

23-6538

ORIGINAL

No. _____

FILED
NOV 17 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

YE-YING CEN — PETITIONER
(Your Name)

vs.

Oliver W. Cass — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

The State of Minnesota Supreme Court
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Ye-Ying Cen
(Your Name)

3206 Trail Wood Drive
(Address)

Durham, NC, 27705
(City, State, Zip Code)

919-308-4881
(Phone Number)

Questions Presented

- 1) The Minnesota Lower Court's Disregard for Informed Consent and Breach of Fiduciary Duty Eroded the Petitioner's Rights and the Integrity of the Legal System.
- 2) The Minnesota Lower Court's Unlawful Admission of an Improperly Signed Stipulation into the Record.
- 3) The Minnesota Lower Court's Abuse of Discretion in Denying the Petitioner's Motion to Vacate the Stipulation by Failing to Adequately Consider the Petitioner's Alleged Cognitive Impairments.
- 4) The Minnesota Lower Court's Failure to Provide Petitioner with a Translator Deprived Her of the Opportunity to Participate Meaningfully in the Proceedings, in Violation of Her Due Process Rights.
- 5) The GAL Breached Her Fiduciary Duty to the Petitioner by Repeatedly Acting Against the Petitioner's Will and Best Interests, Including by Signing the Parties' Stipulation Without the Petitioner's Consent.
- 6) Petitioner's Attorneys and the GAL Violated the Law by Helping the Respondent Evade His Spousal Support Obligations When the New Federal Alimony Tax Law Took Effect.
- 7) The Minnesota Lower Court's Misuse of Guardian ad Litem Assignments and the Erosion of Due Process.
- 8) The Opposing Counsel's Coercion of the GAL and Circumvention of the Petitioner's Right to Challenge the Stipulation Constitute a Violation of Due Process and an Undermining of the Legal System.
- 9) The Minnesota Supreme Court Erred in Affirming the Trial Court's Order Because It Failed to Give Sufficient Weight to the Lower Court's Numerous and Egregious Violations of the Law, Minnesota Rules of Practice, and Ethical Standards.
- 10) The New Federal Alimony Tax Law's Implication for Spousal Support Obligations: Should the Law Be Revised to Address Potential Abuse?
- 11) Guidelines for GAL Assignment and Referee Decisions: Ensuring Fairness and Due Process

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

None

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.....	3
STATEMENT OF THE CASE.....	13
REASONS FOR GRANTING THE WRIT.....	17
CONCLUSION.....	19

INDEX OF APPENDICES

APPENDIX A:	20
REFeree JENNA WESTBY'S ORDER ON 12/11/2023	
APPENDIX B:	31
COMPLAINT LETTER ON REFeree JENNA WESTBY'S CONFLICTS OF INTEREST AND BIAS TO THE MINNESOTA JUDICIAL BOARD ON 11/30/2023 (SUBMITTED FIRST VIA ONLINE AND LATER VIA POSTAL MAIL)	
APPENDIX C:	33
ASSIGNMENT OF REFeree STARR TO MY CASE ON 11/21/2023	
APPENDIX D:	34
MOTION TO RE-OPEN AND AMEND THE DIVORCE DECREE ON 11/14/2023	
APPENDIX E:	36
ASSIGNMENT OF REFeree JENNA WESTBY TO MY CASE ON 07/13/2023	
APPENDIX F:	37
THE MINNESOTA SUPREME COURT ORDER ON 06/12/2023	

APPENDIX G:38

APPEAL TO THE MINNESOTA SUPEREME COURT ON 6/12/2023

APPENDIX H:48

APPELLATE COURT “AFFIRMED” ON 6/12/2023

APPENDIX I:64

REFEREE STREET’S RE-ENTERING STIPULATED FINDINGS
OF FACT, CONCLUSIONS OF LAW, ORDER OF JUDGEMENT
AND JUDGEMENT AND DECREE ON 2/23/2022

APPENDIX I:79

REFEREE STREET’S ORDER DENYING MOTION TO VACATE
ON 10/25/21

APPENDIX K:97

APPELLATE COURT DECISION: REVERSED AND REMANDED

APPENDIX L:108

STIPULATED FINDINGS OF FACT, CONCLUSIONS OF LAW,
ORDER FOR JUDGEMENT AND DECREE ON 10/2/2019

APPENDIX R:122

PARTIAL COURT TRANSCRIPT

APPENDIX M:142

COMPLAINT LETTER ON REFEREE STREET’S BIAS AND SOCIAL
INFLUENCE, DISREGARD FOR MY ACUTE ILLNESS AT THE TRIAL
AND DISABILITY, AND VINDICTIVE CONDUCT (SUBMITTED IN 2019,

2020, 2021, 2023, AND RE-SUMMITTED IN 2024)

APPENDIX N:.....144

SUPPORTING DOCUMENTS TO MY COMPLAINT LETTER:

EMAILS AMONG GAL, OPPOSING COUNSEL, REFEREE STREET,
AND I.

