NIEP

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

Meghan Kelly Plaintiff, v. Disciplinary Counsel Patricia B. Swartz, et.al Defendants.	))))))	Civil Action No.: 1:21-1490 (CFC)

PLAINTIFF MEGHAN KELLY'S 77th AFFIDAVIT UPDATE

Comes now Plaintiff Meghan Kelly, I declare and affirm that the foregoing statement is true and correct.

1. I submitted the attached Motion with the US Supreme Court Kelly v PA ODC, No. 22A 478, as Exhibit 1.

2. I sent an Email to opposing counsel and Robert Meek attached hereto as Exhibit 2 wherein I stated:

> "No. 22-7695 Kelly v PA ODC Motion to correct the record and to preserve 1st Amendment waiver to petitition
> From:Meg Kelly (meghankellyesq@yahoo.com)
> To:rmeek@supremecourt.gov; harriet.brumberg@pacourts.us; anthony.sodroski@pacourts.us
> Cc:meghankellyesq@yahoo.com; zi-xiang.shen@delaware.gov; supremectbriefs@usdoj.gov
> Date:Wednesday, September 6, 2023 at 10:14 AM EDT
> Good morning,
>
> Attached please find a motion to correct the record, wherein I request the Court also refrain from answering Senator Whitehouse's September 4th petition
>
> 2. Exhibit A Press releases from the Federal Reserve showing the reserve requirement was reduced from 10 Percent to zero creating conditions that will make banks fail should people request their deposits
> 3. Exhibit B Excerpts from the World Economic Forum Founder's Klaus Schwabb and Thierry Mallerett's Book The Great Narrative regarding elimination of the dollar and the Central bank's judicial power unrestrained by the courts and limited by their "own imagination"
> 4. Exhibit C Whitehouse's complaint against Justice Alito.

Robert Meek, I do not have money or stamps to respond to amicus briefs. I had to ask the courts to consider saving itself and the rule of law to save me and the world herein instead of potentially fighting congress in my other two cases by amicus briefs.

I am acting hastily and even imperfectly to assert my rights in order not to waive them. I would rather do something in the face of grave threats not only to myself but to the entire world than do nothing. I am sorry if I let this Court down since I am such a poor typist and write in haste.

On an aside my mom and dad contracted covid over the Labor Day weekend. They live in Florida. I live in Delaware, but my mom was intending to visit on the 20th. I am a bit scared I may get sick should she still visit me Robert Meek. I will keep you and all opposing counsels informed should there be a risk.

I am also concerned they may die since they are very old. My dad has a surgical procedure scheduled September 15th. They behave like they are superman because they took the vaccine. They misbehave and are not super beings immune from sickness and death. I am quite sad they do not feel well because I love them.

On an aside, I am not sick, but I am dangerously dehydrated due to the surgery I had as a youth and assert my religious exercise to live and not die for the vanity of people in all courts. Every month I lose five pounds of water weight and I collapse if I am not afforded time to drink gallons not cups of water. It is a matter of life and death for me for more than 20 years. I believe people sin by referring people to doctors, or blindly telling people to pay or professional or pay for a product. I have religious objections to healthcare and science when they are made demi-gods.

I believe people sin leading to hell when they tell others to blindly trust the experts, professionals, products or man's creation technology, science should they not repent. See Romans 1:25. I believe it is idolatry making man and man's creation God in place of God. It serves what I believe is the mark of the beast business greed, sacrificing people or free will for the forced will at what is profitable at the cost of human life, liberty or health under the lie of saving it by making people and their products above court correction when they kill, steal or destroy for the bottom line. It is basically barbaric human sacrifice for material gain, same as throwing people in a volcanoes under the belief in a lie it will help crops.

I prefer the people think things out, not blindly trust professionals dumbed down b standardization or training who do not care to think outside the standards when they may harm human life, liberty or health. It is blindness Jesus speaks of blinded for money for a paycheck to provide for their own or convenience. This dumbing down by standards prevents people from seeing clearly based on truth not a barter or exchange by exchanging every freedom for material gain by standardization.

Thank you for understanding I keep myself separate by not doing what others do when I believe it is sin.

Thank you.

With sadness and yet hope,
Meg
Meghan Kelly
34012 Shawnee Dr
Dagsboro, DE 19939
(302) 493-6693
meghankellyesq@yahoo.com”

3. Per the attached exhibit 3 postal tracking, the Honorable US Supreme Court and PA ODC is expected to receive the motion on Friday, September 8, 2023. I already put in an in forma pauperis on the record. So, I think that will allow consideration of the motion on the date of the conference September26, 2023. I believe there are more than 100 cases for consideration that day. I may have to file a motion for reconsideration should the court reject hearing my petition.

4. If the US Supreme Court doesn’t rule PA ODC is without jurisdiction and the case is not ripe, PA ODC will likely sue me again. Why do I believe this? He doesn’t like my inconveniencing unstandardized arguments against the disciplinary rules, even PA’s disciplinary rules which eliminate citizen lawyers’ Constitutional rights to religious exercise or belief which do not conform to the standards in exchange for what I argue and believe is the mark of the beast, the mark of those without eternal life, sacrificing humans or liberty for mammon, even convenience. I believe Jesus is not kidding when he says you cannot serve God and mammon. Matthew 6:24. I believe the Constitution protects me from being sacrificed for moth and rust.

5. I am quite dehydrated, and not feeling well now due to surgery. I do not have covid. Yet, I took a test for precaution. It is negative.

Thank you for your time and consideration.

Respectfully submitted,

Dated 9/6//23

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939meghankellyesq@yahoo.com
(302) 493-6693

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct

Dated: 9/6/23

Meghan Kelly (printed)

Meegh. Kv (signed)

Exhibit 1

No. 22-7695

Related Application No. 22A981

IN THE SUPREME COURT OF THE UNITED STATES

In the Matter of Meghan Kelly in the Supreme Court of Pennsylvania
Meghan M. Kelly, Petitioner
V
Office of Disciplinary counsel, aka Pennsylvania Disciplinary Counsel
On Petition for Writ of Certiorari to the Supreme Court of Pennsylvania, Western District of PA, Case Number 2913 DD3

Petitioner Respondent Meghan Kelly's Motion to Correct an error in Kelly's petition for writ of certiorari in Kelly v Pennsylvania Office of Disciplinary Counsel No. 22-7695

Meghan Kelly, Esquire pursuant to Rule 21 respectfully requests leave to correct an error in the petition for writ of certiorari in Kelly v Pennsylvania Office of Disciplinary Counsel No. 22-7695, and further requests this Court allow her an opportunity to address the issue of whether the US Supreme Court may be corrected outside of the purview of the Constitutional limits of 1. Cases and controversies or 2. Impeachment by abstaining from addressing Whitehouse's request for discipline, dated 9/423 so as to deprive me of my 1st Amendment right to petition for relief in cases and controversies.

1. On February 28, 2023 I submitted a petition to appeal the Pennsylvania Supreme Court's decision based on lack of subject matter jurisdiction. I have been retired and have remained retired at all times since the alleged misconduct for which my Delaware license was placed on inactive disabled this reciprocal disciplinary order is based. The PA rules do not permit jurisdiction at this time. (*See, 204 Pa. Code* § 85.3(a) and Pennsylvania's Rules of Disciplinary Enforcement (Pa.R.D.E.) Rule 201 concerning the scope of the PA ODC's and the Pennsylvania Supreme Court's subject matter jurisdiction) The case is not ripe unless and until I petition to place my retired license to active license. (See, Pa.R.D.E. Rule 218 (a)(2) regarding

the process I would have to go through to make the case ripe by requesting restatement of my active license to practice law out of retirement).

2. It has come to my attention recently I misinformed the Court concerning FedNow. In the first two paragraphs on page 12 I wrote:

> "The new economic model started July 1, 2023 under Fed Now will charge every person with a bank account 25 dollars a month, and pennies for each transaction. The banks will not pay the $25 fee, but will push it on the consumers of money as a commodity.
>
> This artificial debt creates slavery differently. The 25 fee is discounted in 2023, but is scheduled to be convened 2024. I understand the fees for each transaction are pennies now, but will be increased to indebt the government and the people to be enslaved to the central banks."

3. The $25 fee is not charged to every person with a bank account. The fee is charged to the bank for its own account number. I am sorry for providing incorrect information to the Court, and write to correct myself.

4. The error was inadvertent. I was panicking because the Federal Reserve reduced Reserve requirements from 10 percent to 0 since 2020 per the attached Exhibit A. I was scared a bank run would occur like in 1907-08. If people had to pay $25 a month starting January 1, 2024 they would likely seek to reduce the amount of accounts to reduce the amount of fees only for people to discover the fiat money was not available due to the reduction in fiat reserves since 2020.

5. My horror increased as I realized Saudi Arabia was exiting the Swift payment system to enter the payment system in BRICS model (Brazil, Russia, India, Chain and South Africa's payment system), on January 1, 2024.

6. I expect hyper-inflation with Saudi Arabia withdrawing support of the Petro-dollar effective January 1, 2024. Yet, I was super worried should customers be charged 25 dollars a month. I was incorrect.

7. Per the attached Exhibit B, I am also concerned about the elimination of fiat currency to eliminate the power of the courts to judge to be replaced by Central banks, and down the line to businesses and charities.

8. Attached, please find Sheldon Whitehouse's complaint against Justice Alito, dated September 4, 2023 with frivolous arguments concerning the Judicial Conduct and Disability Act which does not apply to the US Supreme Court. As I stated in my petition, the Judiciary is the only branch that gives us freedom by the means of a democracy in our democratic republic. The other two branches give us a Republic in our democratic republic and by nature are partial and politically biased requiring ethical standards which are not required to tame the impartial courts.

9. Whitehouse's argument, "the bill would update judicial ethics laws to ensure the Supreme Court complies with ethical standards at least as demanding as in other branches," overlooks the purpose of restraining inherently partial branches as opposed to maintaining the impartial branch by maintaining its independence of the fickle fads of the masses. (Exhibit C)

10. Congress does not tell us what the law is as Whitehouse appears to seek to do in violation of separation of powers. "It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases, must of necessity expound and interpret that rule." *Marbury v. Madison*, 5 U.S. 137, 177, 2 L. Ed. 60 (1803); also see,

11. Further, there may be no case as Whitehouse alleges as I seek this Court to rule in two different cases that the US Supreme Court may not be disciplined outside the purview of the Constitution prior to any attempt to pass the act Whitehouse seeks to pass, which would be void as outside the scope of his Constitutional power or jurisdiction.

12. This Court in *Ex Parte McCardle*, 74 U.S. 506 (1868) held:

> "The appellate jurisdiction of this court is conferred by the Constitution, and not derived from acts of Congress; but is conferred "with such exceptions, and under such regulations, as Congress may make;" and, therefore, acts of Congress affirming such jurisdiction, have always been construed as excepting from it all cases not expressly described and provided for."

13. "By words of the Constitution, equally plain, that judicial power is vested in one Supreme Court. This court, then, has its jurisdiction directly from the Constitution, not from Congress." *Id at 507.* "This court, then, has its jurisdiction directly from the Constitution, not from Congress. The jurisdiction being vested by the Constitution alone, Congress cannot abridge or take it away." Id.

14. I request this Court please abstain from addressing the complaint submitted to you attached hereto as Exhibit C against Justice Alito. I note, Justice Kagan also spoke for regulations in the news, and all of the arguments contained herein may also be twisted to be used against her. While adversary opinions are not proper by either of these two justices, they are without authority of the rule of law, mere opinions. Disciplinary complaints are an improper form to clarify issues under the Constitution.

15. I believe the complaint is a trap your honors to compel the Court to eliminate what is not theirs to barter away, the 5th Amendment right against self-incrimination by compelled incrimination of federal judges and more importantly the 5th Amendment right to a fair and impartial federal judiciary, as applied to me as a unique party of one with special arguments on the record in two cases based on religious-beliefs and exercise, and as applied to all citizens from a no longer free and independent but partial judiciary to whomever regulates its seats through self-regulation or third party regulation.

16. I am quite distraught that Chief Justice Roberts may answer this hastily as to deprive me of a fair opportunity to make arguments in cases and controversies in two matters

Kelly v Swartz, No 23A10,0 and *Kelly v US Eastern District of PA*, No 23A144. I already apprised this Court in my Applications I intended to argue the issue as to whether the US Supreme Court should only be corrected within the purview of the Constitutional limits of 1. cases and controversies and 2. impeachment.

17. I am so scared the entire court may succumb to public fickle pressure to eliminate Constitutional rights by allowing regulation of a no longer impartial court. I believe this will expedite the scheme to eliminate the courts down the line that restrains entities from enslaving, oppressing, killing, stealing and destroying human life, liberty and health to sustain power, position, profit under the guise of sustaining the world.

18. Your Honors I ask you please grant me the opportunity to exercise the First Amendment right to petition on this issue in two cases where I argue the Federal courts and federal judges may only be corrected within the purview of the Constitutional limits of 1. Cases and controversies and 2. Impeachment, without vitiating by hastily responding to Whitehouse.

19. "It is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress." *Marbury v. Madison*, 5 U.S. 137, 147 (1803). It is not fair that Congress may be above the law, and separation of powers issues, and eliminate my right to petition the court in a case or controversy about the same issue where my remedy may be lost.

Thank you for your time and consideration.

September 6, 2023

Respectfully Submitted,
/s/Meghan Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939,
(302) 493-6693
meghankellyesq@yahoo.com,
US Supreme Court Number 283696

Exhibit A

Policy Tools

Reserve Requirements

As announced on March 15, 2020, the Board reduced reserve requirement ratios to zero percent effective March 26, 2020. This action eliminated reserve requirements for all depository institutions.

- FAQs

The following content explains the Board's authority to impose reserve requirements and how reserve requirements were administered prior to the change in reserve requirement ratios to zero. Additional detail on this reserve requirement regime can be found in the archived Reserve Maintenance Manual: HTML | PDF.

The Federal Reserve Act authorizes the Board to establish reserve requirements within specified ranges for purposes of implementing monetary policy on certain types of deposits and other liabilities of depository institutions.

The dollar amount of a depository institution's reserve requirement is determined by applying the reserve requirement ratios specified in the Board's Regulation D (Reserve Requirements of Depository Institutions, 12 CFR Part 204) to an institution's reservable liabilities (see table of reserve requirements). The Federal Reserve Act authorizes the Board to impose reserve requirements on transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities.

Prior to the change effective March 26, 2020, reserve requirement ratios on net transactions accounts differed based on the amount of net transactions accounts at the depository institution. A certain amount of net transaction accounts, known as the "reserve requirement exemption amount," was subject to a reserve requirement ratio of zero percent. Net transaction account balances above the reserve requirement exemption amount and up to a specified amount, known as the "low reserve tranche," were subject to a reserve requirement ratio of 3 percent. Net transaction account balances above the low reserve tranche were subject to a reserve requirement ratio of 10 percent. The reserve requirement exemption amount and the low reserve tranche are indexed each year pursuant to formulas specified in the Federal Reserve Act (see table of low reserve tranche amounts and exemption amounts since 1982).

For more history on the changes in reserve requirement ratios and the indexation of the exemption and low reserve tranche, see the annual review table. Additional details on reserve requirements can be found in this *Federal Reserve Bulletin* article (119 KB PDF), the appendix of which has tables of historical reserve ratios.

Press Release

November 29, 2022

Federal Reserve Board announces annual indexing of reserve requirement exemption amount and low reserve tranche for 2023

For release at 3:00 p.m. EST

Share

The Federal Reserve Board on Tuesday announced technical details related to reserve requirements for depository institutions. The annual indexation and publication of these amounts are required by law and does not indicate a change in depository institutions' reserve requirements, which will remain zero.

If reserve requirement ratios were not zero, these amounts would be used to determine the different ranges of reserve requirement ratios that could apply, depending on the amount of transaction account balances at a depository institution. The reserve requirement exemption amount will be set at $36.1 million, up from $32.4 million in 2022, and the low reserve tranche will be set at $691.7 million, up from $640.6 million in 2022. The adjustments to both of these amounts are derived using formulas specified in the Federal Reserve Act.

The adjustments will apply beginning January 1, 2023.

For media inquiries, please email media@frb.gov or call 202-452-2955.

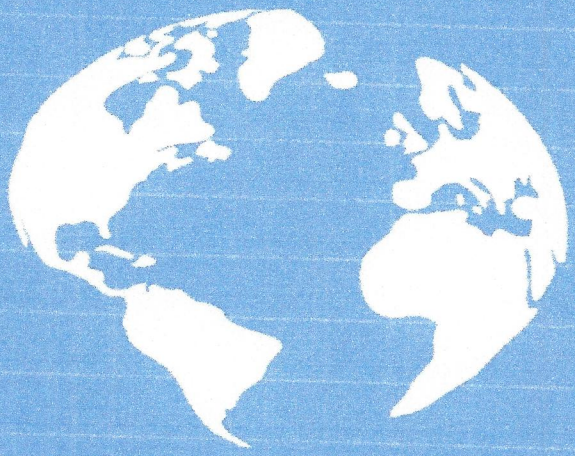
Federal Register notice: Reserve Requirements of Depository Institutions

Last Update: December 09, 2022

Exhibit B

THE GREAT NARRATIVE

For a Better Future



KLAUS SCHWAB
THIERRY MALLERET

FORUM PUBLISHING

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Klaus Schwab
Thierry Malleret

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World Economic Forum
91-93 route de la Capite
CH-1223 Cologny/Geneva
Switzerland
Tel.: +41 (0)22 869 1212
Fax: +41 (0)22 786 2744
mail: contact@weforum.org
www.weforum.org

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(4) The strong and rapid emergence of cryptocurrencies, and more broadly fintech, entangles economics with technological innovation in such a complex way that it makes it hard to identify how the causality runs and what some of the potential applications and policy implications might be. Analysts and media reports give the impression that national currencies already compete with cryptocurrencies since individuals and institutions can hold digital wallets with whichever crypto asset they chose. As Parag Khanna states:

> We are about to enter an age of global monetary competition, where national currencies must earn their place in someone's wallet portfolio every hour of every day, even among citizens of their own countries. The digital version of the Japanese yen will be plunged into head-to-head global competition with the Swiss franc, the Brazilian real, and any other asset with an open capital account, including Bitcoin. Everyone becomes a foreign-exchange trader, all the time, and only the best national currencies – or cryptocurrencies – are ever held by anyone.[34]

Elimination of fiat $ to trackable mine of coins at the pleasure of banks

It might be that government-supported cryptocurrencies compete with each other, as hinted at by Khanna. If they do so, they'd blur the line with fiat money and would change the financial system in terms of financial stability and traditional monetary policy in a way that nobody can yet predict.

Currently, both monetary authorities and private institutions issue cryptocurrencies as viable, mainstream payment vehicles. Central banks and governments experiment with "govcoins", or Central Bank Digital Currencies, while private "sponsors" develop "stablecoins" – cryptocurrencies whose value is pegged to the value of an underlying asset. The trajectory and endgame for govcoins and stablecoins remain unknown, but their respective fates may ultimately be decided by adoption and above all regulation (the power of the state). The only certainty: their economic, societal and possibly geopolitical impacts will be considerable. Will physical cash still be accepted? Will cryptocurrencies pervade our privacy? How will they redefine the role of technology in our daily lives? What will their impact be on the effectiveness of monetary policy? Could they foster greater financial inclusion? Could cryptocurrencies advance environmental objectives and the policies that support them? Could they be used to accelerate the demise of the US dollar? Will

They predict it, they plan it in their agenda.

The elimination of the dollar is discussed in other WEF documents ☹

future. Their original ideas translate into narratives that produce models which in turn influence behaviour and help construct the future. Ultimately, they become instruments of policy and project market power. By way of demonstration, four innovative projects, or sets of projects, are described, all different from each other but all pertaining to the environmental sector (this macro category was chosen arbitrarily because it is where the stakes are the highest). Just a few years ago, all these ventures were unknown or in their infancy. Now, they are a collective testimony to the power of imagination of those who conceived them.

(1) Network for Greening the Financial System and beyond: Imagining new policies

The Network for Greening the Financial System (NGFS) is a group of 91 central banks and supervisors committed to mobilizing mainstream finance to support the transition towards a sustainable economy. It is investigating many bold financial innovations[117] that could (and most likely will) one day revolutionize the way in which climate-related risks are accounted for in central banking and banking supervision. In short, alongside governments (which have a much broader and more effective range of tools and policies available to prevent and mitigate climate-related risks), central banks will adapt their monetary policy operational frameworks to reflect climate-related risks. This will involve the mitigation of balance sheet risks that stem from climate change and environmental degradation, but also the active support of the transition to a non-carbon, green economy. Imagining what form this might take and devising policy tools and instruments to get there is the task of the NGFS, and largely depends on how climate risks will affect the economy and financial system through a range of different transmission channels.[118] The menu of options available is extensive and encompasses changes in all three most important policy fields of a central bank: credit operations, collateral policies and asset purchases. It is not the purpose of this book to delve into the technicalities of what this involves[119] but, suffice to say, some of the options represent a radical departure from standard central bank operational policies. They are, in short, the product of central bankers' imagination.

Some ideas go into uncharted territory, well beyond the scope of what the NGFS is devising in terms of possible policies. Creating "carbon quantitative easing" policies is one of them. It's a novel, untested and somewhat outlier

The rule of law is the "product of the bankers' imagination" when bankers gain more & the worse off we are. This is terribly horrifying.

Exhibit C

United States Senate
WASHINGTON, DC 20510

September 4, 2023

The Honorable John G. Roberts, Jr.
Chief Justice of the United States
Chairman, Judicial Conference of the United States
Supreme Court of the United States
1 First Street NE
Washington, D.C. 20543

Dear Chief Justice/Chairman Roberts:

I write to lodge an ethics complaint regarding recent public comments by Supreme Court Justice Samuel Alito, which appear to violate several canons of judicial ethics, including standards the Supreme Court has long applied to itself.

I write to you in your capacity both as Chief Justice and as Chair of the Judicial Conference because, unlike every other federal court, the Supreme Court has no formal process for receiving or investigating such complaints, and asserted violations by justices of relevant requirements have sometimes been referred to the Judicial Conference and its committees. I include all justices in carbon copy because I am urging the Supreme Court to adopt a uniform process to address this complaint and others that may arise against any justice in the future.

The recent actions by Justice Alito present an opportunity to determine a mechanism for applying the Judicial Conduct and Disability Act to justices of the Supreme Court. Nothing prohibits the Court or the Judicial Conference from adopting procedures to address complaints of misconduct. The most basic modicum of any due process is fair fact-finding; second to that is independent decision-making.

Background

Some of the background facts here were related by members of the Senate Judiciary Committee who signed a letter to you dated August 3, 2023.[1] As that letter explains, the *Wall Street Journal* on July 28, 2023, published an interview with Justice Alito conducted by David Rivkin and James Taranto. Justice Alito's comments during that interview give rise this complaint.[2] The interview had the effect, and seemed intended, to bear both on legislation I authored and on investigations in which I participate.

During the interview, Justice Alito stated that "[n]o provision in the Constitution gives [Congress] the authority to regulate the Supreme Court—period."[3] Justice Alito's comments

[1] Letter from Sen. Richard J. Durbin et al., Senate Committee on the Judiciary, to Hon. John G. Roberts Jr., Chief Justice of the United States (Aug. 3, 2023).
[2] David B. Rivkin & James Taranto, Opinion, *Samuel Alito, the Supreme Court's Plain-Spoken Defender*, WALL ST. J. (July, 28, 2023), https://www.wsj.com/articles/samuel-alito-the-supreme-courts-plain-spoken-defender-precedent-ethics-originalism-5c3e9a7?st=4765zed61auy3j2&reflink=desktopwebshare_permalink.
[3] *Id.*

appeared in connection to my Supreme Court Ethics, Recusal, and Transparency Act, which the Senate Judiciary Committee had advanced just one week before the publication of this interview.[4] That bill would update judicial ethics laws to ensure the Supreme Court complies with ethical standards at least as demanding as in other branches of government.

Justice Alito's comments echoed legal arguments made to block information requests from the Senate Judiciary Committee and the Senate Finance Committee, on both of which I serve. Those arguments assert (in my view wrongly) that our constitutional separation of powers blocks any congressional action in this area, which in turn is asserted (also wrongly, in my view) to block any congressional investigation. Sound or unsound, it is their argument against our investigations, as reflected in the letter appended hereto. The subjects of these committee investigations are matters relating to dozens of unreported gifts donated to justices of the Supreme Court.

As the author of the bill at issue, and as the only Senator serving in the majority on both investigating committees, I bring this complaint.

Improper Opining on a Legal Issue that May Come Before the Court

On the Senate Judiciary Committee, we have heard in every recent confirmation hearing that it would be improper to express opinions on matters that might come before the Court. In this instance, Justice Alito expressed an opinion on a matter that could well come before the Court.

That conduct seems indisputably to violate the Code of Conduct for United States Judges. Canon 1 emphasizes a judge's obligation to "uphold the integrity and independence of the judiciary"; Canon 2(A) instructs judges to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; and Canon 3(A)(6) provides that judges "should not make public comment on the merits of a matter pending or impending in any court." These canons help ensure "the integrity and independence of the judiciary" by requiring judges' conduct to be at all times consistent with the preservation of judicial impartiality and the appearance thereof.[5]

The Court's *Statement of Ethics Principles and Practices*, "to which all of the current members of the Supreme Court subscribe,"[6] concurs. That document makes clear that, before speaking to the public, "a Justice should consider whether doing so would create an appearance of impropriety in the minds of reasonable members of the public. There is an appearance of impropriety when an unbiased and reasonable person who is aware of all relevant facts would doubt that the Justice could fairly discharge his or her duties."[7] These same precepts are also enforced through the federal recusal statute, which requires all federal justices and judges to recuse themselves from any matter in which their impartiality could reasonably be questioned.[8]

---

[4] *Id.*
[5] Code of Conduct for U.S. Judges, Canon 1, Commentary.
[6] Letter from John G. Roberts, Jr., Chief Justice of the United States, to Sen. Richard J. Durbin, Chairman, Senate Committee on the Judiciary (Apr. 25, 2023).
[7] *See Statement on Ethics Principles and Practices* at 2:8-15, 2:19.
[8] *See* 28 U.S.C. § 455(a), (b)(1).

Making public comments assessing the merits of a legal issue that could come before the Court undoubtedly creates the very appearance of impropriety these rules are meant to protect against. As Justice Kavanaugh pointed out, prejudging an issue in this manner is "inconsistent with judicial independence, rooted in Article III," because "litigants who come before [the Court] have to know we have an open mind, that we do not have a closed mind."[9]

Justice Alito and every other sitting member of the Supreme Court told the Senate Judiciary Committee during their confirmation hearings that it would be (in the words of Justice Alito) "improper" and a "disservice to the judicial process" for a Supreme Court nominee to comment on issues that might come before the Court.[10] Justice Thomas said that such comments would at minimum "leave the impression that I prejudged this issue," which would be "inappropriate for any judge who is worth his or her salt."[11] Justice Kagan echoed those comments, telling the Committee it would be "inappropriate" for her to "give any indication of how she would rule in a case"—even "in a somewhat veiled manner."[12] And Justice Kavanaugh explained that nominees "cannot discuss cases or issues that might come before them." He continued: "As Justice Ginsburg said, no hints, no forecasts, no previews."[13]

Justice Gorsuch made clear during his confirmation hearing that this rule applies to the precise topic on which Justice Alito opined to the *Wall Street Journal*:

> Senator Blumenthal. Thank you. I also want to raise a question, talking about court procedure, relating to conflicts of interest and ethics. I think you were asked yesterday about the proposed ethics rules that have been applied to your court—
>
> Judge Gorsuch. Yes.
>
> Senator Blumenthal: [continuing]. To the appellate court, to the District Court, but not to the Supreme Court. Would you view such legislation as a violation of the separation of powers?
>
> Judge Gorsuch. Senator, I am afraid I just have to respectfully decline to comment on that because I am afraid that could be a case or controversy, and you can see how it might be. I can understand Congress' concern and interest in this area. I understand that. But I think the proper way to test that question is the prescribed process of legislation and litigation.[14]

---

[9] *Confirmation Hrg. on the Nomination of Hon. Brett M. Kavanaugh to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 115th Cong., at 123 (Sept. 5, 2018).
[10] *Confirmation Hrg. on the Nomination of Hon. Samuel Alito to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 109th Cong., at 517, 554 (Jan. 11, 2006).
[11] *Confirmation Hrg. on the Nomination of Hon. Clarence Thomas to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 102d Cong, at 180 (Sept. 11, 1992); *Confirmation Hrg. on the Nomination of Hon. Clarence Thomas to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 102d Cong, at 173 (Sept. 10, 1992).
[12] *Confirmation Hrg. on the Nomination of Elena Kagan to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 111th Cong, at 80 (June 29, 2010).
[13] *Kavanaugh Hrg.*, *supra* note 9, at 123.
[14] *Confirmation Hrg. on the Nomination of Hon. Neil Gorsuch to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 115th Cong, at 334 (Mar. 22, 2017).

You, Justice Sotomayor, and Justice Barrett each expressly cited the canons of judicial ethics as the source of a nominee's obligation to refuse to comment on such matters.[15] There seems to be no question that Justice Alito is bound by, and that his opining violated, these principles.[16]

Improper Intrusion into a Specific Matter

These principles apply broadly to any opining, on any issue that might perhaps come before the Court. But here it was worse; it was not just general opining, it was opining in relation to a specific ongoing dispute. The quote at issue in the article—"No provision in the Constitution gives [Congress] the authority to regulate the Supreme Court"—directly follows a mention of my judicial ethics bill. Justice Alito's decision to opine publicly on the constitutionality of that bill may well embolden legal challenges to the bill should it become law. Indeed, his comments encourage challenges to all manner of judicial ethics laws already on the books.

Justice Alito's opining will also fuel obstruction of our Senate investigations into these matters. To inform its work on my bill and other judicial ethics legislation, and oversee the performance of the statutory Judicial Conference in this arena, the Senate Judiciary Committee is investigating multiple reports that Supreme Court justices have accepted and failed to disclose lavish gifts from billionaire benefactors.[17] Separately, the Senate Finance Committee is investigating the federal tax considerations surrounding the billionaires' undisclosed gifts to Supreme Court justices.[18] Both committees' inquiries have been stymied by individuals asserting that Congress has no constitutional authority to legislate in this area, hence no authority to investigate. Justice Alito's public comments prop up these theories.[19]

As the author of the bill in question and as a participant in the related investigations, I feel acutely the targeting of this work by Justice Alito, and consider it more than just misguided or accidental general opining. It is directed to my work.

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[15] *See Confirmation Hrg. on the Nomination of John G. Roberts, Jr. to be Chief Justice of the United States Before the Sen. Comm. on the Judiciary*, 109th Cong, at 243 (Sept. 13, 2005) (citing Canon 3(A)(6) of the Code of Conduct for United States Judges); *Confirmation Hrg. on the Nomination of Hon. Sonia Sotomayor to be an Associate Justice of the Supreme Court of the United States Before the Sen. Comm. on the Judiciary*, 111th Cong., at 109 (July 14, 2009) (citing American Bar Association "rule on Code of Conduct"); *Barrett Confirmation Hearing, Day 2, Part 1*, C-SPAN Video, at 51:37–51:48 (Oct. 13, 2020) (citing "canons of judicial conduct").

[16] Indeed, another member of the Court has expressed how seriously federal judges and justices take these statements to the Judiciary Committee. *See Kavanaugh Hrg.*, *supra* note 9, at 123 (statement of Judge Kavanaugh) ("[B]elieve me, judges do feel bound by what they said to this Committee.").

[17] *See, e.g.*, Letter from Sen. Richard J. Durbin, et al., Senate Committee on the Judiciary, to Harlan Crow (May 8, 2023), https://www.judiciary.senate.gov/imo/media/doc/May%208,%202023%20letter%20to%20Harlan%20Crow16.pdf.

[18] *See, e.g.*, Letter from Sen. Ron Wyden, Chairman, Senate Committee on Finance, to Harlan Crow (Apr. 24, 2023), https://www.finance.senate.gov/imo/media/doc/Letter%20from%20Chairman%20Wyden%20to%20Harlan%20Crow%204.24.23.pdf.

[19] *See, e.g.*, Letter from Harlan Crow to Sen. Ron Wyden, Chairman, Senate Committee on Finance (May 8, 2023), https://s3.documentcloud.org/documents/23872250/harlan-crow-5-8-2023-letter-to-senate-finance.pdf; Letter from Harlan Crow to Sen. Richard J. Durbin, Chairman, Senate Committee on the Judiciary (May 22, 2023), https://s3.documentcloud.org/documents/23822173/harlan-crow-attorney-letter-to-senate-judiciary-committee.pdf.

Improper Intrusion into a Specific Matter at the Behest of Counsel in that Matter

Compounding the issues above, Attorney David Rivkin was one of the interviewers in the *Wall Street Journal* piece, and also a lawyer in the above dispute. This dual role suggests that Justice Alito may have opined on this matter at the behest of Mr. Rivkin himself. Bad enough that a justice opines on some general matter that may come before the Court; worse when the opining brings his influence to bear in a specific ongoing legal dispute; worse still when the influence of a justice appears to have been summoned by counsel to a party in that dispute.

The timeline of the *Wall Street Journal* interview suggests that its release was coordinated with Mr. Rivkin's efforts to block our inquiry. Mr. Rivkin's interview with Justice Alito was reportedly conducted in "early July" 2023.[20] On July 11, Senate Judiciary Committee Chair Durbin and I sent a letter to Mr. Rivkin's client inquiring about undisclosed gifts and travel provided to justices.[21] On July 20, the Senate Judiciary Committee voted to advance my judicial ethics bill mentioned above. (Notably, the Rivkin/Alito Congress-has-no-authority argument fared poorly in the committee that day, with no Republican rising to rebut the arguments against it.) On July 25, Mr. Rivkin by letter refused to provide the requested information on the purported ground that "any attempt by Congress to enact ethics standards for the Supreme Court would falter on constitutional objections."[22] That response, appended hereto, was instantly published in *Fox News*.[23] Three days later, on July 28, the *Wall Street Journal* editorial page published the supportive opining from Justice Alito.[24]

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[20] Rivkin & Taranto, *supra* note 2.

[21] Letter from Sens. Sheldon Whitehouse & Richard J. Durbin, Senate Committee on the Judiciary, to Leonard Leo (July 11, 2023).

[22] Letter from David B. Rivkin, Jr. to Sens. Sheldon Whitehouse & Richard J. Durbin, Senate Committee on the Judiciary (July 25, 2023).

[23] Andrew Mark Miller, *Conservative activist rejects Senate Dem demand for help in Supreme Court probe: 'Political retaliation'*, FOX NEWS (July 25, 2023), https://www.foxnews.com/politics/conservative-activist-rejects-senate-dem-demand-help-supreme-court-probe-political-retaliation.

[24] Separately, Mr. Rivkin is also counsel of record in a case the Supreme Court recently agreed to hear, *see Moore v. United States*, No. 22-800—a matter that presents distinct ethical issues, including possible conflicts of interest, that should also be addressed. Questions abound about the extent of private access Justice Alito has afforded Mr. Rivkin, who has appeared before the Court numerous times, particularly while Mr. Rivkin's petition for a writ of *certiorari* was pending in *Moore*. Mr. Rivkin's efforts in *Moore* have been publicly supported by the *Wall Street Journal* Editorial Board, which has approved three pieces written by or involving interviews with Justice Alito in four months—including a piece by Justice Alito "prebutting" reporting on the non-disclosed gifts that Leonard Leo arranged for Justice Alito to receive. *See* Editorial Bd., Opinion, *Is a U.S. Wealth Tax Constitutional?*, WALL ST. J. (June 14, 2023), https://www.wsj.com/articles/wealth-tax-ninth-circuit-moore-v-u-s-charles-and-kathleen-moore-supreme-court-constitution-6cdfba92; James Taranto & David B. Rivkin Jr., Opinion, *Justice Samuel Alito: 'This Made Us Targets of Assassination'*, WALL ST. J. (Apr. 28, 2023), https://www.wsj.com/articles/justice-samuel-alito-this-made-us-targets-of-assassination-dobbs-leak-abortion-court-74624ef9; Samuel A. Alito Jr., Opinion, *Justice Samuel Alito: ProPublica Misleads Its Readers*, WALL ST. J. (June 20, 2023), https://www.wsj.com/articles/propublica-misleads-its-readers-alito-gifts-disclosure-alaska-singer-23b51eda?mod=hp_opin_pos_3#cxrecs_s; Editorial Bd., Opinion, *A Wealth-Tax Watershed for the Supreme Court*, WALL ST. J. (June 27, 2023), https://www.wsj.com/articles/supreme-court-moore-v-u-s-wealth-tax-patrick-bumatay-ninth-circuit-83610ed.

Improper Intrusion into a Specific Matter Involving an Undisclosed Personal Relationship

On top of all this, the dispute upon which Justice Alito opined involves an individual with whom Justice Alito has a longstanding personal and political relationship. As my colleagues and I pointed out in our August 3 letter, "Mr. Rivkin is counsel for Leonard Leo with regard to [the Judiciary] Committee's investigation into Mr. Leo's actions to facilitate gifts of free transportation and lodging that Justice Alito accepted from Paul Singer and Robin Arkley II in 2008."[25] Mr. Leo was Justice Alito's companion on the luxurious Alaskan fishing trip in 2008 and facilitated the gifts to the justice of free transportation and lodging. Two years earlier, Mr. Leo's political organization "had run an advertising campaign supporting Alito in his confirmation fight, and Leo was reportedly part of the team that prepared Alito for his Senate hearings."[26]

The timing of Justice Alito's opining suggests that he intervened to give his friend and political ally support in his effort to block congressional inquiries. It appears that Justice Alito (a) opined (b) on a specific ongoing dispute (c) at the behest of counsel in that dispute (d) to the benefit of a personal friend and ally. Each is objectionable, and appears to violate, *inter alia*, Canon 2(B) of the Code of Conduct for United States Judges, which provides, "A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge."

Improper Use of Judicial Office for Personal Benefit

The final unpleasant fact in this affair is that Justice Alito's opining, apparently at the behest of his friend and ally's lawyer, props up an argument being used to block inquiry into undisclosed gifts and travel received by Justice Alito. At the end, Justice Alito is the beneficiary of his own improper opining. This implicates Canon 2(B) strictures against improperly using one's office to further a personal interest: a justice obstructing a congressional investigation that implicates his own conduct.

The Senate Judiciary Committee's investigation encompasses reports that Justice Alito accepted but did not disclose gifts of travel and lodging valued in the tens of thousands of dollars. Further investigation may reveal additional information that Justice Alito would prefer not come to light. The facts as already reported suggest that Justice Alito likely violated the financial disclosure requirements of the Ethics in Government Act.[27] Perhaps Justice Alito should also have recused himself as required by the recusal statute in a 2014 case involving a company owned by Paul Singer, one of the billionaires who attended and paid for his Alaskan fishing vacation.[28] Justice Alito's public suggestion that these laws are unconstitutional as applied to the Supreme Court, and that Congress lacks authority to amend them or investigate their implementation or enforcement, appears designed to impede Senate efforts to investigate these and other potential abuses.

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[25] Letter from Sen. Richard J. Durbin et al., *supra* note 1.
[26] Justin Elliott, Joshua Kaplan, & Alex Mierjeski, *Justice Samuel Alito Took Luxury Fishing Vacation With GOP Billionaire Who Later Had Cases Before the Court*, PROPUBLICA (June 20, 2023), https://www.propublica.org/article/samuel-alito-luxury-fishing-trip-paul-singer-scotus-supreme-court.
[27] *See* 5 U.S.C. §§ 13101, *et seq.*
[28] Elliott, Kaplan, & Mierjeski, *supra* note 26; *see* 28 U.S.C. § 455.

* * *

Conclusion

In the worst case facts may reveal, Justice Alito was involved in an organized campaign to block congressional action with regard to a matter in which he has a personal stake. Whether Justice Alito was unwittingly used to provide fodder for such interference, or intentionally participated, is a question whose answer requires additional facts. The heart of any due process is a fair determination of the facts. Uniquely in the whole of government, the Supreme Court has insulated its justices from any semblance of fair fact-finding. The obstructive campaign run by Mr. Rivkin and Mr. Leo, fueled by Justice Alito's opining, appears intended to prevent Congress from gathering precisely those facts.

As you have repeatedly emphasized, the Supreme Court should not be helpless when it comes to policing its own members' ethical obligations. But it is necessarily helpless if there is no process of fair fact-finding, nor independent decision-making. I request that you as Chief Justice, or through the Judicial Conference, take whatever steps are necessary to investigate this affair and provide the public with prompt and trustworthy answers.

Sincerely,

SHELDON WHITEHOUSE
Chairman
Senate Judiciary Subcommittee on
Federal Courts, Oversight, Agency Action, and
Federal Rights

Enclosure

cc: The Honorable Samuel A. Alito, Jr., Associate Justice, Supreme Court of the United States
The Honorable Clarence Thomas, Associate Justice, Supreme Court of the United States
The Honorable Sonia Sotomayor, Associate Justice, Supreme Court of the United States
The Honorable Elena Kagan, Associate Justice, Supreme Court of the United States
The Honorable Neil M. Gorsuch, Associate Justice, Supreme Court of the United States
The Honorable Brett Kavanaugh, Associate Justice, Supreme Court of the United States
The Honorable Amy Coney Barrett, Associate Justice, Supreme Court of the United States
The Honorable Ketanji Brown Jackson, Associate Justice, Supreme Court of the United States
The Honorable Roslynn R. Mauskopf, Secretary, Judicial Conference of the United States

BakerHostetler

Baker&Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5403
T 202.861.1500
F 202.861.1783
www.bakerlaw.com

David B. Rivkin, Jr.
direct dial: 202.861.1731
drivkin@bakerlaw.com

July 25, 2023

VIA ELECTRONIC MAIL

The Honorable Richard Durbin
Chairman
Senate Judiciary Committee
United States Senate
221 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sheldon Whitehouse
Chairman
Subcommittee on Federal Courts, Oversight, Agency Action, and Federal Rights
United States Senate
221 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Response to July 11, 2023 Letter to Leonard Leo

Dear Chairman Durbin and Senator Whitehouse:

We write on behalf of Leonard Leo in response to your letter of July 11, 2023, which requested information concerning Mr. Leo's interactions with Supreme Court Justices. We understand this inquiry is part of an investigation certain members of the Senate Judiciary Committee have undertaken regarding ethics standards and the Supreme Court. While we respect the Committee's oversight role, after reviewing your July 11 Letter, the nature of this investigation, and the circumstances surrounding your interest in Mr. Leo, we believe that your inquiry exceeds the limits placed by the Constitution on the Committee's investigative authority.

Your investigation of Mr. Leo infringes two provisions of the Bill of Rights. By selectively targeting Mr. Leo for investigation on a politically charged basis, while ignoring other potential sources of information on the asserted topic of interest who are similarly situated to Mr. Leo but have different political views that are more consistent with those of the Committee majority, your inquiry appears to be political retaliation against a private citizen in violation of the First Amendment. For similar reasons, your inquiry cannot be reconciled with the Equal Protection component of the Due Process Clause of the Fifth Amendment. And regardless of its other constitutional infirmities, it appears that your investigation lacks a valid legislative purpose, because the legislation the Committee is considering would be unconstitutional if enacted.

The Committee's Inquiry Raises Serious First Amendment Concerns

Bedrock constitutional principles dictate that "no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." *W. Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943). In the guise of conducting an investigation concerning Supreme Court ethics, the Committee appears to be targeting Mr. Leo because of disagreement with his political activities and viewpoints on issues pertaining to our federal judiciary. An investigation so squarely at odds with the First Amendment cannot be maintained.

Mr. Leo is entitled by the First Amendment to engage in public advocacy, associate with others who share his views, and express opinions on important matters of public concern. "[T]he freedom to think and speak is among our inalienable human rights." *303 Creative LLC v. Elenis*, 143 S. Ct. 2298, 2311 (2023). Indeed, expressive activity of this kind is afforded the greatest protection possible. *See Connick v. Myers*, 461 U.S. 138, 145 (1983) ("[S]peech on public issues occupies the 'highest rung of the heirarchy [sic] of First Amendment values,' and is entitled to special protection." (quoting *NAACP v. Claiborne Hardware Co.*, 458 U.S. 886, 913 (1982)). Yet Mr. Leo has, for years, been the subject of vicious attacks by members of Congress, specifically including members of the Committee majority, because of how he chooses to exercise his rights. In reference to Mr. Leo's public advocacy work, for example, Senator Whitehouse has called Mr. Leo the "little spider that you find at the center of the dark money web." Senator Sheldon Whitehouse, Remarks on the Floor of the United State Senate (Sept. 13, 2022). Similar remarks from Senator Whitehouse and others are too numerous to recount.

This campaign of innuendo and character assassination has now moved beyond angry speeches and disparaging soundbites. In the July 11 Letter, Committee Democrats have now wielded the investigative powers of Congress to harass Mr. Leo for exercising his First Amendment rights. That transforms what has to this point been a nuisance occasioned by intemperate rhetoric into a constitutional transgression.

"[T]he First Amendment prohibits government officials from subjecting an individual to retaliatory actions for engaging in protected speech." *Nieves v. Bartlett*, 139 S. Ct. 1715, 1722 (2019) (quotation omitted). Thus, an official is prohibited from "tak[ing] adverse action against someone based on" that person's expressive activity. *Id.* This bar against retaliatory action applies to Congress as much when it acts in its investigative capacity as when it legislates. *See Barenblatt v. United States*, 360 U.S. 109, 126 (1959) ("[T]he provisions of the First Amendment . . . of course reach and limit congressional investigations.").

The Committee's investigation into Mr. Leo's relationship with Justice Alito quite clearly constitutes an adverse action for purposes of the First Amendment. The burden created by a congressional inquiry is significant. *See Watkins v. U.S.*, 354 U.S. 178, 197 (1957) ("The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference."). It can chill expressive

activity and infringe on First Amendment rights. *See, e.g.*, *Smith v. Plati*, 258 F.3d 1167, 1176 (10th Cir. 2001) ("Any form of official retaliation for exercising one's freedom of speech, including prosecution, threatened prosecution, bad faith investigation, and legal harassment, constitutes an infringement of that freedom."); *see also United States v. Hansen*, 143 S. Ct. 1932, 1963 (2023) (Jackson, J., dissenting) (noting that an investigative letter sent by members of Congress "can plainly chill speech, even though it is not a prosecution (and, for that matter, even if a formal investigation never materializes).").

It seems clear that this targeted inquiry is motivated primarily, if not entirely, by a dislike for Mr. Leo's expressive activities. Retaliatory motive can be shown in at least two ways: (1) where the "evidence of the motive and the [adverse action] [are] sufficient for a circumstantial demonstration that the one caused the other," *Hartman v. Moore*, 547 U.S. 250, 260 (2006); or (2) where "otherwise similarly situated individuals not engaged in the same sort of protected speech" were not subjected to the same adverse action, *Nieves*, 139 S. Ct. at 1727. Both circumstances are present here.

As noted, Mr. Leo and the groups with which he is affiliated have been subjected to a barrage of disparaging remarks because of their views on judicial nominations and other judicial matters. Sen. Whitehouse has attacked "creepy right-wing billionaires who stay out of the limelight and let others, namely Leonard Leo and his crew, operate their" supposed "far-right scheme to capture and control our Supreme Court." Senator Sheldon Whitehouse, Remarks on the Floor of the United State Senate (July 12, 2023). Senator Durbin has similarly decried "Leonard Leo and the Federalist Society" for their "joint effort [with] very conservative groups, special interest, dark money groups, and the Republican party" to shape "what will be the future of the court." Senator Richard Durbin, Interview with the Washington Post (July 13, 2023). And perhaps most tellingly, the present investigation was announced with a statement titled "Whitehouse, Durbin Ask Leonard Leo and Right-Wing Billionaires for Full Accounting of Gifts to Supreme Court Justices." Sens. Richard Durbin and Sheldon Whitehouse, Press Statement (July 12, 2023).

