

No. **24-6439** **ORIGINAL**

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IN THE  
SUPREME COURT OF THE UNITED STATES

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AAA and IAA (Minors) by their Next Friend  
and Parent, Amir Abdul-Alim and Hafsa Elarfaoui,  
and on their own behalf,

Petitioner (s),

vs.

Clark County School District, *et al.*,

Respondent (s),

State of Nevada, Department of Education, *et. al.*,

Respondent (s).



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*On Petition for a WRIT of Certiorari to the  
United States Court of Appeals  
for the Ninth Circuit*

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**PETITION FOR WRIT OF CERTIORARI**

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## QUESTION(S) PRESENTED

Brought before the Court is the issues of whether the United States District Court, District of Nevada (hereinafter USDC) by way of the United States Court of Appeals for the Ninth Circuit Courts' (hereinafter "Ninth Circuit or USCA") ruling, unlawfully denied Petitioner Parties of his/their equal access to Justice, for which the USDC argues that "in the Ninth Circuit, "a parent or guardian cannot bring an action on behalf of a minor child without retaining a lawyer"? Whereas the Ninth Circuit misinterpreted rules of law and it causes errs of law in the Courts' own judgment concerning 28 U.S. Code § 1654 , which the Ninth Circuit contradicts the United States Supreme Court Opinions & Dissents 111 U.S. 701, 708 (1884), and including the Constitution of the State of Nevada by denying Petitioners who previously invoked the Fifth Amendment right , Rule 17 (c), his/their common law rights, and his/their equal access rights to Federal Courts' proceedings, under what circumstances does the Court "excludes" Petitioner (Parents) from receiving the Courts' appointment of legal counsel for Petitioners' children who are without legal representation for their defense when Petitioners are involuntarily involved in/with Federal Court cases?

The choice to appear pro se' in federal court was not a true choice for minors and nor their Parents. In fact, the USCA knew and understood that litigants in federal court have the right to function as his or her own counsel and that the

Judiciary Act 28 U.S.C. § 1654 says nothing about children<sup>1</sup> (emphasis added). The Petitioners had no control over his/case being moved federal court, which is no fault of the Petitioners. Whereas the joint removals gave the opposing Respondents Parties an unfair advantage over the minor litigants in this case due to the fact that Parents do not have the right to act on their minors' behalf in Federal Courts.

Whereas the Court imposed the “Mandatory Legal Counsel Mandate”, ignores its implications for protected Parental authority. The sole policy at stake concerns the Petitioners. In brief, “Mandatory Legal Counsel Mandate”, violates children’s rights under multiple provisions of the Constitution and federal statutes, due to its’ exclusion of needy children from federal courts, and that it discourages parents from filing meritorious claims on behalf of their minors. (See *Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 882 (3d Cir. 1991); see *Cheung v. Youth Orchestra Found of Buffalo, Inc.*, 906 F.2d 59, 61 (2d Cir. 1990).

The court Ordered/imposed “Mandatory Legal Counsel Mandate” directive restricted pro se’ by an impossible paradox that adds financial burdens to the unrepresented parties with a case of this magnitude, and the adverse outcomes have/has caused a depletion in Petitioners’ family’s resources. Due to pro se’ Petitioner Abdul-Alim being the sole provider for his family of 4 (four) household income. And, regardless of the financial burden that is being imposed on the Petitioner Parties by the Courts, Petitioners have made reasonable “Good Faith”

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<sup>1</sup> See, e.g., *Plyler v. Doe*, 457 U.S. 202, 223 (1982) (striking down a ban on free public education for undocumented students and noting that the law “impose[d] a lifetime hardship on a discrete class of children not accountable for their disabling status”)

efforts to obtain legal counsel for their minors to advance his/her claims by contacting the Nevada State bar for referrals, and by diligently researching other Courts' cases. In addition to the above, Petitioners have made extensions requests with the Courts' to comply with its' imposed mandatory Order(s).

For over the course of 6 (six) consecutive years, Petitioners sought after legal counsel for his/representation, and to no avail was Petitioners' able obtain legal counsel. For which is/was no fault of the Petitioners own. In fact, Petitioner have exhausted his/her local referral remedies offered by the Nevada State bar. But Petitioners have yet been able to meet the demands of the restrictive Order, due to the contacted attorney's declining their representation help. Each contacted attorney gave the same consistent excuses (i.e., "We do not sue Clark County School District or the basic decline or no response, and or that he/she do not have the legal capacity to take on the case due to its' magnitude), and the attorney's would refer Petitioners back to the Nevada State Bar.

Also, after receiving notice from the Nevada bar association that no other attorneys were available, Petitioners' presented proof by way of material evidence for his/their failed reasonable attempts to obtain counsel before the Court. Moreover, Petitioners sought the Court's relief by requesting the Courts' appointment of legal counsel for the Petitioner in order that he/they could comply with the Courts' controlling restrictive mandatory mandate. The Ninth Circuit Court responded by Denying Petitioners' MOTION for Courts' appointment of counsel. Although, it knew and understood that the USDC's previously denied

Petitioners' MOTION for its' Courts' appointment of counsel, which lead to the DISMISSAL of the minors' representative claims.

Meanwhile, the opposing Respondent Parties holds offices, public schools, and contracts in the same district that Petitioners' claims arose. Whereas Nevada's Attorney General (c/o Respondent Parties the State of Nevada Department of Education bears the responsibility for enforcing Titles II and V of the ADA, 42 U.S.C. §§ 12131 *et seq.*, and 42 U.S.C § 12203, respectively; Title VI, 42 U.S.C. §§ 2000d *et seq.*; the EEOA, 20 U.S.C. §§ 1701 *et seq.*; and the relevant implementing regulations. For which, the opposing Respondent Parties receives Federal financial help as a public entity as defined in Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131(1) have committed "Fraud on the Court"<sup>2</sup> with multiple cases, which they are not being held accountable for its'/his/her egregious misconduct. Respondents' behavior does cause Petitioners harm and relevant concerns.

Further, any issues or appearances with any attorney's or Judge in the State of Nevada or any other state being unwilling to protect the rights of its' (citizens) by adding in holding public education entities accountable for its' misuse and/or abuse of the federal funds that it receives for students evaluations or assessments, and for implementing programs that can benefit children with or without disabilities to

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<sup>2</sup> According to the "Intimidatory or retaliatory acts provisions of the Title VI -- 34 CFR 100.7(e): [No recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of the Act because complaints have made against its recipients. Further, 42 U.S. Code § 1011, states that [any person who conspires knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining any right to its benefits commits fraud. And according to title 18, [any person who conspires to commit any offense described under 42 U.S. Code § 1011 is subject to imprisonment.

ensure students' of an Free and Appropriate Public Education (hereinafter FAPE) are inexcusable public matter, and causes extreme concerns for citizens. Therefore, it is imperative that consideration is given to the harm that "Mandatory Legal Counsel Mandate" causes to the rights of minor children and their families after Civil State cases are moved to Federal Courts with the existing process, as follows...

