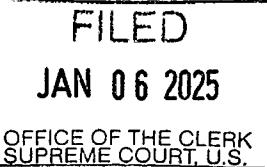


24-6321

No. _____



IN THE
SUPREME COURT OF THE UNITED STATES

Celeste Ryan, PETITIONER

vs.

Jeffery Timmerman Et Al, RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Superior Court for the State Of Washington

In and for the County of Kitsap

PETITION FOR WRIT OF CERTIORARI

Celeste Ryan

1801 Ruth Street

Arlington Texas, 76010

(253)- 391- 8335

QUESTION(S) PRESENTED

Q1: Does the exercise of judicial discretion violate constitutional guarantees such as due process, equal protection, impartiality, and the right to a jury trial?

Q2: Does enforcing non-legislative private procedural rules under the guise of inherent authority and Judicial discretion violate First Amendment protections?

Q3: Does punishing a Party using claimed inherent judicial powers (Judicial Discretion), for conduct of third parties constitute an unconstitutional violation of Free speech protections?

Q4: Does Judicial altering of witness testimony to comply with discretionary pre-trial judicial orders that limit the scope of petitioner's triable issues violate First Amendment rights?

Q5: Does the use of summary judgment infringe upon the Sixth Amendment, effectively stripping litigants of their constitutional right to a fair jury trial by bypassing the jury's role in fact-finding, imposing unfair and premature procedural burdens on litigants, and therefore making the process prone to judicial overreach?

Q6: Did The Court Abuse It's Discretion By Granting Summary Judgment?

Q7: Did Trial Court Deny Plaintiff's Constitutional Rights?

Q8- Are public court fees generally an unconstitutional barrier to justice, violating due process, equal protection, and Sixth Amendment rights?

Q9- Do financial barriers created by court-mandated prerequisites in the litigation process conflict with due process guarantees?

Q10- Does requiring expert testimony as a prerequisite for proceeding on certain claims result in an undue burden that constitutes an unconstitutional barrier to fair trial rights under due process protections?

Q11- Is review and remand warranted by this court when constitutional rights were compromised in the procedural phase, thus preventing a trial on the merits?

LIST OF PARTIES

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

Celeste Ryan, Petitioner (Plaintiff)

Jefferey Timmerman, Respondent (Defendant)

Silverdale Plumbing & Heating Incorporated, Respondent (Corporate Defendant)

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CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. CONSTITUTION PROVISIONS

Preamble

"We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

Article I, Section 1

- *"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."*

Article III, Section 1

- *"The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish."*

Article III, Section 2

- *"The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority..."*

Article VI, Clause 2 (Supremacy Clause)

- *"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."*

Amendment I

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. "

Amendment V

"... nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

Amendment VII

"In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law."

Amendment X

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Fourteenth Amendment, Section 1

"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 wherein they reside. 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."

Statutory provisions

Federal Rule of Evidence 702: Testimony by Expert Witnesses

Rule 702: A witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if:

- (a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue;
- (b) the testimony is based on sufficient facts or data;
- (c) the testimony is the product of reliable principles and methods; and
- (d) the expert has reliably applied the principles and methods to the facts of the case.

PETITION FOR A WRIT OF CERTIORARI

Petitioner Celeste Ryan respectfully requests the issuance of a writ of certiorari to review the judgment of the Superior Court of the State of Washington in the County of Kitsap

DECISION BELOW

The decisions of Trial court are reproduced at Pet. App. A through D

The decisions of Appellate Court are reproduced at Pet. App. E

The decisions of Washington State Supreme Court are reproduced at Pet. App. F

JURISDICTION

The Trial Court entered judgment on December 30th, 2022. The court of Appeals affirmed the trial court decisions on February 27th 2024. The Supreme Court for the State of Washington denied review on October 9th, 2024 making the Appellate opinion the final order in this case.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257 (1).

STATEMENT OF THE CASE

The Petitioner has structured this petition to demonstrate multiple constitutional violations resulting from judicial practices that conflict with the U.S. Constitution. These practices, applied systematically, create a pattern of rights violations, revealing their unconstitutionality. This petition outlines how

these judicial practices violate constitutional protections and how specific decisions in this case worsen those violations. Although each instance may not reflect every aspect of the broader violations, the overall pattern exposes a systemic erosion of justice through discretionary pretrial decisions.

Rather than only making general Constitutional claims, the Petitioner highlights specific judicial decisions and their harmful effects, emphasizing the frequency of rights violations. These violations are interconnected, worsening with each decision in a cascading sequence. This case is unique in that it reflects a consistent pattern of judicial abuse rather than isolated errors, with each decision exacerbating the next.

Due to page and word limitations, the Petitioner has prioritized constitutional arguments over full record references. Petitioner anticipated constitutional violations and an unfavorable trial outcome due to repeated court warnings. To preserve objections and assert claims, Petitioner submitted a detailed trial brief, including a memorandum with record references, which is part of the official record and included in this petition.

Relevant facts of case:

- **Complaint and Parties:** On November 18, 2016, Celeste Ryan sued Jeff Timmerman and Silverdale Plumbing & Heating Inc. for injuries from a 2002 accident where Timmerman, employed by Silverdale, rear-ended her vehicle. Defendants admitted liability but disputed extent damages.

