

No.

In The
Supreme Court of the United States

OXANA N. PARIKH, and
NAMISH PARIKH,

Petitioners,
v.

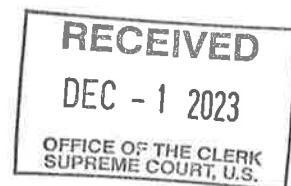
STATE OF MARYLAND,
LYNN CAUDLE PENDLETON, and
TINA PARIKH-SMITH

Respondents.

On Petition for a Writ of Certiorari to the
Appellate Court of Maryland

PETITION FOR A WRIT OF CERTIORARI

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QUESTION(S) PRESENTED

This case presents a question more egregious than *Hodel v. Irving*, 481 U.S. 704 (1987); whether the Maryland Orphans' Court for Montgomery County violated Decedent's Equal Protection, Due Process, and Property Interest rights by taking away Decedent's right to pass property at death to his designated "sole-legatee," by completely disregarding Maryland statutory and case law.

Alternatively, whether the Maryland Orphans' Court for Montgomery County violated "sole-legatee's" Equal Protection, Due Process, Contract Clause, and Property Interest rights by taking away "sole-legatee's" right to inherit bequeathed property, by completely disregarding Maryland statutory and case law, with use of an admittedly fabricating "incest story," motivated by racial animus.

PARTIES TO THE PROCEEDING

Petitioner Oxana N. Parikh is a private U.S. citizen, resident of Maryland, and Decedent's former daughter-in-law, designated "sole-legatee;" Petitioner Namish Parikh is a private U.S. citizen, resident of Maryland and Decedent's disinherited son.

Respondent, State of Maryland is statutorily charged with affecting Decedent's testamentary intentions.

Respondent, Lynn Caudle Pendleton, using a false identity of "Lynn Caudle Boynton" received an appointment from the State of Maryland to act as state-appointed Personal Representative of Decedent's Estate.

Respondent, Tina Parikh-Smith, Decedent's disinherited daughter, sometimes claims to be Decedent's "wife," or "trust beneficiary."

RULE 29.6 CORPORATE DISCLOSURE

Petitioners and Respondents are not a corporate entity nor have an interest in a publicly traded company.

RELATED PROCEEDINGS

In Re: Estate of Dr. Dinesh O. Parikh, Supreme Court of Maryland, Case No. SCM-PET-0096-2023; Cert. Pet. Denied August 15, 2023, Reconsideration Denied October 24, 2023.

Estate of Dr. Dinesh O. Parikh, Orphans' Court for Montgomery County, Estate No. W-87973; orders docketed on June 1, 2022 and November 23, 2022.

Lynn C. Boynton v. Oxana Parikh and Namish Parikh, Circuit Court for Montgomery County, Case No. 425847V.

Namish Parikh v. Brian Frosh, No. 17-2147, U.S. Court of Appeals for the Fourth Circuit. (Affirmed) Judgment entered March 16, 2018.

Namish Parikh v. Brian Frosh, No. 17-cv-332, U.S. District Court for the District of Maryland at Greenbelt. Judgment entered November 15, 2017.

Oxana N. Parikh v. Anthony Brown, et al., No. 23-1111, U.S. Court of Appeals for the Fourth Circuit. No judgment entered (appeal pending).

Oxana N. Parikh v. Anthony Brown, et al., No. 22-cv-110, U.S. District Court for the District of Maryland at Greenbelt. Judgment entered January 9, 2023.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh I) (Consolidated), Appellate Court of Maryland, Case Nos. CSA-REG-01508-2016, CSA-REG-00546-2017, CSA-REG-01226-2017, CSA-REG-00548-2017.

Judgment Entered 01/16/2019; Cert.Denied
07/26/2019, COA-PET-0088-2019.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh II)
(Consolidated), Appellate Court of Maryland, Case
Nos. CSA-REG-1480-2017, CSA-REG-1655-2017,
CSA-REG-00501-2018, CSA-REG-2312-2018, CSA-
REG-0302-2019. Judgment Entered 03/23/2020;
Cert.Denied 7/24/2020, COA-PET-0080-2020.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh III),
Appellate Court of Maryland, Case No. CSA-REG-
2366-2019. Judgment Entered 04/07/2021.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh IV),
Appellate Court of Maryland, Case No. CSA-REG-
0941-2020. Judgment Entered 09/28/2021;
Cert.Denied 1/28/2022, COA-PET-0330-2021.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh V),
Appellate Court of Maryland, Case No. CSA-REG-
1057-2021, Judgment Entered 04/20/2022.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh VI),
Appellate Court of Maryland, Case No. CSA-REG-
0807-2022; Judgment entered May 18, 2023.

In Re: Estate of Dr. Dinesh O. Parikh (Parikh VII),
Appellate Court of Maryland, Case No. ACM-REG-
1533-2023 (Briefing Pending).

Petitions for Writ of Mandamus: COA-MISC-0003-
2017, Denied 9/21/2017; COA-MISC-0019-2017,
Denied 12/13/2017; COA-MISC-0003-2018, Denied
10/25/2018; COA-MISC-0010-2020, Denied
11/20/2020; COA-MISC-0048-2021, Denied 9/23/2022;

COA-MISC-0012-2022, Denied 1/24/2023; SCM-MISC-0038-2022, Denied 6/14/2023; SCM-MISC-0072-2022, Denied 9/1/2023.

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OPINIONS BELOW

In re Estate of Dr. Dinesh O. Parikh, the opinion of the Appellate Court of Maryland (Appx., *infra*, 4a-14a) is unreported. The decisions of the Orphans' Court (Appx., *infra*, 15a-18a) are unreported.

Supreme Court of Maryland denied Petition for Certiorari on August 15, 2023 (Appx., *infra*, 2a); and, Petition for Reconsideration was denied on October 24, 2023 (Appx., *infra*, 1a).

JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. §1257.

STATEMENT OF THE CASE

Legal and Factual Background

Respondent State of Maryland admits that Petitioner Ms. Oxana Parikh is “sole-legatee” under Dr. Parikh’s valid Will and that Dr. Parikh bequeathed all his Earthly property to Petitioner Ms. Parikh, Decedent’s former daughter-in-law, and mother of Decedent’s grandson.

First, a proper understanding of “sole-legatee” requires a Maryland statutory analysis of “Interested Person,”¹ “Legatee,”² “Legacy,”³ “Heir,”⁴ “Will”⁵ and

¹ ET §1-101(i)(1) “**Interested person**” means:

(i) A person named as executor in a will;
 (ii) A person serving as personal representative after judicial or administrative probate;

(iii) A legatee in being, not fully paid, whether the legatee's interest is vested or contingent;

(iv) An heir even if the decedent dies testate, except that an heir of a testate decedent ceases to be an "interested person" when the register has given notice pursuant to §2-210 or §5-403(a) of this article; or

(v) An heir or legatee whose interest is contingent solely on whether some other heir or legatee survives the decedent by a stated period if the other heir or legatee has died within that period. [....]

² ET §1-101(m)(1) "**Legatee**" means a person who under the terms of a will would receive a legacy.

³ ET §1-101(l) "**Legacy**" means any property disposed of by will, including property disposed of in a residuary clause and assets passing by the exercise by the decedent of a testamentary power of appointment.

⁴ ET §1-101(h) "**Heir**" means a person entitled to property of an **intestate** decedent pursuant to §§ 3-101 through 3-110 of this article, which Dr. Parikh's Estate is not.

