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SUPREME COURT OF OHIO

ORIGINAL

**In The
Supreme Court of the United States**

MERRILEE STEWART,
PETITIONER

V.

KIM J. BROWN, et al., RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE SIXTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

When there is clear and convincing evidence to substantiate the defiance of required elements of procedural due process, including the opportunity to be heard, induces further denial of individual property rights, and fails to protect housing rights of urban America (representing over 80% of our population) –

Should this Franklin County, Ohio, State Court Judge have the power to violate the Civil Rights of substantially all people with her failure to hold the hearing, ordered by the higher court, on petitioners Ohio Civil Rights complaint with the authorization of a Federal Right to Sue?

LIST OF PARTIES

The caption contains the names of all the parties to the proceedings.

RULE 29.6 STATEMENT

Petitioner is not a corporate entity.

LIST OF PROCEEDINGS

- United States Court of Appeals for the Sixth Circuit Filed April 24, 2024, Order. *Merrilee Stewart v. Kim J. Brown 23-3690* (Appendix A, pg. 1a)
- United States Court of Appeals for the Sixth Circuit Filed April 4, 2024, Judgement. *Merrilee Stewart v. Kim J. Brown 23-3690* (Appendix D, Pg.17a)
- United States Court of Appeals for the Sixth Circuit Filed April 4, 2024, Order. *Merrilee Stewart v. Kim J. Brown 23-3690* (Appendix C, Pg.16a)
- United States District Court for the Southern District of Ohio, August 8, 2023, Judgement. *Merrilee Stewart v. Kim J. Brown 2:22-CV-4478* (Appendix G, Pg.55a)
- United States District Court for the Southern District of Ohio, Entry August 8, 2023, Opinion and Order. *Merrilee Stewart v. Kim J. Brown 2:22-CV-4478* (Appendix H, Pg.56a)
- Tenth District Court of Appeals, January 23, 2020, Decision *RRL Holding Company of OH LLC, et al v. Merrilee Stewart, et al.* 19AP202 (Appendix J, Pg.86a)

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PETITION FOR A WRIT OF CERTIORARI

Now comes Petitioner Merrilee Stewart, Pro Se on behalf of Merrilee Stewart ("Ms. Stewart") with this Petition for Writ of Certiorari and forgoing precursory declaration.

This case is about Franklin County Ohio Common Pleas Court Judge Kim J Brown's ("Brown") unconstitutional withholding of judiciary access, failure to abide by higher Court orders, failure to follow or enforce Laws and the methodical scheme of hiding behind a stayed docket (for more than 8 years) to conspire, aid, abet, cover-up and divert examination of unclean hands.

OPINIONS

"The due process clause requires that every man shall have the protection of his day in court, and the benefit of the general law, a law which hears before it condemns, which proceeds not arbitrarily or capriciously, but upon inquiry, and renders judgment only after trial, so that every citizen shall hold his life, liberty, property, and immunities under the protection of the general rules which govern society. It, of course, tends to secure equality of law in the sense that it makes a required minimum of protection for every one's right of life, liberty, and property, which the Congress or the Legislature may not withhold. *Truax v. Corrigan* (1921)

JURISDICTION

This Court's jurisdiction is drawn from 28 U.S.C. § 1257(a).

CONSTITUTION AND LEGAL PRINCIPLES

"The Court has consistently held that some kind of hearing is required at some time before a person is finally deprived of his property interests." *Wolff v. McDonnell*, 418 U.S. 539, 557-58 (1974).

STATEMENT OF THE CASE

A. Precursory Declaration

Ms. Stewart presents this Petition for Writ of Certiorari with the focus on her Ohio Civil Rights Complaint which resulted in a Federal Right to Sue.

The Ohio Civil Rights complaint detailed and collaborated the ongoing practice of insurers forcing the suppliers (the producing insurance agent) to withhold access to auto and home insurance in urban communities throughout America.

Ms. Stewart is an Insurance Industry Whistle Blower dedicated to ending the discriminatory practices forced upon the suppliers by these insurers and improving the affordability and accessibility of Auto and Home Insurance for all people.

"When the existence of a distinct class is demonstrated, and the laws single out that class for different treatment not based on a reasonable classification, the guarantees of the Constitution have been violated. *S Hernandez v. Texas* (1954) Earl Warren

Brown failed to protect housing rights of urban Americans with her procedural defiance to have the ordered hearing on the Civil Rights complaint.