- Discovery and Expert Examination: On March 14, 2017, Ryan was examined by defense experts Dr. McFarland and Dr. Sutton under CR 35, with the examination Professionally Audio and Video recorded. They concluded Ryan's injuries resolved within three months and denied causation for dysautonomia.
- Court Motions:
 - No-Contact Order (November 7, 2017): Defendants requested, and the court granted, an order preventing direct party communication, excluding Ryan's father, Dr. Matthew Ryan from that order.
 - Partial Summary Judgment (January 24, 2018): Defendants argued Ryan lacked admissible expert opinion evidence, restricting recovery to \$3,896 for past medical bills. Ryan countered with her medical records, and additional records to make a *prima facie* showing of issue of material fact, but the motion was granted due to the absence of expert opinion rebuttal.
 - Motion to Exclude Defense's Expert Testimony (February 9, 2018): Ryan claimed fraud due to material discrepancies in the experts' report versus the recorded examination evidence. The court rejected this, deeming credibility of the expert's opinions an issue for the jury.
 - Motion for Reconsideration (March 3, 2018): Ryan's motion was denied, with the court noting defendants didn't need to show a "dearth of evidence."

- Sanctions Motion (August 13, 2019): Defendants alleged Ryan broke the no-contact order via her father's independent actions. The court sanctioned Ryan, barring her father from testifying, despite his exclusion from the no contact order.
- Motion to Limit Damages (October 4, 2019): Based on prior rulings, defendants moved to cap damages, which was granted, limiting all damages to three months post-accident based on the defense experts' opinions solely.
- Motion for Subpoena (November 13, 2019): Ryan sought to subpoena defense experts for trial, arguing their testimony was crucial. The court denied, stating no medical issues remained for jury determination, due to prior Partial Summary Judgment order.
- Trial and Appeals: The case went to trial, followed by an appeal to the Washington State Court of Appeals, affirmed the trial court's decisions. The Washington Supreme Court later denied review, maintaining the lower court's rulings.
- Constitutional Claims: Ryan preserved detailed constitutional violation claims in a trial memorandum, included in the appendices for this petition.

Specific pretrial and post-trial orders

1. No-Contact order between parties

Opposition filed against original motion,

2. Summary Judgment

3. Motion to exclude
4. Sanctions order
5. Denial of subpoena
6. Appellate court Un-Published Opinion
7. Washington State Supreme Court order denying review

Petitioner argues while the specific instances and orders in this case give rise to U.S. Supreme Court review, the circumstances in this case have raised issues of broader Constitutional violations regularly practiced by the courts that demand review in this case and are argued against by petitioner in connection with case specific instances. These include :

1. Judicial discretion
2. Summary Judgment
3. Over-reliance on expert witness opinion, and mandatorily required usage
4. Court fees

ITEM ONE (1)

The following issues are presented to this Court in connection with each other.

- A. Judicial Discretion (Standalone)
- B. Judicial Discretion As Means To Violate Protected Free Speech In This Immediate Case

A. JUDICIAL DISCRETION

Q1: Does the exercise of judicial discretion violate constitutional guarantees such as due process, equal protection, impartiality, and the right to a jury trial?

Judicial discretion is exercised without clear, objective measurable standards, which fundamentally violates the foundational principles of due process and equal protection under the law, constitutes an overreach of authority contrary to constitutional protections, and essentially operates under the "color of law".

Petitioner preserved this claim of violation in Trial Memorandum, which references the record.

A (1). Due Process Violation

(a) No Objective Guidelines or Proper Notice : Judicial discretion often undermines due process by lacking clear guidelines and clearly defined thresholds, leading to unpredictable and subjective outcomes. This deprives litigants of fair notice and the ability to understand or challenge decisions on their merits, as emphasized in *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970).

(b) Giving Deference To Trial Court Over Litigants : Mandatory intermediate appellate review reflects the judicial system's recognition that trial courts cannot be trusted as final arbiters of justice. However, deference to trial courts under the arbitrary "abuse of discretion" standard undermines this oversight, assuming trial courts are more reliable than appellate review. *Marbury v. Madison*, 5 U.S. 137 (1803), affirmed that judicial review is essential to uphold constitutional protections. In *Walker v. City of Birmingham*, 388 U.S. 307 (1967), the Court cautioned against unchecked judicial authority. Yet, by deferring to trial Courts in discretionary matters, appellate courts enable precisely the kind of arbitrary power the U.S. Constitution seeks to prevent.

A (2). *Equal Protection Violation*

(a) **Arbitrary Decision Making** : Judicial discretion often undermines equal protection and due process by enabling arbitrary and unequal treatment based on personal biases of judges rather than pure legal merits. This violates the principle in *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886), that all must be treated equally under the law.