COPIES OF MY HANDWRITTEN MOTION FILED AT THE
COURTROOM WITH COPIES MAILED TO OPPOSING COUNSEL

COPIES OF HAND-WRITTEN LETTERS TO REFEREE STREET
FILED AT THE COURTROOM WITH COPIES MAILED TO
OPPOSING COUNSEL

MINNESOTA COURT RECORDS ONLINE

NOTICE OF RESCHEDULED HEARING

ASSIGNMENT OF THE FIRST AND THE ONLY GUARDIAN AD
LITEM ON 6/7/2019, APPROXIMATELY ONE MONTH BEFORE
THE TRIAL

CLOSED BANKS WITH THE TOTAL BALANCE TRANSFERRED TO
WELLS FARGO WAS COUNTED TWICE (THE FIRST LETTER
FROM THE BANK ON THE DATE OF CLOSING WHICH WAS
SUBMITTED BEFORE THE TRIAL WAS MISSING)

EXCESSIVE ATTORNEY FEES SUBMITTED AS EXHIBIT BUT
NOT PRESENTED NOR DISCUSSED AT THE JULY TRIAL OF 2019

TABLE OF AUTHORITIES

Page #

1. Richard Smelka MD's Declaration that the Petitioner Couldn't Have Been Competent or fit to Stand Trial. (*This was submitted to Referee Street before his denying my motion to vacate.*) 175
2. Petitioner's Lab Report on Gadolinium Received on July 21, 2019, Two Days Before the Trial of July 23-24, 2019. (*This was submitted to my attorneys and Referee Street before the trial of July 2019.*) 176
3. Richard Semelka MD CV (the first 4 pages of his 200-page CV), the Number One Expert on Gadolinium Deposit Disease. (*This was submitted to my attorneys and Referee Street before the trial of July 2019.*) 178
4. Petitioner's PCP Philip Barr MD Letter to the Referee James H. Street on August 21, 2019. (*This was submitted to Referee Street before he signed the stipulation to put into the record.*) 182
5. Petitioner's Surgeon on the Lumpectomy Performed in December 2016 and the Medical Treatment Thereafter. 183
6. Petitioner's New PCP Debra A. Ballard MD on Petitioner's Multiple Exposure to Gadolinium at Duke Medical Center Alone and Her Recent Gadolinium Level. 184
7. Rogosnitzky, M., & Branch, T. A. (2016). Gadolinium-based contrast agent toxicity: A review of known and proposed mechanisms. *Biometals*, 29(3), 365-376. doi:10.1007/s10509-016-2705-3 (*This was submitted to my attorneys and Referee Street before the trial of July 2019.*) 185
8. Gadolinium Toxicity: A Survey of the Chronic Effects of Retained Gadolinium from Contrast MRIs. April 2, 2014. www.GadoliniumToxicity.com (*This was submitted to my attorneys and Referee Street before the trial of July 2019.*) 202
9. Dekkers, S., & Van Sijl, J. W. (2017). Gadolinium retention after administration of contrast agents based on linear chelators and the recommendations of the European Medicines Agency. *European Radiology*, 27(9), 3973-3980. (*This was submitted to my attorneys and Referee Street before the trial of July 2019.*) 227

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

[] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the Minnesota court appears at Appendix C to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was Aug. 22, 2023. A copy of that decision appears at Appendix A.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___ A _____.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

(1) Fourteenth Amendment

The Fourteenth Amendment to the United States Constitution guarantees all persons equal protection of the laws. This means that the government cannot discriminate against any person based on their race, color, national origin, sex, or other protected characteristics. In this case, the Lower Court's actions violated the petitioner's Fourteenth Amendment right to due process and equal protection by:

- Allowing the petitioner's guardian ad litem (GAL) to sign a stipulation without her consent, depriving her of her right to informed consent and effectively denying her representation in the proceedings.
- Admitting an improperly signed stipulation into the record, disregarding the lack of her consent, and violating the fiduciary duty of the GAL to act in the petitioner's best interests.
- Denying her motion to vacate the stipulation, failing to consider her acute illness and cognitive impairments at the trial, and depriving her of the opportunity to challenge the stipulation.

Section 1a: The Minnesota Lower Court's Disregard for Informed Consent and Breach of Fiduciary Duty Eroded the Petitioner's Rights and the Integrity of the Legal System.

The centerpiece of this issue is the unauthorized signature on the parties' stipulation. Rule 5.02 of the Minnesota General Rules of Practice for the District Courts explicitly mandates that every pleading, motion, or other paper of a party unrepresented by an attorney be signed by the party themselves. In this instance, the petitioner explicitly informed the GAL that she was not authorized to sign the stipulation, the petitioner had filed a motion to challenge the stipulation, and the petitioner was not represented. Despite these clear instructions, the GAL proceeded to sign the document, effectively waiving the petitioner's right to spousal support, and mandating the sale of her house within 60 days.

This unauthorized signature on the stipulation constitutes a clear violation of the petitioner's right to informed consent. A fundamental principle of the legal system is that parties must be fully informed of the consequences of their actions before they can be held bound by them. In this case, the petitioner was not given an opportunity to review and understand the terms of the stipulation before it was signed on her behalf, depriving her of the ability to make an informed decision.

The GAL's actions extend beyond a mere procedural error. The petitioner informed the GAL that she was traveling in the Twin Cities preparing for her scheduled motion and contemplating on retaining a new attorney. By signing the stipulation without the petitioner's consent and when

the petitioner was not represented, the GAL violated the law by denying the petitioner her right to challenge the stipulation. Due to travel accommodations, the petitioner had not finished reading the stipulation drafted by the opposing counsel when the GAL signed the stipulation. This blatant violation of the law undermines the integrity of the legal process. The GAL's position of authority and trust was abused, and the petitioner's rights were compromised as a result. The Lower Court's failure to hold the GAL accountable for her actions further exacerbates the injustice inflicted upon the petitioner.

