

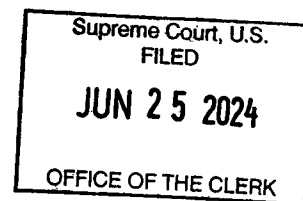
24 No. **5804**

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

Khaled Abdel-Fattah
Petitioner
Vs.

Mark T. Eno
Respondent



ON PETITION FOR WRIT OF CERTIORARI TO
NEW HAMPSHIRE SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

- (1) Can the New Hampshire Supreme Court give Jurisdiction to the Trial Court that lacked Jurisdiction, and force Petitioner to Appeal a Void Judgment in violation of Federal Rule of Civil Procedure 17(a)(1)?
- (2) If a superior court is mandated to follow a void judgment from an appellate court, then what does a litigant do to protect their Constitutional right to due process under the 14th amendment, federal statutory laws, and state laws when no court, has a procedure set up for this situation?
- (3) Can the Trial Court issue a Declaratory Decision ignoring the Operating Agreement of 2 LLCs in a clear overreach by the Trial Court to give itself jurisdiction over the Defendant?
- (4) Can the Trial Court violate the Petitioner's right for fair trial in violation of the 14th Amendment Due Process protection?
- (5) Can the Trial Court ignore the LLC's indemnification Clause in the Operating Agreement and accept a Complaint that raised no Claim, initiated by an individual Vs. the Petitioner as an individual to only divide LLCs Proceeds?
- (6) Can the trial court ignore False information in a Complaint that is in violation of Rule 11 of the Federal Rules of Civil Procedure, where parties are required to ensure that their pleadings are factually and legally justified.
- (7) Can an Appeal Support a VOID JUDGMENT?
- (8) Can the State Supreme Court of New Hampshire decision conflict with the Nullity of a Void Judgment that was Set by the US Supreme Court?

LIST OF PARTIES

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

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of this Court's Rules, petitioner Khaled Abdel-Fattah states that he has no parent company, and no publicly held corporation owns 10% or more of its stock.

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

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

OPINIONS BELOW

☒ For cases from state courts:

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

☒ reported at; Supreme Court of New Hampshire issued on 02/27/2024 under Docket number 2022-0569

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of Hillsborough South Superior Court of New Hampshire the appears at **Appendix C** to the petition and is

☐ reported at ; Hillsborough South Superior Court of New Hampshire Case number 226-2018-CV-00451 issued on 08/15/2022.

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

List of Opinions and Orders entered in the Case.

- Mark T. Eno V. Khaled Abdel-Fattah, NO. 226-2018-CV-00451. Hillsborough South New Hampshire Superior Court. Judgment entered on 08/15/2022
- Mark T. Eno V. Khaled Abdel-Fattah, NO. 226-2018-CV-00451. Hillsborough South New Hampshire Superior Court. Denying Motion to Reconsider entered on 09/14/2022.
- Mark T. Eno V. Khaled Abdel-Fattah, No. 2022-0569 New Hampshire Supreme Court. Judgment entered on 02/27/2024.

- Mark T. Eno V. Khaled Abdel-Fattah, No. 2022-0569 New Hampshire Supreme Court. Denying of Rehearing entered on 03/28/2024.

JURISDICTION

☒ This Case is from State Courts:

The date on which the highest state court decided my case was 02/27/2024. A copy of that decision appears at **Appendix A**

☒ A timely petition for rehearing was thereafter denied on the following date: 03/28/2024, and a copy of the order denying rehearing appears at **Appendix B**.

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

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Const. amend. XIV

The 14th amendment of the United States Constitution gives everyone a right to due process of law, which includes judgments that comply with the rules and case law. When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. Federal Rule of Civil Procedure 17(a)(1) which requires that "[a] action must be prosecuted in the name of the real party in interest.