These explicitly political attacks, and others like them, made over the course of many years and reaching a crescendo in the days immediately following the transmission of the letter to Mr. Leo, provide an ample basis for concluding that the July 11 Letter is animated by animus toward "conservative" "Right-Wing" views and organizations, rather than a purely genuine concern about Supreme Court ethics. *See Lyberger v. Snider*, 42 F.4th 807, 813 (7th Cir. 2022) (explaining that statements from officials who took adverse action can demonstrate retaliatory motive). The circumstances of the Committee's investigation show that "retaliatory animus actually caused" the adverse action taken against Mr. Leo. *Nieves*, 139 S. Ct. at 1723.

This conclusion is confirmed by the targeted and one-sided nature of the investigation. Despite professing interest in potential ethics violations and influence-peddling at the Supreme Court, the Committee has focused its inquiries on individuals who have relationships with Justices appointed by Republican Presidents. Reported instances of Democrat-appointed Justices

accepting personal hospitality or other items of value from private individuals have been ignored. Here are some examples:

- In 2019, Justice Ruth Bader Ginsburg was given a $1 million award by the Berggruen Institute, an organization founded by billionaire investor Nicolas Berggruen. *See* Andrew Kerr, *Ruth Bader Ginsburg's Mysterious $1 Million Prize*, Washington Free Beacon (July 19, 2023). Justice Ginsburg used the money to make donations to various charitable causes of her choosing, most of which remain unknown. *See id.*

- Between 2004 and 2016, Justice Stephen Breyer took at least 225 trips that were paid for by private individuals, including a 2013 trip to a private compound in Nantucket with billionaire David Rubenstein, who has a history of donating to liberal causes. *See* Marty Schladen, *U.S. Supreme Court justices take lavish gifts — then raise the bar for bribery prosecutions*, Ohio Capital Journal (April 26, 2023).

- On September 30, 2022, the Library of Congress hosted an expensive investiture celebration for Justice Ketanji Brown Jackson that was funded by undisclosed donors. *See* Houston Keene, *Library of Congress explains why it hosted Jackson investiture but not for Gorsuch, Kavanaugh, Barrett*, Fox News (Sept. 30, 2022).

- On two occasions, Justice Sonia Sotomayor failed to recuse herself from cases involving her publisher, Penguin Random House, which had paid her $3.6 million for the right to publish her books. *See* Victor Nava, *Justice Sonia Sotomayor didn't recuse herself from cases involving publisher that paid her $3M: report*, N.Y. Post (May 4, 2023).

- Justice Sonia Sotomayor used taxpayer-funded Supreme Court personnel to promote sales of her books, from which she earned millions of dollars, including at least $400,000 in royalties. *See* Brian Slodysko & Eric Tucker, *Supreme Court Justice Sotomayor's staff prodded colleges and libraries to buy her books*, Associated Press (July 11, 2023).

- Throughout her tenure on the Supreme Court, Justice Ruth Bader Ginsburg maintained a close relationship with the pro-abortion group National Organization for Women ("NOW"), which frequently had business before the Court. *See* Richard A. Serrano & David G. Savage, *Ginsburg Has Ties to Activist Group*, Los Angeles Times (Mar. 11, 2004). Among other things, Justice Ginsburg helped the organization fundraise by donating an autographed copy of one of her decisions, and contributed to its lecture series, even as she participated in cases in which NOW filed amicus briefs. *See id.*; Katelynn Richardson, *Here Are the Times Liberal Justices had Political Engagements that Were Largely Ignored by Democrats*, Daily Caller (May 5, 2023).

None of these incidents has resulted in inquiries from the Committee. Yet, Committee Democrats have not meaningfully distinguished these examples from the supposed ethics lapses committed by Republican-appointed Justices that are the focus of the Committee's investigation. Moreover, for all of Committee Democrats' statements disparaging Mr. Leo for his First Amendment-protected advocacy pertaining to the law and the judiciary, they have evinced no interest in investigating the largest "dark money" network in American politics, that associated with the Democratic Party-aligned Arabella Advisors. *See* Emma Green, *Democrats Have Made Their Peace With Dark Money*, The Atlantic (Nov. 2021). Nor have they pursued the new Democratic Party-aligned coalition of "dark money" groups established specifically to "mold the [Supreme Court's] future." Adam Edelman, Dem-aligned groups launch campaign to keep Supreme Court front of mind in 2024, NBC News (June 12, 2023). To the contrary, Sen. Whitehouse—who has repeatedly attacked Mr. Leo for his advocacy—"praised the new campaign as a tool that could help combat" his policy opponents' advocacy. *Id.*

Where, as here, the scrutiny of an investigation is aimed at only one side of the political spectrum, it is a fair inference that politics is the motivating factor. *See O'Brien v. Welty*, 818 F.3d 920, 935 (9th Cir. 2016) (holding that university's decision to block a student with a "conservative point of view" "from posting about certain issues" on a school forum "while at the same time allowing posts expressing left-leaning viewpoints to remain" supported inference of First Amendment retaliation).

The Committee's failure to make any inquiries into similar incidents involving Democrat-appointed Justices is all the more troubling when juxtaposed against the focus of the Committee's questions to Mr. Leo. The July 11 Letter was apparently spurred by a report about a single fishing trip that Mr. Leo took with Justice Alito *over fifteen years ago*. Even assuming that trip is somehow relevant to present concerns about Supreme Court ethics, the connection is highly attenuated, focused on "an object remote" from purported "legitimate concerns" about ethics standards. *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 535 (1993). The notion that a fishing trip a decade and a half ago is more pertinent to the Committee's current work than a $1 million award given to a Justice less than four years ago is not plausible and bolsters the conclusion that the Committee's inquiries are motivated by its distaste for Mr. Leo's political views. *Cf. Brown v. Ent. Merchants Ass'n*, 564 U.S. 786, 802 (2011) ("Underinclusiveness raises serious doubts about whether the government is in fact pursuing the interest it invokes, rather than disfavoring a particular speaker or viewpoint.").

The Committee's Inquiry Violates Equal Protection

The Equal Protection component of the Due Process Clause of the Fifth Amendment prohibits government actions that are "based on 'an . . . arbitrary classification.'" *United States v. Armstrong*, 517 U.S. 456, 464 (1996) (quoting *Oyler v. Boles*, 368 U.S. 448, 456 (1962)). That protection extends to individuals who are not part of a protected class, *see Vill. of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000), such as where unfavorable government action is taken because of "malicious or bad faith intent to injure" a particular person, *Cobb v. Pozzi*,

363 F.3d 89, 110 (2d Cir. 2004); *see also Mimics, Inc. v. Vill. of Angel Fire*, 394 F.3d 836, 849 (10th Cir. 2005) (finding equal protection violation where differential treatment of "class of one" was undertaken "out of sheer malice"). And like the First Amendment, the protections of the Fifth Amendment fully apply in the context of a congressional investigation. *See Quinn v. United States*, 349 U.S. 155 (1955).

An unlawful, discriminatory exercise of government power occurs where a person is "intentionally treated differently from others similarly situated and . . . there is no rational basis for the difference in treatment." *Olech*, 528 U.S. at 564. For reasons already given, those conditions are met here. Mr. Leo is clearly being treated differently from similarly-situated individuals who also have close personal relationships with Supreme Court Justices or who have travelled privately with a Justice. Whereas Mr. Leo is now the subject of a congressional inquiry, the many individuals and organizations who have facilitated travel for Democrat-appointed Justices, or exchanged gifts or personal hospitality with those Justices, are apparently immune from the Committee's attention. These are clearly individuals and organizations "who engaged in similar conduct" to Mr. Leo. *United States v. Blackley*, 986 F. Supp. 616, 618 (D.D.C. 1997) (emphasis omitted). Yet their treatment by the Committee is vastly different from its treatment of Mr. Leo.

The Committee's focus on Mr. Leo has sometimes been explained with reference to "dark money" and "phony front groups" that are supposedly out to "capture" the Supreme Court. Senator Sheldon Whitehouse, Remarks on the Floor of the United State Senate (Sept. 13, 2022). But no member of the Committee's Majority has expressed similar concern about liberal organizations like Arabella Advisors that fully merit the "dark money" label, and that use their clout to advocate for judicial reforms favored by progressives. *See* Emma Green, *The Massive Progressive Dark-Money Group You've Never Heard Of*, The Atlantic (Nov. 2, 2021); Editorial Board, *The Stifle Speech Act of 2022*, Wall Street Journal (Sept. 22, 2022). Again, the politically based difference in treatment is unmistakable and telling.

Further, as we have already described at length, Committee Democrats have an extensive record of vilifying Mr. Leo for his lawful public advocacy, attacking him in the harshest possible partisan terms. It is hard to conclude that the disparate treatment to which Mr. Leo is being subjected is the result of anything other than "sheer vindictiveness" motivated by politics. *Esmail v. Macrane*, 53 F.3d 176, 178 (7th Cir. 1995). It therefore violates Equal Protection.

The Committee Lacks a Valid Legislative Purpose

Congress cannot conduct an investigation in connection with legislation that it cannot constitutionally enact. *See United States v. Rumely*, 345 U.S. 41, 45 (1953). Thus, a bill that, if enacted, would be unconstitutional cannot supply the Committee with a valid legislative purpose for its investigation. *See Quinn*, 349 U.S. 155, 161. That is true of the *Supreme Court Ethics, Recusal, and Transparency Act of 2023* ("Ethics Bill"), which the Committee, on purely partisan

lines, ordered reported on July 20, 2023. The Committee's inquiry is therefore impermissible for reasons independent of the infringement of Mr. Leo's constitutional rights.

The Ethics Bill would, among other things, establish a process by which private individuals could file complaints against Supreme Court Justices, and would empower lower court judges to rule on those complaints. *See* S. 359, 118th Cong. (2023). That arrangement offends basic separation of powers principles in at least two ways. First, it would elevate lower court judges to the position of overseers of the Supreme Court, turning upside down the hierarchy of the judicial branch mandated by the Constitution. *See* U.S. Const. art. III, § 1. Second, the bill's complaint process would work as an engine for generating continuous harassment of Supreme Court Justices, who could be deluged with frivolous ethics complaints that would distract them from their constitutional duties. *See Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2034 (2020) (explaining that separation of powers principles are implicated where Congress harasses a coordinate branch in the performance of its duties).

More generally, any attempt by Congress to enact ethics standards for the Supreme Court would falter on constitutional objections. There is no enumerated power in Article I of the Constitution that authorizes Congress to regulate the inner workings of the Supreme Court. *See* U.S. Const. art. I. Ethics standards imposed by Congress on the Supreme Court would therefore necessarily be unconstitutional. *See New York v. United States*, 505 U.S. 144, 177 (1992) (holding congressional action unlawful where it "l[ies] outside Congress' enumerated powers"). Likewise, regardless of their particulars, any ethics standards Congress may enact would raise separation of powers concerns of sufficient magnitude to render them invalid. *See Humphrey's Ex'r v. United States*, 295 U.S. 602, 629 (1935) (holding that each branch of government must be "entirely free from the control or coercive influence, direct or indirect" of the other branches). The fact that Congress has already enacted laws that purport to impose ethics standards on the Justices does not change this conclusion. The legality of those laws has never been tested in court. And as Chief Justice Roberts has made clear, the Supreme Court has never acquiesced to Congress's assertion of authority over the Court's ethics standards, and Congress of course cannot expand its own power under the Constitution by passing an unconstitutional statute.

* * *

The Senate's investigative authority should, as a matter of both law and prudence, be exercised consistent with the freedoms guaranteed to every American by the Bill of Rights. Turning the Senate into a "platform of irresponsible sensationalism" where an individual's "right to hold unpopular beliefs" and "right of independent thought" are disregarded is a course that we know from past experience can serve no good end. Senator Margaret Chase Smith, Declaration of Conscience (June 1, 1950). We will not be part of that journey.

Sincerely,

David B. Rivkin, Jr.
Partner

Exhibit 2

No. 22-7695 Kelly v PA ODC Motion to correct the record and to preserve 1st Amendment waiver to petitition

From: Meg Kelly (meghankellyesq@yahoo.com)

To: rmeek@supremecourt.gov; harriet.brumberg@pacourts.us; anthony.sodroski@pacourts.us

Cc: meghankellyesq@yahoo.com; zi-xiang.shen@delaware.gov; supremectbriefs@usdoj.gov

Date: Wednesday, September 6, 2023 at 10:14 AM EDT

Good morning,

Attached please find a motion to correct the record, wherein I request the Court also refrain from answering Senator Whitehouse's September 4th petition

2. Exhibit A Press releases from the Federal Reserve showing the reserve requirement was reduced from 10 Percent to zero creating conditions that will make banks fail should people request their deposits
3. Exhibit B Excerpts from the World Economic Forum Founder's Klaus Schwabb and Thierry Mallerett's Book The Great Narrative regarding elimination of the dollar and the Central bank's judicial power unrestrained by the courts and limited by their "own imagination"
4. Exhibit C Whitehouse's complaint against Justice Alito.

Robert Meek, I do not have money or stamps to respond to amicus briefs. I had to ask the courts to consider saving itself and the rule of law to save me and the world herein instead of potentially fighting congress in my other two cases by amicus briefs.

I am acting hastily and even imperfectly to assert my rights in order not to waive them. I would rather do something in the face of grave threats not only to myself but to the entire world than do nothing. I am sorry if I let this Court down since I am such a poor typist and write in haste.

On an aside my mom and dad contracted covid over the Labor Day weekend. They live in Florida. I live in Delaware, but my mom was intending to visit on the 20th. I am a bit scared I may get sick should she still visit me Robert Meek. I will keep you and all opposing counsels informed should there be a risk.

I am also concerned they may die since they are very old. My dad has a surgical procedure scheduled September 15th. They behave like they are superman because they took the vaccine. They misbehave and are not super beings immune from sickness and death. I am quite sad they do not feel well because I love them.

On an aside, I am not sick, but I am dangerously dehydrated due to the surgery I had as a youth and assert my religious exercise to live and not die for the vanity of people in all courts. Every month I lose five pounds of water weight and I collapse if I am not afforded time to drink gallons not cups of water. It is a matter of life and death for me for more than 20 years. I believe people sin by referring people to doctors, or blindly telling people to pay or professional or pay for a product. I have religious objections to healthcare and science when they are made demi-gods.

I believe people sin leading to hell when they tell others to blindly trust the experts, professionals, products or man's creation technology, science should they not repent. See Romans 1:25. I believe it is idolatry making man and man's creation God in place of God. It serves what I believe is the mark of the beast business greed, sacrificing people or free will for the forced will at what is profitable at the cost of human life, liberty or health under the lie of saving it by making people and their products above court correction when they kill, steal or destroy for the bottom line. It is basically barbaric human sacrifice for material gain, same as throwing people in a volcanoes under the belief in a lie it will help crops.

I prefer the people think things out, not blindly trust professionals dumbed down b standardization or training who do not care to think outside the standards when they may harm human life, liberty or health. It is blindness Jesus speaks of blinded for money for a paycheck to provide for their own or convenience. This dumbing down by standards prevents people from seeing clearly based on truth not a barter or exchange by exchanging every

freedom for material gain by standardization.

Thank you for understanding I keep myself separate by not doing what others do when I believe it is sin.

Thank you.

With sadness and yet hope,
Meg
Meghan Kelly
34012 Shawnee Dr
Dagsboro, DE 19939
(302) 493-6693
meghankellyesq@yahoo.com

Motion to correct the Writ.docx
22.9kB

Motion correct an error and to preserve 1st Amendment rt to petition without elimination by Whithouses Complaint.pdf
22.4MB

Certificate of service September 6 2023.pdf
657.3kB

Postal tracking Sept 6 Motion to correct and please do not ans Senator.pdf
443.8kB

Exhibit 3

UNITED STATES POSTAL SERVICE.

OCEAN VIEW
35764 ATLANTIC AVE
OCEAN VIEW, DE 19970-9998
(800)275-8777

09/06/2023 09:44 AM

Product	Qty	Unit Price	Price
First-Class Mail® Large Envelope	1		$2.79
Philadelphia, PA 19103			
Weight: 0 lb 6.10 oz			
Estimated Delivery Date			
Fri 09/08/2023			
Affixed Postage			-$2.64
Affixed Amount: $2.64			
Total			$0.15
USPS Grnd Advtg	1		$10.65
Washington, DC 20543			
Weight: 4 lb 0.20 oz			
Estimated Delivery Date			
Fri 09/08/2023			
Tracking #:			
9534 6149 9861 3249 2201 17			
Insurance			$0.00
Up to $100.00 included			
Affixed Postage			-$9.90
Affixed Amount: $9.90			
Total			$0.75
Grand Total:			$0.90
Cash			$1.00
Change			-$0.10

9534
6149
9861
3249
2201
17

Text your tracking number to 28777 (2USPS) to get the latest status. Standard Message and Data rates may apply. You may also visit www.usps.com USPS Tracking or call 1-800-222-1811.

Save this receipt as evidence of insurance. For information on filing an insurance claim go to https://www.usps.com/help/claims.htm or call 1-800-222-1811

Preview your Mail
Track your Packages
Sign up for FREE @
https://informeddelivery.usps.com

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Tell us about your experience.
Go to: https://postalexperience.com/Pos
or scan this code with your mobile device,

or call 1-800-410-7420.

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

Meghan Kelly Plaintiff, v. Disciplinary Counsel Patricia B. Swartz, et.al Defendants.	Civil Action No.: 1:21-1490 (CFC)

CERTIFICATE OF SERVICE OF
PLAINTIFF MEGHAN KELLY'S 77th AFFIDAVIT UPDATE

I, Meghan M. Kelly, Esquire, hereby certify on 9/6/2023, I had a true and correct copy of the above referenced document, served to Defendants, through their counsel through email electronically:

Zi-Xiang Shen
Delaware Department of Justice
820 North French Street
6th Floor
Wilmington, DE 19801

Dated 9/6/2023

Respectfully submitted,
Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct.

Dated: 9/6/2023
Meghan Kelly (printed)
Meghan K (signed)

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

Meghan Kelly Plaintiff, v. Disciplinary Counsel Patricia B. Swartz, et.al Defendants.	))))))	Civil Action No.: 1:21-1490 (CFC)

PLAINTIFF MEGHAN KELLY'S 124th AFFIDAVIT UPDATE

Comes now Plaintiff Meghan Kelly, I declare and affirm that the foregoing statement is true and correct.

1. I apologize for the typos in the 123rd affidavit. I was writing in haste without sleep I was so upset and remain upset.

2. On November 23, 2023 I checked the electronic filing side and saw that my application to emergency clerk Robert Meek and Justice Alito were rejected for filing as of November 23, 2023. (Exhibit A). Since I was eagerly checking every day and this is the first I saw rejection. It is possible it may have been rejected because it was in letter format, but other applications to emergency clerk's were similarly submitted and accepted.

3. I left a message with Lisa Nesbitt and Robert Meek to gain clarification on the rejection and to swiftly correct any deficiency so as not to waive my rights on November 23, 2023.

4. On November 23, 2023 I also called the efiling staff at the US Supreme Court regarding another issue why I could not access the electronic filing on the Nov 6th Supplemental brief that I dropped off at the US Supreme Court in person, which to date has not been accounted for. Per Exhibit A, you can see the documents in red are inaccessible to me on the electronic filing system. The efiling clerk sought to dissuade me from exercising my 1st Amendment right to petition regarding the application to Alito indicating the case was closed and was over. I

responded I must assert my right, and reopen it. Then she indicated that was off topic since it was not electronic filing, while I remained silent and she quickly concluded and hung up on me before I could say good bye. As an attorney, I know some argue if you do not dispute allegations they may be deemed admissions incorrectly, though they shouldn't be. I was not off topic merely rebutting her assertions.

5. I am freaked out Nicole Traini, the Clerk of Court for the PA Supreme Court in Pittsburgh, PA indicated the clerk's talk to one another. The PA Court inappropriately denied my motions relating to my assertions for accommodations for my religious beliefs and health, which I averred in the Supplemental brief while attaching proof of the deprivation of my procedural due process applicable to the state via the 14th Amendment. I even asserted an ADA accommodation because I want to die for the vanity of lawless man whose evil eyes are focused on convenience, avoidance of costs, at the exchange of sacrificing of the lives and liberties they swore an oath to protect by upholding the constitution. See Matthew 6:22-23 concerning Jesus's teachings of the evil eye revealing a dirty covetous heart not full of love but yucky lusts for comfort and material gain indifferent of harm or human sacrifice of life, liberty or health of other people God loves. This is a type of lawlessness that leads to certain damnation in the fires of hell without repentance, even thinking this way is sin to God.

6. I believe it was wrong for the US Supreme Court staff to reject motions I filed simultaneously with petitions for writ of certiorari by not docketing it, just like I believe it was wrong for the PA Supreme Court to not docket motions I filed merely because they thought my accommodations for time based on religious beliefs in part my exercise of the right to live without harm to health is a religious exercise and to prevent vitiating my access to the courts to fairly petition to defend fundamental rights but for the denial of the accommodation in the form

of time, and exemptions of costs on religious grounds against compelled violations of one fundamental right in exchange for another when freedoms are not for sale despite the lies of the devil which misguided, lawless people teach that you must buy or earn that which is free. Not everyone is a child of God. We are all born children of the devil, in need of salvation from death. *Psalm* 51:5 states that we all come into the world as sinners: "Behold, I was brought forth in iniquity, and in sin my mother conceived me." *Ephesians* 2:2 says that all people who are not in Christ are "sons of disobedience." *Ephesians* 2:3 also establishes this, saying that we are all "by nature children of wrath." Not all people are born again and made clean by repentance, but we all have a choice we must independently each make. See, *Deuteronomy* 30:19 ("I call heaven and earth to record this day against you that I have set before you life and death, blessing and cursing. Therefore choose life, that both thou and thy seed may live")

7. The PA Clerk did not docket the motions. Josh the case manager for the matter indicated the judges will not review items not docketed as filed. Similarly, the supplemental brief was not docketed or rejected. It matters not that the US Supreme Court may choose to look at undocketed submissions. Just like Josh indicated they placed my undocketed in PA Supreme Court motions in the sleeve of the file, the US Supreme Court will not review undocketed information especially in light of reviewing hundreds of filings at one conference. I was deprived of a fair opportunity to be heard in violation of procedural due process applicable to the US Supreme Court because it neither accepted or rejected the November 6th filing . It was not docketed as of the date of the conference despite the rules indicating it would be deemed considered so long as I submitted it prior to the date of finality. Rule 25.6.

8. I am eager to see whether the court explained the deficiency with regards to the application to reopen the case as not to deprive me of procedural due process in the US Supreme Court matter.

9. I am concerned the Court may be trying to insulate the lower courts from being bound by the Constitutional Rule of law to aide PA Courts and itself as a partial forum to rebut an argument contained in the unaccounted for Nov. 6, 2023 petition, *Petitioner Meghan M. Kelly's Supplemental Brief to provide additional information not previously available on how private partnerships with the UN is schemed to be used to eliminate judicial authority in open and by stealth, Petitioner's belief the courts are in danger especially with the debt ceiling approaching November 17, 2023 with no agreement to date, and the convening of Congress October 19, 2023 to attack Justice Thomas and the integrity of the court by subpoenaing witnesses to be used against Justice Thomas and the Court, dated 11/6/23, regarding denying the 1st Amendment right to petition by not docketing pleadings.*

10. I filed a bunch of motions with the US Supreme Court which I believe were not docketed in error as a matter of law I suspect to create precedent for the PA Supreme Court clerk's error, including a petition to exempt the paper copy requirement.

11. The US Supreme Court previously docketed a petition to excuse the paper copies requirement, held it had authority to grant it, but denied it based on the facts of the case. *Snider v. All State Administrators*, 414 U.S. 685 (1974) ("While we undoubtedly have authority to waive the application of particular rules in appropriate circumstances, we have during this Term denied a considerable number of similar motions. Typically in each of these cases the moving petitioner made generalized allegations of inability to afford payment of printing costs, but made no showing sufficient") My case is distinguished from the case where the court denied the

request to eliminate paper copies in order to assert the need is to protect my 1st Amendment right to religious belief in addition to access to the courts and other claims, which this claimant did not appear to do sufficiently. *See, Snider v. All State Administrators*, 414 U.S. 685 (1974) ("Petitioner Snider has filed a motion to dispense with the printing of the petition for certiorari as required by our Rule 39. He has filed no motion and affidavit") If the Court previously docketed a petition regarding exemption from additional paper copies, indicated it had authority to consider it, it arguably has authority to consider it and docket it in my case too.

12. Nevertheless the US Supreme Court did not docket my similar filing I attach hereto as Exhibit B and incorporated herein by reference please find, *Petitioner Meghan M. Kelly's Motion for an exemption from the requirement to serve 10 paper copies of pleadings with this Court pursuant to Rule 12(2), 29(1), and 39(2), by the filing of one paper copy, and in addition to, or in the alternative of, permission to serve the United States Supreme Court electronically without a paper copy for future filings, due to costs relating to printing, mailing and transporting pleadings to the Post Office, creating a substantial burden upon my access to the Court's to defend my exercise of fundamental rights, and forced violation of religious beliefs by the threat of indebtedness* and per the US Supreme Court letter rejecting the filing for docketing also attached hereto. (Exhibit B).

13. Similarly the attached *Petitioner Meghan M Kelly's Motion for permission to use electronic filing before this Honorable Court, even if my active license to practice law is suspended, in representing myself, in appeals of State Disability Proceedings and in a potential Disability proceeding before this Court, and in all proceedings I act pro se in, including civil rights proceedings and for a waiver of the paper original requirement, to prevent unaffordable costs from becoming a substantial burden upon my access to the courts, and compelled violation*

of my religious beliefs against indebtedness in order to exercise my right to petition the Court in my defense of the exercise of fundamental rights was similarly rejected for filing per the attached letter. (Exhibit C)

14. The attached *Petitioner Meghan Kelly's Motion for Leave to file Different in Forma Pauperis Motion to waive costs due to utter poverty, and due to foreseeable costs creating a substantial burden upon Petitioner's access to the courts and forced violation of her religious beliefs by threat of indebtedness* was also rejected for filing, per the letter rejecting it.

15. The attached *Petitioner Meghan Kelly's Motion to exempt costs and waive Court fees under Supreme Court Rules 38 and 43 eliminate people lawyers and people judges by creating a foundation of immunity from debt or responsibility* incorporated herein as Exhibit E was also rejected for filing. My case manager indicated I would be required to exempt costs in my informa pauperis motion which I have complied with since learning she would not accept it despite my belief the Court should judge the motion, not the clerk. After all the Supreme Court has held every injury should have a resolution. Marbury v. Madison, 5 U.S. 137, 147 (1803) (" It is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress. 3 Bl. Com. 109. "). There is no resolution when petitions are not docketed just injustice by partiality by those who value lawless lusts convenience and material gain at the cost of human sacrifice of life, health or liberty. Lawyers and parties must require the courts uphold and not violate the Constitutional rule of law as well.

16. I also attach the letter to the US Supreme Court regarding asserting the 5th Amendment. The staff kindly indicated they accepted my 5th and to please sending boxes of filings to them.

17. I discovered the bad news that my application was rejected and realized I had to tell this Delaware District court my belief it was in imminent danger by legal entities lawyers in DE create. I provided this court forms in hopes it may understand how banks and their partners may conceal and resell nothingness debt no one will pay into infinity artificially creating value in something without worth to enslave the people to pay back what those in businesses have written off in debt swaps into infinity. The entities are preserved and are bankruptcy proof, liability proof, and above the law if you will by the nature of the springing member that hops into the place of the dissolved member or manager by operation of contract, allegedly arguably shielded by the contracts clause of the Constitution at the instant of dissolution or bankruptcy. I believe these "bankruptcy remote" entities will create a foundation for an economic overthrow I believe is schemed to transition in phases, with a worse transition after 2050. These will be utilized in the Ponzi scheme fashioned off of Bank of England who fashioned it off of the Knights of Templar who fashioned it off of Babylon's slave banking system, coining money out of nothing to require debt slavery to be paid back with interest to keep people enslaved to work to pay back the interest which can never be paid back because it does not exist. Every dollar is a federal reserve note an I owe you to the federal reserve. The Government and the people are essentially debtor slaves and nota free people for every dollar the government uses by borrowing form an entity that gains more power the worse off we are in by debt money the government gives to other entities, private who accept unjust gain government contracts or grants, in a forced not fair or free economy with limits in the form of the just rule of law that tame the beast sin business greed to prevent killing, oppressing, enslaving, stealing and destroying human life, health and liberty for the bottom line with justice in the courts to correct, preserve life and liberty, not destroy humanity.

18. Understand, the time to pay debt owed for the biggest bill falling due globally for the baby boomers retirement, and healthcare is falling due, but the banks, and the empty stocks with noting but I owe yous that are not likely to be paid should a bankruptcy boom occur and we move towards these dreadful beneficial entities that violate Matthew 6:1-4 which will mislead humanity to harm one another under the lie of helping the world, die to be doomed to hell should the courts not save us.

19. So, I am embarrassed for typing like the speed of lightening with my sausage fingers making typos trying to warn the court in haste. I am sorry. I am sorry for typos in this too as I write under duress.

20. Having not received a message back from my case manager, Lisa Nesbitt or Robert Meek from 11/22/23, I called both on 11/24/23 to gain clarity as to why my *Emergency Application to reopen 22-7695 to consider Supplemental Brief filed 11/6/23 in order not to deprive me of 1st Amend right to petition fully & fairly in accordance w/5th Amend before eliminating 1st Amend rights to religious beliefs & license*. I also desired clarification on why the submission on *Petitioner Meghan M. Kelly's Supplemental Brief to provide additional information not previously available on how private partnerships with the UN is schemed to be used to eliminate judicial authority in open and by stealth, Petitioner's belief the courts are in danger especially with the debt ceiling approaching November 17, 2023 with no agreement to date, and the convening of Congress October 19, 2023 to attack Justice Thomas and the integrity of the court by subpoenaing witnesses to be used against Justice Thomas and the Court.* No one answered their phone and I did not leave a message.

21. November 6, 2023 was rejected for filing and not docked as of the date of submission. I do not know what the US Supreme Court will advise as to my undocketed rejected application dated November 15, 2023. I cannot waive my rights.

22. So, I googled the attached law review article and learned I needed to file a second Motion for a Rehearing under Rule 44.2. That is what I did in this case, I filed 3 or 4 Motions for a rehearing or reagument.

23. One Supreme Court case a petitioner filed 3 Motions for rehearing, the US Supreme Court denied it thrice, a year later the US Supreme Court vacated the denial sua sponte to address a petition. See, *United States v. Ohio Power Co*., 353 U.S. 98 (1957) ("Certiorari denied October 17, 1955. Rehearing denied December 5, 1955. Rehearing again denied May 26, 1956. Order denying rehearing vacated June 11, 1956. Rehearing and certiorari granted and case decided April 1, 1957. ")

24. I have been in tears since November 13, 2023, ever since the US Supreme Court denied my Petition for Writ of Cert in the PA case while depriving me of 5th Amendment Procedural Due Process by simply not accepting or rejecting the supplemental brief that must be considered with or before the Petition for rehearing per Supreme Court Rule 25.6. Should it be rejected the Court is required to permit me to cure any defects with notice of rejection. *Citing, Becker v. Montgomery,* 532 U.S. 757, 767 (2001)

25. I hope the court's staff and opposing counsel enjoyed their time this Thanksgiving. I do not celebrate holidays because it violates God's laws revealed to me in part through the Bible.

26. In *Mark* 7:7-9 King James version Jesus explains

> "7Howbeit in vain do they worship me, teaching for doctrines the commandments of men. 8For laying aside the commandment of God, ye hold the tradition of men, as the

washing of pots and cups: and many other such like things ye do. 9And he said unto them, Full well ye reject the commandment of God, that ye may keep your own tradition."

27. In Jeremiah Chapter 10 the Old testament provides:

"1Hear the word that the LORD speaks to you, O house of Israel. 2This is what the LORD says: 'Do not learn the ways of the nations or be terrified by the signs in the heavens, though the nations themselves are terrified by them. 3For the customs of the peoples are worthless; **they cut down a tree from the forest**; it is shaped with a chisel by the hands of a craftsman. **4They adorn it with silver and gold and fasten it with** hammer and nails, **so that it will not totter.** 5Like scarecrows in a cucumber patch, their idols cannot speak. They must be carried because they cannot walk. Do not fear them, for they can do no harm, and neither can they do any good." 6There is none like You, O LORD. You are great, and Your name is mighty in power. 7Who would not fear You, O King of nations? This is Your due. For among all the wise men of the nations, and in all their kingdoms, there is none like You. **8But they are altogether senseless and foolish, instructed by worthless idols made of wood! 9Hammered silver is brought from Tarshish, and gold from Uphaz**— the work of a craftsman from the hands of a goldsmith. Their clothes are blue and purple, all fashioned by skilled workers. 10But the LORD is the true God; He is the living God and eternal King. The earth quakes at His wrath, and the nations cannot endure His indignation"

28. In Jeremiah Chapter 6 God says:

"6For this is what the LORD of Hosts says: 'Cut down the trees and raise a siege ramp against Jerusalem. This city must be punished; there is nothing but oppression in her midst."

29. I do not know what God means by cut down the trees. I think that men distort the word of God to give the deceptive appearance man's will reflecting the image of the lawless one the devil is God's will. Did you that in Israel people cut down trees because they taxed them?

30. Back to my religious beliefs. Jesus in Mark 7:8 says not to disobey God's law to please men by their traditions. God's laws in Jeremiah 10 says do not decorate trees with silver and gold to back the pagan worship of material things which includes Christmas trees.

31. I did not know I violated the law until Trump complained about it. He is the naughtiest most lawful man I ever observed in real life. He is likened to the dreaded King

Leopald of the Congo, Hitler or even Nero. So, I had to unharden my heart and head and discern why Trump distorted God's word and traditions for his political material vanity.

32. The courts are misguided when they rely on England's laws or Plato's instead of a more ancient people's laws by thinking things out to discern what upholds Constitutional laws as applied to the facts of each case. See, Deuteronomy 30:19 ("I call heaven and earth to record this day against you that I have set before you life and death, blessing and cursing. Therefore choose life, that both thou and thy seed may live"). We must protect free choice under the law, even God does that or at least the Israelites did, or there is no freedom, certainly to escape the way to hell by laying down our desires, to think, to care to unconditionally love. Those who make everything a matter of barter or exchange are lawless people enslaved to lusts and death in hell, not free. And yet, the courts must protect their freedom to make bad choices with the limit they may not enslave others by oppression, killing, stealing or destroying other constitutionally protected people's lives, health or liberty.

33. The entire carbon credit debit system removes government power from the government to its private and foreign partners who will eliminate the government down the line should the courts not stop it.

34. In order to maintain freedom there must be independence not deferral to the other two branches, and independence from private and foreign partners.

35. On an aside, attached please find an email to confirm I sent the sealed documents to opposing counsel.

36. Thank you for your time and consideration of my beliefs and thoughts. I truly believe the courts are in trouble, meaning we all are in trouble. There is no freedom without people judges, just reign by lawless lusts by those who enslave a no longer free people to bend to

their dictates or go without the necessities of life. We face lawlessness under the veil of freedom by utter control and complete order, Satan's design. 1 John 5:19

Respectfully submitted,

Dated 11/24//23

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under Religious objection I declare, affirm that the foregoing statement is true and correct

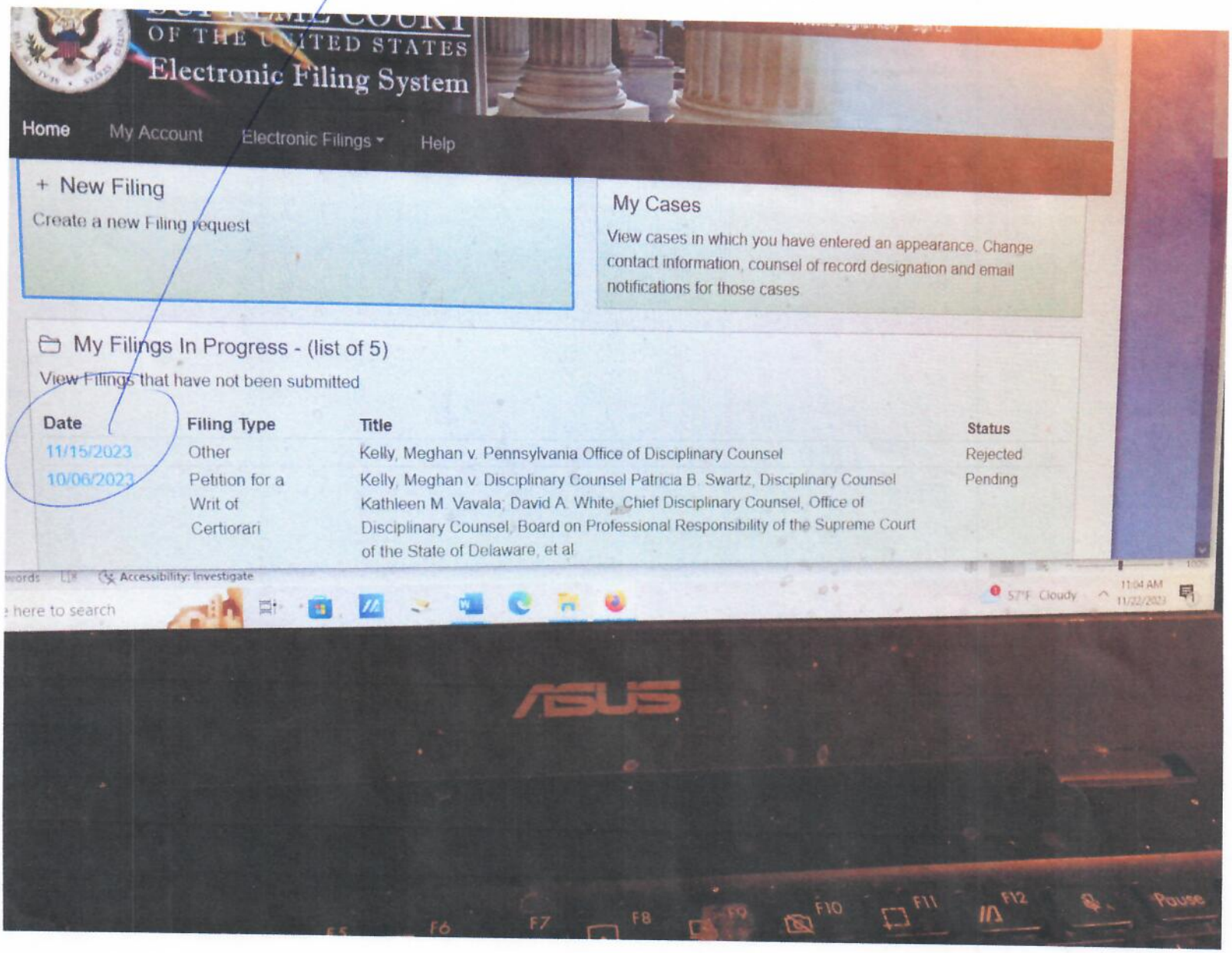
Dated: Nov. 24, 2023

Meghan Kelly
(printed)

Meghan Kelly
(signed)

Exhibit A

Date Submitted
Rejection date may be
the first day it noted
rejection 11/22/2023
Unknown.
This is the Pet for App to
J. Alito



Welcome Meghan Kelly | Sign Out

1 Filing 2 Attorney 3 Documents

4 Notifications 5 Summary

Summary

* Your Electronic Filing, submitted on 11/15/2023 4:46 PM, has been Rejected. You will receive a separate email regarding the reason for rejection.

Other - Emergency Application to reopen 22-7695 to consider Supplemental Brief filed 11/6/23 in order not to deprive me of 1st Amend right to petition fully & fairly in accordance w/5th Amend before eliminating 1st Amend rights to religious beliefs & license for
State

Petitioner:
Kelly, Meghan
Respondent:
Pennsylvania Office of Disciplinary Counsel
State/Territory:
Pennsylvania

Is this a Capital Case?
No

Attorney
Meghan Marie Kelly (Counsel of Record)
Party Name:

Meghan Kelly
Firm:
Attorney at Law
Address:
34012 Shawnee Drive, Dagsboro, DE 19939
Phone #:
302-278-2975
Email:
meghankellyesq@yahoo.com

Notifications
None

Documents

Main Document - Emergency Letter application.pdf
Virus Scan Completed

Main Document - declaration.pdf
Virus Scan Completed

Lower Court Orders/Opinions - Order Exhibit 1 Kelly Order - Disability.pdf
Virus Scan Completed

Main Document - DI 251 big.pdf
Virus Scan Completed

Main Document - DI 250 big 114th affidavit.pdf
Virus Scan Completed

Main Document - Emails to Robert Meek.pdf
Virus Scan Completed

Main Document - 207.pdf
Virus Scan Completed

Proof of Service - cert of service with postal receipt.pdf
Virus Scan Completed

Submit Electronic Filing Request

Delete this Electronic Filing Request

Supreme Court of the United States

This has not been docketed yet

	Certiorari		
08/01/2023	Other	Kelly, Meghan v. Swartz, Office of Dusciplinary Counsel, et al.	Rejected

See More

All My Filings (list of 20)

View Filings that have been submitted & filed

Date	Docket #	Filing Type	Title	Status
11/06/2023	22-7695	Supplemental Brief	Meghan Marie Kelly, Petitioner v. Pennsylvania Office of Disciplinary Counsel	Submitted
11/14/2023	23A361	Renewed Application	Meghan Kelly, Applicant v. Disciplinary Counsel Patricia B. Swartz, et al.	Submitted
10/18/2023		Petition for a Writ of Certiorari	Kelly, Meghan v. Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware, et al.	Submitted
10/23/2023	22-7695	Petition for Rehearing	Meghan Marie Kelly, Petitioner v. Pennsylvania Office of Disciplinary Counsel	Filed
10/18/2023		Petition for a Writ of Certiorari	Kelly, Meghan v. Disciplinary Counsel Patricia B. Swartz, Disciplinary Counsel Kathleen M. Vavala; David A. White, Chief Disciplinary Counsel, Office of Disciplinary Counsel, Board on Professional Responsibility of the Supreme Court of the State of Delaware, et al.	Submitted
09/07/2023	23A100	Application for Further	Meghan Kelly, Applicant v. Disciplinary Counsel Patricia B. Swartz, et al.	Filed

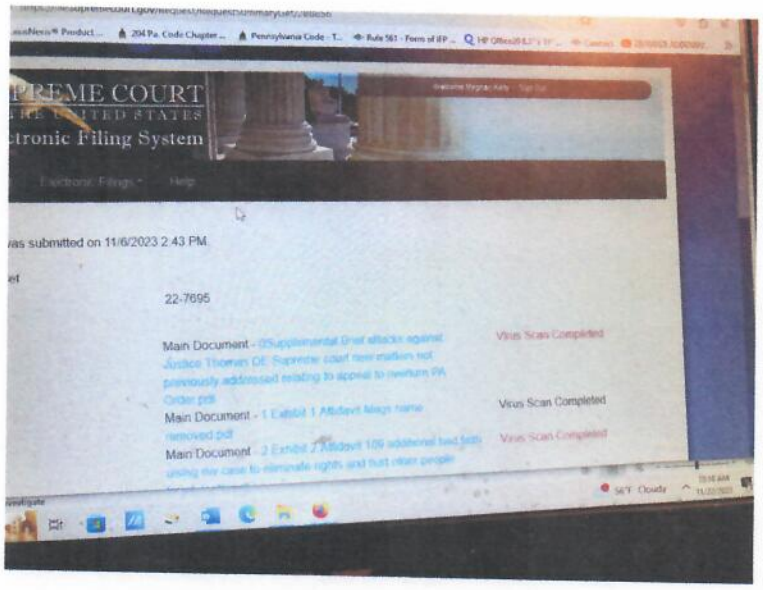
...tension of Time

...ecourt.gov/Request/RequestSummaryGet/288856

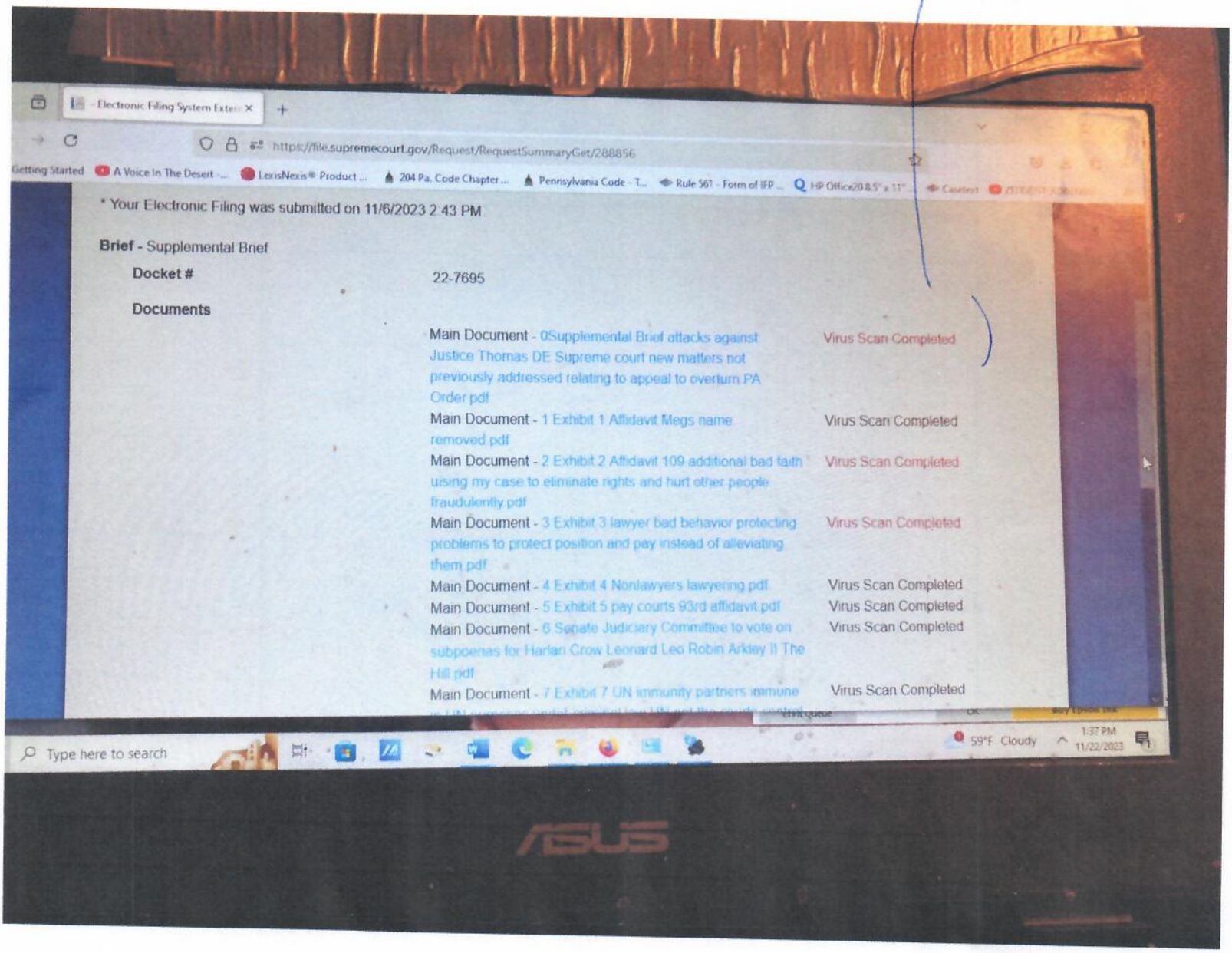
718 words | Accessibility: Investigate

57°F Cloudy

ype here to search


PREME COURT
tronic Filing System
as submitted on 11/6/2023 2:43 PM
22-7695
Main Document
Virus Scan Completed
Main Document
Virus Scan Completed
Main Document
Virus Scan Completed