A (3). *Judicial Discretion Is By Definition "Color Of Law"*

(a) **Interchangeable Definition** : Judicial discretion, by its nature, operates as indistinguishable from "color of law,." "Color of law" refers to the appearance of legal authority or an apparently legal right that may not exist." . "Judicial discretion refers to a judge's to make a decision based on their individualized evaluation, guided by the principles of law." . Therefore, judicial discretion and "color of law" are essentially indistinguishable, as both involve the exercise of authority under the appearance of legal legitimacy, which may lack a true legal basis. "Color of law" refers to actions taken under the appearance of legal authority that may exceed actual legal limits, resulting in potential rights violations. Similarly, "judicial discretion" allows judges to make individualized decisions under the guise of applying the law, but it can lead to arbitrary rulings when misapplied or guided by personal bias. Both concepts involve the exercise of power that appears lawful but may not be grounded in objective legal standards. When judicial discretion is improperly applied, it functions as color of law—an unchecked authority that can

undermine legal protections and violate constitutional rights under the false appearance of legality.

(b) **Judicial Discretion as a Criminal Act Sanctioned by Courts:** Judicial discretion operates as color of law, granting authority that appears legitimate but may exceed legal bounds. This leads to arbitrary applications of the law, violating due process and equal protection principles, as outlined in *Goldberg v. Kelly* and *Yick Wo v. Hopkins*. Under 18 U.S.C. § 242, actions taken under color of law that willfully deprive individuals of their constitutional rights are criminal offenses. When judicial discretion leads to such violations, it becomes not just a misjudgment, but a criminal act perpetrated by the courts, depriving individuals of their rights under the guise of legal authority.

(4). No Accountability, Violation Of Founding Principles

(a). **Combination With Judicial Immunity** - The reliance on judicial discretion without timely, accessible, real oversight or accountability leaves litigants, especially pro se parties, vulnerable to arbitrary decisions. Judicial immunity, as upheld in *Pierson v. Ray*, 386 U.S. 547, 553 (1967), further shields judges from liability, undermining necessary checks on judicial power. This lack of standards and accountability conflicts with the rule of law established in *Marbury v. Madison*, 5 U.S. 137, 163 (1803), and poses by itself a constitutional threat.

(b). **Low probability of review or reversal** - The highest courts in both state and federal judicial systems typically have discretionary review powers, meaning they can choose which cases to hear or ignore. This allows lower court judges to act with

IME report and refusal to allow cross-examination of the authors of those opinions made in that report within the view of a jury, on this basis is an abuse of discretion, potentially actionable under 42 U.S.C. § 1983.

ITEM THREE (3)

The following issues are presented to the court in connection with each other.

- E. Court Fees (Standalone)
- F. Expert Witness Requirements
- G. Undue Burden Placed On Petitioner In This Immediate Case, Violating Rights To Due Process And Equal Protection, And Sixth Amendment Right To a Fair Jury Trial.

A. COURT FEES

Q8- Are public court fees generally an unconstitutional barrier to justice violating due process, equal protection, and Sixth Amendment rights?

AND

Q9- Do financial barriers created by court-mandated prerequisites in the litigation process conflict with due process guarantees?

The U.S. legal system fundamentally opposes the idea of charging for access to constitutional rights. Legal precedents, such as *Griffin v. Illinois*, 351 U.S. 12 (1956), affirm that fees which impede access to due process, like court fees for transcripts or expert testimony, violate constitutional rights by conditioning justice on financial ability. This practice directly infringes upon the principles of fairness and equal protection under the law, making justice inaccessible to those who cannot

afford these costs, thus undermining due process (*Boddie v. Connecticut*, 401 U.S. 371 (1971)). A system with such barriers is antithetical to serving all people equally. Courts cannot constitutionally mandate procedural prerequisites for moving forward on claims if these prerequisites come with attached fees. This practice fundamentally undermines the accessibility of justice, which should be a right, not a privilege of the financially capable.

A(1). Due Process Violation

Charging court fees, including reporter, transcript, and excessive expert testimony fees, violates the fundamental right to due process. These fees create financial barriers that impede access to the judicial system, undermining justice and contradicting principles of fairness and equality. As established in *Griffin v. Illinois*, 351 U.S. 12 (1956), such fees condition constitutional rights on financial ability, undermining equal justice.

(a) **Buries Meritorious Claims:** Requiring payment for litigation essentials like transcripts (private fees charged to Petitioner for Court reporter transcription of Deposition testimony) severely restricts access to justice, disproportionately affecting low-income/no-income litigants and potentially burying meritorious claims. This financial barrier violates due process and the right to seek redress, as the Supreme Court held in *Griffin v. Illinois*, 351 U.S. 12 (1956), that justice should not be denied based on financial ability. In *Boddie v. Connecticut*, 401 U.S. 371 (1971), the Court further established that access to courts cannot be contingent

upon one's ability to pay, highlighting that excessive fees undermine the right to a fair trial.

(b) **Prevents Discovery:** Discovery is a critical part of ensuring both parties have access to the information necessary to present their case. By pricing out low income litigants' access to discovery tools, the justice system disproportionately favors wealthier parties, thereby undermining the fairness of the trial process. As recognized in *Mathews v. Eldridge*, 424 U.S. 319 (1976), due process requires that individuals have a meaningful opportunity to present their case, which includes access to the necessary tools for discovery.

(c) **Allows "Behind the Scenes" Influence by Non-Party Actors:** Excessive court fees create an environment in which third-party entities, such as insurance companies, may gain disproportionate influence over litigation outcomes. These entities often have the financial resources to influence the legal process without being direct parties to the case. This distorts the fairness of proceedings and compromises due process by allowing non-parties to shape litigation outcomes.