When rule providing for relief from void judgments is applicable, relief is not discretionary matter, but is mandatory, Omer. V. Shalala, 30 F.3d 1307 (Colo. 1994). This cannot be ignored its fact recorded! Judgment is a void judgment if court that rendered judgment **lacked jurisdiction of the subject matter, or of the parties**, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A., U.S.C.A. Const. Amend. 5 -Klugh v. U.S., 620 F.Supp. 892 (D.S.C. 1985).

Federal Rule of Civil Procedure 7(a)(1) which requires that "[a] action must be prosecuted in the name of the real party in interest. The Pleading in Case 226-2018-CV-00451 was against the Petitioner, Khaled Abdel-Fattah, in his individual capacity and not against him as an officer of KConstruction LLC and Merrimack Enterprise LLC. The Complaint in Case 451 was brought by the Plaintiff in the Case, Mark T. Eno, again, as an individual and not as an LLC member to divide LLC proceeds. The Court issued a Lien on the first proceeds from One of the LLCs on August 29th, 2018 without proper service/summons, then attached funds from the second LLC on 05/16/2019 with no jurisdiction over the second LLC proceed and without amending the complaint to do so in a clear Due Process Violation. Since the Complaint was brought by the Plaintiff, in his individual capacity, V. the Petitioner Khaled Abdel-Fattah, again as an individual, this shows that there is no legal path and no Jurisdiction for the court to the LLCs' proceeds since the Complaint was not against the LLCs nor LLCs' officers. **Turner v. Andrew, 413 S.W.3d 272 (Ky. 2013).** "The court stated that the LLC and its sole member are not "interchangeable" and that "an LLC is not a legal coat that one slips on to protect the owner from liability but then discards or ignores altogether when it is time to pursue a damage claim."

The Petitioner rights for a fair and just trial and due process were violated in Hillsborough South Superior Court and the Supreme Court of New Hampshire. I was discriminated against in multiple cases that I had against the plaintiff, Mark T. Eno, that were dismissed without due process and was prevented from my right to be heard in favor of the continuation of Case 451 to award the Plaintiff 2 LLCs' proceeds with a judgment that went beyond the four corners of the complaint. Not to mention that I filed over 70 motions in multiple cases that were all denied with no explanation from the lower court nor the Supreme Court of New Hampshire. The state court's actions violated the Petitioner's federal due process rights under the Fourteenth Amendment.

The Fourteenth Amendment states:

No state shall make or enforce any law which shall abridge the privileges or immunities of citizens 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 laws. U.S. Const. amend. XIV

STATEMENT OF THE CASE

If there is one case that is a true example of a void judgment, it is this case before the Honorable US Supreme Court. The Supreme Court of New Hampshire in its ruling to agree with the ruling of the lower state court conflicts with the Ruling of the Honorable US Supreme Court for Void Judgments. "A void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights."

GROUND: RULE 60(b) (1) (2) (3) (4) (6) 60(d) (1) (2) (3) and FRAP and RULE 17(a)(1) and 9(b).

When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See El-Kareh v. Texas Alcoholic Beverage Comm'n, 874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also Evans v. C. Woods, Inc., No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.).

A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." Ex Parte Spaulding, 687 S.W.2d at 745

(Teague, J.,concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment.

This case has been going on for more than 6 years. If courts know their duties in regard to void judgments, then it will cut down on the time courts must spend on a void judgment case. This Court's review is needed to ensure the continued availability of relief from such frauds, due process requirements and void judgments explained in the Federal Rules of Civil Procedure, Rule 60. In this case, The Plaintiff's attorney calculated and orchestrated a plan to steal Petitioner, Khaled Abde-Fattah's LLCs proceeds in violation of the Fourth Amendment. The deliberate misrepresentation of facts in the Complaint for Case # 226-2018-CV-00451, along with false statements made by the Plaintiff's attorney and the presiding judge in the final decision, were designed to improperly grant the court jurisdiction over LLC matters.