⁵ ET §4-101(k) "**Will**" means a record that the **testator** intends to adopt as the testator's codicil or testamentary instrument and that:

(1)(i) Appoints a personal representative;

(ii) Revokes or revises another will;

(iii) Nominates a guardian;

(iv) Directs the disposition of the testator's property; or

(v) Expressly excludes or limits the right of an individual or class to succeed to property of a decedent passing by intestate succession;

(2) Is executed in the form prescribed under §§4-102 through 4-104 of this subtitle; and

(3) Has not been revoked in a manner provided by §4-105 of this subtitle.

its irrefutable affect,⁶ and limited jurisdiction of orphans' court.⁷

This Court can dispense with "heir" and its disjunctive use in Maryland's Estates & Trusts Article. This is a testate estate.⁸ No intestacy has resulted nor can it ever. Dr. Parikh's Will appointed Ms. Oxana Parikh as executor and commanded that all his earthly property pass to his sole-legatee, *expeditiously*.⁹

⁶ ET §4-402: ***Presumption*** that Will passes all property a testator owns at time of death, including property acquired after execution of Will.

ET §4-408: Unless contrary intent is expressly indicated in Will, ***legacy passes to legatee entire interest*** of testator in property that is subject of legacy.

⁷ ET §2-102(c): An "interested person" may ***petition orphans' court to resolve any question*** concerning an estate or its administration.

⁸ Two types of estates, testate and intestate. If decedent passes away without a written Will, then estate is intestate and laws of intestate succession apply. If decedent passes away with a Will, then estate is testate and the duty to follow will is ironclad. *Muffoletto v. Melick*, 72 Md.App. 551, 556 (1987) ("the duty to ascertain and effectuate the testator's intention — is virtually ironclad.").

⁹ Assuming a real Personal Representative, rather than Pendleton obtaining an appointment under an alias, then PR had fiduciary duty to distribute Estate funds per Dr. Parikh's Will. *Att'y Griev. Comm'n v. Storch*, 445 Md. 82, 90 (2015) ("A [PR] is under a general duty to settle and distribute the estate in accordance with terms of decedent's will [...], and do so expeditiously."). *See also*,

Under Maryland law, Ms. Oxana Parikh is “legatee” receiving a “legacy,” and is sole-interested person. Because, per ET §1-101(i)(1)(i), she is “named as executor in a will”; and, is (iii) “A legatee in being[.]”

Therefore, only Ms. Oxana Parikh “may petition in” orphans’ court “to resolve any question[.]” ET §2-102(c); *see also Kaouris v. Kaouris*, 324 Md. 687, 709 (1991) (orphans’ court only “has jurisdiction over interested persons and creditors, who invoke court’s power to determine issues within its express powers.”). (Pendleton using false identity “Boynton,” and disinherited children are not creditors and never claimed to be; they had no valid/legal creditor/debtor relationship with Dr. Parikh.) Interested Person in estate matters is synonymous with Article 3 “standing.”

Following simple steps in statutory plan, this Court must conclude that Respondent Pendleton cannot be an interested person because she (i) wasn’t nominated as executor by Dr. Parikh, (ii) isn’t serving as personal representative, for she’s an imposter using an alias,¹⁰ (iii) isn’t a legatee, (iv) not applicable, nor is she a (v) legatee whose interest is contingent on some other legatee dying. Per Legislature, Pendleton has no standing.

ET §7-101(b) and ET §7-305(a)(1) (“shall distribute all assets of the estate...within” 9 months). Any machination is a breach of fiduciary duty to sole-legatee. *See*, ET §10-103.

¹⁰ Under state law, a person must use her one true legal name “*exclusive[ly], consistent[ly], [and] nonfraudulent[ly]*”). *Stuart v. BoE*, 266 Md. 440, 449 (1972).

Disinherited children also can't be interested persons for similar reasons, because they (i) weren't nominated executor by Dr. Parikh, (ii) aren't serving as personal representative, (iii) aren't legatees, (iv) not applicable, inasmuch as Register of Wills gave statutory notice in 2016 (Dkts.18-21 in Estate matter), nor are they (v) legatees whose interest are contingent on some other legatee dying. Per Legislature, disinherited children have no standing.

Since Dr. Parikh's passing, the state has obstructed the administration of Dr. Parikh's Estate. Rather than follow the rule of law in Maryland, the state has opted to transfer Dr. Parikh's assets to a relative (ex-wife) of a state court judge, former circuit court Judge David Boynton, himself under an ethics cloud.¹¹

The state unlawfully removed "sole-legatee" as administrator of Dr. Parikh's Estate and replaced Ms. Oxana Parikh with someone using only an alias, "Boynton." "Boynton" immediately seized all estate funds/property and since 2016 refuses to effectuate Dr. Parikh's valid Will, or show any accounting, and tacitly admitted in state court filing to transferring all estate funds to her personal bank accounts.

The state fully supports "Boynton's" use of false names, signing court documents under false names, and signing affidavits under penalty of perjury using false names.

The state with its appointed agent under a pseudonym has, since 2016, attempted to introduce at least two individuals into the Estate matter as Dr. Parikh's "wives." Dr. Parikh passed away a widower; his wife, sadly, predeceased him in 2011.

¹¹ <https://www.washingtonpost.com/dc-md-va/2023/04/15/montgomery-judge-states-attorney/>

The state and its agent fabricated an “incest story” to use against Ms. Oxana Parikh and Dr. Parikh, falsely claimed that Ms. Oxana Parikh “repeatedly” held herself out as Dr. Parikh’s “spouse.” This false tale was reproduced in a state-court order, which the state’s agent admits was fabricated.¹²

The state and its agent have also resorted to racist and vile name-calling in state court, all with the approval of the state and state courts.¹³

The state and its agent also feign the existence of an executory contract between “sole-legatee,” Ms. Oxana Parikh, and a fictional person, “Boynton,” wherein allegedly Ms. Oxana Parikh agreed to give her entire inheritance to non-legatees.¹⁴

The only problem for the state and its fictional agent is that condition precedent failed and with

¹² [Respondent Pendleton]: “Your honor signed an order a couple of years ago and, in it, there were so many facts before the court, the court mistakenly made a statement that [Ms. Parikh] Oxana was contending that she had been married to [Dr. Parikh] and [Ms. Parikh] Oxana had never made that contention[.]” (Tr. E.69-70).

¹³ [Respondent Pendleton]: “She has a **Russian** name, I assume of Russian origin.” (Tr. E.78). [Respondent Tina Parikh-Smith]: “She [Ms. Parikh] was from Russia. She has been described as a **mail-order bride from Russia**.” (Tr. E.91).

¹⁴ An executory contract is one in which a party binds himself to do, **or not to do**, a particular thing[.]” *Fletcher v. Peck*, 10 U.S. 87, 136 (1810). An executory contract is a contract that has not as yet been fully completed or performed, *Deshields v. Broadwater*, 338 Md. 422, 439 n.9 (1995); a contract the obligation (performance) of which relates to the future. *Id.*

failed condition, executory contract failed.¹⁵ Nor does state law permit a “legatee” to enter into a contract with non-legatees – seemingly, designed to protect legatees from rogue and unscrupulous state agents.¹⁶

The state and its fictional agent “Boynton” also attempted to introduce a feigned trust document into the Estate matter, wherein non-legatees are “trust beneficiaries” under a fictional trust created by Dr. Parikh. Dr. Parikh never created a trust, nor does his Will make any mention or provision for a trust.

¹⁵ An express condition “must be exactly fulfilled or no liability can arise on the promise which such condition qualify.” *Della Ratta v. Am.Better*, 38 Md.App. 119, 133 (1977).

After failed condition, it is basic Maryland contract law that no court can rewrite a contract. Courts must “enforce the terms of unambiguous written contracts without regard to the consequences of that enforcement.” *Calomiris v. Woods*, 353 Md. 425, 445 (1999). Put differently, “it is improper for the court to rewrite the terms of a contract, or draw a new contract for the parties, when the terms thereof are clear and unambiguous, simply to avoid hardships.” *Canaras v. Lift Truck*, 272 Md. 337, 350 (1974).