(d) **Inability to Explain Missing Evidence:** When litigants can't afford resources like transcripts or expert witness' fees, they may fail to present complete evidence to the jury, and courts often prevent litigants from explaining to the jury the financial reasons causing the missing material evidence and/or the missing testimonial evidence. This practice undermines the right to a fair trial, potentially leading juries to wrongly conclude claims lack merit due to the absence of that evidence. As per *Chambers v. Mississippi*, 410 U.S. 284 (1973), restricting

evidence presentation violates due process by depriving juries of essential information for a fair verdict.

(e) **Inconsistent with Other Rights:** In public life, rights like voting or protesting are protected without fees; similarly, access to courts and a fair trial should not be contingent on payment. Imposing court fees or court mandated expensive testimony creates an unjust system where justice is available only to those who can afford it. As held in *Trop v. Dulles*, 356 U.S. 86 (1958), fundamental rights, including access to justice, should not be conditioned on financial means.

(f) **Court Fees Coerce Unfair Settlements :** Rising court fees for depositions, transcription, and expert witnesses disproportionately burden lower-income litigants, pushing them toward unfair settlements and miscarriages of justice. Wealthy parties exploit this, as highlighted in *Fuentes v. Shevin*, 407 U.S. 67 (1972), where due process demands a fair opportunity to be heard. Excessive fees and unnecessary procedural costs skew justice in favor of those with more resources, contradicting *Boddie v. Connecticut*, 401 U.S. 371 (1971), which reinforces that access to justice should not depend on wealth.

A(2)- *Equal Protection violation :*

(a) Prohibitive court fees skew the legal system in favor of wealthier litigants, breaching equal protection by discriminating based on finances, thus creating an unequal justice system (*Harper v. Virginia State Board of Elections*, 383 U.S. 663 (1966); *M.L.B. v. S.L.J.*, 519 U.S. 102 (1996)). These excessive fees, including those for transcripts and experts, violate due process by making justice unaffordable

(Boddie v. Connecticut, 401 U.S. 371 (1971); Griffin v. Illinois, 351 U.S. 12 (1956)), especially with the need for costly expert testimony (Ake v. Oklahoma, 470 U.S. 68 (1985)).

B. OVER-RELIANCE ON EXPERT WITNESSES

Q10- Does requiring expert testimony as a prerequisite for proceeding on certain claims result in an undue burden that constitutes an unconstitutional barrier to fair trial rights under due process protections?

Mandating expert testimony or specific forms of opinion evidence risks the court improperly evaluating the credibility and weight of evidence, a task that should be left to the jury. This practice undermines fairness and imposes financial burdens, excluding individuals from justice. Justice must be available to all, not just those who can afford costly experts.

The requirement for expert testimony is arbitrary, as courts lack clear standards for when such testimony is necessary. Injuries like whiplash or soft tissue damage are commonly understood by the public, and jurors can assess these without expert input. Moreover, the modern age of information means the general public is increasingly familiar with medical concepts, making expert testimony less necessary.

Rigid expert testimony requirements benefit well-resourced defendants while blocking legitimate claims, shifting the balance of justice toward exclusion and undermining equal access to justice

B(1). Due Process Violation

(a) **Cost Is prohibitive:** Mandating expert testimony imposes a prohibitive financial burden on litigants, particularly pro se or low-income plaintiffs, violating due process under the Fifth and Fourteenth Amendments. As established in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), expert testimony is advisory and courts' preemptive evaluation of such evidence can unfairly influence jurors, creating financial and procedural hurdles that limit access to justice (*Goldberg v. Kelly*, 397 U.S. 254 (1970)). Requiring expert testimony undermines the right to cross-examine witnesses especially at the summary judgment stage, (*Briscoe v. LaHue*, 460 U.S. 325 (1983)) and risks unfairly dismissing cases (*Chambers v. Mississippi*, 410 U.S. 284 (1973)). The Supreme Court has recognized that expert testimony should not lead to premature case dismissal (*General Elec. Co. v. Joiner*, 522 U.S. 136 (1997)), as it did in this case, and requiring it for causation in injury cases creates an arbitrary barrier for less affluent plaintiffs. This contradicts equal access to justice, as jurors—not experts or judges—should weigh the evidence, ensuring fairness and protecting the right to a jury trial.

(b) **No remedy for Perjury :** Mandating expert testimony breaches due process due to the low accountability for perjury among expert witnesses. Unlike other witnesses, experts rarely face legal repercussions for false testimony, as noted in *United States v. Dunnigan*, 507 U.S. 87 (1993), which highlights the challenges in perjury prosecutions, thus compromising judicial fairness.

B.2 Equal Protection Violation :

Mandating expert testimony imposes significant financial barriers, breaching Fourteenth Amendment equal protection by disproportionately affecting those with limited resources. Expert fees can be prohibitively high, deterring meritorious claims as highlighted in *Griffin v. Illinois*, 351 U.S. 12 (1956). Restrictions on cross-examination, a due process cornerstone per *Chambers v. Mississippi*, 410 U.S. 284 (1973), further disadvantage litigants. Pre-trial challenges to experts require resources not all possess, exacerbating inequity. This requirement acts as a gatekeeper, favoring wealthier litigants, contrary to *Boddie v. Connecticut*, 401 U.S. 371 (1971), which mandates equitable court access. Thus, the financial and procedural demands of expert testimony risk violating equal protection and due process.