The Minnesota Lower Court's actions in this case have significant ramifications beyond the individual petitioner. By allowing an unauthorized signature on the stipulation and failing to uphold the petitioner's right to informed consent, the court has undermined public trust in the legal system. The legal system relies on the belief that individuals' rights will be protected, and that justice will be served. When these principles are disregarded, it erodes public confidence in the system's fairness and impartiality.

In conclusion, the Minnesota Lower Court's disregard for informed consent and breach of fiduciary duty by the GAL constitute a clear violation of the petitioner's rights and a significant erosion of the integrity of the legal system. The Supreme Court's intervention is imperative to rectify this injustice and uphold the principles of fairness and justice that underpin our legal system.

Section 1b: The Minnesota Lower Court's Unlawful Admission of an Improperly Signed Stipulation into the Record.

The Lower Court should not have put the stipulation into the record without first ensuring that it was valid. As mentioned earlier, Rule 5.02 of the Minnesota General Rules of Practice for the District Courts unequivocally mandates that every written motion and other paper be signed by a party or, if a party is represented by an attorney, by the attorney. In this instance, the stipulation was not signed by the petitioner, nor was she represented by an attorney at the time of signing. Instead, it was signed by GAL without the petitioner's consent. This blatant disregard for a fundamental legal requirement rendered the stipulation invalid.

The Lower Court's decision to enter the improperly signed stipulation into the record without first ensuring its validity constitutes a severe dereliction of duty. The court had a fundamental obligation to protect the petitioner's interests and uphold the integrity of the legal process. By granting the stipulation the same effect as a court order, the court effectively denied the petitioner her right to challenge the agreement, a clear violation of her due process rights.

The opposing counsel's request to put the stipulation into the record was a blatant attempt to deny the petitioner her right to challenge the stipulation. The court should have resisted the opposing counsel's request and allowed the petitioner to have her motion heard. The Lower Court's cancellation of the petitioner's motion to challenge the stipulation was a violation of her due process rights. The petitioner had a right to a hearing on her motion. This right was violated when the Lower Court canceled the motion without due process.

The Minnesota Lower Court's actions in this case demonstrate a blatant disregard for established legal procedures and a callous disregard for the petitioner's fundamental right to due process. The court's decision to allow an improperly signed stipulation into the record and subsequently cancel the petitioner's scheduled motion to challenge the stipulation constitutes a clear violation of the law and undermines the integrity of the legal system.

In conclusion, the Minnesota Lower Court's actions in this case represent a clear and disturbing pattern of disregard for the law, due process, and the petitioner's fundamental rights. The Supreme Court's intervention is imperative to rectify this injustice and uphold the principles of fairness and integrity that underpin the legal system.

Section 1c: The Minnesota Lower Court's Abuse of Discretion in Denying the Petitioner's Motion to Vacate the Stipulation by Failing to Adequately Consider the Petitioner's Alleged Cognitive Impairments.

Gadolinium is a heavy metal contrast agent used in magnetic resonance imaging (MRI) scans and MRI-guided tumor ablation procedures. It is injected into the bloodstream to help improve the visibility of tissues and organs. Gadolinium is a known neurotoxin, and a growing body of evidence suggests that it can accumulate in the brain and impair cognitive function.

The Petitioner had received multiple gadolinium injections prior to the trial. Six days before the trial, her gadolinium level was 220 ug/24 hours, significantly higher than the normal range of <0.6 ug/24 hours. The Petitioner reported experiencing cognitive impairment, such as difficulty speaking, difficulty remembering information, and difficulty thinking. Her PCP letter provided her recent gadolinium level, a sharp contrast to the gadolinium level at the trial. (1,2,3,4,5,6,7,8)

Despite the Petitioner's high gadolinium level and reported cognitive symptoms, the Lower Court denied her motion to vacate the parties' stipulation. The Court's decision was based on its belief that the Petitioner was competent to enter into the agreement. However, the Court did not adequately consider the evidence of the Petitioner's cognitive impairments.

The Court had a duty to protect the Petitioner's rights. The evidence suggests that the Petitioner was not competent to enter into the parties' stipulation. The Petitioner's high gadolinium level and reported cognitive symptoms are both indicative of gadolinium toxicity. Gadolinium toxicity can impair cognitive function, and it is possible that the Petitioner's cognitive impairments affected her ability to understand the terms of the stipulation and make a rational decision about whether to agree to it.

The Court's failure to adequately consider the evidence of the Petitioner's cognitive impairments was an abuse of discretion. The Court's decision has serious consequences for people with cognitive impairments who are involved in legal proceedings. If the Court's decision is allowed to stand, it will send a message that courts do not need to take seriously the concerns of people

with cognitive impairments. This could lead to people with cognitive impairments being taken advantage of in legal proceedings.

The Supreme Court should grant certiorari in this case to address the important issue of how courts should handle cases involving cognitive impairment. The Supreme Court's decision in this case could have a significant impact on the way that courts across the country handle cases involving cognitive impairment. By granting certiorari in this case, the Supreme Court could send a message that it is committed to protecting the rights of people with cognitive impairments and ensuring that they have a fair and just day in court.