B. Historical

This complaint emanates from the Franklin County Ohio Common Pleas Court case *RRL Holding Company of Ohio LLC, et al, ("RRL/IHT") v. Merrilee Stewart, et al.*, Case 15CV1842, presiding Judge Kim J. Brown, the ("March 2015 case"). *Id.* ¶11

State Actor, Respondent Brown, acting under color of law, caused Ms. Stewart to be subjected to the deprivation of rights, privileges and immunities secured by the Constitution and laws under Title 42 U.S. Code § 1983. *Id.* ¶15

Brown stayed the March 2015 case on November 10, 2015 and refuses to lift the stay, so that all claims and defenses can be brought to conclusion [...] a denial of the due process rights under the constitution. *Id.* ¶15

RRL/IHT claimed Ms. Stewart violated the Agreed Entry when she filed her White-Collar Crime reports to: (1) the Ohio Civil Rights Commission ("civil rights commission"); (2) the Columbus Police Department ("police"); (3) Hartford Insurance ("Hartford"); and (4) Liberty Mutual Insurance ("Liberty") (collectively "insurance companies"). *Id.* ¶10

Brown concurred, levied sanctions and attorney fees against Ms. Stewart alleging violation of the agreed entry in reporting criminal activity...]. *Id.* ¶10

However, the Tenth District Court of Appeals 19AP202 determined Brown acted unreasonably, arbitrarily, or unconscionably, reversed, remanded, and ordered a hearing on the Crime Reports. *Id.* ¶24

See Tenth District Court of Appeals Decision of January 23, 2020, 19AP202, *RRL Holding Company of Ohio LLC, et al v. Merrilee Stewart, et al.*

Quoted, in Part:

"An abuse of discretion connotes more than an error of law or judgment; it implies the trial court's attitude is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983). Claims of error by the trial court must be based on the trial court's actions, rather than on the magistrate's findings. "Therefore, we may reverse the trial court's adoption of the magistrate's decision only if the trial court acted unreasonably, arbitrarily, or unconscionably." *Id.* ¶37

"On remand, the court shall hold a hearing" *Id.* ¶71 (EMPHASIS)

The March 2015 case docket was opened by the clerk however Brown refused to abide by the order of the higher court, refused to have the ordered hearing on the Crime Reports and closed the docket. *Id.* ¶25

C. This Case

The Causes of action, as to Brown, included in the complaint were: 1) Violation of 42 U.S. Code § 1983, 2) Civil Conspiracy, 3) Failure to follow and enforce state and federal law and 4) Tortious interference.

In Prayer for Relief, Ms. Stewart did not seek "to overturn [...] any of the interlocutory Judgements.

Ms. Stewart requested release of the November 10, 2015 stay and to allow the case to proceed to finality of all claims and defenses." (RE. 1 Pg.ID#13)

D: Dismissal at the pleading stage- reversible error

The reason used for affirming the case dismissal by the Sixth Circuit was *Younger* in their April 4, 2024 order. (Appendix D, pgs. 17-21a)

“Stewart's state proceedings were pending when she filed her federal complaint in December 2022, as her petition for certiorari in her state case was not resolved until May 19, 2023.” (Appendix 21a)

However, the application of *Younger*: should have resulted in a STAY, not a dismissal of the entire case at the pleading stage. (reversible error 2)

When a court applies the *Younger* abstention, the Sixth Circuit held that the court's discretion was limited to staying the claim, not dismissing the case. The district court was directed to STAY the proceedings. *Nimer v. Litchfield Township Board of Trustees*, 2013 627223 (6th Cir. 2/21/13).

I. PROCEDURAL DUE PROCESS

When there is clear and convincing evidence to substantiate the defiance of required elements of procedural due process, including the opportunity to be heard, induces further denial of individual property rights, and fails to protect housing rights of urban America (representing over 80% of our population) –

Should this Franklin County, Ohio, State Court Judge have the power to violate the Civil Rights of substantially all people with her failure to hold the hearing, ordered by the higher court, on petitioners Ohio Civil Rights complaint with the authorization of a Federal Right to Sue?

II. ELEMENTS OF PROCEDURAL DUE PROCESS

Procedural due process refers to the constitutional requirement that when the government acts in such a manner that denies a citizen of life, liberty, or property interest, the person must be given notice, the opportunity to be heard, and a decision by a neutral decision-maker. The government must also demonstrate that there is an articulated standard of conduct for their actions with sufficient justification. The requirements, called “fundamental fairness,” protect citizens from unjust or undue deprivation of interest. However, the specific procedures guaranteed by the U.S. Constitution may depend on the nature of the subject matter of the interest in question as well as each individual’s circumstances. In the article “Some Kind of Hearing,” the famous Judge Henry Friendly provides a list of due process elements for a fair hearing. Judge Friendly’s list remains highly persuasive to this day. The list goes as follows:

- i. A neutral and unbiased tribunal.
- ii. A notice of the government’s intended action and the asserted grounds for it.
- iii. The opportunity for the individual to present the reasons why the government should not move forward with the intended action.
- iv. The right for the individual to present evidence, including the right to call a witness.
- v. The right for the individual to see the opposing side’s evidence.
- vi. The right to cross-examination of the opposition’s witnesses.