The Complaint, which targeted Khaled Abdel-Fattah, the majority shareholder of the LLCs, as an individual, was deliberately crafted by the Plaintiff and his attorney to exclude the sale of the first property of the four properties, owned by both LLCs, from litigation.¹ This maneuver enabled the Plaintiff, Mark T. Eno, to retain the embezzled proceeds exceeding \$134,000 without the required approval of LLC

¹ **Appendix G** of the Final Judgment from Hillsborough South Superior Court's Notice of Decision misleadingly states that three properties were litigated in the trial, thereby excluding the first sold property. This omission served To shield the Plaintiff from exposing his embezzlement of over \$134,000. Page 2 of 15.

members, as stipulated by the Operating Agreements of Merrimack Enterprise LLC and KConstruction LLC, effectively shielding these funds from scrutiny during the trial. The Complaint falsely claimed that Mark T. Eno held 50% of the shares in both LLCs following his divorce from his wife, Christine Eno. The trial judge accepted this assertion without requiring any proof that the issue had been resolved in accordance with the binding LLC Operating Agreement, which was signed by all three members: Khaled Abdel-Fattah, Mark T. Eno, and Christine Eno. The absence of the third LLC member renders the final judgment in the case void, as a proper distribution could not be achieved without her participation.

The Petitioner Khaled Abdel-Fattah was forced to Appeal the Trial Court Decision while the Trial Court had no Jurisdiction. From the onset, Petitioner was never served with initiating case documents (Summons). The claim was against the Petitioner, Khaled Abdel-Fattah, as an individual in 2 LLC member matters. Merrimack Enterprise LLC and KConstruction LLC. The Complaint was initiated by an LLC member, Mark T. Eno in his individual capacity and not as a member of the LLC to decide dividing proceeds from 2 LLCs.

The New Hampshire Supreme Court gave jurisdiction to the lower court that lacked Jurisdiction over the case. The New Hampshire Supreme Court was notified in 2 separate motions that the lower court and the Appellate court lacked jurisdiction over this case. ²

² When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the merits, it must set aside the trial court's judgment

First legal error by the court when the trial court accepted the Complaint without proper service. No summons was ever served to the Defendant in the case and none was ever filed with the court until today. This is in violation of RSA 510:2-a "Contents of Writs and Processes." And, in violation of US rule 4 C (2). The attorney for the Plaintiff claimed that the complaint was hand delivered by her to the Defendant, (Petitioner in this Writ of Certiorari, Khaled Abel-Fattah). The LLCs and their members, were never named in the Pleading and were never served in the case and was acknowledged by the presiding judge in the trial in the final judgement of the case.³

The Complaint failed to assert any claim beyond the division of proceeds from the sale of properties belonging to the two LLCs. The Petitioner is protected by Indemnification Clause #60 of the signed LLC Operating Agreement, which shields him from personal liability in the absence of a breach. Despite this, the Trial Court issued a declaratory judgment to establish jurisdiction over the Petitioner and the LLC proceeds, deliberately disregarding the existence of the binding Operating Agreement.

The Court issued a Lien on the first proceeds from One of the LLCs on August 29th, 2018, in the absence of the Petitioner Khaled Abdel-Fattah, then attached funds

and dismiss the appeal. A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.). A Party Affected by VOID Judicial Action Need Not APPEAL. State ex rel. Latty, 907 S.W.2d at 486.

³ **Appendix G.** Ruling of Hillsborough South Superior Court on 08/15/2022 page 15. *"For these reasons, the Court does not find that dismissal is appropriate due to the plaintiff's failure to name the LLCs as parties."*

from the second LLC on 05/16/2019 without amending the complaint in a clear Due Process Violation. I was waiting for my share of proceeds at the closing attorney's office when they made me wait on the street until they prepared the check and to my surprise, I see attorney for the Plaintiff, Mark T. Eno, Tanya Spony delivering an envelope of the court's order to me to attach the funds from the sale of the first house. I received no summons, and none was ever filed to court. Only a statement by the Plaintiff's Counsel stating that she handed the summons to me on the street.