1. Whether the unrestricted misused/abused practice of "joint removals", which are disguised under jurisdictional Federal Questions are used are implied in Constitutional laws or is its usage inconsistent with the fundamental guarantees of court access that protects parent decision-making rights, including democratic norms of fairness and equality?
2. Whether the unrestricted misused/abused practice of "joint removals", that are disguised under/as jurisdictional Federal Questions denies the constitutional rights of Parents by leaving their minors children vulnerable, and without any legal remedies due to there being an absence of a necessary mandatory obligation to appoint legal counsel to minors children appearing before Federal Courts? And;
3. Whether the Courts imposed "Mandatory Legal Counsel Mandate", is being used by Federal Court Judges in efforts ignores its obligation to impartial by protecting Parental authority when applying his/her discretion especially in situations that gives opposing Respondents Parties an unfair advantage before Federal court, as a matter of courtroom procedure? And;
4. Whether the sole policy at stake with the Courts' imposed "Mandatory Legal Counsel Mandate" violates children's rights under multiple provisions of the Constitution and federal statutes, due to its' exclusion of children who need legal counsel, and are being denied court appointed legal representation before the federal courts?
5. Whether opposing Respondent Parties Nevada's Attorney General (c/o Respondent Parties the State of Nevada Department of Education should be held accountable for its'/his/her egregious misconduct that arose while holding government offices, while being responsible for overseeing public schools, and due to holding contracts the obligates its' responsibility to comply with regulations for Titles II and V of the ADA, 42 U.S.C. §§ 12131 *et seq.*, and 42

U.S.C § 12203, respectively; Title VI, 42 U.S.C. §§ 2000d *et seq.*; the EEOA, 20 U.S.C. §§ 1701 *et seq.*; and other relevant implemented regulations? And;

6. Did the 9th Circuit Court err in its' reading of 28 U.S.C. § 1654, to advertently/inadvertently imposes the "Mandatory Legal Counsel Mandate" in *Johns v. Cnty. of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997), as a drastic remedy its' procedural defect with the that gives government entities involved in civil cases an unfair advantage over pro se' Parties in civil lawsuits? And;
7. Whether the 9th Circuit Court erred by continuing a fundamental error that appears in the records for another case No. 22-16935 judgment proceedings, which might have been prevented the dismissal of the representative claims of minor Petitioners in the foregoing appeal 24-5845, had the Court written "A writ of *coram nobis*" Order to correct errs of law in the Courts own judgment, which deprived Petitioners' (minors) of their right to counsel? And;
8. Whether the "Mandatory Legal Counsel Mandate" that is imposed/enforced by the 9th Circuit Court errs by inviting arbitrary abuse of government powers with cases civil cases by allowing "joint removals" that causes "defects in the integrity" of Federal case proceedings? And;
9. Whether the 9th Circuit Court erred by dismissing children's claims due to flawed procedural effects of the deficient Rule 17 (c); that does not mention lawyers and does not account for the constitutional concerns of involuntarily moved state cases? And;
10. Whether the inadequate "Mandatory Legal Counsel Mandate" imposed by the 9<sup>th</sup> Circuit Court prohibited Pro se' Parents from advancing their children's claims while there are genuine issues existing, as described in Petitioners' "Complaint" re [ECF: No. 1-1] to deny minors access to justice as a legal matter by depriving minors of their fundamental right of access to the Courts? And;
11. Whether the Court erred by deliberately or unconsciously allowing arbitrary abuse of government powers that prevented pro se' from advancing minors claims while there are genuine issues existing, as described in Petitioners' "Complaint" re [ECF: No. 1-1]? And;
12. Whether the PETITION FOR REMOVAL from Eighth Judicial District Court (hereinafter "EJDC"), Case Number A-23-878601-C re [ECF: No. 1] including the ORDER denying Petitioners' Motion to Remand re [ECF: No. 36] re [ECF: No. 9] invited arbitrary abuse and unredressed violations of Petitioners' rights or interests discussed herein? And,

13. Whether the Courts erred by not applying the Nevada Rules of Civil Procedures (hereinafter “NRCP”) Rule 60 (b)(6) for the Respondent Parties “fraud on the court” (that advertently/inadvertently allows the Respondent Parties to avoid accountability for wrongfully, knowingly, oppressively, and intentionally producing fraudulent or misrepresented disclosures, including misrepresented administrative records and/or protective records filed under seal)?

### LIST OF PARTIES

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

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:

### RELATED CASES

The opinion of the court of appeals on the “Mandatory Legal Counsel Mandate” is reported in *Johns v. Cnty. of San Diego*, 114 F.3d 874, 877 (9th Cir. 1997); *accord AAA by Abdul-Alim v. Clark Cnty. Sch. Dist.*, No. 22-16935, 2024 WL 3292728, at \*2 (9th Cir. July 3, 2024). See also *Grizzell v. San Elijo Elementary Sch.*, 110 F.4th 1177, 1180-81 (9th Cir. 2024) (quoting *Miller v. Gammie*, 335 F.3d 889, 893 (9th Cir. 2003)).

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<sup>3\*</sup> It is alleged that Honorable Judge Andrew P. Gordon has replaced Chief U.S. District Judge Miranda M. Du, as Chief Judge, and that the Honorable Judge Gordon assumed office on October 1, 2024.

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IN THE  
SUPREME COURT OF THE UNITED STATES

**I. PETITION FOR WRIT OF CERTIORARI**

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

**II. OPINIONS BELOW**

**[X] For cases from federal courts:**

The opinion of the United States court of appeals appears at Appendix to the petition and is

[X] reported at; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the United States district court appears at Appendix to the petition and is

[X] reported at; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

**[ ] For cases from state courts:**

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

[ ] reported at; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

The opinion of the court appears at Appendix to the petition and is

[ ] reported at; or,  
[ ] has been designated for publication but is not yet reported; or,  
[ ] is unpublished.

### III. JURISDICTION

[ X] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 15, 2024.<sup>1</sup>

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 15, 2024, and a copy of the order denying rehearing appears at Appendix A.

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

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

[ ] A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

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

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

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<sup>1</sup> For filed ORDER re DktEntry: 24.1. Further the Circuit Judges stipulated that the USCA judgment entered on November 15, 2024, will take effect on the prior date of October 24, 2024 (emphasis added).

#### IV. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The relevant rules of Nevada's District Courts were first approved on the 1st Wednesday of September 1864, The Constitution of the State of Nevada was approved by the vote of the people of the Territory of Nevada. Rules established by the Nevada Constitution, Article 1, Section 24, states, "Equality of rights under the law shall not be denied or abridged by this State or any of its political subdivisions on account of race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry or national origin". [Added in 2022. Proposed and passed by the 2019 Legislature; agreed to and passed by the 2021 Legislature; and approved and ratified by the voters at the 2022 General Election. See: Statutes of Nevada 2019, p. 4637; Statutes of Nevada 2021, p. 3993.] And are reproduced in the appendix to this petition.<sup>2</sup>

The Fourteenth Amendment Section 1 says as follows...