- vii. A decision based exclusively on the evidence presented.
- viii. The opportunity to representation by counsel.
- ix. The requirement that the tribunal prepare a record of the evidence presented.
- x. Requirement that the tribunal prepare written findings of fact and reasons for its decision.⁽¹⁾

“The privileges and immunities of citizens of the United States are those that arise out of the nature and essential character of the national government, the provisions of the Constitution, or federal laws and treaties made in pursuance thereof. (The main holding of this case addressed the Privileges or Immunities Clause of the Fourteenth Amendment, rather than the Due Process Clause. However, it is significant for due process doctrine because it made the Due Process Clause the foundation for most Fourteenth Amendment claims involving fundamental rights. This function otherwise might have been served by the Privileges or Immunities Clause.)” *Slaughterhouse* 83 U.S. 36 (1872)⁽²⁾

⁽¹⁾ Legal Information Institute, Cornell Law School, [//www.law.cornell.edu/wex/procedural_due_process](http://www.law.cornell.edu/wex/procedural_due_process)

⁽²⁾ *Slaughterhouse Cases* (1873), Author: Samuel Freeman Miller, 83 U.S. 36 (1872)

III. DEFIANCE OF REQUIRED ELEMENTS OF PROCEDURAL DUE PROCESS

There is clear and convincing evidence to substantiate defiance of required elements of procedural due process. Documents show Brown usurped Ms. Stewart's right to 1) A Neutral and unbiased tribunal; 2) an opportunity to Move Forward, call a witness and present evidence; 3) have decisions made based on evidence presented; and 4) the opportunity to representation by counsel.

Example 1: Procedural Due Process *element defiance*
(i) **A neutral and unbiased tribunal.**

Brown's acts are not neutral and unbiased. The facts substantiate Brown's lack of neutrality and biasness. The forgoing paragraphs provide evidence.

1.A. CIVIL RIGHTS ENFORCEMENT STATUTE 42 U.S. Code § 1983

Brown's refusal to abide by her oath of office and uphold the Constitution of the United States guaranteed protection for All People to have equal access to the judiciary, her refusals to abide by the higher court orders and her refusal to abide by State or Federal Law, in the March 2015 case continues to deprive Ms. Stewart of rights and privileges in violation of 42 U.S. Code § 1983. *Id.* ¶46

Brown, acting under color of law, applied punishment, sanctions and attorney fees for the fulfillment of Ms. Stewart's duty under law and contract in reporting White Collar Crimes was unreasonable, arbitrary, unconscionable as well as unconstitutional. *Id.* ¶47

As the result of Brown's failure to act according to the higher court order(s) Ms. Stewart continues to suffer deprivation of her constitutional rights. *Id.* ¶48

1.B. CONSPIRACY

Brown, working in concert of effort with James Carnes esq of Shumaker, Loop & Kendrick ("Shumaker"), deprived Ms. Stewart of her constitutional due process rights.

See 18 U.S.C.A. § 241 (1964) reads: "If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same..."

Shumaker crafted a false affidavit, signed by RRL/IHT affiant Fritz Griffioen, was utilized to halt the police investigation and the insurance company investigations that were underway involving the "unknowns" (systemic embezzlement scheme of over \$17.7 Million).

The perjured affidavit, subordinated by Shumaker, stated "the unknowns were totally false".

Shumaker and Brown were made aware by way of Ms. Stewart's Certified Arbitration Award that the Fritz Griffioen affidavit was perjury.

See documented meeting minutes signed by Fritz Griffioen and cited in the Award. (R.0D941, R13).

Quoted from page 9, ¶ 4: "all members of IHTs Board were concerned about the unknown commission issue..."

Quoted from page 10 ¶ 1: "the meeting minutes for April 9, 2013 show a discussion of the unknown

commissions issue...]" "Additional discussion of the unknown commissions issue appeared in Board minutes from April 8, 2014 and August 26, 2014."

This claim of employee dishonesty continues today, involves more than \$17.7 million embezzlement, upon information and belief involves money laundering, was discovered, and reported by Ms. Stewart to Hartford and the Police in July 2016. This should be an open investigation.

See "The Hartford employee dishonesty claim." "It was submitted for the years 2009 to 2014." RE 66-1 pg. Id #1149 ¶¶ 9 & 16-17.

Ms. Stewart's testimony: "I discovered that Liz Ann Mayhill, going back to the beginning in 2005, had been systemically taking money out of accounts payable obligations [...] classifying production as unknowns. And I have discovered 8,911 of those."

"Because we were stealing from our agents. And so they negotiated for a long time prior to the agreed entry, and then Murphy – Christopher Murphy did submit a plan to fix -- to fix the unknowns. And so I thought everything was going to be fine. But then Fritz Griffioen fired Christopher Murphy and hired Shumaker..]" ⁽³⁾

See also Murphy's Plan to fix the Unknowns. Evidence: RE 69-7 Pg. Id #2021-2022

⁽³⁾ Testimony from *Merrilee Stewart v. Hartford Financial Services Group, Inc., et al*, 2:19-cv-00304, RE 66-1 Pg. Id #1150 ¶¶13-17, Pg. Id #1194 ¶¶10-17.

