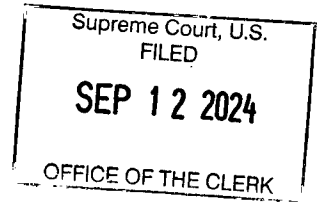


No. 24-308



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IN THE  
SUPREME COURT OF THE UNITED STATES

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VISHRUT AMIN and JIGARBHAI N AMIN

Petitioners,

v.

JUDGE CARLA R PEPPERMAN

Respondent.

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**On Petition for a Writ of Certiorari to the United  
States Court of Appeals for the Eleventh Circuit**

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTIONS PRESENTED

Petitioners were unlawfully prevented from physically appearing in to court against their will by Judge Carla R Pepperman (Pepperman). Petitioners were not consulted nor were consent obtained prior to issuing of unilateral order of remote hearing. She when presented with simple question through motion "WHAT JURISDICTION COURT HAS OVER PERSONAL PROPERTY OF LITIGANTS FOR ORDERING THEIR USE IN COURT PROCEEDINGS AGAINST THEIR WILL?" She did not answer but has continued her discretionary practice till date. Petitioners were forced to file civil law suit under provision of 42 U.S.C. § 1983 seeking permanent injunction in federal court against this inhuman and draconian practice forced upon petitioners which is violating their privacy and constitutional rights.

Federal judiciary further complicated issue through continuous deprivation of constitutional right of petitioners. District judge dismiss the complaint with prejudice citing controversial local doctrine of "SHOTGUN PLEADING" without affording due process of law to petitioners. 11<sup>th</sup> circuit court was asked only to review the legality of final judgment rendered and reverse it. They took a diversionary approach and tried to portray that case is not about injunctive relief petitioners are requesting but about judicial immunity of corrupt and malicious judge. Thus the question(s) presented are;

- (a) Does practice of Judge Pepperman of unilaterally ordering petitioners to appear through remote hearing only which involves non-consented and non-compensated use of personal property of

litigants, violate constitutional rights of petitioners (4<sup>th</sup>, 5<sup>th</sup> and 14<sup>th</sup> Amendments) & qualifies for relief under 42 U.S.C. 1983 and review of Supreme Court under provision of Article III. § 2. Clause 1.8.7.

(b) Should the judge-made doctrine of absolute/qualified immunity, which cannot be justified by reference to the text of Article III, § 1 of US constitution and 42 U.S.C. § 1983 or the relevant common law background, and which has been shown not to serve its intended policy goals, be narrowed or abolished?

(c) Is judge KATHRYN KIMBALL MIZELLE (KKM) of Middle District of Florida abuse her judicial authority with her arbitrary and capricious decision(s) and acted in collusion and conspired with respondent **WHEN**

(i) She dismissed petitioners' complaint on ground of controversial doctrine of "shotgun pleading" which is in stark contrast with landmark judgment issued by Supreme Court in a case of *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938), and pleading standard set by *Iqbal and Twombly*.

(ii) She removed her order from a docket of an active case with malicious intent and thereby willfully and knowingly committing a criminal offense punishable under 18 U.S.C. § 2071.

(iii) She knowingly acting as inquisitorial judge ruled against petitioners without awaiting and offering any opportunity to respondent to file responsive pleading thereby violating constitutional rights of both parties.

(c) Is removal of documents once uploaded on court docket is criminal offense punishable under 18 USC § 2071. Are judges duty bound to report such violation to office of public prosecutor automatically when such matter brings to their notice?

(d) Does **malicious, unethical, abusive and excessive conduct** of judges, exhibited in performance of their duty, qualifies the standard of "GOOD BEHAVIOR" specified in Article III, § I of US constitution? If Not, does it automatically empowers the congress to remove judges, reduce their self assumed power to stay on job lifelong and reduce their compensation as deemed fit commensurate to degree and severity of act for providing relief to victim(s).

(e) Does judicial discretion authorizes judges a right to violate constitutional rights of citizens, and act in contravention of statutory rules created by congress and Federal Rule Civil/criminal Procedure or state law?

(f) Is doctrine of grant of absolute immunity to judges contradicts unconstitutional condition

doctrine as enumerated in constitution under Amendment 1.7.15.1 of Article I as it deprives petitioners from getting any meaningful redressal of their grievances and relief requested.

In Support of question(s) raised Petitioners reiterates the famous remark of chief Justice Marshall expressed in case of Marbury v. Madison. 5 U.S. 137 (1803)

*"...The question, whether an act, repugnant to the constitution, can become the law of the land".*

*"The people . . . and established certain limits not to be transgressed by those departments. The limits were expressed in a written constitution, which would serve no purpose if these limits may, at any time, be passed by those intended to be restrained[.] Because the Constitution is a superior paramount law, unchangeable by ordinary means, . . . a legislative act contrary to the constitution is not law. Because the constitution is superior to any ordinary act of the legislature, the constitution, and not such ordinary act, must govern the case to which they both apply."*

*". . . Finally, the Chief Justice noted that the Supremacy Clause gave the Constitution precedence over laws and treaties, providing that only laws which shall be made in pursuance of the constitution shall be the supreme law of the land."*

## **PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENTS**

Petitioners Vishrut Amin and Jigarbhai N. Amin (Amins) were Plaintiffs in the district court proceedings and appellants in the court of appeals proceedings.