(2) Sixth Amendment

The Sixth Amendment to the United States Constitution guarantees all persons the right to a fair trial. This includes the right to be present at trial, to confront witnesses, and to have the assistance of counsel. In this case, the Lower Court's actions violated the petitioner's Sixth Amendment right to a fair trial by:

- Refusing to postpone the trial when the petitioner was acutely ill at the trial, depriving her of the ability to effectively participate in the proceedings and undermining her right to a fair hearing.
- Failing to provide her with a translator service when the petitioner was obviously having difficulty communicating in English, being a non-native English speaker and due to her acute illness. This failure to provide adequate language assistance further hindered the petitioner's ability to understand the proceedings and effectively advocate for her rights.

Section 2a: Denial of Postponement Even Though the Petitioner Was Acutely Ill at the Trial

At the start of the trial, the petitioner directly addressed the referee, pleading for a postponement due to her acute illness caused by a severe reaction to dangerously high levels of gadolinium. The petitioner provided a copy of her lab report and some articles on gadolinium toxicity to support her claim and explained that she was having trouble thinking, speaking, and understanding the proceedings. Despite the petitioner's obvious inability to effectively participate in the trial, the referee disregarded her plea and proceeded with the trial, prioritizing the costs and scheduling convenience of the attorneys and GAL over the petitioner's fundamental right to a fair hearing.

This decision by the referee was a clear violation of the petitioner's Sixth Amendment right to a fair trial. The petitioner's acute illness and cognitive impairments rendered her incapable of meaningfully participating in the proceedings, effectively denying her the opportunity to defend herself and present her case effectively. The referee's failure to postpone the trial, despite the petitioner's direct plea and clear evidence of her condition, demonstrates a disturbing disregard for the petitioner's rights and the principles of due process.

The petitioner's account of feeling like "a walking dead" and "a cow being dragged through the two-day trial" aptly captures the profound impact of her illness on her ability to participate effectively. This sense of disempowerment and the denial of her dignity further underscore the injustice of the referee's decision and the violation of the petitioner's right to a fair trial.

Section 2b: The Minnesota Lower Court's Failure to Provide Petitioner with a Translator Deprived Her of the Opportunity to Participate Meaningfully in the Proceedings.

Petitioner was born and grew up in China. She left her country for the first time five years after her college graduation in China. While she has learned to speak English with good pronunciation, she still has difficulty understanding and communicating fully. According to Chomsky, the famous language acquisition expert, it is difficult for someone to be truly bilingual when learning a foreign language past a certain age.

In addition to the effect of age on language acquisition, there is also the impact of illness on language processing and comprehension. Illness can affect language processing in many ways, including difficulty understanding and producing speech, difficulty in word retrieval, and difficulty understanding conversations. These language processing and comprehension impairments can have a significant impact on one's ability to stand trial. For example, a person with difficulty producing and understanding speech may not be able to communicate effectively with their lawyer or testify in court.

Throughout the trial, the petitioner was ill with serious symptoms such as loss of immediate recall ability, difficulty speaking and hearing, and difficulty understanding the conversations. For example, petitioner was unable to interrupt what the referee and the attorneys were saying, and unable to think of a word such as "objection" to voice her objection during the trial.

Petitioner's acute illness and cognitive impairment plus being a non-native English speaker resulted her inability to communicate in English effectively. By not providing a translator, the court denied petitioner the opportunity to participate in the proceedings effectively and to have a fair trial. The fact that petitioner was not asked to testify at the trial suggests that her attorneys were aware of her illness and her inability to speak English.

The Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in all areas of public life, including the court system. People with language barriers may be considered to have disabilities under the ADA. Petitioner was certainly handicapped in her ability to communicate effectively at the court.

In conclusion, the court's failure to provide petitioner a translator, despite her language difficulty due to her acute illness and being a non-native English speaker, violated her due process rights.

(3) Statutory Provisions

Minnesota Rule of Practice 5.02

Minnesota Rule of Practice 5.02 governs the appointment and duties of guardians ad litem (GALs). This rule states that a GAL must act in the best interests of the person they represent and must not enter into any agreement on behalf of the person without their consent. In this case, the GAL violated Minnesota Rule of Practice 5.02 by signing the parties' stipulation without the petitioner's consent, disregarding her clear objections and cognitive impairments at the time.

Minnesota Statute 518.17

Minnesota Statute 518.17 governs the requirements for informed consent in divorce proceedings. This statute states that a court may not order a divorce unless both parties have been informed of the terms of the settlement agreement and have had an opportunity to consult with an attorney. In this case, the Lower Court violated Minnesota Statute 518.17 by allowing the GAL to sign a stipulation without the petitioner's consent after the petitioner had filed a motion to challenge the stipulation, was in the process of retaining an attorney, and was preparing for her scheduled motion. The GAL's action deprived the petitioner of the opportunity to consult with her attorney and make an informed decision about the terms of the settlement agreement.

- GAL's breaching her fiduciary duty and acting against the petitioner's will and best interests undermining the petitioner's right to a fair trial. The GAL's actions deprived the petitioner of adequate representation and representation that was aligned with her interests, further hindering her ability to defend her effectively.

Section 3a: The GAL Breached Her Fiduciary Duty to the Petitioner by Repeatedly Acting Against the Petitioner's Will and Best Interests, Including by Signing the Parties' Stipulation Without the Petitioner's Consent.