¹⁶ *Brewer v. Brewer*, 386 Md. 183, 194 (2005), permitted redistribution agreements based on “the ability of competent [legatees] to reach an agreement to distribute an Estate in a manner different from that set forth in Will.” *Brewer* specifically cautioned that redistribution there was among all legatees and “not a case, then, of [administrator] compromising or settling a claim made against the Estate.” *Id.* at 192. Assuming by and among only legatees, and does not include challengers to estate, a “redistribution agreement” must also “comply with requirements of basic contract law[.]” *Id.* at 196-97.

Respondents finally resorted to obtaining a state-court order that Ms. Oxana Parikh is not an “interested person,” and officially designated a replacement “legatee,” thereby removing Ms. Oxana Parikh from Dr. Parikh’s Will and rendering Ms. Oxana Parikh a person with “no standing” in Estate matter, notwithstanding she is “sole-legatee.”

State and its fictional agent were able to accomplish Ms. Oxana Parikh’s removal from Dr. Parikh’s Will in violation of all Maryland statutory and case laws. Maryland law forbids altering a Will.¹⁷

Dr. Parikh passed away in 2016, and since 2016, state has tried every trick in the book to deny Dr. Parikh his right to bequeath to his chosen “legatee,” and to deny Ms. Oxana Parikh the right to inherit from Dr. Parikh. Respondents obtained fraudulent state-court orders depicting a fabricated “incest story;” Respondents have to date introduced two individuals falsely claiming to be Dr. Parikh’s “wives;” Respondents tried to falsely claim that Dr. Parikh created a trust for non-legatees; Respondents used racist and vile name calling in state-court to procure “wins;” Respondents feigned an executory contract in violation of *Brewer*, even after express condition precedent failed; and, Respondents actually removed Ms. Oxana Parikh from Dr. Parikh’s Will and replaced her with someone else.

Second, state law permits (a) a demand for jury trial on any issue of fact or mixed issue of fact and law;¹⁸ (b) any orphans’ court order may be appealed

¹⁷ *Shriners Hospitals v. Md. Nat'l Bk.*, 270 Md. 564, 573-74 (1973) (“It is clear beyond question that [...orphans’ court] has no power to rewrite or amend a decedent’s will.”).

¹⁸ A petition to transmit issues to the circuit court is a

without need for “finality”;¹⁹ and, (c) any error must be corrected, at any time, in orphans’ court.²⁰

These bedrock principles are designed to safeguard decedents and their legatees; and, are protected by the U.S. Constitution.²¹

Third, in violation of Petitioners federally protected rights, Respondents refuse to permit

procedure by which a party in orphans’ court proceedings can refer disputes as to issues of fact as well as mixed issues of law and fact to the circuit court for resolution by a jury. *See, e.g., Kao v. Hsia*, 309 Md. 366, 373-74 (1987); ET §2-105(b)(2) (“When the request is made before the court has determined the issue of fact, the court ***shall*** transmit the issue to a court of law.”).

It is settled law that, when a party files a timely petition asking an orphans’ court to transmit issues of fact to the circuit court for resolution, the orphans’ court is required to do so. *See, e. g. Shealer v. Straka*, 459 Md. 68, 98 (2018) (characterizing orphans’ court’s duty to transmit issues for jury trial as “***imperative***”).

¹⁹ *Knight v. Princess Builders*, 393 Md. 31, 49 (2006) (“only requirement is that the individual [] seeking appellate review must be ‘aggrieved’ by [orphans’ court] decision[.]”).

²⁰ *Radcliff v. Vance*, 360 Md. 277, 287 (2000) (citing *Malkus v. Richardson*, 124 Md. 224 (1914)) commands that “any” error in prior order in orphans’ court must be corrected, even “to reopen an estate declared closed to rectify” error. “[A]ny order that may be improvidently passed” can be corrected or abrogated. Of course, “any” means “any.”

²¹ State-created right to transmit issues for jury trial is protected under Due Process Clause to ensure that “State-created right is not arbitrarily abrogated.” *Wolff v. McDonnell*, 418 U.S. 539, 557 (1974).

framing of issues of disputed facts for jury trial determination. Respondents seek to silence Petitioners with a state-court order declaring Petitioners frivolous and vexatious litigants, with a lifetime pre-filing injunction.

The Present Controversy

On 10/18/21 (Dkt.433), Petitioner Namish Parikh timely and properly requested 42 fact issues (perhaps with mixed issues of fact and law) to be framed for jury determination.

Per state law, the framed questions are simple for “Yes or No” jury determination:

1. Can any prior order entered in error be corrected at any time to do justice?
2. Did Tina’s caveat fail on 9/9/2016?
3. Did Tina lose her “standing” on 9/9/2016?
4. Does Dr. Parikh’s Will stand, unchallenged and unreformed?
5. Was Tina permitted to petition OC for anything past 9/9/2016?
6. Was Tina a challenger to Dr. Parikh’s Will?
7. Did Tina and [Boynton] attempt to settle Tina’s caveat, after caveat failed on 9/9/2016?
8. Has Dr. Parikh’s Will been rewritten to make changes advocated by Tina and [Boynton]?
9. Are signatories to 2-page “redistribution agreement” all legatees under Dr. Parikh’s Will?
10. Is the 2-page purported “redistribution agreement” prohibited?
11. Did [Boynton] violate her fiduciary duties by advocating for a “redistribution agreement” by and among challengers to Will and non-legatees?

12. Is Tina a legatee under the terms of Dr. Parikh's Will?
13. Was [Boynton] permitted to advocate for distributions against Dr. Parikh's Will?
14. Did Tina and [Boynton], proponents of "redistribution agreement," fail to disclose adverse authority?
15. Does Dr. Parikh's Will have more than one legatee?
16. Who is the sole-legatee in the Will?
17. Did Tina and [Boynton] attempt to settle Tina's claim against Estate?
18. Did Tina fail to transfer 100% ownership of her Duke Power Stocks to Estate within 10-days of "approval"?
19. Did an express condition to agreement fail?
20. Did agreement fail after failure of condition?
21. Can a party that fails to perform under the terms of an agreement that they profess to honor, benefit from that failure under the agreement?
22. Does any party to agreement have a liability for anything after Tina failed to perform?
23. Has any party signed a written waiver excusing Tina's failure to perform?
24. Did Tina break her promise?
25. Did Tina or [Boynton] disclose this failure to other parties immediately after 10th day for performance?
26. Did Tina and [Boynton] seek a rewriting of "redistribution agreement," in violation of law?
27. Can an agreement be modified without consent from the other parties?
28. Can distributions that are contrary to Dr. Parikh's Will, based on an invalid agreement be made?

29. Has [Boynton] dutifully followed and honored Dr. Parikh's Will?
30. Were distributions, per agreement, made within 10-days of filing inventory?
31. Does "redistribution agreement" state that "Estate Funds" or "Estate Corpus" shall be distributed?
32. Was Neela paid \$10,000, after condition failed, while agreement was merely executory, and before distributions per ¶3 [of failed executory contract]?
33. Must Neela return \$10,000 back to Estate that was incorrectly paid to her?
34. Was Neela validly married to Dr. Parikh or did she have multiple simultaneous husbands?
35. Did Neela file a fraudulent spousal election in Dr. Parikh's Estate?
36. Did [Boynton] incorrectly begin distributions after condition and agreement failed?
37. Did Estate pay taxes of other parties in violation of agreement?
38. Does "redistribution agreement" permit attorneys' fees for any party, other than \$10k for Neela that was incorrectly paid?
39. Does "redistribution agreement" permit any claims or payments not specifically included in that agreement, by or against any party?
40. Did the signatories to "redistribution agreement" waive or release each other from any other claims or payments, including attorney's fees?
41. Has any attorney been paid any funds from their client? If yes, then how much was actually paid, in cash, by the client to the attorney?
42. Must Dr. Parikh's Will, as written within the 4-corners of the document, be followed?