Respondent Judge Carla R. Pepperman (Pepperman) was Defendant in the district court proceedings and Appellee in the court of appeals proceedings.

Because no petitioner is a corporation, a corporate disclosure statement is not required under Supreme Court Rule 29.6.

## STATEMENT OF RELATED PROCEEDINGS

This case directly relates to the following proceedings:

Vishrut v. Pepperman, case No. 8:23-cv-02345-KKM-JSS, District court of Middle District of Florida, order dismissing original complaint entered on October 23, 2023.

Vishrut v. Pepperman, case No. 8:23-cv-02345-KKM-JSS, District court of Middle District of Florida, original order dismissing 1<sup>st</sup> amended complaint "entered in error" on November 1, 2023. (Document has been removed from active docket)

Vishrut v. Pepperman, case No. 8:23-cv-02345-KKM-JSS, District court of Middle District of Florida, order dismissing 1<sup>st</sup> amended complaint entered on November 7, 2023.

Vishrut v. Pepperman, case No. 8:23-cv-02345-KKM-JSS, District court of Middle District of Florida, order dismissing second amended complaint entered on November 20, 2023.

Vishrut v. Pepperman, case No. 23-14015, 11<sup>th</sup> Circuit Court of Appeal, Order entered on July 10, 2024.

Vishrut v. Pepperman, No 23-14015, 11<sup>th</sup> Circuit Court of Appeal, Order entered on August 08, 2024 on petition of rehearing and hearing en-banc.

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## **PETITION FOR WRIT OF CERTIORARI**

Vishrut and Jigarbhai N Amin respectfully petition for a writ of certiorari to review the judgment of the Eleventh Circuit court of Appeal in this case.

### **OPINIONS BELOW**

The Eleventh Circuit's opinion is unpublished and reproduced at App.3. The opinion of the District Court for the Middle District of Florida is reproduced at App.8.

### **JURISDICTION**

The judgment of the court of appeals was entered on July 10, 2024. App.1. A timely petition for rehearing was denied on August 08, 2024 by office of clerk of 11<sup>th</sup> circuit.

This Court has jurisdiction under 28 U.S.C. § 1254(1).

### **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

1. Article I, § 3, Clause 6 of constitution.
2. The 14<sup>th</sup> Amendments to the U.S. constitution.
3. The Fifth Amendments to the U.S. Constitution.
4. The Fourth Amendment to the U.S. Constitution.
5. The Eight Amendment to the U.S. Constitution.
6. 42 U.S.C. § 1983.
7. 18 U.S. Code § 241 and § 242.

## STATEMENT

### A. Factual and Legal Background

While presiding over a civil case in her Lake county court, Judge Pepperman without having proper, personal and complete jurisdiction over case and despite being lawfully informed by giving notice and filing motion of violation of constitutional rights of petitioners continued her unconstitutional and retaliatory actions against petitioners with utter disregards of US constitution and laws. The retaliatory actions were result of questioning her abusive and unconstitutional practice of ordering petitioners to appear through non consented remote hearing procedure only. Orders issued were unilateral and without notice is clear abuse of judicial discretion.

She decided to consider and hear motion herself filed against her for violation of constitutional rights of petitioners that to ex parte and denied it citing case in which judgment rendered vindicated the stand of petitioners. She morally and ethically was required to rescue herself at the same moment when notice was filed under code of ethics established for judiciary from hearing of motion in which she was accused and party.

She also showed a clear bias for attorneys by shielding them for their malicious and unlawful conduct rather disciplined them by issuing judgments in their favor(s) and by non grant of hearing date(s) to petitioners where their interest(s) were harmed. From year 2022 to till date not a single hearing has been granted by Lake County court to petitioners despite submitting repeated request in writing.

With no end in sight of her continued retaliatory action(s), petitioners were compelled to file motion to

disqualify Pepperman from case. Pepperman did not oppose motion and was thus removed from case on same day.

Petitioners filed a complaint against Pepperman in judicial commission of Florida seeking relief against unethical and unconstitutional actions and to stop unconstitutional practices which she has continued till date. **Judicial commission did not take any action and instead advise petitioners to resolve issues through filing a civil suit in court (emphasis added).**

Petitioners were thus compelled to file a case in court of Middle District of Florida seeking injunctive relief against this oppressive practice of state judge.

Petitioners alleged that actions of Pepperman violated clearly established constitutional rights petitioners have under 4<sup>th</sup>, 5<sup>th</sup> and 14<sup>th</sup> Amendments of US Constitution. Petitioners brought suit under provision of 42 U.S.C. § 1983 for grant of injunctive relief and initiation of disciplinary/criminal proceedings under 18 U.S.C. § 242 if proven and found to be true.

The unilateral order on "Remote Hearing" involves **use of personal property of *pro se* petitioners** and invasion of their privacy by ordering them how to behave in their home during conduct of remote hearing. Her unconstitutional order also include of order of throttling of bandwidth of internet connection and placing a burden of restricting other activities of family members when hearing is in progress.