Examples of the GAL's breaches of fiduciary duty include:

- Failing to request a postponement of the trial, even though the petitioner was clearly not capable of participating meaningfully in the proceedings.
- Refusing to postpone the trial when the petitioner requested postponement directly to the referee at the trial after the GAL repeatedly ignored the petitioner's request.
- Dismissing the petitioner's concerns about the accuracy of the financial information that was presented to the court.
- Dismissing the petitioner's concerns about her ability to afford housing and medical insurance after the divorce.

- Signing a stipulation without the petitioner's consent even though the petitioner had sternly warned GAL not to sign, and informed GAL that she had filed a motion to challenge the stipulation.

In her email to GAL on August 2, 2019, the petitioner told GAL again that she objected the settlement. She also explained to her that due to her illness and English difficulty, she had confused the use of the articles "the" and "a" (it is common knowledge that Chinese English speakers often confuse the use of these two articles.). The petitioner meant to say: "I prefer a settlement than a trial," but she said: "I want the settlement." (9, 10, 11, 12, 13, 14, 15)

The GAL's actions were therefore particularly egregious because she signed the stipulation knowing about her objection to the stipulation, her scheduled motion, and the fact that the petitioner was traveling in the Twin Cities not having finished reading the stipulation due to her travel accommodations, and that she was not represented. The GAL signed the stipulation without the petitioner's knowledge and consent.

The GAL's conduct is a clear violation of her fiduciary duty and of the petitioner's right to a fair trial. The GAL has violated the law. The GAL's breaches of fiduciary duty denied the petitioner a fair trial and prejudiced her legal interests. The GAL's conduct is a matter of public concern because it undermines the public's trust in the legal system and in the ability of GALS to protect the rights of vulnerable clients.

By breaching her fiduciary duty and acting against the petitioner's will and best interests, the GAL effectively undermined the petitioner's right to a fair trial. The GAL's actions deprived the petitioner of adequate representation and representation that was aligned with her interests.

The petitioner's language barrier and illness, combined with the GAL's breach of fiduciary duty, effectively deprived her of the opportunity to participate meaningfully in the proceedings and defend herself. The GAL's actions in signing the parties' stipulation without the petitioner's consent and acting against her best interests directly violated the petitioner's right to adequate representation and representation that aligned with her interests. This breach of fiduciary duty further undermined the petitioner's ability to participate effectively in the proceedings and defend herself.

(4) Sixth and Fourteenth Amendments and Possible Statutory Provisions

Section 4a: Petitioner's Attorneys and the GAL Violated the Law by Helping the Respondent Evade His Spousal Support Obligations When the New Federal Alimony Tax Law Took Effect.

The Minnesota statutes that govern spousal support require the court to consider all relevant factors when awarding spousal support, including the spouse's health, age, and earning potential (Minnesota Statutes § 518.552(a)). In this case, Petitioner's attorneys and GAL failed to consider

these factors when approving the parties' stipulation to waive spousal support. This omission was prejudicial to the petitioner because it put her in a precarious financial position.

Here are the reasons that qualify Petitioner for spousal support:

- 1) Petitioner has health conditions, including being diagnosed with "Allergic State" and "Electromagnetic Hypersensitivity" due to her exposure to excessively high levels of gadolinium relating to her lumpectomy and uterine ablation procedures. For example, Petitioner is unable to work in places where there are many computers, cell phones, and a strong wireless environment. These health conditions have left the petitioner disabled and unable to support herself.
- 2) The respondent is a gastroenterologist who was earning over a million before filing divorce. He has savings including a large sum in his 401(k) account, and a high earning capacity. This means that the respondent has significantly more financial resources than the petitioner.
- 3) Petitioner's long absence from the workforce since 2010 due to health issues has led to significant atrophy of her job skills and diminished work knowledge.
- 4) In contrary to the opposing counsel's claim that this was a short marriage, the marriage duration was nine years and the couple had lived together for five years prior to their marriage. The respondent moved into the petitioner's house starting 2005 and they were married in 2010. Soon after the marriage, the couple started looking for a retirement home in Massachusetts, Florida, and North Carolina. Starting 2014, the respondent asked the petitioner to stay at a hotel in North Carolina to look for a house and the respondent commuted to North Carolina every two weeks to be with her. Starting 2017, the respondent traveled to North Carolina less often due to petitioner's request that she needed to focus on recovery after a lumpectomy in December 2016.
- 5) Petitioner had limited savings left by the time the trial took place. The respondent stopped depositing his income to their joint account right after his filing the divorce. Petitioner used her own money to continue paying mortgage on their house in Durham. At the divorce trial, petitioner had used up most of her savings. Her lack of savings means she has limited resources to rely on, and that she is at risk of falling into poverty.
- 6) The respondent disposed a big portion of the couple's savings during the marriage by financially supporting his adult children in anticipation of the divorce as this was his second marriage. This led to limited marital savings, which means that the petitioner has limited marital income available to her.
- 7) Even if the petitioner were to sell the house, the proceeds would not be enough to support her for a few years, and not to mention the rest of her retirement. She is getting older and has a 30-year life expectancy, and she has no other source of income to support herself.

In summary, the petitioner should be awarded permanent spousal support under Minnesota Statutes § 518.552(a) due to her health, age, zero income, limited cash and 401K savings, limited Social Security, nine years of marriage, five years of living together prior to marriage, and lack of skills due to her long absence from the workforce. The respondent's annual income of around one million dollars also supports the petitioner's claim for spousal support.