[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. (*U.S. Constitution. Amend. XIV, Sec. 1 (1787)*)).

Further, the enactment or judicial decision of the "Mandatory Legal Counsel Mandate" deprives the Petitioners of due process of law and equal protection of laws as guaranteed by the Fourteenth Amendment Section 1, of the United States

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<sup>2</sup> <https://www.leg.state.nv.us/const/nvconst.html#Art1>, (APPENDIX H)

Constitution, and by parallel the provisions of Nevada's Constitution, Article 1, Declaration of Rights Section 24.

In the intervening time, the Supreme Court precedent dictates that "Parents are presumably acting in our children's best interests, and that the government must generally respect Parents choices, even when Parents decisions are imperfect" (See 530 U.S. at 72., Id. at 69). Also, (See *Troxel v. Granville*, 530 U.S. 57, 66 (2000) (noting the Court's recognition of parental rights to make certain decisions); *Santosky v. Kramer*, 455 U.S. 745, 753, (1982); *Quilloin v Walcott*, 434 U.S. 246, 255 (1978).

## **V. STATEMENT OF THE CASE**

### **A. Introduction**

Procedural violations adversely affected the outcome of these proceedings, whereas Petitioners (Parents) have a fundamental liberty interest in his/their minor children (Petitioner's AAA and IAA) receiving an appropriate education, which includes the management of his/her children's education, and including the minors' care, custody, and safety<sup>3</sup>. (See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 571-578 (1992)). Whereas Petitioners rights are infringed upon, and I/We seek to vindicate them. However, the "Mandatory Legal Counsel Mandate" thwarts Petitioners' efforts. In spite of the "Ninth Circuit aptly describing the mandated rule as a rigid matter of policy, given the absence of "clearly irreconcilable"

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<sup>3</sup> *Moore v. City of E. Cleveland*, 431 U.S. 494, 499 (1977) (plurality opinion) (noting that a host of Supreme Court cases "have consistently acknowledged a 'private realm of family life which the state cannot enter'" (quoting *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944))).

intervening precedent of a higher authority". (See *Grizzell v. San Elijo Elementary Sch.*, 110 F.4th 1177, 1180-81 (9th Cir. 2024)).

As it comes to this Court, the case presents two exceptionally important questions concerning fundamental errors with the inadequate "Mandatory Legal Counsel Mandate" that appears in the records for another case judgment proceedings (No. 22-16935, that's unpublished and written by Circuit Judges Diarmuid F, O' Scannlain, Ferdinand F. Fernandez, and Barry Silverman), which has negatively impacted the outcome of Petitioners' case, and it is the direct and proximate cause for the dismissal of Petitioner minors AAA and IAA's representative claims with case 2:23-cv- 001677-MMD-NJK, in the foregoing appeal 24-5845 for this herein case. The existing mandate deprives Petitioners of their right to equally access the court.

Further, the dismissal of Petitioner minors AAA and IAA's representative claims has inadvertently or intentionally restricted/denied Petitioner (Parents) of opportunities to defend Petitioners' claims for redressing his/her grievances, which has inadvertently or intentionally concealed the arbitrary exercise of government power. Furthermore, the text of Federal Rule of Civil Procedure (hereinafter "FRCP") Rule 17(c)(1)(A)(2) provides that "a general guardian may sue or defend on behalf of a minor. Also, a minor person who does not have a duly appointed representative may sue by a next friend or by a guardian ad litem". Although, FRCP

17(c) governs the treatment of minors in federal courts, such as the incompetent Petitioners (minors AAA and IAA) who lack legal capacity.<sup>4</sup>

In fact, these proceedings were marked with irregularities from the outset, after the following.... (1) When EJDC Judge Crystal Eller statistically closed the state case 1 (one) day after it was questionably jointly removed by the Respondents CCSD, under 28 U.S.C. §§1367, 1441 (c) and; (2) when Clark County School District and Clark County School District Board of Trustees, by and through its' legal counsel, attorney Sami Randolph, Esq, Assistant General Counsel (collectively "CCSD Respondents") made omission with its' allegations of the USDC having jurisdiction over the claims asserted in the operative complaint re [ECF: No. 1-1] that arose under state law because the federal questions predominate this action over the claims asserted ...re [ECF: No. 1] and; (3) when USDC Judge Miranda M. Du contrary to statute refused to consult with the Federal Public Defender to ensure that qualified counsel was appointed for Petitioner minors after Petitioner (Parents) Petitioner sought relief from Magistrate Nancy J. Koppe's ORDER denying legal counsel appointment for Petitioner minors re [ECF: No. 76] re [ECF: No. 74] re [ECF: No. 73] and; (4) The Appellate court failed to respond to Petitioners' Motion for Appoint of Counsel<sup>5</sup> filed on September 30, 2024, in the foregoing appeal 24-5845 re (USCA DkEntry: 4.1), which also contributes to denying Petitioners' equal

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<sup>4</sup> Federal Rules of Civil Procure 17(c). Interestingly, the Supreme Court has never interpreted or applied Rule 17(c). *Gaddis v. United States*, 381 F.3d 444, 452 (5th Cir. 2004).

<sup>5</sup> Also, the Appellate court failed to respond to Petitioners' Motion for Appoint of Counsel before serving its' Unpublished USCA Memorandum Disposition in the AAA by *Abdul-Alim v. Clark Cnty. Sch. Dist. et al.*, No. 22-16935.

access to the Courts. Although. Due process and equal protection rights constrain federal government action under the Fifth Amendment. (See *Buckley v. Valeo*, 424 U.S. 1, 93–94 (1976) (per curiam); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954)).

**Furthermore, it is relevant to mention, that there are serious issues with the filing of Petitioners' submissions with both the USDC and USCA's, which have chronically misrepresented titles of Petitioners' document or resulted to multiple filing of the same record because of the courts independently delayed recording into record Petitioners' filing submissions or the courts independent inadvertently/advertently omitting Petitioners' filing submission form its' courts' records, which causes and warrants that Petitioners identifies the specific location and titles of records therein both courts (USDC and USCA) records that are discussed herein.** Despite this and other errors, the USDC recognized Petitioner's minors AAA and IAA's role as a Party in this case.