C. Undue Burden Placed On Litigant In This Immediate Case, Violating Rights To Due Process And Equal Protection, And Sixth Amendment Right To Jury Trial

C (1) Undue Burden Placed on Litigant

(a) **Access to Public Records:** The Petitioner was forced to buy costly transcripts of public testimony and proceedings which should be accessible at little or no cost but is not, creating an undue financial barrier to petitioner's right to litigate through to a fair jury trial. This practice violates equal protection and due process, as no legal procedure should impose such obstacles to fundamental rights (*Morgan v. Virginia*, 328 U.S. 373 (1946)).

(b) **Exorbitant Expert Fees:** The court's exclusion of the Petitioner's pro bono percipient expert and subsequently mandated requirement for petitioner to then hire another expert witness (at \$2,000/hour fee) to allow her to present her evidence to the jury imposed an economic barrier, turning justice into a "pay to play" system. Even at a reduced rate, this infringes on the plaintiff's Sixth Amendment right to a fair jury trial by making legal pursuit financially prohibitive.

C (2) Violation of Due Process and Equal Protection

(a) **Economic Discrimination:** Imposing these costs discriminates against those with limited financial resources, creating an unequal playing field and undermining the Fourteenth Amendment's equal protection clause (*Washington v. Davis*, 426 U.S. 229 (1976)). This financial burden also infringes upon due process by making a plaintiff's ability to proceed contingent on financial capability rather than the merits of the case or the reliability of evidence, violating the fundamental fairness required by due process (*Goldberg v. Kelly*, 397 U.S. 254 (1970)).

C (3) Sixth Amendment Violations

(a) **Right to a Jury Trial:** By making the right to proceed through litigation to a jury trial contingent upon affording expert testimony at an inflated cost to the Petitioner, the court has effectively nullified the plaintiff's Sixth Amendment right to have her case heard by a jury. The ability to present evidence conditionally through expensive experts should not be a luxury afforded only to those who can pay for it.

(b) Witness Intimidation: Judicial threatening to the Petitioner with the costs of a mistrial and coercing her by Judicial directions to alter, to editorialize and to severely restrict her lawful and complete testimony (forcing her to violate her oath to tell the whole truth and nothing but the truth) represents an act of witness intimidation disguised as judicial 'authority' and 'discretion'. This not only chills free speech but also manipulates the trial process and infringing upon the Sixth Amendment rights to a fair trial and to confront witnesses (Crawford v. Washington, 541 U.S. 36 (2004)).

ITEM 4

Q11- Is review and remand warranted by this court when constitutional rights were compromised in the procedural phase, thus preventing a trial on the merits?

1. Review on the Merits: This case merits Supreme Court review and a remand for a new trial because the trial court's summary judgment order misrepresented the medical records concerning causation. This misrepresentation echoes the concerns raised in Chambers v. NASCO, Inc., 501 U.S. 32 (1991), where the integrity of judicial proceedings was at stake due to improper handling of evidence. Here, the court, despite the petitioner's argument that the neurologist's records did support a causal link between her injuries and the car accident, ruled otherwise, potentially based on a cherry-picked interpretation of the evidence. This directly affected the trial's outcome, undermining the judicial process's integrity and fairness, as emphasized in Goldberg v. Kelly, 397 U.S. 254 (1970), where the right to be heard is

paramount. The neurologist's later admission in a deposition, nearly nine years after the initial ruling, that he did believe the injuries were causally related to the accident and that those injuries were substantial and permanent, further validates the need for review, akin to the principles in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), where new evidence can warrant reconsideration of expert testimony. In deposition in an unrelated matter Dr. Armitano, the neurologist in question stated :

"Q. As we sit here right now, do you have any opinion as to what injuries Ms. Ryan sustained as a result of her 2002 car accident?

"A. I believe -- I believe she suffered a neck injury at that time. She -- which has -- in looking in hindsight, that wasn't fully addressed on initial intake. But I think that that injury set off a cascade of chronic neck pain and neck-related headaches that just accumulated. And when I saw her in the clinic, that was a big component of her neck issues and certainly could explain some of her MRI findings and further x-ray findings.

"Q. And so is it fair to say you relied upon her subjective complaints and the MRI findings in order to form your opinion?

A. Currently, but not at the time. After I reviewed the chart currently, yes."

(See page 55 Dr. Erik Armitano M.D. Deposition transcript Appendix H)

Q. And what assumptions did you make?

A. I assumed that she may have had a underlying hypermobile disorder that predisposed her for neck injuries or other body injuries. I don't have any

information on that, and that's my -- and that neck injury probably triggered a cascade of chronic neck issues.