The Pleading in Case 226-2018-CV-00451 failed to state a claim but still the trial Court accepted the Complaint against New Hampshire State Rule 8. Pleadings should assist in setting practical limits on the scope of discovery and trial and should give the court sufficient information to control and supervise the progress of the case.

The Notice of Decision issued on 08/15/2022 constitutes a void judgment due to lack of jurisdiction, as the Complaint failed to name the correct party.⁴ Case 226-2018-CV-00451 also omitted Christine Eno, a member of both LLCs, making it impossible to divide the proceeds without her inclusion. Despite being aware of this critical defect, the Presiding Judge chose to proceed with the case, issuing rulings without any legitimate jurisdiction over the LLCs or LLCs members. Furthermore, the Trial Judge accepted the Plaintiff's unverified claim that he assumed 50% of the shares after divorcing Christine Eno, which directly contradicts the Operating

⁴ Appendix G page 14 of Notice of Decision in Case 226-2018-CV-00451. *"To the extent the defendant moves for dismissal on the basis that the LLCs themselves were necessary parties to the action, he has cited no law to support that position. Moreover, under the circumstances of this case, the Court cannot find that either LLC was a necessary party."*

agreement of the two LLCs. This unexpected ruling effectively rewarded the Plaintiff with LLC proceeds, representing a clear abuse of judicial power. The presiding Judge then contradicted her own finding in the footnote # 15 on page 14 of the final notice of decision in Case 226-2018-CV-00451.⁵ **Bank of America Corp. v. City of Miami (2017) and TransUnion LLC v. Ramirez (2021)**

Why this ruling by the state court is a Void Judgment?

- 1- Improper Service of initiating documents of the case.
- 2- The legal action was brought by LLC member in his individual Capacity against the Petitioner in his individual Capacity to divide Proceeds from 2 LLCs.
- 3- Bringing the claim in the Plaintiff's individual Capacity to divide Proceeds was done intentionally to hide the sale of the first property sold in 2017 and the Plaintiff withdrew (embezzled) over \$134,000 from the LLC bank account without permission from LLCs' members. The Plaintiff testified that during trial that he took the money with no permission, but the trial court elected to ignore this fact and many other facts in favor of the Plaintiff and his counsel.

⁵ Appendix G, final judgment of case 451-page 14 footnote 15. *"15 The Court recognizes that Ms. Eno may or may not still be considered a 25% owner of MEL. However, the Court credited the plaintiff's testimony that Ms. Eno essentially agreed to cede her interest in MEL to the plaintiff as part of the divorce proceedings. As such, all of the interested parties are before the Court."*

- 4- The Compliant failed to state a claim and only requested to divide proceeds from sales of properties that belonged to 2 LLCs.
- 5- The complaint knowingly included incorrect information alleging that the Plaintiff in Case 226-2018-CV-00451 claimed to be a 50% member of both LLCs. In truth, the operating agreements of both LLCs specify that the Plaintiff holds a 25% membership share, with his ex-wife also holding 25%, while the Petitioner holds 50% ownership in both LLCs. How could the trial Court award the member with 25% shares over 80% of the proceeds on top of \$134,000 the Plaintiff embezzled from the LLC?
- 6- The false claim by the Plaintiff, Mark T. Eno that he is a 50% member was done to evade the clause in the Operating Agreement that Mark T. Eno and his Ex-wife together have 50% shares in both LLCs and that they would need a consent to initiate this action without the consent of the Petitioner, Khaled Abdel-Fattah who is a 50% member of both LLCs.

"418 Meadow Street Associates, LLC v. One Solution Services, LLC, 73 A.3d 780 (Conn. App. 2013)." The question in this appeal was whether the trial court properly applied the appropriate standard in determining that two members who jointly owned 50% of an LLC had standing to initiate this action on behalf of the LLC without the consent of the third member, who owned the remaining 50%. Based on Levine's adverse interest, the trial court found that Weinshel and Wynnicks had standing to bring the action without Levine's consent. On appeal, the court of appeals agreed with the defendant that the trial court erred in

its analysis of whether Levine's interest was adverse. The trial court focused on evidence of animosity between Levine and the other members rather than on whether Levine's interest in the outcome of the present litigation was adverse to the LLC. **The court of appeals thus remanded for the trial court to use the appropriate standard, which required the trial court to focus on whether Levine's interest in the outcome of the present suit was adverse to the LLC.**

7- Indemnification Clause # 60 in the signed and binding Operating Agreement protects the Petitioner from being sued individually if no Breach of the Agreement was committed. The Complaint only requests to divide proceeds. No breach was disclosed in the Complaint.