And, for several months Magistrate Koppe took no substantive action regarding The State of Nevada, Department of Education by and through counsel, Aaron D. Ford Esq., Attorney General of the State of Nevada, and David M. Gardner Esq., Senior Deputy Attorney General (collectively “NDE Respondents”) failure to make an appearance and nor for Respondent's NDE's unresponsiveness in this case, until Petitioners petitioned for Respondent NDE's appearance, as to Order re [ECF: No. 49] re [ECF: No. 43]. After that inexplicable delay, she abruptly denied Petitioner's motion to extend discovery times without discovery or a

hearing, in an order that Respondents' NDE's misrepresented and insufficient Administrative records, which were filed under seal might directly undermined the factual basis for Petitioners' claims. The Court of Appeals for the Ninth Circuit then refused to write a final appealable order regarding the minors' claims over which the Ninth Circuit has jurisdiction, Dismissing appellate review of both the merits of Petitioner's claims and the USDC's denial of facts pertaining to Magistrate Koppe's extreme bias or prejudice towards the Petitioner Parties. Notwithstanding the pending grievance in the foregoing appeal 24-5845, the USDC Order re [ECF: No. 111] re [ECF: No. 83] stipulated mandate does force Petitioners to Amend his/their Complaint re [ECF: No. 1-1] by January 30, 2025. The new Order specifically stated, "Failure to file an amended complaint by that new deadline will result in dismissal of this action". (See **APPENDIX G**), which the Complaint will be Dismissed with prejudice (emphasis added) (See **APPENDIX E**). Whereas in the related case previously pending before the USCA Memorandum Disposition that is written by: Judges Diarmuid F. O' Scannlain, Ferdinand F. Fernandez, and Barry Siverman of the Ninth Circuit Dismissed the Petitioners' case without prejudice (emphasis added) for Case No. 22- 16935 dated July 3, 2024 (**APPENDIX C**).

**B. Prior Proceedings leading up to the questions raised herein.**

This petition arises from Petitioners efforts to preserve his/their fundamental rights under the Fourteenth Amendment to oversee the care, custody, and control of his/their minor children during the biased courts proceedings.

By way of background: This case originates from disputes that resulted from the Respondent Parties' failure to abide by policies, practices, federal laws, and local

laws (Nevada Administrative Code (hereinafter “NAC”), NAC 388.171, NAC 388.890 (a)(b), Nevada Revised Statues (hereinafter “NRS”) Chapter 388, NRS 385.080 and NRS 388.419, including all educational civil rights and constitutional laws at their disposal for providing protection to Petitioners (AAA, IAA, and Parents).

Petitioners were advertently/inadvertently denied of our rights to due process and equal protection under the Fourteenth Amendment under 42 U.S.C.A. § 1983, which 34 CFR § 300.516 - Civil action, which gave Petitioners the right to bring a civil action under § 300.507 or §§ 300.530 through 300.532 due to me/us being aggrieved by the findings and decisions made by the Respondents CCSD and NDE under § 300.514(b), including the Respondents’ discriminatory actions resulting from its’ harassment, discriminatory, and retaliatory unethical business practices<sup>6</sup> that’s relating to Federal student aid programs and special education programing.

Petitioners’ Complaint challenges the opposing Respondent Parties educational methods and deceptive divisive educational practices that includes its’ failure to implement AAA’s Individual Educational Program (hereinafter “IEP”), including accommodations, modifications, and supports with fidelity, as required by 34 CFR 300.323. Whereas the Respondents paused on AAA’s IEP services and related services and falsified her and her brothers’ educational records. Further, the Respondents’ denied IAA of an evaluation (34 C.F.R. §§ 300.304 to 300.311, inclusive, and NAC 388.340, 388.420), Section 1414 of the Individuals with

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<sup>6</sup> The Respondents’ unsafe and disrespectful learning environments, its’ fraud, its’ waste, its’ abuse of federal funds, and including its’ criminal activity.

Disabilities Education Act (hereinafter “IDEA”), the “Child Find” mandate, and under 34 CFR 300.8 to determine his educational needs). (See 34 CFR 300.301(c)).

The Respondents owes a duty of care to the Petitioners, the Respondents breaches its’ duty of care by violating the Respondents’ mandatory obligations that are required by law, the Respondents’ breach of that duty of care Respondents’, and its/his/her actions of negligence is the proximate and direct cause of Petitioners’ harm. Therefore, the Respondents CCSD and NDE knew or should have known that its intentional, careless and/or reckless actions would result in claims regarding its liability relating to Petitioners’ Complaint re [ECF: No. 1-1] said claims for damages, falling under Nevada Revised Statues (hereinafter “NRS”) NRS Chapter 388, and the Respondents are liable for the “torts” negligence claims committed by its’ employees and its’/his/her acts of fraud violates Title II of the ADA and the anti-discrimination portion of § 504 of the Rehabilitation Act. Therefore, Petitioners filed a Civil Rights Complaint pursuant to 42 U.S.C. § 1983 and a Demand for a Trial Jury for the state claims that are independent of any Individuals with Disabilities Education Act (hereinafter “IDEA”) claims. Petitioners’ claims mostly arose from independent causes of action “operative facts” reserved by Petitioners’ guaranteed constitutional rights and legal rights under the laws of the State of Nevada, which are not waivered.

Whereas on September 28, 2023, Petitioners’ claims were initially brought before the EJDC of proper Venue under 28 U.S.C. § 1391(b) and (c) in that the claim arose in, that both the Respondent and Petitioner Parties reside in the District of

Clark County, Nevada with Case No.: A-23-878601-C, Dept. 19. Further, Petitioner asserts that this action was timely filed and that applicable statutes of limitation were tolled pursuant to NRS 41.130, et seq., and other authority, including without limitation NRS 41.141, and applicable common law.

Then, on October 2, 2023, Respondents CCSD were properly served with a Summons and Complaint, in accordance with Nevada Rule Civil Procedure (hereinafter “NRCP”) 4, (4.2 (d)(1)(A)(B)(3)(4) ([ECF: No. 10] pgs. 10,11, 15 and 16). Then on Octobers 3, 2023, reasonable attempts were made to serve NDE with the Summons and Complaint in accordance with NRCP 4 (m) through “Personal service” for case number 23LVTC038738, by a Constable E.P. Brown #15514 for the Las Vegas Township Constable. But Respondents NDE willfully and maliciously refused process service. Subsequently, on October 19, 2023, Respondent NDE accepted service for Petitioners’ procedurally and properly served Summons and Complaint, pursuant to NRCP 4,4.2 (d)(1)(A)(B)(3)(4), including 4(m) See complete process service details.

Further, on Monday, October 16, 2023, Respondents CCSD jointly removed the EJDC case to the USDC Case No.: 2:23-cv-01677-MMD-NJK. re [ECF: No. 1] The Respondents CCSD concealed information known to it regarding its’ “diversity of citizenship”, by failing to lay out facts regarding its’ trustees’ citizenship in its’ notice of removal. For which Respondents CCSD’s Board of School Trustees is a citizen of Nevada where its “nerve center” the CCSD is located, which makes the Respondents Board of School Trustees and Petitioners both citizens of Nevada.

Whereas the CCSD Respondent Parties actions were willful because it used the same malicious joint removal tactics with a related case previously pending before the Appeals Court (See the unpublished USCA Memorandum Disposition *AAA* by *Abdul-Alim v. Clark Cnty. Sch. Dist. et al.*, No. 22-16935), as to Notice of Appeal re [526] Order, as to [527] Judgement, (**APPENDIX C**). Whereas the correlation between the two cases raises suspicions for the questions at bar on the “Mandatory Legal Counsel Mandate” that led to Petitioners’ minors’ AAA and IAA claims being DISMISSED, as to Order re [ECF: No. 83] (**APPENDIX E**).