Q. And you said you formed this opinion when you were viewing her chart for this deposition today, correct?

A. Correct.

(See page 56 Dr. Erik Armitano M.D. Deposition transcript Appendix H)

2. Financial Barriers to Correcting Judicial Errors: The petitioner faced significant financial barriers to correcting judicial errors, a situation highlighted by *Griffin v. Illinois*, 351 U.S. 12 (1956), where the Court recognized that financial ability should not determine access to justice. The high costs associated with litigation, including depositions and expert witness fees, created an economic barrier, potentially violating both due process and equal protection under the law (see *Boddie v. Connecticut*, 401 U.S. 371 (1971)), where access to courts must not be contingent on financial status.

3. Unnecessary Requirement of Expert Testimony: The arbitrary requirement for expert testimony to defeat summary judgment on causation issues, as seen in this case, can be seen as unfounded when later evidence contradicts initial assessments. This reflects the advisory nature of expert testimony, a point emphasized in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, where the focus is on the reliability rather than the necessity of such testimony. The neurologist's changed opinion years later underscores the subjective nature of expert testimony, which General

Elec. Co. v. Joiner, 522 U.S. 136 (1997), recognized could shift, making procedural mandates for expert testimony at summary judgment stages potentially misguided.

4. Lack of Safeguards for New Evidence: The current legal system lacks adequate safeguards for scenarios where new, material evidence emerges post-trial, akin to the issues addressed in Frazier v. Cupp, 394 U.S. 731 (1969), where new evidence could have exonerated the accused. Here, the absence of straightforward methods to reintroduce such evidence without extensive procedural hurdles, as seen in Mathews v. Eldridge, 424 U.S. 319 (1976), undermines justice. This necessitates Supreme Court intervention to ensure justice includes not just process but also correct outcomes when new evidence comes to light.

6. Review and Reverse on the Merits: Given the constitutional violations and the miscarriage of justice, the U.S. Supreme Court should review and reverse the lower court's decisions on the merits, acknowledging systemic issues like those in Mapp v. Ohio, 367 U.S. 643 (1961), where procedural shortcuts can lead to injustices. This action would correct the misuse of judicial discretion and affirm the principles of justice, setting a precedent for handling new evidence, akin to the spirit of Brady v. Maryland, 373 U.S. 83 (1963), where new evidence must be considered to uphold fairness.

***Constitutional Paradox:**

Everything the petitioner argues in this petition as unconstitutional is countered by the courts in endless previous cases, particularly regarding judicial discretion and inherent authority 'to act in the name of justice'. Courts have long asserted that

they must possess judicial discretion and inherent powers to regulate proceedings flexibly, arguing that strict adherence to laws and rules might not always serve justice, especially in unique or complex cases (*Marbury v. Madison*, 5 U.S. 137 (1803); *Walker v. City of Birmingham*, 388 U.S. 307 (1967)). They maintain that this flexibility allows them to adapt to the specifics of each case to ensure a just outcome, as articulated in *Chambers v. NASCO, Inc.*, 501 U.S. 32 (1991).

However, in this particular case, which defies conventional norms with a pro se plaintiff whose treating medical provider is her father, the court's actions have resulted in one of the most unjust outcomes imaginable. Here, nearly every decision made by the court appears to clearly violate multiple constitutional rights of the petitioner, akin to the concerns in *Goldberg v. Kelly*, 397 U.S. 254 (1970), where procedural fairness is paramount. This scenario presents the perfect opportunity for this court to either reinforce its claims that justice requires the use of discretion to bend or adapt rules in the pursuit of justice (where this case is a perfect vehicle to do so), or it must determine that the petitioners arguments are correct and declare that judicial discretion is in fact unconstitutional.

Surprisingly, the petitioner, through what appears to be a random and recent fortunate discovery, uncovers evidence that would not only reverse portions of the judgment but would fundamentally alter the trial's outcome to be the exact opposite of what was decided originally, reminiscent of the principles in *Brady v. Maryland*, 373 U.S. 83 (1963), where new evidence can overturn previous findings. Yet, through the appellate process, the courts have repeatedly claimed to be bound by

the very rules they argue they have the discretion to ignore, creating a paradox. They defend the necessity of their discretionary powers while simultaneously refusing to apply them in a way that would correct an evident miscarriage of justice, reminiscent of the tension between discretion and rule adherence discussed in *Mapp v. Ohio*, 367 U.S. 643 (1961).

This situation presents a "snake eating its tail" argument where the courts claim the need for discretion to bypass rules for justice but then refuse to use that discretion when it's most needed. The U.S. Supreme Court, which might argue that reviewing the case on its merits is not its usual practice, must confront this contradiction in the interest of public trust in the courts. If this Court defends the principle of judicial discretion as a means to bypass law or rules, yet does not exercise such discretion when it could rectify a clear injustice, it undermines its own rationale for such authority, as critiqued in *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009), where the Court emphasized the need for judicial impartiality.

Therefore, the Supreme Court should review and reverse on the merits because this case not only highlights the misuse of judicial discretion but also demonstrates how such discretion can lead to constitutional violations when not applied in the true spirit of justice (*Rochin v. California*, 342 U.S. 165 (1952)). By doing so, the Court can address the inconsistency between the claimed necessity for judicial flexibility and the reality of its application, ensuring that the judicial process does not become a self-referential loop where discretion is both a shield and a sword, used arbitrarily to the detriment of justice, as warned against in *Klopfer v.*

North Carolina, 386 U.S. 213 (1967), where procedural efficiency cannot override constitutional rights.

