

NO. **24-5564**

**ORIGINAL**

IN THE

**SUPREME COURT OF THE UNITED STATES**

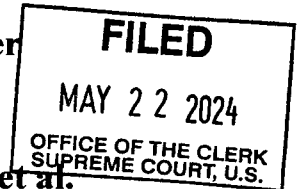
**MARLENE FEARING**

Petitioner

vs

**UNIVERSITY OF MINNESOTA MEDICAL CENTER et al.**

Respondents



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**PETITION FOR A WRIT OF CERTIORARI**

**By: Marlene Fearing**

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**The Minnesota Supreme Court (Discretionary Review Denied)**

**The Minnesota Appellate Court (Upheld District Court Orders)**

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**Questions Presented: Statement of each legal argument:**

**A State District Court and State Appellate Courts have decided important questions of federal law in a way that conflicts with important relevant previous decisions of this court – Nobody is above the law. *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir.).**

**1. Did the Honorable Joseph R. Klein lose Subject Matter Jurisdiction by violating State and Federal laws; committing obstruction of justice and other frauds upon the court by aiding in sanitizing a crime committed by Respondents?**

Appellant respectfully requests that this court finds that **Subject Matter Jurisdiction** was a contributing factor in this case, therefore all orders are void as a matter of law and Fearing is awarded a Summary Judgement on all Respondents.

**2. Were Appellant's right to constitutional due process denied?**

Appellant respectfully requests that this court finds that based on the evidentiary support, the following violations occurred. Violations of "Rule of Law and U.S. Constitution" – (a) Fourteenth Amendment-Section 1. (b) HIPAA Rules relative to destruction and spoliation of patient medical records. (b) Title 18 U.S.C., Section 241 – Conspiracy Against Rights. (c) Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law and (d) **Violation of Due Process by denial of a trial by jury which Appellant paid for in advance.**

**3. Are Minn. Civ. Statutes 5.25 and 4.03 proper Services upon a Minnesota Corporate Medical Facility sufficient to establish a personal judicial jurisdiction?**

Hennepin County Court Judge, the Honorable Joseph R. Klein says "no" in his order of October 18, 2021. That is contrary to the evidence and the rule of law.

**All U of M Medical facilities and the Mayo Clinic were properly served on May 3, 2021, (Ct. Ind. # 2, # 3) Therefore, Personal jurisdiction was established, MHealth Fairview a/k/a University of Minnesota Medical Clinic a/k/a UMMC defaulted by not answering the Summons and Complaint. University of Minnesota Physicians aka "UMP" aka "UMP Physicians" aka "UMP Corporation" did not respond with an answer and filed a motion to dismiss, based on their own manufactured false facts without any evidentiary support.**

Appellant respectfully requests that this court finds that based on the evidentiary support **Personal Jurisdiction was established on all Defendants.**

**4. Did Appellant present a Prima Facie Case of Medical Malpractice?**

Appellant respectfully requests that this court finds that a Prima Facie Case was established and no need for expert based on Doctrine of Res Ipsa Loquitur, (assault and battery) speaks for itself and therefore Loquitur causation is self-evident." And so are expert opinions made by defendant Mayo's own Physicians who cared for and diagnosed Ms. Fearing's condition. A Plaintiff in a malpractice action may establish their claim with expert testimony by using findings and diagnoses solely from the defendant's doctors. (*Mayo Clinic - See: e.g. Anderson V. Florence*, 288 Minn. 351, 360-361, 181 N.W. 2d 873, 879 (1970). (App. Brief, Add. # 5) Mayo Chronology listed in body of Complaint filed on May 3, 2021, with doctor notes.

**List of Parties:**

**University of Minnesota Physicians a/k/a UMP – acronym for University of Minnesota Physicians. UMP Physicians and UMP Corporation**

**MHealth Fairview, a/k/a M Fairview Health, a/k/a University of Minnesota Medical Clinic, a/k/a UMMC.**

**Mayo Clinics of Rochester and Red Wing, Minnesota**

**Related Cases**

**Minnesota Appellate Court – Appellant’s Court of Appeals Addendums: 1 -21 (Incorporated in this Petition as Appendix “J”) (Writ of Certiorari Appendices A -L”)**

**During the course of this litigation, Appellant filed on 4 separate occasions to the Minnesota Appellate Court - desperately seeking a resolve to the madness taking place in the courtroom of the Honorable Joseph Klein. His mission was clear – to subvert justice and sanitize a crime committed against an elderly activist that exposed Minnesota’s extreme hateful and racial discrimination. (All attached in App. “A”)**

**Appeal A-21-1673 filed December 15, 2021; seeking review of an October 18, 2022 order was with prejudice on an order that was considered by the rule of law to be VOID.**

**Appeal # A-22-9134, filed January 31, 2022 to remove the Honorable Joseph R. Klein.**

**A-22-1391. Order for Dismissal on August 5, 2022. Appellant filed another Appeal on September 30, 2022, which was again remanded back to District Court for a Final Judgment.**

**Appellate Case No. A-22-1686 Filed on April 10, 2023, incorporating all previous reviews were filed with Minnesota Appellate Court Brief along with Addendums on April 10, 2023.**

**Minnesota District Court - Case # 27-CV-21-6173 Dismissed with prejudice. (All relevant orders attached to App. “B”)**

**Minnesota Supreme Court - Case # A-22-1686, Review of Cases # A-21-1673, A-22-0134, A-22-1391 Dated Nov. 7, 2023. Appellant asked for the following:**

- 1. Petition for Review of Decision of Court of Appeals (App. “D”)**
- 2. Petition for Clarification of Review to Minnesota Supreme Court(App. “ D”)**
- 3. Decision from Supreme Court for Denial. (App. “C”)**

**Federal Court - 8<sup>th</sup> Circuit – Case # 22-CV-1177 -Notice of removal to United States District Court of Minnesota – Federal Question and Subject Matter Jurisdiction.**  
**Re: Hennepin County Case 27-CV-21-6173 filed on May 3, 2022. The case was remanded back to Hennepin County District Court. (App. “G” )**

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**OFFICIAL AND UNOFFICIAL OPINIONS AND ORDERS:**

**Citations: No Citations Issued** - Statement by Minnesota Court of Appeals, “This opinion is **nonprecedential** except as provided by Minn. R. Civil App. P. 136.01, Subd. 1 (c).

**(1) Minnesota Appeals Court**

**Appendix A**

**Appellate Court Order A-21-1673**, dated January 11, 2022,  
**Appellate Court Order A-22-0134**, dated February 1, 2022  
**Appellate court order A-22-1391**, dated October 4, 2022  
**Appellate Court Order A-22-1686**, dated October 9, 2023 (Affirmed)  
**(Final Judgment February 22, 2024)**

**Petition for Review of Appellate Court Orders A-21-1673, A-22-0134, A-22-1391 and A-22-1686 (Denied by Minnesota Supreme Court, January 31, 2024)**

**Appellate Court Order A-21-1673**, dated January 11, 2022, states that **“The appeal is dismissed as premature. Appellant may obtain review of the October 18, 2021, dismissal order from a final judgment.** Appellant’s filing fees for that appeal shall be waived. **Appellant shall file a copy of this order with the appeal documents.”**

On January 31, 2022, Appellant filed an Appeal seeking review of a January 28, 2022, Order.

**Appellate Court Order A-22-0134**, dated February 23, 2022, states **“This appeal is dismissed as premature. It did not deny a motion for lack of subject-matter jurisdiction. Appellant may obtain review of the January 28, 2022, order denying Fearing’s motion to remove the district court judge for cause in a timely appeal from a final judgment.”**

On September 30, 2022, Appellant filed an appeal seeking review of August 5, 2022, Order.

**Appellate Court Order A-22-1391**, dated October 4, 2022, states the matter was remanded back to district court for entry of judgment on the August 5, 2022, dismissal order.” **Appellant may seek review of the August 5, 2022, dismissal order in a final judgment entered on that Order.**

**Appellate Court Order A-22-1686**, dated October 9, 2023, Affirmed.

**On three separate Appellate court orders - it was Stated that “Appellant Fearing would be granted a review of all issues appealed on a final judgment.**



**(2) Hennepin County District Court**

**Appendix B**

**Court File 27-CV-21-6173** – Dated May 3, 2021, and delivered to Hennepin County

District on May 3, 2021 (filed by the court on May 6, 2021, 3 days later due to covid restrictions)

**Order on October 18, 2021, Partial dismissal with prejudice. The law clerk for the Honorable Joseph Klein, presented the order to Fearing on October 28, 2021. (Ct. Ind. 41)**

- 1. Defendant University of Minnesota Physicians Motion to Dismiss is hereby GRANTED. As asserted against University of Minnesota Physicians, the Complaint is DISMISSED WITH PREJUDICE.**
- 2. The attached memorandum of law is incorporated herein.**

**Signed by Honorable Joseph R. Klein on October 18, 2021.**

**Order of April 28, 2022, The Order dismissed Petitioner's Motion for Summary**

**Judgment stating "No motion shall be heard until moving party pays any required motion filing fee and serves the documents."**

**Signed by Honorable Joseph R. Klein on April 28, 2022**

**Order of August 5, 2022, Order for dismissal for Respondents:**

- 1. Defendant Mayo Clinic's Motion to Dismiss is hereby GRANTED.**
- 2. Defendants Fairview Health Services, Doctor Vuljaj, and Michael Rendel's Motion to Dismiss is hereby GRANTED.**
- 3. The attached memorandum of law is incorporated herein.**

**Signed by Honorable Joseph R. Kein on August 5, 2022.**

**Order of October 4, 2022 dismissal, with judgment date of October 6, 2022,**

- 1, Defendant Mayo Clinic's Motion to Dismiss is hereby GRANTED.**
- 2. Defendant Fairview Health Services, Doctor Nikola Vuljaj, and Michael Rendel's Motion to Dismiss is hereby GRANTED.**
- 3. The attached Memorandum of law is incorporated herein.**
- 4. Let judgment be entered accordingly.**

**Order signed by the Honorable Joseph R. Klein on October 4, 2022.**

**Judgment signed by Court Administrator Matt McLaughlin on October 6, 2022.**

**Appellate Court Order A-22-1686**, dated January 31, 2024

**(A) Motion of Marlene Fearing for Leave for in forma pauperis is granted.**

**(B) Petition for further Review of Appellate Court Orders A-22-1686, A-21-1673, A-22-0134, A-22-0134 Denied January 31, 2024.**

**(Note: on A-22- 1686 Order – A statement by the Court - The Honorable Moore, III, J., took no part in the consideration or decision of this case.)**

**Appellant filed a Petition for Clarification of Order, dated March 31, 2024, - Rejected - by a Supreme Court Clerk March 31, 2024.**

**Petitioner's Response to all Court Orders on Pages 19 - 30**

## **Jurisdiction:**

**Writ - Originally submitted to U.S. Supreme Court on May 21, 2024,**

**Returned to Appellant on May 29, 2024**

**Corrected error and resubmitted July 24, 2024**

**Returned to Appellant on July 29, 2024**

**Corrected error and resubmitted on August 24, 2024 – Reprinted Sept. 6, 2024**

**Minnesota Supreme Court - Discretionary Review on A-22-1686 Denied, January 31, 2024**

**Minnesota Appellate Court - Affirmed A-22-1686 on October 9, 2023**

**Court of Appeals Judgment February 22, 2024**

**(A Federal court has original Subject Matter Jurisdiction in a federal question due to civil rights violations by a State judge who has committed a fraud upon the court and lost subject matter jurisdiction) That is the crux of this case.**

## **Constitutional and Statutory Provisions:**

**Title 18 U.S.C., Section 241 – Conspiracy Against Rights.** This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.

**Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law.** This statute makes it a crime for any person acting under color or law, statute or ordinance, regulation or to willfully deprive or cause to be deprived from any person those rights, privileges protected by the Constitution and laws of the United States of America.