8- The finding by the Trial Court in the following statement is untruthful, "Specifically, the plaintiff and the defendant are the only members of each LLC,¹⁵ and both of those parties are (obviously) before the Court." The Complaint in Case 226-2018-CV-00451 states the following under Cause of Action:⁶

CAUSE OF ACTION

6. There are two domestic limited liability companies which has been formed by Mark T. Eno, Christine Eno, and Khaled Abdel-Fattah. They are Merrimack Enterprises LLC and K Construction LLC. Both of these entities "flip" homes.

Please see Appendix G page 2 of 5 statement #6.

⁶ Appendix G. Cause of Action is from Plaintiff's Written Complaint in Case # 226-2018-CV-00451 submitted by the Plaintiff's attorney in statement #6 on page 2 of 5 of the Complaint where it states Christine Eno as one of the founders of the Merrimack Enterprises LLC and KConstruction LLC.

9- In the Trial Court's decision, the trial judge made statements that conflicted with the facts presented in the complaint. Specifically, the judge asserted jurisdiction based on the erroneous impression that there were only two LLC members, thereby excluding Christine Eno, the ex-wife of Petitioner Mark T. Eno, a necessary party to the case. This misrepresentation was used to manipulate the court's jurisdiction improperly and to issue orders that were fundamentally unjust. This constitutes a violation of Federal Rule of Civil Procedure 60(d)(3), which allows for relief from a judgment obtained through fraud on the court. The trial judge's conduct in this matter undermines the integrity of the judicial process. The deliberate omission of Christine Eno from the proceedings and the subsequent issuance of orders based on this false premise represent a clear case of fraud upon the court.

10-The constitutional implications are profound. Petitioner's rights under the Due Process Clause of the Fourteenth Amendment have been compromised due to judicial misconduct and fraudulent actions that tainted the legal proceedings. The illegal orders issued based on this fraud have caused significant harm and deprived the Petitioner Khaled Abdel-Fattah of a fair and just legal process.

11-Fraud on the Court: The lower court's judgment was obtained through fraud on the court, as evidenced by the trial judge's deliberate misstatement of facts

and exclusion of a necessary party, Christine Eno. This egregious misconduct significantly undermines the judicial process's integrity.

12-Violation of Constitutional Rights: Petitioner's due process rights were violated due to the fraudulent actions and resulting illegal orders. The issuance of these orders based on a false premise constitutes a deprivation of the Petitioner's constitutional rights.

13-Moreover, the trial judge expanded the scope of the complaint by issuing a declaratory judgment instead of proceeding with the partition action as requested in the pleading of Case No. 451. This unlawful step was taken to achieve two specific objectives:

- a. To alter the nature of the relief sought by the parties without their consent, thereby exceeding the court's authority.
- b. To further obscure the presence of Christine Eno as a necessary party, thus perpetuating the fraud on the court.

14-This conduct constitutes a violation of Federal Rule of Civil Procedure 60(d)(3), which allows for relief from a judgment obtained through fraud on the court. The trial judge's actions in this matter undermine the integrity of the judicial process. The deliberate omission of Christine Eno from the proceedings and the

subsequent issuance of orders based on this false premise represent a clear case of fraud upon the court.

15-The Supreme Court of New Hampshire ignored to answer a very important question in their finding, "Here, the parties' dispute as to the proper distribution of sale proceeds held by the relevant limited liability companies under the relevant operating agreement terms fell squarely within the trial court's subject matter jurisdiction." The question to the Supreme Court own finding was, how is it proper to distribute sale proceeds held by relevant limited liability companies when one member (Christine Eno) was intentionally left out by the filing attorney from the beginning?