REASONS FOR COURT GRANTING REVIEW

1. Court Must Review Gross Violations of Constitutional Rights:

The issues at hand collectively represent gross violations of constitutional rights, necessitating immediate U.S. Supreme Court review due to the following reasons:

The practices of judicial discretion, summary judgment, and mandatory court fees and associated costs directly threaten several core constitutional rights. Decisions influenced by personal bias rather than legal principles undermine due process (*Marbury v. Madison*, *Rochin v. California*), while the ability to undermine jury verdicts or restrict evidence presentation infringes on the right to a fair trial (*In re Murchison*). Judicial discretion can also chill free speech by imposing arbitrary restrictions (*Chambers v. NASCO, Inc.*), and when exercised without clearly defined and measurable limits, it leads to judicial overreach, contravening established legal principles (*Walker v. City of Birmingham*, *Goldberg v. Kelly*). Additionally, the imposition of fees for essential court services like transcripts or expert testimony creates economic barriers to justice, violating due process, equal protection, and the right to a jury trial (*Griffin v. Illinois*, *Boddie v. Connecticut*, *Harper v. Virginia State Board of Elections*), effectively making justice accessible only to those with financial means.

Furthermore, the combination of judicial discretion and judicial immunity (*Pierson v. Ray*) fosters a lack of accountability, allowing judges to act without oversight, which erodes the principles of transparency and fairness essential to democratic governance. The application of summary judgment without proper regard for litigants' rights to present evidence bypasses the jury's role, thus potentially violating the Seventh Amendment's jury trial guarantee and due process rights (*Celotex Corp. v. Catrett*, *Goldberg v. Kelly*, *Mathews v. Eldridge*). These issues collectively demand U.S. Supreme Court review to reaffirm constitutional protections, set uniform standards to guide and restrict judicial discretion, and restore public faith in the judiciary. The U.S. Supreme Court's inaction would perpetuate these violations, setting a precedent that could further weaken the constitutional framework, making it imperative for the Court to act now to protect the integrity of our justice system and the fundamental rights it is sworn to uphold.

The constitutional correction needed does not involve imposing additional regulations on judicial discretion, which would burden litigants, the public and the courts and further complicate an already intricate labyrinth legal system. Instead, the aim should be to strip courts of the ability to act on their whims rather than on legal grounds. This approach would reinforce the judiciary's role as interpreters of the law, not creators or manipulators of the law, aligning judicial actions more closely with constitutional intent. The U.S. Supreme Court's review is essential to resolve these conflicts, providing clarity and guidance to lower courts, thus preventing the judiciary as a whole from operating outside the clear boundaries of

law and constitutional protections. Additionally, this would involve stripping courts of the ability to order summary judgment and its ability to impose any procedural barriers on litigants by requiring payment or excessive cost paid to either the court or related third parties, ensuring that justice remains accessible to all, not just those with financial means.

2. Miscarriage of Justice and Erosion of Public Trust:

(a) **Upholding the Rule of Law and Jury Trial Integrity:** The use of judicial discretion, summary judgment, and the imposition of court fees and burdensome costs to litigants can produce outcomes that are not only unjust but also threaten the rule of law and the sanctity of free and fair jury trials. Judicial discretion, when not bound by clear legal standards, allows for decisions that might bypass jury determination, undermining the constitutional right to a trial by peers. Summary judgment, by allowing judges to dismiss litigant's claims without a jury's input, further erodes this right, potentially deciding cases on the basis of judicial bias rather than merits. Additionally, court fees create an economic barrier to legal recourse, making the judicial process a privilege rather than a right, which can lead to settlements or dismissals based on financial constraints rather than legal justice. This case exemplifies a miscarriage of justice, necessitating Supreme Court review to reinforce constitutional protections and restore public trust in judicial fairness.

(b) **Addressing Barriers to Justice:** The combination of judicial discretion, summary judgment, and court fees presents an obvious barrier to justice,

cultivating a public perception of a "pay-to-play" system. Judicial discretion can be used to favor one party or to impose conditions that require litigants to pay for services like transcripts or expert witnesses, which are often prerequisites for moving forward through summary judgment or other procedural motions. This practice discriminates against those unable to afford these costs, directly challenging the principles of equal protection and due process. The Supreme Court must review these practices to dismantle financial barriers to justice, ensuring that the legal system is accessible to all, thereby reestablishing trust in the judiciary.

(c) **Preserving the Appearance of Justice:** Summary judgment, when exercised through judicial discretion with and without proper checks, can effectively strip litigants of their right to a trial, and when combined with court fees, it further biases the system against those without financial means. If the public were aware that a judge can summarily dismiss claims based on discretion, with no meaningful remedies available, and that access to the legal process might require payment for court services, it would fundamentally question the appearance of justice in all cases. This scenario would imply that justice might not be served if cases are not allowed to proceed to a jury due to judicial whim or judicially constructed financial barriers. The Supreme Court's role is crucial in establishing trust in the judiciary by ensuring that judicial discretion, summary judgment, and court fees do not compromise the integrity or accessibility of the legal system. Without this trust, the judiciary's role in society becomes meaningless or harmful.