**Title 18 U.S.C. Section 1503, Obstruction of Justice.** This Statute is almost always a Criminal Complaint against Judges who influence, obstruct, impede the administration of justice.

## **Statement of the criteria of the rule relied upon to support the petition.**

**All court records and the U.S. Constitution –All persons born or naturalized in the**

United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state of which they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the United States; nor shall any **State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.**

Petitioner did not receive any of those rights, but quite the contrary. Petitioner is the subject of a premeditated attempt to murder her with poisonous toxins to silence her for the role she played in exposing the racism and bigotry taking place in Minnesota, referenced as, “**Jim Crow North in their PBS Special.**”

## **1. STATEMENT OF THE CASE**

### **Introduction:**

**This case may appear to be a confusing and difficult case, but really it isn't – shocking that this could happen in America - YES. What the evidence in this case demonstrates is that a fairly healthy senior citizen was asked to go to the emergency room at the U of M Hospital for a blood draw and exited a dying woman from poisonous toxins injected into her by Dr. Nikola Vuljaj and Nurse Michael Rendle (Still employed by U of M Medical Center – just in case another American citizen needs to be 'SILENCED'). The confusion comes from efforts by Respondents and State Authorities (including judges assigned to this case) to commit a fraud upon the courts to cover it all up; and deny Plaintiff her Constitutional Due Process Rights and prevent criminal prosecution of high-ranking government officials.**

**There was no proper review of this case by the Minnesota appellate court. The findings by the appeals court are the same repetitive and mimicked incorrect rulings as by the district court (written eerily in the same tone and inaccuracies as if written by same drafter of the findings of the district court; which are essentially considered to be void due to the absence of any rule of law, perjury, suborning of perjury, obstruction of justice, fraud upon the court by some officers of the court, fraudulent concealment, misstating material facts, spoilation of medical records, court records; and violation of HIPPA Laws, violation of Constitutional Due Process Rights, - all in the exercise of covering up an attempted murder of a whistle-blower by poisoning at a government funded medical facility. (Appellant presents further explanation on her responses to court orders of District Court and the Appellate Court on pages 19-30**

**On May 3, 2019, Ms. Fearing was lured to the University of Minnesota Emergency room on the pretext of a blood draw. There was no blood draw but rather a planned premeditated attempt on Ms. Fearing's life by injections of toxic poisoning via an IV attached to Ms. Fearing's right arm. Toxins were confirmed by an independent forensic pathologist (Carlson Forensics) from Fearing's hair samples. The test results were removed from medical and court files.**

**Evidence shows that the Mayo clinic diagnosed Ms. Fearing but then refused to treat her for what they diagnosed - cranial nerve damage, multiple minor strokes, neurological transmittal disorder, intermittent brain fog, nerve disorder, visual disturbances, chronic pain issues, eye palsy, anxiety and depression and most recently a rare untreatable terminal disease – Lambert Eaton Myasthenia Gravis, a muscular auto-immune syndrome. (Stated on the original complaint) (Ct. Index # 1 and App. “J”, add. 4, 5, 6 )**

**Appellant has proven her case of medical malpractice-assault and abuse so criminally negligent that speaks for itself and no need for expert testimony - the res Ipsa Doctrine refers - when treatment is so far below standard of care, negligence is assumed. To suggest that an expert is required to determine if toxic poisoning is a standard medical procedure is ludicrous.**

**Appellant’s reported injuries and the Mayo Clinic’s diagnosis of Plaintiff’s medical ailments is self-evident. No further material facts are needed to establish a prima facie case necessitating a Summary Judgment upon all defendants. They discovered plaintiff’s medical issues and then chose not to treat her, but rather colluded with the University of Minnesota to cover up the assault upon Plaintiff by removal, spoliation or destroying her medical records.**

**Case # 27-CV-21-6173 is a very shocking and horrific case. In many aspects, there was a Collision of Civil vs. Criminal and a need to summon a Grand Jury Investigation to protect the public. Nobody has been charged with the crime even though the injured party has identified the attackers. Pursuant to Mn. Revisor Rule 18.01 a Grand Jury must be summoned and convened whenever required for public interest and safety. First, we have the initial criminal assault of a Minnesota activist (Plaintiff) by injections of toxic poisoning by a doctor and nurse at the University of Minnesota Hospital; and then we have a second crime committed whereby, officers of the court, including the Hennepin County district court judge, the Honorable Joseph R. Klein (Who Lost Subject Matter Jurisdiction), Chief Judge, the Honorable Toddrick Barnette, and high-ranking government officials conspiring to cover-up the initial crime by denial of due process for Marlene Fearing by blocking her ability to present evidence, removal or spoliation of medical and court**

documents from the files. (App. "I") *"In Bulloch v. United States, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir)"*), the court stated "fraud upon the court is fraud which is directed to the judicial machinery itself. "Fraud upon the court" VOIDS the orders and judgments of that court":

The crux of this case is an appalling revelation as to the inability of our 3-branch system that ceased to properly function as designed by our Constitution – the use of State Courts and State-run agencies to sanitize a crime - poisoning of an activist at a government funded medical facility. There are many documented occasions whereby Fearing sought protection from government agencies and law enforcement to no avail, but rather threatened and intimidated for reporting the crime. Such is just one recent case on September 30, 2022, when Ms. Fearing attempted to file court documents (Notice of Appeal to Appellate Court) with the clerk at the Hennepin Court Clerks' Office. Fearing's documents were ripped up into tiny pieces and thrown into a waste basket at the front desk. A dozen or more Hennepin County Sheriff Deputies surrounded and threatened her and then escorted Ms. Fearing from the court house. This was not the only event that Fearing witnessed her documents dumped into the wastebasket at the District Court Clerk's Office. (App. "J" Add. # 3, and App. "K")

What was so glaringly obvious in Fearing vs. University of Minnesota Medical was the under-minding of the judiciary process by officers of the court who conspired to cover-up a crime - by rendering decisions and findings against the Plaintiff that were contrary to the evidence, contrary to the rule of law; and a clear violation of Ms. Fearing's due process rights and civil liberties. The most serious crimes committed in this case are as follows:

- Criminal Assault -Purposeful Injection of poisonous toxins into a patient's arm.
- Falsification and spoliation of medical records.
- Falsification and Destruction of court documents.
- Deprivation of Rights Under Color of Law – The Fifth and Fourteenth Amendment.
- Fraud Upon the Court – Makes Void all orders and judgments of that court.
- Fraudulent Concealment on corporate entities.
- Denied a trial by Jury which Fearing requested and paid additional fees.
- In this case we had a trier of fact who used the court as a criminal enterprise.
- Loss of subject matter jurisdiction due to fraud upon the court.
- Threats by Officers of the Court, gaslighting, degrading and dehumanizing Fearing.

Relevant Background Information - "Fraud upon the Courts" Ms. Fearing, a Mother, a

Grandmother, Activist, Guardian ad Litem, Author and a retired Real Estate Developer and Housing Contractor was targeted, gaslighted, and retaliated against for many years due to her unthinkable actions some 20 plus years ago (a) for exposing and bringing to the forefront the gender discrimination Fearing faced as a land developer and (b) equal-housing contractor in Minnesota by exposing the “Jim Crow North” discrimination policies that she challenged as an equal and fair-housing developer in Minnesota.

The Minnesota Department of Human Rights (“MDHR”) and the U.S. Dept. of Justice (DOJ”) found Prima Facie Cases of both racial discrimination and gender discrimination directed toward Ms. Fearing – **HUD Case # 05-04-0312-8. (1999)** The funds of the Minnesota City involved in the discrimination were frozen, by the DOJ and prosecution of the case by both Minnesota Attorney General and the Department of Justice were eminent. That was until politics got involved and the case was closed. Minnesota’s Senators and the law firm of Greene, Espel and Luger (perpetrators of the discrimination as advisers to the city of Lake St. Croix Beach) convinced the MDHR and DOJ not to prosecute the city for its illegal conduct. Instead, they rewarded the perpetrator of the discrimination by promoting Andrew Luger to a position as assistant Minnesota U.S. Attorney by recommendation of the Minnesota Senators. **That promotion gave Andrew Luger carte blanche, untethered ability to retaliate and attack Fearing by using courts, State and Federal judges to facilitate his crime spree (26 lawsuits)**

His first prize was a 15-acre development in Lake St. Croix Beach, Minnesota that had a value of approximately 4-million dollars (Today’s value 9-10 million dollars). He didn’t stop there. When Minnesota’s “Top Cop” discovered that Fearing had moved to Arizona and had accumulated more assets in California and Arizona, he wasted no time in stealing those as well again, same “DNA” and “modus operandi” by using corrupt attorneys, and the courts at both State and Federal level (including the bankruptcy courts to facilitate his thievery.)

**This case is a manifestation and culmination of that 20 plus year investigation that the petitioner, Marlene Fearing conducted as a Minnesota human rights and civil rights activist. The “death threats” against Fearing and her family had escalated recently coinciding with the release of her second documentary, Marlena’s Journal – “Silenced”.**



She was targeted and retaliated against for her efforts to speak truth to (a) criminal conduct and (b) other frauds upon the courts - abuse of power; by powerful individuals who sought to promote hatred, racism, sexism and bigotry in Minnesota. Evidence will show that Ms. Fearing was stalked, surveilled, gaslighted, terrorized – death threats; and a target of persecutorial assaults. Ms. Fearing was able to identify her stalker without question after twenty plus years of her investigation as (the U. S. Attorney for Minnesota, Andrew Luger – also identified by the FBI and bankruptcy court personnel in Tucson, AZ) as the perpetrator of the theft of monetary funds and real estate belonging to our Veterans. **(Washington County Sheriff – App. # I)**

In that capacity Andrew Luger exercised his abuse of power to steal Ms. Fearing's entire life's work (Millions of Dollars in assets) by prosecutorial misconduct of acts that he himself committed – subsequently using the courts (26 cases) as a criminal enterprise to sanitize his crimes via quid pro quos across three States – Minnesota, Arizona, and California. **How many more (Marlene Fearing's) didn't survive to tell their story of recrimination for exposing racism, human rights violations, fraud upon the courts and other government corruption? How many George Floyds are there that we don't know about that became victims of the systemic racism and hatred taking place in Minnesota; which Fearing exposed in her documentaries?**

The release of Fearing's manuscript in March, 2019, is what Fearing believes triggered the assault on May 3, 2019, because it showcases the corruption using our courts, perpetrated by Andrew Luger, rogue judges and identifies dishonest attorneys and politicians so intoxicated with their power, that they feel entitled to influence our courts to sanitize their crimes. **And they do it with impunity.**

**The book was dedicated to all honest judges, attorneys and bureaucrats who value the importance of a free Democracy and a 3-branch system of checks and balances. The book was not meant to condemn all judges in this Country but rather to highlight the attack on our judiciary and those judges that fight to uphold the “integrity of the court system” and “rule of law” as Fearing did.**

The threats of harm to Fearing and her family were immediate - so much so, that she sought the help of her primary care doctor, Dr. Mary Logaeis at the University of Minnesota Physicians

on April 25, 2019, for treatment of her overwhelming anxiety caused by those threats – one week prior to the poisoning at the University of Minnesota Emergency room.