Not available to me on electronic side



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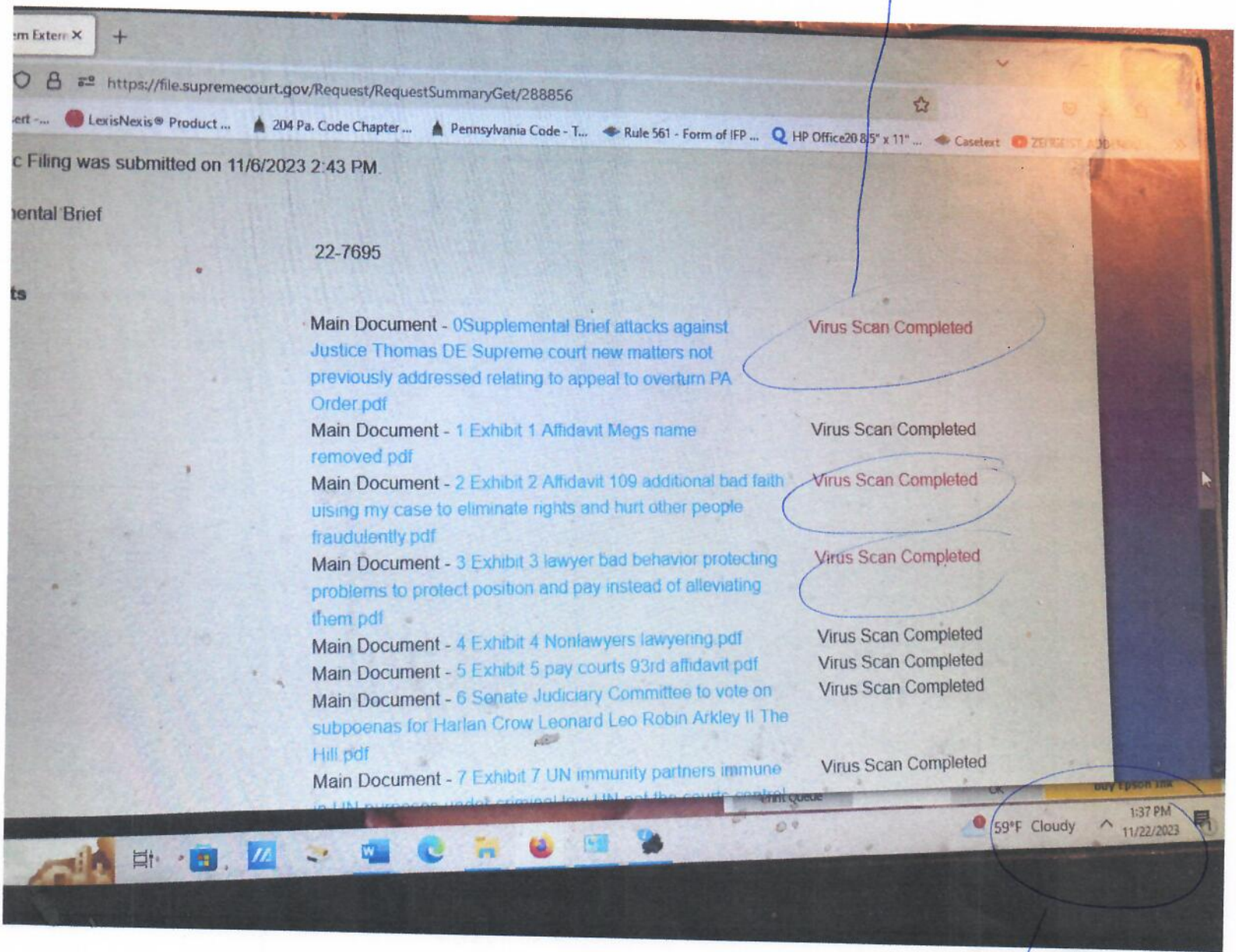

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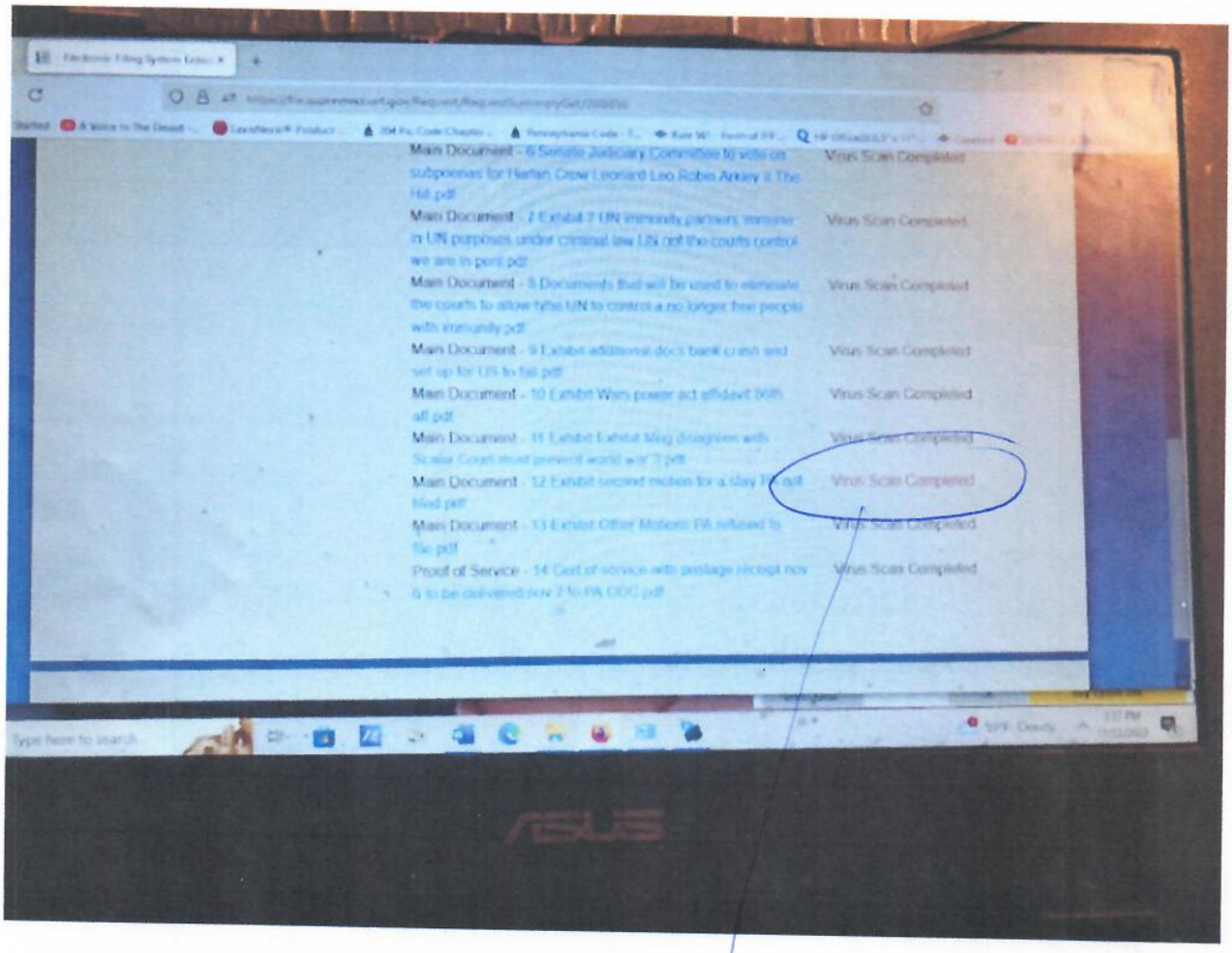

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EXHIBIT B

Some are placed on 3DI 105 not all in 21-3198, not including toc, appendices and citations which I printed out separately

No._____
_____

IN THE SUPREME COURT OF THE UNITED STATES

In the Matter of Meghan Kelly in the Third Circuit Court of Appeals

Meghan M. Kelly, Petitioner

No Respondent

Petitioner Meghan M. Kelly's Motion for an exemption from the requirement to serve 10 paper copies of pleadings with this Court pursuant to Rule 12(2), 29(1), and 39(2), by the filing of one paper copy, and in addition to, or in the alternative of, permission to serve the United States Supreme Court electronically without a paper copy for future filings, due to costs relating to printing, mailing and transporting pleadings to the Post Office, creating a substantial burden upon my access to the Court's to defend my exercise of fundamental rights, and forced violation of religious beliefs by the threat of indebtedness

I, Meghan M. Kelly, pro se petitioner filing in forma pauperis, move this honorable Court for an exemption from the requirement to serve 10 paper copies of pleadings with this Court pursuant to US Supreme Court Rules 12 (2), 29(1), and 39(2), by the filing of one paper copy to this Court, and in addition to or in the alternative of, an exemption from serving paper pleadings to the US Supreme Court, due to costs relating to printing, mailing and transporting pleadings to the Post Office, 1. creating a substantial burden upon my access to the Court to defend my exercise of fundamental rights, 2. and forced violation of religious beliefs by the threat of indebtedness.

1. Pursuant to U.S. Sup. Ct. R. 39:

> "If leave to proceed in forma pauperis is sought for the purpose of filing a document, the motion, and an affidavit or declaration if required, shall be filed together with that document and shall comply in every respect with Rule 21. As provided in that Rule, it suffices to file an original and 10 copies, unless the party is an inmate confined in an institution and is not represented by counsel, in which case the original, alone, suffices. A copy of the motion, and affidavit or declaration if required, shall precede and be attached to each copy of the accompanying document."

2. A statutory exception is crafted for indigent, unrepresented imprisoned petitioners. Thus, a similar exception may reasonably be crafted to permit me to file the original copy electronically, or in the alternative, the same single original paper copy requirement afforded to indigent, unrepresented, imprisoned parties, which I argue still substantially burdens my access to the courts, and exercise of fundamental rights. Id.

3. There is no Respondent prejudiced by my request, nor is this Court prejudiced. Whereas, I am deeply prejudiced should my request be denied. I have allergies that mimic other sicknesses. I believe this Court is kept safer during this global pandemic, with increases in monkey pox, polio and covid-19 cases globally. Touching paper touched by sick people, even postal people, may possibly spread germs to this honorable court. I sadly recall reading about postal workers dying during the pandemic.

4. It is against my religious belief to go into debt.

5. I cannot afford to pay for printing, ink, postage and transportation costs relating to delivery of paper pleadings. Requiring I adhere to the paper requirements would compel me to go into debt, in violation of my religious beliefs against indebtedness.

6. The foreseeable costs relating to printing, transporting and mailing pleadings create a substantial burden upon my access to the Courts and forced violation of my religious beliefs by threat of indebtedness, as I seek to protect the exercise of my fundamental rights from retaliation by the government, but for the exercise of my rights, in the present case.

7. This Court has inherent equitable powers over their process to prevent abuse, oppression, and injustice. *Gumbel v. Pitkin*, 124 U.S. 131 (1888); *Covell v. Heyman*, 111 U.S. 176 (1884); *Buck v. Colbath*, 70 U.S. (3 Wall.) 334 (1866).

8. This Court must grant my request to prevent government abuse against my person, oppression, and injustice.

9. The Court appears also appears to have statutory authority to waive unconforming pleading requirements for just cause so long as it does not enlarge Constitutional rights, but safeguards and upholds the Constitutional laws. See for example, Fed. R. App. P. 2, 28 U.S. Code § 2072.

10. I am utterly poor. The costs relating to serving paper copies create a substantial burden and obstacle to my access to the Courts in contravention to my Equal Protection to the First Amendment right to access to the Courts to defend my exercise of fundamental rights, applicable to the Federal Courts via the Equal Protection component of the 5th Amendment, as applied to me, a member of class of one due to religious beliefs against incurring debt combined and due to utter poverty. See, *Abdul-Akbar v. McKelvie*, 239 F.3d 307, 317 (3d Cir. 2001) ("This requires us first to determine whether Appellant is a member of a suspect class or whether a fundamental right is implicated. Neither prisoners nor indigents are suspect classes.") *Harris v. McRae*, 448 U.S. 297, 323, (1980) (noting that poverty is not a suspect classification)." (*But see, Lewis v. Casey*, 518 U.S. 343, 370 (1996) "[A]t all stages of the proceedings the Due Process and Equal Protection Clauses protect [indigent persons] from invidious discriminations.")

11. "Because this case implicates the [Constitutionally protected rights of exercise of religion, speech, petition, belief and association and the] right of access to the courts," the government's disparate treatment towards me, based on poverty, is still unconstitutional under a strict scrutiny basis test. *Citing, Tennessee v. Lane*, 541 U.S. 509, 533 n.20 (2004).

12. The Supreme Court noted, "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." *Lewis v. Casey*, 518 U.S. 343, 370 (1996); (internal citations omitted)

13. While, poverty is not a suspect class, my right to meaningful access to the courts, despite the inherent burden of poverty, and my religious beliefs and strongly held religious exercise relating to my religious belief against indebtedness are protected. In addition, fundamental rights are implicated. Delaware Disciplinary Counsel violated my Fundamental rights of religious beliefs, religious-political speech, religious-political petitions, religious-political-association, religious-political exercise, procedural and substantive due process opportunity to be heard, to prepare and present evidence, to subpoena witnesses, and to cross examine my accuser.

14. Delaware Disciplinary Counsel and reciprocating courts persecute me and seek to defame my character by taking away my property interest in my active license to practice law but for my exercise of Constitutionally protected conduct, in violation of my freedom to petition concerning my religious-political speech, religious-political exercise, religious-political belief, religious-political association, and association as a party, attorney, Democrat, Catholic and Christian when I believe there has been a grievance committed against me.

15. Justice Stevens, with whom Justice Brennan, Justice Marshall, and Justice Blackmun joined, in dissenting of US Supreme Court in *Murray v. Giarratano*, 492 U.S. 1, 18 (1989) recognized,

> "When an indigent is forced to run this gantlet of a preliminary showing of merit, the right to appeal does not comport with fair procedure. . . . [T]he discrimination is not between `possibly good and obviously bad cases,' but between cases where the rich man can require the court to listen to argument of counsel before deciding on the merits, but a poor man cannot. . . . The indigent, where the record is unclear or the

> errors are hidden, has only the right to a meaningless ritual, while the rich man has a meaningful appeal." *Douglas*, 372 U.S., at 357-358

16. The Court's normal service of original pleadings by paper requirements, violate my religious beliefs, religious practices and religious exercise against incurring debt, and costs, as applied.

17. I temporarily turned in my vehicle tags to prevent being sinfully compelled to pay for insurance I was not able to afford when it fell due, in violation of my religious beliefs.

18. In March, 2022, in Delaware, the price of gas increased to over $4.00 a gallon due to the planned Ukraine Russia crisis used as a contributing factor to intentionally crash the economy. This is a dramatic increase in cost for gas to fuel my vehicle to travel to your Honorable Court or to the post office to drop off original paper copies.

19. Since then, the price of gas has fallen, but remains unstable due to the limits of global gas relating to the sanctions on Russia's export of fuel, since the Ukraine-Russia war erupted in February 2022.

20. I got a flat tire on my bicycle and have been compelled to temporally restate my car insurance and vehicle tags.

21. The price of stamps also went up from 58 cents to 60 cents this summer.

22. The cost of paper went up dramatically this year, and ink is expensive.

23. The additional costs of transporting paper original copies to the post office or in person, printing paper copies and mailing create a strenuous substantial burden upon my access to the courts which may be alleviated by an accommodation in the form of a waiver of paper copies.

24. I expected to rejoin my former law firm after standing up for something more important than money in *Kelly v Trump*, my free exercise of religion, exercise of religious and

political belief, exercise of religious and political speech, and association as a party, attorney, democrat, Catholic and Christian without government incited persecution, but for my exercise of fundamental rights.

25. The Delaware Supreme Court justices in collusion with the Delaware Office of Disciplinary Counsel wrongfully brought claims against me creating a government incited economic substantial burden upon me which prejudices me by forcing me into a maintained state of poverty by preventing me from seeking to get my former position back at my old law firm as an attorney, or any work at a law firm. They harm my reputation to make me less attractive to employers.

26. Under my unique situation, the original paper copy and mailing costs cause a substantial burden upon my access to the courts to address Constitutionally protected activity relating to fundamental rights, creating an obstacle so great as to foreseeably prevent my access to the courts.

27 I do not want to sin against God by incurring debt. I believe people sin against God by incurring debt. God teaches in *Romans* 13:8 "Owe no one anything, except to love each other, for the one who loves another has fulfilled the law." I believe it compromises our loyalty to God towards the pursuit of money to free us from bondage, as savior instead of God. Jesus teaches you cannot serve both God and money as savior. *Matthew* 6:24. I choose God. Earning money is not sin. I believe, when our desire to earn money takes the place of our desire to do God's will by hardening our heads, hardening our hearts and hardening our hands from loving God foremost and subordinately loving others as ourselves, that is sin. I believe "the love of money is the root of all evil". 1 *Timothy* 6:10. I believe we are taught through temptations to worship sin, the mark of the beast spoken of in *Revelation* young, by praise and profit, glorifying

work and business, and conditional giving and conditional relationships, confusing many into believing conditionally caring is unconditional love damning most of humanity to hell the last day which is sad. (See, *Revelation* 16:2, *Revelation* 20:4. By worship of the image of the beast, I believe it means absence of love, unconcern, conditionally giving to get, caring based on conditional relationships with no unconditional love, no God in them for it is written "God is love." 1 *John* 4:16. They glorify the punishments of sin written in *Genesis* 3 as the reason to live reflecting pride, sin, instead of receiving correction through humility leading to salvation from the lake of fire, the second death.). God calls his people whores when they committed adultery with God by chasing money and material gain to care for their own, as guide, in place of God. It teaches hardness of hearts towards God and others outside of our own which is the sin against the holy spirit. In *Jeremiah* 3:3, when God said "You have a forehead of a whore," I think it means people have money, material gain, merriment, on their mind, not God's word teaching us to love by overcoming the lusts of man. See, *Ezekiel* 16:33, *Ezekiel* 16:28. Jesus scolds us when we exchange our lives to gain the world through money. *Mark* 8:36-38

28. I believe creditors, merely doing what they are blindly paid to do, will be damned to hell for not forgiving monetary debts, should they not repent. (*See, Matthew* 6:12, "And forgive us our debts, as we also have forgiven our debtors."); (*Matthew* 6:14-15, "For if you forgive other people when they sin against you, your heavenly Father will also forgive you. But if you do not forgive others their sins, your Father will not forgive your sins."); (*Deuteronomy* 15:1, "At the end of every seven years you must cancel debts."); (*See also, Matthew* 18:21-35. Debts once forgiven will be remembered if we do not forgive others.); (Jesus teaches "What good will it be for someone to gain the whole world, yet forfeit their soul? Or what can anyone give in exchange for their soul?" *Matthew* 16:26.); (Jesus teaches us do not seek after material

things, “but seek first his kingdom and his righteousness, and all these things will be given to you as well.” *Matthew* 6:30-33.); (With regards to eternal treasure we are commanded to share his word without pay as without pay we received the gift of the way to eternal life, through the word. *Citing, Matthew* 10:8).

29. If people don’t forgive monetary debts, I believe people will be damned to hell for loving money and material gain more than one another as commanded. We are commanded to love people, not money and the things it can buy. (*See, John* 13:34-35, “A new command I give you: Love one another. As I have loved you, so you must love one another. By this everyone will know that you are my disciples, if you love one another.”)

30. Since I am commanded to love people, I do not want to create a situation where I increase the odds, they will be damned to hell by accruing profit off of debt. I do not want to be damned to hell by seeking money in place of God as my savior due to indebtedness. Debt is against my religious beliefs.

31. Interest on alleged debt, and debt is against my religious beliefs as I believe it increases servitude to Satan by teaching people to be enslaved to earning money to pay artificial interest or debt, instead of being free in Christ, essentially making money the savior in place of God. (See *Leviticus* 25:36-37, "Do not take interest or any profit from them, but fear your God, so that they may continue to live among you. You must not lend them money at interest or sell them food at a profit." and *Exodus* 22:24-26).

32. Charging interest or a fee on money lent or artificial debt is a sin against God, I believe misleading many to hell by indebtedness to the pursuit of money, instead of God. (*Ezekiel* 18:13, “He lends at an interest and takes at a profit. Will such a man live [By live, I believe it means losing eternal life in the second death should he not repent]. He will not!

Because he has done all these detestable things, he is put to death; his blood will be on his own head."); (*Deuteronomy* 23:19, "Do not charge your brother interest on money, food, or any other type of loan."); (*Proverbs* 28:8, He who increases his wealth by interest and usury lays it up for one who is kind to the poor.); (Exodus 22:25, "If you lend money to one of my people among you who is needy, do not treat it like a business deal; charge no interest.); (*Deuteronomy* 15:2, "This is the manner of remission: Every creditor shall cancel what he has loaned to his neighbor. He is not to collect anything from his neighbor or brother, because the LORD's time of release has been proclaimed.)

33. I believe it is a great sin to go into debt, and an even greater sin to require a person to go into debt to exercise fundamental freedoms, that are no longer free, but for sale to those who can afford them, the wealthy, rendering the poor less equal, no longer free, but for sale bought people, as wage slaves, in violation of the 13th Amendment, and Equal Protection Clause of the Fourteenth Amendment applicable to the states, and the Equal Protections component of the 5th Amendment applicable to the Federal government.

34. The Delaware Disciplinary Counsel petition against me prevent me from returning to my former law firm, and may prevent me from getting a job as to render any fees impossible to pay back, and asking for donations is against my religious beliefs as I believe people are misled to hell by *Matthew* 6:1-4 violations of organized charity, fundraising and pro bono.

35. Going into debt, of even a few dollars, is against my religious belief, and the additional costs of even a few dollars in transportation to appear in person is a substantial burden upon my access to the courts due to my utter poverty, and my inability to pay back any fees should I fail, ever.

36. I respectfully request that, due to original paper copy costs creating an economic strain upon my exercise of religious beliefs against indebtedness and exercise of my access to the courts to defend First Amendment rights, as a substantial burden due to my poverty and religious beliefs, with little prejudice to the Court, that I be permitted to serve original copies of pleadings electronically, without copies.

37. This Court must not require I violate my religious beliefs by agreeing to personal indebtedness as unaffordable costs for transportation arise, in order to exercise my First Amendment right applicable to the Court via the Fifth Amendment, to petition this Court to safeguard my exercise of Constitutionally protected activity from government interference or retaliation including the right, to petition, exercise religious beliefs, freely speak concerning my religious beliefs for which my petitions relate to and the freedom to associate as a party, attorney, Democrat, Christian, with independent, individual, unique political-religious beliefs.

38. In order for this Court to require I accrue additionally costs, which violate my religious beliefs, compromising my faith in Jesus to servitude to Satan by making money God, and guide, by withholding an exemption to filing paper copies, the Court must have a compelling interest somehow more important than the free exercise of religion, narrowly tailored to support such interest.

39. The Court must not require forced indebtedness, through costs, in violation of my religious beliefs because its justification to compel forced violations of my religion is not narrowly tailored in this case, since the Court may grant an exemption of paper copies to prevent the government forced violation of my religious beliefs.

Wherefore, I, Meghan M. Kelly, respectfully asserts this Court must grant this motion.

Dated

Respectfully submitted,

Meghan Kelly, Esquire
DE Bar Number 4968
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com
(302) 493-6693
(3,094 Words)
US Supreme Court Bar No. 283696

I declare, affirm that the foregoing statement is true and correct under the penalty of perjury.

Dated:

_____(printed)

_____(signed)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

December 2, 2022

Meghan Kelly
34012 Shawnee Drive
Dagsboro, DE 19939

RE: Motion for an Exemption from Rule 12.2

Dear Ms. Kelly:

The motion for an exemption from the Court's Rule 12.2 was received November 29, 2022 and is returned for the following reason:

The Rules of this Court make no provision for this request. You must provide an original and 10 copies of your petition for a writ of certiorari and motion for leave to proceed in forma pauperis. Rule 12.2.

Sincerely,
Scott S. Harris, Clerk
By:
Lisa Nesbitt
(202) 479-3038

Enclosures

Exhibit C

No._____
_____

IN THE SUPREME COURT OF THE UNITED STATES

In the Matter of Meghan Kelly in the Third Circuit Court of Appeals

Meghan M. Kelly, Petitioner

No Respondent
On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

Petitioner Meghan M Kelly's Motion for permission to use electronic filing before this Honorable Court, even if my active license to practice law is suspended, in representing myself, in appeals of State Disability Proceedings and in a potential Disability proceeding before this Court, and in all proceedings I act pro se in, including civil rights proceedings and for a waiver of the paper original requirement, to prevent unaffordable costs from becoming a substantial burden upon my access to the courts, and compelled violation of my religious beliefs against indebtedness in order to exercise my right to petition the Court in my defense of the exercise of fundamental rights

I Respondent Meghan M. Kelly pursuant to Fed. R. App. P. 2, in the interest of justice, move this Honorable Court for permission to use electronic filing before this Honorable Court, even if my active license to practice law is placed on inactive/disability status, in representing myself, in State Disability Proceedings and in this appeal to a Disability proceeding, and in all proceedings I act pro se in, including Civil rights proceedings, and for a waiver of the paper original requirement, to prevent unaffordable costs from becoming a substantial burden upon my access to the courts, and compelled violation of my religious beliefs against indebtedness in order to exercise my right to petition the Court in my defense of the exercise of fundamental rights.

I. Meghan Kelly is in Trouble for filing a petition against former President Trump

1. I filed a RFRA law suit against former President Donald J. Trump, Supreme Court No. 21-5522, to alleviate a substantial burden upon my access to the courts.

2. The Delaware Supreme Court should have kicked out my case, *Kelly v Trump*, because I did not serve US Attorney General David Weiss. Instead, the Court held my argument against government established religion was without merit. *Kelly v. Trump*, 256 A.3d 207 (Del.), *reargument denied* (July 19, 2021), cert. denied, 142 S. Ct. 441, 211 L. Ed. 2d 260 (November 1, 2021)

II State interference President Trump Lawsuit

3. During Kelly v Trump, the Court's agents interfered with, impeded and acted in a manner as to cause me to for my law suit. The staff at the Chancery Court appeared to sabotage my case, misleading me to almost miss my deadline to appeal, wrote on my praecipe creating confusion and prevented me from serving local US Attorney General David Weiss. (Exhibits A, B, and C, please note Exhibit C, the one given back to me did not have writings on it.) Court of Common Pleas Judge Kenneth S. Clark verbally attacked me at a Sussex County grocery store, interrogating me at BJs, at the ODC's request to interfere with or cause me to forgo my lawsuit against the President of the United States. During the law suit, I received the attached three letters from the arms of the Court to interfere with the law suit by threats of investigation or discipline. (Exhibits D, E, F). The letter indicated a review of my religious-political petitions in both the Delaware Supreme Court and the Chancery Court was the reason for the discipline.

4. During the law suit, I filed religious-political petitions for a waiver of bar dues due to economic hardship. I paid the dues, but material in D proved the Delaware Supreme Court or its members to be the source of the armed attacks, by Judge Clark, DE-Lapp, and the ODC in interference with my active law suit against former President Trump.

5. I filed the attached Motions to petition the Court to reign in the Supreme Court's armed attacks, and for the recusal of Judge Seitz (attached hereto and referred herein as "A-4, and A-5"). I later discovered by confirmation of the clerk of Court that all judges consider attorney due petitions. So, it appears the entire Court participated in the armed attacks against me in interreference with my active law suit.

6. In October 2021, I filed a law suit with the Delaware District Court for damages and equitable relief, under 42 Sections 1983, 85 and 88, to inter alias enjoin the ODC from punishing me for the exercise of my religious-political petitions, religious-political beliefs, religious-political association, religious-political exercise, and religious-political petitions.

7. In November 2021, Delaware's Disciplinary counsel instigated disciplinary proceedings against me.

8. Nothing was normal in my disciplinary case either. I was not treated like other lawyers or other plaintiffs. I was disparately treated based on my poverty, and personal-religious-political beliefs, as a party of one, and was selectively punished for exercise of Constitutional liberties.

9. The State in bad faith prevented and obstructed discovery, to conceal witnesses were removed from the Chancery Court to impede their testimony from aiding in my defense, and to conceal relevant records were sealed by the Court to favor the ODC. The United States Supreme Court held, "the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment." *Moran v. Burbine*, 475 U.S. 412, 466 (1986). Concealing the fact two witnesses were removed from the Chancery Court to prevent their favorable testimony in my defense, and

government concealing of petitions favorable to my defense, violates my Due Process rights to a fair proceeding, by bias towards the State.

10. There are many other factors showing a denial of my opportunity to be heard and meaningful access to the Courts, but I will reserve that for later.

11. The Delaware Supreme Court ignored my legal arguments, and found me disabled.

12. I must appeal the Delaware Supreme Court's decision to the United States Supreme Court.

13. I also will likely appeal the Delaware District Court's decision to this Honorable Court. I also asked for damages, nominal damages and other equitable relief, including but not limited to seeking to vacate Kelly v Trump and the disciplinary matter.

14. I am impoverished. The disciplinary case prevents me form rejoining my former law firm where I would be performing real estate settlements.

15. Elimination of the paper requirements and granting me permission to e-file will alleviate the substantial burden additional costs associated with paper originals and paper copy requirements.

16. Pursuant to Fed. R. App. P. 2 for good cause this Court may "suspend any provision of these rules in a particular case and order proceedings as it directs."

17. I argue alleviating a substantial economic burden that potentially causes an obstacle to my access to the courts is good cause.

18. I also have religious-objections against indebtedness. I am a Christian. I believe in Jesus Christ. Jesus teaches you can only serve one master God or money. I choose God. Artificial indebtedness compels people to worship money as God, and savior in place of God.

19. I pray this Court does not require I violate my religious beliefs for the mere opportunity, not guarantee on being heard on appeal from the Delaware Supreme Court or in my civil rights case, 21-3198, in the Third Circuit Court of Appeals, and appeals of reciprocal cases, including but not limited to Third Circuit Case Number 22-8037.

Wherefore, I pray this Court grants this Motion, should it simultaneously institute reciprocal proceedings in response to my appeal(s).

Respectfully submitted,

Meghan Kelly, Esquire
DE Bar Number 4968
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com
(302) 493-6693
(1,103 Words) No 4968
US Supreme Court Bar No. 283696

Under religious protest, I declare, affirm that the foregoing statement is true and correct under the penalty of perjury.

Dated:

_____
(printed)

_____
(signed)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

December 2, 2022

Meghan Kelly
34012 Shawnee Drive
Dagsboro, DE 19939

RE: Motion for Permission to Use Electronic Filing

Dear Ms. Kelly:

The motion for permission to use electronic filing was received November 29, 2022 and is returned for the following reason:

The Rules of this Court make no provision for this filing. Pursuant to this Court's guidelines for electronic filing (enclosed), only members of the Supreme Court Bar are permitted to file documents through the Court's electronic filing system.

Sincerely,
Scott S. Harris, Clerk
By:

Lisa Nesbitt
(202) 479-3038

Enclosures

Exhibit D

No. 22-6584

IN THE SUPREME COURT OF THE UNITED STATES

Meghan M. Kelly, Petitioner

v.

Third Circuit Court of Appeals

On Petition for Writ of Certiorari to the United States Court of Appeals for the

Third Circuit, Case Number Case Number 22-8037

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For Petitioner Meghan Kelly's Motion to exempt costs and waive Court fees under Supreme Court Rules 38 and 43

Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
Pro Se, not represented by counsel
meghankellyesq@yahoo.com
(302)493-6693
US Supreme Court No 283696

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No. 22-6584

IN THE SUPREME COURT OF THE UNITED STATES

Meghan M. Kelly, Petitioner

v.

Third Circuit Court of Appeals

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit, Case Number Case Number 22-8037

Petitioner Meghan Kelly's Motion to exempt costs and waive Court fees under Supreme Court Rules 38 and 43

I, Petitioner Meghan M. Kelly, having been granted in forma pauperis relief in other Matters, move this honorable to waive costs, potential costs and Court fees under Supreme Court Rules 38 and 43, or that may be authorized but not required under 28 U.S.C. § 111 through 28 U.S.C. § 1932, 1. to prevent unaffordable costs from becoming a substantial burden upon my access to the courts, 2. to prevent a government compelled violation of my religious beliefs against indebtedness in order to exercise my right to petition the Court in defense of the exercise of fundamental rights and license(s), and 3.to prevent government compelled involuntary servitude in exchange with access to the courts to defend my licenses

and liberties from being taken away for my religious beliefs in Jesus. (Citing, US Amendments I, V, XIII). I aver as follows.

1. US Supreme Court Rule 43 outlines costs, "unless the Court otherwise orders." This Court has discretion to exempt costs. I ask this Court to exercise its discretion to exempt costs and fees as applied to me in this case.

2. I also argue this Honorable Court must exempt costs and fees in my case in order not to compel me to forgo my First Amendment fundamental rights of religious belief and religious exercise of beliefs by compelled violation of exercise of my religious beliefs in exchange with the exercise of the right to petition the courts, based on disdain for my belief in God as God not money as savior and guide. US Amend I, V

3. This Court has inherent equitable powers over their process to prevent abuse, oppression, and injustice. *Gumbel v. Pitkin*, 124 U.S. 131 (1888); *Covell v. Heyman*, 111 U.S. 176 (1884); *Buck v. Colbath*, 70 U.S. 334 (1865); *Krippendorf v. Hyde*, 110 U.S. 276, 283 (1884).

4. This Court must grant my request for an exemption of costs and fees to prevent government abuse against my person, oppression, and injustice.

5. I was previously granted in forma pauperis status under Delaware District Court Case No 21-1490, Third Circuit Court of Appeals Case No. 21-3198,

Delaware Supreme Court matter No. 21-119, Chancery Court matters No. 2020-0809 and No. 2020-0157.

6 Even a few dollars in fees would cause a substantial burden upon my access to the courts to address Constitutionally protected activity relating to fundamental rights, creating an obstacle so great as to prevent my access to the courts.

7. I am a Christian, a child of God. I attend a Catholic church, but place my faith in God, not man, or money. I do not want to sin against God by incurring debt. I believe people sin against God by incurring debt. God teaches in *Romans* 13:8, "Owe no one anything, except to love each other, for the one who loves another has fulfilled the law." Since it compromises our loyalty to God towards the pursuit of money to free us from bondage of sin, as savior instead of God. Jesus teaches you cannot serve both God and money as savior. *Matthew* 6:24. I choose God. Earning money is not sin. When our desire to earn money takes the place of our desire to do God's will, by hardening our heads, hardening our hearts and hardening our hands preventing us loving God foremost and subordinately loving others as ourselves, I believe we sin.

8. I believe "the love of money is the root of all evil. 1 *Timothy* 6:10.

9. I believe people go to hell for blindly doing their job, doing what they are trained to do to gain money to care for their family, not seeing clearly when

they ignorantly harm others, even through delegation of duties. I believe not knowing is guilt. *Hosea* 4:6 I believe that Court correction can help them know and save their souls from being thrown unworthy into the fires of hell on the last day. I do believe courts have the power to save lives and eternal lives. I believe every time the court prevents individuals, entities, charities and even religious organizations from oppressing, killing, stealing and destroying human life, health or liberty, judges save souls. *Amos* 5:15, *Matthew* 23:23.

10. I believe creditors will be damned to hell for not forgiving monetary debts. (*See, Matthew* 6:12, "And forgive us our debts, as we also have forgiven our debtors."); (*Matthew* 6:14-15, "For if you forgive other people when they sin against you, your heavenly Father will also forgive you. But if you do not forgive others their sins, your Father will not forgive your sins."); (*Deuteronomy,* 15:1 "At the end of every seven years you must cancel debts."); (*See also, Matthew*, 18:21-35. Debts once forgiven will be remembered if we do not forgive others.); (Jesus teaches "What good will it be for someone to gain the whole world, yet forfeit their soul? Or what can anyone give in exchange for their soul?" *Matthew* 16:26.); (Jesus teaches us do not seek after material things, "but seek first his kingdom and his righteousness, and all these things will be given to you as well." *Matthew* 6:30-33.); (With regards to eternal treasure we are commanded to share his word

without pay as without pay we received the gift of the way to eternal life, through the word. *Citing, Matthew* 10:8).

11. If people don't forgive monetary debts by those who have no means to pay, other than selling their souls for labor, I believe people will be damned to hell for loving money and material gain more than one another as commanded. We are commanded to love people, not money and the things it can buy. (*See, John* 13:34-35, "A new command I give you: Love one another. As I have loved you, so you must love one another. By this everyone will know that you are my disciples, if you love one another.")

12. Since I am commanded to love people, I do not want to create a situation where I increase the odds, they will be damned to hell by accruing profit off of debt. I do not want to be damned to hell by seeking money in place of God as my savior due to indebtedness. Debt is against my religious beliefs because it makes money guide and savior instead of Jesus as guide and savior.

13. Interest on alleged debt, and debt is against my religious beliefs as I believe it increases servitude to Satan by teaching people to be enslaved to earning money to pay artificial interest or debt, instead of being free in Christ, essentially making money the savior in place of God. (See, *Leviticus* 25:36-37, "Do not take interest or any profit from them, but fear your God, so that they may continue to

live among you. You must not lend them money at interest or sell them food at a profit." and *Exodus* 22:24-26).

14. It is my genuine religious belief charging interest or a fee on money lent or artificial debt is a sin against God, I believe misleading many to hell by indebtedness to the pursuit of money, instead of God. (*Ezekiel* 18:13, "He lends at an interest and takes at a profit. Will such a man live [By live, I believe it means losing eternal life in the second death should he not repent]. He will not! Because he has done all these detestable things, he is put to death; his blood will be on his own head."); (*Deuteronomy* 23:19, "Do not charge your brother interest on money, food, or any other type of loan."); (*Proverbs* 28:8, He who increases his wealth by interest and usury lays it up for one who is kind to the poor.); (Exodus 22:25, "If you lend money to one of my people among you who is needy, do not treat it like a business deal; charge no interest.); (*Deuteronomy* 15:2 "This is the manner of remission: Every creditor shall cancel what he has loaned to his neighbor. He is not to collect anything from his neighbor or brother, because the LORD's time of release has been proclaimed.")

15. I believe it is a great sin to go into debt, and an even greater sin to require a person to go into debt to exercise fundamental freedoms, that are no longer free, but for sale to those who can afford to buy the ability to exercise Constitutional 1st Amendment liberties, the wealthy, rendering the poor less equal,

no longer free, but for sale bought people, as wage slaves, in violation of the 13th Amendment, and Equal Protection Clause of the 14th Amendment applicable to the states, and the Equal Protections component of the 5th Amendment applicable to the Federal government, with government support.

16. The Delaware Disciplinary Order and reciprocal orders prevent me from returning to my former law firm, and may prevent me from getting a job as a lawyer to render any fees impossible to pay back. In addition, asking for donations is against my religious beliefs as I believe people are misled to hell by *Matthew* 6:1-4 violations of organized charity, fundraising and pro bono.

17. Going into debt, of even a few dollars, is against my religious belief, and the additional costs of even a few dollars is a substantial burden upon my access to the courts due to my utter poverty, and my inability to pay back any fees should my appeal fail.

18. I respectfully request that no fees or costs relating to this case be required of me due to such costs creating an economic strain upon my exercise of the access to the courts to defend 1st Amendment rights, as a substantial burden due to my poverty, with little prejudice to respondent, the public or this Honorable Court, and due to violations, such cost requirements create upon my exercise of my religious beliefs.

19. I mailed the Third Circuit Court of Appeals the waiver form, upon receipt of the waiver form from this Court. I called the Third Circuit Court of Appeals and spoke with Desiree, and confirmed the Third Circuit Court of Appeals will not contest my motions or petitions in this matter, even if they do not sign a waiver. The respondent is not prejudiced by my requests. Whereas, I am greatly prejudiced should this Court deny this motion.

20. This Court must not require I violate my religious beliefs by agreeing to personal indebtedness should costs arise in order to exercise my 1st and 5th Amendment rights to petition this Court to safeguard my exercise of Constitutionally protected activity from government interference or retaliation including the right, to petition, exercise religious beliefs, freely speak concerning my religious beliefs for which my petitions relate to and the freedom to associate.

21. In order for this Court to require I consent to costs which violates my religious beliefs, compromising my faith in Jesus to servitude to Satan by making money God by costs, and potential costs relating to this matter, the Court must have a compelling interest somehow more important than the free exercise of religion, narrowly tailored to support such interest.

22. The Court may not require forced indebtedness through costs and fees in violation of my religious beliefs and the 13th Amendment protections against forced labor to pay debt because its justification to compel forced violations of my

religion is not narrowly tailored in this case, since the Court may grant an exemption to prevent the government forced violation of my religious beliefs.

23. The rule of law is not a business where only those with money may purchase justice. Justice is not for sale by barter or exchange, but must be determined by truth under the Constitutional principles that protect individual freedom of conscience from the forced, collective conditional will of mobs or entities by the vote or otherwise.

24. As a child of God, I believe we each must use our individual conscience mind to choose to do God's will or not in order to have any hope of eternal life.

25. The freedom to think and believe by the dictates of our own conscience instead of the government's compelled, conditional, controlled, conformed thoughts based on the ever-evolving fickle thoughts or fads of experts or entities or associations, or foreign and private backed partners is the source of all freedom in this country.

26. It is insulting the state of Delaware, and reciprocating courts seek to declare me mentally disabled and unfit to practice law, but for my faith in Jesus Christ.

27. Any costs create a substantial burden and obstacle to my access to the Courts in contravention to my Equal Protection to the 1st Amendment right to

access to the Courts to defend my exercise of fundamental rights applicable to the Federal Courts via the Equal Protection component of the 5th Amendment, for me, a member of class of one due to religious beliefs against incurring debt combined and due to utter poverty. *See, Abdul-Akbar v. McKelvie*, 239 F.3d 307, 317 (3d Cir. 2001) ("This requires us first to determine whether Appellant is a member of a suspect class or whether a fundamental right is implicated. Neither prisoners nor indigents are suspect classes*; See, Harris v. McRae,* 448 U.S. 297, 323, (1980) (noting that poverty is not a suspect classification)." (*But see, Lewis v. Casey*, 518 U.S. 343, 370 (1996) "[A]t all stages of the proceedings the Due Process and Equal Protection Clauses protect [indigent persons] from invidious discriminations.")

28. "Because this case implicates the [Constitutionally protected rights of exercise of religion, speech, petition, belief and association and the] right of access to the courts," the government's disparate treatment towards me, based on poverty, is still unconstitutional under a strict scrutiny basis test. *Citing, Tennessee v. Lane*, 541 U.S. 509, 533 n.20 (2004).

29. The Supreme Court noted, "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." *Lewis v. Casey*, 518 U.S. 343, 370 (1996); (internal citations omitted)

30. While, poverty is not a suspect class, my right to meaningful access to the courts, despite the inherent burden of poverty, and my religious beliefs and

strongly held religious exercise relating to my religious belief against indebtedness is protected. In addition, fundamental rights are implicated. Delaware Disciplinary Counsel and Delaware agents violated my Fundamental rights of religious beliefs, religious-political speech, religious-political petitions, religious-political-association, religious-political exercise, procedural and substantive due process opportunity to be heard, to prepare and present evidence, to subpoena witnesses, and to cross examine my accuser.

31. Delaware Disciplinary Counsel and reciprocating courts persecute me and seek to defame my character by taking away my property interest in my active license to practice law but for my exercise of Constitutionally protected conduct, in violation of my freedom to petition concerning my religious-political speech, religious-political exercise, religious-political belief, religious-political association, and association as a party, attorney, Democrat, Catholic and Christian when I believe there has been a grievance committed against me.

32. Justice Stevens, with whom Justice Brennan, Justice Marshall, and Justice Blackmun joined, in dissenting of US Supreme Court in *Murray v. Giarratano*, 492 U.S. 1, 18 (1989) recognized,

> "When an indigent is forced to run this gantlet of a preliminary showing of merit, the right to appeal does not comport with fair procedure. . . . [T]he discrimination is not between `possibly good and obviously bad cases,' but between cases where the rich man can require the court to listen to argument of counsel before deciding on the merits, but a poor man cannot. . . . The indigent, where the record is unclear or the errors are hidden, has

only the right to a meaningless ritual, while the rich man has a meaningful appeal." Douglas, 372 U.S., at 357-358

33. Court costs, as applied, violate my religious beliefs, religious practices and religious exercise against incurring debt, and costs, as applied. I seek protections under the 5th Amendment's Equal Protection component, as a party of one, with unique religious beliefs to gain access to the courts to defend my exercise of 1st, 5th and 14th Amendment liberties.

Wherefore, I, Meghan M. Kelly, Plaintiff, Plaintiff respectfully pray the Court grant me an exemption from costs.

Dated: 1/29/2023 Respectfully submitted,

__/s/ Meghan Kelly_
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com
(302) 493-6693
(2,701 Words)
United States Supreme Court No.283696

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

December 2, 2022

Meghan Kelly
34012 Shawnee Drive
Dagsboro, DE 19939

RE: Motion for Leave to File Different In Forma Pauperis Motion

Dear Ms. Kelly:

The motion for leave to file a different in forma pauperis motion was received November 29, 2022 and is returned for the following reason:

The Rules of this Court make no provision for this filing. If you wish to proceed without payment of the fee, you must submit a motion for leave to proceed in forma pauperis and notarized affidavit or declaration in compliance with Rules 33.2 and 39. You may use the enclosed forms.

Sincerely,
Scott S. Harris, Clerk
By:

Lisa Nesbitt
(202) 479-3038

Enclosures

Exhibit E

No._____

_____

IN THE SUPREME COURT OF THE UNITED STATES

In the Matter of Meghan Kelly in the Third Circuit Court of Appeals

Meghan M. Kelly, Petitioner

No Respondent

On Petition for a Writ of Certiorari

to the United States Court of Appeals for the Third Circuit

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EXHIBIT 3

SUBMITTED US SUPREME COURT DOCUMENT

APPEAL FOR 22-8037

No._____

IN THE SUPREME COURT OF THE UNITED STATES

In the Matter of Meghan Kelly in the Third Circuit Court of Appeals

Meghan M. Kelly, Petitioner

No Respondent

On Petition for Writ of Certiorari to the United States Court of Appeals for the Third Circuit

Petitioner Meghan Kelly's Motion for Leave to file Different in Forma Pauperis Motion to waive costs due to utter poverty, and due to foreseeable costs creating a substantial burden upon Petitioner's access to the courts and forced violation of her religious beliefs by threat of indebtedness

1. I, Petitioner Meghan M. Kelly, having been granted in forma pauperis relief in other Matters, move this honorable for additional in forma pauperis relief, to waive costs, and potential costs due to utter poverty and due to such foreseeable costs creating a substantial burden upon my access to the courts and forced violation of my religious beliefs by threat of indebtedness.

2. I was previously granted in forma pauperis status under Delaware District Court Case No 21-1490, Third Circuit Court of Appeals Case No. 21-3198, Delaware Supreme Court matter No. 21-119, Chancery Court matters No. 2020-0809 and No. 2020-0157.

3. Even a few dollars in fees would cause a substantial burden upon my access to the courts to address Constitutionally protected activity relating to

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fundamental rights, creating an obstacle so great as to prevent my access to the courts.

4. I do not want to sin against God by incurring debt. I believe people sin against God by incurring debt. God teaches in *Romans* 13:8, "Owe no one anything, except to love each other, for the one who loves another has fulfilled the law." Since it compromises our loyalty to God towards the pursuit of money to free us from bondage, as savior instead of God. Jesus teaches you cannot serve both God and money as savior. *Matthew* 6:24. I choose God. Earning money is not sin. When our desire to earn money takes the place of our desire to do God's will by hardening our heads, hardening our hearts and hardening our hands from loving God foremost and subordinately loving others as ourselves, that is sin. I believe "the love of money is the root of all evil. 1 *Timothy* 6:10. I believe we are taught through temptations to worship sin, the mark of the beast spoken of in *Revelation* young, by praise and profit, glorifying work and business, and conditional giving and conditional relationships, confusing many into believing conditionally caring is unconditional love damning most of humanity to hell the last day, which is sad. (See, *Revelation* 16:2, *Revelation* 20:4. By worship of the image of the beast, I believe God means absence of love, conditionally giving to get, conditional relationships, worship of business greed by barter or exchange, with no unconditional love. No God in them, for it is written "God is love." 1 *John* 4:16.