Then, on 2/9/2022 (Dkt.444), Mr. Parikh timely and properly requested an additional 5 issues for jury determination:

1. *In September 2016, was “Lynn Caudle Pendleton” appointed as “special administrator” for Dr. Parikh’s Estate?* Yes/No.
2. Did Tina Parikh-Smith convey or transfer her ownership of 100% of her Duke Power stocks within 10-days of alleged executory contract’s approval? Yes/No.
3. Is Neela Parikh the lawful and non-bigamous wife of Dr. Parikh? Yes/No.
4. Is Neela Parikh a legatee under Dr. Parikh’s Will? Yes/No.
5. Is Namish Parikh a legatee under Dr. Parikh’s Will? Yes/No.

On 6/1/2022 (Dkt.449) (Appx., *infra*, 17-18a), orphans’ court denied request to frame and transmit issues for jury determination; and, found that request was made in “bad faith.” On 6/28/2022 (Dkt.454), a timely notice of appeal was filed.

On 10/17/2022 (Dkt.467), a disinherited person (sometimes claiming to be Dr. Parikh’s “wife” and sometimes a trust beneficiary) filed a petition for injunctive relief against Petitioners.²² On 10/18/2022

²² Unable to prevail on her frivolous caveat, Respondent Tina Parikh-Smith began to peddle herself as a second fake-wife. “Boynton” posing as PR filed Dkt.260 stating “TINA [...] validly married to DINESH [Dr. Parikh.]” (Dkt.260 at 44). “Tina adopts the facts and legal positions asserted as if fully set forth herein.” (Dkt.261 at 5). Obviously, this is an admission, which “Tina” is now

(Dkt.470), state's fictional agent supported the disinherited person's petition, knowing that such person is not an "interested person" and lacks standing.

On 11/23/2022 (Dkt.486) (Appx., *infra*, 15a-16a), orphans' court issued an unconstitutional burden-shifting "order to show cause why [Petitioners] should not be designated as vexatious litigants." On 11/28/2022 (Dkt.488), a timely notice of appeal was filed.

Appeal was affirmed in part and dismissed in part on 05/18/2023 (Appx., *infra*, 4a-14a); a purportedly illegal mandate issued on 06/21/2023 (Appx., *infra*, 3a); identifying a fabricated case caption and parties, fabricated originating lower court and lower court case number (*id.*).

Petition for Writ of Certiorari was denied by the Supreme Court of Maryland on 08/15/2023 (Appx., *infra*, 2a). Reconsideration was denied 10/24/2023 (Appx., *infra*, 1a).

Probate exception²³ is no bar when this Court *de novo* reviews orphans' court decisions as "if the Court were the state's highest court."

estopped from denying. *See*, Dkt.332 at 10 n.8.

²³ *Lee Graham Shopping Center v. Estate of Kirsch*, 777 F.3d 678, 681 (4th Cir. 2015):

Thus, it applies only if a case actually requires a federal court to perform one of the acts specifically enumerated in *Marshall*: to probate a will, to annul a will, to administer a decedent's estate; or to dispose of property in the custody of a state probate court. A case does not fall under the probate exception if it merely impacts a state court's performance of one of these tasks.

Standard of Review

Volt Info. Sci. Inc. v. Bd. Of Trustees of Leland Stanford Jr. U., 489 U.S. 468, 485 n.6 (1989) (JJ Brennan and Marshall, dissenting):

“While the principle of independent review by this Court of the adequacy of the state court’s ruling is clear, the proper standard for such review poses a more difficult question. Indeed, our cases have employed a wide range of standards, ranging from *de novo* review, [...] to inquiring whether the state judgment rested on a ‘fair or substantial basis,’ [...] to determining whether the state court’s decision was ‘palpably erroneous’[....]

The bedrock principle is that, while according due deference to the decision of the state court, this Court must independently determine whether this Court “clearly would have judged the issue differently if the Court were the state’s highest court.” *Volt*, at 485.

REASONS FOR GRANTING THE WRIT

- I. State conceals identity of its agent, thereby creating a “game of judicial hide-n-seek” where the state offers Petitioners an added challenge of uncovering state agent’s identity

Maryland law represents the only view in the United States on the use of one’s true legal name. A person must use their one true legal name, “*exclusive[ly]*, *consistent[ly]*, *[and]*

nonfraudulent[ly].J” *Stuart v. BoE*, 266 Md. 440, 449 (1972).

State and Federal courts sometimes make a rare exception and permit a person to proceed under a pseudonym after a showing of harm. *Doe v. Shady Grove Hosp.*, 89 Md.App. 351 (1991) (must obtain court order to use pseudonym after showing harm, e.g., AIDS); *Doe v. Public Citizen*, 749 F.3d 246, 273 (4th Cir. 2014) (To warrant this relief, the circumstances must be “exceptional.”).

Petitioner and “sole-legatee,” Ms. Oxana Parikh, was abruptly removed as executor, literally in the middle of the night, at ~10PM, by the state. The state in its wisdom injected a “secret agent” into Dr. Parikh’s Estate, whose identity it continues to conceal. State’s “secret agent” uses several pseudonyms in multiple decedents’ estates, including the alias used here: “Lynn C. Boynton.”

“Lynn C. Boynton” sued Petitions in circuit court, attached Petitioners’ personal bank accounts, and took possession of all Petitioners’ personal funds.

“Lynn C. Boynton” immediately after obtaining appointment from the state, injected two (2) fake “wives” and obtained a fraudulent court order that Petitioner Ms. Oxana Parikh (Dr. Parikh’s former daughter-in-law) was “repeatedly” holding herself out as Dr. Parikh’s “wife,” (i.e., incest). Notwithstanding vehement objection, said “incest” order was “affirmed” on an earlier appeal, and cert. denied by Maryland’s supreme court.

Years after “Lynn C. Boynton” misappropriated all estate funds, Petitioners’ personal funds, obtained summary judgments in civil matter, and publicly defamed and humiliated Ms. Oxana Parikh; Petitioners serendipitously learned that “Boynton” is

an alias and the real person behind that alias is “Lynn Caudle Pendleton.”

To this day, state continues to conceal her one true legal identity. Sometimes claiming that “Lynn C. Boynton” is her true identity, sometimes claiming that “Lynn C. Pendleton” is her true identity. *See generally, Parikh v. Brown*, 4th Cir. Appeal No. 23-1111.

Regardless of state’s lack of candor, a decedent’s estate matter “is not a masquerade party nor is it a game of judicial hide-n-seek where [Pendleton] may offer [Ms. Parikh] the added challenge of uncovering [her] real name. We sometimes speak of litigation as a search for the truth, but the parties ought not have to search for each other’s true identity.” *Zocaras v. Castro*, 465 F.3d 479, 484 (11th Cir. 2006). Zocaras “filed more than thirty pleadings and motions under a false name in this case. At least some of those pleadings and motions were filed under penalty of perjury. All of them hid his actual identity.” *Id.* at 483.

The nub is that Petitioners have a constitutional right to know whom the state appointed as an administrator in the middle of the night; who sued Petitioners; who attached Petitioners personal bank accounts; who obtained summary judgments against Petitioners; and, who is filing court documents, in orphans’, circuit, and in appellate courts, sometimes under oath and penalty of perjury – of course, all court proceedings have proceeded under an admitted false identity.

To silence Petitioners, “Lynn C. Boynton,” the state, and Tina Parikh-Smith, sought to obtain a pre-filing injunction against Petitioners; and, prevented Petitioners from obtaining a jury trial to publicly expose “Lynn C. Pendleton” and the state.

To prevent fraud and to safeguard the public, a person cannot “open” a bank account without producing for inspection a government-issued identification card. 31 U.S.C. §5318(l)(2)(A) (“verifying the identity of any person seeking to open an account to the extent reasonable and practicable”); *see also generally* 31 C.F.R. §103.121.²⁴

In contravention of common sense and existing state laws, Maryland nonetheless permits the use of aliases in official court proceedings, including the appointment of a fiduciary, authorizing civil suit against Petitioners, authorizing attachment of Petitioners’ personal bank accounts, granting judgments against Petitioners, permitting testimony under oath, and permitting signing of official documents under penalty of perjury. Petitioners’ suggest that this is fraud and harms the public.