**Material Facts:**

On April 25, 2019, (one week before the assault) Marlene Fearing had just completed a physical examination with Dr. Mary Logaeis (U of M Physician) which was diagnosed as normal, with exception of extreme stress due to the threats being made on Ms. Fearing and her family members. There were no indications of any strokes, eye issues, neurological transmittal issues or cranial nerve damage. Dr. Logaeis made note in her records that Fearing had spoken of the attacks upon her and she had identified her stalker as the U.S. Attorney (Luger).

**(App. “J” - Add. 4 -Dr. Logaeis)**

On May 3, 2019, (one week later) the admitting report at the University of Minnesota Hospital signed by Dr. Nikolai Vuljaj also acknowledged that Ms. Fearing had no reports of any strokes, neurological or cranial nerve issues and everything appeared to be normal. That was until Dr. Nikolai Vuljaj and nurse Michael Rendel injected her with poisonous toxins before releasing her on May 3, 2019, after she was lured to the emergency room on the pretext that she needed a blood draw. There was no blood-draw, but rather abuse, assault, battery, and extreme negligence by injections of toxic poisons, confirmed by an independent forensic expert “Carlson Forensics” (hair sample) who identified one vial as heavy metals, and pesticides are also suspected but **unable to identify the remaining six vials of toxins**. (Dist. Court Index # 44 – **Dr. Vuljaj**). Fearing’s daughter and a hospital social worker (Kathleen Allen) were witnesses to the event.

**Some 4 hours later**, Ms. Fearing was convulsing, coughing up a pinkish phlegm and unable to stabilize herself; suffering an extreme darkness and pain in her head. Her condition only worsened (Chronology of Mayo Clinic) As time passed and within a month after the assault, Fearing was diagnosed with a life-threatening incurable rare disease LEMS – Myasthenic Gravis. It took Ms. Fearing two years of therapy to regain majority of her mental acuity, speech and

ambulatory ability-still needing a 24/7 caregiver due to her choking and neurological issues.

**(App. "J" Add. #6 Angela Robinson Border)**

On May 14, 2019, Ms. Fearing's children took her to the Mayo Clinic in Rochester, MN for further treatment. Ms. Fearing was diagnosed with suffering multiple minor strokes, right-eye-palsy, double-vision, eye ptosis, neuro-transmittal issues, head pain, unsteady gait, blepharospasm, symptoms of myasthenia Gravis, symptoms of toxic poisoning and cranial nerve damage. It was incumbent upon the Mayo Clinic to conduct Chelation treatment for the toxic poisoning. Ms. Fearing was adamant about removing the poisoning from her body, but had difficulty convincing Mayo Physicians that she had been poisoned. Time was of the essence as clearly poisoning was the cause of Ms. Fearing's ailments and a need to remove the poisons as soon as possible would be known by any lay-person. However, the Mayo Clinic refused to do any kind of forensic testing or chelation therapy but did give a referral to Ms. Fearing to have it done by a private forensic scientist in Colorado. Ms. Fearing continued with MRI's, CT-Scans and further diagnosis of her symptoms at the Mayo from May 14, 2019, until mid-August, 2019, when she was told by a Mayo physician that they wouldn't treat her.

Ms. Fearing sought health care from other clinics only to find that all of the findings of her Medical diagnosis by the Mayo Clinic had been removed (spoliation of medical records) from her Medical Portal File with the Mayo Clinic. Therefore, repeated exams, CT Scans and MRI's, X-rays had to be redone with other medical clinics. **(App. "J".Add. 5 Mayo)**

On July 26, 2019, Dr. Angela Borders-Robinson of the Noran Neurological Clinic diagnosed Ms. Fearing with a rare incurable life-threatening auto-immune disorder known as Lambert-Eaton Syndrome with symptoms of Myasthenia-Gravis as well. Mayo Clinic doctors, Dr. Lambert and Dr. Eaton were the two doctors that discovered this rare and untreatable disease back in 1950's. Therefore, Mayo Clinic are the premier specialists on this

disease, yet they refused to treat Fearing after they had diagnosed her condition. The disease is so rare and incurable that many doctors don't know how to treat the disease – only 400 known cases in America according to the LEMS Foundation. There is one known medication to treat some symptoms, however, it causes seizures and increased choking for Fearing so she's unable to take it. (App."J" - Add.6 Lems Report)

Prior to May 1, 2021, Ms. Fearing attempted to file a Medical Malpractice lawsuit against the Mayo Clinic and the University of Minnesota Medical Facilities with the Minnesota Secretary of State's Office pursuant to Minn. Court Rule 5.25, subd.1 (Which is a proper service pursuant to Mn Civil Rule 302A, 317A, 321,322C, 330, and 543) However, according to the Minnesota Secretary of State's Office there were no legal corporate entities in business for any of the University of Minnesota Clinics. **Pursuant to Mn Civil Rule Chapter 302A**, MN Statutes require all Minnesota Corporations to be registered and **Sec. 8.31 of Chapter. 302A** **MN Statute requires that the Minnesota Attorney General shall investigate violations.**

When Service pursuant to Mn. Court Rule 5.25, wasn't available due to University of Minnesota Clinics not recorded as required by law, Ms. Fearing contacted the office for the University of Minnesota Physicians and was referred to their in-house legal counsel, by the name of Stacey Montgomery. Ms. Montgomery informed Ms. Fearing that the University of Minnesota Medical facilities were undergoing corporate restructure changes and that was why there were no Records at the Secretary of State for any of the University of Minnesota Medical facilities. **Ms. Montgomery referred Ms. Fearing to Jana Floyd of CT Corporation as the process agent for all University of Minnesota Medical Clinics.** Ms. Montgomery explained to Ms. Fearing that all of the University of Minnesota Medical Facilities **function separately and collectively, sharing doctors and clinics, but under individual corporate entities and DBA's.** Ms.

Montgomery didn't specifically name each medical entity, other than "All University of Minnesota Medical Clinics and facilities". Ms. Montgomery's statements were further verified by attorney, Julia Niergarten (legal counsel for University of Minnesota Physicians), in a

(footnote) Memorandum of Law in support of Defendant University of Minnesota Physicians' Motion to Dismiss". She wrote, "UMP, a Minnesota nonprofit corporation is the multi-specialty group practice for the University of Minnesota Medical School faculty. UMP has a non-exclusive agreement to provide medical services at UMMC. UMMC is owned and operated by Fairview Health Services, a Minnesota nonprofit corporation". But then goes on to say that "none of the care challenged in the first amended complaint was provided by any employees or agents of UMP" (App. "J" Add 8 - Motion) Mn. physician licensing states he does. To that, Fearing asks this question - if that is the case, how did Dr. Vuljaj have the ability to sign off on an official MHealth University of Minnesota medical report? (APP. "L") Why not evidence that, by providing employment records as verification as to which clinic employs him, instead of hiding them and requesting subpoenas to be quashed?

**Filing of Summons and complaint- 27-CV-21-6173- 4<sup>th</sup> Judicial Court of Hennepin County:**

On May 3, 2021, Fearing filed a medical malpractice suit alleging abuse, assault and negligence but soon the case turned into an insidious alliance of treachery and criminal behavior; fraudulent concealment, spoliation of material facts – falsification of medical records, fraud and perjury by officers of the court and other State agents and Federal operatives who are tasked with law enforcement.

On May 3, 2021, Ms. Fearing's process server, Tom Nelson served a Summons and Complaint pursuant to Minn R. Civ. Proc. Rule 4.03, instead of Mn Civ. Proc. Rule 5.25 (c) with Jana Floyd, agent for all of University of Minnesota Medical Facilities as directed by their "in house legal counsel, Stacey Montgomery". Ms. Floyd signed the documents, under oath, pursuant to Minn. R. Civ. P. 4.03 and Form CIV022B on May 3, 2021. Ms. Floyd indicated to the process server that she had authority to sign for all University of Minnesota Medical Facilities including – University of Minnesota Physicians, UMMC, a/k/a/, MHealth Fairview, confirmed by U of M Physicians legal counsel, Stacey Montgomery.

(App. “J” Add. 10, 11, Nelson Aff. U of M Service)

On May 3, 2021, A Summons and Complaint was also filed with the Mayo Clinic. **(Dist. Court Index # 1)** The law firm of Dorsey and Whitney signed under oath the Minn. R. Civ. P. 4.03 and Form CIV022B on May 3, 2021. Since many of the Offices at the Court House were closed due to COVID, Fearing was instructed by a court clerk to deposit the file into a drop box labeled “Civil Court filings”, **Thereby, establishing a timely personal jurisdiction on May 3, 2021, by Plaintiff Fearing.**

On May 9, 2021, Ms. Fearing received a phone call from legal counsel Kate Baker of Meagher and Geer informing Ms. Fearing that she was legal counsel for the University of Minnesota Medical Facilities (She did not directly specify which facilities) and their position was that they are refusing to accept or acknowledge service of May 3, 2021. **She threatened Ms. Fearing with her legal fees if Ms. Fearing did not immediately remove her complaint or minimally change the date to May 10, 2021.** Fearing wrote the amended complaint as directed due to that threat which was a mistake on many fronts (1) the original serve on May 3, 2021, was proper and timely pursuant to Minn. Rule 4.03 (c), (2) it emboldened the Meagher and Geer Law Firm that threats and intimidation do work. (3) the importance of a date change was really an effort to use May 10, 2021 as date of service, thereby attempting to establish a statute of limitations expiration for Fearing on a 2-year tort claim. **A Medical Malpractice statute of limitation in Minnesota is 4 years. However, May 3, 2021 is the date of service and signing.** Fearing had intended to initiate the law suit earlier, but for the fraudulent concealment of corporate documents from the Minnesota Secretary of State’s Office that tolled the service.

Plaintiff has since learned that any document drafted and signed under threat or duress is not legally binding. Therefore, the amended complaint dated May 10, 2021, is void and unenforceable. (Fearing was still not aware at that point as to which corporate

**entities Ms. Baker was representing at the University of Physicians – due to the fraudulent concealment). If Ms. Fearing had known the corporate structure of the U of M facilities, the original complaint filed on May 3, 2019, would have appeared as the Second Amended Complaint filed on December 15, 2021, and no need for any amended complaints.**

On May 10, 2021, Plaintiff prepared a copy of the complaint and summons and asked her process server, Tom Nelson to deliver a “courtesy copy, of the already signed and accepted document signed on May 3, 2021””, by their agent of process Jana Floyd of CT Corporation. Mr. Nelson delivered a copy to the U of M Physicians main office building on Washington Avenue in Minneapolis, where he was met with disdain and aggression.

On May 10, 2021, Plaintiff received a letter from CT Corporation informing Fearing that CT Corporation was not an agent for University of Minnesota Physicians. Fearing personally took the letter to CT Corporation at 1010 Dale Street, St. Paul, Mn., where the agency was located. (NOTE: CT Corp. business address is the same corporate business address provided to the State of Minn. Sec. of State for MHealth Fairview, UMMC and University of Minnesota of Minnesota Medical Clinics – The agent working for CT Corp. is also the same agent for all University of Minnesota Clinics verified by CT Corp. intake specialist.)

**Ms. Jana Floyd assured Ms. Fearing that she never sent the letter to Ms. Fearing and indeed CT Corporation was the agent for all of University of Minnesota Medical Facilities.**

Who sent the anonymous fraudulent bogus letter without a return address to Fearing? **We only need one guess.** If Ms. Fearing for a moment had any doubt as to the serve, she would have served it again as the toll time had not expired. Ms. Fearing considers this to be harassment, intimidation and fraudulent concealment of corporate entities.