I believe we sin when we glorify the punishments of sin written in *Genesis* 3 as the reason to live reflecting pride, sin, instead of receiving correction through humility leading to salvation from the lake of fire, the second death.)

5. I believe creditors will be damned to hell for not forgiving monetary debts. (*See, Matthew* 6:12, "And forgive us our debts, as we also have forgiven our debtors."); (*Matthew* 6:14-15, "For if you forgive other people when they sin against you, your heavenly Father will also forgive you. But if you do not forgive others their sins, your Father will not forgive your sins."); (*Deuteronomy,* 15:1 "At the end of every seven years you must cancel debts."); (*See also*, *Matthew,* 18:21-35. Debts once forgiven will be remembered if we do not forgive others.); (Jesus teaches "What good will it be for someone to gain the whole world, yet forfeit their soul? Or what can anyone give in exchange for their soul?" *Matthew* 16:26.); (Jesus teaches us do not seek after material things, "but seek first his kingdom and his righteousness, and all these things will be given to you as well." *Matthew* 6:30-33.); (With regards to eternal treasure we are commanded to share his word without pay as without pay we received the gift of the way to eternal life, through the word. *Citing, Matthew* 10:8).

6. If people don't forgive monetary debts, I believe people will be damned to hell for loving money and material gain more than one another as commanded. We are commanded to love people, not money and the things it can

buy. (*See, John* 13:34-35, "A new command I give you: Love one another. As I have loved you, so you must love one another. By this everyone will know that you are my disciples, if you love one another.")

7. Since I am commanded to love people, I do not want to create a situation where I increase the odds, they will be damned to hell by accruing profit off of debt. I do not want to be damned to hell by seeking money in place of God as my savior due to indebtedness. Debt is against my religious beliefs because it makes money guide and savior instead of Jesus as guide and savior.

8. Interest on alleged debt, and debt is against my religious beliefs as I believe it increases servitude to Satan by teaching people to be enslaved to earning money to pay artificial interest or debt, instead of being free in Christ, essentially making money the savior in place of God. (See, *Leviticus* 25:36-37, "Do not take interest or any profit from them, but fear your God, so that they may continue to live among you. You must not lend them money at interest or sell them food at a profit." and *Exodus* 22:24-26).

9. It is my genuine religious belief charging interest or a fee on money lent or artificial debt is a sin against God, I believe misleading many to hell by indebtedness to the pursuit of money, instead of God. (*Ezekiel* 18:13, "He lends at an interest and takes at a profit. Will such a man live [By live, I believe it means losing eternal life in the second death should he not repent]. He will not! Because

he has done all these detestable things, he is put to death; his blood will be on his own head."); (*Deuteronomy* 23:19, "Do not charge your brother interest on money, food, or any other type of loan."); (*Proverbs* 28:8, He who increases his wealth by interest and usury lays it up for one who is kind to the poor.); (Exodus 22:25, "If you lend money to one of my people among you who is needy, do not treat it like a business deal; charge no interest.); (*Deuteronomy* 15:2 "This is the manner of remission: Every creditor shall cancel what he has loaned to his neighbor. He is not to collect anything from his neighbor or brother, because the LORD's time of release has been proclaimed.")

10. I believe it is a great sin to go into debt, and an even greater sin to require a person to go into debt to exercise fundamental freedoms, that are no longer free, but for sale to those who can afford to buy the ability to exercise Constitutional 1st Amendment liberties, the wealthy, rendering the poor less equal, no longer free, but for sale bought people, as wage slaves, in violation of the 13th Amendment, and Equal Protection Clause of the 14th Amendment applicable to the states, and the Equal Protections component of the 5th Amendment applicable to the Federal government, with government support.

11. The Delaware Disciplinary Order and reciprocal orders prevent me from returning to my former law firm, and may prevent me from getting a job as a lawyer to render any fees impossible to pay back. In addition, asking for donations

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is against my religious beliefs as I believe people are misled to hell by *Matthew* 6:1-4 violations of organized charity, fundraising and pro bono.

12. Going into debt, of even a few dollars, is against my religious belief, and the additional costs of even a few dollars is a substantial burden upon my access to the courts due to my utter poverty, and my inability to pay back any fees should my appeal fail.

13. I respectfully request that no costs relating to this case be required to my person, including transcript fees, due to such costs creating an economic strain upon my exercise of the access to the courts to defend 1st Amendment rights, as a substantial burden due to my poverty, with little prejudice to any disciplinary counsel, the public or this Honorable Court, and due to violations, such cost requirements create upon my exercise of my religious beliefs.

14. This Court must not require I violate my religious beliefs by agreeing to personal indebtedness should costs arise in order to exercise my 1st and 5th Amendment rights to petition this Court to safeguard my exercise of Constitutionally protected activity from government interference or retaliation including the right, to petition, exercise religious beliefs, freely speak concerning my religious beliefs for which my petitions relate to and the freedom to associate.

15. In order for this Court to require I consent to costs which violates my religious beliefs, compromising my faith in Jesus to servitude to Satan by making

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money God by costs, and potential costs relating to this matter, the Court must have a compelling interest somehow more important than the free exercise of religion, narrowly tailored to support such interest.

16. The Court may not require forced indebtedness, through costs, in violation of my religious beliefs because its justification to compel forced violations of my religion is not narrowly tailored in this case, since the Court may grant an exemption to prevent the government forced violation of my religious beliefs.

17. The rule of law is not a business where only those with money may purchase justice. Justice is not for sale by barter or exchange, but must be determined by truth under the Constitutional principles that protect individual freedom of conscience from the forced, collective conditional will of mobs or entities by the vote or otherwise.

18. As a child of God, I believe we each must use our individual conscience mind to choose to do God's will or not in order to have any hope of eternal life.

19. The freedom to think and believe by the dictates of our own conscience instead of the government's compelled, conditional, controlled, conformed thoughts based on the ever-evolving fickle thoughts or fads of experts

or entities or associations, or foreign and private backed partners is the source of all freedom in this country.

20. It is insulting the state of Delaware, and reciprocating courts seek to declare me mentally disabled because I do not think their forced-fed thoughts, but use my freedom to seek to have the "mind of Christ" through his Word, not the mind of the world. (*Citing*, 1 *Corinthians* 2:16).

21. It is heartbreaking that the state through the Delaware Disciplinary Counsel sought to declare me a danger to the public, but for my faith in Jesus Christ, when I desire to love God and others as myself.

22. I am in great danger. I read the global plans from the World Economic Forum. They seek their will be done, like Satan, seeking to mold the world by their dictates, eliminating individual freedoms to live by the dictates of their own conscience. (See, *Isaiah* 14, to see how the fallen angel wanted to do what he wanted to do, not God's desires. The evil one desired to be as high as God, making himself like God, not by love, not like God, but by evil lusts. Scripture teaches the devil is in control of the world and every person in it, who does not take control of their desires to choose to be guided by God by love to overcome lusts of this world to be saved from the second death.); (See, 1 *John* 5:19, "We know that we are children of God, and that the whole world is under the control of the evil one."); (2 *Corinthians* 4:4, "The god of this age [the devil] has blinded the

minds of unbelievers, so that they cannot see the light of the gospel that displays the glory of Christ, who is the image of God.").

23. The world economic forum devises temptations to entice humanity to succumb to their entities' will. They plan to have 47 percent of Americans unemployed by design. (*The Fourth Industrial Revolution*, page 39, attached hereto as an exhibit, Also see *Covid 19 The Great Reset*, and the *Great Narrative* also attached hereto as exhibits and incorporated herein by reference).

24. I believe they plan to seek to declare and treat the unemployed as mentally disabled to use people, precious people God loves, in wicked experiments to create the illusion, the lie, they can control free will, the freedom of each individual to reflect the image of God by unconditional love or to choose to live based on human desires instead of laying down desires, to think, to know in order to love. I believe unconditional love is reflecting the image of God. I believe only individual people may separately choose to unconditionally love. Love is not unconditional if it is controlled, compelled or based on conditions. Groups, entities, associations, religious organizations, charities or business aid in a collective, conditional will of the entity as opposed to the individual, and may only conditionally care instead of unconditionally love. (Id, page 26, 154, 156, Covid 19, the Covid 19, The Great Reset). The books discuss joblessness leading to mental health issues, leading to civil unrest, leading to possible crime, leading to

mental institutionalization of people who I believe will be used as lab rats in experiments to teach the lie thoughts could be forced into human minds, fixing them. I believe God teaches, we have free will no matter the physical, economic or social temptations to bend our will to the dictates of experts who seek to control under the lie of caring for people. Discussions conducted by the World Economic Forum and or the World Government Summit also allude to surveillance state controlled by private entities with the reduction and possible elimination of government's ability to govern. This includes the possible elimination of police, who have the power to love, to protect even those they correct, which is more powerful than a machine, without a heart. Entities, conditional act in accordance of collective, collaborative interests which are easily controlled by third parties that entice the common interests by reward or threat of harm, making entities controlled-slaves, not free but controlled by those who tempt the common interests.

25. Entities have no power to do good by unconditional love. I believe only individuals have the power to reflect the image of God.

26. With the death and resurrection of Jesus the Christ, per *Jeremiah* 31, I believe, God, in the form of love, was written on all humanity's hearts to accept or harden our hearts to. God does not say it was written on artificial entities without hearts, which do not have the law of love. Humans are special in that they may lay down their desires and the desires of men, to use their brains, their free will to care

to know, in order to love, by doing what is right. Algorithms and entities have no power to do good, but are wicked, untamed by the just rule of law or love written on the hearts to refrain them from oppressive, killing, stealing and destroying to maintain profit, power and positions. Judges and just laws must protect us from entities and automation from sacrificing individuals and individual liberties.

27. The government must govern and guide entities to protect individual liberties and individuals. The government must not turn a blind eye at human sacrifice, including sacrificing individual liberties, by entities without hearts.

28. Business is not God. Business is not the law. I believe business greed is the mark of the beast spoken of in Revelation.

29. My hope of a hero is the courts who may use the rule of law to tame these powers and principalities, the entities who behave above the law.

30. The government must control, govern and guide businesses and entities to prevent them from killing, stealing and destroying individuals for the bottom line. The government must not be controlled, governed and misguided by business and entities without hearts.

31. It is individual liberties that are protected under our Constitution, not money and material gain of artificial entities without hearts who run on conditional labor or cold hard or electronic cash, with no power to do good by love. They run on lawless lusts.

32. Money is not what establishes and preserves our government. The government wrongly gave away its power to coin money through delegation to the private entity, the federal reserve, a central bank, in 1913 and has been controlled by artificial debt in violation of the bible, not free to care for and serve the people ever since. Both Presidents Lincoln and Kennedy proposed solutions. Coin money to care for, not control humanity, while preserving individual liberties.

33. The individuals within the government must coin money at no charge without interest. Pay back all debt, allowing banks to have reserves. The government must end the Ponzi scheme of allowing the banks to lend out what is not theirs at a potential loss to the depositors and the government, essentially creating money out of nothingness. The banks must risk losing their own money, not the depositors or the government's. This will prevent inflation because bankers will face personal loss for bad business.

34. I hope the Attorney General may use a bribery statute, such as 8 U.S.C. § 201, or somehow seek a writ of mandamus against Secretary Janet Yellen pursuant 31 U.S.C. § 5112 (k) to coin money without debt or interest to pay off all debts to prevent the elimination of fiat currency and the dollar, replaced by an electronic currency that will eliminate freedoms with use down the line.

35. The entire world is in danger. Other people are not the enemy. We deal with entities that behave above the law. My hope of a hero to save me, and

the individual liberty the freedom to believe by the dictates of our own conscience not the force-fed government backed thoughts of private partners, the United States and the world is with the individual judges in our courts who have the power to reflect the image of God by unconditional love for humanity as they render justice that may preserve our union and rule of law from collapse.

36. I have a civil rights law suit to void not only the original Delaware Disciplinary Order, but also to void the decision in Kelly v Trump, which may be found on this Court's web site by entering in docket number 21-5522.

37. I have more than one idea to use a mistrial or another suit to allow the Courts options to reverse a crash should one occur.

38. I believe the government must end private and foreign partnerships, which allow private and foreign entities to be above the government's guidance and the law by the government's own collusion by backing.

39. I desire the courts to exercise more of its authority to protect the United States by balancing the powers in the other two branches to prevent private and foreign take over of the government down the line making us no longer a free people, but a for sale slave people.

40. This Court has inherent equitable powers over their process to prevent abuse, oppression, and injustice. *Gumbel v. Pitkin*, 124 U.S. 131 (1888); *Covell v. Heyman*, 111 U.S. 176 (1884); *Buck v. Colbath*, 70 U.S. (3 Wall.) 334 (1866).

41. This Court must grant my request to prevent government abuse against my person, oppression, and injustice.

42. Any costs create a substantial burden and obstacle to my access to the Courts in contravention to my Equal Protection to the 1st Amendment right to access to the Courts to defend my exercise of fundamental rights applicable to the Federal Courts via the Equal Protection component of the 5th Amendment, for me, a member of class of one due to religious beliefs against incurring debt combined and due to utter poverty. *See, Abdul-Akbar v. McKelvie*, 239 F.3d 307, 317 (3d Cir. 2001) ("This requires us first to determine whether Appellant is a member of a suspect class or whether a fundamental right is implicated. Neither prisoners nor indigents are suspect classes; *See, Harris v. McRae,* 448 U.S. 297, 323, (1980) (noting that poverty is not a suspect classification)." (*But see, Lewis v. Casey*, 518 U.S. 343, 370 (1996) "[A]t all stages of the proceedings the Due Process and Equal Protection Clauses protect [indigent persons] from invidious discriminations.")

43. "Because this case implicates the [Constitutionally protected rights of exercise of religion, speech, petition, belief and association and the] right of access to the courts," the government's disparate treatment towards me, based on poverty, is still unconstitutional under a strict scrutiny basis test. *Citing, Tennessee v. Lane*, 541 U.S. 509, 533 n.20 (2004).

44. The Supreme Court noted, "There can be no equal justice where the kind of trial a man gets depends on the amount of money he has." *Lewis v. Casey*, 518 U.S. 343, 370 (1996); (internal citations omitted)

45. While, poverty is not a suspect class, my right to meaningful access to the courts, despite the inherent burden of poverty, and my religious beliefs and strongly held religious exercise relating to my religious belief against indebtedness is protected. In addition, fundamental rights are implicated. Delaware Disciplinary Counsel and Delaware agents violated my Fundamental rights of religious beliefs, religious-political speech, religious-political petitions, religious-political-association, religious-political exercise, procedural and substantive due process opportunity to be heard, to prepare and present evidence, to subpoena witnesses, and to cross examine my accuser.

46. Delaware Disciplinary Counsel and reciprocating courts persecute me and seek to defame my character by taking away my property interest in my active license to practice law but for my exercise of Constitutionally protected conduct, in violation of my freedom to petition concerning my religious-political speech, religious-political exercise, religious-political belief, religious-political association, and association as a party, attorney, Democrat, Catholic and Christian when I believe there has been a grievance committed against me.

47. Justice Stevens, with whom Justice Brennan, Justice Marshall, and Justice Blackmun joined, in dissenting of US Supreme Court in *Murray v. Giarratano*, 492 U.S. 1, 18 (1989) recognized,

> "When an indigent is forced to run this gantlet of a preliminary showing of merit, the right to appeal does not comport with fair procedure. . . . [T]he discrimination is not between `possibly good and obviously bad cases,' but between cases where the rich man can require the court to listen to argument of counsel before deciding on the merits, but a poor man cannot. . . . The indigent, where the record is unclear or the errors are hidden, has only the right to a meaningless ritual, while the rich man has a meaningful appeal." Douglas, 372 U.S., at 357-358

48. Court costs, as applied, violate my religious beliefs, religious practices and religious exercise against incurring debt, and costs, as applied. I seek protections under the 5th Amendment's Equal Protection component, as a party of one, with unique religious beliefs to gain access to the courts to defend my exercise of 1st, 5th and 14th Amendment liberties.

Wherefore, I, Meghan M. Kelly, Plaintiff, Plaintiff respectfully pray the Court grant me an exemption from costs.

Dated: Nov 21, 2022

Respectfully submitted,

Meghan Kelly, Esquire
DE Bar Number 4968
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com
(302) 493-6693
(3,863 Words) US Supreme Court Bar No 283696

Under Religious Protest, I declare, affirm that the foregoing statement is true and correct under the penalty of perjury.

Dated: Nov. 21, 2022

Meghan Kelly
(printed)

Meghan Kelly
(signed)

Exhibit 1

MEGHAN MARIE KELLY, ESQUIRE
34012 Shawnee Drive
Dagsboro, DE 19939

Clerk of the Court
US Supreme Court
1 First St. NE,
Washington, DC 20543

RE: **DC Bar License No. 981781/Retired**/Leave waiver requirement/Invoke US Amend. V/ Meghan Kelly

August 16, 2022

Dear Honorable Clerk of Court :

While seeking leave to respond and assert my rights against government accusation, I invoke my 5th Amendment right against self-incrimination.

I am licensed to practice law before this Court. I seek excusal, for good cause, from reporting to this Court, disciplinary orders from other jurisdictions. Requiring I report to this Court by written rule, requires I provide evidence to the state in order that they may prosecute me relating to my license to practice law in violation of my 5th Amendment right against self-incrimination.

In *In re Gi Yeong Nam*, 245 B.R. 216 (Bankr. E.D. Pa. 2000), the Court held:

> "Once a witness voluntarily reveals an incriminating fact, Fifth Amendment privilege against self-incrimination cannot be invoked to avoid disclosing the details of that fact unless the witness' answer to the particular question posed would subject him or her to a "real danger" of further incrimination." U.S.C.A. Const. Amend. 5.

In my case, volunteering information by reporting orders against my license subjects me to automatic government prosecution. The fact I appeal orders on public record before appellate courts, does not remove the "real danger of further [government prosecution] in proceedings likened to be both criminal and civil in nature." *Id.*

Should I notify state courts of an order incriminating me, the Clerk customarily gives the self-incriminating notice to the Office of Disciplinary Counsel who automatically prosecutes.

In federal courts, the procedures are different. It appears the self-incriminating reporting letter is given to a federal judge or a panel of federal judges who prosecute the attorney by reciprocal deactivation of license, while allowing attorneys to show for good cause why such automatic taking of property interest must not occur.

The Court is the prosecutor, the judge and witness too, without a case or controversy requirement. In federal reciprocity cases, I would not serve an opposing counsel in the US Supreme Court or any other federal court, should reciprocal discipline be conducted. I would be defending myself against required Court prosecution should I not bear the burden of clear and convincing evidence as to why the Court must not prosecute me.

The Government must not compel me to provide testimony against my person at the threat of certain prosecution for the exercise of my religious-political beliefs, religious-political speech, religious exercise, religious-political association, poverty, or religious-political petitions.

Should a waiver of the requirement I report disciplinary action to this Court be denied, for good cause, I seek leave for additional time in the amount of 30 days I receive notice from this Court of denial of my asserted right to invoke the 5th Amendment to file notice of disciplinary orders against me in this Court. By receipt of notice, for good cause, I request the Court allow 30 days the order is received by me, not the date the order is issued. Since mail has been lost, it is important to reserve my rights to **assert** them, rather than to **defend** my rights against prosecution.

Asserting rights offers more protections than defending them against certain prosecution.

I invoke my rights under the 5th Amendment, and argue self-regulation violates case and controversy requirements, making the profession, business, the appearance and marketing of professionals, not justice, the goal of the courts.

This Court's rule requiring licensed attorneys to report disciplinary actions against their person in other jurisdictions, is the rule in all federal and state courts. I argue this rule is unconstitutional. Under the compelled government threat of

punishment for failing to report, licensed attorneys must self-incriminate, in violation of US Amend. V. I argue this is unconstitutional for all attorneys, and seek a waiver for myself.

No good can come to my person by reporting incriminating evidence against my license, and the threat of being declared mentally disabled, but for my belief in Jesus Christ, exercise of fundamental rights, or poverty. Due to lack of resources, working computers, printers, paper and other luxuries, I had typos and run on sentences in some of my pleadings. I did not have the luxury of time or resources to proof read or correct documents. I typed desperately wherever I could use computers or print documents, including at libraries, with limited time at the computer. I was required to file timely or waive my rights. I do not regret imperfectly standing up for my religious belief from government persecution solely for the exercise of my religious belief and fundamental rights. I would regret doing nothing at a time such as now.

Practicing law is my religious exercise. I believe justice in the Courts is a command by God, saving people in this life and eternity. [1]

I fear the government may put me away for my faith in Jesus, deeming it a mental disability. Please do not compel me under the threat of punishment for

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[1] Citing Bible, *Amos* 5:15 ("maintain justice in the courts."); (*Matthew* 23:23, "Woe to you, teachers of the law and Pharisees, you hypocrites! You give a tenth of your spices—mint, dill and cumin. But you have neglected the more important matters of the law—justice, mercy and faithfulness. You should have practiced the latter, without neglecting the former.")

failing to report to possible imprisonment or economic, social and physical persecution of the government for the exercise of my fundamental rights.

Thank you for your kind consideration.

Respectfully Submitted,

Aug 16th, 2022

Meghan Kelly

/s/Meghan Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com
302-493-6693
DC Bar No. 981781 **(Retired)**

34012 Shawnee Dr.
Dagsboro, DE 19939

Clerk of Court
Scott S. Harris
Supreme Court of the United States
Office of the clerk, 1 First St. NE
Washington, DC 20543-0001

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Rehearing SUA Sponte in the U.S. Supreme Court: A Procedure for Judicial Policymaking

Rosemary Krimbel

REHEARING *SUA SPONTE* IN THE U.S. SUPREME COURT: A PROCEDURE FOR JUDICIAL POLICYMAKING

ROSEMARY KRIMBEL*

I. INTRODUCTION

The Supreme Court has the discretion to select the cases that it will hear each term by granting writs of certiorari.[1] This writ orders the various courts of appeals to certify the record in a case and send that case to the Supreme Court for review. In addition, after granting a writ of certiorari and hearing oral argument, the Court may upon its own motion (or *sua sponte*)[2] request the litigants to reargue[3] a case, commonly called rehearing.[4] There are good reasons why the Court should and does request rehearing. This Note, however, addresses the one wrong reason—policymaking.[5]

* The author wishes to express her gratitude to Professor J. Gordon Hylton, Jr., IIT Chicago-Kent College of Law, for his support, encouragement, and helpful consultations during the various stages of this article.

1. Supreme Court Case Selections Act, Pub. L. No. 100-352, 102 Stat. 662 (1988); *see infra* notes 54-58 and accompanying text; *see also* G. CASPER & R. POSNER, THE WORKLOAD OF THE SUPREME COURT (1976) (elucidating the process of granting certiorari); SUP. CT. R. 17.1 ("A review on writ of certiorari is not a matter of right, but of judicial discretion, and will be granted only when there are special and important reasons therefor.").

2. A Latin phrase meaning voluntarily without prompting or suggestion. BLACK'S LAW DICTIONARY 1277 (5th ed. 1979).

3. The use of the word "reargument" is often used interchangeably with the word "rehearing." "Reargument," however, generally refers to oral argument before the Court; "rehearing" encompasses not only "reargument," but also requests for written briefs and written submissions to questions from the bench.

4. The Supreme Court Rules guide the granting of petitions for rehearing. *See infra* notes 81-85 and accompanying text; *see also* SUP. CT. R. 51.1; Degnan & Louisell, *Rehearing in American Appellate Courts*, 34 CAN. B. REV. 898, 901-02 (1956).

5. The Court can decide only "Cases" and "Controversies." U.S. CONST. art. III, § 2, cl. 1. As Justice Roberts, writing for a majority, so eloquently said:

> There should be no misunderstanding as to the function of this court . . . . It is sometimes said that the Court assumes a power to overrule or control the action of the people's representatives. This is a misconception. The Constitution is the supreme law of the land ordained and established by the people. All legislation must conform to the principles it lays down. When an act of Congress is appropriately challenged in the courts as not conforming to the constitutional mandate the judicial branch of the Government has only one duty, — to lay the article of the Constitution which is invoked beside the statute which is challenged and to decide whether the latter squares with the former. All the court does, or can do, is to announce its considered judgment upon the question. The only power it has, if such it may be called, is the power of judgment. This court neither approves nor condemns any legislative policy. Its delicate and difficult office is to ascertain and declare whether the legislation is in accordance with, or in contravention of, the provisions of the Constitution; and, having done that, its duty ends.

Through the interplay of the Court's discretion to grant writs of certiorari and request rehearing *sua sponte*, the Court may reach out and pick specific issues[6] as well as cases. This interplay raises the specter of what has been called the "countermajoritarian difficulty," which arises when the politically unaccountable Court intervenes in the political process.[7] The memorandum opinion that requested reargument in *Patterson v. McLean Credit Union*[8] brought to the forefront the question of whether the Court's inherent power to administer its docket[9]—the foundation for its ability to rehear cases *sua sponte*—may be abused by an activist Court.[10]

With the enactment of the Supreme Court Case Selections Act[11] in 1988, the United States Supreme Court now has more discretion than ever to choose the cases that it reviews with the exception of direct ap-

United States v. Butler, 297 U.S. 1, 62-63 (1936); *see* Hanus, *Denial of Certiorari and Supreme Court Policy-Making*, 17 AM. U.L. REV. 41, 41-56 (1967) (analyzing criminal procedure cases and arguing that case selection is sometimes used to avoid difficult issues or to make policy indirectly); *see generally* D. CURRIE, THE CONSTITUTION IN THE SUPREME COURT (1985).

6. Appellate courts often reformulate fuzzy issues that litigants fail to sharpen, and while issue clarification is sometimes necessary, wholesale restatement of the issues is relatively rare. By constitutional design, cases arrive in the Supreme Court after the issues have percolated through the political process and have been framed by the litigants. Once a case or controversy has reached the Supreme Court, the Court has the power to reframe or clarify the issues within the context of the case. Consequently, no matter how broad a brush the Court uses upon the canvass of the case, the Court still must wait for the litigants to present them with a canvass before the Court can begin to paint. It is "going off the canvass" that causes many lawyers to believe that appellate decisions are mere acts of will, and this in turn causes a lack of confidence in the decisionmaking power of appellate courts. *See* K. LLEWELLYN, THE COMMON-LAW TRADITION: DECIDING APPEALS 3-7, 29-33 (1960).

7. When the Supreme Court declares legislation unconstitutional, the Court imposes constitutional restraints upon the political process. A. BICKEL, THE LEAST DANGEROUS BRANCH: THE SUPREME COURT AT THE BAR OF POLITICS 16-23 (1986); *see also* Address by Justice William J. Brennan, Jr., delivered to the Text and Teaching Symposium, Georgetown University (Oct. 12, 1985) (available in Chicago-Kent Law Review Office) ("Our commitment to self-governance in a representative democracy must be reconciled with vesting in electorally unaccountable Justices the power to invalidate the expressed desires of representative bodies on the ground of inconsistency with higher law.").

8. 485 U.S. 617 (1988).

9. F. FRANKFURTER & J. LANDIS, THE BUSINESS OF THE SUPREME COURT v-viii (1928) (noting that the administration of the Court's docket is as important to efficient adjudication as the process of judicial decisionmaking itself).

10. The Supreme Court's memorandum decision in *Patterson* was front page news across the country. *See, e.g.*, Greenberg, *Distressing Signals From the Court*, N.Y. Times, May 18, 1988, at A31, col. 2 (Court's action suggests an agenda of civil rights retrenchment); TRB, *The Fifth Man*, NEW REPUBLIC, May 16, 1988, at 4 (referring to Justice Kennedy as the "fifth" vote in the *Patterson* memorandum decision); Jacoby & McDaniel, *Why Open a Closed Case? Upheaval on the Court*, NEWSWEEK, May 9, 1988, at 69 (Court's action came as a shock); Lacayo, *Play It Again, Says the Court*, TIME, May 9, 1988, at 73 (Reconsideration of major civil rights ruling signals the start of a conservative judicial majority); *Suddenly, the Conservatives Start Stirring*, U.S. NEWS & WORLD REP., May 9, 1988, at 11 (Kennedy swinging court to the right).

11. Pub. L. No. 100-352, 102 Stat. 662 (1988).

peals from three-judge panels.[12] Although this case selection discretion gives the Court the opportunity to seek out specific issues, the Court still must wait for an issue to be presented to it within the context of a case or controversy. As a result, the Court can address the policy decisions made by the politically accountable branches—Congress and the Executive—only when presented with legal challenges to those decisions. But the Court has the inherent ability to add an issue to a case already on its docket simply by requesting rehearing *sua sponte*, as the Court did in the *Patterson* case over vigorous dissents by four Justices.[13] This Note will examine how the Supreme Court's broad discretion to select cases and issues[14] has changed the Court from a passive institution "with neither force nor will but merely judgment"[15] to the influential arbiter of "whether the political solutions to major national problems devised by the legislative and executive branches [will] be allowed to proceed."[16]

After a brief history of the major congressional statutes enacted under Article III's exceptions and regulations clause[17] and a review of the historic justifications for the Court's inherent *sua sponte* powers,[18] this Note will scrutinize the necessity for the Court's power to request rehearing *sua sponte*.[19] It will then look at two cases in which the Court caused concern when it requested rehearing *sua sponte*.[20] Last, it will critically examine the need to request rehearing *sua sponte* and the appropriateness of the Court's use of this power.[21] This Note concludes with the recommendation that Congress amend Supreme Court Rule 51, the rehearing rule, and specify only two instances when the Court may request rehearing *sua sponte*: (1) when the Court is equally divided; or (2) when it is reconstituted.

12. The Court still must hear direct appeals from three-judge panels, which mostly concern legislative apportionment cases. *See* 28 U.S.C. § 1253 (1988); Boskey & Gressman, *The Supreme Court Bids Farewell to Mandatory Appeals*, 109 S. Ct. 412, 428-30 (1988).

13. *See* Patterson v. McLean Credit Union, 485 U.S. 617 (1988) (per curiam); 485 U.S. at 619 (Blackmun, J., with whom Brennan, J., Marshall, J., and Stevens, J., join, dissenting); 485 U.S. at 621 (Stevens, J., with whom Brennan, J., Marshall, J., and Blackmun, J., join, dissenting). *See also infra* notes 132-62 and accompanying text.

14. This Note will not address the opposite dimension of the problem with docket control where the Court chooses inaction and defers to the political process when judicial action is indicated. *See, e.g.*, Gunther, *The Subtle Vices of the Passive Virtues*, 64 COLUM. L. REV. 1 (1964).

15. THE FEDERALIST NO. 78, at 465 (A. Hamilton) (New American Library ed. 1961).

16. W. REHNQUIST, THE SUPREME COURT 305 (1987).

17. *See* text accompanying notes 36-55.

18. *See* text accompanying notes 56-78.

19. *See* text accompanying notes 79-97.

20. *See* text accompanying notes 98-161.

21. *See* text accompanying notes 162-189.

II. THE UNITED STATES SUPREME COURT'S APPELLATE JURISDICTION

The jurisdiction of the Supreme Court is both original and appellate, as defined in Article III of the Constitution.[22] The Court's original jurisdiction extends to all cases "affecting Ambassadors, other public Ministers, and Consuls," and cases "in which a State shall be a party."[23] The Court's appellate jurisdiction extends the federal judicial power to all other cases.[24] It is the more important jurisdiction because it enables the Court to disregard the barrier of federalism[25] and reach not only federal, but also state, cases and controversies.[26] It is the appellate jurisdiction that the Constitution subjects to congressional regulation. Article III explicitly states that the appellate jurisdiction of the Supreme Court is conferred "with such exceptions and under such regulations as Congress shall make."[27] Although the literal language of the Exceptions Clause

22. U.S. CONST. art. III. Article III created the judicial branch of the United States tripartite structure of government and vested all of the judicial power, both original and appellate, in one "supreme Court" and "in such inferior Courts as the Congress may from time to time ordain and establish." *Id.*

23. 28 U.S.C. § 1251 (1988) governs the Court's original jurisdiction and provides that the Supreme Court has exclusive jurisdiction of controversies between two or more states. *See also* Illinois v. Milwaukee, 406 U.S. 91, 98 (1972) (political subdivisions within states, such as cities, are not states for purposes of § 1251). Although § 1251 speaks of the Court's original jurisdiction, the Court itself has said that "[t]he original jurisdiction of the Supreme Court is conferred not by Congress but by the Constitution itself. This jurisdiction is self-executing and needs no legislative implementation." California v. Arizona, 440 U.S. 59, 65 (1979) (Court avoided the question of congressional power to limit Court's original jurisdiction).

24. Article III extends this power to

> all Cases, in Law and Equity arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; . . . —to all Cases of admiralty and maritime Jurisdiction; —to Controversies to which the United States shall be a Party; . . . [between a State and Citizens of another State;] —between Citizens of different States —between Citizens of the same State claiming Lands under Grants of different States, [and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.]

U.S. CONST. art. III, § 2, cl. 1. (Bracketed material refers to changes made by the Eleventh Amendment to the Constitution).

25. "Federalism" describes the interrelationships among the several states and the relationship between the states and the federal government. H. SPAETH, SUPREME COURT POLICY MAKING: EXPLANATION AND PREDICTION 11-13 (1979).

26. 28 U.S.C. § 1257 (1988) governs the routing of cases from the state courts to the Supreme Court. Prior to the Supreme Court Case Selections Act, a state case had a mandatory right of appeal to the Supreme Court if a state court found a federal law invalid or if a state court found valid a state law that was contested under a federal provision. In both of these cases, state law was pitted against federal law, and state verdicts in favor of the state law were presumed suspect. Congress, however, rejected this premise as unduly suspicious of the state courts, and rewrote § 1257 so that the Supreme Court has the discretion whether to review state court decisions no matter which way the state ruled in the case. *See* H.R. REP. NO. 660, 100th Cong., 2d Sess. 7, *reprinted in* 1988 U.S. CODE CONG. & ADMIN. NEWS 772.

27. The Constitution mandates the existence and contours of the Court's original jurisdiction, with which Congress may not tamper. The Constitution, however, vests in Congress the power to make "exceptions and regulations" regarding the Court's appellate jurisdiction. U.S. CONST. art.

gives plenary power to Congress to regulate the Supreme Court's jurisdiction, other clauses of the Constitution may implicitly limit Congress' ability to do so.[28] Moreover, Congress may not be able to regulate the Court's appellate jurisdiction in a manner that is inconsistent with the Court's essential role in the constitutional plan.[29]

Despite these broad constitutional and systemic limits, Congress has never granted to the Supreme Court all the power provided by Article III.[30] The Court has acknowledged that it understands the affirmative descriptions of its appellate jurisdiction to negate all other

III, § 2. While the Supreme Court has never definitively answered the question of how complete the scope of congressional authority is under the Exceptions Clause, it is generally considered to be broad. *See* Anderson, *The Power of Congress to Limit the Appellate Jurisdiction of the Supreme Court*, 1981 DET. C.L. REV. 753; *see also* C. HUGHES, THE SUPREME COURT OF THE UNITED STATES 24-25 (1928); *see generally* D. CURRIE, *supra* note 5.

The Supreme Court did address the scope of congressional control of the Court's appellate jurisdiction in *Ex parte* McCardle, 74 U.S. (7 Wall.) 506 (1868), which arose when Congress removed the Court's appellate jurisdiction in habeas corpus cases. McCardle had appealed a denial of a writ of habeas corpus in a case that arose under the Reconstruction statutes, and Congress, fearing that the Court would invalidate much of the Reconstruction legislation, did not want the Court to hear the case. The Court held that Congress had the power to make such an exception. In dicta, however, the Court said that it still had the power to issue *original* writs of habeas corpus, and therefore, Congress' action did not totally remove the Court's jurisdiction to reach the Reconstruction statutes. *Id.* at 515 (referring to *Ex parte* McCardle, 73 (6 Wall.) 318, 324 (1867)). Although this case is often cited for the proposition that Congress has full control of the Court's appellate jurisdiction, more recent literature suggests that Congress cannot destroy as in *McCardle* the essential role of the Court by limiting access to constitutional cases that involve the supremacy of federal law. *See* Sager, *Constitutional Limitations on Congress' Authority to Regulate the Jurisdiction of the Federal Courts*, 95 HARV. L. REV. 17, 42-68 (1981); *see also* Merry, *Scope of the Supreme Court's Appellate Jurisdiction: Historical Basis*, 47 MINN. L. REV. 53 (1962) (proposing that exceptions clause applies to questions of fact and not to questions of law).

28. *See, e.g.*, U.S. CONST. amend. V (under the Due Process Clause, Congress could not exclude specific classes of litigants from access to the Supreme Court); U.S. CONST. art. I, § 9 (under the prohibition of Bills of Attainder, for instance, it would be unconstitutional for Congress to exclude jurisdiction as pertains to a specific litigant). Gunther, *Congressional Power to Curtail Federal Court Jurisdiction: An Opinionated Guide to the Ongoing Debate*, 36 STAN. L. REV. 895, 916-21 (1984); *see* Gressman & Gressman, *Necessary and Proper Roots of Exceptions to Federal Jurisdiction*, 51 GEO. WASH. L. REV. 495 (1983).

29. This "Essential Functions" doctrine, proposed by Leonard Ratner in two major articles, states that Congress may not interfere with the Court's function of providing a uniform interpretation of federal law and policing state courts' enforcement of federal law. *See* Ratner, *Majoritarian Constraints on Judicial Review: Congressional Control of Supreme Court Jurisdiction*, 27 VILL. L. REV. 929 (1982); Ratner, *Congressional Power Over the Appellate Jurisdiction of the Supreme Court*, 109 U. PA. L. REV. 157 (1960); *see also* Sager, *Constitutional Limitations on Congress's Authority to Regulate the Jurisdiction of the Federal Courts*, 95 HARV. L. REV. 17 (1981).

Another implicit constraint on Congress' power to restrict the Court's appellate jurisdiction is the doctrine of separation of powers. It is often argued that the implicit doctrine of Separation of Powers also limits Congress' ability to regulate the Court's jurisdiction. For instance, Congress could not use its Exception Clause power to demand that the Court act in an unconstitutional way. *See* United States v. Klein, 80 U.S. (13 Wall.) 128, 146-48 (1871) (holding unconstitutional a congressional attempt to prescribe a rule of decision regarding effect of a pardon).

30. See Chapter 81 of Title 28 Judiciary and Judicial Procedures which limits access to the Supreme Court's appellate jurisdiction at 28 U.S.C. §§ 1251-1258 (1988).

jurisdiction that Congress does not affirmatively grant.[31]

A. *Congressional Regulation of the Supreme Court's Appellate Jurisdiction*

Congress first regulated the Supreme Court's appellate jurisdiction in the Judiciary Act of 1789.[32] The Act gave appellate jurisdiction to the Supreme Court by writ of error, which mandated that the Court review cases for supposed errors of law, and Congress limited review of state court decisions to those cases in which the decision was against a federal claimant.[33] Because the Act was contemporary to the Constitution itself,[34] many scholars view it as an authoritative source of the original understanding of the Supreme Court's role in our government. Furthermore, the Act was a successful compromise between the Federalists, who wanted a broad, sweeping judiciary, and the Anti-Federalists, who

31. In *Ex parte* McCardle, 74 U.S. (7 Wall.) 506 (1868), the Court said:

> [T]he judicial act was an exercise of the power given by the Constitution to Congress "of making exceptions to the appellate jurisdiction of the Supreme Court." "They have described affirmatively," said the court, "its jurisdiction, and this affirmative description has been understood to imply a negation of the exercise of such appellate power as is not comprehended within it."
>
> The principle that the affirmation of appellate jurisdiction implies the negation of all such jurisdiction not affirmed having been thus established, it was an almost necessary consequence that acts of Congress, providing for the exercise of jurisdiction, should come to be spoken of as acts granting jurisdiction, and not as acts making exceptions to the constitutional grant of it.

Id. at 513 (quoting Durousseau v. United States, 10 U.S. (6 Cranch) 307, 314 (1810) (Marshall, C.J.)).

32. The first order of business in the First Session of the First Congress was Senate Bill No. I, which became the Judiciary Act of 1789. The Act infused Article III with substance and detailed those ingredients necessary for the "due process of law" that the Bill of Rights guaranteed. Act of Sept. 24, 1789, 1 Stat. 73 (1789). For an excellent history of the debates which led to the Judiciary Act, see Warren, *New Light on the History of the Federal Judiciary Act of 1789*, 37 HARV. L. REV. 49 (1923).

33. Section 25 of the Judiciary Act of 1789 reads:

> *And be it further enacted*, that a final judgment or decree in any suit, in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under any State, on the ground of their being repugnant to the constitution, treaties or laws of the United States, and the decision is in favour of such their validity, or where is drawn in question the construction of any clause of the constitution, or of a treaty, or statute of, or commission held under the United States, and the decision is against the title, right, privilege or exemption specially set up or claimed by either party, under such clause of the said constitution, treaty, statute or commission, may be re-examined and reversed or affirmed in the Supreme Court of the United States upon a writ of error . . . .

Judiciary Act, ch. 20, § 25, 1 Stat. 73, 85-86 (1789).

34. The Constitution was signed September 17, 1787. Nine states were needed for ratification, and the necessary ninth state, New Hampshire, approved the Constitution in June 1788. In 1790, Rhode Island became the last of the original thirteen states to ratify the new Constitution. The Bill of Rights, the first ten amendments, was added to the Constitution in 1791. Congress enacted the Judiciary Act in 1789, soon after ratification gave it the power to so do.

wanted a federal judiciary of limited, minimal power.[35] The Court's appellate jurisdiction remained confined under this Act for eighty-six years.

Nearly one hundred years later, Congress expanded the Court's appellate jurisdiction in the Act of March 3, 1875, which for the first time conferred on the federal courts general federal question jurisdiction.[36] This grant of jurisdiction allowed the Supreme Court to review all cases "arising under" the Constitution, laws or treaties of the United States.[37] Prior to the Act, the majority of cases came before the Court on the basis of diversity of citizenship,[38] which offered a federal forum to litigants who feared local prejudice if their cases were heard before a state court.[39]

As the country grew, so did the Supreme Court's docket, and the Court found it increasingly difficult to keep up with its workload. To alleviate the crush of cases, Congress introduced a discretionary element into the Supreme Court's appellate jurisdiction in the Circuit Court of Appeals Act of 1891, which instituted the use of the writ of certiorari and created the circuit courts of appeals.[40] The writ of certiorari allowed the Court, for the first time, the discretion to choose which cases it would hear and, consequently, which cases it would not hear. Prior to this Act, every litigant in a federal forum had a right to appeal her case all the way to the Supreme Court, and many did so. Although after the Act of 1891 a litigant retained the ability to appeal as a matter of right, that appeal was now to the circuit court, and not normally to the Supreme Court. The circuit courts of appeals eased the Supreme Court's docket, and the

35. Warren, *supra* note 32, at 53-54.

36. Act of Mar. 3, 1875, ch. 137, 18 Stat. 470. This Act, among other things, extended the Supreme Court's appellate jurisdiction to all cases which arose under the Constitution, laws, or treaties of the United States. G. CASPER & R. POSNER, *supra* note 1, at 17. The Act added tremendously to the business of the Supreme Court when the Court vastly expanded the definition of "arising under" in its construction of the Act in *Pacific Railroad Removal Cases*, 115 U.S. 1 (1885). The Court's construction of the Act allowed *any* suit against the federally chartered Pacific Railroad to "arise under" the laws of the United States. *Id.* at 11. Negligence suits against the Pacific Railroad deluged the Court and put pressure on the Court's docket. This pressure led to the Judiciary Act of 1891. *See* F. FRANKFURTER & J. LANDIS, *supra* note 9, at 69-78.

37. A unanimous Supreme Court recently defined "arising under" as "only those cases in which a well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law." Franchise Tax Bd. v. Construction Laborers Vacation Trust, 463 U.S. 1, 27-28 (1983).

38. *See* G. CASPER & R. POSNER, *supra* note 1, at 17.

39. 28 U.S.C. § 1332(a) (1988) parrots the language of the Constitution and grants federal jurisdiction in "controversies . . . between — (1) citizens of different states; (2) citizens of a State and citizens or subjects of a foreign state."

40. Circuit Court of Appeals Act, ch. 517, 26 Stat. 826 (1891); *see also* Durham v. United States, 401 U.S. 481, 483 (1971) (appeals are a matter of right, while Supreme Court's certiorari decisions are wholly discretionary); F. FRANKFURTER & J. LANDIS, *supra* note 9, at 69; 2 C. WARREN, THE SUPREME COURT IN UNITED STATES HISTORY 727-28 (1947). *See generally* Hanus, *Certiorari and Policy-Making in English History*, 12 AM. J. LEGAL HIST. 63 (1968) (discussing the writ of certiorari as an English docket control device).

number of appeals to the circuit courts grew.[41] Appeals as a matter of right still remained for many classes of cases. Because many litigants continued to exercise this right of appeal to the Supreme Court, the Court again fell behind in its workload.

By the beginning of the twentieth century, the steady expansion of litigation on social and economic legislation[42] caused burgeoning demands on the Supreme Court's appellate jurisdiction. It was clear that a new judiciary act was necessary and, at the time, the Court was led by Chief Justice William Howard Taft, who was not only an adept leader, but an astute politician as well.[43] Taft led the movement for the Court's institutional independence, and he was responsible for the passage of the Judiciary Act of 1925,[44] which gave the Supreme Court effective control over its own docket.[45] Chief Justice Taft, an expert administrator,[46] pushed for judicial reform and drafted the Act of 1925.[47] The 1925 Act reduced the number of appeals as a matter of right and replaced automatic access to the Supreme Court with discretionary review by writ of certiorari, allowing the Supreme Court to refuse to hear many of the requests for appellate review. This Act, with little modification over the years, governed access to the Supreme Court until the Supreme Court

41. Taft, *The Jurisdiction of the Supreme Court under the Act of February 13, 1925*, 35 YALE L.J. 1, 2 (1925) ("Speaking generally, [the circuit courts] were always abreast of their docket, and their activity soon removed the 'hump' in the docket of the Supreme Court.").

42. Some commentators believe that the crushing demand upon the Court's docket was a result of the Court's "propensity to declare social and economic legislation unconstitutional." G. CASPER & R. POSNER, *supra* note 1, at 18; *see* R. STERN & E. GRESSMAN, SUPREME COURT PRACTICE 41 (5th ed. 1978); Rice, *How the Supreme Court Mill is Working*, 56 AM. U.L. REV. 763 (1922) (including docket statistics from 1916 to 1921).

43. William H. Taft has been the only person to serve both as President of the United States and as Chief Justice of the Supreme Court.

44. Act of February 13, 1925, ch. 229, 43 Stat. 936.

45. The Judiciary Act of 1925 permitted the Court to dispose of less important and less worthy cases by simply denying certiorari. *See* Report of the Study Group on the Caseload of the Supreme Court, 57 F.R.D. 573, 575 (1972); G. CASPER & R. POSNER, *supra* note 1, at 20, Table 2.6; *see also* F. FRANKFURTER & J. LANDIS, *supra* note 9, at 258 ("In marking the boundaries of the Court's jurisdiction its broad categories must be supplemented by ample discretion, permitting review by the Supreme Court in the individual case which reveals a claim fit for decision by the tribunal of last resort.").

46. According to Taft's biographer, Chief Justice Taft said of the Court's appellate jurisdiction:

> It was vital, he said in opening his drive for the Judges' bill, that cases before the Court be reduced without limiting the function of pronouncing "the last word on every important issue under the Constitution and the statutes of the United States." A supreme court, on the other hand, should not be a tribunal obligated to weigh justice among contesting parties.
>
> "They have had all they have a right to claim," Taft said, "when they have had two courts in which to have adjudicated their controversy."

