator to locate Richert's residence (Appendix B, p. 14). The 86 page Memorandum Opinion and Order is replete with misstatements of fact by the magistrate judge, including a misleading analysis regarding checks written by Richert from the Fidelity account. The magistrate judge erroneously asserted that "defendant testified that she could not remember how the \$467,541.82 had been spent," (*Writ* Appendix D., p. 6). The 7th Circuit

⁵ While not controlling to the outcome since no evidence established that Richert "altered and forged" Murphy/Whites' Count II Exhibit C, the standard of proof required pursuant to the terms of the Robert Trust was clear and convincing (Appendix G, § 6.13, Exhibits A/B and C).

Court of Appeals parroted that assertion, "Finally, she testified that she did not recall what happened to the over \$450,000 in cash that she withdrew from Fidelity," (Appendix S, p. 3). In fact, the inquiry was not regarding how the funds had been spent,⁶ the inquiry was regarding into which bank account Richert deposited \$402,000.00 of "Robert Trust money" (Appendix O, p. 768, lines 3-5. The entire exchange begins on p. 768, and concludes on p. 769; Appendix JJ, floor safe).⁷ The magistrate judge also erroneously engineered her conclusion that Richert's testimony regarding the planting of a copy of Murphy/Whites' Count II Exhibit C into Richert's residence mailbox was "...not just fantastical; it is illogical. Based on their conversations with defendant, plaintiffs believed that Anna White was entitled to half of the Robert Trust's assets, including a one-half interest in the Carefree home. Under Version C, however, **plaintiffs were in a worse position because that document distributes the Carefree home to defendant alone**" (*Writ*, Appendix D, p. 45). The foregoing contradicted the magistrate judge's previous finding within, that "It is undisputed that the Robert Trust held title to the Carefree home at the time of Robert's death. Consequently, title to the home passed to defendant in accordance with paragraph 5.4.1 **of each version of the trust instrument**" (*id.*, p. 9). Regardless of the foregoing and more, the magistrate judge's May 27, 2021, 86 page Memorandum Opinion and Order was silent

⁶ Such inquiry would have established, and Richert did establish how the funds had been spent (Appendix T, pp. 2-5, ¶¶ 9-12).

⁷ Richert's testimony regarding Murphy/Whites' Count II Exhibits A/B and C is submitted herewith (Appendix O, pp. 714-718).

regarding any evidence whatsoever, that Richert "altered and forged" Murphy/Whites' Count II Exhibit C, the prerequisite evidence to finding in favor of Murphy/White and against Richert for Murphy/Whites' Count II Exhibit C.

8. Also post-trial, the magistrate judge asserted "[T]he Court previously ruled that plaintiffs' claim for punitive damages did not survive Anna White's death as a matter of Illinois law. [348]...The Court now (nearly 2 years after-the-fact) reconsiders this issue in light of the memorandum filed by plaintiffs on **September 12, 2019**. [361]," prejudicially switching to Arizona law to award Murphy/White punitive damages. [Emphasis added]. Contrary to the record, the magistrate judge justified her post-trial choice of law asserting, "Neither side has identified a difference in the relevant laws of the three states that could apply to the breach-of-fiduciary-duty claim, (Appendix U), and more. Richert's initial brief on appeal to the 7th Circuit cited to no less than 9 Arizona Revised Statutes (Appendix B, p. v), including A.R.S. § 14-10202(B) vesting subject matter jurisdiction regarding any matter involving the trust, and personal jurisdiction over Anna White in the Arizona superior court no later than January 2010, when White accepted a distribution from the Robert Trust.⁸ Had Murphy/White filed this case in Arizona or had the Illinois district court honored the Robert Trust choice of law clause, (Appendix G, pp. 30, 63, 81), this case would have been dismissed with prejudice in 2015.

⁸ The award of attorneys fees and costs (limited to Count II) was also contrary to the Illinois district court's September 5, 2019 Order (Appendix P, p. 3, Fn. 2).

9. Richert also appealed the magistrate judge's unlawful taking of Richert's Illinois property, (*Petition for Writ of Certiorari*, p. 2), *infra*.