On June 18, 2021, Legal Counsel Kate Baker, filed a false, fabricated and perjurious Motion to Dismiss Ms. Fearing’s Complaint, falsely misstating Ms. Fearing’s claims, causing confusion with functionality of the various University of Minnesota Medical Clinics. (App.“J”Add. 9) **Page 3 footnote) “UMP does not dispute the facts as laid out in Plaintiff’s complaint. *Derosa v. McKenie*, 963 N.W. 2d 342,346 (Minn. 2019)”**

On July 13, 2021, Fearing responded with a Memorandum of Law in response to their Motion to Dismiss. (Ct. Ind. # 33, 35) Due to the fraudulent concealment of corporate entities, it is clear at this point that Ms. Fearing still did not have an understanding as to the legal corporate structure of the University of Minnesota Medical Facilities. **According to the agent of process CT Corporation (signed under oath) all entities with the University of Minnesota Medical facilities were properly served on May 3, 2021.**

**There was no response to the Summons and Complaint from MFairview, a/k/a University of Minnesota Medical Center, a/k/a UMMC Therefore, they had defaulted due to their failure to Answer the Summons and Complaint. (App. J” Add. # 10 Nelson Affidavit)**

**Concealment and destruction of medical records:**

When Ms. Fearing sued the University of Minnesota Medical Facilities for their gross negligence, abuse and assault by injections of poisons, she discovered that all of the medical records pertaining to the injections of poisoning were never recorded or they simply disappeared from Ms. Fearing’s medical files. The same was true for Ms. Fearing’s medical records with the Mayo Clinic – all medical diagnosis of brain injuries caused by injections of poisoning – cranial nerve damage, neurological transmittal issues and strokes by Mayo Clinic – also disappeared from her medical portal at the Mayo Clinic. Fearing did file several Subpoenas for her medical records, and to identify the poisons that were injected into Fearing, however, it was opposed by defendants and the Minnesota Attorney General (Keith Ellison) and subsequently very quietly quashed and dismissed by the trier-of facts. **(App. “I” and “J”, Add. # 1 and #5 Subpoenas)** UMP appeared to be the acronym for University of Minnesota Physicians in the initial pleadings by Defendants’ legal team, it soon became clear that UMP had a more nefarious intent.

**Fraud upon the Courts**

**Fraudulent concealment of documents by University of Minnesota Medical Facilities**

**To establish a prima facie case of fraudulent concealment, a plaintiff must offer proof that satisfies five elements.**



1. The defendant concealed or suppressed a material fact; (Identify Toxic Poisonings, employment and medical records, etc. pertinent to Plaintiff's health and welfare)
2. The defendant was under a duty to disclose material facts to the plaintiff;
3. The defendant intentionally concealed or suppressed material facts with the intent to defraud the plaintiff; that is, the defendant concealed or suppressed the fact for the purpose of inducing the plaintiff to act differently than she would have if she had known the fact;
4. The plaintiff was unaware of the fact and would have acted differently if she had known of the concealed or suppressed fact.

The following is a first example of fraudulent concealment. The defendants are required by law to be registered with the Secretary of State to do business in Minnesota pursuant the Minn. Court Rule 302A. The following is what plaintiff discovered when she attempted to file a summons and Complaint in late April, 2021, with the Secretary of State pursuant to Minn. Civ. Rule 5.25. There were no businesses recorded for any of the University of Minnesota Medical Clinics – A clear violation of Minn. Rule 302A (App. “J” Add. # 7 Sec. of State – no records)

- a. University of Minnesota Physicians (No results match the criteria entered)
- b. U of M Medical Center (No results match the criteria entered)
- c. MHealth Fairview (No results match the criteria entered)
- d. There was no information on UMP Corp or UMPhysicians (Fraudulent Concealment)  
**They only appeared on the MN Secretary of State Roster after the October 18, 2021, partial dismissal order by the Honorable Judge Joseph R. Klein when he dismissed UMP with prejudice.** Fearing repeatedly asked for clarification as to which UMP was dismissed? Hearing of Nov. 8, 2021. (App. “H” Add. #2) Make no mistake, this is fraudulent concealment at its finest. It is now abundantly clear as to why Legal Counsel for Defendant insisted on using UMP on the pretext as an acronym for University of Minnesota Physicians. It was more than an acronym. It is obvious, **the use of UMP had a more nefarious intent – fraudulent concealment - sanitizing and protecting all 3 UMP entities from judgment.** (1) UMP – acronym for University of Minnesota Physicians, (2) UMP Corporation and (3) UMPhysicians.

**As this case evolved, lines between civil and criminal became more blurred. This began as a civil case, but Ms. Fearing's evidence is demonstrating that criminal conduct was very much at play with officers of the court and government agencies and others in an attempt to cover-up a crime.**

Crimes committed during the judiciary process were fraudulent concealment of corporate entities, fraudulent concealment of evidentiary support, fraud upon the court, falsification and spoliation of medical records and; a conspiracy to facilitate a cover-up of a crime by the University of Minnesota Medical facilities. Evidence submitted by Fearing clearly shows that officers of the court participated in this fraud upon the court. The partial dismissal order of October 18, 2021, (App. # “B”) is a testament to that statement which is considered to be void. “Fraud upon the

court” makes void the orders and decision of that court. **The U.S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, cannot be made valid by any judge, nor does it gain validity by passage of time. The order is void abinitio. Valley v. Northern Fire and Marine Ins. Co., 254 U.S.348, 41 S. Ct. 116.**

### **Petitioner’s Response to Appellate Court Orders:**

#### **Orders A-21-1673, A-22-0134, A-22-1391, A-22-1686:**

(There was no review pursuant to Appellate court order **A-21-1673**, dated January 11, 2022, **A-22-0134**, dated February 1, 2022, **A-22-1391**, dated October 4, 2022, as requested by Appellant in her brief to the Appellate Court dated April 10, 2023.

**This case wasn’t about justice or the rule of law, but rather more obstruction. This is about State Courts including the Appellate Court looking for a legal theory to cover-up and sanitize a hate crime - premeditated attempt to murder the Petitioner by poisoning at a government funded medical facility. The Appellate Court did not address some of the most critical issues that Petitioner requested, particularly denial of due process by a jury trial, misstating the facts, and willful suppression. It appears that all of Petitioners evidence was ignored in favor of the fraud committed upon the court. Case in point:**

**(The appellate court Under the heading of FACTS starting on Pg. 2)**

**The appellate court stated on (Pg. 3)** “The Physicians at Mayo Clinic diagnosed her with anxiety, brain fog, a mental status, low blood pressure, nerve disorder, thyroid, chronic pain syndrome, and target of prosecution among other conditions”

**Fearing’s Response:** “That’s a rather benign assessment of a patient that’s been just diagnosed with a life threatening rare incurable disease (Lambert Eaton Myasthenia Gravis) caused by the poisons she was injected with at the University of Minnesota Clinic. No mention of the strokes, the neurological transmittal issues that affect every organ in the body causing eye issues, uncontrollable heart rate, kidney function, bladder function, liver function, not to mention the inability to walk, talk, eat or chew and swallow. This is only part of what the Mayo Clinic diagnosed Fearing with and then refused to treat her and destroyed the medical evidence of what they found. Fortunately Fearing had copies made at the original visits at the Clinic. And the comment on prosecution? What prosecution?”

**The appellate court stated on (Pg. 4)**

**A. First Amended Complaint.** “On May 6, 2021, Fearing filed her initial complaint in district court naming the University of Minnesota Medical Clinics (UMMC) M Health Fairview and Mayo Clinic as defendants. **Fearing’s Response:** Courts Records reflect that Fearing filed her

first complaint, signed, dated and delivered the Summons and Complaint on May 3, 2021 to the court. However, the court was late in filing it until May 6, 2021. (Ct. Ind. # 1)

**B. “UMP” is a nonprofit, private physician group that has never employed Dr. Vuljaj or Rendel.**

**Fearing’s Response:** Really? (1) If Dr. Vuljaj doesn’t work there why is his name recorded as the attending physician on May 3, 2019, date of Fearing poisoning, written above the same University logo as University of Minnesota Physicians? (2) It is the same M Health logo as written on another medical report of November 20, 2018, of two other physician providers of Fearing. at UMP. (3) Also dated on May 3, 2019, the date of Fearing’s poisoning is the name of Michael Rendel as the RN written on top right side of the page. It also shows the name of Kathleen Allen, the Social Worker who witnessed the aftermath of the poisoning. Ms. Allen seems to have also disappeared. (APP. “L”- 3 pgs. of records.)

**It appears that paragraph “B” has been conflated with employment of Dr. Vuljaj, Nurse Michael Rendel and attempted process of service. Court records reflect that all Respondents were served a Summons and Complaint on May 3, 2021, at the direction of the in-house-legal Counsel Stacey Montgomery – served upon CT Corporation, the same address as MHealth Fairview, UMMC as recorded at the Secretary of State in Minnesota. Yes, UMP denies employing Stacey Montgomery too, – the same as they did with Dr. Vuljaj, Michael Rendel and social work Kathleen Allen. Medical records tell a different story and further supports Fearing’s allegations of the rampant perjury in this case.**

**The appellate court stated on (Pg. 5)**

On May 10, 2021, Fearing received a letter from CT Wolters, stating that it is not an agent for UMP and is not authorized to accept service on UMP’s behalf. Fearing then sent two individuals to serve UMP at its administrative building that same day. **Fearing’s Reponse:** Again, we have two conflated issues going on. (1) Records reflect that when Fearing received the letter, she immediately went to CT Wolters Corp. and spoke with Jana Floyd who signed off (under oath) as process service agent for all University of Minnesota Medical Clinics – University of Minnesota Physicians, UMMC, M Health Fairview, University of Minnesota Clinics. Ms. Floyd told Fearing that she did not send the letter to Fearing with no return address. (2) Again, we have another supposed unauthorized service on a Mr. Schurke who also doesn’t work for UMP, yet he had an UMP tag hanging on his neck. As stated earlier that serve at the administrative building was merely a courtesy copy of the already signed Summons and Complaint by Jana Floyd of CT Corporation because they were properly served on May 3, 2021 as the other U of M corporations and subsidiaries.

On May 25, 2021, UMP moved to dismiss all the claims against it. **Fearing’s Response:** Yes, they did and they remain steadfast in their ongoing repetitive erroneous, misstated facts and flat-out perjury throughout the process and suborned by dishonest judges. The same as in previous orders in an attempt to cover up the fact their doctor and nurse attempted to murder a patient that the government wanted silenced for exposing their corruption. Fearing knows too much of what is taking place behind closed doors of courts that have been corrupted and she had to be silenced.

**The appellate court stated on (Pg. 6)** “The court allowed Fearing to obtain and file to amend the complaint.”

**Fearing Response: False. It did not.** Emails of judge’s clerk indicate that it was not granted. (APP, “H”, Add. # 5)

**The appellate court stated on (Pg. 6)** “Despite the district court’s order dismissing the entire complaint against Fearing file a second amended complaint on December 15, 2021”

**Fearing Response:** The order never specified which “UMP” was dismissed. There were 3 UMP that surfaced after the order of October 18, 2021. This was simply another fraud upon the court in a nefarious undertaking by “UMP”. **The court did not dismiss any of the Fairview**

**Respondents.** Fairview never answered the summons and complaint therefore, they were in default and not even of record except for the Summons and Complaint filed by Plaintiff. However, Judge Klein repeatedly denied Fearing her motions for default. The order only dismissed UMP without clarification as to which UMP since there are several listed with the Minn. Secretary of State. Fearing did not get the order of ruling or scheduling order until October 28, 2021, and not on October 18, 2021, as stated in the appellate court ruling.