3. Systemic Integrity

(a) **Lack of Clear Standards:** The absence of clear measurable standards for judicial discretion, summary judgment, and the application of court fees leads to decisions that disconnect from democratic oversight, disproportionately affecting pro se litigants, and undermining the rule of law (*Marbury v. Madison*, *Goldberg v. Kelly*, *Mathews v. Eldridge*). Judicial discretion without objective guidelines allows for arbitrary rulings that might bypass the need for a full trial through summary judgment, while court fees can act as a barrier to even initiating or continuing legal proceedings. This lack of uniformity can result in a legal system where justice appears arbitrary, based more on judicial whim than on established law, challenging the constitutional guarantees of fairness and equal protection.

(b) **Over-Deference to Trial Courts:** Over-deference to trial courts in the context of judicial discretion, summary judgment, and court fees discourages appeals, limits access to justice, and fosters perceptions of judicial unaccountability (*Mapp v. Ohio*, *Caperton v. Massey*). This deference can protect trial courts from scrutiny when they make summary judgments or impose fees that effectively decide cases or limit access with the appearance of due process but without actual due process. By not challenging these decisions, the system introduces systemic bias, making justice less accessible, particularly for those who represent themselves and cannot afford the fees and unnecessary costs associated with appealing or navigating through summary judgment motions.

(c) **Lack of Uniformity and Predictability:** The Supreme Court's review is crucial for addressing the inconsistencies introduced by judicial discretion, summary

judgment, and the variability in how court fees are applied across jurisdictions. Without objective standards, judicial discretion can result in decisions that vary widely, undermining the predictability and uniformity necessary for due process and equal protection. Summary judgments can be used to bypass jury trials, leading to outcomes determined by judges rather than juries, potentially influenced by personal views rather than legal merit. Court fees further complicate this picture by making justice a commodity, accessible only to those who can afford the costs imposed to continue through unnecessary procedural steps. Moreover, this lack of consistency can lead to conflicts between state and federal law application, challenging the Supremacy Clause and the uniform enforcement of constitutional rights. The Supreme Court's intervention is essential to clarify standards, ensure federally protected constitutional rights are uniformly protected, and maintain the integrity of our legal system against the backdrop of judicial whim and judicially imposed financial barriers to justice.

4. Court's Role in Modern Context:

- (a) **Adapting to Technological Advancements:** With the rise of technological advancements, the court must adapt its practices related to judicial discretion, summary judgment, and court fees to ensure they do not unduly burden pro se litigants, thereby setting new precedents for inclusivity and fairness. This case serves as an ideal vehicle to address modern developments like internet access and online filing, where digital copies of case (public court) records should be freely available. The advent of dictation services for creating transcripts at a drastically

lower cost and Artificially Intelligent computer systems capable of drafting quality legal documents means traditional barriers, including the need for professional legal assistance, are diminishing. The court's procedures, including those involving judicial discretion and summary judgment, are on the cusp of transformation, and this case exemplifies how a young petitioner, without formal legal education, navigated the justice system using technology but faced resistance primarily due to her not conforming to traditional legal practices.

(b) **Impact on Pro Se Litigants:** The evolution of readily accessible technology, particularly in this case where this 20-year-old petitioner managed to engage with the legal system without legal background or education, highlights the potential for judicial discretion, summary judgment, and court fees to unfairly disadvantage those outside the legal profession's "bar club." The use of technology allows individuals to assert their rights in ways that do not align with customary judicial practices, yet the system often penalizes deviation from law practice norms through its discretion and imposition of procedural requirements. This case underscores the need for the judiciary to prepare for a future where the average American person utilizes the justice system without reliance on time-consuming, costly traditional law practices that can now be easily mitigated by modern technology. Moreover, the court's traditional reliance on its "expertise" as a justification for authority will be increasingly challenged, as litigants now have instant access to information that can fact-check judicial claims, diminishing the court's ability to claim superior knowledge or uncommon skill.

(c) **Preparation for Future Legal Practices:** The court must recognize that this case is one of the first instances known to the petitioner where technology has empowered an individuals to challenge the judiciary's standard legal practices, which can involve judicial discretion, summary judgment, and costly court fees as tools to maintain the perception of judicial authority. As new generations of Americans become more, adept with technology, increasing usage of these tools to access legal formalities without traditional intermediaries, the judiciary needs to adapt as well. This involves reevaluating how judicial discretion is applied, ensuring summary judgments do not bypass the rights of tech-savvy litigants, and reconsidering court fees in light of new digital solutions that can reduce costs for the public when accessing the public court systems. By addressing these issues now, the U.S. Supreme Court can ensure that justice remains accessible, fair, and in line with contemporary technological capabilities, preventing the legal system from becoming obsolete or exclusive to those who can navigate or afford its conventional pathways. The courts will no longer be in a position to assert they "know better" when their decisions can be scrutinized and challenged in real-time by litigants equipped with advancing information technology, necessitating a relinquishment of control over the legal process to accommodate a more informed and empowered public.

This case's outcome questions the delivery of justice, highlighting the need for Supreme Court intervention to rectify systemic judicial abuses and maintain constitutional integrity.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

January 6th, 2025 by:



Celeste Ryan, Plaintiff/Petitioner