II. Irreparable Harm

10. Immediately following entry of the May 27, 2021, 86 page Memorandum Opinion and Order, the magistrate judge grossly abused her power by printing a hard copy of same, along with a cover letter (Appendix V), and sending it, certified mail, return receipt requested, to the Florida Bar, weaponizing it to further harm Richert. After a lengthy discussion with the Florida Bar, during which Richert was advised that a such vitriolic order submitted by a federal magistrate judge would be costly to defend, and the likelihood of overcoming it slim. By then, Richert was defending Murphy/Whites' weaponization of the *Order* in 3 states, and living in fear for her safety *infra*, so Richert chose to voluntarily revoke her license to practice law, proclaiming her innocence and continuing to pursue appellate and other remedies against the erroneous findings of the magistrate judge.⁹

11. Five days after the magistrate judge enter the May 27, 2021, 86 page Memorandum Opinion and Order, Murphy/White and their attorneys of record (Murphy/White et al.), created fraudulent documents purporting to have lawfully

⁹ The Illinois district court record is sullied with Murphy/Whites' unclean hands, including but **not** limited to the initial magistrate judge's finding that Murphy/White "lied" about Richert being a licensed Illinois attorney (and knew they lied on September 25, 2015, N.D. Ill. Doc. 8), the false representation Murphy/White used to forum shop into the state of Illinois to avoid Arizona law (Appendix W, p. 10; Illinois district court Doc. 192, p. 20, lines 23-25, p. 21, lines 1-6). The magistrate judge did not send that finding to the ARDC, nor did it send to the ARDC its finding during the same hearing, that instead of bringing a scrivener's error to the court's attention, Murphy/White violated the court's order when they issued a subpoena to get documents after the close of the fact discovery that the Court didn't authorize it to get (*id.*, p. 3, lines 1-7), and more, *infra*.

removed Richert as trustee of the Robert Trust, then *ex parte* recorded same against both of Richert's Illinois and Arizona properties (Appendix X).¹⁰ The magistrate judge unwittingly established that the Murphy/White et al. documents were fraudulent, when finding, "...[T]hat meant that **each** of his sisters, Anna White and Mary Jane Richert, was entitled to a **one-third** share of the forty-seven percent at issue, while the children of Robert's brother Thomas, defendant and David Richert, were each entitled to a one-sixth share," (Writ, Appendix D, p. 9, Fn. 5). Sections 7.10 and 7.9 of the Robert Trust require a **majority of the beneficiaries** to remove a trustee, (Appendix G, pp. 28, 60 and 79). Murphy/White constituted 1/3, **not** the 2/3 majority of the **(alleged intestate)** beneficiaries required by the Robert Trust.

12. On October 26, 2021, the magistrate judge found that Murphy/Whites' September 22, 2015 Lis Pendens (Appendix J, p. 43) was dissolved (Writ, Appendix B, p. 15). Accordingly, on November 2, 2021 Richert recorded a deed transferring her Illinois property to her personal trust (Appendix Y, pp. 26-27).

13. Murphy/White et al. chose not to appeal Richert's 2018 summary judgment instead, on December 6, 2021 they used their fraudulent documents, ¶ 11 *supra*, to file an *ex parte*, fraud on the court petition, in Anna White's still open

¹⁰ As recent as September 5, 2023, Murphy/White et al. executed additional fraudulent documents purporting to Kathleen White Murphy and Thomas White (Murphy/White) as successor co-trustees of the Robert Trust "in the event of the inability of Christopher M. Saternus to continue as Trustee" (Appendix C). All 3 scenarios would automatically constitute a breach of fiduciary duty to Richert as a 1/6 of 1/3 beneficiary of the alleged intestate beneficiaries of the Robert Trust.

probate case in Lake County, Illinois (Appendix Y), seeking title to the same Illinois property barred by Richert's 2018 summary judgment, and on January 25, 2022, Murphy/White et al. recorded a new Lis Pendens (Appendix BB), re-clouding title to Richert's Illinois property dissolved by the magistrate judge's October 26, 2021 Memorandum Opinion and Order, ¶ 12 *supra*.