This first reason for issuing writ is so egregious that it is impossible to defend the Appellate Court of Maryland’s (ACM) “affirmance” of a putative state’s agent admittedly using a false identity and a disinherited person, sometimes claiming to be a disinherited daughter, sometimes a “trust beneficiary,” and sometimes another “wife” of decedent.

²⁴ Dr. Parikh’s Estate has/had assets over \$1.5 million, mostly in cash. State’s agent, using an alias and no government issued identification card bearing alias “Lynn C. Boynton,” cannot “open” an estate bank account.

II. Appellate Court of Maryland's decision and mandate impermissibly denies jury trial to determine true identity of state's agent, unconstitutionally shifts burden of proof onto Petitioners to disprove Respondents' entitlement to injunction, and purports to decide a non-existent case or controversy

ACM issued a fraudulent decision on 5/18/2023, only then to follow-up with a fraudulent mandate on 6/21/2023.

ACM panel mischievously ignored a motion to strike imposter "Boynton's" answering brief. In fact, ACM went so far as to identify imposter "Lynn C. Boynton" as "appellee." Appx., *infra*, at 4a ("The appellees are Lynn C. Boynton"). The complete opposite of truth. ACM, knowing her true legal name, intentionally misrepresented her identity.

Because on 6/21/23, ACM mandate identifies "appellee" as "Lynn C. Pendleton," (Appx., *infra*, at 3a). This is gamesmanship and skirts constitutional responsibilities by concealing identity of a person state courts have falsely pronounced as "Boynton," since 2016.

That is not all. ACM mandate identifies appealed matter as "[Ms.] Oxana Parikh, *Appellant*," vs. "Lynn C. Pendleton, *Appellee*." A non-existent and fabricated "Circuit Court [Civil Case] No. W87973." And identifies itself as "Court of Special Appeals[.]" Appx., *infra*, at 3a. Cf. Appx., *infra*, at 12a.

To summarize, ACM panel fabricated parties, case number, the originating-court, and all of this was "certif[ied] that the foregoing is truly taken from the records and proceedings of [] said" ACM panel. Appx., *infra*, at 3a.

A fraudulent mandate with a false case title, false parties, false case number, in a false originating court is a nullity and the actual orphans' court matter appealed is *still* pending a truthful opinion and mandate.²⁵ Arbitrarily and in violation of Petitioners' federal rights, Petitioners' *George* motion was denied on 8/24/2023 by someone feigning to be "Judge Christopher B. Kehoe," a person no longer a member of ACM due to Md. Const. retirement, without discussing fraudulent opinions/mandates, since 2016.²⁶

Of course, a truthful and honest opinion and corresponding mandate²⁷ are jurisdictional

²⁵ *George v. Farmers' & Merchants' Nat'l Bank*, 155 Md. 693, 698 (1928):

An appellate court has power to recall its mandate after it has been received in the court below, and to correct any error or irregularity therein, or an inadvertence in issuing it. In such case the remittitur is not recalled upon the theory that the appellate court can resume [] jurisdiction once lost, but upon the principle that ***an order made inadvertently may be treated as a nullity and the case considered as still pending*** in the court for the purpose of correcting the error, irregularity, or inadvertence.

²⁶ A prior ACM decision concealed that "Boynton" is a fraud and imposter by writing in an unreported opinion that the name "Lynn C. Pendleton" was a "bank mistake," falsely suggesting that her one true legal identity is "Lynn C. Boynton" and not "Pendleton." Now, of course, with ACM's 6/21/2023 mandate, it is clear that all prior opinions and mandates were fraudulently issued/procured, with full knowledge of alias, and a nullity.

²⁷ *George, supra*, at 697-698:

prerequisites for “revesting jurisdiction in the lower-court.” *Harrison v. Harrison*, 109 Md.App. 652, 669 (1996).

As far as *George* is concerned, ACM has never decided a single appeal or issued a single mandate that was truthful. Petitioners’ federal rights, Dr. Parikh’s valid Will, state precedents, laws, and statutes were disregarded by recalcitrant state courts in an effort to skirt *their* constitutional duties.²⁸ See, *Bracy v. Gramley*, 520 US 899, 901 (1997) (“Maloney was one of many dishonest judges exposed and convicted through ‘Operation Greylord,’ a labyrinthine federal investigation of judicial corruption in Chicago.”).

There appears to be systematic misappropriation of decedents’ estates by removing testators’ chosen “legatee” in the middle of the night and injecting a fictional state’s agent, then entering a pre-filing injunction against “legatee” – Dr. Dinesh O. Parikh’s Estate is merely a symptom.

[S]o as to make the record entry ***speak the truth*** and show the judgment which was actually rendered by the court. The term ‘clerical error’ as here used must not be taken in too narrow a sense. It includes not only errors made by the clerk in entering the judgment, but also those mistakes apparent on the record, whether made by the court or counsel during the progress of the case, which cannot reasonably be attributed to the exercise of judicial consideration or discretion.

²⁸ “In a time of universal deceit, telling the truth is a revolutionary act.” Appears to have been first used, without “universal,” and mistakenly attributed to Orwell, in *Partners in Ecocide: Australia’s Complicity in the Uranium Cartel*, by Venturino Giorgio Venturini (1982).

Respondents' solution is not to stop their illicit activities; rather they seek to silence Petitioners with a burden-shifting pre-filing injunction.

ACM mischievously ignored *Knight* to facilitate misappropriation of Decedent's estate. Under *Knight*, Petitioners can appeal unconstitutional burden shifting, lack of standing, and lack of jurisdiction because those initial acts are sufficiently "grievous" to Petitioners' interests.

The orphans' court ordered²⁹ that show cause hearing was to proceed "in the reverse: the [] judge ordered [Petitioners] to show cause why the court shouldn't [grant injunction]. As earlier noted, this is in contradiction to unequivocal pronouncements by the Supreme Court and this court that the burden of establishing the elements of [an injunction] rests on the party seeking [it]." *In re Am.Med.Sys.*, 75 F.3d 1069, 1086 (6th Cir.1996).³⁰

Respondents proceed with their burden-shifting injunction to silence Petitioners from exposing the state's injection of "secret" executors in 100s of decedents' estates. No one, except the state, knows

²⁹ "ORDERED, that [Petitioners] shall appear in this Court, in person, on the 17th day of February 2023 at 1:30 p.m. for two (2) hours before the Honorable Christopher C. Fogelman, sitting as the Administrative Judge, ***to Show Cause Why [Petitioners] should not be designated as vexatious litigants.*** Appx., *infra*, at 16a

³⁰ In Maryland, the complainant has burden of presenting a case justifying granting a preliminary injunction. *Baltimore v. Warren Manuf.*, 59 Md. 96, 105 (1882). "Applications for an injunction are addressed to the conscience and discretion of the court, and the facts submitted should justify its exercise, ***beyond reasonable doubt.***" *Kelly v. Baltimore*, 53 Md. 134, 139 (1880).

“Boynton’s” true legal identity. All grieving and mourning family members are victimized by a person they only knew as “Lynn C. Boynton” – a person that has no legal existence. Moreover, any attempt by Petitioners to pursue the truth is violently dealt with by the state (notice ACM sanctioning Petitioners for appealing (Appx., *infra*, at 11a-12a)).

One of the requested jury trial issues was to conclusively determine “Lynn C. Boynton’s” true legal identity. *See, supra*, p.13. Knowing it is not her one true legal name, ACM, nonetheless stated: Petitioner’s “contentions that the orphans’ court erred in declining to transmit his issues are comprehensively without merit.” (Appx., *infra*, at 10a).

In Petitioners’ opinion, the state simply does not want the truth to come out. *See, e.g., Gramley, supra* at 901-902 (“Before he was appointed to the bench, Maloney was a criminal defense attorney with close ties to organized crime who often paid off judges in criminal cases.”).