2 H. PRINGLE, THE LIFE AND TIMES OF WILLIAM HOWARD TAFT 997-98 (1939) (footnote omitted).

47. In his book, Chief Justice Rehnquist refers to the Judiciary Act of 1925 as the Certiorari Act of 1925. W. REHNQUIST, *supra* note 16, at 268.

Case Selection Act of 1988.[48]

On June 27, 1988, Congress passed the Supreme Court Case Selections Act,[49] which eliminated, with the exception of direct appeals from three-judge panels,[50] all of the Supreme Court's mandatory appellate jurisdiction. The Act governs the routing of cases from the lower federal courts to the Supreme Court,[51] allowing the Supreme Court total discretion to choose which cases come before it. Accordingly, the only way for a litigant to have his case heard in the Supreme Court is for the Supreme Court itself to grant the litigant's request for certiorari. The case-selection process, therefore, is immensely important on a practical level because the first issue which the Court now addresses is whether it should decide a case on the merits and involve itself in a confrontation with Congress or the Executive Branch. Moreover, case selection permits the Court to determine its level of involvement in state and local governmental issues by deciding whether to hear appeals from the various state courts. This case-selection discretion enhances the Court's inherent power as a judiciary.

B. The Supreme Court's Inherent Power

The Supreme Court's power to administer justice is not simply the power to apply the law to the facts of a case, but also the power to achieve equitable results under the law due to the Constitution's merger of law and equity[52] in the federal judicial power.[53] Under English law, upon which the Framers drew in establishing the federal judicial power,

48. Pub. L. No. 100-352, 102 Stat. 662 (1988).

49. *Id.*

50. Direct appeal from a three-judge court is still available under the 1988 Act. 28 U.S.C. § 1253 (1988). In 1976, however, Congress severely limited this form of tribunal to legislative apportionment cases. 28 U.S.C. § 2284 (1988).

51. The Supreme Court Case Selections Act allows a litigant to petition the Supreme Court for certiorari once the district court has entered a final judgment. Therefore, a litigant may file an appeal in the court of appeals and petition the Supreme Court for certiorari on the same day. The Act allows the Supreme Court to grant or deny certiorari "before or after" the court of appeals renders judgment. 28 U.S.C. § 1254(1) (1988). For legislative history and purpose of the Act, see H.R. REP. NO. 660, 100th Cong., 2d Sess. at 7, *reprinted in* 1988 U.S. CODE CONG. & ADMIN. NEWS 772. *See* Boskey & Gressman, *supra* note 12; *see also* Amar, *A Neo-federalist view of Article III: Separating the Two Tiers of Federal Jurisdiction*, 65 B.U.L. REV. 205 (1985) (Article III creates two tiers of federal jurisdiction—one for mandatory federal questions and a second for discretionary jurisdiction. Amar argues that Congress regulates only the discretionary tier.).

52. There is no satisfactory way of defining "equity." The gist of equity, however, is that a liberal interpretation of legislative words will be used, if necessary in a particular case, to achieve a just result. *See* A. ROSS, ON LAW AND JUSTICE 283-84 (1958).

53. Emmerglick, *A Century of the New Equity*, 23 TEX. L. REV. 244, 245 (1945); Glenn & Redden, *Equity: A Visit to the Founding Fathers*, 31 VA. L. REV. 753 (1945); Von Moschzisker, *Equity Jurisdiction in the Federal Courts*, 75 U. PA. L. REV. 287 (1927); *see also* Adams, *The Origin of English Equity*, 16 COLUM. L. REV. 87 (1916).

the equity courts were completely independent of the law courts.[54] The Lord Chancellor of England headed the equity courts, which dispensed justice in cases that did not fit within the rigid formulas of the common-law system.[55] While equity courts dispensed "justice" on an individual basis depending upon the facts in each case, the common-law courts were constrained by the doctrine of precedent, which prescribed that a particular decision can be "justified" only if it is deducible from a prior decision.[56] As Blackstone noted, equity exists for circumstances "wherein the law, by reason of its universality, is deficient."[57] The Framers merged the English Courts of Chancery's equity with the written common-law system of precedent, allowing all cases to travel through the same system whether they request equitable relief or application of common-law precedent.[58] The distinction between the two systems is preserved, however, because a case must fall "within the traditional scope of equity as historically evolved in the English Court of Chancery" before equitable relief will be granted.[59] Equity, unlike written common law,[60] is a pliable concept, and consequently, the judicial branch under our Constitution plays a discretionary role when applying equitable concepts to achieve just results.[61]

This equitable power, or discretion, could be abused if not for an organizational structure that constrains its use,[62] and the Supreme Court's rules provide this structure. Section 17 of the Judiciary Act of 1789 conferred inherent power to make necessary rules "for the orderly conducting [of] business"[63] upon all federal courts, including the

54. Various theories abound regarding the beginnings of the two court systems in England, but records clearly establish both an equity court and a common-law court system as early as the fourteenth century in England. *See* Adams, *supra* note 53, at 87-89.

55. Glenn & Redden, *supra* note 53, at 760-61.

56. R. WASSERSTROM, THE JUDICIAL DECISION: TOWARD A THEORY OF LEGAL JUSTIFICATION 56-83 (1961).

57. 1 W. BLACKSTONE, COMMENTARIES *62.

58. *See* Mississippi Mills v. Cohn, 150 U.S. 202, 205 (1893) ("The equity jurisdiction conferred on the Federal courts is the same that the High Court of Chancery in England possesses . . . ."); H. MAINE, POPULAR GOVERNMENT 218 (1886) (the "Federal Judicature established by the American Constitution as a whole . . . had its roots in the Past, and most of their beginnings must be sought in England."); Note, 2 HARV. L. REV. 382, 383 (1889) ("[P]olitical institutions, like living organisms, are as a rule developed from earlier institutions by a process of selecting and adopting those features which experience has proven to be best adapted to the needs of the political environment . . . ."); *see generally* Adams, *supra* note 53; Glenn & Redden, *supra* note 53.

59. Guaranty Trust Co. v. York, 326 U.S. 99, 105 (1945) (Frankfurter, J.).

60. Law here is used in the positivist sense—a written code that determines the attachment of rights to individuals during their interaction in a governed society without regard for the law's moral content. *See* H.L.A. HART, THE CONCEPT OF LAW 181-89 (1961).

61. J. ELY, DEMOCRACY AND DISTRUST 1-9 (1980).

62. J.K. GALBRAITH, THE ANATOMY OF POWER 54 (1983) (*citing* A. BERLE, JR., POWER (1969)).

63. Section 17 of the Judiciary Act of 1789 reads:

Supreme Court; and the Process Act Amendment of 1793[64] made clear that this power was limited so as not to be contrary to the laws of the United States.[65] Before the Supreme Court could decide its first case, it had to inform the litigants of its procedures. One of the first rules that the Supreme Court wrote, regarding the administration of its docket, described the management of its business as analogous to the English equity courts:

> The Chief Justice, in answer to the motion of the Attorney General, made yesterday, informs him and the bar, that this court consider the practice of the courts of king's bench, and of chancery, in England, as affording outlines for the practice of this court; and that they will, from time to time, make such alterations therein as circumstances may render necessary.[66]

Since our country has a common-law system, following English procedure made practical sense and, as the need arose, the Court developed other rules using English equity court procedures as guidelines, one of which was the equity procedure of "rehearing."

The English equity courts developed the doctrine of rehearing in response to a need for review of their decisions.[67] Unlike the law courts from which a litigant could appeal to a higher court, the equity courts of the Chancellor used the device of "rehearing" because there was no higher body to hear appeals when the Chancellor erred.[68] Rehearing allowed the Chancellor to reconsider a decision and correct and revise a previously expressed opinion before finality occurred.[69] When the highest law court ruled in a case, a litigant could request a writ of error,

> *And be it further enacted,* That all the said courts of the United States shall have power to grant new trials, in cases where there has been a trial by jury for reasons for which new trials have usually been granted in the courts of law; and shall have power to impose and administer all necessary oaths or affirmations, and to punish by fine or imprisonments, at the discretion of said courts, all contempts of authority in any cause or hearing before the same; and *to make and establish all necessary rules for the orderly conducting [sic] business in the said courts, provided such rules are not repugnant to the laws of the United States.*

Judiciary Act, ch. 20, § 17, 1 Stat. 73, 83 (1789) (footnotes omitted and emphasis added).

64. 1 Stat. 333 (1793).

65. *Id.* at 335. This amendment read:

> [I]t shall be lawful for the several courts of the United States, from time to time, as occasion may require, to make rules and orders for their respective courts . . . as shall be fit and necessary for the advancement of justice, and especially to that end to prevent delays in proceedings.

66. 5 U.S. (1 Cranch) xvi (Aug. 8, 1791). This rule, in one form or another, governed the Court until 1954. The last codification of this rule was in 1931: "This court considers the former practice of the courts of king's bench and of chancery, in England, as affording outlines for the practice of this court in matters not covered by its rules or decisions, or the laws of Congress." SUP. CT. R. 5, 286 U.S. 596 (1932).

67. Degnan & Louisell, *supra* note 4, at 904.

68. *Id.* at 903. It has been said that one of the procedures of equity which was superior to law was the rehearing process. *See* 9 W.S. HOLDSWORTH, A HISTORY OF ENGLISH LAW 372-73 (1926).

69. Degnan & Louisell, *supra* note 4, at 904.

which allowed another decision in the case only upon a showing of clear error in the former decision. By contrast, in the equity courts there was no need to show error of any kind before a rehearing would be granted. Rather, a litigant simply had to show need, and the Chancellor could grant a rehearing in order to dispense the most "just" justice possible.[70] For basically the same reason—that there was nowhere to appeal its decisions—the Supreme Court allowed litigants to request rehearing.

The Supreme Court rehears cases because it is the highest court in the federal system—and for the particular litigants involved, a Supreme Court error can be corrected only by rehearing.[71] As Justice Jackson described the Court: "We are not final because we are infallible, but we are infallible only because we are final."[72] The theory underlying the Supreme Court's power to rehear cases is that as a court of last resort it must have a means by which it can admit and correct its misjudgment, and a court which is final must also be deliberate and thorough.[73] The decision to rehear a case is an equitable decision with the goal of attaining justice for the particular litigants involved, which is precisely what a legal system is supposed to do.[74] The problem with an equitable decision is that it does not necessarily follow from common law and may proceed from concepts as varied as "fairness," "moral good," and "justice." Although concepts of justice cannot be formed into rigid rules for a court to apply, rules can be written that will enable litigants to request an equitable decision, such as a rehearing. The procedures of the Supreme Court regarding a litigant's application for rehearing are found in the Supreme Court Rules.

III. REHEARING IN THE UNITED STATES SUPREME COURT

Supreme Court Rule 51 governs litigants' requests for rehearings of any judgment or decision of the Court.[75] Rule 51.1 governs requests for

70. *Id.*

71. Of course, there is always legislative veto of a Supreme Court decision, but such process takes much time and, usually, does not aid the particular litigants in the original lawsuit.

72. Brown v. Allen, 344 U.S. 443, 540 (1953).

73. Degnan & Louisell, *supra* note 4, at 907.

74. Wasserstrom, *Equity: The Case of an Equitable Decision Procedure* in READINGS IN PHILOSOPHY OF LAW 118 (1984).

75.

> A petition for rehearing of any judgment or decision other than one on a petition for writ of certiorari, shall be filed within 25 days after the judgment or decision, unless the time is shortened or enlarged by the Court or a Justice. Forty copies, produced in conformity with Rule 33, must be filed (except where the party is proceeding *in forma pauperis* under Rule 46), accompanied by proof of service as prescribed by Rule 28. Such petition must briefly and distinctly state its grounds. Counsel must certify that the petition is presented in good faith and not for delay; one copy of the certificate shall bear the manuscript signature of counsel. A petition for rehearing is not subject to oral argument, and

rehearing of a decision on the merits, and Rule 51.2[76] governs requests for rehearing of a denial of petition for certiorari. Under both Rule 51.1 and 51.2 at least one of the Justices who agree to the rehearing must have previously joined in the majority decision sought to be reheard. Both sections also require that counsel certify that her request for rehearing is made in "good faith and not for delay."[77] Under Rule 51.2 the grounds for rehearing are limited, and a litigant must show either intervening circumstances or "other substantial grounds" before rehearing of a writ for certiorari will be considered.[78] On the other hand, Rule 51.1 does not require specific or substantial grounds for a rehearing of the Court's decision on the merits. Rather, as in rehearing in equity courts, if a litigant persuades the Court that the Court has possibly erred, the Court will grant rehearing.[79]

While decisions to grant rehearing upon denials of certiorari do occur, they are of little interest because Rule 51.2 spells out exactly what the grounds are for rehearing, and a litigant may not apply for a rehearing of a denial of certiorari unless those specific grounds are present.[80] Rule 51.1 decisions, however, which grant rehearing after the Court has rendered a decision, are of great interest because they often elucidate the Court's decisionmaking process and admit error or substantial change in the circumstances of the law.

Of even more interest are cases where the Court itself has requested rehearing *sua sponte after* hearing oral arguments in a case, but *before* rendering its decision. It is this aspect of rehearing that is not governed by Supreme Court Rule 51 or any other rule. On the contrary, the

> will not be granted except at the instance of a Justice who concurred in the judgment or decision and with the concurrence of a majority of the Court.

SUP. CT. R. 51.1.

76. SUP. CT. R. 51.2.

77. SUP. CT. R. 51.1 & 51.2.

78. Rule 51.2 reads:

> A petition for rehearing of an order denying a petition for writ of certiorari shall comply with all the form and filing requirements of paragraph .1, but its grounds must be limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented. Counsel must certify that the petition is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the manuscript signature of counsel or of the party when not represented by counsel. A petition for rehearing without such certificate shall be rejected by the Clerk. Such petition is not subject to oral argument.

SUP. CT. R. 51.2.

79. Degnan & Louisell, *supra* note 4, at 909. The authors list numerous reasons why courts will *not* grant a rehearing. These include the addition of a new legal theory or new legal argument that the litigant did not earlier argue; consideration of issues not raised at trial; and the unsupported claim that "more argument" would be useful. *Id.* at 910; *see generally* Cook, *The Rehearing Evil*, 14 IOWA L. REV. 36 (1928).

80. The Court's decision to rehear a denial of a request for certiorari is not the subject of this paper.

Supreme Court can request rehearing *sua sponte* for the same reasons that it asserts the power of judicial review—because according to the Court it is the judiciary's "province and duty" to do so.[81]

The most famous assertion of the Court's inherent power as "necessary" to the judicial department occurred in 1803 in *Marbury v. Madison*,[82] where the Court enunciated the power of judicial review as "emphatically the province and duty of the judicial department."[83] Neither Congress, nor any Supreme Court Rule, regulates the power of judicial review. It is grounded in the Court's inherent power as a judiciary and supported by the systemic argument that the Court's role in the constitutional plan is to maintain the supremacy of the Constitution.

The first time that the Court requested rehearing *sua sponte* was in the 1819 case of *Bullard v. Bell*.[84] In *Bullard*, the attorneys had argued the case in the absence of one of the Justices, Mr. Justice Todd.[85] The Court continued the case and directed reargument because the Justices who were present at the original argument were equally divided in opinion, and counsel had consented to the Court's request for reargument.[86]

The Court elucidated its power to request rehearing *sua sponte* in the 1852 case of *Brown v. Aspden*,[87] in which a lower court decision had been affirmed by an equally divided Supreme Court with eight members presiding. Because of the even split, the plaintiff filed a petition for a rehearing. The Court held that affirmance by an equally divided Court was not grounds for granting reargument.[88] In response to the plaintiff's reference to rehearing in the English Courts of Chancery, the Court took the opportunity to expound upon the differences between rehearing in the English Chancery courts of original jurisdiction and in the Supreme Court sitting as an appellate tribunal. The Court held that a litigant's request for rehearing would be limited to the time "after judgment is entered, provided the order for reargument is entered at the same term."[89] The Court reasoned that this rule would avoid the rehearing

81. The essence of Chief Justice Marshall's argument for the creation of judicial review in *Marbury v. Madison* is found in the oft-quoted sentence: "It is emphatically the province and duty of the judicial department to say what the law is." 5 U.S. (1 Cranch) 137, 177 (1803).

82. *Id.* at 137.

83. *Id.* at 177.

84. 18 U.S. (5 Wheat) vii (1819).

85. *Id.*

86. *Id.*

87. 55 U.S. (14 How.) 25 (1852).

88. *Id.* at 28.

89. *Id.* at 26; *see also* Public Schools v. Walker, 76 U.S. (9 Wall.) 603, 604 (1870) (citing *Brown v. Aspden*, the Court denied litigants' request for rehearing because no member of the Court who concurred in the judgment desired a reargument).

problem in England where cases dragged on for several years.

Chief Justice Taney then announced the Court's own power to request rehearing when necessary:

> [T]his court may and would call for a re-argument, where doubts are entertained which it is supposed may be removed by further discussion at the bar . . . . But the rule of the court is this: that no re-argument will be heard in any case after judgement is entered, unless some member of the court who concurred in the judgment afterwards doubts the correctness of his opinion, and desires a further argument on the subject. And when that happens, the court will, of its own accord, apprise the counsel of its wishes, and designate the points on which it desires to hear them.[90]

Taney clearly stated that the Court could and would request rehearing *without the consent of counsel* whenever the Court deemed rehearing necessary. Thus, the Court asserted that the right to request rehearing *sua sponte* was inherent in the Court's duty to see that justice is done, and this duty expired at the end of each term.

The Court expounded on this "term rule" in 1881 in *Bronson v. Schulten*,[91] where it noted that at common law a court had no power to vacate or modify a judgment after the expiration of the term in which the judgment had been rendered. There were two exceptions to the "term rule" that allowed the Court to correct errors after the term's expiration—where errors were in form or were purely clerical.[92] The Supreme Court recognized that it had the power during a term to modify any judgment rendered during that term[93] and, thus, proceeded to incorporate the term rule as part of its judicial power over its judgments.

The extent to which one agrees with the Court's right to request rehearing *sua sponte* determines the faith one has in the Court's ability to constrain itself to use its equitable powers to serve the ends of justice. The debate, however, may be moot since the Court has asserted this power for well over one hundred years.

IV. TWO CASES OF ACTIVIST REHEARING *SUA SPONTE*: THE WARREN COURT AND THE REHNQUIST COURT[94]

Congress can regulate the Court's *sua sponte* power due to Congress'

90. 55 U.S. (14 How.) at 26-27.
91. 104 U.S. 410 (1881).
92. *Id.* at 416.
93. R. STERN & E. GRESSMAN, *supra* note 42, at 781.
94. Although Chief Justice Earl Warren and Chief Justice William Rehnquist are ideological opposites, both have effectively used their positions arguably to achieve "policy" goals. *See* Glennon, *Will the Real Conservatives Please Stand Up?*, 76 A.B.A. J. 48 (Aug. 1990); Howard, *Living With the Warren Legacy*, 75 A.B.A. J. 68 (Oct. 1989).

control of Supreme Court procedures, which includes the Supreme Court Rules.[95] But Congress has never addressed the matter of rehearing *sua sponte*. Perhaps Congress may never have to address this issue.[96] In the Warren Court decision, *United States v. Ohio Power Co.*,[97] and the recent Rehnquist Court memorandum decision, *Patterson v. McLean Credit Union*,[98] vigorous dissents were filed and the legal community focused attention on the Court's actions. The two cases have precedential value, however, and lay a foundation on which a future activist Supreme Court could take advantage.

A. United States v. Ohio Power Co.[99]

In *United States v. Ohio Power Co.*, the Supreme Court requested rehearing *sua sponte* more than a year after final judgment was entered. The *Ohio Power* case concerned Ohio Power Company's early escape from tax liability, an advantage that companies which brought their tax appeals later did not escape.[100] Ohio Power Company sued to recover an alleged overpayment of taxes—a tax refund—under section 124(f) of the Internal Revenue Code of 1939. Section 124(f) allowed accelerated amortization of the cost of constructing wartime facilities. The War Production Board (WPB) had to certify that the construction cost was necessary in the interest of national defense. The WPB certified only part of Ohio Power's costs as "necessary," and Ohio Power sued for certification of all of its costs. The United States Court of Claims entered judgment in favor of Ohio Power Company, and the government appealed. The Supreme Court denied certiorari on October 17, 1955,[101] and on December 5, 1955 the Court denied the government's petition for a rehearing on the government's request for certiorari.[102] On May 28, 1956, the Court denied the government's motion for leave to file a second petition for rehearing.[103] Nevertheless, on June 11, 1956, the Court vacated *sua sponte* its order of December 5, 1955 and requested rehearing so that the case would be disposed of in a manner consistent with two other cases in

95. *See* Rules Enabling Act, ch. 651, 48 Stat. 1064 (1934) (current version at 28 U.S.C. § 2072) (establishing a unified set of rules to govern procedure in all federal courts).

96. Because of the fuss caused by its request in *Patterson v. McLean Credit Union*, it may be a long time before the Court requests rehearing *sua sponte*. *See infra* note 10 and accompanying text.

97. 353 U.S. 98 (1957).

98. 485 U.S. 617 (1988) (*rehearing ordered sua sponte*), *decided* 109 S. Ct. 2363 (1989).

99. 353 U.S. 98 (1957).

100. *Id.* at 99 (Harlan, J., dissenting).

101. 350 U.S. 862 (1955).

102. 350 U.S. 919 (1955).

103. 351 U.S. 958 (1956).

which the Court had granted certiorari.[104] In those two cases, the Court denied full-cost amortization to National Lead Company and Allen-Bradley Company.[105] The Court gave two reasons for its resurrection *sua sponte* of the *Ohio Power* case: that the rehearing would ensure the "interests of justice" and "uniformity in the application of the principles announced in the two companion cases."[106]

In granting the rehearing *sua sponte* in *Ohio Power*, the Court ignored Supreme Court Rule 58, the 1955 counterpart to today's Rule 51, which governed petitions for rehearing. Rule 58 permitted the filing of petitions for rehearing by unsuccessful litigants within twenty-five days of the denial of a petition for certiorari or after the entry of an adverse judgment or order.[107] The literal language of paragraph 4 of Rule 58 precluded petitions for rehearing after the twenty-five day limit: "Consecutive petitions for rehearing, and petitions for rehearing that are out of time under this rule, will not be received."[108] Instead of basing its decision to rehear the *Ohio Power* case on any interpretation of Rule 58, the Court based its decision upon the Court's inherent power over its own judgment,[109] known as the "term rule."[110]

Congress, in an attempt to abolish the Supreme Court's judicially created "term rule," added provision 28 U.S.C. section 452 to the 1948 recodification of the Judicial Code. The wording of section 452 was adopted verbatim from Federal Rule of Civil Procedure 6(c), which had abolished the "term rule" in the federal district courts.[111] It seemed,

104. 351 U.S. 980 (1956). The two other cases were United States v. Allen-Bradley Co., *cert. granted*, 351 U.S. 981 (1956) and National Lead Co. v. Commissioner, 230 F.2d 161 (2d Cir.), *cert. granted*, 351 U.S. 981 (1956).

105. National Lead Co. v. Commissioner, 352 U.S. 313 (1957); United States v. Allen-Bradley Co., 352 U.S. 306 (1957).

106. 353 U.S. 98, 98-99 (1957).

107. *Id.* at 101 n.7 (Harlan, J., dissenting, with whom Frankfurter, J., and Burton, J., join). Out-of-time petitions are those petitions which are filed past the deadline for filing. The deadline for requesting rehearing is 25 days after final judgment, and the Court requested rehearing *sua sponte* in the case over a year after final judgment. *See* SUP. CT. R. 51.4: "Consecutive petitions for rehearings, and petitions for rehearing that are out of time under this Rule, will not be received." *But cf.* SUP. CT. R. 51.1 (allowing 25 days after final judgment unless the time is shortened or enlarged by the Court or a Justice).

108. Sup. Ct. R. 58(4) (1955). In another case of rehearing, Justice Clark stated that he believed that Rule 58(4) meant exactly what it said: He "thought that successive petitions for rehearing would not be received by the Court under its Rule 58(4)." Gondeck v. Pan American World Airways, 382 U.S. 25, 28 (1965) (Clark, J., concurring); *see also* Wiener, *The Supreme Court's New Rules*, 68 HARV. L. REV. 20, 83-87 (1954); R. STERN & E. GRESSMAN, *supra* note 42, at 775-98.

109. "This policy finds expression in the manner in which we have exercised our power over our own judgments, both in civil and criminal cases." United States v. Ohio Power Co., 353 U.S. 98, 99 (1957).

110. *See supra* notes 88, 90-91 and accompanying text; *see also* R. STERN & E. GRESSMAN, *supra* note 42, at 781.

111. "The purpose of this amendment is to prevent reliance upon the continued existence of a

therefore, that section 452 countermanded the Supreme Court's "term rule." The Court, however, continued to grant out-of-time rehearings.[112]

In the period between the passage of section 452 in 1948 and the *Ohio Power* decision in 1956, the Court granted out-of-time petitions for rehearing nine times in violation of the legislative intent of section 452. In five of the out-of-time cases, the Court continued the use of the "term rule,"[113] while in the following four cases, as in *Ohio Power*, the Court invoked its inherent power to contravene Congress' regulatory scheme.[114]

In *Remmer v. United States*,[115] a criminal case, the Court granted an out-of-time petition for rehearing because the Court had decided an intervening case.[116] Originally, the Court had remanded *Remmer* for further proceedings,[117] but because the intervening decision would allow *Remmer* to return eventually to the Court on certiorari, the Court allowed rehearing to avoid the delay and expense of further proceedings. Likewise, in *Achilli v. United States*,[118] another criminal case, the Court vacated a November 19, 1956 denial of certiorari, granted an out-of-time petition for rehearing, and granted certiorari.[119] The Court limited the grant of certiorari, however, to the question of whether the petitioner could be prosecuted and sentenced under a section of the Internal Revenue Code of 1939. *Achilli* was identical to *Remmer* in that the petitioner raised the same question before the district court on remand from the

term as a source of power to disturb the finality of a judgment upon grounds other than those stated in these rules." *Advisory Comm. on Rules for Civil Procedure, Report of Proposed Amendments to Rules 6* (1946). Justice Clark opined that the term rule had "some historical justification but no present justification." *Proceedings of the Institute on Federal Rules, Cleveland* 211 (1938); *see also* Wiener, *supra* note 107, at 85.

112. On June 27, 1949, one year after Congress enacted § 452, the Court granted an out-of-time petition for rehearing in Clark v. Manufacturers Trust Co., 337 U.S. 953 (1949), *cert. denied*, 335 U.S. 910 (1949). On June 7, 1954, the Court vacated *sua sponte* three previous orders denying certiorari and restored the cases to the Court's calendar. Goldbaum v. United States, 347 U.S. 1007 (1954), *cert. denied*, 346 U.S. 831 (1953); Banks v. United States, 347 U.S. 1007 (1954), *cert. denied*, 346 U.S. 857 (1953); McFee v. United States, 347 U.S. 1007 (1954), *cert. denied*, 347 U.S. 929 (1954). On May 14, 1956, the Court granted a motion to recall and amend its judgment after the rehearing period had expired, saying that Rule 58(4) "does not prohibit motions to correct this kind of error." Cahill v. New York, N.H. & H.R.R., 351 U.S. 183, 184 (1956), *recalling and amending*, 350 U.S. 898 (1955), *reh'g denied*, 350 U.S. 943 (1956) (recalling case that was previously remanded to the district court and remanding it instead to the court of appeals).

113. *See* cases cited *supra* note 111.

114. Achilli v. United States, 352 U.S. 1023 (1957); Remmer v. United States, 348 U.S. 904 (1955); Florida *ex rel.* Hawkins v. Board of Control, 350 U.S. 413 (1956); and Boudoin v. Lykes Bros. S.S., 350 U.S. 811 (1954).

115. 348 U.S. 904 (1955).

116. In the rehearing, the Court remanded *Remmer* for reconsideration in light of the Court's decision in Holland v. United States, 348 U.S. 121 (1954).

117. Remmer v. United States, 347 U.S. 227 (1954).

118. 353 U.S. 373 (1957).

119. *Achilli*, 352 U.S. at 1023.

court of appeals after the Supreme Court denied his writ of certiorari. Achilli then successfully petitioned for certiorari from the district court's new decision.[120]

In *Florida ex rel. Hawkins v. Board of Control*,[121] a race discrimination case, the Court vacated a May 24, 1954 denial of certiorari, granted an out-of-time petition for rehearing, and granted certiorari.[122] The Court had originally denied certiorari and remanded the case to the Florida Supreme Court to be reconsidered in light of the Supreme Court's decision in the *Segregation Cases*,[123] which were decided one week earlier on May 17, 1954. The Court vacated and granted certiorari ten months later because the Florida Supreme Court was delaying in implementing the admission of a black to a state law school despite the Supreme Court's mandate to do so.[124]

And finally, to correct a simple clerical error, which is an allowable ground for rehearing even in a common-law court, the Court in *Boudoin v. Lykes Bros. S.S.*,[125] recalled a judgment that had been returned to the district court for further proceedings and remanded the case to the court of appeals instead.[126]

The *Ohio Power* case, on the other hand, was not a criminal case, did not involve racial discrimination, did not expedite continuing litigation, nor was any clerical error made in the Court's previous disposition of the case. Moreover, the issue involved in *Ohio Power* was not a continuing issue because the statute, Internal Revenue Code section 124(f), under which the case was brought, had expired in 1945.[127] Nonetheless, the Supreme Court vacated its previous orders in *Ohio Power* and requested rehearing *sua sponte* in the "interests of justice." The Court, however, never explained exactly what interests of justice demanded the ignoring of Congress' clear intent in section 452 to abolish the term rule.

120. 353 U.S. 373 (1957). *See also* United States v. Ohio Power Co., 353 U.S. 98, 107 (1957) (Harlan, J., dissenting).

121. 350 U.S. 413 (1956).

122. *Id.* The litigant's request for certiorari was denied at 342 U.S. 877 (1951), and that decision was recalled and vacated at 347 U.S. 971 (1954).

123. The "Segregation Cases" refers to the two cases decided on May 17, 1954, by the U.S. Supreme Court: Brown v. Board of Education, 347 U.S. 483 (1954) and Bolling v. Sharpe, 347 U.S. 497 (1954).

124. Florida *ex rel.* Hawkins v. Board of Control, 350 U.S. 413 (1956).

125. 350 U.S. 811 (1955).

126. *Id. See also* United States v. Ohio Power Co., 353 U.S. 98, 107 (1957) (Harlan, J., dissenting, with whom Frankfurter, J., and Burton, J., join) (*Boudoin* concerned correction of error in Court's own mandate).

127. I.R.C. § 124(f)(1) (1939), added by 54 Stat. 998-1003 (1940), as amended, 26 U.S.C. §§ 23(t), 124 (1946).

B. Patterson v. McLean Credit Union[128]

The Rehnquist Court's memorandum decision in *Patterson v. McLean Credit Union* involved the important issue of whether private racial discrimination is remediable under 42 U.S.C. section 1981.[129] In *Patterson*, the Court requested *sua sponte* the parties to brief and argue the question of whether the Court's previous interpretation of section 1981 in *Runyon v. McCrary*[130] should be reconsidered.[131] Yet, neither party had previously raised the issue of *Runyon*'s reconsideration.[132] In *Runyon*, the Court had outlawed racial discrimination in private school admissions, following the precedent of *Jones v. Mayer*,[133] which outlawed private racial discrimination in the sale and rental of housing.

In *Jones*, a real estate developer had refused to sell property to blacks. Jones, a black, sued. The issue was whether private racial discrimination was remedial under 42 U.S.C. section 1982, a companion statute to section 1981.[134] The Court held that the legislative history of section 1982 clearly showed that the act was intended to apply to *private* as well as *public* racial discrimination.[135] Prior to the Court's interpretation of section 1982 in *Jones*, the statute had been an unenforced promise of racial freedom.[136] After *Jones*, section 1982 became a formidable weapon for protection of civil rights whether the alleged discrimination was private in nature or involved "state action."[137] Thus, the "state ac-

128. 109 S. Ct. 2363 (1989), *reh'g ordered sua sponte*, 485 U.S. 617 (1988).

129. 42 U.S.C. § 1981 (1981) reads:

> All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

130. 427 U.S. 160 (1976).

131. 485 U.S. at 617 (per curiam).

132. "Neither the parties nor the Solicitor General have argued that *Runyon* should be reconsidered." *Id.* at 622 (Stevens, J., dissenting with whom Brennan, J., Marshall, J., and Blackmun, J., join).

133. 392 U.S. 409 (1968).

134. 42 U.S.C. § 1982 (1981) reads: "All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold and convey real and personal property."

135. 392 U.S. at 422-36 (setting forth legislative history of § 1982 from its inception in § 1 of the Civil Rights Act of 1866). Justice Stewart delivering the opinion of the Court said:

> Hence the structure of the 1866 Act, as well as its language, points to the conclusion urged by the petitioners in this case—that § 1 was meant to prohibit *all* racially motivated deprivations of the rights enumerated in the statute, although only those deprivations perpetrated "under color of law" were to be criminally punishable under § 2.

392 U.S. at 426.

136. *See generally* Note, *The "New" Thirteenth Amendment: A Preliminary Analysis*, 82 HARV. L. REV. 1294 (1969).

137. *Id.* Previously, the Court required "state action" before finding a violation of a black's civil

tion" limitation was no longer a precedent to civil rights actions.

In *Runyon v. McCrary*, two black children, through their parents, brought suit against a private school under 42 U.S.C. section 1981 because they had been denied admission on the basis of their race.[138] In deciding whether section 1981 prohibited private racial discrimination, the Court considered whether it had properly construed section 1981's companion statute, section 1982, in *Jones* when it extended liability for racial discrimination to the making and enforcing of private contracts.[139] The Court held that both section 1981 and section 1982 reached purely private acts of racial discrimination.[140] In a concurring opinion in *Runyon*, Justice Stevens stated that the stability that would result from following the *Jones* precedent outweighed the argument that *Jones* was wrongly decided.[141]

In *Patterson v. McLean Credit Union*, a black employee of the credit union sued under section 1981 alleging racial discrimination in a private employment setting.[142] The Supreme Court granted certiorari to consider whether racial "harassment" was remediable under section 1981.[143] After oral argument, the Court requested *sua sponte* that the parties brief and argue an additional question: "Whether or not the interpretation of 42 U.S.C. section 1981 adopted by this Court in *Runyon v. McCrary* should be reconsidered?"[144]

Although four Justices dissented in two separate dissents from the Court's *sua sponte* request for reargument, neither dissent focused on the procedure of requesting reargument, but rather on the lack of grounds for requesting reargument.[145] The original issue in the *Patterson* case was whether to extend the Court's interpretation of section 1981, which already prohibited discrimination in private employment contracts, to cases of racial harassment in the workplace.[146] The Court, however, chose a different issue for rehearing, stating in its *per curiam* opinion that it had "decided, in light of the difficulties posed by petitioner's argument

rights. The Court had reasoned that the thirteenth amendment did not give Congress the power to tamper with private, social rights. *See also* The Civil Rights Cases, 109 U.S. 3, 22 (1883).

138. The school stated upon inquiry that it was not integrated, and it accepted only members of the Caucasian race. Runyon v. McCrary, 427 U.S. 160, 165 (1976).

139. *Id.* at 170-72.

140. *Id.*

141. *Id.* at 190-91 (Stevens, J., concurring).

142. 805 F.2d 1143 (4th Cir. 1986).

143. 484 U.S. 814 (1987).

144. 485 U.S. 617 (1988) (citation omitted).

145. *Id.* at 619 (Blackmun, J., dissenting with whom Brennan, J., Marshall, J., and Stevens, J., join); *Id.* at 621 (Stevens, J., dissenting with whom Brennan, J., Marshall, J., and Blackmun, J., join).

146. 805 F.2d 1143 (4th Cir. 1986).

for a fundamental extension of liability under 42 U.S.C. section 1981, to consider *whether* Runyon should be overruled."[147] Though the Court went on to support the proposition that former precedent can be overruled or modified,[148] nowhere in the majority opinion did the Court explain what "difficulties" the petitioner's argument posed that demanded a reconsideration of *Runyon*.

The Court's action was particularly puzzling because *Runyon* had been decided in accord with congressional action taken after the Court decided the *Jones* case. The Senate responded to the *Jones* decision in 1972, and debated amending section 1981 to expressly preclude recovery in cases of employment discrimination. Such action would have made Title VII of the 1964 Civil Rights Act the exclusive remedy for employment discrimination. The Senate declined to amend section 1981 because "every protection that the law has in its purview"[149] should be used to protect victims of employment discrimination. The House of Representatives, which previously had criticized the *Jones* decision, accepted the Senate's decision.[150] Therefore, both Houses of Congress agreed with the Supreme Court's interpretation in *Jones* that section 1981 applied to employment discrimination even before the Court decided *Runyon* in 1976. Moreover, in *Runyon*, following Congress' lead, the Court went a step further and extended section 1981 to all private contracts.[151] Nevertheless, in the face of congressional intent to end racial discrimination, the Supreme Court requested *sua sponte* the litigants in *Patterson* to address whether *Runyon* should be overruled.[152]

On June 15, 1989, the Court rendered its final decision in *Patterson*.[153] Although the Court expressly stated that "[s]ome Members of this Court believe that *Runyon* was decided incorrectly," the Court concluded that *Runyon* should not be overruled.[154] Justice Kennedy, writing for the majority, based the Court's refusal to overrule *Runyon* on considerations of *stare decisis*.[155] The Court further said that *stare decisis* precluded overruling prior precedent, and "the burden borne by the

147. *Patterson*, 485 U.S. at 617 (emphasis in the original).

148. *Id.* at 618.

149. *See* 118 CONG. REC. 3371, 3372 (1972).

150. H.R. REP. NO. 899, 92nd Cong., 2d Sess. at 118 CONG. REC. 6643 (1972).

151. 427 U.S. at 168.

152. 485 U.S. 617, 617 (1988).

153. 109 S. Ct. 2363 (1989).

154. *Id.* at 2370. The Court also declined to extend section 1981 to racial harassment reasoning that "conduct which occurs after the formation of a contract and which does not interfere with the right to enforce established contract obligations" was not remediable under 42 U.S.C. § 1981. *Id.* at 2369.

155. *Id.* at 2370.

party advocating the abandonment of an established precedent is greater where the Court is asked to overrule a point of statutory construction."[156] The Court, however, never addressed the fact that *it* had requested reargument *sua sponte* on whether to overrule *Runyon*, and that the parties had *not* presented that issue. In fact, the Court never discussed its reasons, or the "difficulties" that led it to request rehearing *sua sponte*.

V. ANALYSIS OF THE COURT'S USE OF REHEARING *SUA SPONTE*

The most fundamental social, economic, philosophical, and political questions reach the Supreme Court in the form of lawsuits.[157] As Alexis de Tocqueville astutely observed over one hundred years ago:

> [F]ew laws can escape the searching analysis of the judicial power for any length of time, for there are few that are not prejudicial to some private interest or other, and none that may not be brought before a court of justice by the choice of parties or by the necessity of the case.[158]

Indeed, the Court hears only a small proportion of the thousands of cases that request Supreme Court review.[159] Which cases the Court chooses to decide indicates its policies and priorities as well as the extent of its influence upon the political discourse both in our government and among citizens. Despite this considerable discretion, the Court is still limited to the cases and issues which the litigants choose to present. This limitation assures that an activist Court may not reach out and decide just *any* issue of its choice. In other words, even an activist Court must bide its time waiting for the "perfect" case.

This control of the issues by the litigants is central to our adversarial system of law. The Constitution embodies the adversarial system in section two of Article III which extends the judicial power to all "Cases" or "Controversies."[160] It does not extend the power to all "issues of interest to the Justices." In addition to this constitutional constraint on the Court's jurisdiction, the Court has created rules of self-restraint, including the doctrine of advisory opinions, ripeness, standing, and mootness.[161] Both the constitutional limitation of case or controversy and the

156. *Id.*

157. Justice William J. Brennan, Jr., *supra* note 7.

158. A. DE TOQUEVILLE, DEMOCRACY IN AMERICA 106 (P. Bradley ed. 1945) (H. Reeve Text as revised by F. Bowen 1862) (discussing the "immense political influence" of the United States judiciary).

159. *See* G. CASPER & R. POSNER, *supra* note 1.

160. U.S. CONST. art. III, § 2, cl. 1; *see* text *supra* note 24.

161. *See ex parte* Baez, 177 U.S. 378, 390 (1900) ("Federal courts lack jurisdiction to decide moot cases because their constitutional authority extends only to actual cases or controversies.");

judicially created doctrines comport with the Court's duty to avoid constitutional questions unless necessary.[162]

Since the presentation of issues and arguments to the Court are the litigants' responsibility, rehearing requests should also be their responsibility. The Court should be limited to very specific grounds before it can request rehearing upon its own motion. It is the litigants' responsibility to point to the Court's error and request rehearing in cases where the Court has misunderstood specific facts or where the Court has overlooked binding authority. In either of these situations, it will be obvious to the litigants that the Court has erred, and likewise, the litigants will know to request rehearing.

Had the *litigants* requested reargument in *Patterson* to consider the *Runyon* issue, the Court could have granted the request with little fanfare. The litigants, however, did not raise the *Runyon* issue.[163] This lack of litigant initiative troubled the dissenting Justices, one of whom stated: "the adversary process functions most effectively when we rely on the initiative of lawyers, rather than the activism of judges, to fashion the questions for review."[164]

By rehearing *sua sponte*, the Court can accelerate the "sooner or later" timing of an issue's arrival and, thereby, evade the Constitution's jurisdictional constraints. Thus, the Court can address either issues that have not been decided by a politically accountable body or, worse, issues that have been decided by political representatives. The latter set of issues gives the Court the opportunity to invalidate legislative enactments *without anyone requesting that they do so*. Both actions raise the countermajoritarian difficulty and possibly violate the Constitution's case or controversy limitation.

The greater problem with unrestricted *sua sponte* rehearing is the possibility that the procedure will be used by an activist Court or Justice to further a personal agenda.[165] Justice Kennedy's statement in *Patter-*

Association of Data Processing Serv. Orgs., Inc. v. Camp, 397 U.S. 150 (1970) (discussion by Justice Douglas of the standing doctrine); United Pub. Workers v. Mitchell, 330 U.S. 75 (1947) (ripeness); 1 C. WARREN, THE SUPREME COURT IN UNITED STATES HISTORY 108-11 (1926) (advisory opinions).

162. One rationale of Chief Justice Marshall in *Marbury v. Madison* was that the power of judicial review was a reluctant power necessary only because the Court must decide cases brought before it in conformity with the Constitution. 5 U.S. (1 Cranch) 137 (1803).

163. Patterson v. McLean Credit Union, 485 U.S. 621, 622 (1988) (Stevens, J., dissenting).

164. *Id.* at 623 (quoting New Jersey v. T.L.O., 468 U.S. 1214, 1216 (1984)).

165. Such a scenario has been used to argue against unconstrained judicial review and the same argument applies to rehearing *sua sponte*. *See, e.g.*, Tushnet, *Following the Rules Laid Down: A Critique of Interpretivism and Neutral Principles*, 96 HARV. L. REV. 781 (1983); Wechsler, *Toward Neutral Principles of Constitutional Law*, 73 HARV. L. REV. 1, 9 (1959).

son that "some Members of this Court believe that *Runyon* was decided incorrectly"[166] could support the argument that the Rehnquist Court has such an agenda regarding civil rights. Such argument, however, is mere speculation. The real problem with unregulated *sua sponte* rehearing is that the Court is *perceived* as having a personal agenda whether it does in fact have one or not.

When the parties choose the issues, there is little opportunity for judges to pursue their own agendas and, as a consequence, the proceedings are not only fairer, but are *perceived* as fairer.[167] As Justice Blackmun said in his dissent to the *Patterson* memorandum decision that requested rehearing *sua sponte*:

> I am at a loss to understand the motivation of five Members of this Court to reconsider an interpretation of a civil rights statute that so clearly reflects our society's earnest commitment to ending racial discrimination, and in which Congress so evidently has acquiesced. I can find no justification for the bare majority's apparent eagerness to consider rewriting well-established law.[168]

Such commentary, especially from a member of the Court, raises questions as to the impartiality of the Court's actions, and such speculation tarnishes the Court's legitimacy. Litigant control of the issues is important to satisfy not only the parties, but society as well. As stated by the Supreme Court: "[J]ustice must satisfy the appearance of justice."[169] When the Court solicits issues that the litigants have not presented, the Court erodes its credibility and trespasses on the soul of the adversarial system.

Because the Court decides constitutional issues, which affect us all, society's confidence in the Court's ability to render impartial and reasoned decisions is as important as the decisions themselves. As a result of the tremendous power with which Congress has imbued the Court, it is vital that decisions of the Court be perceived as legitimate. Damage to the legal system may be caused by "frequent or sudden reversals of direction that may appear to have been occasioned by nothing more significant than a change in the identity of this Court's personnel."[170]

The *sua sponte* requests for rehearing in *Ohio Power* and *Patterson* tarnished the image of the Court as a neutral arbiter of our country's

166. — U.S. —, 109 S. Ct. 2363, 2370 (1989).

167. S. LANDSMAN, READINGS ON ADVERSARIAL JUSTICE: THE AMERICAN APPROACH TO ADJUDICATION 34 (1988).

168. 485 U.S. at 621 (Blackmun, J., dissenting).

169. Offutt v. United States, 348 U.S. 11, 14 (1954).

170. Florida Dep't of Health v. Florida Nursing Home Ass'n, 450 U.S. 147, 153 (1981) (In a concurrence, Justice Stevens reiterated the preference for stability.).

problems. Both requests were trivial. As Justice Harlan noted in his *Ohio Power* dissent:

> There is nothing to distinguish [this case] from any other suit for a money judgment in which a conflict turns up long after certiorari and rehearing have been denied. The most that can be said in justification of the Court's action is that otherwise Ohio Power would not have to pay taxes which Allen-Bradley and National Lead must pay as a result of the much later decisions in their cases.[171]

And after all the uproar that the *Patterson* memorandum decision caused,[172] the Court in its final decision stated: "Whether *Runyon's* interpretation of § 1981 . . . is right or wrong as an original matter, it is certain that it is not inconsistent with the prevailing sense of justice in this country."[173]

A potentially more serious problem with the *Ohio Power* and the *Patterson* memorandum decisions is that they remain "on the books." The Court may use both decisions as support for a future attempt to reach out and pick a specific issue. The precedential value of the opinions will outlast the fuss surrounding them. A future decision may overrule or extend the final decisions in both cases, but it is improbable that the Court can change the decisions requesting rehearing *sua sponte*. Arguments against the constitutional use of *sua sponte* rehearing may appear in law review articles and in congressional committees, but there is no way a litigant could raise the issue to the Court. Thus, only Congress can remedy the situation before it changes from a potential problem into an actual problem.

Constitutional cases before the Supreme Court are important to people other than the parties to the dispute,[174] and the Court's decision to deliberate further and rehear oral arguments is justifiable when the litigants request rehearing on grounds that the Court has made an error in fact or law. Rehearing, however, may *not* be justifiable when the Court itself requests rehearing *sua sponte*.

Occasionally, the Court has requested reargument before it has reached a decision because of an equally divided Court[175] or a reconsti-

171. United States v. Ohio Power Co., 353 U.S. 99, 109 (1957) (Harlan, J., dissenting).

172. Amicus briefs were filed by the 47 states; the District of Columbia; Guam; the Virgin Islands; 66 Senators; 118 Congressmen; the American Bar Association; the New York City Bar Association; New York County Lawyers Association; the Lawyers' Committee for Civil Rights under Law; and over 100 other organizations. Briefs in opposition included the Washington Legal Foundation; 8 Congressmen; 3 Senators; the Center for Civil Rights; and the Equal Employment Advisory Council. *See* Reidinger, Runyon *Under the Gun,* 74 A.B.A. J. 78, 80 (Nov. 1988); Eskridge, *Interpreting Legislative Inaction*, 87 MICH. L. REV. 67, 68 n.8 (1988).