Although, Honorable Judge Du fully understood and interpreted Petitioners’ Complaint re [ECF: No. 1-1]. In fact, upon receipt of the case Judge Du (c/o USDC) knew and understood that Petitioners (Parents) were/are appearing “pro se” and that under 28 USC § 1654, Petitioners (minors) could not bring suit through their unrepresented Parents in the USDC (Federal Court), and at the time of her upholding the Joint Respondents CCSDs’ joint removal re [ECF: No. 1] by Order re [ECF: No. 36] re [ECF: No. 9] for an improper motive and by means that were pretextual, arbitrary and capricious, which ultimately denies Petitioners of his/their protected “Substantive Due Process” that’s protected by the Fifth and Fourteenth Amendment.

Further, USDC Magistrate Judge Nancy J. Koppe’s (c/o USDC) knew and understood Respondent NDE’s participation with this legal proceeding was/is improper or made in “Bad Faith”. Due to USDC Magistrate Koppe’s NDE omissions the Respondents’ misconduct increased after the Magistrate issues an Order, as to

[ECF: No. 49] re [ECF: No. 43] that Granted Petitioners' Motion for the Appearance of the Respondent NDE's Counsel and Denying without prejudice as moot re [ECF: No. 45] Motion to Extend/Shorten Time, for which a Discovery Plan/Scheduling Order was due by May 11, 2024. For which, Petitioners submitted a Proposal for the First Amended Discovery Plan and Scheduling Order, which requested Special Scheduling Review to clarify the discovery requirements of all Parties. However, Petitioners' "Good Faith" intentions were thwarted by Magistrate Koppe's Order re [ECF: No. 49] re [ECF: No. 43] and re [ECF: No. 45]. Concurrently, Magistrate Koppe Ordered a "Mandatory Legal Counsel Mandate", re [ECF: No. 72] re [ECF: No. 61] re [ECF: No. 48].

Furthermore, the USDC DENIED Petitioners' Relief/Review Motion for USDC's appointment of Counsel re [ECF: No. 75] re [ECF: No. 72]. For which, the MINUTE ORDER IN CHAMBERS of Judge Miranda M. Du regarding the First Motion for the Court's Appointment of Petitioners' Counsel was DENIED without an attachment Order, as to Order re [ECF: No. 76] re [ECF: No. 74] re [ECF: No. 73]. Although, the USDC has an established pro bono program that has grown, and helped indigent civil litigants prevail at trial. And has brought these litigants substantial damages awards to help compensate for violations of his/her constitutional right.

Additionally, Magistrate Koppe's "Report and Recommendation" re [ECF: No. 79] (APPENDIX D) is subjective and judiciously biased concerning the matters discussed herein. Further, her report ignores the Respondent Parties' egregious

misconduct. Furthermore, the Magistrate Koppe's (c/o USDC) knew and understood that on March 27, 2024, Gardner Esq. (c/o Respondents NDE) filed its' untimely MOTION to Dismiss re [ECF: No. 50] outside of the 60 (sixty days) timeline, after them being served with Petitioners' Summons and Complaint re [ECF: No. 1-1]. However, the Magistrate's "Report and Recommendation" omits that under NRCP Rule 12 (2)(3) that the Respondents' NDE's motion was untimely filed.

Further, Magistrate Koppe knew and understood that her obligation is to be impartial as a USDC's sworn in official. But her actions contradicts her oath. In fact, she stated, "She has no opinion", as to Order re [ECF: No. 67] concerning the issues relating to "fraud on the court" that arose under Rule 60 (b)(6). As a result, Petitioners are/were extremely concerned about Magistrate Koppe's fitness as follows...

Magistrate Koppe's failed to file a "Voluntary Disclosures for her involvement with the Ninth Circuit's Magistrate Judges Executive Committee meanwhile Petitioners' 9th Cir. Case No. 22-16935 was on appeal, pursuant to the Nevada Code of Judicial Conduct, Rule 2.11(C). Magistrate Koppe knew and understood that if she had served a voluntarily disclosure on the Petitioner Parties, that Petitioners' would have disagreed with her participating in courts' proceeding and under the grounds that she should be disqualified. Further, any reasonable person would harbor reasonable doubts about Magistrate Koppe's impartiality in a case where the Opposing Respondents are Parties are concern. As a result of Magistrate Koppe's failure to disclose, she has admitted her personal bias or being against the

Petitioner Parties in this matter, and that she has personal knowledge of facts that are in dispute in the USDC's proceedings. Whereas the court applies an objective reasonable person test in evaluating concerns with impartiality.<sup>7</sup> So, it is not unreasonable to assume that any reasonable person can perceive that there are extreme biases towards the Petitioner Parties. **Magistrate Koppe's relentless extreme prejudices, discriminatory, and unethical practices towards the Petitioners warranted/warrants her recuse under NRS 1.235.**

Therefore, Petitioners' Motioned for Magistrate Koppe's recuse by USDC's dockets re [ECF: No. 85] re [ECF: No. 82] re [ECF: No. 80]. Concurrently, Petitioner's disagreed/objection Magistrate Koppe's "Report and Recommendation" by filed Motion re [ECF: No. 81]. However, Judge Du overruled Petitioners' Objections, as to Order re [ECF: No. 83] (APPENDIX E).

As a result, on September 18, 2024, Petitioners' filed his/ her Petition for Permission to Appeal under the "De novo" Standard", pursuant to LR IB 1-3, rule 60, and FRAP 5". But the USDC intentionally misrepresented Petitioners' Petition for Permission to Appeal caption, as an "NOTICE OF APPEAL" for the USDC's filing caption re [ECF: No. 87]. In fact, the USDC clerk sent an email notice to the USCA alleging that Petitioners filed an "Notice of Appeal" without posting bond or any filling fees for the misrepresented filing, and record is without a PDF attachment filed with USCA (See USCA DtEntry:1). However, the USCA responds

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<sup>7</sup> See *PETA v. Bobby Berosini, Ltd.*, 111 Nev. 431, 438, 894 P.2d 337, 341 (1995) (stating the question is "whether a reasonable person, knowing all the facts, would harbor reasonable doubts about [the judge's] impartiality").

by assigning a case number and serving its' Docketing Notice and Time Schedule Order on all Parties in the above caption re **(DtEntry:2.1) (Attachment 2, Exhibit 7)**. Further, on September 18, 2024, Petitioners' "Filing Fee Remittance" was paid by money order to USDC in the full amount of \$605.00.