**The appellate court stated (Pg.8)** “The district court did not abuse its discretion”

**Fearing Response:** It was not the court that abused its discretion, but rather a judge that did anything and everything possible (fraud, perjury, suborning perjury, destruction of evidence, denying Plaintiff her due process rights to submit evidence, denying a trial by jury) to aid and abet a cover-up of an attempted murder of Fearing. Judge Klein acted on his own behalf and not the court (a real judge doesn’t conduct himself as Judge Klein did) therefore, he lost subject matter jurisdiction. First and foremost, the Notice to remove a judge is a right, not subject to the discretion of the court. “There is no discretion over subject matter Jurisdiction. The Matter may be raised at any time, even on appeal”.

**The appellate court stated (Pg. 10-11)** “Statutory expert review – Fearing argues her injury was so apparent that no expert testimony was needed. We are not convinced”

**Fearing Response:** Other than dropping dead, Fearing is in dismay at the attitude displayed, given the evidence in this case. Evidence shows that the Mayo clinic diagnosed (so stated on the original complaint) Ms. Fearing with cranial nerve damage, multiple minor strokes, neurological transmittal disorder, intermittent brain fog, nerve disorder, visual disturbances, chronic pain issues, eye palsy, anxiety and depression and most recently a rare untreatable terminal disease – Lambert Eaton Myasthenia Gravis, a muscular auto-immune syndrome. Appellant has proven her case of medical malpractice-assault and abuse so criminally negligent that speaks for itself and no need for expert testimony - the res Ipsa Doctrine refers - when treatment is so far below standard of care, negligence is assumed. To suggest that an expert is required to determine if toxic poisoning is a standard medical procedure is ludicrous.

**The appellate court stated (Pg. 6 and 13)** “Fearing failed to join the Fairview respondents timely and never served process.”

**Fearing's Response:** False. Evidence shows that the Complaint, did name all Fairview Respondents and was filed with an affidavit of service on May 3, 2021. (Ct. Index #1) The court received documents on May 3, 2021, but didn't file until May 6, 2021 due to Covid. Fairview never put in an answer to the Summons and Complaint that they were served on May 3, 2021, by their agent of process registered at the Secretary of State as CT Corp.- located at same address as MFairview registered address. Therefore, they were in default. Yet Judge Klein allowed them to participate in litigation without jurisdiction to participate. Fearing attempted to file a default judgment on a couple of occasions but couldn't get a court date for the hearing as was the case in many of Fearing's request for judicial remedy only to be blocked by Judge Joseph R. Klein or his clerks. It is clear that the Fairview respondents defaulted and a judgment should have been issued in favor of Petitioner.

**The appellate court stated** (Pg. 15 of order) "It is not within the province of [appellate courts] to determine issues of fact on appeal."

**Fearing's Response:** Minn. R. Civ. App. P. 103.04 states, "The appellate courts may reverse, affirm or modify the judgment or order appealed from or take any other action as the interest of justice may require. (Isn't protecting the public from poisoning at a State funded medical facility an interest of justice?) Rule 103.04 was changed to make clear the scope of the review can and often does depend upon the scope of trial proceedings. "As a general proposition the review is limited to the review of the facts and legal arguments."

**Standard of Review Recusal and Removal of Judge - Loss of Subject matter Jurisdiction:** In general standards of review "no deference is given to a lower court on question of law" Yet that is exactly what the appellate court did.

### **Appellant's Response to Orders of the Minnesota - District Court:**

**Court File 27-CV-21-6173 – Submitted to District Court on May 3, 2019 (filed on May 6, 2019, by the court, 3 days later due to covid restrictions)**

**Order on October 18, 2021, Partial dismissal with prejudice.** Fearing did not receive notice until October 28, 2021. Void as a matter of law. (Ct. Index 41)**Partial dismissal UMP.**

### **Fearing's Response:**

Prior to order of October 18, 2021, ruling, there were no "UMPS" registered with the Minnesota Secretary of State. Which "UMP" was Dismissed? (App. "J", Add., #16) The order did not make mention of Fairview Health Services aka M Health Fairview aka MFairview aka University of Minnesota Clinics aka "UMMC". Records indicate that they were served on May 3, 2021, however, they failed to respond or file an Answer to the Summons, therefore, they were

already in default. Order on October 18, 2021, Dismissal with prejudice is significant beyond its meaning – fabricating evidence by the judge. The Order misrepresents the facts on the Summons and Complaint. (Index 41) (pg. 4 of Order, the court, “None of Plaintiff’s 3 service attempts on UMP complied with Rule 4.03. Moreover, Plaintiff expressly acknowledges that she never served UMP: Here Plaintiff did not properly serve UMP and has not effectuated service to date” (Pls. Mem of law in opp. to Def.’s Mot. To Dismiss.Pg. 7) **It was Defendant UMP that wrote that statement – Not the Plaintiff. This kind of fabrication of evidence by a judge is simply not acceptable, yet it continued on every order he wrote because the appellate court failed to remove him as Plaintiff requested. The appellate court is equally complicit.**

**Order of April 28, 2022,** The Order dismissed Petitioner’s Motion for Default and Summary Judgment stating “No motion shall be heard until moving party pays any required motion filing fee and serves the documents.” **Fearing’s Response:** Court records reflect that Fearing filed a Motion for Summary Judgment upon MFairview Health Services a/k/a UMMC, and Minnesota Medical Center on April 7, 2022, (3 weeks prior to the issuance of this order and paid a Fee of \$75.00 recorded at Ct. Registry – Receipt # 1227-2022-00521) - (Ct. Index 137, Fee of \$75.00 paid.)

**Order of August 5, 2022,** Order for dismissal for Respondents MFairview Health Services, a/k/a UMMC and University of Minnesota Medical Center.

**Fearing’s Response:**

Respondents were served on May 3, 2021, however they never responded and had already defaulted in August, 2021. Petitioner attempted to file a default judgment, however the court would not give Petitioner a Hearing date – using the usual reasoning that Petitioner hadn’t paid her fees. Petitioner did pay her fees. Courts will not accept a filing from a pro se unless fees are paid in advance. Court Register indicates that Petitioner paid approximately \$2,000 in unnecessary court fees for litigation that should have ended much sooner because this case was a prima facie case. This is further explained in Petitioner’s Petition to Chief Judge Toddrick Barnett. (Writ Add. “H”) December 2, 2021 correspondence to legal Counsel, Paul Peterson (App. “J”, Add. #19).

**Order of October 4, 2022 dismissal**

**Petitioners Response to most relevant portions of the Order as follows:**

**The order of October 4, 2022, with judgment date of October 6, 2022, is another example of more false statements by the trier-of-fact. The order is repetitive with the same erroneous background information as well as misstated facts as in previous orders. The findings aren't at all factual. Words matter, and when there is an attempt by a trier-of-facts to deceive by presenting false and fabricated falsehoods to manipulate the outcome of a case by committing fraud and perjury, the order is Void as a matter of law, as was the case with the first order dated October 18, 2021, due to Loss of Subject Matter Jurisdiction – Perjury and Fraud upon the Court.**

A. On Page 1: - The order states “Plaintiff Fearing appeared on behalf of herself”.

**Fearing’s Response:** Fearing did not attend the last hearing, due to incorrect zoom coding given to Fearing by the court.

B. On Page 2: ORDER (Add # 19-Ind # 177)

**Fearing’s Response:** The order is void as a matter of law due to loss of Subject Matter Jurisdiction.

C. On Page 3, (1<sup>st</sup>. par. – line 3) When Plaintiff returned to the hospital an IV was

Inserted into her arm and several substances were injected into her IV line. **Fearing’s Response:** **Substances?** It was already known that Fearing had been injected with toxic poisons.

D. Page 3 (par.2, line 4) of the Order it states “In August of 2019, Plaintiff was referred for a forensic exam due to her expressed concerns about injection of unknown substances and resulting symptoms, she experienced immediately after. **Fearing’s Response:** **False. Words matter.** The expressed concern was by a Mayo Physician who suspected toxic chemicals were injected into Ms. Fearing causing her the neurological symptoms, so he wrote a referral for Ms. Fearing to have forensic testing done. The **order** does not acknowledge that the unknown substances were already known, that being heavy metals and pesticides. The remaining 6 vials could not be identified. (APP. “J”Add. 5 – Pg. 2) (Dr. Meyer of Mayo Clinic. “Referral for a forensic /pathology testing- Suspect for heavy Metals and pesticide poisoning”.

E. Page 3 (par. 3) On May 10, 2021, Plaintiff filed her First Amended Complaint, asserting a claim of medical malpractice against Defendant Mayo clinic (“Mayo”) as well as alleging Mayo is a “Co-conspiracy. The First Amended Complaint did not include Fairview Health Services, Doctor Nikola Vuljaj or Michael Rendel (the FHS Defendants” in the caption. Plaintiff attempted to serve her initial complaint on May 3, 2021 through CT Wolters Corporation, the

registered agent for Defendant Fairview Health services.

**Fearing's Response:** It's difficult for Plaintiff to respond to such false and inaccurate statements that are illogical, twisted and mimicked from the Defendants counsel. Evidence shows that Fearing filed her initial summons and complaint on May 3, 2021, including Fairview Health. Doctor Nikola Vuljaj and Michael Rendel were served upon Paul Peterson, their attorney as he requested on the Second Amended Complaint because Plaintiff had no knowledge of their legal counsel on first Complaint. Summons and Complaint were properly served on all Respondents.

F. On page 4. (Par.2.) On December 15, 2021, Plaintiff filed a second amended complaint with the court naming the FHS Defendants and alleging claims of assault and battery against them. Plaintiff did not seek leave of the court nor permission of the court or the other parties to file her second amended complaint.

(Footnote: Defendant Fairview Health Services has previously appeared in this matter, through its attorney, to object to a subpoena served upon it by plaintiff.) **Fearing's Response: False**

**(Ind. #1)** Two very important facts – (1) Fearing did not dismiss UMP, (2) FHS never put in an answer to the Summons and Complaint that they were served through their process of Service on May 3, 2021, yet the trier-in-fact allowed their legal counsel to appear in court whenever convenient for him. If they were never served, how is it that they were able to respond to subpoenas? The same question goes to the various UMP aliases. Just more illogical and preposterous statements without any such proof. Plaintiff did not dismiss Defendant UMP and Fairview Health Services. **That event as described by the trier-of-facts never happened.**

**Berryman v. Reigert, 175N.W.2d 438 (Minn. 1970)** There is absolutely no language even suggesting such dismissal filed with the court. Plaintiff did not need to seek leave of the court nor permission of the court to file her second amended complaint. If the FHS Defendants and the U of M Defendants had not attempted to use such deception to avoid a lawsuit - using fraudulent representation of their corporate operations and not filing with the Minnesota Secretary of State



as they are legally required to do Pursuant to Mn Civil Rule – Chapter 302A. MN Statutes, we wouldn't have the issues of who was served, nor would we have the need for amended summons and complaints. Plaintiff did not need court approval to file her second Amended complaint. Rule 15.01 does not apply here-U of M did not answer the complaint but rather filed a Motion for Dismissal. The First Amended Complaint was written under threat to change the date from May 3, 2021 to May 10, 2021. Therefore, it is considered Void and not enforceable. What is now referenced as the Second Amended Complaint would be the original complaint, but for fraudulent concealment.) Plaintiff is of the belief that this supposed confusion was all created as just another fraudulent distraction. **(Index. 91) This is what the original complaint would have looked like absent fraudulent concealment of corporate entities)**

G. On page 4 (par. 2) On December 30, 2021 the FHS Defendants filed and served an Answer, affirmatively alleging Plaintiff's second amended complaint is untimely, improperly served and her claims against the FHS Defendants are barred by the Statute of Limitations.