173. Patterson v. McLean Credit Union, 109 S. Ct. 2363, 2371 (1989).

174. Degnan & Louisell, *supra* note 4, at 911.

175. C. HUGHES, *supra* note 27, at 70-71.

tuted Court.[176] An equally divided Court is one in which one or more Justices were not present for oral argument and the remaining even number of Justices are equally divided on an issue.[177] A reconstituted Court, on the other hand, is one in which the composition of the Court membership has changed during the time a case is pending in the Court. This happens if a new Justice replaces a retiring or deceased Justice between oral argument and final decision in a case.[178] The Court may request reargument if the Court believes that the new Justice will be able to break a deadlock or change the outcome of the decision.[179]

The *Patterson* case involved a reconstituted Court and possibly an equally divided Court. *Patterson* was originally argued February 29, 1988.[180] The Court's request for reargument was made in a memorandum decision dated April 25, 1988,[181] with the Court hearing reargument on October 12, 1988.[182] Between the original argument and the reargument, Justice Anthony Kennedy was appointed to the Court to replace retiring Justice Lewis Powell.[183] Therefore, the Court that heard reargument was a reconstituted Court. In addition, it may have been an equally divided Court in that between Justice Powell's retirement and Justice Kennedy's appointment, an eight member Court existed. In the *Patterson* memorandum opinion that requested reargument, four Justices dissented.[184] The *per curiam* majority, therefore, included Justice Kennedy.[185] Consequently, the Court may also have been equally divided after the original oral argument in *Patterson*.

However, the *Patterson* litigants and the legal community do not know if the Court relied upon either of these legitimate reasons when it requested reargument, and this leaves the Court open to the criticism that it sought out the *Runyon* issue for activist reasons. Thus, it is important not only that the Court be confined to specific grounds when requesting rehearing *sua sponte*, but also that the Court state the grounds

176. Degnan & Louisell, *supra* note 4, at 899, 913.

177. C. HUGHES, *supra* note 27, at 70-71; Degnan & Louisell, *supra* note 4, at 912 n.37.

178. Degnan & Louisell, *supra* note 4, at 913.

179. *Id.*

180. Patterson v. McLean Credit Union, 109 S. Ct. 2363, 2363 (1989).

181. 485 U.S. 617 (1988).

182. 109 S. Ct. 2363 (1989).

183. President Ronald Reagan appointed Judge Anthony M. Kennedy of the United States Court of Appeals for the Ninth Circuit on November 23, 1987, and the Senate unanimously confirmed him on February 3, 1988. *See also* TRB, *The Fifth Man*, *supra* note 10.

184. One dissent by Justice Stevens in which Justices Blackmun, Brennan, and Marshall joined, and one dissent by Justice Blackmun in which Justices Stevens, Brennan, and Marshall joined.

185. The majority also included Chief Justice Rehnquist and Justices White, O'Connor, and Scalia.

upon which it is requesting the rehearing. Only in this way will the public's confidence in the Court remain untarnished.

VI. CONCLUSION

The Court's image as a fair and impartial arbiter of contemporary issues calls for limited use of the Court's ability to request rehearing *sua sponte*. Consequently, Congress should limit the Court's use of *sua sponte* rehearing to two circumstances: (1) where the Court is equally divided upon an issue, and (2) where the Court's membership has been reconstituted after oral argument and before published decision. In both of these circumstances, the litigants would have no way of knowing the numeric division in the Court or whether their case had been decided before the Court's membership changed. In the case of an even split during the decisionmaking process, the Court itself may need a rehearing to clarify the disputed issues, and this need of the Court would be unknown to the litigants before a decision is rendered.[186] The same reasoning applies to a reconstituted Court as the timing of the actual decision is unknown to the litigants and may occur weeks or months before the opinion is written and published. *Sua sponte* requests for rehearing by the Court should be used sparingly and regulated by written rules to preserve the Court's image. Moreover, the Court, as a matter of policy, should state upon which of the two grounds it is requesting rehearing *sua sponte*.

Because of the countermajoritarian difficulty of allowing the Court to request rehearing upon its own motion, Supreme Court Rule 51 should be amended to expressly allow the Court to request rehearing *sua sponte* for only two reasons: (1) where the Court is equally divided upon an issue, and (2) where the Court's membership has been reconstituted after oral argument and before published decision.

186. The 5-4 decisions that the Court has rendered in the last few years raise doubt among the legal community as to the length of tenure of these decisions. *See* Glennon, *supra* note 93; Howard, *supra* note 93.

21-1490 Sealed exihibits Meg believes will be used in perpetration of a crime to overthrow the government

From: Meg Kelly (meghankellyesq@yahoo.com)

To: zi-xiang.shen@delaware.gov

Cc: meghankellyesq@yahoo.com

Date: Wednesday, November 22, 2023 at 12:19 PM EST

Good morning,

Please note, I requested the atatched documents to be sealed. I believe these entities will be used for an unlawful purpose to aide in a crash that will eliminate a schemed foundation to eliminate the government sometime after 2050.

Please note, I only drafted bankruptcy remote opinions. These entities allow entities to exist by replacing the managing member with a springing member should the managing member dissolve or enter into bankruptcy.

I was not familiar and did not draft opinions allowing bankruptcy,

I believe these entities hide securitized debt that is worthless when the securities have no value in them to be sold into infinity, especially real estate and securitized debt by the Federal Reserve, other central banks, banks, and global banks who make money out of nothing in exchange for dollars or currency of value aka federal reserve notes. Federal Reserve notes are I owe yous to by paid to the central bank with interest. The interest does not exist because every dollar is an I owe you. Every dollar is a debt owed to be paid to the Federal Reserve. Understand the Ponzi scheme. They lend out what they do not have, while requesting interest that does not exist. The debt can never be paid back by design to allow for debt slavery to the private and foreign partners to the government who rule by their partnerships, while training the exploited people to praise the ones who enslave them to jobs they create to serve their sustained debt control, power, position and profit. See Romans 4:4. I argue government must remain separate from to govern and guide and not allow the private and foreign partners to be above the law by being the letter of the law.

I included word copies. Should you suspect that these entities may be used in a crime you may consider analyzing the exception allowing it to be unsealed in the future or at any time. I truly believe these will be used to commit a crime for an unlawful purpose.

It is not possible to supply redacted copies. It is the documents themselves that I request to be sealed which the court may use its discretion to unseal should you or the Department of Justice seek to prevent crimes and the foundation to overthrow the US.

Thank you. Have a Happy Thanksgiving, though I do not celebrate.

Very truly,
Meg
Meghan Kelly
34012 Shawnee Dr.
Dagsboro, DE 19939
meghankellyesq@yahoo.com
(302) 278-2975

1 FORM state law opinion.pdf
49.3kB

2 member managed bankruptcy remote.pdf
67.2kB

3 member managed Independent Manager, Seperate Springing member.pdf
67.6kB

4 Multi member LLC.pdf
112.3kB

5 authority to springing member to file bankruptcy Form of _authority to file_ opinion.pdf
49.3kB

6 Model LLC Certificate of Formation.pdf
8.9kB

7 member managed with offciers.pdf
75.7kB

8 Article 8 Opt-In Outline.pdf
102.5kB

1 FORM state law opinion.doc
50.5kB

2 member managed bankruptcy remote.doc
73kB

3 member managed Independent Manager, Seperate Springing member.doc
73.5kB

4 Multi member LLC.doc
106.5kB

5 authority to springing member to file bankruptcy Form of _authority to file_ opinion.DOC
63kB

6 Model LLC Certificate of Formation.DOC
26kB

7 member managed with offciers.doc
80.5kB

8 Article 8 Opt-In Outline.DOC
47.5kB

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

Meghan Kelly Plaintiff, v. Disciplinary Counsel Patricia B. Swartz, et.al Defendants.	)	Civil Action No.: 1:21-1490 (CFC)

CERTIFICATE OF SERVICE OF
PLAINTIFF MEGHAN KELLY'S 124th Affidavit

I, Meghan M. Kelly, Esquire, hereby certify on 11/24/23, I had a true and correct copy of the above referenced document, served to Defendants, through their counsel through email electronically:

Zi-Xiang Shen
Delaware Department of Justice
820 North French Street
6th Floor
Wilmington, DE 19801

Dated Nov 24, 2023

Respectfully submitted,

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct.

Dated: 11/24/23

Meghan Kelly (printed)

Meghan Kelly (signed)

PLF

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

Meghan Kelly	)	Civil Action No.: 1:21-1490 (CFC)
Plaintiff,	)	
v.	)	
Disciplinary Counsel Patricia B.	)	
Swartz, et.al	)	
Defendants.	)	

PLAINTIFF MEGHAN KELLY'S 127th AFFIDAVIT UPDATE

Comes now Plaintiff Meghan Kelly, I declare and affirm that the foregoing statement is true and correct.

1. Today November 20, 2023 I called Lisa Nesbett the US Supreme Court case manager concerning the whereabouts of the Supplemental Brief.

2. She asked whether I want the documents back. I said I required a letter indicating why they were rejected with time to cure for a reason should they be returned in accordance with case law and Supreme Court Rule 25.6.

3. I also indicated no one knew where the documents were when I called previously. She provided me with one person's name, Donald Baker at the US whose number is 202-479-3035 in the briefing department to check on the whereabouts of the documents.

4. When I called there was a voice machine indicated I may leave a message for Donald Baker. I am not reachable by phone easily. I did not leave a message. When I did a google search, I discovered this gentleman appeared to deprive another lawyer of the 1st Amendment right to petition per the attached brief and denial of rehearing. Pleas see the attached Exhibits.

5. No good may come by contacting him when I plead the Court itself deprived me of the 1st Amendment right to petition by neither accepting or rejecting the Supplemental Brief for a legal reason, and my right to be fully and fairly heard before deprivation of my fundamental

rights and my interests in the PA license in accordance with the 5th Amendment when the US Supreme Court has created the beginning of a course of conduct that not all applicants have Equal access to the US Supreme Court in violation of the 1st Amendment right to petition.

6. In my beginning of a draft I request :
7. In Marbury v. Madison, 5 U.S. 137, 147 (1803) this Court held, " It is a settled and invariable principle, that every right, when withheld, must have a remedy, and every injury its proper redress. 3 Bl. Com. 109. "
8. I respectfully request this court consider the Supplemental Brief to cure my invoked 1st and 5th Amendment rights from deprivations. . I attach it hereto in part (116th Amendment). But this Court retains the physical copies and has not sent them back to me.
9. Since I filed the petition for a rehearing additional intervening circumstances of a substantial or controlling effect have arisen relating to arguments in the petition and arguments as to whether the PA reciprocal Order, which is based on a defective DE Order is void or voidable due to clear violations of my Constitutional rights by the State of Delaware's Supreme Court and the Board the reciprocal PA Order of disability retired is based.
10. Two issues in this appeal are
Thank you for your time and consideration.

6. Injustice is guaranteed and there is no Equal protection of rights in accordance with the 5th applicable to the Federal government or the 14th Applicable to the states when petitions are not accepted or rejected for lawful reasons providing constitutionally sufficient notice for defects to allow for cure in good faith cases to prevent injustice.

7. With regards to the attached case Supreme Court Number 17-256 it appears the lawyer was concerned with conflict of interests with the Court regarding associations being used by justices to eliminate individual rights by account of their partiality towards associations at the cost of human sacrifice of life, liberty, or health of the individual people US Supreme Court justices serve.

8. I think the better course of the lawyer's allegation that neither Clerk Baker or Clerk Bickell's agreement not to docket a Motion was to docket it and allow it to be considered by the US Supreme Court as not to deprive the petitioner of the right to petition under the 1st

Amendment even if it forced the US Supreme Court to analyze its own behavior as upholding or violating the Constitution.

9. I cite the attached Motion for rehearing:

> On 10/23/2017, Petitioner telephoned Mr. Baker to ask why the Amicus Curiae motion was not filed. Mr. Baker transferred the call to Mr. Bickell (telephone number of 202-479-3263). He stated that it was the joint decision between Mr. Baker and him not to file the Amicus Curiae motion. He asserted that pursuant to Rule 37.2, the time to file an Amicus Curiae Brief could not be extended. When corrected, he later acknowledged that Rule 37.2 applies only to Amicus Curiae Briefs, not Amicus Curiae Motions. He stated that he decided not to file the corrected Amicus Curiae Motion since it had "too much deficiency" but he was unable to identify what such deficiencies were. Mr. Brickell argued that the same exact motion had been filed in 17-256 so the court had had a chance to consider its contents there. He was unable to explain why if the Amicus motion was too deficient to file in this matter, it had been deemed acceptable to be filed in 17-256

10. This is not fair or just, especially because it appears to be on viewpoint grounds in violation of the 1st Amendment right to speech Regardless, I told my case manager I requested a letter outlining the deficiency and opportunity to cure in accordance with Rule 25.6.

11. I also indicated I may want to file documents under seal, but I could not file redacted versions since the documents themselves I seek to seal in full.

12. I believe the bankruptcy remote entities will be used by Non-government entities (“NGOs”) down the line to overthrow the government by controlling the resources including the channels and the debt credit through block chain tokens and bids on data and other resources, to control the government to overtake the government sometime after 2050.

13. Bankruptcy remote entities by their creation are not dissolved should its managing member be dissolved in bankruptcy because a springing member hops into their place upon the occurrence of bankruptcy protected by the Contract Clause of the US applicable to the states to allow the criminal activity of reselling securitized debt at a profit into infinity that is nothing but discharged debts that no one will ever pay. It is a Ponzi scheme similar to the 80 trillion dollar US debt owed predominantly to government workers pensions that was written off in debt swaps, meaning tax breaks not to be paid off by design in a controlled crash that will harm the baby boomers and the world if the courts do not save us. I outlined how I would coin correctly without violating the 1st and 13th Amendment as applied to my concerning my religious beliefs against enslaving other free people.

14. I believe the courts are in trouble. I seek to preserve the courts by requiring they adhere to the Constitution and the rule of law with mercy, not violate it to serve marketing their selfish positions to sustain profit which is the mark of lawlessness leading to hell per Jesus Christ. Human sacrifice of life, liberty and health by compelled government backed force for material gain under the lie of the common good or public good does not protect freedom or the public but is the type of controlled order children of the devil implement.

15. Children of the devil are controlled by human desires not yet saved from hell. They are blinded by the desires of man. So they do not impartially do what is right. I believe God who is even if the Bible ceases to be. Yet, God teaches us that we are to shed light on unjust laws to prevent the wrong doers from being destroyed in hell just like God does See, Isaiah 10:1-2: ("Woe to those who make unjust laws, to those who issue oppressive decrees, to deprive the poor of their rights and withhold justice from the oppressed of my people, making widows their prey and robbing the fatherless.") I sit up straight when God says Woe to you and hear

Damned to hell are you should you not turn away from lawless lusts leading us to become too dirty and disgusting to have eternal life by compromising what is right for what is convenient, profitable etc.… *Isaiah* 28:13 provides: "But the word of the LORD was unto them precept upon precept, precept upon precept; rule upon rule, line upon line; here a little, and there a little; that they might go, and fall backward, and be broken, and snared, and taken." I understand this to mean that judges and law makers make compelled rigid sameness the law without understanding protecting preempting laws against slavery to the mob's lawless lusts, safeguarding lives and freedom from compelled conformity of belief. My God teaches me not to be separate by not sinning even if the majority praises lawless lusts business greed, organized charity in violation of Matthew 6:1-4 and other things that I believe damn people to hell as good.

15. The Constitutional law that protects freedom must not be sacrificed for national interests, the lie of the public good, or the lie of the common good as Justice Jackson indicated in *Board of Education v. Barnette*, 319 U.S. 624 (1943) rather brilliantly explained:

> At Page 640 "National unity as an end which officials may foster by persuasion and example is not in question. The problem is whether under our Constitution compulsion as here employed is a permissible means for its achievement"
>
> At Page 641 "As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be."
>
> At page 641 "As governmental pressure toward unity becomes greater, so strife becomes more bitter as to whose unity it shall be. Probably no deeper division of our people could proceed from any provocation than from finding it necessary to choose what doctrine and whose program public educational officials shall compel youth to unite in embracing. Ultimate futility of such attempts to compel coherence is the lesson of every such effort from the Roman drive to stamp out Christianity as a disturber of its pagan unity, the Inquisition, as a means to religious and dynastic unity, the Siberian exiles as a means to Russian unity, down to the fast failing efforts of our present totalitarian enemies. Those who begin coercive elimination of dissent soon find themselves exterminating dissenters. Compulsory unification of opinion achieves only the unanimity of the graveyard."

16. I especially liked how Justice Jackson rebutted arguments relating to competency and elimination of individual 1st Amendment rights to be sacrificed for national unity which eliminates every freedom for the collective compelled not freely chosen goal in his spicy opinion.

17. I do not believe governments exist by consent of the governed. Government exists by the rule of law. Our freer fairer government is sustained by people judges. They are not dissolved by the argument consent may be revoked, when there is no consent in the lie of a social contract constructed by Lucifer the devil. By upholding individual liberty from being sacrificed by the representative vote in the other two branches of government, the courts give us actual freedom that our freedoms will also be protected. The actual upholding of justice and the rule of law is what unifies this country.

18. It is the court which grants us liberty and freedom and a democracy in our democratic republic. Without courts, the law of Satan Darwin and even Economists Keynes and Adam Smith taught money and might makes right, and reign by mobsters who use money, connections or power to rule a no longer free people would occur. I was reading about how churches used the fallacy of consent of the governed with regards to the Scots through a friar's opposition of the papal rule by Edward I or II of England in support of King or Lord Roberts of Scotland in the 1300s. I believe it is based on a fallacy. The Bible teaches owe nothing to anyone but to love them. When you make man or money to care for your own your master as opposed to greater laws, including the superseding Constitutional law, you became a slave to the world's will. It makes fallible replaceable lawless lustful men demi-gods who mislead people to harm for material gain if unrestrained by the just rule of law. The courts make our government more just by restraining the conduct of officials within all three branches to obey the

Constitutional law without immunity to restrict government authority to protect Constitutional freedoms form being sacrificed under the lie of the common good, public or material gain even knowledge. Human sacrifice of life, liberty or health to serve government seats, government popularity or government profit or positions is lawlessness and must not be condoned and rewarded by the courts.

19. Plus Locke was wrong. There is no consent of the governed when the government and government backed private or foreign partners oppress, enslave, kill, steal or destroy. There is no meeting of the minds of the common people to form a government or to allow government condoned human sacrifice for material gain in exchange for government's protections of freedom. Freedom is not for sale or it is not free by barter or exchange in contract law, even the lie of social contracts the devil teaches. The lie of Satan and his children is that people must barter for freedom by making mammon God is not true. Jesus teaches this is the way to hell in Matthew 6:24. Other people's souls are not for sale making them for sale by involuntary government backed physical, social or economic force according to arguments by Plato for a Republic as opposed to our greater institution a democratic republic.

20. The falsehood Locke rests on of a social compelled contract where people are enslaved as human capital to give the fat of their labor of sheep to wolves who devour them is likened to men saying she dressed pretty. So, she contracted agreed to be raped as the people did not consent to be exploited or oppressed to serve the material gain of those Plato likened to Philosopher kings backed by force and social pressure not the just rule of law.

21. Our democratic-republic is fashioned to protect certain freedoms, including the right to petition, speech, religious belief, against involuntary servitude even by government backed partners like the UN makes our union more indestructible in the face of a planned

overthrow. We are protected by the just rule of law that prevents human sacrifice for material gain. People judges not money or might are our only hope of a hero to sustain the freedoms that make this country already great.

22. Our United States is held together by the rule of law. It is degraded when Courts violate the rule of law, but is strengthened when the courts humbly correct even the courts in cases and controversies.

23. Justice is not a matter of popularity. Injustice is guanteed under the Roman traditions of majority vote that killed my savior Lord Jesus Christ. Justice is a matter of truth which protects freedoms of speech, association, petition of religious beliefs and other beliefs the courts may even disagree with. This disagreement humbles us and innovates by helping us learn from one another. Our nation is strengthened when the courts protect people who believe differently by showing even minorities under the threat of government backed physical, social and economic force including physical threats or harm because of my religious-political belief are still safeguarded not enslaved to the compelled beliefs of the most popular fickle fads of the majority. It helps us to care about people we may have overlooked instead of sacrificing people by valuing moth and rust more than humanity and liberty which I the mark of the beast spoken of in Revelation. Courts can tame that beast sin that enslaves many to lawless lusts leading to harming others to lose their own lives in the second death the last day.

24. I uphold the courts as a religious exercise, and a Constitutional duty to uphold law. These are my religious beliefs the court need not adopt. I do not protect the government's compelled forced servitude to beliefs I believe are lawlessness in the eyes of my God leading to damnation on judgment day. US Amend I, XIII. I oppose the partnership of government with state by compelled worship of the type lawlessness that leads to hell certain. I oppose

associations and entities eliminating every Constitutional individual liberty by government backing of making association to the collective fickle fads of small and large groups' lawless lusts under the façade of the common good the law when it is the mark of the beast. It is the elimination of Constitutionally protected individual liberty by government compelled enslavement of the mob through representation's force.

Thank you for your time and consideration.

Dated 11/27//23

Respectfully submitted,

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under Religious objection I declare, affirm that the foregoing statement is true and correct

Dated: Nov. 30, 2023

Meghan Kelly

(printed)

(signed)

No. 17-256

IN THE

SUPREME COURT OF THE UNITED STATES

—o0o—

Linda Shao,

Petitioner,

vs.

McManis Faulkner, LLP., James McManis, Michael Reedy, Catherine Bechtel

Respondents.

—o0o—

On Petition For A Writ Of Certiorari
To The United States Court of Appeals
for the Ninth Circuit Appellate District
(14-17063: denied rehearing on 5/16/2017)
(Related Case with this Court: 17-82)

PETITION FOR REHEARING FROM DENIAL OF PETITION FOR WRIT OF CERTIORARI ON OCTOBER 30, 2017

YI TAI SHAO, Petitioner in pro per
SHAO LAW FIRM, P.C.
1999 S. Bascom Avenue, Ste. 700
Campbell, CA 95008
Telephone: (408) 873-3888
FAX: (408) 418-4070
Email: attorneylindashao@gmail.com
Petitioner In Pro Per

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APPENDIX

	Webpage of American Inns of Court for "English and Irish Inn Visits" of the American Inns of Court.	App. 37	
	Respondent is an honored member of the Inns of Court and a sponsor of two local Chapters of the Inn of Court	App. 38	
9	Relevant pages of Supplemental Appendix, Clerk's Office's alteration of docket of 17-613 that was filed with this Court in No. 17-82 on October 30, 2017		App. 39

TABLE OF AUTHORITIES

Cases

Statutes

Rules

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this Court for rehearing of this Court's order of October 30, 2017 denying the Petition for Writ of Certiorari. This Petition for Rehearing is based on the extraordinary circumstances of a substantial or controlling effect that Justice Anthony M. Kennedy and Justice Ruth Bader Ginsburg should not have participated in the consideration of the Petition for Writ of Certiorari due to conflicts of interest and that there is reasonable doubt that the denial was biased and prejudiced due to recent incidents of deterrence of filing and alteration of docket in related Petitions.

Both Justice Kennedy and Justice Ginsburg have American Inns of Court established in their names. The Petition for Certiorai is based on, among other things, that membership in or association with the American Inns of Court by the lower court judges created a conflict of interest as to these judges' participation in Petitioner's cases. Justice Kennedy and Justice Ginsburg have similar conflicts and thus should not have participated in voting for denial of the Petition. Justice Kennedy further received gifts indirectly from Respondents as he was a key speaker of the 2004's Symposium of William A. Ingram American Inn of Court that has been financially supported by Respondents. (App.11)

http://www.kennedyinn.org/ is the website of "The Anthony M. Kennedy AMERICAN INN OF COURT. Its homepage states: "Our Inn is affiliated with the American Inns of Court, a national organization based in Washington, D.C. For more information

about the American Inns of Court, please visit the national Web site at http://home.innsofcourt.org/."

The Ruth Bader Ginsburg AMERICAN INN OF COURT's website is http://inns.innsofcourt.org/for-members/inns/the-ruth-bader-ginsburg-american-inn-of-court.aspx. Its home page states: "American Inn of Court Number 30249 is named for the Honorable Justice Ruth Bader Ginsburg."

Recently, the administration of this Court prevented filing of the Amicus Curiae motion in Case No. 17-82 and altered the docket of Case No. 17-613. This action may cast doubt whether the conferences to review the petitions for writ of certiorari would have considered the amicus motion. This action creates an appearance of bias in this proceeding.

I. THE RECUSAL OF JUSTICES KENNEDY AND GINSBURG IS NECESSARY BECAUSE JUDICIAL CONFLICTS OF INTEREST AT THE FEDERAL TRIAL COURT AND COURT OF APPEAL ARISED FROM PARTICIPATION IN THE AMEICAN INNS OF COURT.

Justice Kennedy and Justice Ginsburg have conflicts of interest and should not participate in voting against the writ of Certiorari. The first two issues that Petitioner asked this Court to consider for Certiorari concern conflicts of interest arising from participation in the American Inns of Court:

> Issue 1: Should judges who are members of William A. Ingram American Inns of Court and San Francisco Intellectual Property American Inn of Court be required as a matter of due process to disclose their social

relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?

Issue 2: Where the Appellate Court has potential conflicts of interests because of regular social relationship with a party by way of American Inn of Court, must the Appellate Court disclose potential conflicts of interest and apply neutral standards to their resolution?

Justice Kennedy and Justice Ginsburg have a conflict on these issues because they are also associated with American Inns of Court.

II. THE AMERICAN INNS OF COURT ARE UNLIKE TRADITIONAL BAR ASSOCIATIONS BUT ARE SOCIAL CLUBS THAT PROVIDE FOR SECRET EX PARTE COMMUNICATIONS BETWEEN FINANCIALLY STRONG ATTORNEYS AND JUDGES

A. As A Social Club, Common Membership Of Judges And Attorneys Representing Parties Create The Appearance Of Bias.

The American Inns of Court have changed their character as bar associations as they made the membership directory confidential from disclosure for all Inns of Court after 2009. The last publication of a directory is provided to the court in App.186-87 in the Petition.

The Handbook for the William A. Ingram American Inn of Court states:

> "The schedule for the monthly meetings (not the dinner meetings) is to gather at 5:30 for **socializing** and hors d'oeuvres. After administrative announcements, the formal program by a Pupillage Group commences at 6:00 p.m. and ends at 7:00 p.m. After the program ends, there is further **socializing**." [emphasis added]

Its current meeting schedule states clearly the social function of its Inn meetings:

"Inn meeting, except as noted below, are scheduled on the second Wednesday of each month, with **socializing** at 5:30 p.m., and the program beginning at 6:00 p.m." (Petition, App.171; emphasis added)

These confidential social functions are the characteristic of a social private club. While the American Inns of Court might once have been equivalent to a bar association, they are now more like an exclusive private club. Membership or association in such a private social club creates an appearance of bias where attorneys who are members of the Inns appear before judges who are also members or associated with the Inns.

B. THE NINTH CIRCUIT AND THIS COURT BOTH SPONSORED THE PRIVATE CLUBS WITHOUT RESERVATION

Ninth Circuit's published in its News Release of September 19, 2016 that:

"Justice Wallace will receive the prestigious A. Sherman Christensen Award... The award will be presented at the 2016 American Inns of Court

Celebration of Excellence to be held at the U.S. Supreme Court on November 5, 2016. .....

Justice Wallance was influential in developing the idea of the American Inns of Court and advocated enthusiastically for its establishment. He had accompanied Chief Justice Warren Burger on the 1977 Anglo-American Legal Exchange and served as keynote speaker at the organizational dinner of the first Inn of Court in Provo, Utah. Judge Wallance served as a regular adviser to Judge A. Sherman Christensen, for whom the award is name. Judge Wallace urged attendees to form the Inn to help address trial inadequacy by attorneys. He wrote an article on the topic that was published March 1982 in the ABA Journal.....

The American Inns of Court, a national organization with 360 chapters and more than 130,000 active and alumni members.... An inn is an amalgam of judges, lawyers.... More information is available at http.//home.innsofcourt.org." It used this Court to hold meetings.

III. THE ADMINISTRATION OF THE CLERK'S OFFICE OF THIS COURT DETERRED FILING OF THE AMICUS CURIAE MOTION IN 17-82 AND ALTERED THE DOCKET OF 17-613 WHICH MAY CAST DOUBT WHETHER THE CONFERENCE TO REVIEW THE PETITION FOR WRIT OF CERTIORARI WOULD HAVE CONSIDERED THE PETITION AND CREATED AN

APPEARANCE OF BIAS IN THIS PROCEEDING.

A. In Petition No. 17-82 — Deterrence From Filing of the Amicus Curiae Motion

The State court' judicial corruptions led by Respondents have the common characteristic of deterring Petitioner from filing pleadings and interfering with Petitioner's fundamental rights to access to the court. See Petition, App.132 & App.164¶41; see also, Petition No. 17-82, Petition for Rehearing (App.21).

B. In Petition No. 17-613—Alteration Of Docket

The Court's Supervisor Jeff Atkin, directed the deputy clerk to return the Petition shortly after docketing (later remedied by a Supplemental Appendix) and directed the deputy clerk to alter the docket in changing the lower court's order from April 28, 2017 to June 8, 2017. (App.39-41). The acts are similar to the judicial corruptions complained in the Petition. Petition, App.162, App.165.

IV. THIS IS A CASE ABOUT JUDICIAL CONFLICTS OF INTEREST AT BOTH LOWER COURTS WHICH PREJUDICED PETITIONER'S RIGHT TO ACCESS TO THE COURTS, TO APPEAL, AND TO HAVE THE MERITS OF THE CASE BE CONSIDERED BY A COURT AT ALL.

This case concerns the issue of conflicts of interests in the judiciary. There are direct conflicts of interest arising from a special relationship existing between

Respondents, the McManis Faulkner Law Firm and its partners, and the judges of the lower courts.

These relationships are extensively discussed in the Petition for Writ of Certiorari from Pages 9 through 15. In particular:

(1) Respondents have regular social relationship with the lower court judges through William A. Ingram American Inn of Court of the American Inns of and the Bay Area Intellectual Property American Inn of Court of the American Inns of Court

(2) Respondents have represented judges at the Santa Clara County Court. Respondents have had an attorney-client relationship with these judges., Most of the U.S. District Court judges for the Northern District of California in San Jose were previously judges on the Santa Clara County Court and potentially also clients of Respondents.

(3) A collegial relationship and close working relationship between Respondent James McManis and Judge Lucy Koh when Respondent McManis served as a Special Master for both the state and federal courts.

(4) The appearance that Respondents conspired with the State's Santa Clara County Court and Sixth Appellate Court of Appeal in connection with Petitioner's appeals.

In the Petition, Petitioner has argued actual prejudice as well as the appearance of bias in that

(1) Judge Lucy Koh should have known that she had a conflict of interest but still decided Respondents' Rule 12(b) motion while

Petitioner's motion to disqualify her was pending. Judge Koh's decision was irregular --- putting the order without a statement of decision in a footnote of the Order Granting the Rule 12(b) motion.

(2) The Ninth Circuit's proceeding created an appearance of bias in that the Ninth Circuit appeared to have actively assisted Respondents by suppressing evidence of Judge Koh's conflicts of interests.

On November 7, 2016, the Ninth Circuit issued a Memorandum decision of less than two pages that was devoid of *any* analysis of law, but mere conclusion.

Notably, the Memorandum stated that "We do not consider arguments of facts that were not presented to the district court. See Smith v. Marsh, 194 F .3d 1045, 1052 (9th Cir. 1999)". The *only* new facts were presented by a Motion for Judicial Notice filed on October 8, 2015, regarding Judge Koh's conflicts of interest where she did not disclose her social relationship with Respondent Michael Reedy through the William A. Ingram American Inn of Court, her close working relationship with Respondent James McManis at the U.S. District Court and at the Santa Clara County Court, and the facts that Judge Koh's former employer, the Santa Clara County Superior Court, is Respondent James McManis's client and that about 25 judges of the Santa Clara Superior Court, whether this included her or not, were Mr. McManis's clients.

Disregarding these facts is in conflicts with the Ninth Circuit's policy to consider new facts, even if raised the first time in the Reply Brief, where the appeal involves a ruling on a motion under Rule

12(b) and the new facts demonstrate a basis for filing a viable amended complaint. See, e.g., Orion Tire Corp. v. Goodyear Tire & Rubber Co. (2001, 9th Cir.) 268 F.3d 1133, 1137. Similarly, in NRDC v. EPA 464 F.3d 1 (D.C. Cir. 2006), the District of Columbia Circuit allowed new facts to be raised the first time at the rehearing stage for purposes of determining standing.

Issues of bias should not be rejected simply because not presented to a lower court initially. Bias goes to the heart of the impartial administration of justice and is a matter that should not be foreclosed by a mechanical application of procedural rules. The failure to address bias contributes to the impression of bias and unfairness. In devoting less than two pages in its Memorandum (Petition, App.8&9), the Ninth Circuit appeared to help Respondent McManis Faulkner law firm by affirming the dismissal even in the face of evidence of Judge Koh's conflicts of interest in granting the Rule12(b) motion.

In denying consideration of the evidence of Judge Koh's conflicts of interest Petitioner presented in the Motion for Judicial Notice filed on October 8, 2015, the Ninth Circuit's denial of rehearing one day after Petitioner filed the "Third Supplement to Motion for Judicial Notice in Support of Petition for Rehearing and Suggestion for Hearing En Banc", where Petitioner provided evidence of the public view that Respondents conspired with the Presiding Justice Conrad Rushing of the Sixth District and Santa Clara County Court, perpetuated this appearance of bias.

Ninth Circuit also had undisclosed conflicts of interest. These conflicts include:

i. The Ninth Circuit published a News Release on September 19, 2016 supportting the American Inns of Court (Petition, 188-189)

ii. Its ex-Chief Justice Alex Kozinski was invited by the Inns as a speaker at its 2011's annual Symposium. (Petition, P.15)

iii. Respondent McManis Faulkner Law Firm's partner, Elizabeth Pipkin, who chairs the civil litigation team of the firm, was and still is serving on the Ninth Circuit's Judicial Council as a Lawyer Representative. (Petition, P.15)

In addition, Petitioner recently discovered that:

(1) The Ninth Circuit recently established a Kennedy Learning Center. Associate Justice Anthony M. Kennedy has an American Inn of Court in his name in Sacramento. He was invited to the Symposium of William A. Ingram American Inn of Court. (App.3)

(2) The Ninth Circuit published numerous official "News Releases" to promote the American Inns of Court which may be found by typing in "American Inns of Court" in the court's website searching engine.

(3) Many judges at the Ninth Circuit are members of an American Inn of Court.

(4) American Inns of Court is closely connected with the Ninth Circuit over the last 30 years and there are numerous news releases promoting the American Inns of Court that are still on the Ninth Circuit's website.

V. LAW AND ARGUMENTS

There are extraordinary circumstances that justify rehearing in this case.

A. APPEARANCE OF RULE 60(B) VIOLATION SINCE: THE DOCKET DOES NOT SHOW RECUSAL BY TWO JUSTICES FROM VOTING ON WHETHER TO ISSUE CERTIORARI, WHEN SUCH JUSTICES SHOULD HAVE RECUSED THEMSELVES DUE TO HAVING DIRECT CONFLICTS OF INTEREST AND THE NINTH CIRCUIT HAS SUPPORTED THE AMERICAN INNS OF COURT AND JUST ESTABLISHED KENNEDY EDUCATION CENTER

This Court held in Liljeberg v. Health Services Acquisition Corp. (US 1988) 486 US 847 that vacatur is a proper remedy to an order made in violation of Rule 60(b)(6). This Court held that when a federal judge has conflicts of interest, the judge should have recused himself pursuant to 28 USCS §455 if a reasonable person knowing the relevant facts would have expected that judge to have been aware of the conflict of interests, even if the judge was not conscious of the circumstances creating the appearance of impropriety.

Here, the issues of the improper special relationship between the judges and attorneys participating together in the social activities of the American Inns of Court were listed as Question 1 and Question 2 of the Petition and were conspicuously discussed in the Petition for Writ of Certiorari, pages 2, 9, 11, 12, 14, 15 and 16.. On Page 25, the first sentence discussing

this judiciary relationship established in the American Inns of Court, Petitioner stated:

"The social association through the Inn presents potential conflicts of interest."

Such issue was listed as No. 1 and 2 of "QUESTIONS PRESENTED" of the Petition for Writ of Certiorari.

Associate Justice Anthony M. Kennedy and Associate Justice Ruth Bader Ginsburg both have American Inns of Court established in their names. This creates direct conflicts of interest for them to rule on whether "The social association through the Inn presents potential conflicts of interest," whether such relationship violates Rule 5-300 of California Rules of Professional Conduct, and to decide whether to issue certiorari when Question No. 2 asked "Should judges who are members of William A. Ingram American Inns of Court be required as a matter of due process to disclose their social relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?"

A reasonable person aware of the facts herein would be likely to believe that the two Justices with Inns of Court in their names would be unable to vote impartially due to this direct conflict of interest.

Therefore Rule 60(b)(6) is satisfied here. A reasonable person reading the Petition for Writ of Certiorari would expect that these two Justices would know they had conflicts of interest and should have refrained from voting on the petition. The precedent of the Liljeberg decision mandates that the court's October 2, 2017 Order herein be vacated.

B. THE SUPERVISING CLERK'S IRREGULARITIES CAST DOUBT ON THE

INTEGRITY OF THE CLOSED CONFERENCE PROCEEDING OF THIS COURT IN REVIEWING PETITIONS FOR CERTIORARI

The Court's docket has been considered as the court's records. E.g., *Mullis v. United States Bank Ct.*, 828 F.2d 1385 n.9 (9th Cir. 1987). The clerk is not allowed to tamper with the court's records and refuse to record filing. See, e.g., *Kane v. Yung Won Han,* 550 F.Supp. at 123.

Structural error includes deterrence of right to appeal. See, *Locada v. Deeds* (1991) 498 US 430, overruled on other grounds by *Roe v. Flores-Ortega* (2000) 528 US 470.

The irregularities took place in the past two months at this Court's Clerk's Office are the same scheme as the conspiracy led by Respondents.

A reasonable person knowing all the facts would believe that Respondents and their judicial conspirators may have manipulated the Clerk's Office of this Court, through their relationship with the American Inns of Court, the Ninth Circuit, and their attorney client relationship with many unknown judges/justices (Petition, pp.7-12). As the conferences determining certiorari are closed to the public, whether this Court had actually considered the Petition was questioned when the public trust of integrity of administration of the court is shattered by the two events.

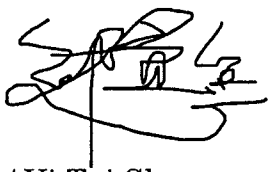
VI. CONCLUSION

For the foregoing reasons, Petitioner respectfully request that rehearing be granted and Certiorari be issued.

The undersigned declares under the penalty of perjury under the laws of the U.S. that the foregoing is true and accurate to the best of her knowledge.

Dated: November 17, 2017

Respectfully submitted,



/a/ Yi Tai Shao
Yi Tai Shao, Esq.
SHAO LAW FIRM, P.C.
1999 S. Bascom Avenue, Suite 700
Campbell, CA 95008
Tel. No.: (408) 873-3888; Fax No.: (408) 418-4070
Petitioner In Pro Per

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

Yi Tai Shao, Esq., in pro per
SHAO LAW FIRM, P.C.
1999 S. Bascom Avenue
Suite 700
Campbell, CA 95008
Tel. No.: (408) 873-3888
Fax No.: (408) 418-4070
attorneylindashao@gmail.com

App. 1

STATUTES INVOLVED:

28 USCS §455: (a) Any justice, judge, or magistrate [magistrate judge] of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

RULE 5-300 OF CALIFORNIA RULES OF PROFESSIONAL CONDUCT

(A) A member shall not directly or indirectly give or lend anything of value to a judge, official, or employee of a tribunal unless the personal or family relationship between the member and the judge, official, or employee is such that gifts are customarily given and exchanged. ...

(B) A member shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer, except:

(1) In open court; or

(2) With the consent of all other counsel in such matter; or

(3) In the presence of all other counsel in such matter; or

(4) In writing with a copy thereof furnished to such other counsel; or

(5) In ex parte matters.

(C) As used in this rule, "judge" and "judicial officer" shall include law clerks, research attorneys, or other court personnel who participate in the decision-making process. (Amended by order of Supreme Court, operative September 14, 1992.)

App. 2

Federal Rules of Civil Procedure, Rule 60(b)(6)

Rule 60 (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

.... **(6)**any other reason that justifies relief.

Rule 79
(a) Civil Docket.
(1) *In General.* The clerk must keep a record known as the "civil docket" in the form and manner prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States. The clerk must enter each civil action in the docket. Actions must be assigned consecutive file numbers, which must be noted in the docket where the first entry of the action is made.
(2) *Items to be Entered.* The following items must be marked with the file number and entered chronologically in the docket:

- **(A)** papers filed with the clerk;
- **(B)** process issued, and proofs of service or other returns showing execution; and
- **(C)** appearances, orders, verdicts, and judgments.

(3) *Contents of Entries; Jury Trial Demanded.* Each entry must briefly show the nature of the paper filed or writ issued, the substance of each proof of service or other return, and the substance and date of entry of each order and judgment. When a jury trial has been properly demanded or ordered, the clerk must enter the word "jury" in the docket.
(b) Civil Judgments and Orders. The clerk must keep a copy of every final judgment and appealable order; of every order affecting title to or a lien on real or personal property; and of any other order that the

court directs to be kept. The clerk must keep these in the form and manner prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States.

(c) Indexes; Calendars. Under the court's direction, the clerk must:

(1) keep indexes of the docket and of the judgments and orders described in Rule 79(b); and

(2) prepare calendars of all actions ready for trial, distinguishing jury trials from nonjury trials.

(d) Other Records. The clerk must keep any other records required by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States.

App. 4

[NOTICE OF ENTRY OF ORDER-DENIAL OF PETITION FOR WRIT OF CERTIORARI]

October 30, 2017

Ms. Linda Shao
1999 S. Bascom Avenue
Suite 700
Campbell, CA 95008

Re: Linda Shao v. McManis Faulkner, LLP
No. 17-256
Dear Ms. Shao:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied. Motion for leave to file amicus brief filed by Mothers of Lost Child is granted.

Sincerely,

/s/ Scott S. Harris

Scott S. Harris, Clerk

[THE INN OF COURT DEDICATED IN THE NAME OF JUSTICE ANTHONY M. KENNEDY: This shows existence of an American Inn of Court in the name of Justice Anthony M. Kennedy and that this Inn is an affiliate to the William A. Ingram American Inn of Court and that the Membership is "confidential", not available to the public.]

http://www.kennedyinn.org/

THE ANTHONY M. KENNEDY

AMERICAN INN OF COURT

Welcome to the Web site for the Anthony M. Kennedy American Inn of Court. Membership in the Inn of Court includes, judges, justices, law professors, attorneys and law students.

I am honored to be your Inn President. I have been with the Inn for six years and look forward to many more years. There are many great things about our Inn, including meeting members from different practice areas, enjoying interesting and entertaining programs, and engaging in thought-provoking discussions during moderations.

.....[omitted]...

Our Inn is affiliated with the American Inns of Court, a national organization based in Washington, D.C. For more information about the American Inns of Court, you can visit the national Web site at **http://home.innsofcourt.org/**.

App. 6

[MEMBERSHIP FOR THE ANTHONY M. KENNEDY AMERICAN INN OF COURT IS RESTRICTED & NOT DISCLOSED TO THE PUBLIC]

http://www.kennedyinn.org/join/

The Kennedy Inn seeks diversity in membership--including the nature and size of legal practice, years of experience, and community involvement--so that our members have the benefit of varying experiences and perspectives in the practice of law. Membership requires a commitment of time and enthusiasm

---

Application Process

Applications for membership are solicited beginning in March, with a deadline of May 1. An applicant must send a letter and resume to membership committee chair, Arthur G. Scotland via email (**ascotland@sbcglobal.net**) or to

Arthur G.Scotland

Nielsen Merksamer Parrinello Gross & Leoni LLP.

1415 L Street Suite 1200
Sacramento, CA 95814

The letter should include the applicant's reason for wanting to join the Kennedy Inn. References are not necessary but are encouraged (especially from current or former members of the Inn).

New members are selected by the end of June. We generally receive more applications than there are vacancies, but a portion of the membership rotates out each year. ..[OMITTED]...

App. 7

[12 MEETINGS A YEAR AT THE KENNEDY INN]

http://www.kennedyinn.org/calendar/

CALENDAR

11/21	NOVEMBER CHAPTER MEETING (HAMMY AWARDS) • Tuesday, November 21, 2017 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
1/16	JANUARY CHAPTER MEETING • Tuesday, January 16, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
2/20	FEBRUARY CHAPTER MEETING • Tuesday, February 20, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
3/20	MARCH CHAPTER MEETING • Tuesday, March 20, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
4/17	APRIL CHAPTER MEETING • Tuesday, April 17, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
5/15	MAY CHAPTER MEETING • Tuesday, May 15, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
10/17	OCTOBER CHAPTER MEETING • Tuesday, October 17, 2017 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
9/26	SEPTEMBER CHAPTER MEETING • Tuesday, September 26, 2017 • 5:30 PM 7:00 PM • McGeorge School of Law (map)

	Note: Fourth Tuesday rather than normal third Tuesday due to Gala event.
9/14	ANTHONY M. KENNEDY INN OF COURT: 30TH ANNIVERSARY • Thursday, September 14, 2017 • 6:30 PM 8:30 PM **THE MASTERS AND BENCHERS OF THE ANTHONY M KENNEDY AMERICAN INN OF COURT RESPECTFULLY REQUEST THAT YOU RESERVE THE EVENING OF THE 14TH OF SEPTEMBER, 2017 FOR A GALA CELEBRATION OF THE THIRTIETH ANNIVERSARY OF THE FOUNDING OF THE INN AND THE 230TH ANNIVERSARY OF THE ESTABLISHMENT OF THE US CONSTITUTION**
8/16	TEAM LEADER LUNCHEON • Wednesday, August 16, 2017 • 12:00 PM 1:00 PM • Sacramento Superior Court (map)
8/7	RETURNING BARRISTER AND ASSOCIATE LUNCH • Monday, August 7, 2017 • 12:00 PM 1:00 PM • Third District Court of Appeal (map)
7/31	NEW MEMBERS LUNCH • Monday, July 31, 2017 • 12:00 PM 1:00 PM • Chambers of Judge Consuelo Callahan(map)

App. 9

[THE ANTHONY M. KENNEDY AMERICAN INN OF COURT HAS A SPECIAL LINK WITH THE NINTH CIRCUIT]

http://www.kennedyinn.org/related-links/

THE ANTHONY M. KENNEDY

AMERICAN INN OF COURT

RELATED LINKS

NINTH CIRCUIT COURT OF APPEAL	STATE BAR OF CALIFORNIA
MCGEORGE SCHOOL OF LAW	AMERICAN INNS OF COURT
US DISTRICT COURT	CALIFORNIA COURTS
	LEXIS NEXIS

App. 10

[THE NINTH CIRCUIT JUST ESTABLISHED KENNEDY LEARNING CENTER IN OR ABOUT NOVEMBER 2017.]

https://www.ca9.uscourts.gov/#

UNITED STATE COURTS

For the NINTH CIRCUIT

[photo of Justice Kennedy]

NEW WEBSITE FOR KENNEDY LEARNING CENTER

...[OMITTED]...