1.C. TORTIOUS INTERFERENCE

Ms. Stewart and other members similarly situated were party to a bilateral contract which granted specified performance requirements triggered by events e.g., the RRL Buy/Sell Agreement signed by all members in September 2012. *Id.* ¶70

Ms. Stewart's contract required a lump sum payment if there was a merger and RRL did not survive and Brown is tasked with the enforcement of the higher courts order of the certified award.

In August 2019 it was discovered that Firefly Agency had merged RRL out of existence and seized all of RRL's assets under the guise of a name change only; presented to the banks, insurance carriers, producers and used to change beneficiary on over 6 million in life insurance. *Id.* ¶35

This was followed by [.] Brown working with Shumaker to craft a new Buy/Sell Agreement with terms in favor new owners in Firefly and non-parties to the RRL Buy/Sell, in direct defiance of and conflict with the higher courts order (18AP118). *Id.* ¶36

Brown then held special proceedings where Shumaker provided perjured testimony stating the newly crafted Buy/Sell Firefly Agency documents were the same as the RRL Buy/Sell documents signed by all owners in September 2012. *Id.* ¶37

Brown then applied Sanctions and Attorney Fees for Ms. Stewart's refusal to participate in this fraud and refusal to sign the fraudulent documents. *Id.* ¶38

The defiance of Brown to allow Ms. Stewart the access to the judiciary for the judicial enforcement of her arbitration award is unjust.

1.D. DEFIANCE OF STATE LAW

On December 31, 2018, RRL merged out of existence and effectively dissolved when it merged into Firefly Agency LLC (“Firefly”). At no time prior to RRL merging out of existence into Firefly was Ms. Stewart or any of the known creditors provided with the statutory notice required pursuant to Ohio Revised Code § 1701.87(A). *Id.* ¶67

Brown “is tasked with enforcement of the laws of Ohio and Firefly Agency has violated Ohio law to the detriment of Ms. Stewart and thirty-four (34) Ohio businesses and individuals”. *Id.* ¶33

In addition, the requirement of Ohio Revised Code §3905.20 states “An insurance agent shall not act as an agent of an insurer unless the insurance agent is appointed as an agent of the insurer” *Id.* at § (B) and “By appointing an insurance agent, an insurer certifies to the superintendent that the person is competent, financially responsible, and suitable to represent the insurer.” *Id.* at § (2). *Id.* ¶68

The 2018 change of ownership, was presented to insurers as a name change only effectively bypassing the insurer’s certification process and keeping producers under their non-compete contract. *Id.* ¶69

The more than 8,000 documented unknown orphan transactions are in further violation of Ohio Revised Code §3905.20 by the Insurers and Firefly as the producing agents at Firefly have been writing insurance policies without having appointed authority with the insurers. EMPHASIS. *Id.* ¶70

Example 2: Procedural Due Process *element defiance*
(iii) The opportunity for the individual to present the reasons why the government should not (or should)

move forward with the intended action and (iv) The right for the individual to **present evidence**, including the right to **call a witness**.

2.A. PUBLIC INTEREST – FAIR HOUSING

HIGHEST NATIONAL PRIORITY

The Supreme Court has recognized that the Fair Housing Act “FHA” promotes a “policy that Congress considered to be of the highest [national] priority.” See *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 211 (1972).

“It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.” 42U.S.C. §3601(1994).

FAIR HOUSING BACKGROUND

The FHA (Title VIII of the Civil Rights Act of 1968), 42 U.S.C. §§ 3601-3619 (1976), enacted in 1968, the same year the Supreme Court held that the Civil Rights Act 42 U.S.C. §§ 1981-1982 (1976), banned private as well as public housing discrimination. *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968).

The Civil Rights Act guarantees all citizens, regardless of race or color, protection of their civil rights, such as the right to file suit, enforce contracts, buy, sell, and inherit real and personal property.

FAIR HOUSING AND INSURANCE REDLINING

In 1989, HUD took the position that the FHA makes illegal the act of “[r]efusing to provide . . . property or hazard insurance for dwellings or providing insurance services differently because of [protected status].” 24 C.F.R. § 100.70(d)(4) (2002).

“The FHA seeks to eliminate the practice of declining or charging higher insurance rates for people living in areas of large minority populations.” *NAACP v. American Family Mutual Insurance Co.*, 59 (978 F.2d 287 (7th Cir. 1992)) held that the FHA applies to insurance and McCarran did not pre-empt application of Fair Housing Act against redlining.

“The term originates from insurers’ practice of drawing “red lines” on maps and dividing neighborhoods (“white”) from other areas where coverage would not be available (minority).” See Daniel A. Searing, *Discrimination in Home Finance*, 48 NOTRE DAME LAW. 1113, 1113 (1973).