It is undisputed that the state injected an imposter to misappropriate all estate funds by posing as a “fiduciary,” and in the wisdom of the state and its judiciary: “there are no longer any fact issues for resolution by [the orphans’ court] — other than the amount of the [sic] attorney’s fees to be entered against [Petitioners] for bad faith unjustified proceedings.” Appx., *infra*, at 8a.

The state is fixated on “fees” to be paid by Petitioners – regardless of the law. The rule cited by ACM is “Rule 1-341” (Appx., *infra*, at 11a) to extract fees from Petitioners. Never mind that Title 1 rules do not apply in orphans’ court.

ACM doubles down on its mischievousness by applying Rule 1-341 sanctions in an orphans’ court

matter, in violation of Rule 1-101(a) (“Title 1 applies to all matters in all courts of this State, *except* orphans’ court”).

Many more examples can be offered and will be offered during full briefing, suffice it to say for now; this is a state approved and supervised misappropriation of decedent’s estate.

In *Bush v. Gore*, 531 US 98, 139-41 (2000), Justice Ginsburg (dissenting) declared outright that the suspicion of state-court misbehavior – sparked by “historical” events surrounding but external to a state-court’s judgment – best explains key cases where the Court rejected state court’s interpretation of state law.

Similarly, Chief Justice Rehnquist (concurring) used language of mistrust to declare state court should be reversed for “impermissibly distort[ing]” state law “beyond what a fair reading required.” *Bush*, at 114 (“no reasonable person” would agree with state-court’s state-law reading of one provision, and its reading of another was “of course absurd”).

This mistrust of “historical” prejudices that Justice Ginsburg spoke of requires some federal judicial mechanism to police recalcitrant state courts that cheat federal law and then hide behind a superficially “adequate” state ground. The Court’s central role in enforcing federal supremacy gives it standing to vindicate any federal right, even (or, perhaps, especially) if it is lurking behind a state-law question.

The Court’s role is to see that federal law receives the respect it deserves from state courts, no more and no less.

The Court should always declare a state-court ruling to violate due process when it departs substantially from prior state precedents, or when the state court “overlooked or misread a point in the

record, or characterized something in the record in a way that seemingly is *arbitrary*.” (Late) Professor Alfred Hill, *The Inadequate State Ground*, 65 Colum. L. Rev. 943, 962 (1965).

If ACM’s decision stands, then Maryland’s judicial and legal processes have turned into a game of “hide-and-seek,” where state’s agent is not required to disclose their true identity in orphans’, civil, or criminal cases.³¹

If ACM’s decision stands, then Maryland will continue disregarding decedents’ written testamentary intentions, i.e., “Wills,” probabilistically driven by racial animus, to fashion outcomes that decedent did not approve of.

The state could have appointed a true and legal administrator, rather than one that specializes in using aliases. The state thus had available a simple, alternative means of administering decedent’s estate without violating Petitioners’ federal rights – it just chose not to pursue it.

The state could have simply followed testamentary intentions of Decedent, Dr. Dinesh O. Parikh, under a valid Will, rather than injecting two false “wives,” false “trust,” false “executory contract,” replacing “sole-legatee” with someone else and, resorting to racist and vile name calling. The state thus had available a simple, alternative means of

³¹ This term, in *Smith v. Arizona*, 22-899, this Court will decide whether an accused in a criminal trial can be confronted with “substituted” witnesses against him. Here, the Court is asked to decide a more extreme question of whether a “sole-legatee” in an estate proceeding can be removed from a valid Will and her entire inheritance taken away by a “secret” state’s agent using alias.

administering decedent's estate without violating Petitioners' federal rights – it just chose *again* not to pursue it.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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**APPENDIX A:
SUPREME COURT OF MARYLAND'S
ORDER DENYING RECONSIDERATION
(OCT. 24, 2023)**

IN THE SUPREME COURT OF MARYLAND

Petition Docket No. 96, September Term 2023
(No. 807, Sept. Term, 2022 Appellate Court of
Maryland)
(Estate. No. W-87973)

IN RE: ESTATE OF DINESH O. PARIKH

ORDER

Upon consideration of the petitioners' motion for reconsideration, it is this 24th day of October, by the Supreme Court of Maryland,

ORDERED that the motion is denied.

/s/ Matthew J. Fader
Chief Judge

**APPENDIX B:
SUPREME COURT OF MARYLAND'S
ORDER DENYING DISCRETIONARY REVIEW
(AUG. 15, 2023)**

IN THE SUPREME COURT OF MARYLAND

Petition Docket No. 96, September Term 2023
(No. 807, Sept. Term, 2022 Appellate Court of
Maryland)
(Estate. No. W-87973)

IN RE: ESTATE OF DINESH O. PARIKH

ORDER

Upon consideration of the petition for a writ of certiorari to the Appellate Court of Maryland, it is this 15th day of August 2023, by the Supreme Court of Maryland,

ORDERED that the petition for writ of certiorari is denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Matthew J. Fader
Chief Judge

**APPENDIX C:
APPELLATE COURT OF MARYLAND'S
MANDATE
(JUNE 21, 2023)**

IN THE APPELLATE COURT OF MARYLAND

No. 0807, September Term 2022
CSA-REG-0807-2022
Circuit Court No. W87973

Oxana Parikh, Appellant
v.
Lynn C. Pendleton, Appellee

MANDATE

On the 18th day of May, 2023, it was ordered and adjudged by the Court of Special Appeals [sic]:

This appeal is dismissed in part. The judgment of the Orphans' Court for Montgomery County is affirmed. This case is remanded for further proceedings consistent with this opinion. Costs to be paid by appellants.

STATE OF MARYLAND, Sct.:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Appellate Court of Maryland. In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Appellate Court of Maryland, this 21st day of June, 2023.

/s/ Rachel Dombrowski
Rachel Dombrowski, Clerk
Appellate Court of Maryland

**APPENDIX D:
APPELLATE COURT OF MARYLAND'S
UNREPORTED DECISION
(MAY 18, 2023)**

IN THE APPELLATE COURT OF MARYLAND
No. 807, September Term, 2022
IN THE MATTER OF THE ESTATE OF DINESH O.
PARIKH
Appeal from the Orphans' Court for Montgomery
County Estate No. W87973
Kehoe, Leahy, Ripken, JJ.
May 18, 2023, Filed

UNREPORTED
Opinion by KEHOE, J.

Namish Parikh and Oxana Parikh, appellants, are before this Court for the sixth time. Together, they challenge two orders entered by the Orphans' Court for Montgomery County relating to the administration of the estate of Dr. Dinesh O. Parikh. The first order denied Namish's[1] petition to "frame" and transmit 42 issues to the circuit court for determination by a jury. The second order directed Namish and Oxana to appear for a hearing to show cause why they should not be declared vexatious litigants and made subject to a pre-filing order. The appellees are Lynn C. Boynton, the Personal Representative (formerly the Special Administrator) of the estate, and Tina Parikh-Smith, an interested person in the estate. Tina moved to dismiss the appeal, in part, arguing that the appeal taken from the show cause order is not a final judgment. Ms. Boynton joins the motion.

For the following reasons, we grant Tina's motion to dismiss the appeal from the show cause order and will affirm the judgment of the orphans' court that denied Namish's petition to transmit issues. We further find that the appeals were filed in bad faith and without substantial justification and that Ms. Boynton is entitled to an award of attorneys' fees and costs incurred in defending against them under Rule 1-341. We remand this matter to the orphans' court to determine the amount of those fees and costs and to enter judgment accordingly.