Petitioners also seek disciplinary action against Pepperman due to violation of clearly established constitutional rights and no relief being available in state

court or state created judicial commission for such violations.

Judge Kathryn Kimball Mizelle (KKM) of Middle District of Florida with preconceived notion immediately labeled original complaint as inadequate citing non compliance of Para 8(a)(2) and 10 (b) of Federal Rule Civil Procedure under local judicial doctrine of "SHOTGUN THEORY" which is contrary to pleading standard clearly laid out by Supreme Court in landmark judgment(s) of Iqbal and Twombly for complaint to survive motion to dismiss. However opinion expressed in her final order clearly mention of what Pepperman is sued for thus contradicting her reasoning of dismissal (App.8).

The important point(s) to note is that (a) shotgun pleading is an affirmative defense requires to be raised by Respondent and not by judge. (b) Respondent bear the burden of proof under Fed.R.Civ.P 12 for any defense raised and (c) Response of waiver of summon was awaited from respondent.

These are mandatory requirement as stipulated in Federal Rule Civil Procedure require to be followed by judge, a guaranteed protection of due process and equal protection granted under 14<sup>th</sup> Amendment.

**This clearly implies that Judge KKM had no authority to consider and to proceed further on case on complaint till the time condition of service of summons is satisfied and responsive pleading is filed by respondent as per federal rule civil procedure established by supreme court of US. Thus the order itself was illegal and non enforceable.**



These unconstitutional, illegal and bold actions of her are direct outcome of false sense of protection provided by doctrine of ABSOLUTE JUDICIAL IMMUNITY. Judicial Immunity was designed to shield judges from consequences of erroneous judgment related to controversy purely confined to boundary of case and subject jurisdiction and not for violation of legal procedure and constitutional rights of litigants, a limitation which no judge has authority to cross or evade.

Petitioners despite being aware of unconstitutionality of this illegal order were forced to refine and submit detailed complaint listing sequentially and chronologically all violation(s) committed by Pepperman to avoid default and contempt of court or rather giving a reason and cause to judge KKM to dismiss the legitimate and law compliant complaint on ground of non compliance of court order.

Judge KKM without any delay rejected the first amended complaint citing compliance of provision Fed.R. Civ.P. 8(a)(2) but non compliance of Rule 10(b) of Fed. R. Civ.P. The order was docketed and by sheer luck was obtained by petitioners through clerk of court personally. She realized her mistake and in an attempt to hide this truth, reversed her original order and issued revised order on name of "entered in error". Both orders are verbatim same except a difference of underline under line containing word "8(a)(2)". She committed a federal crime of removal of original order, a document from active docket of court which constitute crime under 18 U.S.C. § 2071.

This also shows vulnerability of court records held electronically and unlimited power granted to judge(s) to tamper with the records at their will and whims and fancy.

We are thankful to judge KKM for bringing this fact in public domain of existence of backdoor provision in court record system not known to anybody other than judges. **The exposure of such vulnerability makes US Supreme Court answerable to congress and public both.** The grant of certiorari therefore is must to address this critical vulnerability of judicial records exploited by corrupt judge and held her accountable.

Chief Judge of 11<sup>th</sup> Circuit Court was requested to be apprised of this grave and criminal activity of Judge KKM by panel of judges responsible for review of appeal filed by petitioners along with other fundamental errors committed by Judge KKM which they willingly failed to do so. **The action of judges of 11<sup>th</sup> circuit has offered opportunity of evoking original jurisdiction of United States Supreme Court to petitioners.**

It is clearly evident from the order of 11<sup>th</sup> circuit that all issues raised against unconstitutional dismissal of complaint though had merit were never considered and affirmative defense which never was raised in trial court nor substantiated by any evidentiary filing was considered departing from the established norm of US Appellate judiciary by 11<sup>th</sup> circuit court. This mandate exceeds the judicial duty of circuit court and required to be reversed to maintain sanctity and decorum of justice. Petitioners are actively considering approaching Dept of Justice to accord sanction to file case against these corrupt judges by evoking original jurisdiction of Supreme Court.

Meanwhile, with time running out for filing of waiver of summon, Attorney of Pepperman was forced to file it on day prior to expiry of deadline. Her attorney willingly choose not to file answer to pleading, raise affirmative defense or motion to dismiss despite being

aware of existence of doctrine of absolute judicial immunity. The only plausible reason is to avoid submission of justification(s) in support of her illegal and unconstitutional actions(s) is that no defense exists for any of her action or in simple term her actions do not stand scrutiny of law.

Judge KKM acting as inquisitorial judge, without awaiting answer to pleading or motion raising defense which Respondent/ defendant is responsible and require to file under provision of Rule 12 of Fed. R.Civ.P, dismiss the case with prejudice terming complaint as "shotgun pleading" and accused petitioners of committing a "mortal sin" thereby hurting their religious belief.

Respondent, Defense attorney and trial judge has prior and present work connection with Venue which makes it unsuitable due to possibility of having conflict of interest. Respondent has morale and ethical obligation to seek waiver through filing of disclosure statement but did not do so. Petitioners thus under standard of submission of judicial notice would bring the following facts to notice of Supreme Court.