The FHS Defendants have brought a Motion to Dismiss for improper service and on statute of limitation ground. Defendant Mayo has brought a Motion to Dismiss for failure to comply with Minnesota ss 145.682. **Fearing's Response: FHS was serviced on May 3, 2021, there was never a response to the summons and complaint from FHS therefore, they were in default. The trier-of-facts permits FHS to participate in a lawsuit without jurisdiction because they never filed an answer to the complaint. According to the Minn. Secretary of State, CT Corporation Systems is located at 1010 Dale St. in St. Paul, MN – So is Registered Agent Office C T Corporation, For Fairview Health Services, where notice of Summons and Complaint were filed) THEY ARE THEIR OWN AGENT OF PROCESS. (Add. # 17).**

H. On Page 5, On October 18, 2021, this court issued a Scheduling Order containing dates and deadlines that govern this case. The deadline for joinder of additional parties was December

13, 2021, two days before Plaintiff filed her second amended complaint attempting to join the FHS Defendants.

**Fearing's Response:** The amended complaint was necessary to correct fraudulent concealment of corporate entities. Appellant is not aware of one motion or pleading of Fearing's that wasn't denied by the court. A reference is repeatedly made in the order that the court ruled or the court allowed, which is incorrect. **Rulings that are made outside the rule of law are not by the court, but rather a judge that has lost subject matter jurisdiction and the orders are VOID.** This is not just a mistake but a continued effort to offer false and confusing information under the pretext of factual. Plaintiff did not need permission for her second amended complaint due to (a). threats to Fearing to dismiss the case by legal counsel Kathy Baker that necessitated an amendment to the complaint; (b.) fraudulent concealment of University of Minnesota Medical Facilities by not being registered with the State of Minnesota Secretary of State; and (Minn. Civ. Rule 5.25. **Any document created under threat is void.**

I. On Page 5 (Standard of Review 12.02(b) and 12.02 (d) A court acquires jurisdiction over a corporation when the complaint is served by delivering a copy to an officer or managing agent, or to any other agent authorized expressly or implied or designated by statute to receive service of summons". (Minn. R. Civ. P .4.03 (c). **Fearing's Response:** That is exactly what the Plaintiff did, however, the court rejected that in their October 18, 2021 order. (See: ORDER dated October 18, 2022.) **Page 4 (par 1). Order states, "the court does not have personal jurisdiction over University of Minnesota physicians. On May 1, 2021, Plaintiff attempted to serve UMP through the Minnesota Secretary of State's Office, an improper procedure under the Minnesota Rules of Civil Procedure."** The word "attempted is inaccurate" They were "properly served". Since the corporate entities were fraudulently concealed, Fearing had them served pursuant to Minn. Rule of Civ. 4.03 (c) Upon a corporation. The Summons and Complaint were properly served by Tom Nelson, Fearing's process server on May 3, 2021, pursuant to instructions from Stacey Montgomery, legal counsel for University of Minnesota Physicians. Therefore, the court did have personal jurisdiction. (App. "J", App.11)

J. On page 6. The court does not have personal jurisdiction over Doctor Nikola Vuljaj or Michael Rendel. **Fearing's Response:** False. When Plaintiff decided to amend the complaint after the October 18, 2021, partial dismissal Order, to include all defendants that were not disclosed at the Minn. Secretary of State - in particular two more UMPS that didn't exist until after the October 18, 2021. Fearing called legal counsel, Paul Petersen and inquired as to where

and how she should serve his clients, Doctor Vuljaj and Michael Rendel. Mr. Petersen indicated that he would serve the documents to them personally. If they weren't served, how is it that Mr. Paulsen responded? Secondly, Mr. Petersen saw this as an opportunity to bring back to life FHS defendants who Fearing was attempting to serve a default judgment because they never answered the Summons and Complaint filed on them May 3, 2021, by their agent of process CT Corporation – FHS had defaulted. (App. "J" Add. # 19 – Letters to Paul Peterson)

K. On page 6, the Court does not have jurisdiction over Fairview Health Services. On May 3, 2021, Plaintiff attempted to serve dismissed Defendant UMP through CT Wolter Corporation, which was not authorized to accept service on behalf of UMP. CT Wolters Corporation is authorized to accept service on behalf of Defendant Fairview Health Service. The Complaint was not directed to any of the FHS Defendants and none of the FHS Defendants' names appeared in the Complaint's caption. **Fearing's Response: False.** The finding is too incomprehensible to respond or answer due to its inaccuracies. (App. "J" Add. 11, 17)

L. On page 7, Plaintiff's claims against Defendant Mayo are dismissed with prejudice. Minnesota law requires that a plaintiff in a medical malpractice action in which expert testimony is necessary to establish a prima facie case of malpractice to file an affidavit of expert review is necessary to establish a prima facie case of malpractice to file an affidavit of expert review within 180 days after discover begins. Minn. Stat. 145.682 subd.2. **Fearing's Response:** What we have here is this: the University of Minnesota Medical facilities conspired with the Mayo Clinic to aid in the cover-up of a criminal assault against Ms. Fearing by destroying or concealing Fearing's medical records at the Mayo Clinic – (App. "J", Add. 5-Mayo **Chronology**) Mayo Clinic's diagnosis of Plaintiff's medical ailments is self-evident. They diagnosed Plaintiff's medical injuries (injuries she didn't have prior to being lured into U of M Emergency on the pretext of a blood draw) and then refused to treat her for what they diagnosed her. Mayo Clinic is the premier clinic for treating LEMS Myasthenia Gravis because it was the Mayo Clinic doctors that discovered the rare untreatable life-threatening terminal disease – Doctor Lambert and Doctor Ebert, Mayo doctors. Therefore, they had a higher duty to administer immediate chelation treatment to extract the poisonous toxins. They refused, after they were

made fully aware of the poisoning and subsequently referred her to an outside forensic expert when Mayo Clinic had the capability of treating Ms. Fearing immediately for her poisonous toxic injection at their very own clinic. **A Plaintiff in a malpractice action may establish their claim with expert testimony by using findings and diagnoses solely from the defendant's doctors.** (App. "J". Add.5, 6 See: Dr. Notes and LEMS Report). The Mayo Clinic Physicians that made the diagnosis of Fearing's injuries can **also serve as expert opinions pursuant to court finding** *Anderson V. Florence, 288 Minn. 351,360-361, 181 N.W. 2d 873, 879 (1970)*. Furthermore, **this is a prima facie case, whereby an expert is not needed as the conduct speaks for itself.** If Plaintiff raises the issue, the trial court should make a finding that expert testimony is not necessary and, therefore, the statute is inapplicable. Fearing attempted to raise that issue a couple of times before the trier-of-facts, but he wasn't hearing it. (See: *Chizmadia v. Smiley's Point Clinic, 873 F.2d 1163 (8<sup>th</sup> Cir. 1989)*) A Prima Facie Case was established and no need for expert based on Doctrine of Res Ipsa Loquitur, which means "that thing (assault and battery) speaks for itself and therefore, causation is self-evident." **In a medical malpractice context, the Doctrine of Res Ipsa Loquitur refers to cases in which the doctor's treatment was so far below the appropriate standard of care that negligence is assumed.** In Res Ipsa Loquitur Cases, expert testimony regarding the standard of care is not required if the 3 following conditions exist: **(1) "It is common knowledge that the kind of incident that caused the harm does not occur without a physician's negligence; (2) The equipment or conduct that caused the injured person was at all times, under physician's control; and (3) the injury was not one that the injured person assumed voluntarily, nor contributed to."**

**Order for dismissal – Final Order 6, 2022 Judgment. Void as a matter of Law.**

**Petitioner's Official Statement to the Minnesota Supreme Court in Response to Appellate Court Order dated October 9, 2023.**

**This case is a manifestation and culmination of a 23-year investigation that the petitioner, Marlene Fearing conducted as a Minnesota activist. She was retaliated and targeted for her efforts to speak truth to fraud upon the courts and abuse of power; by powerful individuals who sought to promote hatred, racism, sexism and bigotry in Minnesota; and subsequent sanitizing of those crimes by corrupt judges. Evidence will show that Ms. Fearing was stalked, surveilled, gaslighted, terrorized – death threats against**

Fearing and her family; and a target of persecutorial assaults. Ms. Fearing was able to identify her stalker without question as (U. S. Attorney for Minnesota - Andrew Luger) an agent for the government who exercised his abuse of power to steal her entire life's work by prosecutorial misconduct of acts that he himself committed – using the courts as a criminal enterprise to sanitize his crimes via quid pro quos. On May 3, 2019, Ms. Fearing was lured to the University of Minnesota emergency room on the pretext of a blood draw. There was no blood draw but rather Ms. Fearing was assaulted and injected with toxic poisoning (confirmed by an independent forensic pathologist – evidence removed from court file) Appellant has written two books to expose the corruption and hate crimes- Marlena's Journal "Telling it like it is in Minnesota not so nice" and Marlena's Journal "Silenced" now in the process of screen-writing for a documentary film.

There was no proper review of this case by the appeals court. The findings by the appeals court are the same repetitive and mimicked incorrect rulings as by the district court (written eerily in same tone and inaccuracies as if written by same drafter of the findings of the district court; which are essentially considered to be void due to the fraud upon the court: Absent of rule of law, obstruction of justice, fraud upon the court by all officers of the court, fraudulent concealment, misstating material facts, spoilation of medical records, and violation of HIPPA Laws, and court records - all in the exercise of covering up a criminal assault – of a whistle-blower – who was poisoned at a government funded medical facility. We don't poison our opposition in AMERICA. The Petitioner requests a review of all legal issues of material facts submitted to the Appellate Court. While the case was initiated as a civil case it soon became clear that the political and criminal aspect of the case became the focus of attention by a judge who denied due process to the plaintiff; while using the court to sanitize criminal conduct by all defendants (including some state officials that destroyed records of the assault and engaged in spoilation of medical records) thereby; aiding and abetting a fraud upon the court. "Fraud upon the court" makes VOID the orders and judgments of that court. All of the rulings by the district court are null and void which makes the rulings by the appellate Court also null and void. Void ab initio!

Appellants' Petition to The Minnesota Supreme Court for Review of Appellate Court Order A-22-1686, Denied January 31, 2024. Appellant's Petition for Clarification of Order, dated March 31, 2024, Rejected by Court Clerk March 31, 2024. Never presented to any Court Justice.

(There was no review pursuant to Appellate court orders A-21-1673, dated January 11, 2022, A-22-0134, dated February 1, 2022, A-22-1391, dated October 4, 2022, as requested by Appellant in her brief to the Appellate Court dated April 10, 2023.

Petitioners more detailed statements on Questions Presented to the Court:

A State District Court and State Appellate Courts have decided important questions of federal law in a way that conflicts with important relevant previous decisions of this court -

Nobody is above the law. *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir.).