16-The Supreme Court of New Hampshire failed to address the jurisdictional issue of the lower court, which claimed jurisdiction over both LLCs and the Petitioner, Khaled Abdel-Fattah, despite him being sued individually and the claim brought by an LLC member in his individual capacity. This oversight violates procedural fairness and due process principles by not clarifying jurisdictional authority, thus undermining the integrity of the judicial process and the legal rights of the parties involved.

17-The Supreme Court of New Hampshire intentionally ignored to answer over 30 legal error questions In Due Process violations and my **Right to Be Heard:**

- Due process guarantees that parties have the opportunity to present their arguments and evidence. This includes the right to have those arguments meaningfully considered by the court.

Fair and Impartial Tribunal:

- A core element of due process is the right to a fair and impartial tribunal. If a court intentionally ignores significant legal arguments, this could call into question the fairness and impartiality of the proceedings. **Mathews v. Eldridge, 424 U.S. 319 (1976):** Established the balancing test for determining what procedural protections are required by due process. **Goldberg v. Kelly, 397 U.S. 254 (1970):** Emphasized the importance of a fair hearing and the opportunity to be heard. Such an action has deprived me, the Petitioner, Khaled Abdel-Fattah, of my right to be heard that indicates arbitrary decision-making.

18-The decision by the Supreme Court of New Hampshire that was issued on 02/27/2024, affirms that the dispute over the distribution of sale proceeds held by the limited liability companies fell within the trial court's jurisdiction as defined by the operating agreement. (*Appendix A-Page 2 Line 6 to Line 9*) This underscores the existence and relevance of the operating agreement. However, the declaratory judgment from the trial court exceeded the terms of the operating agreement and disregarded the immunity granted to the Petitioner, Khaled Abdel-Fattah, against personal lawsuits under clause 60's indemnification provision.

19-The Ruling by the Supreme Court of New Hampshire is in conflict with the Decisions of the US Supreme Court on Void Judgments. When appeal is taken from a void judgment, the appellate court must declare the judgment void, because the appellate court may not address the

merits, it must set aside the trial court's judgment and dismiss the appeal.

"A void judgment may be attacked at any time by a person whose rights are affected. See *El-Kareh v. Texas Alcoholic Beverage Comm'n*, 874 S.W.2d 192,194 (Tex. App.—Houston [14th Dist.] 1994, no writ); see also *Evans v. C. Woods, Inc.*, No. 12-99-00153-CV, 1999 WL 787399, at *1 (Tex. App.—Tyler Aug. 30, 1999, no pet. h.). A Party Affected by VOID Judicial Action Need Not APPEAL. *State ex rel. Latty*, 907 S.W.2d at 486. It is entitled to no respect whatsoever because it does not affect, impair, or create legal rights." *Ex parte Spaulding*, 687 S.W.2d at 745 (Teague, J.,concurring). If an appeal is taken, however, the appellate court may declare void any orders the trial court signed after it lost plenary power over the case, because a void judgment is a nullity from the beginning and is attended by none of the consequences of a valid judgment."

20-STATE OF NEW HAMPSHIRE AMENDS RSA 510:2a in 2023

Sometime after my appeal to the Supreme Court of New Hampshire, on of the Legal error questions presented in my brief was on improper service of initiating documents. The Counsel of the Plaintiff claimed that she served the summons by hand on the street, to me, the Petitioner, Khaled Abdel-Fattah. The trial court erred when accepted the Complaint without proper service? This is in violation of RSA 510:2-a "Contents of Writs and Processes." And also, in violation of US rule 4 C (2). The attorney for the Plaintiff, Tanya

Spony, claimed that the complaint was hand delivered by her to the Defendant, Khaled Abdel-Fattah.