(a) Judge Pepperman, Defendant/ Respondent has practiced in Middle District of Florida in past after having law degree which makes venue unsuitable.

(b) Attorney appointed by office of Attorney General of Florida to defend Pepperman also actively practicing law in court of Middle District of Florida.

(c) Judge KKM, Defendant Pepperman and Defense Attorney has mutual and close working

relationship with each other which is if not pass standard of clear and convincing evidence will pass standard of preponderance of evidence of having conflict of interest in case which they had duty to inform to petitioners.

This unprecedented, unconstitutional, erroneous, unusual and malicious dismissal of case necessitated filing of appeal in 11<sup>th</sup> circuit court of Appeal with a hope that such grave judicial error would be easily noticed by judges of appeal court and decision shall be reversed granting equal opportunity to both parties to present their side to jury.

Defense attorney while submitting response brief did not addressed any issue cited in Petitioner's appeal nor raise any defense or counterargument against it. Instead affirmative defense of absolute judicial immunity of state judge was raised for first time in court of appeals without submitting any justification which immediately was opposed by petitioners through filing of support brief being not a standard practice and not confirming to law of land or rules established by Supreme Court itself.

11<sup>th</sup> circuit court affirms the decision of district court without addressing any issue raised in appeal and chooses not to offer any opinion(s) on them. The judgment is nothing but mere collection of various cases in which absolute immunity to judges have been granted despite acknowledging that their behavior and intent was malicious. Second fact was that no recourse or reliefs were granted to citizen bringing suit against judges. No disciplinary actions were ever taken against these judges which are a clear violation of provision of Article III, § I of constitution. **Malicious intent is opposite to good behavior and thus warrants impeachment and**

nothing less. The correct and just action would be banishment of these judges from benches forever with immediate effect, A common law created by god (Adam & Eve) and not by medieval English judge. (Emphasis added).

Panel of judges of 11<sup>th</sup> circuits were so biased and shameless in justifying the act of Judge KKM, respondent judge Pepperman and her attorney of non filing of responsive pleading that they forgot the fact that they had enough opportunity to raise issue in district court for violation of their rights but willingly did not do due to judgment issued was in their favor. This clearly implies that they willingly surrender their rights of filing responsive pleading and raising any defense at appeal stage. The only legal recourse available to Pepperman was to file cross appeal citing deprivation of their legal rights by judge KKM and supporting reversal of district court order. Despite being in legal profession for so long and not doing is clear and convincing evidence of their intent and do not need any further elaboration.

In simple words, the case was maliciously dismissed with complicit compliance of respondent and utter disregards of law of US without granting an opportunity to have "A DAY IN COURT AND IN FRONT OF IMPARTIAL JURY" to petitioners, A clear violation of rights granted under 14<sup>th</sup> Amendment of US Constitution.

The fact which is known to all is that Pepperman has no affirmative defense available for her acts, be it ministerial or judicial & in absence of jurisdiction; she never acquired or had on case or on petitioners and thus willingly not to choose file response instead hatched a conspiracy to raise defense directly and without justification against each fact mentioned in complaint in.

appeal court. It is interesting to see that would Supreme Court of US follow the path of 11<sup>th</sup> circuit or follow the path righteously and with courage as described in federalist paper No 78 and 80 presented by Hamilton.

She by raising defense of absolute judicial immunity without opposing any facts has accepted that all allegations are true and thus Petitioners are automatically entitled to have injunctive relief be granted under provision of 42 U.S.C. § 1983 and recovery of just cost of filing of law suit. Accordingly petitioners request Supreme Court of US to grant certiorari.

#### **B. Procedural History**

The civil suit was filed on October 16, 2023 in Middle District of Florida against Pepperman in individual and official capacity.

On October 19, 2023, waiver of summon form along with complaint was delivered to Pepperman at her official address through USPS.

On October 23, 2023, Judge KKM ordered submission of first amended complaint terming original complaint shotgun complaint, deficient and non compliant of Fed R. Civ. P 8(a)(2) and 10(b).

Petitioners submitted first detailed amended complaint on October 30, 2023.

On November 01, 2023, Judge KKM issued order declaring first complaint compliant of Rule 8 but not of Rule 10 of Fed.R.Civ.P. and order to file second amended complaint. By sheer luck, petitioners obtained copy of order through clerk of court being personally present in the office of clerk for case related work.

Judge KKM modified the original order entered on November 01, 2024 and removed the originally entered order from docket system. The new order to file second amended complaint was entered on November 7, 2023.

Attorney of Pepperman submitted waiver of summons form duly signed in district court on November 15, 2023. No other documents were submitted along with waiver form.

Petitioners submitted Second amended complaint on November 16, 2023, which was promptly, dismissed terming as shotgun pleading without conducting any hearing and ex-parte by judge KKM on November 20, 2023.

Petitioners thus were compelled and filed notice of filing of appeal with clerk of court on December 07, 2023.

Petitioners filed appeal in 11<sup>th</sup> circuit court of appeal via USPS on January 01, 2024.