BACKGROUND

This Court has issued five prior opinions relating to the administration of the estate of Dr. Parikh: *In re Estate of Parikh*, No. 1226, September Term, 2017, (filed Jan. 16, 2019), cert. denied sub nom. *Matter of Estate of Parikh*, 464 Md. 597 (2019) ("Parikh I"); *Matter of Estate of Parikh*, No. 1480, September Term, 2017, (filed March 23, 2020), cert. denied, 469 Md. 665 (2020) ("Parikh II"); *Parikh et al. v. Boynton*, No. 2366, September Term, 2019, (filed April 7, 2021) ("Parikh III"); *Matter of Estate of Parikh*, No. 941, September Term, 2020, (filed Sept. 28, 2021), cert. denied, 477 Md. 158 (2022) ("Parikh IV"); and *Parikh v. Boynton*, No. 1057, September Term 2021 (filed April 20, 2022) (Parikh V). We draw liberally from the facts set out in those cases to provide this brief background.

The History of The Litigation

Dr. Parikh died in June 2016. This case began when Oxana, the former spouse of Dr. Parikh's son, Namish, filed a petition for administration of a small

estate and submitted what purported to be Dr. Parikh's will for probate. The will left Dr. Parikh's entire estate to Oxana, his former daughter-in-law and the mother of one of his grandchildren. It made no provision for his two children, Namish and Tina, nor his wife, Neelaben Parikh ("Neela").

Tina petitioned to caveat the will, claiming fraud, and also petitioned for the removal of Oxana as personal representative. The orphans' court held a hearing and, over Oxana's objection, appointed Ms. Boynton as the special administrator of the estate.

Ms. Boynton initiated litigation in the circuit court against Oxana and Namish seeking the return of approximately \$1.14 million in Dr. Parikh's assets allegedly transferred by Oxana to Namish before Dr. Parikh died. By consent, those funds were deposited into the court registry.

Namish, Oxana, Tina, Neela, and Ms. Boynton thereafter mediated the dispute and entered into a settlement agreement providing for division of the estate assets as follows: 57% to Namish, 43% to Tina and Neela in accordance with an agreement between them, and reimbursement to Oxana for certain expenses. The orphans' court granted Tina's motion to enforce that agreement after Oxana and Namish repudiated it.

In Parikh I, we affirmed the orphans' court's approval of the settlement agreement. In Parikh II, we addressed issues related to the administration of the estate and reaffirmed the enforceability of the settlement agreement. In Parikh III, we affirmed the circuit court's orders rejecting appellants' claims alleging fraud, mistake, and irregularities in the caveat proceeding. We also granted Ms. Boynton's motion for sanctions under Rule 1-341, holding that she was entitled to recover attorneys' fees incurred in

defending that appeal because it was filed in bad faith and without substantial justification. We remanded the case to the circuit court to determine the amount of attorneys' fees incurred by Ms. Boynton in defending the appeal and in responding to motions in the circuit court that were the subject of an outstanding motion for sanctions.

In Parikh IV, we addressed Oxana's and Namish's challenges to twenty-one separate orders issued by the orphans' court in the course of the administration of the estate and affirmed each of them. See Parikh IV, 2021 WL 4439267, at *2-6. We also found for the second time that Ms. Boynton was entitled to an award of attorneys' fees under Rule 1-341 for costs incurred defending the appeal, holding that appellants' arguments were "baseless and entirely lacking in merit, and [that] they pursued th[e] appeal with the purpose of intentional harassment and delay of the administration of the estate." Id. at *6. We remanded for the circuit court to determine the amount of the fees and costs incurred.

In Parikh V, we affirmed the circuit court's judgment finding that Oxana and Namish had "filed multiple motions in the estate litigation in bad faith and without substantial justification" and awarding Ms. Boynton fees and costs incurred in defending the motions in the circuit court and on appeal. Slip op. at *1.

The Orders of the Orphans' Court at Issue in the Current Appeal

On October 17 and 18, 2021, while Parikh V remained pending on appeal, Tina and Namish filed petitions in the orphans' court that gave rise to this appeal. First, Tina filed a petition for injunctive relief

seeking to have Oxana and Namish declared vexatious and frivolous litigants.[2] She asked the orphans' court[3] to enter an order requiring Namish and Oxana "to obtain court approval before filing motions, pleadings, or papers relating to the administration of this estate." Second, Namish filed a "First Petition[] and Request to Frame and Transmit Issues." That petition rehashed arguments raised and decided in prior appeals[4] relating to the enforceability and validity of the settlement agreement upheld by this Court in Parikh I and asked the orphans' court to strike the agreement and to transmit 42 issues to the circuit court to be decided by a jury.

By an order signed May 26, 2022, and entered June 1, 2022, the orphans' court denied Namish's petition. The orphans' court further found that the petition was filed in bad faith and without substantial justification, explaining:

there are no longer any fact issues for resolution by [the orphans' court] — other than the amount of the attorney's fees to be entered against NAMISH and OXANA for bad faith unjustified proceedings. Because there are no remaining fact issues, there are no issues to be framed for resolution by the Circuit Court[.]

The court directed Ms. Boynton to submit a petition itemizing the amounts incurred by her in opposing Namish's petition. Namish noted a timely appeal from that order.

On November 23, 2023, the orphans' court issued a show cause order in response to Tina's petition

directing Namish and Oxana to appear for a hearing on February 17, 2023, to show cause why they should not be “designated as vexatious litigants[.]”^[5] Namish and Oxana noted a timely appeal from the show cause order.

ANALYSIS

I. Appealability

“A party may appeal to the [Appellate Court of Maryland] from a final judgment of an orphans’ court.” Md. Code, Courts & Jud. Proc. (“CJP”) § 12-501(a). In the orphans’ court, final judgments are orders that “finally determine the proper parties, the issues to be tried and the sending of those issues to a court of law.” *Hegmon v. Novak*, 130 Md. App. 703, 709 (2000) (quoting *Schlossberg v. Schlossberg*, 275 Md. 600, 612 (1975)). Because we conclude that the order directing Namish and Oxana to appear for a hearing to show cause why they should not be declared vexatious litigants was not a final judgment of the orphans’ court, we dismiss that appeal.

Namish’s Petition to Frame and Transmit Issues

ET § 2-105(b) permits an interested party to request that an “issue of fact” be transmitted to the circuit court for decision. See also Md. Rule 6-434 (“In any proceeding, the orphans’ court, upon petition by a person with standing, may transmit contested issues of fact within its jurisdiction for trial to the circuit court of the county in which the orphans’ court is located.”). This Court has explained that “[a] decision by an Orphans’ Court to deny the transmittal of issues is a final judgment within the contemplation of

[CJP] § 12-501, as surely as would be the affirmative grant of such an order.” *Banashak v. Wittstadt*, 167 Md. App. 627, 688 (2006). Namish’s contentions that the orphans’ court erred in declining to transmit his issues are comprehensively without merit.

The issues that Namish sought to transmit to the circuit court for determination by a jury, all of which related to the validity and enforceability of the settlement agreement, were not appropriate for transmission because they were barred under the law of the case doctrine. This doctrine precludes parties from relitigating issues that were raised and decided on appeal or could have been presented in the previous appeals of the same case. *Fidelity-Balt. Nat. Bank & Tr. Co. v. John Hancock Mut. Life Ins. Co.*, 217 Md. 367, 372 (1958); *Holloway v. State*, 232 Md. App. 272, 282 (2017). Thus, “once an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case.” *Scott v. State*, 379 Md. 170, 183 (2004) (emphasis added; footnote omitted). This Court’s prior decisions conclusively determined all outstanding issues relating to the settlement agreement, which we held was binding and enforceable. The orphans’ court did not err when it declined to transmit Namish’s proposed issues to the circuit court.