Before 2019, the petitioner's attorneys all promised her that she would receive permanent spousal support. However, starting in 2019, the attorneys and GAL told the petitioner that the respondent would not be willing to pay spousal support because of the new federal law that eliminates tax credits for alimony payors.

The new federal law on alimony tax does not eliminate a spouse's right to spousal support. This means that the respondent's refusal to pay spousal support is not justified by the new federal law. Additionally, the respondent's anticipatory disposition of marital assets further demonstrates his lack of financial support for the petitioner and his intention to leave her in a precarious financial position.

The petitioner's attorneys and GAL therefore violated the law by helping the respondent evade his spousal support obligations, which has left the petitioner in a very precarious financial situation. She is getting older, has no job, and has very little Social Security. If she is not awarded spousal support, she will be in poverty and homeless.

Section 4b: The Minnesota Lower Court's Misuse of Guardian ad Litem Assignments and the Erosion of Due Process

Despite facing significant challenges after moving into an unfurnished house and dealing with postoperative complications and side effects from the medical treatment, the petitioner did not miss any court-ordered deadlines throughout the divorce. However, the opposing counsel used a single email, which the petitioner's prior attorney failed to forward, as justification for the initial assignment of a GAL.

The lower court withdrew the GAL assignment after the petitioner's new attorney, Denis Grande, visited her and concluded that she did not need a GAL. However, the petitioner's subsequent attorney, Ben Henschel, reinstated the GAL assignment after he felt offended when the petitioner missed a scheduled phone call, despite her email to reschedule.

During trial lunch breaks, Henschel repeatedly mentioned the missed phone as the reason for his refusal to negotiate a better outcome for the petitioner, and the GAL agreed. The GAL assignment one month before the trial was therefore a punishment for the petitioner from the petitioner's attorney.

After the trial, the opposing counsel used the GAL to sign a stipulation drafted by the opposing counsel, even though the petitioner had not reviewed or signed it, and she had filed a motion to challenge the trial results. Using the GAL's own words, she was pressured into signing the stipulation by the opposing counsel who convinced the GAL that she could sign it "as a witness to the trial and not as an attorney." With the GAL's signature in hand, the opposing counsel rushed the stipulation into the record to effectively cancel the petitioner's scheduled motion to challenge the stipulation.

This case highlights the danger of the lower court using a GAL to deny the interests of vulnerable litigants. By coercing the GAL, a junior attorney, to commit fraud and misrepresentation, and violate the law, the lower court succeeded in denying the petitioner's rights to due process and informed consent.

The misuse of GAL assignments and the erosion of due process, as exemplified in this case, demand the attention of the United States Supreme Court. The petitioner's fundamental rights were blatantly disregarded, and the lack of clear guidelines on GAL assignment and fiduciary duties has created a system vulnerable to exploitation.

The petitioner respectfully urges the Supreme Court to grant certiorari in this case and set forth clear standards for GAL assignments and fiduciary duties to protect the rights of vulnerable litigants and uphold the principles of due process.

Section 4c: The Opposing Counsel's Coercion of the GAL and Circumvention of the Petitioner's Right to Challenge the Stipulation Constitute a Violation of Due Process and an Undermining of the Legal System.

In this case, the petitioner is challenging the validity of a stipulation that was signed by her GAL without her consent. The opposing counsel's actions in pressuring the GAL to sign the stipulation and rushing it into the record before the petitioner had a chance to be heard constitute a clear violation of the petitioner's due process rights and an undermining of the legal system. (11, 12, 13, 14, 15)

Rule 5.02 of the Minnesota General Rules of Practice for the District Courts explicitly mandates that every pleading, motion, or other paper of a party unrepresented by an attorney be signed by the party themselves. In this instance, the petitioner was not represented by an attorney when the opposing counsel convinced the petitioner's GAL that she could sign the parties' stipulation as a witness and not as an attorney. This misrepresentation and subsequent coercion resulted in an unauthorized signature on the stipulation, rendering it invalid and void.

After the trial, the petitioner had fired her attorneys and requested that her GAL be dismissed. Yet, the opposing counsel pressured the GAL, a junior attorney, to knowingly violate the law by signing the stipulation without the petitioner's consent by committing fraud and misrepresentation. The GAL's signature as "witness to the trial" was not only ineffective in

binding the petitioner to the agreement but also compounded the injustice by depriving the petitioner of an opportunity to challenge the terms that were clearly not in her best interests.

The opposing counsel's actions also violated the petitioner's right to due process. The petitioner had a fundamental right to challenge the stipulation, and the opposing counsel's actions deprived her of that right. By coercing the GAL to sign the stipulation without the petitioner's consent and then asking the lower court to put the stipulation into the record, the opposing counsel effectively prevented the petitioner from challenging the agreement.

The opposing counsel's actions in this case extend beyond the individual petitioner and have far-reaching implications for the integrity of the legal system. By circumventing the established legal procedures and depriving the petitioner of her fundamental rights, the opposing counsel has eroded public trust in the system's ability to ensure fairness and justice. Such misconduct cannot be tolerated, as it threatens the very foundations of the legal system and the public's belief in its ability to protect the rights of all citizens.

STATEMENT OF THE CASE

The petitioner, Ye-Ying Cen, is seeking review of a decision by the Minnesota Supreme Court that denied her petition to vacate the stipulation drafted by the opposing counsel without the petitioner's review or signature when the petitioner was not represented and had filed a motion to challenge the stipulation. The petitioner argues that the stipulation was invalid for reasons including violation of the law, fraud, and misrepresentation.