Attorney of Pepperman filed response on February 21, 2024.

Petitioners filed counter response through USPS on March 06, 2024 opposing defense raised on ground of

(a) Decision of dismissal of complaint was squarely based on ground of shotgun pleading and not on doctrine of absolute judicial immunity of judges.

(b) Appeal court lacks authority of considering any new defense raised which are not part of proceedings and/or judgment of district court as matter of rule and precedences.

(c) No justification was offered in defense while claiming Absolute immunity of judge Pepperman for her alleged action(s) which is a mandatory requirement and cannot be waived off.

(d) Respondent has opportunity to file cross appeal for violation of her rights seeking reversal of district court order in order to preserve her right of raising any defense which she willingly choose not to do. This amounts to waving of her rights to raise new defense at appeal stage.

11<sup>th</sup> circuit courts dismiss the appeal by affirming the decision of district court on July 10th, 2024.

Petitioners filed motion for rehearing and rehearing en banc and sent via USPS timely on July 25, 2024 which was compliant of Fed. R.App.P.40 and local rule of 11th Cir. (R. 40-3). This is a clear abuse of judicial authority and issued with malicious intent by office of clerk.

### **REASONS FOR GRANTING THE PETITION**

**I. Order issued by 11<sup>th</sup> Circuit Court is in stark contrast with Supreme Court Ruling issued in case(s) of (a) *Camreta v. Greene, et al.*; *Alford v. Greene, et al.*, 563 U.S. 692 (2011) and (b) *Trump v. United States*, case No 23-939.**

**A. *Camreta v. Greene, et al.*; *Alford v. Greene, et al.*, 563 U.S. 692 (2011).** 11<sup>th</sup> circuit court's willfully and maliciously avoided to consider the issues of violation of constitutional rights committed by Respondent when she unilaterally ordered Petitioners to remotely appear in her court against their will of using their personal property for government use and thus left the question of



constitutionality of Remote Hearing procedure permanently in limbo. Petitioners are being forced to appear remotely every time they approach the county court. Petitioners till date could not file the counterclaim due to introduction of form through which they have been asked to reveal their mobile number and email addresses under penalty of perjury. Petitioners believes that making mandatory of reveling personal identification information(PIIs) is unconstitutional and amounting to putting petitioners in harms way as these would be available to be exploited by bad actors(hackers, robocallers & scammers) easily for which court does not take responsibility. See *County of Sacramento v. Lewis*, 523 U.S. 833, 841, n. 5, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998).

Notable remarks of Supreme Court in ibid case enumerated below which 11<sup>th</sup> circuit court has duty to follow but failed are enumerated below:

*"... Courts fail to clarify uncertain questions, fail to address novel claims, fail to give guidance to officials about how to comply with legal requirements. See, e.g., ibid.; Wilson v. Layne, 526 U.S. 603, 609, 119 S.Ct. 1692, 143 L.Ed.2d 818 (1999). Qualified immunity thus may frustrate "the development of constitutional precedent" and the promotion of law-abiding behavior. Pearson v. Callahan, 555 U.S. 223, 237, 129 S.Ct. 808, 172 L.Ed.2d 565 (2009)."*

*"... But it remains true that following the two-step sequence—defining constitutional rights and only then conferring immunity—is sometimes beneficial to clarify the legal standards governing public*

*officials. Id., at 236, 129 S.Ct. 808; see id., at 236-242, 129 S.Ct. 808 (discussing factors courts should consider in making this determination)."*

Ruling and opinion expressed in above case clearly vindicate the stand of Petitioners. We respectfully request Supreme Court to grant certiorari to settled the question of constitutionality of remote hearing procedure unlawfully institutionalized by Supreme Court of Florida vide AO SC21-990 which is ill conceived and without creating any safeguard against abuse and insuring security of personal information forcibly collected unlawfully under threat of "penalty and perjury". The AO is result of collusion of court and Florida Bar and issued with ulterior motive of providing benefits to attorneys.

#### **B. Trump v. United Sates (2024).**

*"The President enjoys no immunity for his unofficial acts, and not everything the President does is official. The President is not above the law".*

On similar ground, Petitioner asserts the fact that "not everything judge Pepperman did was official. She is not above the law and liable to be tried for any and all offense committed if proven being state official and not article III judge. "Record Proper" leaves nothing for imagination or to be proven except her collusion with attorneys through discovery process which was clandestinely denied by judge KKM despite being aware that federal rule puts obligation to provide evidences through automatic discovery which she did not do (Fed.R.Civ.P. Rule 26). Petitioners' case was dismissed unlawfully and unconstitutionally and with utter disregards of rules framed by Supreme Court by judge

KKM with ulterior motive of preventing petitioners for discovering the judge- attorney nexus.

Supreme Court while ruling on claim of presumptive immunity of former president did not assume the role of trial court and remanded case back to district court to assert the fact(s). However 11<sup>th</sup> circuit court in contrast, acted as trial court on unconstitutional absolute immunity claim of Pepperman, without reviewing facts mentioned and expressing any legal opinion on whether they fall within preview of judicial act or not affirm the order of lower court on totally tangent ground.