**Question # 1: Did the Honorable Joseph R. Klein lose Subject Matter Jurisdiction by violating State and Federal law and committing a Fraud upon the Court to facilitate in sanitizing a crime perpetrated by government actors?**

The Fifth and Fourteenth Amendment of the U.S. Constitution guarantees all U.S. Citizens Due Process Rights. Appellant has been denied her due process rights by the Honorable Judge Joseph R. Klein repeatedly. A Judge is an officer of the court, as well as are all attorneys. A State Judge is a State judicial officer, paid by the State to act impartially and lawfully. A Judge is not the court; he is under law an officer of the court, and he must not engage in any action to deceive the court. *Trans Aero Inc. v. LaFuerga Area Boliviana*, 24 F.3d457 (2<sup>nd</sup> Cir. 1994); *Bulloch v. United States*, 763 F.2d 1115, 1121 (10<sup>th</sup> Cir. 1985)

**A. Fraud Upon the court: (Fearing filed 4 appeals to the Appellate Court seeking justice from a judge who thought he was above the law)**

“Fraud upon the court” makes void the orders and judgments of that court. The U. S. Supreme Court has consistently held that a void order is void at all times, does not have to be reversed or vacated by a judge, cannot be made valid by any judge, nor does it gain validity by passage of time. The order is void ab initio. *Valley v. Northern Fire and Marine Ins. Co.*, 254 U.S. 348, 41 S.Ct.116. **Therefore, the order of October 18, 2021, and every finding thereafter is void as a matter of law.**

**B. Loss of Subject Matter Jurisdiction: Gaming the system – using the rules and procedures meant to protect the Judicial system to, instead, manipulating the system for a desired outcome for the Respondents. The Honorable Joseph R. Klein lost subject matter jurisdiction due to his conduct. “There is no discretion over subject matter Jurisdiction.**

**Subject Matter Jurisdiction may be raised at any time, even on appeal”.** *Hill Top Developers v. Holiday Pines Service Corp.* 478 So.2d 368 (Fla 2<sup>nd</sup> DCA 1985. “*There is no discretion to ignore that lack of jurisdiction.*” *Joyce v. U.S.* 474 F2d 215.

**a. When the local rules are not complied with, (One where the judge does not act impartially, Bracey v. Warden, U.S. Supreme Court No. 96-6133 (June 9, 1997)**

**b. Fraud committed in the procurement of jurisdiction. Fredman Brothers Furniture v. Dept. of Revenue, 109 Ill.2d 202, 486 N.E.2d 893 (1985)**

c. A judge does not follow statutory procedure, *Armstrong v. Obucino*, 300 Ill,140, 143 (1921)

d. Unlawful activity of a judge. Code of Judicial Conduct. Judicial Canon Law

e. Violation of due process and statutory authority. *Johnson v. Zerbst*, 304 U.S. 458, 58S.Ct. 1019 *Pure Oil v. City of Northlake*, 10 Ill.2d, 241, 245, 140 N.E.2d 289 (1956)  
Violation of statutory authority, *Rosenstiel v. Rosenstiel*, 278 F. Supp. 794 (S.D.N.Y 1967)

f. When officers of the court are involved in a scheme to undermine the judicial machinery itself.....*Bracey v. Warden*, U.S. Supreme Court No.96-6133 (1953)

Standard of Review Recusal and Removal of Judge-Loss of Subject matter Jurisdiction:

Subject-Matter Jurisdiction “is a question of law review that is reviewed de novo” *Johnson v. Murray*, 648 N. W. 2d 664, 760 (Minn. 2002) In general standards of review “no deference is given to a lower court on question of law”. In this case we have undisputed law and manifestly erroneous misstatement of facts that are outside the realm of a trier-of-facts limits. *Rossell v. ESCO*, 549 So. 2d 840, 844-845 of discretion whereby the judge abuses the system – using the rules and procedures meant to protect the Judicial system to, instead, manipulating the system for a desired outcome for the defendants - making findings unsupported by the evidence or when it improperly applies the law. “*Hemmingsen v. Hemmingsen*, 767 N.W. 2d 711, 716 (Minn. App. 2009) That perfectly describes the situation that Fearing was faced with in this case by Officers of the Court. The Honorable Joseph R. Klein has lost subject matter jurisdiction due to his conduct – Chief Judge Toddrick Bennette validated his illegal conduct. (App.”H”)

Fraud committed in the procurement of jurisdiction. *Fredman Brothers Furniture v. Dept. of Revenue*, 109 Ill.2d 202, 486 N.E.2d 893 (1985)

Unlawful activity of a judge. Code of Judicial Conduct. Judicial Canon Law. First and foremost, the Notice to remove a judge is a right, not something subject to the discretion of the court. Second if rules, are followed the court has to grant the request for removal. Removal is automatic upon filing a timely motion. *McClelland v. Pierce* 376 N.W. 2d 217)(Minn. 1985)  
*Minn. Civ. Rule 63.03*

Appellant respectfully requests that this court finds that Subject Matter Jurisdiction was a contributing key factor in this case, therefore all orders are void as a matter of law and Fearing is awarded a Summary Judgement against all Respondents.

Question # 2: Were Appellant’s right to constitutional due process denied?

**Title 18 U.S.C., Section 241 – Conspiracy Against Rights.** This statute makes it unlawful for two or more persons to conspire to injure, oppress, threaten, or intimidate any person of any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States.

**Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law.** This statute makes it a crime for any person acting under color or law, statute or ordinance, regulation or to willfully deprive or cause to be deprived from any person those rights, privileges protected by the Constitution and laws of the United States of America.

**Title 18 U.S.C. Section 1503, Obstruction of Justice.** This Statute is almost always a Criminal Complaint against Judges who influence, obstruct, impede the administration of justice. Lastly, a major conflict is apparent in this case. (1) The Medical facility that injected Plaintiff with toxic poisons is subsidized and funded by the State of Minnesota and the U.S. Government, (2) so are the triers of facts, (3) so is the State Agency MDH who made a report of the assault and then refuses to release the reports (4) so is the Minnesota Attorney General (Keith Ellison) who requested that the Court deny and quash all the subpoenas that the Appellant petitioned – findings of the investigation made by investigators for Medicare that reported that “Ms. Fearing was assaulted and abused on May 3, 2019. (5) so is the Minnesota Governor, Tim Walz who played musical chairs with State Court Judges. **Politics are not supposed to be an influencer in judicial decisions, but clearly, they were.**

Appellant respectfully requests that this court finds that based on the evidentiary support, the following violations occurred. Violations of “Rule of Law and U.S. Constitution” – (a) Fourteenth Amendment-Section 1. (b) HIPAA Rules relative to destruction and spoliation of patient medical records. (b) Title 18 U.S.C., Section 241 – Conspiracy Against Rights. (c) Title 18 U.S.C., Section 242 - Deprivation of Rights Under Color of Law and (d) Title 18 U.S.C., Section 1503-Obstruction of Justice (e) Violation of Due Process by denial of a trial by jury which Appellant paid for in advance.



**Question # 3: Are Minn. Civ. Statutes 5.25 and 4.03 proper Services upon a Minnesota Corporate Medical Facility sufficient to establish a personal judicial jurisdiction?**

Hennepin County Court Judge, the Honorable Joseph R. Klein says “no” in his order of October 18, 2021. That is contrary to the evidence and the rule of law. (App. “B”)

**All U of M Medical facilities and the Mayo Clinic were properly served on May 3, 2021, (Ct. Index # 1, #2, #3) Therefore, Personal jurisdiction was established, with Mayo Clinic, MHealth Fairview and University of Minnesota Medical Clinics, Dr. Nikolai Vuljaj, Michael Rendel and UMP’s. MHealth Fairview a/k/a University of Minnesota Medical Clinic a/k/a UMMC defaulted by not answering the Summons and Complaint. University of Minnesota Physicians aka “UMP” aka “UMP Physicians” aka “UMP Corporation” did not respond with an answer and filed a motion to dismiss, based on their false facts without any evidentiary support.**

**(Standard of Review 12.02(b) and 12.02 (d) The FHS Defendants brought a motion to dismiss for lack of personal jurisdiction under Rule 12.02 (b) and for insufficient service of process under Rule 12.02 (d) of Minnesota Rules of Civil Procedure. Service of process is the “procedure by which a court having venue and jurisdiction over the person of the party served”. A court acquires jurisdiction over a corporation when the complaint is served by delivering a copy to an officer or managing agent, or to any other agent authorized expressly or implied or designated by statute to receive service of summons”. (Minn. R. (c). That is exactly what the Plaintiff did, however, the court rejected that in their October 18, 2021, Order.**

**(See: ORDER dated October 18, 2022.) Page 4 (par 1) (Index # 41 – (App. “B”)**

**Order states, “The court does not have personal jurisdiction over University of Minnesota Physicians. On May 1, 2021, Plaintiff attempted to serve UMP through the Minnesota Secretary of State’s Office, an improper procedure under the Minnesota Rules of Civil Procedure.”**

The order doesn’t state what Rule it’s referring to, but Plaintiff assumes that it is Minn. Rule of Civ. Proc. Rule 5.25. Since the corporate entities were fraudulently concealed, Fearing had them served pursuant to Minn. Rule of Civ.4.03 (c) Upon a corporation. **The Summons and complaint were properly served by Tom Nelson, Fearing’s process server on May 3, 2021, pursuant to instructions from Stacey Montgomery, legal counsel for University of Minnesota Physicians. (App # J” Add. # 11).**

**Order states, “UMP brings a motion to dismiss for lack of personal jurisdiction under Rule 12.02 (b)” “A court acquires jurisdiction over a corporation when complaint is served by ‘delivering a copy to an**

**officer or managing agent, or to any other authorized expressly or implied or designated by statute to receive service of summons.”**

**Fearing did establish personal jurisdiction on all UMPS. However, which “UMP” is being referenced?** (a.) UMP – acronym for University of Minnesota Physicians, (b.) UMP Corporation or (c.) UMP Physicians that appeared on the Minnesota Secretary of State Registry after the order of October 18, 2021. Fearing did make a proper serve as directed by in-house legal counsel for the University of Minnesota Physicians, Stacey Montgomery. Some University of Minnesota Medical facilities did surface after May 10, 2021, but no UMP Corporations or acronyms. They only surfaced after the Order for dismissal was made on October 18, 2021. (App. “J” Add. # 16 - 3 UMPS) Jana Floyd agent at CT Corporation agent of process for all University of Minnesota Medical facilities did acknowledge in her waiver of Service of Summons, dated May 3, 2021, that she had authority as an agent for all University of Minnesota Medical facilities. Process server Tom Nelson also made the same comments, “that Ms. Floyd indicated to him, that she was an agent for all of University of Minnesota Medical Facilities”. **With three separate individuals stating the same thing, Judge Klein accepts the Meagher and Geer version of lies. (App. “J” Add. # 10 – Aff. Of Tom Nelson)**

**Appellant respectfully requests that this court finds that based on the evidentiary support Personal Jurisdiction was established on all Defendants.**

**Question # 4. Did Appellant present a Prima Facie Case of Medical Malpractice?**

**Minn. Standard of Review of Expert Witness Testimony in a Medical Malpractice:**

**In general standards of review “no deference is given to a lower court on question of law”. Whether expert testimony is required to establish a prima facie case is a question of law. *Tousignant v. St. Louis County*, 615 N.W. 2d 53, 58 (Minn. 2000). *Sorenson v. St. Paul Ramsey Medical Center* 457 N.W. 2d 188 (1990) Appellant has proven her case of medical malpractice-assault and abuse so criminally negligent that speaks for itself and no need for expert testimony. (a) Prima Facie Case was established and no need for expert based on **Doctrine of Res Ipsa Loquitur**, which means “that thing (assault and battery) speaks for itself and therefore, Loquitur causation is self-evident.” (b) And so are expert opinions made by defendant Mayo’s own Physicians who diagnosed Ms. Fearing’s illnesses. A Plaintiff in a**

malpractice action may establish their claim with expert testimony by using findings and diagnoses solely from the defendant's doctors. (*Mayo Clinic –See: e.g. Anderson V. Florence, 288 Minn. 351,360-361, 181 N.W. 2d 873, 879 (1970).* (Add. # 5) Mayo Chronology (App. “J” Add. # 5)