Six days before the trial on July 19, 2019, the petitioner's 24-hour urine level of gadolinium went up to 220 ug/24 hours. This is a dangerously high level of gadolinium, 367 times the upper reference range (<0.6 ug/24 hours). Gadolinium is a known neurotoxin and there is no known safe level for humans. Petitioner was experiencing severe cognitive impairment at the trial, and she repeatedly told her attorneys, GAL, and the referee about her acute illness throughout the trial.

On the first day of trial, July 22, 2019, Petitioner directly addressed the referee, stating, "Your Honor, I am very sick. I am having a severe reaction to gadolinium. I have asked my attorneys to postpone the trial and provided them with my lab report yesterday. Did you receive it? I have a copy here. Gadolinium is banned in the European Union, but unfortunately not in this country." Referee asked the attorneys whether the trial should be postponed. The opposing counsel responded that it would be very expensive, and that Petitioner would have to pay for her time for all three days. The GAL stated that she did not have anything else scheduled for the three days. Referee then said, "OK, we will proceed."

Referee's failure to postpone the trial despite the petitioner's obvious inability to meaningfully participate in the trial denied the petitioner of a fair trial. In addition, Referee failed to ask

Petitioner if she thought the settlement was fair, as he had asked Respondent. Petitioner was waiting for her turn to be asked this simple question, which she understood was her sole opportunity to defend her case. Instead, the trial ended, depriving Petitioner of the ability to voice her objection to the settlement.

GAL was improperly signed to the petitioner approximately one month before the trial. Once signed and when the petitioner experienced an acute illness at the trial, the GAL and her attorneys took advantage of her illness and went against her interests by:

- Refusing to postpone the trial despite the petitioner's repeated plea that she was too ill.
- Refusing to read the petitioner's lab report and articles on gadolinium toxicity.
- Failing to provide a medical examiner to assess whether the petitioner was telling the truth that she was too ill to stand the trial.
- Failing to provide a translator service to the petitioner even though she was having trouble understanding and communicating in English due to her illness and being a non-native English speaker.
- Disregarding the errors on the parties' financial documents that listed her long-closed bank accounts.
- Failing to address her concern about medical insurance even though Petitioner would not be eligible for Medicare for several years and North Carolina doesn't provide Medicaid to people with zero income.
- Failing to address the retrieval of her personal belongings at her Minnesota house, including her personal computers, medical records, financial statements, clothes, and the entire house furnishings. Petitioner was in North Carolina following the couple's Valentine's Day trip, having brought with her only a handbag when she was surprised with the divorce.
- Helping the respondent evade spousal support when the new Federal alimony tax law no longer allows the Respondent to deduct spousal support payments from his taxes, even though the Petitioner is entitled to spousal support based on the Minnesota law due to her little savings, little social security, zero income, long absence from work, poor employment prospect, age, chronic health condition, as well as duration of marriage and the fact that the respondent earns around one million yearly.
- Failing to address the petitioner's outstanding attorney fees that further put her into financial difficulty following the divorce.

- Forcing the petitioner to sell her house within 60 days even though the Petitioner had emphasized the importance of keeping her house as she regards it her sanctuary following several medical procedures and an unexpected divorce.

The requirement to sell her house within 60 days is particularly mean-spirited because it is unnecessarily harsh and unfair to her. Here are the reasons:

- a) It is almost not possible to sell a house within 60 days without seriously cutting down the sales price, which will further adversely affect the petitioner's financial well-being and her health because she would be forced to sell at a loss and would likely become homeless.
- b) Petitioner has modified the house to accommodate her health problems (all the carpets in the house have been replaced with hardwood floors and plastic air ducts have been replaced with metal air ducts) that it would be difficult for her to find another place to live that is safe and affordable. The Petitioner is diagnosed "in allergic state" and her severe allergic reactions require her to live in a clean and relatively allergen-free environment.
- c) The Petitioner has never missed a mortgage payment and therefore it does not make sense to force her to pay off the mortgage or sell the house. In addition, the Petitioner could rent out a room for income. It is therefore not a sound financial order to sell the house to rent an apartment when rental fee could be as high as her mortgage payment.

Petitioner felt she was a victim of abuse at the trial for these reasons:

- 1) During the trial, petitioner noticed that the respondent was asked to testify, so she was waiting to be asked to testify when the trial ended.
- 2) Petitioner heard the referee ask the respondent whether he found the settlement fair, and so she was waiting for her turn to be asked when the trial ended.
- 3) The referee's decision not to postpone the trial despite petitioner's repeated plea that she was too ill violated the petitioner's right to a fair trial.
- 4) GAL violated the law when she dismissed the petitioner's inability to understand the proceedings of the trial.
- 5) Petitioner felt she was discriminated: if the respondent said he was too sick to be at the trial, her attorneys, GAL, and the referee would have said: "Yes, Sir." Why couldn't they believe her?

Two days after the trial, Petitioner wrote a letter to the referee to complain that her attorneys violated their obligations to her, and she fired them by having her attorneys withdraw from her

case. The petitioner then filed a motion to challenge the stipulation and asked her GAL to be dismissed.