11<sup>th</sup> Circuit Court Failed to carry out mandatory two-step process, "which is to clarify constitutional rights without undue delay." *Bunting v. Mellen*, 541 U.S.1019, 1024,1025, 124 S.Ct. 1750, 158 L.Ed.2d 636 (2004). Therefore Petitioners assert that, to insure uniform applicability of law, following the precedent set in *Trump v. United States* and cited cases and as requested in appeal of petitioners, erroneous decision of 11<sup>th</sup> circuit court be reversed and case be recommended for trial in its original jurisdiction. Accordingly this certiorari be granted.

**II. Denial order issued on 10<sup>th</sup> August 2024 on appeal filed for rehearing/ rehearing en banc is illegal and unconstitutional.**

Provision of Federal Rule Appeal Procedure grants 14 days and 11th Cir. R. 40-3 grants 21 days to petitioners for filing of appeal for rehearing. Clerk of 11<sup>th</sup> circuit court denied timely filed appeal without offering any justification. Petitioners having no recourse left to get justice against blatant abuse of judicial power request

grant of certiorari just to hold these abusive justices and their actions accountable.

**III. Dismissal of complaint with prejudice by District Court is unconstitutional and illegal being issued in clear violation of constitutional rights granted to petitioners under 14<sup>th</sup> Amendment of US Constitution and was issued with utter disregard of Federal Rule Civil Procedure.**

In adversary court system, Judge has role of passive arbitrator and legally exercise judicial discretion only after confirmation of availability and subsequent acquisition and establishment of subject, personal and procedural jurisdiction through due process by court as defined in Federal Rule Civil Procedure. Judge KKM lacks and lost jurisdiction over case due to reason(s) cited below:

- (a) She termed original complaint as "SHOTGUN PLEADING" which requires higher standard of pleading as doctrine require compliance of either Rule 8(a)(2) or Rule 10(b) or both which is in contravention of standard set by Supreme Court in case(s) of Iqbal and Twombly.
- (b) She denied motion to order marshal's office to execute service of summon for which requisite fees and forms were already submitted by petitioners to Marshal's office and was approached as directed by marshal's office.
- (c) She willfully and with malicious intent committed federal offense of tampering with public document by removing her order from active docket of court (18 U.S.C. § 2071).

- (d) She did not afford opportunity to respondent of filing responsive pleading or raising affirmative defense and petitioners to submit counter arguments. Outcome of case would certainly be different if such opportunity would have been granted. This act of Willful deprivation of legal and fundamental rights of litigants is clear violation of constitutional and legal rights of petitioners and respondent equally.
- (e) No hearing opportunity was ever granted to petitioners before rendering of final order nor any legal analysis of (Two Step Process) constitutional claim(s) of petitioners were carried out.

Denial of certiorari will affirm that such judicial activity is legal and any judge taking cue is entitled to use such tactics and gamesmanship in dismissing the case(s). To restore the faith of pro se petitioners in judiciary and to set a precedent of deterrent to erring judge, certiorari be granted.

**IV. Affirmation of lower court order by 11<sup>th</sup> circuit court of appeal is illegal, unconstitutional, absurd and in excess of judicial authority granted to court, by constitution and devoid of merit and controversial thus required reversal.**

Law of land states that any defense not raised at trial stage deemed to be waived and cannot be raised at later stage. Respondent/ Defendant deemed to have waived their right of raising any defense when they willfully accepted the final order of district court which she had right to oppose but willfully did

not due to verdict being in her favor. She thus has no right to raise new defense when situation becomes unfavorable to her due to successful filing of appeal by Petitioners (Fed.R.Civ.P. 12(h)).

**Appeal court exceeded in its jurisdiction and acted in violation of constitutional and appellate rules governing their conduct.** Petitioner's complaint was dismissed on sole ground of "THEORY OF SHOT GUN PLEADING" and squarely nothing else and appeal was filed only to review dismissal and legality of its ground. Therefore 11th circuit court in its appellate authority has to restrict itself to review the district court order purely, squarely and solely on constitutionality, legality and applicability of doctrine questioned in appeal of petitioners. Absolute silence maintained by 11<sup>th</sup> circuit court on all issue raised in appeal for consideration is not only questionable but in clear violation of set rules.

**Total Failure of considering and expressing opinion on each alleged act of respondent while considering affirmative defense by 11<sup>th</sup> circuit court makes their order illegal, unconstitutional and unenforceable.**

Under Rule 12 of Fed. R. Civ.P., Respondent has clear burden to prove that all her acts squarely fall in legal boundary of judicial duty including asserting the defense of deprivation of constitutional right by District judge in support of her claim of judicial immunity. Response brief

do not have mentioned of either aspect. 11<sup>th</sup> circuit court did that duty on behalf of respondent shamelessly by endorsing the fact that respondent was deprived of her right ignoring the fact that petitioners have also been deprived of their constitutional rights of having due process under same rule. **Petitioners ask US Supreme Court to explain the rationale of this un-equality and injustice being done to legally illiterate Pro se Petitioners at hand of experienced judges.**

If iota of shame is left with justice(s) of Supreme Court against this blatant abuse of judicial authority, petitioner requests that certiorari be granted.