“Redlining has since evolved to encompass the refusal to underwrite a dwelling for reasons other than the quality of the dwelling or the qualifications of the individual applicant.” See, e.g., Badain, *supra* note 4, at 13-15 (interpreting redlining beyond geographical limitations, encompassing all institutional practices that have the effect of limiting the availability or affordability of housing insurance); Gilmore, *supra* note 4, at 566. ⁽⁴⁾

“[a]dequate insurance coverage is often a prerequisite to obtaining financing. Insurance redlining, by denying or impeding coverage makes mortgage money unavailable, rendering dwellings ‘unavailable’ as effectively as the denial of financial assistance on other grounds.” ⁽⁵⁾

⁽⁴⁾ LAW_LAWREV_STANTON_VOL31NO1 2/23/2004 12:33 PM by John F. Stanton*

⁽⁵⁾ Memorandum of The General Counsel of Housing and Urban Development to Chester C. McGuire, Assistant

Secretary for Equal Opportunity (Aug. 15, 1978), at 2; see also *Dunn v. Midwestern Indem. Mid-Am. Fire & Cas.*, 472 F. Supp. 1106, 1109 (S.D. Ohio 1979) (quoting same).

“Congress intended [the FHA] to reach a broad range of activities that have the effect of denying housing opportunities to a member of a protected class.” See *Nationwide Mut. Ins. Co. v. Cisneros*, 52 F.3d 1351, 1359 (6th Cir. 1995) (quoting *Mich. Prot. & Advocacy Serv., Inc. v. Babin*, 18 F.3d 337, 344 (6th Cir. 1994).

FAIR HOUSING- DISPARATE IMPACT

In 2015, the U.S. Supreme Court ruled 5-4 it was acceptable to use “disparate impact” in Fair Housing Act enforcement. The U.S. Supreme Court said people who file housing-discrimination suits don’t have to show they were victims of intentional bias, in a blow to insurers. The 5-4 ruling upholds a category of U.S. Fair Housing Act lawsuits that civil rights groups said are especially important. The court said plaintiffs can base their suits on statistical evidence that a disputed policy has a “disparate impact” on a minority group. The standard would apply to anyone or any company, whether sellers, landlords, mortgage lenders or property insurers. EMPHASIS

Meaning, if insurers treat different classes of people differently, whether intentional or not, discovery and ultimately damages can be demanded, using a legal standard called "disparate impact".

The term "disparate impact", refers to what happens when businesses give certain classes of people an advantage over other people, even if done unintentionally. It is also a term for a quantifiable standard of proof used in some legal cases in which

someone claims a business's practice have a discriminatory effect.

2.B. PUBLIC INTEREST, ANTI-TRUST AND THE SHERMAN ACT

Courts held that the concerted refusal of insurers to deal with individuals constituted a boycott prohibited under the Sherman Act. *St. Paul Fire & Marine Ins. Co. v. Barry*, 438 U.S. 531, 536 n.5 (1978). Moreover, The Supreme Court distinguished between the "business of insurance," which is exempt under the Act, and the "business of insurance companies," which lies within the scope of the federal antitrust laws.

2.C. THE SUPPLIERS INTEREST-

Ms. Stewart and other similarly situated suppliers (i.e., the insurance agents) provide Auto and Home Insurance products in the communities they serve.

Insurance is issued or serviced by a licensed agent under appointed authority with the insurer. Each Insurer who appoints an agency must have the producing agents appointed to quote, present or issue policies for their clients. Some agencies i.e., aggregators, have hundreds of producers.

Ms. Stewart refers to the producer as the supplier because they are face-to-face and deal one-on-one with the client. They are the ones will loss good will, reputation and commission revenue when forced to withhold products and unlawfully discriminate.

Therefore, when an insurer forces the supplier to discriminate against entire communities and withhold products, it is the supplier (the individual producing agent) who suffers and upon belief each

supplier has a private cause of action. *See* 42 U.S.C. § 3613 and 42 U.S.C. § 3602(d)(f)(i) & (1) definitions.

Ms. Stewart's Ohio Civil Rights complaint, Police Report and Ohio Department of Insurance Report documents and collaborates insurers forcing suppliers to discriminate. For example, no homeowner policy without a car, referred to as no mono-line home.

This practice discriminates disproportionately against protected classes. Homeowners Insurance is required for a mortgage- if buying and if renting. Therefore, this practice is saying you cannot buy or rent if e.g., you use public transportation, are elderly and do not drive, or handicap and cannot drive.

This practice by insurers fails to protect housing rights of urban America which representing over 80% of our population. EMPHASIS

2.D. FEDERAL RIGHT TO SUE

Ms. Stewart possesses a Federal Right to sue the opposing party in the March 2015 case from The Ohio Civil Rights Crime Report ..]. *Id.* ¶57

Brown has full knowledge of Ms. Stewart's Federal Right to Sue. *Id.* ¶63

Brown's refusal to allow the March 2015 case to proceed violates Ms. Stewart's Federal Right to Sue as is guaranteed to all other citizens. *Id.* ¶65

2.E. THE SUPREMACY CLAUSE

The Supreme Court found that federal law had supremacy, or authority, over state laws and that states could not interfere with federal powers. *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316 (1819)

An aggrieved person's private right of action granted by the Civil Rights act and The Fair Housing Act, and the pursuance thereof is upheld by the Supremacy Clause as to; "shall be supreme law of our land and judges shall be bound thereby".