14. When Richert discovered Murphy/White et al.'s *ex parte* proceeding, Richert filed her *Emergency Motion for Injunction, Contempt and Other Relief*, (Appendix Z), putting Murphy/White et al. on notice of her discovery. Murphy/White responded by filing their *Motion for Certification of Judgment*, (N.D. Ill., 506), 10 months, one week, and five days after-the-fact (*Petition for Writ of Certiorari*, p. 29), establishing their fraudulent intentions in the *ex parte* proceedings. In spite of Richert's *Emergency Motion*, the magistrate judge denied same, and granted Murphy/White's, incredulously asserting, "Because the Court has never ruled that title to the Buffalo Grove home belongs to defendant in her individual capacity, there is no basis in the Court's judgment to enjoin plaintiffs or their attorneys from attempting to assert control over the property.² To the extent defendant contends that plaintiffs have committed a fraud on the court during the probate proceedings involving Anna White's estate, this Court has no jurisdiction over those proceedings," with the included Footnote 2 stating, "At some point after trial, it appears, plaintiffs removed defendant from her position as trustee of the Robert Trust and replaced her with one of plaintiffs' attorneys," (*Writ*, Appendix C, p. 3; Fn.

2), contradicting her ¶ 11 *supra*, finding, and putting her stamp of approval on Murphy/White et al.'s unclean hands.¹¹

15. Wholly empowered by the Illinois district court magistrate judge, on June 1, 2022, Murphy/White et al. listed Richert's Illinois property for sale, holding themselves out as bona fide representatives of **Richert's estate**, ((Appendix CC, p. 1, "ESTATE OF ELIZABETH RICHERT" ("Seller")); p. 6, "by CMS (Christopher M. Saternus/Murphy/White et al.); (Appendix DD, § #1 Client, "Seller Elizabeth Richert, Email elizabeth@gmail.com); (Appendix EE, "The email account that you tried to reach does not exist); (Appendix FF, "Sale Price: \$340,000.00," "Contract Date: 07/24/2022," "Status: Pending"); (Appendix GG; Appendix HH, establishing collusion with intent to defraud Richert of her Illinois property); (Appendix II, "I recorded the assumption in both Lake County and Maricopa County, where the trust owns another piece of property.," establishing intent to defraud Richert of both her Illinois and Arizona properties).¹² No less than 5 licensed Illinois attorneys, conspired and colluded to fraudulently sell Richert's Illinois property without Richert's knowledge and consent.

16. Murphy/White et al. recorded their Illinois district court judgment in Miami-Dade County, Florida on May 9, 2022 (Appendix KK). The Writ of Execution

¹¹ The 7th Circuit Court of Appeals' affirmation of Richert's Appeal of same, sanctioned all that Richert has set forth in this *Petition for Rehearing*, begging this Court to exercise its supervisory power to correct that which so far departed from the accepted and usual course of judicial proceedings.

¹² Richert subsequently learned that since Murphy/White et al. were unable to close on the sale of Richert's Illinois property, Murphy/White et al. rented the property to the pending sale buyer, for profit.

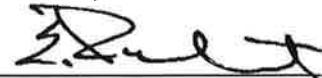
was directed to "The Marshall of the United States District Court for the Southern District of Florida" to serve upon Richert (*id.*). In contempt of the Writ of execution, Murphy/White et al. admittedly hired who they described as "an investigator and private processors," (Appendix LL, ¶ 2). Instead, beginning August 13, 2022, over the course of several days, the most recent occurring in January 2023, one armed, unknown male, and two unknown males, weapon status unknown, made multiple attempts to break into Richert's residence, stole mail from Richert's mailbox, shut off Richert's electricity at the main affecting multiple units, and shut off Richert's water, terrorizing Richert (Appendix MM). Richert continues to live in fear for her safety.

CONCLUSION

For the foregoing reasons, and those stated in Richert's Petition for Writ of Certiorari, Petitioner beseeches this Court to grant, vacate and remand (GVR) Richert's Petition for Writ of Certiorari.

DATED: November 24, 2023.

Respectfully submitted:



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**Additional material
from this filing is
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