[JUSTICE KENNEDY WAS A MAJOR SPEAKER AT WILLIAM A. INGRAM AMERICAN INN OF COURT WHICH HAS BEEN FINANCIALLY SUPPORTED BY RESPONDENTS]

http://law.scu.edu/event/thirteenth-annual-judge-william-a-ingram-memorial-symposium/

SANTA CLARA UNIVERSITY SCHOOL OF LAW

THIRTEENTH ANNUALJUDGE WILLIAM A. INGRAM MEMORIAL SYMPOSIUM

January 10 @ 5:45 pm-8:00 pm

Presented by
William A. Ingram Inn
American Inns of Court

Santa Clara University, 500 El Camino Real, Santa Clara, CA

Free of Charge

One hour of CLE credit available

RSVP HERE – NO LATER THAN JANUARY 5, 2017

...[OMITTED]...

INGRAM MEMORIAL SYMPOSIUM HISTORY

...[OMITTED]...

2004– "Judges, Lawyers and Law Reform"
Justice Anthony Kennedy, U.S. Supreme Court; Justice Patricia Bamattre-Manoukian, California Court of Appeal, Sixth District; Thomas Hogan; James Towery

[THE INN OF COURT DEDICATED IN THE NAME OF JUSTICE RUTH BADER GINSBURG; This shows existence of an American Inn of Court in the name of Justice Ruth Bader Ginsburg and that this Inn is an affiliate to the William A. Ingram American Inn of Court and that the Membership, Meeting Schedule and Committees are all "confidential", not available to the public.]

The Ruth Bader Ginsburg American Inn of Court

[SIGNAGE] ACHIEVING EXCELLENCE 2017 PLATINUM LEVEL

History of the Ruth Bader Ginsburg Inn

In mid-1995, Gloria Bates attended the annual National Conference of the American Inns of Court in San Francisco. Immediately afterward, she received permission from Justice Ruth Bader Ginsburg to found an Inn in her name. Gloria formed a steering committee of judges and lawyers who shared her enthusiasm, and once membership and programs were in place, meetings began in September 1995.

Gloria devoted a lot of time to the development and growth of the Ginsburg Inn: from attracting members who embrace Inn ideals to forming committees, helping plan the first programs and overseeing a multitude of organizational details. Her experiences as a federal law clerk, attorney, judge and adjunct law school professor greatly complemented her service and contributions as Founder and President during our Inn's first two years.

...[OMITTED]

The Ginsburg American Inn of Court is divided into six pupillage teams, each proportionately composed of judges, experienced lawyers, young attorneys, law professors and third year law students. Each team prepares and presents one program during the term (September through May)..[OMITTED]...

About Justice Ginsburg

American Inn of Court Number 30249 is named for the Honorable Justice Ruth Bader Ginsburg, the 107th Justice and only the second woman to serve on the United States Supreme Court.

App. 14

OFFICERS OF THE GINSBURG INN INCLUDE MANY ATTORNEYS

http://inns.innsofcourt.org/inns/officers.aspx?innid=30249

Officers

The Ruth Bader Ginsburg American Inn of Court

1. President

Robert Don Evans, Jr., Esq.
US Attorney's Office
p: (405) 553-8831
e: Send Mail

2. Treasurer

D. Benham Kirk, Jr., Esq.
Doerner Saunders Daniel & Anderson LLP
p: (405) 319-3506
e: Send Mail

3. President Elect

Christine Batson Deason, Esq.
Hester Schem Hester & Batson
p: (405) 705-5900
e: Send Mail

4. Program Chair

Ryan J. Reaves, Esq.
Mullins Hirsch Edwards Heath White & Martinez PC
p: (405) 235-2335
e: Send Mail

5. Immediate Past President

Doneen Douglas Jones, Esq.
Fellers Snider Blankenship Bailey & Tippens
p: (405) 232-0621
e: Send Mail

6. Member

Robert Bell
Oklahoma Court of Criminal Appeals
p: (405) 521-3751
e: Send Mail

Glenn M. White, Esq.
Hirsch, Heath & White
p: (405) 235-1768
e: Send Mail

7. Administrator

Sarah J. Glick, Esq.
Love's Travel Stops & Country Stores
p: (405) 463-8335
e: Send Mail

Cheryl Husmann, Esq.
Husmann Law Offices
p: (405) 285-1548
e: Send Mail

Rhonda McLean, Esq.
McLean **Law, PLLC**
p: (405) 896-0185
e: Send Mail

8. Community Liaison

Rachel Stoddard Morris, Esq.
Stoddard Morris **PLLC**
p: (405) 509-6455
e: Send Mail

9. Inn Founder

Gloria C. Bates, Esq.

p: (405) 692-2828
e: Send Mail

10. Web Administrator

Cheryl Husmann, Esq.
Husmann Law **Offices**
p: (405) 285-1548
e: Send Mail

***RELEVANT PORTION* OF THE PETITION FOR REHEARING IN NO. 17-82 ABOUT THE IRREGULARITIES OF THE CLERK'S OFFICE'S DETERRING FILING OF THE AMICUS CURIAE MOTION**

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this Court for rehearing of its October 2, 2017 order denying the Petition for Writ of Certiorari, based on the extraordinary circumstances of a substantial or controlling effect that the Amicus Curiae motion was not filed and apparently not provided to the Court for consideration. In addition, Justice Anthony M. Kennedy and Justice Ruth Bader Gingsburg should not have participated in the consideration of the Petition for Writ of Certiorari. These Justices have direct conflicts of interest because of their membership in the Inns of Court and thus should not have participated in voting for denial of the Petition.

I. THIS IS A CASE ABOUT JUDICIAL CONFLICTS OF INTEREST WHICH PREJUDICED PETITIONER'S RIGHT TO ACCESS TO THE COURTS, TO APPEAL, AND TO A JURY TRIAL

This case is centered on the issue of conflicts of interests in the judiciary. There are direct conflicts of interest derived from a special relationship existing between Respondents' McManis Faulkner Law Firm and the courts. This relationship includes:

...[OMITTED]...

Actual prejudice caused by these conflicts of interest is obvious: the appeal was stalled for two years (Petitioner was unable to file her Opening Brief) and the trial was further stayed indefinitely. For this and the underlying case, both Santa Clara County Superior Court and the California Sixth Appellate Court had used the same patterns of interfering in Petitioner's appeal by deterring the court reporters from filing hearing transcripts, refusing to prepare records on appeal, and denying Petitioner's requests to either require the trial court to prepare records on appeal or to change designation of records to allow Petitioner to prepare the records on appeal herself. Thus, Petitioner has been denied her fundamental right of access to the courts and has been denied her fundamental right to appeal. In addition, the State Courts jointly committed multiple felonious alterations of dockets and of the court's records. (Petition, App.190, Declaration of Meera Fox,¶33)

Petitioner asserts that the vexatious litigant orders that Respondent McManis Faulkner Law Firm improperly obtained from its client court as a party appearing in front of its client court without disclosure of the conflict, should be reversed for violation of due process. A neutral and impartial tribunal is the paramount requirement for justice and that Petitioner needs and deserves a neutral tribunal to hear her appeal and trial case.

VII. PROCEDURAL FACTS

Respondents' counsel was timely notified of Amicus Curiae's intent to file an Amicus Curiae Brief and refused to give consent. On 8/30/2017, the Petition was assigned for conference on 9/25/2017. Amicus Curiae's attorney Christopher W. Katzenbach

finished the motion on September 1, 2017. On September 6, 2017, after printing, the Amicus Curiae motion of Mothers of Lost Children was mailed from California and received by this Court on September 12, 2017 (App. 6)

Up until September 20, 2017, this Court has assigned all Amicus Curiae motions and briefs to be handled by two specific clerks exclusively: Cathy Taiz and Denise McMerny. Yet, the Amicus Curiae motions for this Petition and its related Petition (17-256) were not handled by either of the two regular Amicus Curiae clerks, but instead were specifically assigned to Mr. Donald Baker. At the time Mr. Baker sent the rejection letter of September 14, 2017 (App.6), the clerks who handled all other amicus curiae matters were still Cathy Taiz and Denise McMerny.

Mr. Baker waited two additional weekdays after receipt, and then returned the 40 motions of Amicus Curiae to Attorney Katzenbach, who received them on September 18, 2017. Mr. Baker required a Table of Contents be added to the 10 page brief (1677 words) and required a change of the wording on the cover of the motion to add "for leave" and "out of time". Amicus Curiae Attorney Katzenbach did not expect this return as there were full discussions with Ms. Taiz before filing this motion on September 6, 2017 and Ms. Taiz had not asked for these changes to be made as required by Mr. Baker.

According to Ms. Taiz, a Amicus Curiae must file a motion, instead of a Brief, when the Respondent does not consent or when it passes the time needed in order to seek the court's approval. She did not say there is a requirement to change to wording of the motion to add "for leave" and "out of time."

Amicus Curiae's attorney used the fastest way to reprint and resubmit the motions on September 19, 2017, via Overnight Express mail. (App. 7-11) The Court received the corrected re-submission on September 21, 2017.

In Mr. Katzenbach's cover letter dated September 19, 2017, he wrote:

> "Based on conversations with the Clerk's office, we had the understanding that **our initial filing was in an appropriate format.**
>
> It is our understanding that the Petition in Case No. 17-82 is set for conference on September 25, 2017. It is our hope that the motion could be submitted prior to the conference."

Two Amicus Curiae motions were filed simultaneously with this Court in two different petitions: Petition No. 17-82 and Petition 17-256, where the parties are the same, but from different courts. Petition No. 17-256 was filed later and not set for conference at the time of re-submission, while this Petition was set for conference on September 25, 2017.

Petitioner was informed that the Supervising Clerk Jeff Atkin had the authority to take the matter off from the calendar on 9/25/2017 and to reset it to another date.

Therefore, Petitioner emailed to Mr. Atkin on September 22, 2017 in the morning and left him several phone messages asking to reschedule the conference. (App.12-14) Mr. Atkin never responded.

On 9/22/2017, Amicus Curiae's attorney contacted Mr. Donald Baker, who said he would respond later, but then failed to do so. Petitioner contacted Mr. Baker and he responded that the court was reviewing the motions and there appeared to still be a problem with their compliance. Mr. Baker appeared to be intent upon deterring the filing of the Amicus Curiae Motions. When asked who "the Court" was that was reviewing such motions, Mr. Baker named a Bailiff and himself. (App.15) Mr. Katzenbach has affirmed in his letter of September 19, 2017 that the Amicus Curiae motions were in an appropriate format. (App.7, ¶2) Mr. Baker eventually stated that he would see that the motions were filed.

On 9/26/2017, Petitioner telephoned Mr. Baker to ask why the Amicus Curiae Motion was not shown as having been filed on the docket of 17-82. Mr. Baker put Petitioner on hold for 16 minutes, then silently hung up. (App.17)

Petitioner contacted Mr. Atkin about this irregularity but Mr. Atkin did not respond. (App.17)

The docket did not show the recusal of the two Justices who have an American Inn of Court dedicated in their names. (App.24, 25) Respondent McManis Faulkner law firm is a financial sponsor of The American Inns of Court and two of its affiliates: The William A. Ingram American Inn of Court and the San Francisco Bay Area Intellectual Property American Inn of Court.

The participating judges/justices in these Inns of Court receive direct or indirect gifts from the sponsoring attorneys and from Respondent's law firm as one of their main financial sponsors.(Petition,P.5)

The American Inns of Court used the site of the US Supreme Court to conduct its business on 11/5/2016. See 9th Circuit's New Release in App.18.

"American Inns of Court" was referenced in the Petition for Writ of Certiorari with conspicuous discussions on Pages 1, 5 through 7 and 20. On Page 20, in the first sentence discussing this judiciary relationship established within the American Inns of Court, the Petitioner stated

> "The social association through the Inn presents potential conflicts of interest."

In No. 2 of the "QUESTIONS PRESENTED" in the Petition for Writ of Certiorari, Petitioner wrote:

> "2. Should judges who are members of William A. Ingram American Inns of Court be required as a matter of due process to disclose their social relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?"

The court promoted and sponsored American Inns of Court by allowing American Inns of Court to use this Court's site to hold their annual conference on 11/5/2016. (App.18) Chief Justice Warren Burger even entered into an understanding with the British Inn of Court on behalf of American Inns of Court. (App.27) When this Court has represented and sponsored American Inns of Court, there is a public appearance of conflicts of interest in its justices deciding a matter complaining of the impropriety of those Inns of Court.

On 10/2/2017, the Petition for Writ of Certiorari was denied. The docket does not show filing of the Amicus Curiae motion of Mothers of Lost Children.

On 10/23/2017, Petitioner telephoned Mr. Baker to ask why the Amicus Curiae motion was not filed. Mr. Baker transferred the call to Mr. Bickell (telephone number of 202-479-3263). He stated that it was the joint decision between Mr. Baker and him not to file the Amicus Curiae motion. He asserted that pursuant to Rule 37.2, the time to file an Amicus Curiae Brief could not be extended. When corrected, he later acknowledged that Rule 37.2 applies only to Amicus Curiae Briefs, not Amicus Curiae Motions. He stated that he decided not to file the corrected Amicus Curiae Motion since it had "too much deficiency" but he was unable to identify what such deficiencies were. Mr. Brickell argued that the same exact motion had been filed in 17-256 so the court had had a chance to consider its contents there. He was unable to explain why if the Amicus motion was too deficient to file in this matter, it had been deemed acceptable to be filed in 17-256.

VIII. III.LAW AND ARGUMENTS

A. EXTRAORDINARY CIRCUMSTANCES OF THE US SUPREME COURT'S IRREGULAR DETERRENCE OF FILING OF AN AMICUS CURIAE MOTION JUSTIFIES A REHEARING

In Critchley v. Thaler (5th Cir. 2009) 586 F.3d 318 and in Wickware v. Thaler (5th Cir. 2010) 404 Fed. Appx. 856, 862, the 5th Circuit Court of Appeal held that the clerk has a ministerial duty to file and that a delay in filing constitutes a violation of Due Process.

In Voit v. Superior Court (6th Dist., 2011) 201 Cal.App.4th 1285, the California Sixth Appellate Court held that whether a motion had legal merit was a determination to be made by a judge, not the

clerk's office. The court clerk's office did not have the authority to set a condition of filing a motion.

The Amicus Curiae Motions were submitted in compliance with Amicus Curiae clerk Cathy Taiz's specific instructions. The original Amicus Curiae motions were mostly compliant with the Rule. Yet, Mr. Baker and Mr. Bickell who were irregularly assigned specifically to deal with this specific set of Petitions, exerted all means to find fault with the motions and eventually did not file the Amicus Curiae motion. Mr. Bickell unilaterally decided not to allow the court to consider the identical Amicus Curiae Brief for this Petition. The court was thus precluded from making a ruling on the Amicus Curiae motion. After Petitioner sent the emails to Mr. Atkin, there was big move of personnel and Mr. Baker became officially replaced Denise as a clerk handling Amicus Curiae.

Mr. Atkin, the supervisor of Mr. Baker and Mr. Bickell, further ignored Petitioner's written requests to continue 9/25/2017's Conference in order to permit this court to consider the Amicus Curiae motion.(App.12-14)

A postage-prepaid returned envelope was provided with the Amicus Curiae motion, but the motion was neither filed nor returned. Mr. Baker did not return the endorsed copy of the identical motion eventually filed in Petition 17-256 in early October 2017 either.

This interference with filing is one of the techniques that has been used by the State Courts in conspiracy with Respondents to delay Petitioner's appeals and deny her access to the courts. (See Petition 17-82, App.189, Decl. Meera Fox, ¶31) Such issue was listed in the Petition for Writ of

Certiorari as Item No. 8 in "Questions Presented", which stated:

> "8. Does a Presiding Judge have the power to prevent a party from filing with the Clerk's Office by instructing the Clerk's Office not to accept for filing?"

When this Court has sponsored American Inns of Court, there is a public appearance that such irregularity repeating what was done by the State Courts is a result of conflicts of interest.

Such denial of access to this Court violates Constitutional Due Process and constitutes the extraordinary circumstances required by Rule 44. Therefore, rehearing should be granted.

....[OMITTED]....

CONCLUSION

For the foregoing reasons, Petitioner respectfully request that rehearing be granted, that the brief of Amicus Curiae Mothers of Lost Children (Clerical errata of "Child" on the cover) be filed and considered, and that the original underlying order be vacated.

Dated: October 24, 2017
Respectfully submitted,
Yi Tai Shao, Esq.
SHAO LAW FIRM, P.C.
[OMITTED]

App. 26

[MR. KATZENBACH REFILED THE AMICUS CURIAE MOTION IN COMPLIANCE WITH ALL MR. BAKER'S REQUESTS]

KATZENBACH LAW OFFICES
912 Lootens Place, 2nd Floor
San Rafael, CA 94901
Telephone: (415) 834-1778
Facsimile: (415) 834-1842

September 19, 2017

Donald Baker
Office of the Clerk
Supreme Court of the United States
Washington, DC 20543,-0001

Re: Linda Shao v. MacManis Faulkner, LLP
Case Nos. 17-82, 17-256

Dear Mr. Baker:

Enclosed please find corrected copies of the motions for leave to file amicus curiae brief of Mothers of Lost Children in the above-referenced cases. Enclosed also are copies of the letters you sent on this filing.

I apologize for any errors in the initial filing. Based on conversations with the Clerk's office, we had the understanding that **our initial filing was in an appropriate format.**

Enclosed please also find the postage prepaid return envelope for you to return endorsed filed copies of the motions to us.

It is our understanding that the Petition in Case No. 17-82, is set for conference on September

25, 2017. It is our hope that the motion could be submitted prior to the conference.

The word count includes both the motion itself and the brief since they are one document.

Very truly yours,

KATZENBACH LAW OFFICES

By: /s/ Christopher W. Katzenbach

Christopher W. Katzenbach

App. 28

[E-MAIL 9/22/2017 FROM PETITIONER TO SUPERVISING CLERK ATKIN; This email shows that the Clerk's Supervisor was aware of but unresponsive to Petitioner's written request to continue 9/25/2017's hearing to allow the court to consider the motion Brief of Amicus Curiae]

Gmail

Subj: Emergent request to change Conference Date for Petition 17-82

From: attorneylindashao@gmail.com

To: jatkin@supremecourt.gov

CC: Chris Katzenbach <ckatzenbach@kkcounsel.com>, Janet Everson JEverson@mpbf.com

Date: Fri, **Sep. 22, 2017** at 11:05 AM

Dear Mr. Atkin

As a Petitioner, I respectfully request you to exercise your discretion to take off from Conference on 9/25/2017 the Petition 17-82 and reset for another Conference for good causes that:

1. With due diligence, Amicus Curiae motion was kept away from the Court thus far

There are two Petitions pending with this Court with identical parties derived from two different proceeding.

There is a Motion for Leave to file Amicus Curiae Brief of Mothers of Lost Child, represented by Christopher W. Katzenbach, Esq., which was attempted filing for both Petitions since 9/6/2017. Yet, a clerk called Donald Baker returned the motion. I was informed that there were only two

female clerks in charge of Amicus Curiae and he is not one of them.

The Court received the package mail on 9/11/2017 which reached the clerk's office on 9/12/2017. He returned the entire package on or after 9/14/2017 with the reason that there was no Table of Contents/Authorities. It was immediately fixed, reprinted within a day and resent to this Court via express mail. The mail was received on 9/21/2017 at 11:17, as the postal office also delayed mailing by one day.

Thus far, we were unable to contact Mr. Baker and the court's website did not show the filing of the Amicus Curiae Brief.

As with due diligence, the Amicus Curiae Motion could not reach the Justices to allow due consideration, would you please kindly exercise your authority and power to reschedule the conference of 17-82 away from 9/25/2017. I was informed by Mr. Mike Duggans that you have the authority to move the date

2. It will serve judicial economy for the Justices to consider both related Petitions and Amicus Curiae Motions the same time.

The amicus curiae motions are identical for both Petition 17-82 and 17-256 except 17-82 was procedurally out of time.

The parties are the same for both Petitions.

For the exigent circumstances stated above, would you please grant extension of the Conference date of Petition 17-82 and set both Petitions to be on the same date.

Respondents' counsel for the US Court of Appeal 9th Circuit proceeding (17-256) and for the California Court of Appeal 6th Appellate proceeding (17-82) is Janet Everson, Esq. She is copied with this email. Amicus Curiae's attorney Christopher W. Katzenbach, Esq. is also copied with this email.

Thank you very much for your time and consideration.

Very truly yours,

Yi Tai Shao, Esq.

Attorney at Law

App. 31

[EMAIL #2 ON 9/22/2017 FROM PETITIONER TO SUPERVIING CLERK ATKIN: This email shows that the clerk violated his ministerial duty to file the Motion Brief of Amicus Curiae, acting beyond the scope of his authority, and ensuring that the court did not consider this important Amicus Curiae information when deciding the Petition for Writ of Certiorari.]

GMAIL

From: attorneylindashao@gmail.com

To: jatkin@supremecourt.gov

CC: Chris Katzenbach <ckatzenbach@kkcounsel.com>, Janet Everson JEverson@mpbf.com

Date: Fri, Sep. 22, 2017 at 4:18PM

Dear Mr. Atkin:

The clerk has a ministerial duty to file and Mr. Baker, who, I have no idea how he was assigned, blocked filing. Please help taking care of this issue of deterrence from access to the court, appearing to be a pattern of Respondents who had influenced the lower courts and state courts. Only Cathy Taiz and Denise McMerney are in charge of Amicus Curiae but now he was assigned and refused to file.

I called him and he said "The Clerk's Office is reviewing it." I asked who in the Clerk's Office and he said Mr. Beco and me. I asked who is Mr. Beco and he said it is the Bailiff.

I am concerned if Mr. Baker is influenced by James McManis, Esq. via the American Inns of Court. I am concerned that at least 2 Justices have

direct conflicts of interest in reviewing Petition 17-82. They are Justice Kennedy and Justice Ginsberg who have direct conflicts of interest due to their having American Inns of Court in their own name and the issue of these Petitions include the illegal relationship of Respondents by use of the American Inns of Court and the affiliates.

Mr. McManis undoubtedly has relationship with this Court as he is a financial supporter of the American Inns of Court and this Court supported the American Inns of Court by allowing the private confidential club to use the site of US Supreme Court.

I called several times but not heard from you. Please do take off from calendar the Petition 17-82 and reset the Conference with the same date as Petition 17-256. Thank you very much for your time and consideration.

Very truly yours,

Yi Tai Shao, Esq.

Attorney at Law

App. 33

[EMAIL OF 9/26/2017 FROM PETITIONER TO SUPERVISING CLERK ATKIN; This email might explain why the Clerk's Office recently had a "whirlwind" change of assignments, including replacing Amicus Curiae clerk Denise McNermy with Mr. Donald Baker.]

GMAIL

From: attorneylindashao@gmail.com
To: jatkin@supremecourt.gov
CC: Chris Katzenbach <ckatzenbach@kkcounsel.com>, Janet Everson JEverson@mpbf.com
Date: Tue, Sep 26, 2017 at 12:31 PM

Dear Mr. Atkin
Your office's reaction is becoming more and more fishy that may require investigation.

I telephoned Mr. Donald Baker at 12:17. I told him that it appeared that the two properly made two Amicus Curiae motions were not filed and would like him to explain. **He put me on hold for 16 minutes and then silently disconnected my call.**

Did you specifically assign to Mr. Donald Baker to handle Amicus Curiae motions of Mothers of Lost Child pursuant to the instruction of McManis Faulkner, LLP or the American Inns of Court?

Please advise. You have not responded to any of my emails nor phone calls.

Very truly yours,

Yi Tai Shao, Esq.

App. 34

[9th Circuit's NEWS RELEASE REGARDING THE AMERICAN INNS OF COURT HOLDING THEIR 2016 CONFERENCE AT THE US SUPREME COURT]

N E W S R E L E A S E September 19, 2016

Public Information Office United States Courts for the Ninth Circuit Office of the Circuit Executive 95 7th Street, San Francisco, CA 94103

(415) 355-8800 (415) 355-8901 fax

Contact: David Madden,

Judge J. Clifford Wallace to Receive the 2016 American Inns of Court A. Sherman Christensen Award

Senior Circuit Judge J. Clifford Wallace of the United States Court of Appeals for the Ninth Circuit, an esteemed jurist, judicial administrator and an advocate for the rule of law, will be honored in November by the American Inns of Court. Judge Wallace will receive the prestigious A. Sherman Christensen Award, which is "bestowed upon a member of an American Inn of Court who, at the local, state or national level has provided distinguished, exceptional, and significant leadership to the American Inns of Court movement." **The award will be presented at the 2016 American Inns of Court Celebration of Excellence to be held at the U.S. Supreme Court on November 5, 2016**. Associate Justice Samuel A. Alito, Jr., will be the host of the event. [emphasis added] Judge Wallace was influential in **developing the idea of the American Inns of Court** and **advocated enthusiastically for its establishment**. He had accompanied Chief Justice Warren Burger on the 1977 Anglo-American Legal Exchange and served as keynote speaker at the **organizational dinner of the first Inn of Court** in Provo, Utah. Judge

Wallace served as a regular adviser to Judge A. Sherman Christensen, for whom the award is named. **Judge Wallace urged attendees to form the Inn to help address trial inadequacy by attorneys. He wrote an article on the topic** that was published March 1982 in the ABA Journal. [emphasis added] Judge Wallace was nominated by President Nixon to the Ninth Circuit Court of Appeals on May 22, 1972. He was confirmed by the Senate and received his judicial commission on June 28,1972. He served as chief judge from 1991 to 1996 and assumed senior status in 1996. Judge Wallace served in the U.S. Navy from 1946 to 1949. He received his B.A., with honors, from San Diego State College in 1952 and his LL.B. in 1955 from the University of California, Berkeley, Boalt Hall School of Law, where he was an editor of the California Law Review. **The American Inns of Court, a national organization with 360 chapters** and more than 130,000 active and alumni members, is dedicated to excellence, civility, professionalism, and ethics in the practice of law. **An inn is an amalgam of judges, lawyers**, and in some cases, law professors and law students. More information is available at http://home.innsofcourt.org. [emphasis added]

App. 36

[REJECTED FILING BY MR. BAKER ON 9/14/2017 WITH INSTRUCTION TO REFILE]

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

September 14, 2017

Christopher W. Katzenbach
912 Lootens Place, 2nd Floor
San Rafael, CA 94901

Re: Linda Shao v. McManis Faulkner, LLP
No. 17-82

Dear Mr. Katzenbach:

The amicus brief in the above-entitled case was received September 12, 2017, and is herewith returned for the following reason(s):

The cover of your brief should read Motion for Leave to file amicus curiae brief of Lost Child out-of-time.

Rule 14.1(c) If you brief exceeds 1,500 words or exceeds five pages, your brief needs to include a table of contents and a table of cited authorities.

Rule 37.5 your will need to point out the interest of the amicus curiae, the summary of the argument, the argument and the conclusions.

If you have any further questions you can contact me at the number below.
A copy of the Supreme Court Rules are enclosed.
Sincerely,
Scott S. Harris, Clerk
By: Donald Baker
(202) 479-3035

App. 37

[WEBPAGE OF AMERICAN INNS OF COURT FOR "English and Irish Inn Vists" of the American Inns of Court"]

http://home.innsofcourt.org/AIC/For_Members/English_and_Irish_Inns/AIC/AIC_For_Members/English_and_Irish_Inns.aspx?hkey=a4eeeeab-3722-4668-8e16-33cf80e294fd

American Inns of Court

English and Irish Inn Visits

The American Inns of Court has reciprocal visitation agreements with the four Inns of Court in London, England, and King's Inns in Dublin, Ireland. Members of the American Inns of Court, with a letter of introduction from the national office, can visit, tour, and dine at any of the London Inns.King's Inns in Dublin is a working law school with visits arranged around the school schedule. Our visitation agreements are reciprocal and English or Irish barristers visiting the United States may attend American Inns of Court meetings.

The relationship between the American and English Inns of Court was established in 1988 with a Declaration of Friendship, signed by **Chief Justice of the United States Warren E. Burger** and **The Right Honourable The Lord Bridge of Harwich**.....[omitted]...

[RESPONDENT IS AN HONORED MEMBER OF THE INNS OF COURT AND A SPONSOR OF TWO LOCAL CHAPTERS OF THE INN OF COURT.]

https://www.mcmanislaw.com/people/lawyers/james-mcmanis

James McManis

B. HONORS

- Honorary Bencher of the Honorable Society of King's Inns, the oldest institution of legal education in Ireland

PROFESSIONAL & COMMUNITY CONTRIBUTIONS

...[omitted]...

In addition, Jim has taught at the California Center for Judicial Education and Research (CJER). He has also served on the Board of Trustees for the University of California Berkeley Foundation.

Jim served as Special Master for the Santa Clara County Superior Court, the U.S. Bankruptcy Court, and the U.S. District Court for the Northern District of California in the Technical Equities cases, described as involving the largest securities fraud in California history. He also has served as a Judge Pro Tem for the Santa Clara County Superior Court and a Special Examiner for the State Bar of California. Jim also was a member of the California State Bar's Task Force on Admissions Regulation Reform.

...[omitted]...

[SUPPLEMENTAL APPENDIX FOR NO. 17-613 FILED ON OCTOBER 30, 2017 SHOWS THE IRREGULARITIES OF THIS CLERK'S OFFICE'S ALTERATION OF DOCKET BASED ON SUPERVISOR JEFF ATKIN'S CLOSE WATCHING.]

TO THE COURT AND ALL PARTIES SERVED:

This Petition was filed on October 24, 2017. On October 25, 2017, Petitioner was informed by the Deputy Clerk of errors that the Supervising Clerk Jeff Atkin had confused this case with Shao v. McManis Faulkner, LLP and also directed the Deputy Clerk to change the docket entry of the disposition date by the California Sixth Appellate Court from April 28, 2017 to be June 8, 2017.

I. THE COVER IS CORRECTLY LABELED WITH SHAO V. WANG

Besides this Petition, there are two Petitions for Writ of Certiorari pending with this Court: No. 17-82 and 17-256. Both are entitled Linda Shao v. McManis Faulkner LLP, James McManis, Michael Reedy, Catherine Bechtel. One seeks certiorari to the California Supreme Court and the other seeks certiorari to the Ninth Circuit. Both cases are related to this Petition. As shown in App.289, the jury trial has been stayed by McManis Faulkner, LLP's client, Santa Clara County Superior Court, for about 2 years pending resolution of the child custody appeal underlying this Petition. On March 11, 2016, Judge Woodhouse in the Superior Court issued an order staying trial pending resolution of this appeal. (App.289)

The connection of the case with McManis Faulkner law firm, James McManis, Michael Reedy and the family law case of Linda Yi Tai Shao v. Tsan-Kuen

Wang was summarized by an expert witness regarding child abuse in Shao v. McManis Faulkner LLP, et al., Attorney Meera Fox. Please see Meera Fox's Declaration at App.124-152.

App.13, App.14 and App.203 contained typos in that the caption of the case contained therein was inadvertently copied from Petition No. 17-82 and 17-256 without change, when the cases should be Shao v. Wang. App.15 also had a typo on the first line. Corrected App.13, App.14, App.15 and App.203 are attached hereto.

II. THE DISPOSITION DATE IS NOT JUNE 8, 2017

On October 25, 2017, Supervising Clerk Jeff Atkin directed a change to the docket of Petition No. 17-613 by replacing the disposition date of April 28, 2017 with June 8, 2017. This change is incorrect.

Petitioner's Motion to Strike the default notice of March 14, 2017 and her renewed motion to change place of appeal and trial and remand, was electronically filed with the California Sixth Appellate Court on March 29, 2017. Formal filing of this motion was delayed and it was "withheld from filing" by Presiding Justice Conrad Rushing until April, 28, 2017, (App.217:Snapshot of Truefiling.com), the same date when Justice Rushing denied the motion. (App.13, App.203; see also the docket in App.211-216)

The Petition for Review filed with California Supreme Court was signed by Petitioner on June 7, 2017. (App.202)

The California Supreme Court posted the filing date as June 12, 2017 on its docket. It denied Review on July 19, 2017. It granted the Motion for Judicial Notice (App.219-350), including, but not limited to, relevant pages of deposition transcript of James

McManis (App.290-292), McManis Faulkner LLP's website showing Santa Clara County Superior Court being one of its clients (App.285-287) and Presiding Judge Patricia Lucas's letter of 3/8/2017 (App.272).

This Petition involves multiple efforts of the state courts to conspire to dismiss this appeal that has been stalled for 3 years, with repeated false notices of default. The first such notice was on March 12, 2016, irregularly issued on Saturday, in which Justice Rushing dismissed the appeal by order of March 14, 2016. This occurred within 25 minutes of the Appellate Court's opening and without a notice of his intended action. This dismissal was later vacated and the appeal reactivated.

About one year later, on February 27, 2017, a false docket entry of default was made without any paper. Another false Default Notice of March 14, 2017 was also put on the docket. This latter notice is the subject of this Petition. After March 14, 2017 entry, there is another false notice of April 25, 2017. This notice was incorporated in the Order of June 8, 2017, but that Order of June 8, 2017 is still pending a motion to reconsider (the entry in the docket erroneously mentioned the March 14, 2017 Notice, when the pending motion to reconsider concerned the April 25, 2015 Notice of Non-compliance.)

Therefore, the disposition date for this Petition is not June 8, 2017 but April 28, 2017.

Attached please find the 4 pages of corrected appendix. ...[OMITTED]...

No. 17-256

IN THE

SUPREME COURT OF THE UNITED STATES

—o0o—

Linda Shao,

Petitioner,

vs.

McManis Faulkner, LLP., James McManis, Michael Reedy, Catherine Bechtel

Respondents.

—o0o—

On Petition For A Writ Of Certiorari
To The United States Court of Appeals
for the Ninth Circuit Appellate District
(14-17063: denied rehearing on 5/16/2017)
(Related Case with this Court: 17-82)

PETITION FOR REHEARING FROM DENIAL OF PETITION FOR WRIT OF CERTIORARI ON OCTOBER 30, 2017

YI TAI SHAO, Petitioner in pro per
SHAO LAW FIRM, P.C.
1999 S. Bascom Avenue, Ste. 700
Campbell, CA 95008
Telephone: (408) 873-3888
FAX: (408) 418-4070
Email: attorneylindashao@gmail.com
Petitioner In Pro Per

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APPENDIX

	Webpage of American Inns of Court for "English and Irish Inn Visits" of the American Inns of Court.	App. 37	
	Respondent is an honored member of the Inns of Court and a sponsor of two local Chapters of the Inn of Court	App. 38	
9	Relevant pages of Supplemental Appendix, Clerk's Office's alteration of docket of 17-613 that was filed with this Court in No. 17-82 on October 30, 2017		App. 39

TABLE OF AUTHORITIES

Cases

Statutes

Rules

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this Court for rehearing of this Court's order of October 30, 2017 denying the Petition for Writ of Certiorari. This Petition for Rehearing is based on the extraordinary circumstances of a substantial or controlling effect that Justice Anthony M. Kennedy and Justice Ruth Bader Ginsburg should not have participated in the consideration of the Petition for Writ of Certiorari due to conflicts of interest and that there is reasonable doubt that the denial was biased and prejudiced due to recent incidents of deterrence of filing and alteration of docket in related Petitions.

Both Justice Kennedy and Justice Ginsburg have American Inns of Court established in their names. The Petition for Certiorai is based on, among other things, that membership in or association with the American Inns of Court by the lower court judges created a conflict of interest as to these judges' participation in Petitioner's cases. Justice Kennedy and Justice Ginsburg have similar conflicts and thus should not have participated in voting for denial of the Petition. Justice Kennedy further received gifts indirectly from Respondents as he was a key speaker of the 2004's Symposium of William A. Ingram American Inn of Court that has been financially supported by Respondents. (App.11)

http://www.kennedyinn.org/ is the website of "The Anthony M. Kennedy AMERICAN INN OF COURT. Its homepage states: "Our Inn is affiliated with the American Inns of Court, a national organization based in Washington, D.C. For more information

about the American Inns of Court, please visit the national Web site at http://home.innsofcourt.org/."

The Ruth Bader Ginsburg AMERICAN INN OF COURT's website is http://inns.innsofcourt.org/for-members/inns/the-ruth-bader-ginsburg-american-inn-of-court.aspx. Its home page states: "American Inn of Court Number 30249 is named for the Honorable Justice Ruth Bader Ginsburg."

Recently, the administration of this Court prevented filing of the Amicus Curiae motion in Case No. 17-82 and altered the docket of Case No. 17-613. This action may cast doubt whether the conferences to review the petitions for writ of certiorari would have considered the amicus motion. This action creates an appearance of bias in this proceeding.

I. THE RECUSAL OF JUSTICES KENNEDY AND GINSBURG IS NECESSARY BECAUSE JUDICIAL CONFLICTS OF INTEREST AT THE FEDERAL TRIAL COURT AND COURT OF APPEAL ARISED FROM PARTICIPATION IN THE AMEICAN INNS OF COURT.

Justice Kennedy and Justice Ginsburg have conflicts of interest and should not participate in voting against the writ of Certiorari. The first two issues that Petitioner asked this Court to consider for Certiorari concern conflicts of interest arising from participation in the American Inns of Court:

> Issue 1: Should judges who are members of William A. Ingram American Inns of Court and San Francisco Intellectual Property American Inn of Court be required as a matter of due process to disclose their social

relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?

Issue 2: Where the Appellate Court has potential conflicts of interests because of regular social relationship with a party by way of American Inn of Court, must the Appellate Court disclose potential conflicts of interest and apply neutral standards to their resolution?

Justice Kennedy and Justice Ginsburg have a conflict on these issues because they are also associated with American Inns of Court.

II. THE AMERICAN INNS OF COURT ARE UNLIKE TRADITIONAL BAR ASSOCIATIONS BUT ARE SOCIAL CLUBS THAT PROVIDE FOR SECRET EX PARTE COMMUNICATIONS BETWEEN FINANCIALLY STRONG ATTORNEYS AND JUDGES

A. As A Social Club, Common Membership Of Judges And Attorneys Representing Parties Create The Appearance Of Bias.

The American Inns of Court have changed their character as bar associations as they made the membership directory confidential from disclosure for all Inns of Court after 2009. The last publication of a directory is provided to the court in App.186-87 in the Petition.

The Handbook for the William A. Ingram American Inn of Court states:

> "The schedule for the monthly meetings (not the dinner meetings) is to gather at 5:30 for **socializing** and hors d'oeuvres. After administrative announcements, the formal program by a Pupillage Group commences at 6:00 p.m. and ends at 7:00 p.m. After the program ends, there is further **socializing**." [emphasis added]

Its current meeting schedule states clearly the social function of its Inn meetings:

"Inn meeting, except as noted below, are scheduled on the second Wednesday of each month, with **socializing** at 5:30 p.m., and the program beginning at 6:00 p.m." (Petition, App.171; emphasis added)

These confidential social functions are the characteristic of a social private club. While the American Inns of Court might once have been equivalent to a bar association, they are now more like an exclusive private club. Membership or association in such a private social club creates an appearance of bias where attorneys who are members of the Inns appear before judges who are also members or associated with the Inns.

B. THE NINTH CIRCUIT AND THIS COURT BOTH SPONSORED THE PRIVATE CLUBS WITHOUT RESERVATION

Ninth Circuit's published in its News Release of September 19, 2016 that:

"Justice Wallace will receive the prestigious A. Sherman Christensen Award... The award will be presented at the 2016 American Inns of Court

Celebration of Excellence to be held at the U.S. Supreme Court on November 5, 2016. .....

Justice Wallance was influential in developing the idea of the American Inns of Court and advocated enthusiastically for its establishment. He had accompanied Chief Justice Warren Burger on the 1977 Anglo-American Legal Exchange and served as keynote speaker at the organizational dinner of the first Inn of Court in Provo, Utah. Judge Wallance served as a regular adviser to Judge A. Sherman Christensen, for whom the award is name. Judge Wallace urged attendees to form the Inn to help address trial inadequacy by attorneys. He wrote an article on the topic that was published March 1982 in the ABA Journal.....

The American Inns of Court, a national organization with 360 chapters and more than 130,000 active and alumni members.... An inn is an amalgam of judges, lawyers.... More information is available at http.//home.innsofcourt.org." It used this Court to hold meetings.

III. THE ADMINISTRATION OF THE CLERK'S OFFICE OF THIS COURT DETERRED FILING OF THE AMICUS CURIAE MOTION IN 17-82 AND ALTERED THE DOCKET OF 17-613 WHICH MAY CAST DOUBT WHETHER THE CONFERENCE TO REVIEW THE PETITION FOR WRIT OF CERTIORARI WOULD HAVE CONSIDERED THE PETITION AND CREATED AN

APPEARANCE OF BIAS IN THIS PROCEEDING.

A. In Petition No. 17-82 — Deterrence From Filing of the Amicus Curiae Motion

The State court' judicial corruptions led by Respondents have the common characteristic of deterring Petitioner from filing pleadings and interfering with Petitioner's fundamental rights to access to the court. See Petition, App.132 & App.164¶41; see also, Petition No. 17-82, Petition for Rehearing (App.21).

B. In Petition No. 17-613—Alteration Of Docket

The Court's Supervisor Jeff Atkin, directed the deputy clerk to return the Petition shortly after docketing (later remedied by a Supplemental Appendix) and directed the deputy clerk to alter the docket in changing the lower court's order from April 28, 2017 to June 8, 2017. (App.39-41). The acts are similar to the judicial corruptions complained in the Petition. Petition, App.162, App.165.

IV. THIS IS A CASE ABOUT JUDICIAL CONFLICTS OF INTEREST AT BOTH LOWER COURTS WHICH PREJUDICED PETITIONER'S RIGHT TO ACCESS TO THE COURTS, TO APPEAL, AND TO HAVE THE MERITS OF THE CASE BE CONSIDERED BY A COURT AT ALL.

This case concerns the issue of conflicts of interests in the judiciary. There are direct conflicts of interest arising from a special relationship existing between

Respondents, the McManis Faulkner Law Firm and its partners, and the judges of the lower courts.

These relationships are extensively discussed in the Petition for Writ of Certiorari from Pages 9 through 15. In particular:

(1) Respondents have regular social relationship with the lower court judges through William A. Ingram American Inn of Court of the American Inns of and the Bay Area Intellectual Property American Inn of Court of the American Inns of Court

(2) Respondents have represented judges at the Santa Clara County Court. Respondents have had an attorney-client relationship with these judges., Most of the U.S. District Court judges for the Northern District of California in San Jose were previously judges on the Santa Clara County Court and potentially also clients of Respondents.

(3) A collegial relationship and close working relationship between Respondent James McManis and Judge Lucy Koh when Respondent McManis served as a Special Master for both the state and federal courts.

(4) The appearance that Respondents conspired with the State's Santa Clara County Court and Sixth Appellate Court of Appeal in connection with Petitioner's appeals.

In the Petition, Petitioner has argued actual prejudice as well as the appearance of bias in that

(1) Judge Lucy Koh should have known that she had a conflict of interest but still decided Respondents' Rule 12(b) motion while

Petitioner's motion to disqualify her was pending. Judge Koh's decision was irregular --- putting the order without a statement of decision in a footnote of the Order Granting the Rule 12(b) motion.

(2) The Ninth Circuit's proceeding created an appearance of bias in that the Ninth Circuit appeared to have actively assisted Respondents by suppressing evidence of Judge Koh's conflicts of interests.

On November 7, 2016, the Ninth Circuit issued a Memorandum decision of less than two pages that was devoid of *any* analysis of law, but mere conclusion.

Notably, the Memorandum stated that "We do not consider arguments of facts that were not presented to the district court. See Smith v. Marsh, 194 F .3d 1045, 1052 (9th Cir. 1999)". The *only* new facts were presented by a Motion for Judicial Notice filed on October 8, 2015, regarding Judge Koh's conflicts of interest where she did not disclose her social relationship with Respondent Michael Reedy through the William A. Ingram American Inn of Court, her close working relationship with Respondent James McManis at the U.S. District Court and at the Santa Clara County Court, and the facts that Judge Koh's former employer, the Santa Clara County Superior Court, is Respondent James McManis's client and that about 25 judges of the Santa Clara Superior Court, whether this included her or not, were Mr. McManis's clients.

Disregarding these facts is in conflicts with the Ninth Circuit's policy to consider new facts, even if raised the first time in the Reply Brief, where the appeal involves a ruling on a motion under Rule

12(b) and the new facts demonstrate a basis for filing a viable amended complaint. See, e.g., Orion Tire Corp. v. Goodyear Tire & Rubber Co. (2001, 9th Cir.) 268 F.3d 1133, 1137. Similarly, in NRDC v. EPA 464 F.3d 1 (D.C. Cir. 2006), the District of Columbia Circuit allowed new facts to be raised the first time at the rehearing stage for purposes of determining standing.

Issues of bias should not be rejected simply because not presented to a lower court initially. Bias goes to the heart of the impartial administration of justice and is a matter that should not be foreclosed by a mechanical application of procedural rules. The failure to address bias contributes to the impression of bias and unfairness. In devoting less than two pages in its Memorandum (Petition, App.8&9), the Ninth Circuit appeared to help Respondent McManis Faulkner law firm by affirming the dismissal even in the face of evidence of Judge Koh's conflicts of interest in granting the Rule12(b) motion.

In denying consideration of the evidence of Judge Koh's conflicts of interest Petitioner presented in the Motion for Judicial Notice filed on October 8, 2015, the Ninth Circuit's denial of rehearing one day after Petitioner filed the "Third Supplement to Motion for Judicial Notice in Support of Petition for Rehearing and Suggestion for Hearing En Banc", where Petitioner provided evidence of the public view that Respondents conspired with the Presiding Justice Conrad Rushing of the Sixth District and Santa Clara County Court, perpetuated this appearance of bias.

Ninth Circuit also had undisclosed conflicts of interest. These conflicts include:

i. The Ninth Circuit published a News Release on September 19, 2016 supportting the American Inns of Court (Petition, 188-189)

ii. Its ex-Chief Justice Alex Kozinski was invited by the Inns as a speaker at its 2011's annual Symposium. (Petition, P.15)

iii. Respondent McManis Faulkner Law Firm's partner, Elizabeth Pipkin, who chairs the civil litigation team of the firm, was and still is serving on the Ninth Circuit's Judicial Council as a Lawyer Representative. (Petition, P.15)

In addition, Petitioner recently discovered that:

(1) The Ninth Circuit recently established a Kennedy Learning Center. Associate Justice Anthony M. Kennedy has an American Inn of Court in his name in Sacramento. He was invited to the Symposium of William A. Ingram American Inn of Court. (App.3)

(2) The Ninth Circuit published numerous official "News Releases" to promote the American Inns of Court which may be found by typing in "American Inns of Court" in the court's website searching engine.

(3) Many judges at the Ninth Circuit are members of an American Inn of Court.

(4) American Inns of Court is closely connected with the Ninth Circuit over the last 30 years and there are numerous news releases promoting the American Inns of Court that are still on the Ninth Circuit's website.

V. LAW AND ARGUMENTS

There are extraordinary circumstances that justify rehearing in this case.

A. APPEARANCE OF RULE 60(B) VIOLATION SINCE: THE DOCKET DOES NOT SHOW RECUSAL BY TWO JUSTICES FROM VOTING ON WHETHER TO ISSUE CERTIORARI, WHEN SUCH JUSTICES SHOULD HAVE RECUSED THEMSELVES DUE TO HAVING DIRECT CONFLICTS OF INTEREST AND THE NINTH CIRCUIT HAS SUPPORTED THE AMERICAN INNS OF COURT AND JUST ESTABLISHED KENNEDY EDUCATION CENTER

This Court held in Liljeberg v. Health Services Acquisition Corp. (US 1988) 486 US 847 that vacatur is a proper remedy to an order made in violation of Rule 60(b)(6). This Court held that when a federal judge has conflicts of interest, the judge should have recused himself pursuant to 28 USCS §455 if a reasonable person knowing the relevant facts would have expected that judge to have been aware of the conflict of interests, even if the judge was not conscious of the circumstances creating the appearance of impropriety.