Furthermore, the USCA Circuit Judges, knew and understood that Petitioners were requesting the required final judgment for the dismissal without prejudice for minor Petitioners, AAA and IAA made by USDC Order re [ECF: No. 83] re [ECF: No. 81] re [ECF: No. 79]. Further, the USCA knew and understood that Petitioners were seeking resolution for the "Mandatory Legal Counsel Mandate", that infringed upon Petitioners' rights<sup>8</sup>, *inter alia*, Judicial biases, resolution for the Opposing Respondent Parties fraudulent misrepresentations under Rule 60 (b) and including the Respondents' insufficient responses to discovery.

But the Circuit Judges entered their DISMISSED Order, in the foregoing appeal 24-5845 initially on October 24, 2024, which says as follows...

[A review of the record demonstrates that this court lacks jurisdiction over this appeal because the orders challenged in the appeal are not final or appealable. See Fed. R. Civ. P. 54(b); *Chacon v. Babcock*, 640 F.2d 221, 222 (9th Cir. 1981) (order disposing of fewer than all claims against all parties not immediately appealable unless district court directs entry of judgment pursuant to Fed. R. Civ. P. 54(b)); *WMX Techs., Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997)(dismissal of complaint with leave to amend is not appealable); *United States v. Washington*, 573 F.2d 1121, 1122 (9th Cir. 1978) (order denying motion to disqualify judge is not final or appealable); *Branson v. City of Los Angeles*, 912 F.2d 334, 336 (9th Cir. 1990) (denial of

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<sup>8</sup> *Meyer v. Nebraska*, 262 U.S. 390, 401, 403 (1923) (noting that a state prohibition of the teaching of "modern" languages unconstitutionally infringed on parents' liberty interest in controlling "the education of their own").

reconsideration of non-appealable order is itself not appealable). Consequently, this appeal is dismissed for lack of jurisdiction. All pending motions are denied as moot, re [USCA DktEntry: 20.1] (APPENDIX B).

The Circuit Judges actions/inactions unreasonably does not abide by policies, practices, federal laws, Constitutional laws at their disposal that are within the Ninth Circuit's jurisdiction. Further, the Circuit Judges' decision conflicts with decisions of the United States Supreme Court or of the court for which the Supreme Court has repeatedly cautioned against the "profligate use of the term 'jurisdiction'<sup>9</sup>".

Further, §3732 identifies which judicial districts have jurisdiction and provides for supplemental federal jurisdiction over state claims. Id. §3732 (a)(b). Furthermore, according to §3730 (b) civil actions that involve false or misrepresented claims may be dismissed only if the court and the Attorney General gives written consent to the dismissal and their reasons for consenting. Further, the aforesaid does raise issues with the Attorney General's failure to voluntarily disclosure his involvement with this herein case before the 9<sup>th</sup> Circuit Court of Appeals. Furthermore, there are not any written consents to Petitioners knowledge, which does causes greater suspicion with the Circuit Judges Dismissed decision determined by an alleged jurisdictional issue made on October 24, 2024.

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<sup>9</sup> (See *Sebelius v. Auburn Reg'l Med. Ctr.*, 568 U.S. 145, 153 (2013) and *MOAC Mall Holdings LLC v. Transform Holdco LLC*, 598 U.S. 288, 298(2023) (quoting *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 435(2011)). The Court has instructed that a narrow rule governs: A statutory bar is jurisdictional "only if Congress 'clearly states' that it is". *Santos-Zacaria v. Garland*, 598 U.S. 411, 416 (2023) (quoting *Boechner, P.C. v. Comm'r*, 596 U.S. 199, 203 (2022)); see also *Auburn Reg'l Med. Ctr.*, 568 U.S. at 153 (that highlights that a "Clear Statement<sup>9</sup>" is needed from Congress).

Therefore, on November 5, 2024, Petitioners' Petition for Reconsideration EN BANC re [USCA DktEntry(s): 21.1-21.9]. Then on November 15, 2024, the United States Court of Appeals for the Ninth Circuit clerk Molly C. Dwyer filed a Judgment Mandate written by: W. Fletcher, Berzon, and Rawlinson, (Circuit Judges) DISMISSED Order re [USCA DktEntry: 24.1] re [USCA DktEntry: 20.1] entered on October 24, 2024, in the foregoing appeal 24-5845. The Order states as follows...

[The judgment of this Court, entered October 24, 2024, takes effect this date. This constitutes the formal mandate of this Court issued pursuant to Rule 41(a) of the Federal Rules of Appellate Procedure. (APPENDIX A).]

The Circuit Judges failure to apply correct misapplied laws impartially Denies Petitioners of his/their equal access to Court that I/we have a "legal right" to access by virtue of statute, the Constitution, or the common law rights.<sup>10</sup>

In fact, the USCA has yet to file an appealable Order regarding the minors' claims. Furthermore, the USCA has failed to enforce laws equally and impartially in the foregoing appeal 24-5845. For which, the imposed "Mandatory Legal Counsel Mandate" has adversely subjected Petitioners to the deprivation of my/our rights, privileges or immunities that are secured by the Constitution, and including local state laws, which does gives rise to the questions at bar (emphasis added).

### **C. Constitutional Law on Personal and Counsel Appearances**

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<sup>10</sup> *Laufer v. Acheson Hotels, LLC*, 50 F.4th 259, 269-72 (1st Cir. 2022), *Casillas v. Madison Ave. Assocs., Inc.*, 926 F.3d 329, 337 n.6 (7th Cir. 2019); *Carlson v. United States*, 837 F.3d 753, 758 (7th Cir. 2016).

Whereas the Circuit Judges neglectfully “decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court” which its’ actions/inactions does infringe on Petitioners’ liberty interests, and personal securities. See Rule 10 (c).

In omissions the Circuit Judges Willam A. Fletcher, Marsha S. Berzon who have stipulated a Judgment Mandate ORDER of the United States Court of Appeals for the Ninth Circuit (hereinafter “USCA”) causes irreparable to harm to Petitioners. Therefore, Petitioners respectively disagrees with the panels’ decision to Dismiss the foregoing appeal 24-5845 by a stipulated Judgment Mandate ORDER of the USCA re [USCA DktEntry: 24.1] re Order [USCA DktEntry: 20.1] entered on November 15, 2024, (APPENDIX A). For which, the Circuit Judges’ Mandate ORDER is insufficient of a final appealable order regarding Petitioner minors AAA and IAA’s claims over which the Ninth Circuit has jurisdiction, further fails to address the merits in the foregoing appeal 24-5845.

## **VI. REASONS FOR GRANTING THE PETITION**

The Petitioners have reviewed his/ their operative complaint [ECF: No. 1-1] and have construed the “Mandatory Legal Counsel Mandate” as a separate misused, abused or misapplied constitutional infirmity that denies Petitioners’ civil case the right of access to the Federal courts by the prevention of advance claims as litigant representatives where the interests of such representatives and parties are closely aligned with his/ their equal access required by Nevada Law and are guaranteed by his/their Constitutional rights. Parents have carried his/their

burden by showing that the failure to equally facilitated Petitioners' civil rights to access the Courts is contributed to the lack of procedures that might have ensured that the process remained fair. (See, *Brewster v. Bd. Of Educ. Of Lynnwood Unified Sch. Dist.*, 149 F.3d 971, 982 (9th Cir. 1998)).