Mayo diagnosed Ms. Fearing with suffering from several minor strokes, numerous cranial nerve disorders, Myasthenia Gravis, transmittal nerve injuries along with various eye disorders from the poisoning, but then refused to treat her even though they already suspected that she had been injected with poisons and immediate chelation treatment was of great importance for Fearing's care. Mayo refused to treat Ms. Fearing even though they had the capability of doing such treatment. Furthermore, this is a prima facie case, whereby an expert is not needed as the conduct speaks for itself. If Plaintiff raises the issue, the trial court should make a finding that expert testimony is not necessary and, therefore, the statute is inapplicable. Fearing attempted to raise that issue a couple of times before the trier-of-facts, but he wasn't hearing it.(*Chizmadia v. Smiley's Point Clinic, 873 F.2d 1163 (8<sup>th</sup> Cir. 1989)*)

**In a medical malpractice context, the res ipsa doctrine refers to cases in which the doctor's treatment was so far below the appropriate standard of care that negligence is assumed. In Res Ipsa Loquitur cases, expert testimony regarding the standard of care is not required if the 3 following conditions exist: (1) “It is common knowledge that the kind of incident that caused the harm does not occur without a physician's negligence; (2) The equipment or conduct that caused the injured person was at all times, under physician's control; and (3) the injury was not one that the injured person assumed voluntarily, nor contributed to.”**

Appellant respectfully requests that this court finds that a Prima Facie Case was established and no need for expert based on Doctrine of Res Ipsa Loquitur, (assault, battery and gross negligence) speaks for itself and therefore Loquitur causation is self-evident.” And so are expert opinions made by defendant Mayo's own Physicians who diagnosed Ms. Fearing's condition. A Plaintiff in a malpractice action may establish their claim with expert testimony by using findings and diagnoses solely from the defendant's doctors. (*Mayo Clinic - See: e.g. Anderson V. Florence, 288 Minn. 351,360-361, 181 N.W. 2d 873, 879 (1970).* (App. Brief, Add. # 5) Mayo Chronology (App. “J” -Add.5 ) Mayo Chronology listed in body of Complaint filed on May 3, 2021 (Ind. # 1).

**To be clear – Minnesota government officials involved in using the courts to sanitize this crime are not named in this litigation however, evidence shows that their conduct played a major role in deciding this case – including**

**Minnesota's Governor Walz, Minnesota Attorney General Ellison, and Minnesota U.S. Attorney, Andrew Luger. Their DNA is all over this case – manipulating judges, threatening doctors, blocking Petitioner's ability to submit her evidence and throwing her filings in the wastebasket. Petitioner will seek remedy for her grievances on other platforms.**

A. There were no unresolved issues with the material facts in proving the negligence and harm caused to Plaintiff Fearing by the attack of May 3, 2019. Plaintiff has proven her case despite efforts from defendants in this case but also state-run government entities (operating in unity rather than separate branches) who have departed from their standard operations to engage in a conspiratorial cover-up of the criminal assault upon Ms. Fearing:

1. MN Secretary of State (aided in the fraudulent concealment of University of Minnesota Medical corporate entities) (App. "J" Add. 17)

2. Minnesota Department of Health "MDH" (cover-up of investigative reports of the abuse and assault and 8 separate reports filed by mandatory reporters) (App. "J" Add. 1)

3. Minn. Human Rights – Elderly Abuse (Washington County - refusal to offer protection to an elderly abused patient – Marlene Fearing) (App. "I") Letter to Wash.

4. Hennepin County Sheriff Department and Mpls. Police Department (refusal to charge Dr. Nikolai Vuljaj and Nurse Michael Rendel with assault and battery of an elderly patient. When Plaintiff insisted that offenders be prosecuted, she was threatened that she would be admitted to a psychiatric facility. Plaintiff's daughter was also threatened to muzzle her Mother by several policing agencies. (Assault reported to – Deputy Matt O'Hara - Washington County Sheriff, Stillwater, MN – (App. # "I")

5. Minn. Attorney General (Conspiring with MDH to cover up investigative reports of the abuse of Ms. Fearing by Investigators, instead of prosecuting the attackers – He petitioned the court to quash Appellants subpoenas – (App. "J" Add # 1 - Letter to Keith Ellison MN Att. Gen., App. "I")

6. Minn. State Court Judge – a trier of facts – also conspired to deny Ms. Fearing her due process rights and efforts to obtain materials upon discovery, by quashing subpoenas and denying Ms. Fearing Motions and Hearings, spoliation of evidence (Plaintiff Report to Chief Judge Toddrick Bennette) (App. "H", Add, 1-5) reports of misconduct by the Honorable Joseph Klein.)

7. Minnesota Governor Tim Walz – Plaintiff personally visited his office as she did with the Minnesota Attorney General, Keith Ellison and followed up with correspondence. Fearing's plea for help was ignored by the highest of law enforcement. (App. "I", Add. # 4)

**B. All defendants have provided no defense for their negligence, assault and battery of Ms. Fearing as to how a fairly healthy elderly person enters a hospital and exits dying from injections of poisonous substances. This was a prima facie case of Medical Malpractice.**

**1. Judge Klein lost subject matter jurisdiction. He should have been removed for his “Fraud Upon the Court” therefore, all orders are void as a matter of law.**

**2. Judge Klein engaged in fraudulent concealment with Defendant UMP which also renders his orders void.**

**3. We have federal questions – conspiracy to deny Plaintiff her rights, conspiracy to cover up a crime committed at the State government level.**

**4. There are no further material facts needed to establish a prima facie case necessitating a Summary Judgment upon all defendants. Mayo Clinic’s diagnosis of Plaintiff’s medical ailments is self-evident. They discovered plaintiff’s medical issues and then chose not to treat her, but rather colluded with the University of Minnesota to cover up the assault upon Plaintiff by removal, spoliation or destroying her medical records.**

**C. All University of Minnesota Medical Facilities conspired to aid each other in covering up the evidence of the assault upon Plaintiff with poisonous toxins.**

**D. The Hennepin County District court case was void of any rule of law, statutorily, or case law. The Judge appeared to get his directions from the Meager and Geer law firm. He was not one bit shy of his bias and prejudice as he yelled at the Plaintiff in an attempt to intimidate her and prevent further clarification on his October 18, 2021 ruling. (Hearing of Nov. 8, 2021) (APP. “H”, Add. 1-5.)**

**E. Exparte was evident between judge and the various defendants. He appeared to have no qualms – preventing Appellant from participating in court hearings by ex parte communication with Respondents – turning off Appellants audio, visual or both. This took place in the People’s Court via zoom hearings. (All participating attorneys testified that there was no exparte – of course they would because they all conspired in this fraud upon the court - however, Plaintiff viewed the exparte communication first hand via her I-Phone visuals.) Petitioner was censored as to what Motions she could or could not file, having to write a letter to the judge for permission as well as approval from opposing attorneys prior to requesting to file any Motions. In his order of October 4, 2023, Judge Klein stated that Plaintiff was in attendance. That is not true. Plaintiff couldn’t get access to the zoom conference because she wasn’t given the correct Identification codes to access the Hearing. Confirmed by court clerk Nicole Olsen in email to Plaintiff. (App.“H”Add.#5)**

There was no proper review of this case by the appeals court. The findings by the appeals court are the same repetitive and mimicked incorrect rulings as by the district court (written eerily in same tone and inaccuracies as if written by same drafter of the findings of the district court;  
which are essentially considered to be void due to the fraud upon the court: Absent of rule of law,

obstruction of justice, fraud upon the court by all officers of the court, fraudulent concealment, misstating material facts, spoliation of medical records and court record; and violation of HIPPA Laws, violation of Constitutional Due Process Rights, - all in the exercise of covering up an attempted murder of a whistle-blower by poisoning at a government funded medical facility.

**WHEREFFORE**, It has long been held that dishonesty, fraud, perjury and other serious crimes should not be rewarded. That is exactly what would happen if the Respondents are not held accountable for their dehumanizing, uncivilized, fraudulent and criminal conduct.

**APPELLANT PRAYS** that this court considers the **danger to the public** if Respondents feel entitled to use their needles as weapons upon patients.

**Latest Development – Appellant is being denied medical treatment in Minnesota due to threats on doctors’ licenses if they should treat Fearing.**

## **2. Reasons for Granting the Writ:**

- A. The practice of poisoning a whistle blower and using the courts for sanitizing the crime is beneath the dignity of a civilized and free society. The wrongdoers need to be held accountable. There can be no optional discretion when an American Citizen is poisoned at a government subsidized hospital. Nobody is above the law. Yet nobody has been prosecuted. This sends the wrong message not only to the perpetrators of the assault but to all those that conspired to cover up the crime.**
- B. To turn a blind eye on such serious criminal conduct in a court of law (Particularly the United States Supreme Court) would be codifying such practice into law and putting Citizens of this Country in peril.**
- C. If Americans can’t trust in our judiciary, who can we trust?**
- D. The U. S Supreme court has already determined that “Nobody is above the law”, *Bulloch vs. United States*, 763 F. 2d 1115, 111. Yet that is exactly what transpired in this case right before the eyes of a state court, conducted by a judge that lost subject matter jurisdiction.**
- E. It has long been held that dishonesty, fraud and perjury should not be rewarded. That is exactly what would happen if the Respondents are not held accountable for their dehumanizing, uncivilized, fraudulent, unlawful and criminal conduct.**
- F. This case is absolutely shocking in terms of how well coordinated and effortlessly this**

crime guised as a civil matter was executed and sanitized. It appeared to be well rehearsed and begs the question – how many times has this happened in this Country and nobody, other than the predator and their prey had a clue as to what transpired? It is imperative that the highest court in the United States of America understands the (1) danger to the public as a whole ;(2) danger to our judicial integrity if our courts are used by officers of the court for purposes of retaliation for political purposes and a white-washing of a crime as in this case.

The U. S. Supreme must eradicate any further possibilities of such criminal conspiracy in our courts.

**Sanctions:** Pursuant to Rule 11.02, and 11.03 Appellant is requesting that sanctions against all officers of the court including Judge Joseph R. Klein that partook in this travesty to commit fraud upon the court. *Poole v. Teztron, 192 F.R.D.494 Md 2000, Carlucci v. Piper Aircraft Corp. 775 F.2d1440, Tuto Wells Contamination 120 F. 3d. 368 (3<sup>rd</sup> Cir. 1997, Chambers v. Nasco 501 US 32)*

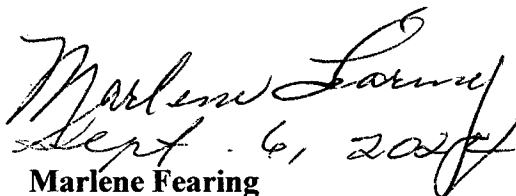
### **3. CONCLUSION**

Fearing is asking for a summary judgment against all Defendants, Grand Jury Investigation or special prosecutor outside of the DOJ – to Protect the Public from any further such attacks.

1. A permanent injunction prohibiting the Defendants, their agents, successors and any person in active concert with the Defendants, from (a) denying Plaintiff her due process rights and (b) harassment and further threats to her safety.
2. Award Damages in excess of (\$15,000,000.00) fifteen million against each Defendant and additionally compensatory punitive damages against each Defendant.
3. Grant Plaintiff such further relief as the Court deems proper.

I declare under penalty of perjury that everything I have stated in this document is true and correct to the best of my knowledge.

Respectfully Submitted,



Marlene Fearing

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