Each judge of the United States takes the oath affirming to administer justice with: equal right to the poor and to the rich, and faithfully and impartially discharge all duties under the Constitution and laws of the United States. (28 U.S. Code § 453)

2.F. SOME KIND OF HEARING

In most cases, we examine the fundamental fairness of the government's actions to determine whether the government has met the requirements for due process. In civil contexts, the courts utilize a balancing test between private interests, the government's public interest, and the possibility of the government procedure's erroneous deprivation of private interest in evaluating government conduct. ⁽⁶⁾

⁽⁶⁾ Legal Information Institute, Cornell Law School, [//www.law.cornell.edu/wex/procedural_due_process](http://www.law.cornell.edu/wex/procedural_due_process)

Example 3: Procedural Due Process element defiance
(vii) A decision **based** exclusively **on** the **evidence** presented.

3.A. IGNORING OVER 300 PAGES OF EVIDENCE

The Appeals court confirmed that Brown failed to allow Ms. Stewart to present evidence and be heard in violation of the guaranteed right of procedural due process.

"The exhibits are voluminous, approximately 300 pages..]" Appendix J, pg125a, *Id.* ¶58

The higher court determined Brown acted unreasonably, arbitrarily, or unconscionably and reversed, remanded, and ordered "the court shall hold a hearing on the September 18, 2017 Notice and exhibits." i.e., The White-Collar Crime Reports.

Aiding in criminal cover up, Brown refuses.

See Decision: Appendix J, pgs. 86a-134a shown in part below:

RRL/IHT claimed Ms. Stewart "violated the Agreed Entry by claiming to be an owner and authorized agent of IHT and RRL to: (1) the Ohio Civil Rights Commission ("civil rights commission"); (2) the Columbus Police Department ("police"); (3) Hartford Insurance ("Hartford"); and (4) Liberty Mutual Insurance ("Liberty") (collectively "insurance companies")." (Appendix 92a-93a, *Id.* ¶10)

On September 18, 2017, for a show cause hearing, Ms. Stewart filed into the record supplemental information and exhibits including, among other items: (1) the original 32- page complaint she filed with the Ohio civil rights commission; (2) a summary narrative she submitted to police; (3) documentation showing advice of counsel to update her insurance claims; (4) e-mails from then-counsel indicating the injunction was no longer in effect; and (5) e-mails to insurance companies. "In her conclusion, [Ms. Stewart] moved the court "to consider this supplemental information." (Appendix 105a, *Id.* ¶23)

"We agree the trial court did not give appellant an opportunity to rebut its initial finding of violations of the Agreed Entry with regard to the civil rights

commission's claim and the police report and abused its discretion in not reconsidering its interlocutory finding of November 7, 2016 and May 17, 2017, and in entering the final decision of March 15, 2019 with regard to the insurance claims. This is evidenced in the court's implicit rejection, without any reference thereto of the September 18, 2017 Notice and exhibits thereto and appellant's objections to the magistrates' decisions. It is also evidenced by the court's express words in its decisions."

"the court never addressed or even mentioned the September 18, 2017 Notice and exhibits..]" Appendix 119a, *Id.* ¶46

"Construing the September 18, 2017 Notice as a motion for an opportunity to rebut or a motion to reconsider the court's initial finding of violations, the court erred in not even mentioning the [...] Notice." "Despite the court's prior rulings being interlocutory in nature, the court rejected [Ms. Stewart's] effort to convince the court to provide her an opportunity to rebut and to reconsider its initial finding..]" Appendix 122a, *Id.* ¶52

A court may reconsider and reverse an interlocutory decision at any time before the entry of final judgment, either sua sponte or upon motion. *Alternatives Unlimited-Special, Inc. v. Ohio Dept. of Edn.*, 10th Dist. No. 12AP-647, 2013-Ohio-3890. "[R]econsideration of interlocutory decisions is a matter within the judge's sound discretion." An appellate court will not disturb a trial court's denial of reconsideration absent an abuse of discretion.