But the question is, who could serve Initiating Documents in the state of New Hampshire? Before Rule 510:2-a was amended in 2023, it stated,

Anyone over the age of eighteen (18) years old, who is not a party to the case, is legally able to serve papers in the state of New Hampshire. This is in violation of RSA 510:2-a "Contents of Writs and Processes."

The RSA 510:2-a has been amended in 2023 after my Brief was filed to the Supreme Court of New Hampshire and now states the following:

"510:2 Manner. – All writs and other processes shall be served by giving to the defendant or leaving at his abode an attested copy thereof, except in cases otherwise provided for."

The rule **"Who is not a party to the Case, is legally able to serve papers in the state of New Hampshire"** has been eliminated from Rule 510:2-a. This conflicts with Federal Rule 4 C.

Rule 4(c) - Service

(c) Service.

(1) In General. A summons must be served with a copy of the complaint.

The plaintiff is responsible for having the summons and complaint

served within the time allowed by Rule 4(m) and must furnish the necessary copies to the person who makes service.

- (2) By Whom. Any person who is at least 18 years old and not a party may serve a summons and complaint.
- (3) By a Marshal or Someone Specially Appointed. At the plaintiff's request, the court may order that service be made by a United States marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed in forma pauperis under 28 U.S.C. § 1915 or as a seaman under 28 U.S.C. § 1916.

The improper service (or failure to serve the summons in this case) by the Plaintiff in this case is in violation of Federal Rule 4 (c) of 21 days since no summons was ever filed in the case of 451.

"Proof of service shall be filed with the court within 21 days of the court-ordered deadline for service. If a defendant is not served within the court-ordered deadline for service, the court shall dismiss the action with or without prejudice, as justice may require."

I, the Petitioner, Khaled Abdel-Fattah, only received the Ex Parte ruling to attach the funds of \$87,920.86 that was issued on August of 29th, 2018. I never received the complaint's initiating documents from attorney Tanya Spony and no

proof was ever submitted to the lower Court that I was served properly with the summons. Since the service was improper, the Court has ZERO Jurisdiction over Khaled Abdel-Fattah, and over the LLCs according to the Ruling in a similar appeal by the New Hampshire Supreme Court. **See Case No. 2014-0565, In the Matter of Alexandra Starr and David Starr:**

“The plaintiff bears the burden of demonstrating facts sufficient to establish personal jurisdiction over the defendant. **Mosier v. Kinley**, 142 N.H. 415, 418 (1997). When jurisdictional facts are challenged, the plaintiff must offer affirmative proof. *Id.* Because the husband was never properly served with the motion to bring forward, we conclude that the trial court never acquired jurisdiction over him. Accordingly, we vacate the trial court’s order and direct the trial court, upon remand, to dismiss the matter.”

21-The Ruling of the Supreme Court of New Hampshire is proof of the continued bias and discrimination against me, the Petitioner Khaled Abdel-Fattah in favor of the Hillsborough South Superior Court and to favor the Plaintiff and his Counsel in Case 226-2018-CV-00451 to the extent that RSA 510:2 rule on Summons was amended to give legitimacy to the improper service by the Plaintiff’s attorney who is clearly a party for the Plaintiff in the Case.

22-The Supreme Court of New Hampshire also ignored answering over 24 legal error question in the Brief filed and over 50 other legal questions filed in multiple motions depriving me of my Constitutional Right of Due Process and the right to be heard. In their Ruling of 02/27/2024, they elected to answer one legal error as quoted below,

"The Superior Court is a court of general jurisdiction with authority to decide common law civil disputes between parties, including contractual disputes between parties, and to issue declaratory judgments in disputes between parties making adverse claims to a present legal or equitable right or title. See 60 (providing that "[n]othing in this subdivision shall be construed to restrict the right of a member [of a New Hampshire limited liability company] to bring a direct action on his or her own behalf against [another] member" of the limited liability company). Here, the parties' dispute as to the proper distribution of sale proceeds held by the relevant limited liability companies under the relevant operating agreement terms fell squarely within the trial court's subject matter jurisdiction. To the extent the defendant is challenging whether the plaintiff effected proper service of process, the record reflects that he participated in a full trial on the merits, and has never appealed the denial of a preliminary motion to dismiss on service of process or personal jurisdiction grounds. Under these circumstances, he has waived any challenge to the trial court's exercise of personal jurisdiction. Accordingly, we reject the defendant's arguments that the trial court lacked jurisdiction and that its decision is void. For the same reasons, we deny the defendant's separate motion to "inform Supreme Court of New Hampshire of the void judgment."