Therefore, Petitioners seeks the Supreme Court's intervention on issues of importance beyond the particular facts and the parties involved with/for the USCA drastic questionable and drastic remedy used to "Dismiss" Petitioners' Appeal re 24-5845, for which USCA conceal its' avoidance with resolving the "Mandatory Legal Counsel Mandate"<sup>11</sup> that is used in/with Nevada's United State District, District of Nevada Courts (hereinafter "USDC") by alleging issues of "Jurisdiction" The USCA knew and understood the "Mandatory Legal Counsel Mandate" was being used in the USDC to deprive Petitioners of his/their rights, privileges, or immunities secured by the Constitution, and of local state laws, which caused and continues to cause Petitioners irreparable harm with USDC Order(s) re [ECF: No. 83] re [ECF: No. 81] and re [ECF: No. 79] (**APPENDIX D and E**). These Orders are maliciously intended to Dismiss Petitioners' Complaint USDC docket re [ECF: No. 1-1] with prejudice (emphasis added).

#### **A. Relevant Facts Regarding Fraud**

The Respondents Parties infringed on our students' right to equal access to their public-school education, and even if Respondents actions complied in full of

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<sup>11</sup> While the USDC unwaveringly denies Appellant minors AAA and IAA of its' courts' appointment of legal counsel.

the IDEA's requirements. The Respondents conspired to intentionally harass Petitioners, and they conspired to "cause a breach of its duty", whether it/he/she owed a primary duty, and/or as conspirators and/or in aiding and abetting others who owed a primary duty to the Petitioners. These Respondents Parties must be stopped of its' discriminatory, retaliatory, pretext, arbitrary, and capricious actions that caused that continues to cause its' negligence, which causes harm to the Petitioners.

In fact, the opposing Respondent Parties are pretending its'/their compliance for the Nevada's public schools' alleged safe and respectful learning environment. In fact, the Respondents' public school district is unsafe and unrespectful, particularly where Petitioner minors are concerned. Respondents' public school district has caused educational harm to both AAA and IAA and including physical harm and battery assault on AAA. Further, State of Nevada employees' and contracted Hearing Officer, and State Review Officers (c/o Respondent NDE) insufficient rulings/decisions have concealed material facts for Respondents' CCSD's manipulated school records that are filed into Court record by the Respondents CCSD for the undermining of this case. However, during discovery the Respondent Parties were informed by the Petitioners of the accuracy/inaccuracy of witnesses testimonies and records<sup>12</sup> during Petitioners' discovery exchanges. The Respondents knew and understood that the compromising misrepresentation for its' filed records contradicted the Respondents' alleged compliance. Therefore, Respondents' NDE

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<sup>12</sup> Documents: Reporter's Transcripts of Proceeding (obtained from exhausted administrative remedies), school records, discovery, and other material evidence filed in court records)

responded by filing its untimely motion to Dismiss. Subsequently, both Respondent's filed motions to stay, which Respondents' CCSD's motion was Granted, prior to USDC Magistrate Koppe filing her "Report and Recommendation" to dismiss Petitioners claims, and minor litigants.

Magistrate Koppe failed to compose a report or any recommendations for the Respondents' misconduct. Although, the USDC was alerted, as to facts of fraudulent records. For which, material evidence that is observed in Administrative Records, File #11, State Complaint #CL071723 re [ECF: No. 47] re [ECF: No. 37] and [ECF: No. 41] re [ECF: No. 37]; Administrative Records File #9, State Complaint #CL042523, HO-1 bates 001775-001784), which can prove that there are genuine issues for Petitioners' claims, and that the Respondents NDE and CCSD are the direct and proximate cause of Petitioners' harm that is caused by the Respondents' negligence "a mens rea of intentional discrimination" and deliberate indifference towards the Petitioners.

The Respondents' conduct is harsh, reprehensible due to the following... 1) the Respondents including their employees new or reasonably should have known that the conduct violated statutory law and ethics codes and; 2) Acted intentionally and knowingly in violation of statutory law and ethics codes and; 3) Were in a situation where statutory laws and ethics codes imposed a duty to act and the Respondents including their employees intentionally and knowingly failed to act in the manner required by Nevada's System of Public Instruction statutes NRS Chapter 388, statutory laws, constitutional laws, and Nevada ethics codes. And

based on relevant material evidence, including the unreliability of the manipulated records it is indisputable that AAA and IAA are denied of an FAPE.

Therefore, Petitioners respectfully, hereby MOVES the Court to initiate a formal investigation for the Respondent Parties' misconduct regarding matters discussed herein because Justice in the interest of the Petitioners, Nevada citizens, and the United States citizens requires it.

Further, the dismissal of minors AAA and IAA's claims precludes Petitioners (Parents) from bringing claims to remedy the present ongoing harms that are prejudicial and prevents Petitioners from seeking benefits that are only meaningful during minors AAA and IAA's childhood<sup>13</sup>. Furthermore, the prejudicially imposed "Mandatory Legal Counsel Mandate without the courts appointing representation of legal counsel for minors AAA and IAA's Denies Petitioners of any opportunity to defend Petitioners' claims to redress his/her grievances. Whereas Courts are known to frown upon status-based distinctions between children, particularly regarding circumstances beyond children's control.<sup>14</sup> "Court access guarantees are likewise central to due process, which legitimizes the vestment of dispute resolution powers

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<sup>13</sup> One court formulated this exception as a broader common law rule that "if a district court, after an 'appropriate inquiry [into] the particular circumstances of the matter at hand,' determines that the non-attorney parent has a 'significant stake in the outcome of the litigation,' a parent may bring an action in federal court on behalf of their child without an attorney." *Thomas ex rel N.T. v. Astrue*, 674 F. Supp. 2d 507, 511 (S.D.N.Y. 2009) (quoting *Machadio v. Apfel*, 276 F.3d 103, 107 (2d 2002)).

<sup>14</sup> See, e.g., *Plyler v. Doe*, 457 U.S. 202, 223 (1982) (striking down a ban on free public education for undocumented students and noting that the law "impose[d] a lifetime hardship on a discrete class of children not accountable for their disabling status").

in courts by guaranteeing that such processes will be just". (See *Boddie v. Connecticut*, 401 U.S. 371,374–76 (1971)).

[In *Smith v. Robinson*, 468 U.S. 992, 1013, 104 S.Ct. 3457, 82 L.Ed.2d 746 (1984), the Supreme Court held that the Education of the Handicapped Act ("EHA"), the predecessor to the IDEA, was the exclusive means of remedying violations of the rights it guaranteed. In response, Congress amended the statute to include what now is 20 U.S.C. § 1415(l); *Blanchard v. Morton School Dist.*, 509 F.3d 934 (9th Cir. 2007).