The trial court erred in not giving Ms. Stewart an opportunity to rebut its initial finding of violations regarding the civil rights commission's claims, the

police report, and in not reconsidering its initial finding regarding the insurance claims. 122a, *Id.* ¶54

1. Civil rights commission claim

Some of Ms. Stewart's statements to the civil rights commission as shown in the exhibits:

- In "event date clarification," [Ms. Stewart] explained to the civil rights commission that she had also filed a report with HUD about [IHT] violations of fair housing laws. She indicated that her knowledge of this was "by virtue of holding a management position at IHT in the years 2007-2014."; and
- In "original Ohio Civil Rights complaint" and "narrative" thereto, [Ms. Stewart] stated: (a) events took place from "2007 through 2015, the most recent act in May 2015"; (b) she was one of four members in RRL; (c) that she can only provide financial info up to August 2014 because after that "she has been denied access to all data"; (d) the male members tried to remove her as a member on December 30, 2014; and (e) male members cut off health and vision insurance, stopped distributions, discriminated and retaliated against her. 125a, *Id.* ¶59

2. Police report

- "I see my authority to report this criminal activity from my position as an 'Insider - Whistle Blower' and also as a victim of the systematic embezzlement," and
- "I was active in the management of IHT Insurance Agency Group * * * during the years of 2007 to 2014." Pg.128a, *Id.* ¶63

[Ms. Stewart] also attached three "demand letters," which she stated reveal the specifics of what she told police. In the demand letters, [she] is

identified as having "succeeded to the rights of Norman L. Fountain, Norman L. Fountain Ins. & Assoc., LLC, and Speedy Auto Insurance Agency, LLC, including the trade names of York Insurance Agency and Client Choice Insurance (collectively, the 'Fountain Entities')." (Sept. 23, 2016 "Demand Letter.") The letter states it includes demand for commissions owed to her by IHT as well as amounts due and owing to Fountain Entities. Pg.128a, *Id.* ¶64

3. Insurance claims

When filing the insurance claim with Hartford [Ms. Stewart] clarified the uncertainty of her status as a member/owner. She [.] explained that at a meeting in September 2014, the partnership relationship was severed and that in October 2014, she was informed by Bill Griffioen there was no longer any future for her at the company. She stated that three members had made an attempt to oust her from the company. In her July 20, 2016 e-mail, she listed herself as an "Estranged member and owner IHT/RRL." In her July 28, 2016 e-mail, [Ms. Stewart] listed herself as an "Estranged member/owner." Furthermore, consistent with her testimony at the February 8, 2017 hearing as the person/entity who suffered loss due to the alleged embezzlement, appellant listed IHT/RRL, agents, employees, managers, independent producers, owners, taxing authorities, and customers. Pg.130a, *Id.* ¶68

Finally, we note [IHT/RRL] presented no evidence regarding who had authority pursuant to the contracts with Hartford and Liberty to file claims and who or what entity was the insured. Pg.130a, *Id.* ¶68

Exhibits filed [...] contain [...] e-mails between [Ms. Stewart] and Hartford in which [she] appears to be inquiring whether she is an insured member of the limited liability company. The Hartford representative, Julie Dengler, responds in an April 29, 2015 e-mail that "[m]embers of a limited liability company are insureds only with respect to the conduct of your business." In a February 20, 2017 e-mail from [Ms. Stewart] to Hartford, [she] states that she believes she is insured under the Hartford - IHT policy as her membership interest in RRL is unredeemed. She goes on to say "[m]y active involvement in the management of IHT Insurance Agency Group was 2007 to 2014." Pg.131a, *Id.* ¶69

Accordingly, we sustain appellant's first, third, and part (C) of the seventh assignments of error to the extent they allege the trial court erred in not holding a hearing.

On remand, the court shall hold a hearing on the September 18, 2017 Notice and exhibits.

On remand, the trial court shall vacate that finding and any award of sanctions or attorney fees pertaining thereto. Pg.132a, *Id.* ¶71

Example 4: Procedural Due Process *element defiance*
(viii)The opportunity to **representation** by counsel.

4.A. HARTFORD INSURANCE DENIES LEGAL REPRESENTATION TO MS. STEWART BASED ON A 9-YEAR-OLD (March 2, 2015) ALLEGATION MADE BY IHT THAT HAS YET TO BE LITIGATED BECAUSE OF BROWN'S STAY

All claims/defenses involving TRG, in the March 2, 2015 case, were stayed on November 10, 2015 (more than 8 years ago) and remain stayed today.

"Plaintiffs' claims against TRG, including TRG's defenses, are hereby STAYED pending the resolution of the arbitration process. IT IS SO ORDERED." (Browns Order: RE 68-5 Pg. Id #1698)

The White-Collar Crimes Ms. Stewart witnessed and reported to Hartford Financial Services Group and Hartford Insurance fulfilled the duty to report under the Agency Appointment Agreements and the insurance policies with both TRG and RRL/IHT. These agreements also have a Duty to Defend. EMPHASIS

Ms. Stewarts Testimony: "Well, we've got seven years, and I believe there's been eight final appealable orders that directly related to The Hartford. [...] not all of them, but the majority of them is me getting attacked for my duty to report, which was a duty under the agent appointment agreement as well as a duty under the policies.