While the petitioner was traveling in the Twin Cities preparing for her scheduled motion and interviewing new attorneys, the opposing counsel drafted the stipulation without the petitioner's review or signature, and then coerced the GAL to knowingly violate the law by signing the stipulation without the petitioner's consent.

The Minnesota Lower Court failed to ensure that the stipulation was properly signed before entering it into the record. In addition, Petitioner had filed a motion to challenge the stipulation, which was scheduled to be heard on November 6, 2019, when the Lower Court put the stipulation into the record.

Petitioner was in the office of an attorney whom she retained that day when she heard that the stipulation had been entered into the record. How could the Lower Court put it into the record when the stipulation was not signed by the petitioner at the time when she was not represented? How could petitioner's GAL sign the stipulation when she was sternly warned by the petitioner that she doesn't have the authority to do so? How could the Lower Court put it into the record when there was a scheduled motion to challenge the stipulation?

To summarize, the Minnesota lower court violated the petitioner's right to informed consent by knowingly obtaining an unauthorized signature on the parties' stipulation and putting it into the record. The court also abused its discretion by denying the petitioner's motion to vacate the stipulation because it failed to adequately consider her alleged cognitive impairments.

The GAL committed fraud and misrepresentation by signing the parties' stipulation without the petitioner's consent. Additionally, she failed to take any steps to ensure that the petitioner had a fair trial, despite the petitioner's repeated pleas that she was too ill to follow the proceedings.

The trial court's admission of an unsupported stipulation into the record violated the petitioner's right to due process. Due process requires that the court consider all relevant evidence before making a decision. The stipulation was not supported by any evidence, so the court's admission of it was unfair to the petitioner.

The Minnesota Supreme Court erred in affirming the trial court's order because it failed to give sufficient weight to the lower court's numerous and egregious violations of the law, Minnesota Rules of Practice, and ethical standards.

Based on the above, this is a representative case that affects thousands of families in this country. The outcome of this case could set a precedent for other cases involving the new federal law on alimony, violation of law by GALs, attorneys, referees, and lower courts, requirements for translator services, and guidelines on mental competence for standing trial.

This case raises important legal issues of national significance, including:

- 1) The right to informed consent in divorce proceedings
- 2) The rights of litigants with acute illness and cognitive impairment at the trial
- 3) The right to due process
- 4) The fiduciary duty of GALs
- 5) The guidelines on GAL assignment
- 6) The impact of the new federal law on alimony tax on spousal support obligations

The Minnesota Supreme Court's decision conflicts with decisions from other courts on the issue of informed consent in divorce proceedings. Additionally, the lower court's numerous and egregious violations of the law, Minnesota Rules of Practice, and ethical standards make this a case that the Supreme Court should review.

REASONS FOR GRANTING THE WRIT

The Minnesota Supreme Court's decision in this case raises significant legal issues of national importance and warrants review by the United States Supreme Court. The Lower Court's egregious violations of the law, Minnesota Rules of Practice, and ethical standards demand a thorough examination by the Supreme Court.

Procedural Errors and Denial of Due Process

The Lower Court's disregard for the petitioner's right to informed consent, its failure to adequately consider her alleged cognitive impairments, and its failure to provide a translator service despite her language barrier constitute clear violations of her due process rights. These errors effectively denied the petitioner the opportunity to participate meaningfully in the proceedings and defend herself effectively.

GAL's Breach of Fiduciary Duty and Misconduct

The GAL's actions in this case were a blatant breach of her fiduciary duty to the petitioner. By signing the parties' stipulation without the petitioner's consent, failing to take any steps to ensure that the petitioner had a fair trial, and allegedly colluding with the respondent to evade spousal support obligations, the GAL violated her ethical obligations and deprived the petitioner of her right to effective representation and her rightful financial support.

Violation of Minnesota Rules of Practice

The Lower Court's handling of this case was rife with procedural errors, including its refusal to postpone the trial, its denial of the petitioner's motion to vacate the stipulation, and its admission

of an unsupported stipulation into the record. These errors further demonstrate the Court's disregard for the petitioner's rights and its failure to adhere to the Minnesota Rules of Practice.

Impact of the New Federal Law on Alimony

This case presents an opportunity for the Supreme Court to provide much-needed guidance on the impact of the new federal law on alimony and its implications for spousal support obligations. The Court's clarification in this area is crucial for ensuring fairness and consistency in divorce proceedings across the country.

Conflict with Decisions from Other Courts

The Minnesota Supreme Court's decision in this case conflicts with decisions from other courts on the issue of informed consent in divorce proceedings and the GAL's role in ensuring fair representation. This conflict highlights the need for Supreme Court review to establish a uniform and fair standard for informed consent nationwide and to reaffirm the GAL's responsibility to act in the best interests of their clients.

National Significance of Legal Issues

The legal issues raised in this case have far-reaching implications for litigants across the country. The Supreme Court's review of this case would provide essential guidance on issues such as the rights of litigants with cognitive impairments, the fiduciary duty of GALs, the impact of the new federal law on alimony, and the requirements for translator services and postponement of a trial.

Conclusion

In light of the Lower Court's egregious errors, the Minnesota Supreme Court's failure to uphold the petitioner's rights, and the national significance of the legal issues involved, the Supreme Court should grant certiorari in this case. The Court's review of this case is essential to ensure fairness and due process for all litigants, to uphold the integrity of the legal system, and to provide much-needed guidance on important legal issues.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Yefim S. Lin

Date: November 17, 2023