Petitioners' "Causes" are predicated on the fact that "Due Process of Law" as used in the Fourteenth Amendment is intended to secure the individuals, such as

the Petitioners herein from the arbitrary exercise of powers of government

unrestrained by established principles of private rights, and a distributive justice.

Whereas the "Mandatory Legal Counsel Mandate" imposed by the USDC

undermines and interferes with Petitioners (Minors and Parents) ability to access

the Court as a practical matter because it effectively excludes Petitioners from legal

relief by contravening the minors' fundamental constitutional rights to court access.

Also, the "Mandatory Legal Counsel Mandate" interferes with Parents' fundamental

constitutional rights and responsibilities towards his/our children. Thus, this

constitutionally questionable practice presents issues of importance beyond the

particular facts and the parties involved.

Further, the Fourteenth Amendment nor the Bill of Rights is solely for adults. In fact, the text of Rule 17(c)(1)(A)(2) provides that "a general guardian"

may sue or defend on behalf of a minor, and that the courts are responsible for

ensuring that safety and best interest are being represented in accordance with

Rule 17(c). Also, Rule 17(c) governs the appearance of minors who lack legal

capacity as litigants before the federal courts. The right of access to the courts encompasses “both equal protection and due process concerns”.<sup>15</sup> Due process and equal protection rights constrain federal government action under the Fifth Amendment. (See *Buckley v. Valeo*, 424 U.S. 1, 93–94 (1976) (per curiam); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954). Additionally, the Fifth Amendment guarantees Petitioners’ due process and equal protection, which is the right of access to the courts, and the right to petition the government for redress of grievances. Therefore, likewise the Courts bears the same responsibility of ensuring that safety and best interest of minors (AAA and IAA) are protected by extending them equal access to the Courts’ legal process due to him/her not being represented by an attorney.

The Courts have stressed at times the dignitary importance of procedural rights, the worth of being able to defend one’s interests, even if one cannot change the result (See *Carey v. Piphus*, 435 U.S. 247, 266–67 (1978). Further, Nevada provides a right to counsel for a child alleged to need services, throughout all stages of Courts proceedings. Nev. Stat. § 62D.030. Since NRS. 201.090(1). Therefore, the Supreme Court must maintain the integrity of its’ Courts’ judicial system by liberally exercising its’ authority to decide the extreme issues of importance presented herein that thwarts the Ninth Circuit’s Circuit Judges (c/o USCA) from

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<sup>15</sup> See *M.L.B. v. S.L.J.*, 519 U.S. 102, 120 (1996); accord *Griffin v. Illinois*, 351 U.S. 12, 17 (1956). Also, generally Goodpaster, *supra* note 27 (asserting that indigent people must be afforded free access to courts because of their equal protection and due process rights). Court access guarantees are central to equal protection, which was intended to ensure “that all persons . . . should have like access to the courts of the country for the protection of their persons and property, the prevention and redress of wrongs, and the enforcement of contracts”. Further, see *Barbier v. Connolly*, 113 U.S. 27, 31 (1885).

carrying out its' inherited responsibility of protecting minors' rights by focusing on minors' harm, interest, and Constitutional Rights to access to the courts.

Circuit Judges Fletcher, Berzon, and Rawlinson's failed to decide whether there is substantial evidence on record to support that Petitioners case has merit and/or whether there has been fraud committed on the Court by the Respondents CCSD and NDE have committed unconscionable schemes that are used to deceive or to make misrepresentations through the USDC's system while receiving federal funds. For all of which, the USCA has willfully ignored, the USCA's action/inactions gives the appearance of impropriety that unduly prejudices Petitioner Parties (Amir Abdul-Alim, Hafsa Elarfaoui, and minors AAA and IAA).

Petitioners' right to equal access to Court is an essential part of his/their fair and impartial system of justice. Petitioners substantive rights as litigant(s) can be protected only if procedures that protects rights to equal access to the Courts is observed and when procedures by which laws are applied are evenhanded. Due process requires that the procedures by which laws are applied must be impartial, that Petitioners are preserved by both the appearance and reality of fairness to present his/our case with assurance that the arbiter is not predisposed to find against me/us. More importantly, the Constitution grants every United States citizen the "Right to Freedom of Speech and Expression" and the "Right to a Fair Trial".

There is a fundamental right under the Fourteenth Amendment for a parent to oversee the care, custody, and control of a child. Further, each Petitioner has a

universal declaration of human rights, which includes Article 10 the “Right to Fair Public Hearing” and Article 12 the “Freedom from Interference with Privacy, Family, Home and Correspondence”. Furthermore, Article 7 allows Petitioners “Right to Equality before the Law”. Indisputably, the Constitution provides a right to counsel for Petitioners minors AAA and IAA. Furthermore, there are no allegations of “Facts Supported” by any admissible evidence that proves that the USCA has met its’ obligations to protect the rights of the Petitioners by upholding local laws, Federal Laws, and Constitutional Laws available at its’/his/her use. Rule 17(c) grants courts wide latitude to determine how a child’s interests are best served under the child’s particular circumstances<sup>16</sup>. Federal Courts are failing to meet their responsibilities under 17(c) through inactions that leaves children’s interests unprotected<sup>17</sup>. Furthermore, relief under the Civil Rights Act, 42 U.S.C. § 1983 may not be defeated because Petitioners first sought relief under state laws that provided administrative remedies (See *Monroe v. Pape*, 365 U.S. 167, 180-183). Therefore, it is an unreasonable for the Federal Courts to simply dismiss Petitioners minors’ claims in response to its’ own procedural deficiency, such as the lack of an adult representative especially when these courts have the responsibility to ensure that children’s interests are protected so that the litigation can proceed under Rule 17(c). The right of equal access to the civil courts is constitutionally cognizable. Thus, it is indisputable that Petitioners’ constitutional right of access to

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<sup>16</sup> See Federal Rule of Civil Procedure Rule 17(c).

<sup>17</sup> See *Gardner ex rel. Gardner v. Parson*, 874 F.2d 131, 139–40 (3d Cir. 1989).

the civil courts, which encompasses his/their state statutory rights are violated. For the foregoing reasons, the petition for a Writ of Certiorari should be granted.

## VII. CONCLUSION

Based upon the foregoing, and good cause appearing, Petitioners respectfully requests that this Court should grant a Writ of Certiorari to review the judgment of the Ninth Circuit's judgement refusing to grant a USCA on the issues that are raised, stay the proceedings in the lower Courts, summarily reverse the decision below, hold this case as it considers the scope and the soundness of the rigid "Mandatory Legal Counsel Mandate", as to 28 U.S.C. § 1654, or grant such other relief as justice requires.

DATED this 25 day of January 2025

Respectfully submitted by:

Amir A Abdal-ll  
Petitioner (In the Proper Person)

haf  
Petitioner (In the Proper Person)

I/we declare under the penalty of perjury that the foregoing is true and correct.

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