**V. Defense of Stare Decisis doctrine is not applicable in this case considering present trend and stand adopted/ exhibited by Supreme Court in reversing prior precedent(s) in recent case(s) for reviewing the doctrine of absolute judicial Immunity to judges.**

Petitioners strongly opposed any legal maneuver of US Supreme Court to apply this theory. Stare Decisis is the doctrine that courts will adhere to precedent in making their decisions. Stare decisis means "to stand by things decided" in Latin.

The U.S. Supreme Court in *Seminole Tribe of Florida v. Florida* explained that stare decisis is not an "inexorable command." When prior decisions are "unworkable or are badly reasoned," then the Supreme Court may not follow precedent, and this is "particularly true in this and any constitutional cases filed for violation of constitutional rights of citizen by state and federal judges."

Recent Decisions of three prominent cases (*Chevron Deference: Loper Bright Enterprises v. Raimondo*, *Presidential Immunity: Trump v. United States (2024)* and *Abortion: overturning of Roe v. Wade*), overturning previous rulings clearly indicates that present court has abandoned the horizontal as well as vertical stair decisis doctrine and this case is an ideal vehicle to have de novo look to doctrine of absolute judicial immunity to judges which is solely conceived and implemented by judiciary having no constitutional or statutory basis but created solely with a singular aim of having self protection from consequences arises out of unconstitutional, erroneous, illegal, or malicious acts for which no immunity has been granted by constitution and non availability of presidential pardon.

**VI. Limitation imposed on presidential power of grant of reprieves and pardon to judges under Article II, § 2, Clause 1 of US constitution forced judges to invent the doctrine of absolute judicial immunity on name of common law by distorting historical facts and carefully selection and omission of references which were against the idea of grant of any immunity to judges by framers of Constitution.**

To prevent abuse of any form of power be it executive, legislative or judicial, clause of impeachment was included in constitution under Article I, § 2, Clause 5 which has no exclusion.

Article III, § 1 of constitution clearly states that judges will hold office during "good behavior" and received compensation for their service. Under this condition, judges without seeking clarification from congress of it intent which they have legal obligation to seek under the



doctrine of check and balances and separation of power granted themselves power to remain in office for lifetime though nowhere explicitly mentioned except federalist paper no 78. On same ground of equality of law, judges must relived themselves from holding the office if their actions are proved to be malicious, illegal, unconstitutional and results in violations of constitutional rights of citizens and should face impeachment trial.

Judges do not have any judicial immunity as alternative remedy is available in form of process of impeachment or claiming affirmative defense defending their action in district court which has original jurisdiction under provision of 28 U.S.C. 1343 to adjudicate the cases under watchful eyes of jury, an impartial arbitrator and not any biased judge. It is universal truth that all cases in which absolute immunity to judge has been granted has never ever presented to jury. With clever strategic and tactical judicial maneuver, all courts have avoided to present the case to jury to establish the facts and response of jury which certainly will result in conviction.

Not only does this self proclaimed claim of absolute judicial immunity break with governing precedent, but it is also indefensible as a matter of constitutional interpretation. This necessitates grant of petition of certiorari.

**VII. Expressio unius, exclusio alterius, A construction canon fondly being use by Supreme Court of US judges contradicts the doctrine of Absolute Judicial Immunity.**

Latin meaning that the expression of one thing excludes others. It is generally used as a canon of construction of statutes or other legal documents,

indicating that the express inclusion of one or more things of a particular type necessarily implies an intention to exclude others of that type.

Under the provision of statute 42 U.S.C. § 1983, 18 U.S.C. § 241 and § 242, deprivations of constitutional rights of citizen under color of law is criminal offense and excludes none for grant of immunity. These laws were created with a singular aim of preventing state official and judges of erstwhile confederate state(s) by federal government to abuse their power granted under authority of state. US Supreme Court overlooking this vital aspect erred in issue of ruling in landmark case of *Stump v. Sparkman*, 435 U.S. 349 (1978). The decision of Supreme Court is also questionable on simple fact that if Judge Stump would have followed the dictate of 14<sup>th</sup> Amendment and had adhered to affording due process, none of things would have occurred. In simple terms fear expressed by Hamilton in federalist paper 78 was true. The judges of US Supreme Court was granting immunity to themselves and not judge stump grabbing the opportunity case presented to them forgetting the fact that immunity is derivative function of good behavior only and loss of it result in loss of everything.

Petitioners are of view that limited judicial immunity may be appropriate for federal judges and not state judges who invariably require to evaluate unconstitutional behavior of state judges resulting in violation of constitutional rights of petitioners. This is a prime function and is an original jurisdiction of lowest federal courts. The same state judge who often found themselves on wrong side of law will sue the federal judge and such thus protection may be justified. In contrast, Supreme Court on popular concept of "Birds of a feather

**flock together”** extended unconstitutional protection to state judges.

Initial provision of statutes excluded none but later on through gerrymandering of congress, wording of statute was changed to include provision of limited immunity to judges only from seeking monetary damages though civil suit from all actions excluding violation of constitutional right granted to citizens under bill of rights. No immunity to judges has ever been granted by congress to their criminal and unconstitutional actions.