The Issuance of the Show Cause Order

Namish and Oxana appeal from the show cause order directing them to appear for the February 17, 2023 hearing and show cause why they should not be declared vexatious and frivolous litigants. That process comports with *Riffin v. Circuit Court for Baltimore County*, 190 Md. App. 11 (2010), which

held that a circuit court has authority under Md. Rule 15-502(b) to issue a pre-filing order, *sua sponte* or on motion of a party, to control vexatious and frivolous litigants, but that the court must afford the litigants notice and an opportunity to be heard before granting a prefilng injunction.[6] Because the show cause order did not determine proper parties, the issues to be tried, or the sending of an issue to a court of law and plainly was not intended to be final as it anticipated further action on Tina's petition, it is not properly before us for review.[7]

II. Sanctions

Ms. Boynton asks us to find that this appeal was filed in bad faith and without substantial justification. Maryland Rule 1-341 constitutes a limited exception to the American Rule by permitting the award of attorneys' fees when an action is brought by the offending party in bad faith or without substantial justification. *Christian v. Maternal-Fetal Med. Assocs. of Md., LLC*, 459 Md. 1, 18 (2018). It is primarily a deterrent against abusive litigation and is "considered an 'extraordinary remedy' which should be exercised only in rare and exceptional cases." *Barnes v. Rosenthal Toyota, Inc.*, 126 Md. App. 97, 105 (1999) (quoting *Black v. Fox Hills N. Cnty. Ass'n, Inc.*, 90 Md. App. 75, 83 (1992)). Bad faith in the context of Rule 1-341 means litigating "with the purpose of intentional harassment or unreasonable delay." *Id.*

For the same reasons enunciated in Parikh III and Parikh IV, this appeal satisfies that threshold. Appellants' continued attacks on the validity of the settlement agreement, which has been reaffirmed on

multiple occasions, are both without substantial justification and are intentional efforts to delay the administration of the estate. Their conduct has been sanctioned by this Court twice and, most recently, by the orphans' court in its order denying Namish's petition to frame and transmit issues. We hold that this appeal was taken in bad faith and without substantial justification and that sanctions are appropriate pursuant to Md. Rule 1-341.

In summary, we affirm the judgment of the orphans' court denying Namish's petition to transmit issues to the circuit court. We dismiss Namish's and Oxana's appeal of the show cause order. We hold that both appeals were taken in bad faith and without substantial justification. We remand to the orphans' court to determine the amount of fees and costs incurred by Ms. Boynton in defending this unjustified and frivolous appeal and to enter a judgment based on the court's findings.

THIS APPEAL IS DISMISSED IN PART. THE JUDGMENT OF THE ORPHANS' COURT FOR MONTGOMERY COUNTY IS AFFIRMED. THIS CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION.

COSTS TO BE PAID BY APPELLANTS.

[*] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

This is an unreported opinion and therefore may not be cited either as precedent or as persuasive authority in any paper, brief, motion, or other document filed in this Court or any other Maryland court. Md. Rule 1-104.

[1] Because many of the individuals in this case have the same last name, we refer to them by their first names only for purposes of brevity and clarity. We mean no disrespect.

[2] As mentioned, Ms. Boynton previously had filed a petition seeking the same relief, which the orphans' court held in abeyance. Parikh IV, slip op. at 5.

[3] The caption of Tina's petition states that it is filed in the orphans' court or the circuit court. Because the order to show cause was entered by the orphans' court, we treat it as having been filed in that court.

[4] For example, Namish contends that the settlement agreement was voided because Tina failed to convey all shares of certain stock within ten days after it was executed. This Court addressed the issue of the stock conveyance in Parikh I and again in Parikh IV, ultimately concluding that Tina's conveyance of 57% of the shares to the estate, without objection from Ms. Boynton, satisfied the terms of the settlement agreement as Namish only was entitled to those shares of the stock. See Parikh I, slip op. at *12-13; Parikh IV, slip op. at *3.

[5] Tina attached a copy of the transcript of that hearing to her motion to dismiss the appeal. Namish and Oxana did not appear for the hearing. Tina and Ms. Boynton appeared with counsel. After hearing

argument and taking judicial notice of a recent federal court decision declaring Namish and Oxana vexatious litigants in that forum, the orphans' court took the matter under advisement.

[6] The authority of an orphans' court to issue a pre-filing order has not yet been addressed by this Court or the Supreme Court of Maryland and, for the reasons explained, is not properly before us in this appeal.

[7] Ms. Boynton asks this Court to enjoin Namish and Oxana from noting any future appeals until one of two events occurs: 1) an accounting and distribution pursuant to the terms of the settlement agreement or 2) the entry of an order declaring Namish and Oxana vexatious litigants. Even if this Court had the authority to so order, an issue of first impression that we decline to reach, we would not do so here because Tina's petition to declare the appellants vexatious litigants remains pending for decision in the orphans' court.

**APPENDIX E:
ORPHANS' COURT
SHOW CAUSE ORDER
(NOV. 23, 2022)**

**IN THE ORPHANS' COURT FOR
MONTGOMERY COUNTY, MD**

Estate No. W87973

**ORDER TO SHOW CAUSE WHY OXANA PARIKH
AND NAMISH PARIKH SHOULD NOT BE
DESIGNATED AS VEXATIOUS LITIGANTS**

UPON CONSIDERATION of Tina Parikh-Smith's Petition for Injunctive or Other Relief Against Namish Parikh and Oxana Parikh to Declare Them Vexatious and Frivolous Litigants (D.E. 467), PR Boynton's Response to Tina's Petition for Injunctive or Other Relief Against Namish Parikh and Oxana Parikh and to Declare Them Vexatious and Frivolous Litigants (D.E. 470), Ms. Oxana Parikh, Real and Unaltered Sole-Legatee, and Mr. Namish Parikh's Petition to Dismiss and/or for Summary Judgement and/or for More Definite Statement and/or Opposition to Non-Interested Person and Disinherited Person Tina's Second Petition for Injunction (D.E. 483) and Tina Parikh-Smith's Response to Oxana Parikh and Namish Parikh's Opposition to Tina's Petition to Find Them Vexatious Plaintiffs (D.E. 484); it is this 23rd day of November 2022, by the Orphans' Court for Montgomery County, Maryland,

ORDERED, that the Court takes judicial notice of all docket entries in this Estate, and it is further,

ORDERED, that Oxana Parikh and Namish Parikh shall appear in this Court, in person, on the 17th day of February 2023 at 1:30 p.m. for two (2) hours before the Honorable Christopher C. Fogleman, sitting as the Administrative Judge, to Show Cause Why Oxana Parikh and Namish Parikh should not be designated as vexatious litigants.

Provided a copy of this order be served upon Oxana Parikh and Namish Parikh by certified mail and/or regular mail; and all other interested persons be mailed a copy of this order by ordinary mail on or before 28th day of January 2023.

/s/ Christopher C. Fogleman

Christopher C. Fogleman
Judge, Orphans' Court for
Montgomery County, Maryland

**APPENDIX F:
ORPHANS' COURT
ORDER DENYING JURY TRIAL
(JUNE 1, 2022)**

**IN THE ORPHANS' COURT FOR
MONTGOMERY COUNTY, MD**

Estate No. W87973

**ORDER DENYING NAMISH PARIKH'S
PETITION TO FRAME ISSUES**

UPON CONSIDERATION of NAMISH PARIKH'S Petition to Frame Issues, Personal Representative LYNN BOYNTON'S Opposition thereto, and the record herein, it is, this 26th day of May 2022, by the Orphans' Court for Montgomery County, Maryland,

ORDERED, that NAMISH PARIKH'S Petition to Frame Issues by, and the same is hereby, denied; and it is

ORDERED, that NAMISH PARIKH'S Petition to Frame Issues was filed in bad faith, without substantial justification, because there are no longer any fact issues for resolution by this Court – other than the amount of the attorney's fees to be entered against NAMISH and OXANA for bad faith unjustified proceeds. [sic] Because there are no remaining fact issues, there are no issues to be framed for resolution by the Circuit Court; and it is

FURTHER ORDERED, that Personal Representative LYNN BOYNTON's [sic] shall be entitled to an award of attorney's fees for the time

incurred in the preparation of her Opposition, with the time to be itemized and set forth in the next Petition for Attorneys' Fees filed by her.

/s/ Richard E. Jordan
Richard E. Jordan
Judge, Orphans' Court for
Montgomery County, MD