"with The Hartford claim. I was -- I was charged, I was assigned sanctions and attorney fees, and was called a liar. And it all had to do with those claims. The Ohio Civil Rights, the employee dishonesty, and the Columbus police report that were all part of it. And Hartford did nothing. And each one of these final appealable orders [...] was like a case. I had to defend it all, 100 percent on my own, and it was reversed and remanded for a hearing that the judge refuses to abide by."⁽⁷⁾

⁽⁷⁾ Testimony from *Merrilee Stewart v. Hartford Financial Services Group, Inc., et al*, 2:19-cv-00304, (pg. 266 of 352) RE 66-1 pg. Id #1246 ¶¶ 14-20.

Hartford Insurance denied legal representation to Ms. Stewart on the IHT Insurance Policy using the false statement: "Merrilee Stewart was not acting in

within the conduct of the business of IHT but competing against it...].” RE 69-8 Pg. Id #2023.

The official claim denial restated this same false statement. “Merrilee Stewart does not qualify as an insured as she is being sued in her individual capacity and as owner of TRG United Insurance..]. The insuring agreement is not triggered. Merrilee Stewart, et al would qualify as an insured only with respect to the conduct of the business of IHT ..]. The lawsuit asserts that she was not acting within the scope of employment of IHT but was in competition with IHT and RRL and was terminated from employment on December 30, 2014.” RE 69-10 Pg. Id #2041

The fact is Ms. Stewart’s company, TRG, was not part of Arbitration.

Furthermore, the Arbitration Award determined Ms. Stewart’s, as an employee at IHT, internal written reports of on the job drinking, racial discrimination, and sexual harassment incidents involving Rod Mayhill, (IHT employee and RRL member) was the cause for removal.

Sarah Cole, esq, who wrote the award, called this Ms. Stewart’s written internal reporting as “false, damaging and defamatory” which she coined as “remarks about a member to the remaining members” and further wrote “these remarks alone justify involuntary removal”.

Sarah Cole then ordered RRL to buy Ms. Stewart shares for \$520,000.00 in 2018. However, instead of RRL buying Ms. Stewart’s shares, the controlling members seized all of assets and made RRL a dead entity in December 2018.

Therefore, Arbitration confirmed the IHT Insurance policy should have provided defense to Ms. Stewart and the TRG Insurance policy would need to provide defense when Brown lifts the stay.

Brown's error or omission of not abiding by her order serves as a blockade to any finality of claims or defenses for Ms. Stewart and her company TRG.

More importantly finality of claims determines Hartford's responsibility for coverage of legal defenses, would require discovery on the Civil Rights Complaint, Redlining and housing violations, and the unknowns which would likely warrant re-opening the Hartford employee dishonesty claim on the systemic embezzlement of more than \$17.7 Million by LizAnn Mayhill.

Leading to the possibility of restitution for Ms. Stewart and the many victims. EMPHASIS

Noteworthy, The Ohio Civil Rights Commission confirmed that Ms. Stewart's company, TRG United Insurance, did not compete with IHT.

See OCRC Letter of Determination April 7, 2016, "Merrilee Stewart versus IHT." In the "Findings of Fact" section on page 1 of this Ohio Civil Rights determination letter, in the first paragraph, it says (as read:) "The investigation and witness testimony also substantiate she started another business; however, it was not in direct competition with respondent." (RE. 66-2 Pg. Id #1351 ¶20)

REASONS FOR GRANTING THE WRIT

The clear and convincing evidence to substantiate the defiance of required elements of procedural due process, including the opportunity to be heard, continues to deny Ms. Stewart's rights, and fails to protect housing rights of our Urban Americans.

Urban Americans represent over 80% of our population. Therefore, this documented violation of Fair Housing Rights by insurers is discriminatory to the majority of people in our country.

The public interest in this case is significant and goes to the heart of why Ms. Stewart continues to pursue the necessary changes in her industry to improve on the affordability and accessibility Auto and Home insurance for all people.

Brown's closing of the docket, after it was opened by the court for the ordered hearing, was not a legal decision and Ms. Stewart does not seek to overturn any of Brown's interlocutory Judgements.

Ms. Stewart moves for consideration of procedural due process rights brought forward in the preceding paragraphs, including her right to 1) a neutral and unbiased tribunal; 2) an opportunity to move forward, call a witness and present evidence; 3) to have decisions made based on evidence presented; and 4) the opportunity to representation by counsel.

Ms. Stewart prays for an open docket, release of the November 10, 2015 stay, and the March 2, 2015 case to proceed to finality of all claims and defenses.

At the very least, Brown should uphold Ms. Stewart's Federal Right to Sue and proceed with her Ohio Civil Rights complaint. EMPHASIS

CONCLUSION

As a citizen of these United States of America and a resident of Ohio I pray this honorable court will reverse and remand, so the triable issues, belonging to a jury, can be brought to finality.

For the preceding reasons, Petitioner Merrilee Stewart prays the petition for a writ of certiorari will be granted.

Respectfully Submitted,

/s/ Merrilee Stewart

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