This clearly implies that judges do not have absolute immunity as claimed and subject to criminal prosecution through process of impeachment if they denied facts mentioned in the complaint and failed in trying to defend it. The civil suit brought by petitioner is only legal recourse available to prove the violation of constitutional rights by judges and should not be construed as suit to seek damages since petitioners lacks ability to file criminal suit against judge and public prosecutor/district or state attorney definitely will not bring suit against judge until forced to do so by bringing civil suit and proves the violations. The framers of constitution has clearly established this fact in Federalist paper presented by Hamilton that no civil suit is purely a civil suit and there always a possibility exist of criminal intent associated with it.

The judges under canon of “*expressio unius*” are not entitled to any immunity if their conduct violates the clause of “good behavior” as enumerated in Article III of § I of US Constitution with certainty of facing impeachment in congress to get reprieve or otherwise.

**VIII. Provision of Article III, § 2, Cla.1.11.4 and Art. III, § 2, Cla.1.8.7 in Federal Question Cases warrants mandatory review of petition.**

Non consented and non compensated practice of unilateral ordering of remote hearing process institutionalized by Pepperman qualifies for review of US Supreme Court under provision of Art.III.S2.C1.8.7 (Offenses Capable of Repetition, Yet Evading Review).

Provision of Art. III, S2. Cla.1.11.4 governs Substantive Claims and Defenses in Federal Question Cases. This case qualifies for review of Supreme Court being petitioners subjected to continued deprivation of their constitutional rights (judge-made law that raises constitutional issues subject to federal question jurisdiction).

**IX. The Eleventh Circuit's holding clashes with the constitutional texts of 5<sup>th</sup> and 14<sup>th</sup> Amendments and Eviscerates Article III's requirement of holding office during good behavior and received compensation for service without diminishing it.**

Panel of judges of 11<sup>th</sup> circuit court with malicious intent did not answer any question(s) raised by Petitioners in appeal. The primary question raised was "Are all action(s) of presiding district court judge Kathryn Kimball Mizelle (KKM) are constitutional or not which preceded and resulted in unilateral dismissal of case with prejudice without offering any opportunity to heard to petitioners and without awaiting responsive pleading to be submitted by Defendant in defense."

The ground cited in dismissal order is solely based on 11<sup>th</sup> circuit court created unconstitutional local doctrine of "shotgun theory" on which ruling of 11<sup>th</sup> circuit court

was sought squarely questioning its legality citing standard laid down in case(s) of *Twombly and Iqbal*.

Instead of correcting error of district court and issue ruling on legality of shotgun theory, 11<sup>th</sup> circuit court shamelessly going against all judicial norms and principle of court accepted the affirmative defense raised by state attorney. The response submitted by Pepperman raised defense but purposefully avoided submitting any evidence in support nor counter any arguments pleaded in appeal. Pepperman being judge is fully aware that she willfully waived her right of raising any defense when she choose not to oppose final order of district court.

Judge KKM, a prodigy of Justice Clarence Thomas not only violated the constitutional rights of litigants but also committed a sin which no judge has dare to do so in history of US courts. She removed her own order from active docket of court which is a federal criminal offense for which impeachment is only possible recourse being felony. Petitioners bring this to notice of judges of 11<sup>th</sup> circuit with a request to inform chief judge for initiate appropriate judicial proceedings against her. The panel of judges did not bring this issue while issuing their judgment thus become party to criminal action(s) of KKM and created additional liability to state under provision of 18 U.S.C. 241 and 242.

Question is would judges of Supreme Court of US has courage to take action(s) against all judges and state actors involve in committing conspiracy against Pro Se Petitioners on charges of obstruction to justice, violation of constitutional rights of Petitioners and harboring and protecting the criminal conduct of Article III judge.

Petitioners believes that a false sense of absolute immunity has encouraged and embolden the judges in

engaging such behavior which even child can perceive as abusive and evasive and above law. This is primary reason that average American has no trust in judiciary. Therefore to restore check and balance and faith in judiciary, grant of certiorari is must.

This case is also an ideal vehicle for the Supreme Court to do introspection and address the question(s) presented. This case presents only that question(s), and it presents it squarely and cleanly.

**X. Approach and method of lower courts are clear violation of provisions of Article III of US Const.**

In Article III, § I confers on federal courts the power to decide cases and to render a judgment that conclusively resolves each case.

Supreme Court stated that subject-matter jurisdiction is generally "an antecedent question" that must be resolved before consideration of the merits. *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 101 (1998). Petitioners are of view that issue(s) of deprivation of constitutional rights, constitutionality of remote hearing, procedural violations and grant of injunctive relief requested are antecedent question(s) and precede the issue of judicial immunity of judge which is an affirmative defense and require to be considered on merit once all questions have been answered. Since opinion and order of district court and 11<sup>th</sup> circuit court which are absolutely silenced on issues raised and thus contradict the ruling cited above, Petitioners request Supreme Court to grant this certiorari.

**CONCLUSION**

The Court should grant the petition.

Respectfully submitted,

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