23-This finding by the Supreme Court of New Hampshire conflicts with Clause 60 in the Operating Agreement that protects individuals from any legal action as an LLC member if no breach was committed. The mere presence of the defendant Khaled Abdel-Fattah during the trial as an individual does not give the trial court jurisdiction. The Supreme Court of New Hampshire ignored the fact that my attorney, Keith Matthews objected to the continuation of the trial and asked the court to dismiss the case multiple times during the trial stating that the court had no jurisdiction over the Petitioner, Khaled Abdel-Fattah since the LLCs were not named in the complaint and Mr. Fattah was protected

by Clause 60's indemnification Clause in the Operating Agreement of both LLCs.

24-The State Courts also ignored that the legal action brought by Eno, Plaintiff in Case 451; Mark T. Eno is a breach of the Operating agreement. The False statement by the Plaintiff of holding 50% of the shares in Case 451 makes the claim fraudulent and void. Mark T. Eno does not hold 50% of the share in both LLCs. We can find this in the ruling of the lower court in the footnote 15 on Page 14, Appendix G

"15 The Court recognizes that Ms. Eno may or may not still be considered a 25% owner of MEL. However, the Court credited the plaintiff s testimony that Ms. Eno essentially agreed to cede her interest in MEL to the plaintiff as part of the divorce proceedings. As such, all of the interested parties are before the Court."

25-This footnote is against the finding of the trial court that "the plaintiff and the defendant are the only members of each LLC,¹⁵ and both of those parties are (obviously) before the Court." The trial Court overreached in crediting the Plaintiff's testimony that Ms. Eno essentially agreed to cede her interest in MEL to the Plaintiff as a part of the divorce proceedings. This is also against Clause 25 in the binding Operating Agreement of the 2 LLCs. *(Please See Appendix E Clause # 25.)*

25 Voluntary Withdrawal of a Member

A Member may not withdraw from the Company without the unanimous consent of the remaining Members. Any such unauthorized withdrawal will be considered a wrongful dissociation and a breach of this Agreement.

Finally, the importance of this Writ of Certiorari is to address the definition and implications of a void judgment. The New Hampshire Supreme Court disregarded established rulings of the U.S. Supreme Court, which mandate that appellate courts must declare void judgments as such and not address their merits. The Supreme Court of New Hampshire forced the Petitioner to file a brief on a void judgment, lacking both subject matter and personal jurisdiction, in clear violation of the 14th Amendment's due process protections. This writ is also crucial to protect the integrity of LLCs' and corporations' operating agreements from trial court overreach, ensuring that these agreements are upheld and respected in judicial proceedings. Addressing these issues holds significant federal importance as it safeguards constitutional rights and maintains the balance of judicial authority.

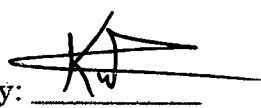
REASON FOR GRANTING THE PETITION

Petitioner respectfully requests that the Supreme Court grant a writ of certiorari to review the judgment of the Hillsborough South Superior Court of New Hampshire and the New Hampshire Supreme Court ruling. Petitioner's rights under the Due Process Clause of the Fourteenth Amendment were violated in every single step of the Trial Court and all the way to the New Hampshire Supreme Court that ignored to address over 24 legal error questions presented in clear discrimination to Pro Se Litigant.

This case exemplifies the significant national concern of ensuring judicial accountability, upholding constitutional protections and LLC protection of its members in the presence of an Operating Agreement.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully Submitted by: 

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