Here, the issues of the improper special relationship between the judges and attorneys participating together in the social activities of the American Inns of Court were listed as Question 1 and Question 2 of the Petition and were conspicuously discussed in the Petition for Writ of Certiorari, pages 2, 9, 11, 12, 14, 15 and 16.. On Page 25, the first sentence discussing

this judiciary relationship established in the American Inns of Court, Petitioner stated:

"The social association through the Inn presents potential conflicts of interest."

Such issue was listed as No. 1 and 2 of "QUESTIONS PRESENTED" of the Petition for Writ of Certiorari.

Associate Justice Anthony M. Kennedy and Associate Justice Ruth Bader Ginsburg both have American Inns of Court established in their names. This creates direct conflicts of interest for them to rule on whether "The social association through the Inn presents potential conflicts of interest," whether such relationship violates Rule 5-300 of California Rules of Professional Conduct, and to decide whether to issue certiorari when Question No. 2 asked "Should judges who are members of William A. Ingram American Inns of Court be required as a matter of due process to disclose their social relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?"

A reasonable person aware of the facts herein would be likely to believe that the two Justices with Inns of Court in their names would be unable to vote impartially due to this direct conflict of interest.

Therefore Rule 60(b)(6) is satisfied here. A reasonable person reading the Petition for Writ of Certiorari would expect that these two Justices would know they had conflicts of interest and should have refrained from voting on the petition. The precedent of the Liljeberg decision mandates that the court's October 2, 2017 Order herein be vacated.

B. THE SUPERVISING CLERK'S IRREGULARITIES CAST DOUBT ON THE

INTEGRITY OF THE CLOSED CONFERENCE PROCEEDING OF THIS COURT IN REVIEWING PETITIONS FOR CERTIORARI

The Court's docket has been considered as the court's records. E.g., *Mullis v. United States Bank Ct.*, 828 F.2d 1385 n.9 (9th Cir. 1987). The clerk is not allowed to tamper with the court's records and refuse to record filing. See, e.g., *Kane v. Yung Won Han,* 550 F.Supp. at 123.

Structural error includes deterrence of right to appeal. See, *Locada v. Deeds* (1991) 498 US 430, overruled on other grounds by *Roe v. Flores-Ortega* (2000) 528 US 470.

The irregularities took place in the past two months at this Court's Clerk's Office are the same scheme as the conspiracy led by Respondents.

A reasonable person knowing all the facts would believe that Respondents and their judicial conspirators may have manipulated the Clerk's Office of this Court, through their relationship with the American Inns of Court, the Ninth Circuit, and their attorney client relationship with many unknown judges/justices (Petition, pp.7-12). As the conferences determining certiorari are closed to the public, whether this Court had actually considered the Petition was questioned when the public trust of integrity of administration of the court is shattered by the two events.

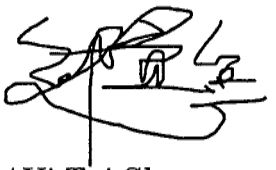
VI. CONCLUSION

For the foregoing reasons, Petitioner respectfully request that rehearing be granted and Certiorari be issued.

The undersigned declares under the penalty of perjury under the laws of the U.S. that the foregoing is true and accurate to the best of her knowledge.

Dated: November 17, 2017

Respectfully submitted,



/a/ Yi Tai Shao
Yi Tai Shao, Esq.
SHAO LAW FIRM, P.C.
1999 S. Bascom Avenue, Suite 700
Campbell, CA 95008
Tel. No.: (408) 873-3888; Fax No.: (408) 418-4070
Petitioner In Pro Per

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

Yi Tai Shao, Esq., in pro per
SHAO LAW FIRM, P.C.
1999 S. Bascom Avenue
Suite 700
Campbell, CA 95008
Tel. No.: (408) 873-3888
Fax No.: (408) 418-4070
attorneylindashao@gmail.com

App. 1

STATUTES INVOLVED:

28 USCS §455: (a) Any justice, judge, or magistrate [magistrate judge] of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

RULE 5-300 OF CALIFORNIA RULES OF PROFESSIONAL CONDUCT

(A) A member shall not directly or indirectly give or lend anything of value to a judge, official, or employee of a tribunal unless the personal or family relationship between the member and the judge, official, or employee is such that gifts are customarily given and exchanged. …

(B) A member shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer, except:

(1) In open court; or

(2) With the consent of all other counsel in such matter; or

(3) In the presence of all other counsel in such matter; or

(4) In writing with a copy thereof furnished to such other counsel; or

(5) In ex parte matters.

(C) As used in this rule, "judge" and "judicial officer" shall include law clerks, research attorneys, or other court personnel who participate in the decision-making process. (Amended by order of Supreme Court, operative September 14, 1992.)

App. 2

Federal Rules of Civil Procedure, Rule 60(b)(6)

Rule 60 (b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

.... **(6)**any other reason that justifies relief.

Rule 79
(a) Civil Docket.
(1) *In General.* The clerk must keep a record known as the "civil docket" in the form and manner prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States. The clerk must enter each civil action in the docket. Actions must be assigned consecutive file numbers, which must be noted in the docket where the first entry of the action is made.
(2) *Items to be Entered.* The following items must be marked with the file number and entered chronologically in the docket:

- **(A)** papers filed with the clerk;
- **(B)** process issued, and proofs of service or other returns showing execution; and
- **(C)** appearances, orders, verdicts, and judgments.

(3) *Contents of Entries; Jury Trial Demanded.* Each entry must briefly show the nature of the paper filed or writ issued, the substance of each proof of service or other return, and the substance and date of entry of each order and judgment. When a jury trial has been properly demanded or ordered, the clerk must enter the word "jury" in the docket.
(b) Civil Judgments and Orders. The clerk must keep a copy of every final judgment and appealable order; of every order affecting title to or a lien on real or personal property; and of any other order that the

court directs to be kept. The clerk must keep these in the form and manner prescribed by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States.

(c) Indexes; Calendars. Under the court's direction, the clerk must:

(1) keep indexes of the docket and of the judgments and orders described in Rule 79(b); and

(2) prepare calendars of all actions ready for trial, distinguishing jury trials from nonjury trials.

(d) Other Records. The clerk must keep any other records required by the Director of the Administrative Office of the United States Courts with the approval of the Judicial Conference of the United States.

App. 4

[NOTICE OF ENTRY OF ORDER-DENIAL OF PETITION FOR WRIT OF CERTIORARI]

October 30, 2017

Ms. Linda Shao
1999 S. Bascom Avenue
Suite 700
Campbell, CA 95008

Re: Linda Shao v. McManis Faulkner, LLP
No. 17-256
Dear Ms. Shao:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied. Motion for leave to file amicus brief filed by Mothers of Lost Child is granted.

Sincerely,

/s/ Scott S. Harris

Scott S. Harris, Clerk

[THE INN OF COURT DEDICATED IN THE NAME OF JUSTICE ANTHONY M. KENNEDY: This shows existence of an American Inn of Court in the name of Justice Anthony M. Kennedy and that this Inn is an affiliate to the William A. Ingram American Inn of Court and that the Membership is "confidential", not available to the public.]

http://www.kennedyinn.org/

THE ANTHONY M. KENNEDY

AMERICAN INN OF COURT

Welcome to the Web site for the Anthony M. Kennedy American Inn of Court. Membership in the Inn of Court includes, judges, justices, law professors, attorneys and law students.

I am honored to be your Inn President. I have been with the Inn for six years and look forward to many more years. There are many great things about our Inn, including meeting members from different practice areas, enjoying interesting and entertaining programs, and engaging in thought-provoking discussions during moderations.

.....[omitted]...

Our Inn is affiliated with the American Inns of Court, a national organization based in Washington, D.C. For more information about the American Inns of Court, you can visit the national Web site at **http://home.innsofcourt.org/**.

App. 6

[MEMBERSHIP FOR THE ANTHONY M. KENNEDY AMERICAN INN OF COURT IS RESTRICTED & NOT DISCLOSED TO THE PUBLIC]

http://www.kennedyinn.org/join/

The Kennedy Inn seeks diversity in membership--including the nature and size of legal practice, years of experience, and community involvement--so that our members have the benefit of varying experiences and perspectives in the practice of law. Membership requires a commitment of time and enthusiasm

---

Application Process

Applications for membership are solicited beginning in March, with a deadline of May 1. An applicant must send a letter and resume to membership committee chair, Arthur G. Scotland via email (**ascotland@sbcglobal.net**) or to

Arthur G.Scotland

Nielsen Merksamer Parrinello Gross & Leoni LLP.

1415 L Street Suite 1200
Sacramento, CA 95814

The letter should include the applicant's reason for wanting to join the Kennedy Inn. References are not necessary but are encouraged (especially from current or former members of the Inn).

New members are selected by the end of June. We generally receive more applications than there are vacancies, but a portion of the membership rotates out each year. ..[OMITTED]...

App. 7

[12 MEETINGS A YEAR AT THE KENNEDY INN]

http://www.kennedyinn.org/calendar/

CALENDAR

11/21	NOVEMBER CHAPTER MEETING (HAMMY AWARDS) • Tuesday, November 21, 2017 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
1/16	JANUARY CHAPTER MEETING • Tuesday, January 16, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
2/20	FEBRUARY CHAPTER MEETING • Tuesday, February 20, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
3/20	MARCH CHAPTER MEETING • Tuesday, March 20, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
4/17	APRIL CHAPTER MEETING • Tuesday, April 17, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
5/15	MAY CHAPTER MEETING • Tuesday, May 15, 2018 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
10/17	OCTOBER CHAPTER MEETING • Tuesday, October 17, 2017 • 5:30 PM 7:00 PM • McGeorge School of Law (map)
9/26	SEPTEMBER CHAPTER MEETING • Tuesday, September 26, 2017 • 5:30 PM 7:00 PM • McGeorge School of Law (map)

	Note: Fourth Tuesday rather than normal third Tuesday due to Gala event.
9/14	ANTHONY M. KENNEDY INN OF COURT: 30TH ANNIVERSARY • Thursday, September 14, 2017 • 6:30 PM 8:30 PM **THE MASTERS AND BENCHERS OF THE ANTHONY M KENNEDY AMERICAN INN OF COURT RESPECTFULLY REQUEST THAT YOU RESERVE THE EVENING OF THE 14TH OF SEPTEMBER, 2017 FOR A GALA CELEBRATION OF THE THIRTIETH ANNIVERSARY OF THE FOUNDING OF THE INN AND THE 230TH ANNIVERSARY OF THE ESTABLISHMENT OF THE US CONSTITUTION**
8/16	TEAM LEADER LUNCHEON • Wednesday, August 16, 2017 • 12:00 PM 1:00 PM • Sacramento Superior Court (map)
8/7	RETURNING BARRISTER AND ASSOCIATE LUNCH • Monday, August 7, 2017 • 12:00 PM 1:00 PM • Third District Court of Appeal (map)
7/31	NEW MEMBERS LUNCH • Monday, July 31, 2017 • 12:00 PM 1:00 PM • Chambers of Judge Consuelo Callahan(map)

[THE ANTHONY M. KENNEDY AMERICAN INN OF COURT HAS A SPECIAL LINK WITH THE NINTH CIRCUIT]

http://www.kennedyinn.org/related-links/

THE ANTHONY M. KENNEDY

AMERICAN INN OF COURT

RELATED LINKS

NINTH CIRCUIT COURT OF APPEAL	STATE BAR OF CALIFORNIA
MCGEORGE SCHOOL OF LAW	AMERICAN INNS OF COURT
US DISTRICT COURT	CALIFORNIA COURTS
	LEXIS NEXIS

App. 10

[THE NINTH CIRCUIT JUST ESTABLISHED KENNEDY LEARNING CENTER IN OR ABOUT NOVEMBER 2017.]

https://www.ca9.uscourts.gov/#

UNITED STATE COURTS

For the NINTH CIRCUIT

[photo of Justice Kennedy]

NEW WEBSITE FOR KENNEDY LEARNING CENTER

...[OMITTED]...

[JUSTICE KENNEDY WAS A MAJOR SPEAKER AT WILLIAM A. INGRAM AMERICAN INN OF COURT WHICH HAS BEEN FINANCIALLY SUPPORTED BY RESPONDENTS]

http://law.scu.edu/event/thirteenth-annual-judge-william-a-ingram-memorial-symposium/

SANTA CLARA UNIVERSITY SCHOOL OF LAW

THIRTEENTH ANNUALJUDGE WILLIAM A. INGRAM MEMORIAL SYMPOSIUM

January 10 @ 5:45 pm-8:00 pm

Presented by
William A. Ingram Inn
American Inns of Court

Santa Clara University, 500 El Camino Real, Santa Clara, CA

Free of Charge

One hour of CLE credit available

RSVP HERE – NO LATER THAN JANUARY 5, 2017

...[OMITTED]...

INGRAM MEMORIAL SYMPOSIUM HISTORY

...[OMITTED]...

2004– "Judges, Lawyers and Law Reform"
Justice Anthony Kennedy, U.S. Supreme Court; Justice Patricia Bamattre-Manoukian, California Court of Appeal, Sixth District; Thomas Hogan; James Towery

[THE INN OF COURT DEDICATED IN THE NAME OF JUSTICE RUTH BADER GINSBURG; This shows existence of an American Inn of Court in the name of Justice Ruth Bader Ginsburg and that this Inn is an affiliate to the William A. Ingram American Inn of Court and that the Membership, Meeting Schedule and Committees are all "confidential", not available to the public.]

The Ruth Bader Ginsburg American Inn of Court

[SIGNAGE] ACHIEVING EXCELLENCE 2017 PLATINUM LEVEL

History of the Ruth Bader Ginsburg Inn

In mid-1995, Gloria Bates attended the annual National Conference of the American Inns of Court in San Francisco. Immediately afterward, she received permission from Justice Ruth Bader Ginsburg to found an Inn in her name. Gloria formed a steering committee of judges and lawyers who shared her enthusiasm, and once membership and programs were in place, meetings began in September 1995.

Gloria devoted a lot of time to the development and growth of the Ginsburg Inn: from attracting members who embrace Inn ideals to forming committees, helping plan the first programs and overseeing a multitude of organizational details. Her experiences as a federal law clerk, attorney, judge and adjunct law school professor greatly complemented her service and contributions as Founder and President during our Inn's first two years.

...[OMITTED]

The Ginsburg American Inn of Court is divided into six pupillage teams, each proportionately composed of judges, experienced lawyers, young attorneys, law professors and third year law students. Each team prepares and presents one program during the term (September through May)..[OMITTED]...

About Justice Ginsburg

American Inn of Court Number 30249 is named for the Honorable Justice Ruth Bader Ginsburg, the 107th Justice and only the second woman to serve on the United States Supreme Court.

App. 14

OFFICERS OF THE GINSBURG INN INCLUDE MANY ATTORNEYS

http://inns.innsofcourt.org/inns/officers.aspx?innid=30249

Officers

The Ruth Bader Ginsburg American Inn of Court

1. President

Robert Don Evans, Jr., Esq.
US Attorney's Office
p: (405) 553-8831
e: Send Mail

2. Treasurer

D. Benham Kirk, Jr., Esq.
Doerner Saunders Daniel & Anderson LLP
p: (405) 319-3506
e: Send Mail

3. President Elect

Christine Batson Deason, Esq.
Hester Schem Hester & Batson
p: (405) 705-5900
e: Send Mail

4. Program Chair

Ryan J. Reaves, Esq.
Mullins Hirsch Edwards Heath White & Martinez PC
p: (405) 235-2335
e: Send Mail

5. Immediate Past President

Doneen Douglas Jones, Esq.
Fellers Snider Blankenship Bailey & Tippens
p: (405) 232-0621
e: Send Mail

6. Member

Robert Bell
Oklahoma Court of Criminal Appeals
p: (405) 521-3751
e: Send Mail

Glenn M. White, Esq.
Hirsch, Heath & White
p: (405) 235-1768
e: Send Mail

7. Administrator

Sarah J. Glick, Esq.
Love's Travel Stops & Country Stores
p: (405) 463-8335
e: Send Mail

Cheryl Husmann, Esq.
Husmann Law Offices
p: (405) 285-1548
e: Send Mail

Rhonda McLean, Esq.
McLean **Law, PLLC**
p: (405) 896-0185
e: Send Mail

8. Community Liaison

Rachel Stoddard Morris, Esq.
Stoddard Morris **PLLC**
p: (405) 509-6455
e: Send Mail

9. Inn Founder

Gloria C. Bates, **Esq.**

p: (405) 692-2828
e: Send Mail

10. Web Administrator

Cheryl Husmann, Esq.
Husmann Law **Offices**
p: (405) 285-1548
e: Send Mail

***RELEVANT PORTION* OF THE PETITION FOR REHEARING IN NO. 17-82 ABOUT THE IRREGULARITIES OF THE CLERK'S OFFICE'S DETERRING FILING OF THE AMICUS CURIAE MOTION**

PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44, Petitioner respectfully petitions this Court for rehearing of its October 2, 2017 order denying the Petition for Writ of Certiorari, based on the extraordinary circumstances of a substantial or controlling effect that the Amicus Curiae motion was not filed and apparently not provided to the Court for consideration. In addition, Justice Anthony M. Kennedy and Justice Ruth Bader Gingsburg should not have participated in the consideration of the Petition for Writ of Certiorari. These Justices have direct conflicts of interest because of their membership in the Inns of Court and thus should not have participated in voting for denial of the Petition.

I. THIS IS A CASE ABOUT JUDICIAL CONFLICTS OF INTEREST WHICH PREJUDICED PETITIONER'S RIGHT TO ACCESS TO THE COURTS, TO APPEAL, AND TO A JURY TRIAL

This case is centered on the issue of conflicts of interests in the judiciary. There are direct conflicts of interest derived from a special relationship existing between Respondents' McManis Faulkner Law Firm and the courts. This relationship includes:

...[OMITTED]...

Actual prejudice caused by these conflicts of interest is obvious: the appeal was stalled for two years (Petitioner was unable to file her Opening Brief) and the trial was further stayed indefinitely. For this and the underlying case, both Santa Clara County Superior Court and the California Sixth Appellate Court had used the same patterns of interfering in Petitioner's appeal by deterring the court reporters from filing hearing transcripts, refusing to prepare records on appeal, and denying Petitioner's requests to either require the trial court to prepare records on appeal or to change designation of records to allow Petitioner to prepare the records on appeal herself. Thus, Petitioner has been denied her fundamental right of access to the courts and has been denied her fundamental right to appeal. In addition, the State Courts jointly committed multiple felonious alterations of dockets and of the court's records. (Petition, App.190, Declaration of Meera Fox,¶33)

Petitioner asserts that the vexatious litigant orders that Respondent McManis Faulkner Law Firm improperly obtained from its client court as a party appearing in front of its client court without disclosure of the conflict, should be reversed for violation of due process. A neutral and impartial tribunal is the paramount requirement for justice and that Petitioner needs and deserves a neutral tribunal to hear her appeal and trial case.

VII. PROCEDURAL FACTS

Respondents' counsel was timely notified of Amicus Curiae's intent to file an Amicus Curiae Brief and refused to give consent. On 8/30/2017, the Petition was assigned for conference on 9/25/2017. Amicus Curiae's attorney Christopher W. Katzenbach

finished the motion on September 1, 2017. On September 6, 2017, after printing, the Amicus Curiae motion of Mothers of Lost Children was mailed from California and received by this Court on September 12, 2017 (App. 6)

Up until September 20, 2017, this Court has assigned all Amicus Curiae motions and briefs to be handled by two specific clerks exclusively: Cathy Taiz and Denise McMerny. Yet, the Amicus Curiae motions for this Petition and its related Petition (17-256) were not handled by either of the two regular Amicus Curiae clerks, but instead were specifically assigned to Mr. Donald Baker. At the time Mr. Baker sent the rejection letter of September 14, 2017 (App.6), the clerks who handled all other amicus curiae matters were still Cathy Taiz and Denise McMerny.

Mr. Baker waited two additional weekdays after receipt, and then returned the 40 motions of Amicus Curiae to Attorney Katzenbach, who received them on September 18, 2017. Mr. Baker required a Table of Contents be added to the 10 page brief (1677 words) and required a change of the wording on the cover of the motion to add "for leave" and "out of time". Amicus Curiae Attorney Katzenbach did not expect this return as there were full discussions with Ms. Taiz before filing this motion on September 6, 2017 and Ms. Taiz had not asked for these changes to be made as required by Mr. Baker.

According to Ms. Taiz, a Amicus Curiae must file a motion, instead of a Brief, when the Respondent does not consent or when it passes the time needed in order to seek the court's approval. She did not say there is a requirement to change to wording of the motion to add "for leave" and "out of time."

Amicus Curiae's attorney used the fastest way to reprint and resubmit the motions on September 19, 2017, via Overnight Express mail. (App. 7-11) The Court received the corrected re-submission on September 21, 2017.

In Mr. Katzenbach's cover letter dated September 19, 2017, he wrote:

> "Based on conversations with the Clerk's office, we had the understanding that **our initial filing was in an appropriate format**.
>
> It is our understanding that the Petition in Case No. 17-82 is set for conference on September 25, 2017. It is our hope that the motion could be submitted prior to the conference."

Two Amicus Curiae motions were filed simultaneously with this Court in two different petitions: Petition No. 17-82 and Petition 17-256, where the parties are the same, but from different courts. Petition No. 17-256 was filed later and not set for conference at the time of re-submission, while this Petition was set for conference on September 25, 2017.

Petitioner was informed that the Supervising Clerk Jeff Atkin had the authority to take the matter off from the calendar on 9/25/2017 and to reset it to another date.

Therefore, Petitioner emailed to Mr. Atkin on September 22, 2017 in the morning and left him several phone messages asking to reschedule the conference. (App.12-14) Mr. Atkin never responded.

On 9/22/2017, Amicus Curiae's attorney contacted Mr. Donald Baker, who said he would respond later, but then failed to do so. Petitioner contacted Mr. Baker and he responded that the court was reviewing the motions and there appeared to still be a problem with their compliance. Mr. Baker appeared to be intent upon deterring the filing of the Amicus Curiae Motions. When asked who "the Court" was that was reviewing such motions, Mr. Baker named a Bailiff and himself. (App.15) Mr. Katzenbach has affirmed in his letter of September 19, 2017 that the Amicus Curiae motions were in an appropriate format. (App.7, ¶2) Mr. Baker eventually stated that he would see that the motions were filed.

On 9/26/2017, Petitioner telephoned Mr. Baker to ask why the Amicus Curiae Motion was not shown as having been filed on the docket of 17-82. Mr. Baker put Petitioner on hold for 16 minutes, then silently hung up. (App.17)

Petitioner contacted Mr. Atkin about this irregularity but Mr. Atkin did not respond. (App.17)

The docket did not show the recusal of the two Justices who have an American Inn of Court dedicated in their names. (App.24, 25) Respondent McManis Faulkner law firm is a financial sponsor of The American Inns of Court and two of its affiliates: The William A. Ingram American Inn of Court and the San Francisco Bay Area Intellectual Property American Inn of Court.

The participating judges/justices in these Inns of Court receive direct or indirect gifts from the sponsoring attorneys and from Respondent's law firm as one of their main financial sponsors.(Petition,P.5)

The American Inns of Court used the site of the US Supreme Court to conduct its business on 11/5/2016. See 9th Circuit's New Release in App.18.

"American Inns of Court" was referenced in the Petition for Writ of Certiorari with conspicuous discussions on Pages 1, 5 through 7 and 20. On Page 20, in the first sentence discussing this judiciary relationship established within the American Inns of Court, the Petitioner stated

> "The social association through the Inn presents potential conflicts of interest."

In No. 2 of the "QUESTIONS PRESENTED" in the Petition for Writ of Certiorari, Petitioner wrote:

> "2. Should judges who are members of William A. Ingram American Inns of Court be required as a matter of due process to disclose their social relationship with lawyers who are members of the Inns of Court and who are appearing before the judges?"

The court promoted and sponsored American Inns of Court by allowing American Inns of Court to use this Court's site to hold their annual conference on 11/5/2016. (App.18) Chief Justice Warren Burger even entered into an understanding with the British Inn of Court on behalf of American Inns of Court. (App.27) When this Court has represented and sponsored American Inns of Court, there is a public appearance of conflicts of interest in its justices deciding a matter complaining of the impropriety of those Inns of Court.

On 10/2/2017, the Petition for Writ of Certiorari was denied. The docket does not show filing of the Amicus Curiae motion of Mothers of Lost Children.

On 10/23/2017, Petitioner telephoned Mr. Baker to ask why the Amicus Curiae motion was not filed. Mr. Baker transferred the call to Mr. Bickell (telephone number of 202-479-3263). He stated that it was the joint decision between Mr. Baker and him not to file the Amicus Curiae motion. He asserted that pursuant to Rule 37.2, the time to file an Amicus Curiae Brief could not be extended. When corrected, he later acknowledged that Rule 37.2 applies only to Amicus Curiae Briefs, not Amicus Curiae Motions. He stated that he decided not to file the corrected Amicus Curiae Motion since it had "too much deficiency" but he was unable to identify what such deficiencies were. Mr. Brickell argued that the same exact motion had been filed in 17-256 so the court had had a chance to consider its contents there. He was unable to explain why if the Amicus motion was too deficient to file in this matter, it had been deemed acceptable to be filed in 17-256.

VIII. III.LAW AND ARGUMENTS

A. EXTRAORDINARY CIRCUMSTANCES OF THE US SUPREME COURT'S IRREGULAR DETERRENCE OF FILING OF AN AMICUS CURIAE MOTION JUSTIFIES A REHEARING

In Critchley v. Thaler (5th Cir. 2009) 586 F.3d 318 and in Wickware v. Thaler (5th Cir. 2010) 404 Fed. Appx. 856, 862, the 5th Circuit Court of Appeal held that the clerk has a ministerial duty to file and that a delay in filing constitutes a violation of Due Process.

In Voit v. Superior Court (6th Dist., 2011) 201 Cal.App.4th 1285, the California Sixth Appellate Court held that whether a motion had legal merit was a determination to be made by a judge, not the

clerk's office. The court clerk's office did not have the authority to set a condition of filing a motion.

The Amicus Curiae Motions were submitted in compliance with Amicus Curiae clerk Cathy Taiz's specific instructions. The original Amicus Curiae motions were mostly compliant with the Rule. Yet, Mr. Baker and Mr. Bickell who were irregularly assigned specifically to deal with this specific set of Petitions, exerted all means to find fault with the motions and eventually did not file the Amicus Curiae motion. Mr. Bickell unilaterally decided not to allow the court to consider the identical Amicus Curiae Brief for this Petition. The court was thus precluded from making a ruling on the Amicus Curiae motion. After Petitioner sent the emails to Mr. Atkin, there was big move of personnel and Mr. Baker became officially replaced Denise as a clerk handling Amicus Curiae.

Mr. Atkin, the supervisor of Mr. Baker and Mr. Bickell, further ignored Petitioner's written requests to continue 9/25/2017's Conference in order to permit this court to consider the Amicus Curiae motion.(App.12-14)

A postage-prepaid returned envelope was provided with the Amicus Curiae motion, but the motion was neither filed nor returned. Mr. Baker did not return the endorsed copy of the identical motion eventually filed in Petition 17-256 in early October 2017 either.

This interference with filing is one of the techniques that has been used by the State Courts in conspiracy with Respondents to delay Petitioner's appeals and deny her access to the courts. (See Petition 17-82, App.189, Decl. Meera Fox, ¶31) Such issue was listed in the Petition for Writ of

Certiorari as Item No. 8 in "Questions Presented", which stated:

> "8. Does a Presiding Judge have the power to prevent a party from filing with the Clerk's Office by instructing the Clerk's Office not to accept for filing?"

When this Court has sponsored American Inns of Court, there is a public appearance that such irregularity repeating what was done by the State Courts is a result of conflicts of interest.

Such denial of access to this Court violates Constitutional Due Process and constitutes the extraordinary circumstances required by Rule 44. Therefore, rehearing should be granted.

....[OMITTED]....

CONCLUSION

For the foregoing reasons, Petitioner respectfully request that rehearing be granted, that the brief of Amicus Curiae Mothers of Lost Children (Clerical errata of "Child" on the cover) be filed and considered, and that the original underlying order be vacated.

Dated: October 24, 2017
Respectfully submitted,
Yi Tai Shao, Esq.
SHAO LAW FIRM, P.C.
[OMITTED]

App. 26

[MR. KATZENBACH REFILED THE AMICUS CURIAE MOTION IN COMPLIANCE WITH ALL MR. BAKER'S REQUESTS]

KATZENBACH LAW OFFICES
912 Lootens Place, 2nd Floor
San Rafael, CA 94901
Telephone: (415) 834-1778
Facsimile: (415) 834-1842

September 19, 2017

Donald Baker
Office of the Clerk
Supreme Court of the United States
Washington, DC 20543,-0001

Re: Linda Shao v. MacManis Faulkner, LLP
Case Nos. 17-82, 17-256

Dear Mr. Baker:

Enclosed please find corrected copies of the motions for leave to file amicus curiae brief of Mothers of Lost Children in the above-referenced cases. Enclosed also are copies of the letters you sent on this filing.

I apologize for any errors in the initial filing. Based on conversations with the Clerk's office, we had the understanding that **our initial filing was in an appropriate format.**

Enclosed please also find the postage prepaid return envelope for you to return endorsed filed copies of the motions to us.

It is our understanding that the Petition in Case No. 17-82, is set for conference on September

25, 2017. It is our hope that the motion could be submitted prior to the conference.

The word count includes both the motion itself and the brief since they are one document.

Very truly yours,

KATZENBACH LAW OFFICES

By: /s/ Christopher W. Katzenbach

Christopher W. Katzenbach

App. 28

[E-MAIL 9/22/2017 FROM PETITIONER TO SUPERVISING CLERK ATKIN; This email shows that the Clerk's Supervisor was aware of but unresponsive to Petitioner's written request to continue 9/25/2017's hearing to allow the court to consider the motion Brief of Amicus Curiae]

Gmail

Subj: Emergent request to change Conference Date for Petition 17-82

From: attorneylindashao@gmail.com

To: jatkin@supremecourt.gov

CC: Chris Katzenbach <ckatzenbach@kkcounsel.com>, Janet Everson JEverson@mpbf.com

Date: Fri, **Sep. 22, 2017** at 11:05 AM

Dear Mr. Atkin

As a Petitioner, I respectfully request you to exercise your discretion to take off from Conference on 9/25/2017 the Petition 17-82 and reset for another Conference for good causes that:

1. With due diligence, Amicus Curiae motion was kept away from the Court thus far

There are two Petitions pending with this Court with identical parties derived from two different proceeding.

There is a Motion for Leave to file Amicus Curiae Brief of Mothers of Lost Child, represented by Christopher W. Katzenbach, Esq., which was attempted filing for both Petitions since 9/6/2017. Yet, a clerk called Donald Baker returned the motion. I was informed that there were only two

female clerks in charge of Amicus Curiae and he is not one of them.

The Court received the package mail on 9/11/2017 which reached the clerk's office on 9/12/2017. He returned the entire package on or after 9/14/2017 with the reason that there was no Table of Contents/Authorities. It was immediately fixed, reprinted within a day and resent to this Court via express mail. The mail was received on 9/21/2017 at 11:17, as the postal office also delayed mailing by one day.

Thus far, we were unable to contact Mr. Baker and the court's website did not show the filing of the Amicus Curiae Brief.

As with due diligence, the Amicus Curiae Motion could not reach the Justices to allow due consideration, would you please kindly exercise your authority and power to reschedule the conference of 17-82 away from 9/25/2017. I was informed by Mr. Mike Duggans that you have the authority to move the date

2. It will serve judicial economy for the Justices to consider both related Petitions and Amicus Curiae Motions the same time.

The amicus curiae motions are identical for both Petition 17-82 and 17-256 except 17-82 was procedurally out of time.

The parties are the same for both Petitions.

For the exigent circumstances stated above, would you please grant extension of the Conference date of Petition 17-82 and set both Petitions to be on the same date.

Respondents' counsel for the US Court of Appeal 9th Circuit proceeding (17-256) and for the California Court of Appeal 6th Appellate proceeding (17-82) is Janet Everson, Esq. She is copied with this email. Amicus Curiae's attorney Christopher W. Katzenbach, Esq. is also copied with this email.

Thank you very much for your time and consideration.

Very truly yours,

Yi Tai Shao, Esq.

Attorney at Law

[EMAIL #2 ON 9/22/2017 FROM PETITIONER TO SUPERVIING CLERK ATKIN: This email shows that the clerk violated his ministerial duty to file the Motion Brief of Amicus Curiae, acting beyond the scope of his authority, and ensuring that the court did not consider this important Amicus Curiae information when deciding the Petition for Writ of Certiorari.]

GMAIL

From: attorneylindashao@gmail.com

To: jatkin@supremecourt.gov

CC: Chris Katzenbach <ckatzenbach@kkcounsel.com>, Janet Everson JEverson@mpbf.com

Date: Fri, Sep. 22, 2017 at 4:18PM

Dear Mr. Atkin:

The clerk has a ministerial duty to file and Mr. Baker, who, I have no idea how he was assigned, blocked filing. Please help taking care of this issue of deterrence from access to the court, appearing to be a pattern of Respondents who had influenced the lower courts and state courts. Only Cathy Taiz and Denise McMerney are in charge of Amicus Curiae but now he was assigned and refused to file.

I called him and he said "The Clerk's Office is reviewing it." I asked who in the Clerk's Office and he said Mr. Beco and me. I asked who is Mr. Beco and he said it is the Bailiff.

I am concerned if Mr. Baker is influenced by James McManis, Esq. via the American Inns of Court. I am concerned that at least 2 Justices have

direct conflicts of interest in reviewing Petition 17-82. They are Justice Kennedy and Justice Ginsberg who have direct conflicts of interest due to their having American Inns of Court in their own name and the issue of these Petitions include the illegal relationship of Respondents by use of the American Inns of Court and the affiliates.

Mr. McManis undoubtedly has relationship with this Court as he is a financial supporter of the American Inns of Court and this Court supported the American Inns of Court by allowing the private confidential club to use the site of US Supreme Court.

I called several times but not heard from you. Please do take off from calendar the Petition 17-82 and reset the Conference with the same date as Petition 17-256. Thank you very much for your time and consideration.

Very truly yours,

Yi Tai Shao, Esq.

Attorney at Law

App. 33

[EMAIL OF 9/26/2017 FROM PETITIONER TO SUPERVISING CLERK ATKIN; This email might explain why the Clerk's Office recently had a "whirlwind" change of assignments, including replacing Amicus Curiae clerk Denise McNermy with Mr. Donald Baker.]

GMAIL

From: attorneylindashao@gmail.com
To: jatkin@supremecourt.gov
CC: Chris Katzenbach <ckatzenbach@kkcounsel.com>, Janet Everson JEverson@mpbf.com
Date: Tue, Sep 26, 2017 at 12:31 PM

Dear Mr. Atkin
Your office's reaction is becoming more and more fishy that may require investigation.

I telephoned Mr. Donald Baker at 12:17. I told him that it appeared that the two properly made two Amicus Curiae motions were not filed and would like him to explain. **He put me on hold for 16 minutes and then silently disconnected my call.**

Did you specifically assign to Mr. Donald Baker to handle Amicus Curiae motions of Mothers of Lost Child pursuant to the instruction of McManis Faulkner, LLP or the American Inns of Court?

Please advise. You have not responded to any of my emails nor phone calls.

Very truly yours,

Yi Tai Shao, Esq.

App. 34

[9th Circuit's NEWS RELEASE REGARDING THE AMERICAN INNS OF COURT HOLDING THEIR 2016 CONFERENCE AT THE US SUPREME COURT]

N E W S R E L E A S E September 19, 2016

Public Information Office United States Courts for the Ninth Circuit Office of the Circuit Executive 95 7th Street, San Francisco, CA 94103

(415) 355-8800 (415) 355-8901 fax

Contact: David Madden,

Judge J. Clifford Wallace to Receive the 2016 American Inns of Court A. Sherman Christensen Award

Senior Circuit Judge J. Clifford Wallace of the United States Court of Appeals for the Ninth Circuit, an esteemed jurist, judicial administrator and an advocate for the rule of law, will be honored in November by the American Inns of Court. Judge Wallace will receive the prestigious A. Sherman Christensen Award, which is "bestowed upon a member of an American Inn of Court who, at the local, state or national level has provided distinguished, exceptional, and significant leadership to the American Inns of Court movement." **The award will be presented at the 2016 American Inns of Court Celebration of Excellence to be held at the U.S. Supreme Court on November 5, 2016**. Associate Justice Samuel A. Alito, Jr., will be the host of the event. [emphasis added] Judge Wallace was influential in **developing the idea of the American Inns of Court** and **advocated enthusiastically for its establishment.** He had accompanied Chief Justice Warren Burger on the 1977 Anglo-American Legal Exchange and served as keynote speaker at the **organizational dinner of the first Inn of Court** in Provo, Utah. Judge

Wallace served as a regular adviser to Judge A. Sherman Christensen, for whom the award is named. **Judge Wallace urged attendees to form the Inn to help address trial inadequacy by attorneys. He wrote an article on the topic** that was published March 1982 in the ABA Journal. [emphasis added] Judge Wallace was nominated by President Nixon to the Ninth Circuit Court of Appeals on May 22, 1972. He was confirmed by the Senate and received his judicial commission on June 28,1972. He served as chief judge from 1991 to 1996 and assumed senior status in 1996. Judge Wallace served in the U.S. Navy from 1946 to 1949. He received his B.A., with honors, from San Diego State College in 1952 and his LL.B. in 1955 from the University of California, Berkeley, Boalt Hall School of Law, where he was an editor of the California Law Review. **The American Inns of Court, a national organization with 360 chapters** and more than 130,000 active and alumni members, is dedicated to excellence, civility, professionalism, and ethics in the practice of law. **An inn is an amalgam of judges, lawyers**, and in some cases, law professors and law students. More information is available at http://home.innsofcourt.org. [emphasis added]

App. 36

[REJECTED FILING BY MR. BAKER ON 9/14/2017 WITH INSTRUCTION TO REFILE]

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

September 14, 2017

Christopher W. Katzenbach
912 Lootens Place, 2nd Floor
San Rafael, CA 94901

Re: Linda Shao v. McManis Faulkner, LLP
No. 17-82

Dear Mr. Katzenbach:

The amicus brief in the above-entitled case was received September 12, 2017, and is herewith returned for the following reason(s):

The cover of your brief should read Motion for Leave to file amicus curiae brief of Lost Child out-of-time.

Rule 14.1(c) If you brief exceeds 1,500 words or exceeds five pages, your brief needs to include a table of contents and a table of cited authorities.

Rule 37.5 your will need to point out the interest of the amicus curiae, the summary of the argument, the argument and the conclusions.

If you have any further questions you can contact me at the number below.
A copy of the Supreme Court Rules are enclosed.
Sincerely,
Scott S. Harris, Clerk
By: Donald Baker
(202) 479-3035

App. 37

[WEBPAGE OF AMERICAN INNS OF COURT FOR "English and Irish Inn Vists" of the American Inns of Court"]

http://home.innsofcourt.org/AIC/For_Members/English_and_Irish_Inns/AIC/AIC_For_Members/English_and_Irish_Inns.aspx?hkey=a4eeeeab-3722-4668-8e16-33cf80e294fd

American Inns of Court

English and Irish Inn Visits

The American Inns of Court has reciprocal visitation agreements with the four Inns of Court in London, England, and King's Inns in Dublin, Ireland. Members of the American Inns of Court, with a letter of introduction from the national office, can visit, tour, and dine at any of the London Inns.King's Inns in Dublin is a working law school with visits arranged around the school schedule. Our visitation agreements are reciprocal and English or Irish barristers visiting the United States may attend American Inns of Court meetings.

The relationship between the American and English Inns of Court was established in 1988 with a Declaration of Friendship, signed by **Chief Justice of the United States Warren E. Burger** and **The Right Honourable The Lord Bridge of Harwich**.....[omitted]...

[RESPONDENT IS AN HONORED MEMBER OF THE INNS OF COURT AND A SPONSOR OF TWO LOCAL CHAPTERS OF THE INN OF COURT.]

https://www.mcmanislaw.com/people/lawyers/james-mcmanis

James McManis

B. HONORS

- Honorary Bencher of the Honorable Society of King's Inns, the oldest institution of legal education in Ireland

PROFESSIONAL & COMMUNITY CONTRIBUTIONS

...[omitted]...

In addition, Jim has taught at the California Center for Judicial Education and Research (CJER). He has also served on the Board of Trustees for the University of California Berkeley Foundation.

Jim served as Special Master for the Santa Clara County Superior Court, the U.S. Bankruptcy Court, and the U.S. District Court for the Northern District of California in the Technical Equities cases, described as involving the largest securities fraud in California history. He also has served as a Judge Pro Tem for the Santa Clara County Superior Court and a Special Examiner for the State Bar of California. Jim also was a member of the California State Bar's Task Force on Admissions Regulation Reform.

...[omitted]...

[SUPPLEMENTAL APPENDIX FOR NO. 17-613 FILED ON OCTOBER 30, 2017 SHOWS THE IRREGULARITIES OF THIS CLERK'S OFFICE'S ALTERATION OF DOCKET BASED ON SUPERVISOR JEFF ATKIN'S CLOSE WATCHING.]

TO THE COURT AND ALL PARTIES SERVED:

This Petition was filed on October 24, 2017. On October 25, 2017, Petitioner was informed by the Deputy Clerk of errors that the Supervising Clerk Jeff Atkin had confused this case with Shao v. McManis Faulkner, LLP and also directed the Deputy Clerk to change the docket entry of the disposition date by the California Sixth Appellate Court from April 28, 2017 to be June 8, 2017.

I. THE COVER IS CORRECTLY LABELED WITH SHAO V. WANG

Besides this Petition, there are two Petitions for Writ of Certiorari pending with this Court: No. 17-82 and 17-256. Both are entitled Linda Shao v. McManis Faulkner LLP, James McManis, Michael Reedy, Catherine Bechtel. One seeks certiorari to the California Supreme Court and the other seeks certiorari to the Ninth Circuit. Both cases are related to this Petition. As shown in App.289, the jury trial has been stayed by McManis Faulkner, LLP's client, Santa Clara County Superior Court, for about 2 years pending resolution of the child custody appeal underlying this Petition. On March 11, 2016, Judge Woodhouse in the Superior Court issued an order staying trial pending resolution of this appeal. (App.289)

The connection of the case with McManis Faulkner law firm, James McManis, Michael Reedy and the family law case of Linda Yi Tai Shao v. Tsan-Kuen

Wang was summarized by an expert witness regarding child abuse in Shao v. McManis Faulkner LLP, et al., Attorney Meera Fox. Please see Meera Fox's Declaration at App.124-152.

App.13, App.14 and App.203 contained typos in that the caption of the case contained therein was inadvertently copied from Petition No. 17-82 and 17-256 without change, when the cases should be Shao v. Wang. App.15 also had a typo on the first line. Corrected App.13, App.14, App.15 and App.203 are attached hereto.

II. THE DISPOSITION DATE IS NOT JUNE 8, 2017

On October 25, 2017, Supervising Clerk Jeff Atkin directed a change to the docket of Petition No. 17-613 by replacing the disposition date of April 28, 2017 with June 8, 2017. This change is incorrect.

Petitioner's Motion to Strike the default notice of March 14, 2017 and her renewed motion to change place of appeal and trial and remand, was electronically filed with the California Sixth Appellate Court on March 29, 2017. Formal filing of this motion was delayed and it was "withheld from filing" by Presiding Justice Conrad Rushing until April, 28, 2017, (App.217:Snapshot of Truefiling.com), the same date when Justice Rushing denied the motion. (App.13, App.203; see also the docket in App.211-216)

The Petition for Review filed with California Supreme Court was signed by Petitioner on June 7, 2017. (App.202)

The California Supreme Court posted the filing date as June 12, 2017 on its docket. It denied Review on July 19, 2017. It granted the Motion for Judicial Notice (App.219-350), including, but not limited to, relevant pages of deposition transcript of James

McManis (App.290-292), McManis Faulkner LLP's website showing Santa Clara County Superior Court being one of its clients (App.285-287) and Presiding Judge Patricia Lucas's letter of 3/8/2017 (App.272).

This Petition involves multiple efforts of the state courts to conspire to dismiss this appeal that has been stalled for 3 years, with repeated false notices of default. The first such notice was on March 12, 2016, irregularly issued on Saturday, in which Justice Rushing dismissed the appeal by order of March 14, 2016. This occurred within 25 minutes of the Appellate Court's opening and without a notice of his intended action. This dismissal was later vacated and the appeal reactivated.

About one year later, on February 27, 2017, a false docket entry of default was made without any paper. Another false Default Notice of March 14, 2017 was also put on the docket. This latter notice is the subject of this Petition. After March 14, 2017 entry, there is another false notice of April 25, 2017. This notice was incorporated in the Order of June 8, 2017, but that Order of June 8, 2017 is still pending a motion to reconsider (the entry in the docket erroneously mentioned the March 14, 2017 Notice, when the pending motion to reconsider concerned the April 25, 2015 Notice of Non-compliance.)

Therefore, the disposition date for this Petition is not June 8, 2017 but April 28, 2017.

Attached please find the 4 pages of corrected appendix. ...[OMITTED]...

Search documents in this case: Search

No. 17-256

Title:	**Linda Shao, Petitioner** **v.** **McManis Faulkner, LLP, et al.**
Docketed:	August 17, 2017
Lower Ct:	United States Court of Appeals for the Ninth Circuit
Case Numbers:	(14-17063)
Decision Date:	November 7, 2016
Rehearing Denied:	May 16, 2017

DATE	PROCEEDINGS AND ORDERS
Aug 14 2017	Petition for a writ of certiorari filed. (Response due September 18, 2017)
Sep 08 2017	Motion for leave to file amicus brief filed by Mothers of Lost Child.
Oct 04 2017	DISTRIBUTED for Conference of 10/27/2017.
Oct 30 2017	Motion for leave to file amicus brief filed by Mothers of Lost Child GRANTED.
Oct 30 2017	Petition DENIED.
Nov 18 2017	Petition for Rehearing filed. **Main Document** **Certificate of Word Count** **Proof of Service**
Nov 29 2017	DISTRIBUTED for Conference of 1/5/2018.
Dec 08 2017	Request for recusal received from petitioner. **Main Document** **Proof of Service**
Jan 08 2018	Rehearing DENIED.

NAME	ADDRESS	PHONE
Attorneys for Petitioner		
Linda Shao Party name: Linda Shao	Shao Law Firm, PC 4900 Hopyard Road, Suite 100 Pleasanton, CA 94588-7101	(408) 873-3888
Other		
Christopher Wolcott Katzenbach Counsel of Record Party name: Mothers of Lost Child	Katzenbach 912 Lootens Place, 2nd Floor San Rafael, CA 94901 ckatzenbach@kkcounsel.com	415-834-1778

UNITED STATES DISTRICT COURT IN THE DISTRICT OF DELAWARE

Meghan Kelly Plaintiff, v. Disciplinary Counsel Patricia B. Swartz, et.al Defendants.	)	Civil Action No.: 1:21-1490 (CFC)

CERTIFICATE OF SERVICE OF
PLAINTIFF MEGHAN KELLY'S 127th Affidavit

I, Meghan M. Kelly, Esquire, hereby certify on 11/30/23, I had a true and correct copy of the above referenced document, served to Defendants, through their counsel through email electronically:

Zi-Xiang Shen
Delaware Department of Justice
820 North French Street
6th Floor
Wilmington, DE 19801

Dated 11/30/23

Respectfully submitted,

Meghan M. Kelly
Meghan Kelly, Esquire
34012 Shawnee Drive
Dagsboro, DE 19939
meghankellyesq@yahoo.com

Under religious protest as declaring and swearing violates God's teachings in the Bible, I declare, affirm that the foregoing statement is true and correct.

Dated: 11/30/23

Meghan Kelly (printed)

Meghan Kelly (signed)