

No. 17-599

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

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LOUIS SAIA,

*Petitioner,*

v.

FLYING J, INC. d/b/a FJ MANAGEMENT, INC.,  
FLYING J INSURANCE SERVICES, INC., and/or its  
Successor, THE BUCKNER COMPANY,  
TRANSPORTATION ALLIANCE BANK, INC.,  
TRANSPORTATION ALLIANCE LEASING, LLC,  
TAB BANK, INC., TAB BANK, INC. d/b/a  
TRANSPORTATION ALLIANCE LEASING, LLC,  
JAGJIT "J.J." SINGH, STEPHEN PARKER,

*Respondents,*

and

JOHN DOES A, B, and C, AND JANE DOES A, B, and C,

*Respondents.*

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**On Petition For A Writ Of Certiorari  
To The United States Court Of Appeals  
For The Sixth Circuit**

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**PETITION FOR REHEARING**

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## **BACKGROUND**

Louis Saia III v. Flying J. Inc., dba FJ Management, Inc., et al., nature of suit: 4470 Racketeer Influenced, the cause of action is pursuant to Section 1964(c) of the RICO Act. Petitioner alleges that Respondents executed an elaborate RICO scheme that illegally and abruptly closed Petitioner's company, St. Michael Motor Express Inc., causing seventy families to lose their jobs overnight. Additionally, Respondents' fraudulent conduct directly caused petitioner and his mother's personal guarantees to default, resulting in more than \$3,000,000 of cash and judgment injuries. The judgment portion is still accruing at a 30% "default" interest rate every day.

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## **REASONS FOR GRANTING PETITION FOR REHEARING**

Petitioner respectfully requests that the Court grant this Petition for Rehearing for the following two reasons:

**Reason 1)** Petitioner's Fifth and Fourteenth Constitutional Amendment rights of due process were violated by the district court's egregious abuse of discretion pursuant to FRCP Rule 15. The district court granted Respondents' FRCP Rule 12(b)(6) motions to dismiss for "lack of standing", without ever granting Pro Se Petitioner leave to amend the original complaint, so as to satisfy the "standing" deficiency. In fact, Petitioner filed his motion for leave to amend well

before the court's scheduling order deadline to amend pleadings. Nevertheless, the Magistrate Judge did not rule on Petitioner's motion to amend for approximately five months and not until after the district court had granted Respondents' FRCP Rule 12(b)(6) motions to dismiss. Thereafter, Petitioner received over 100 pages of time and date recorded e-mails that proved Respondents' fraudulent conduct and substantiated Petitioner's complaint and RICO (18:1964) cause of action. In fact, the evidence proved that Petitioner was personally victimized by Respondents' fraud; which should have been sufficient to confer "standing" unto Petitioner. Petitioner incorporated the "new evidence" of fraud into his FRCP Rule 59(e) Motion for Reconsideration and New Trial requesting to amend the original complaint with the new evidence.

Once again, Petitioner's motion was denied. Demonstrably, the court "hogtied" Petitioner, never allowing him to amend the original complaint, even once as a matter of course or as justice so required. By law, Petitioner could have simply used a FRCP Rule 15(c) relations back amendment to add St. Michael Motor Express Inc. as an additional plaintiff, had the district court ever granted Petitioner leave to amend the complaint. The district court's decision not to grant leave to amend deprived Petitioner of his Constitutional right of due process. In summary, Petitioner was never allowed to present his case that would have included indisputable, documentary evidence of fraud. Instead, the critical evidence which would prove Petitioner was victimized by fraud was wrongfully suppressed despite

meeting all of the relevancy criteria set forth in Article IV of the Federal Rules of Evidence, (FRE Rule 401, 402, 403). The district court's erroneous, abuse of discretion denying Petitioner's every motion to amend pursuant to FRCP 15, circumvents Petitioner's Constitutional rights of due process.

**Reason 2)** New law adopted by the Tennessee Supreme Court also should have cured Petitioner's "lack of standing". After the district court entered judgment in Petitioner's case, but before Petitioner appealed to the United States Court of Appeals for the Sixth Circuit, the Tennessee Supreme Court adopted the Delaware Supreme Court's approach as articulated in *Tooley v. Donaldson, Lufkin and Jenrette, Inc.*, 845 A.2d 1031 (Del. 2004), for determining whether a shareholder's claim is direct or derivative, *Keller v. Estate of McRedmond*, 495 S.W.3d 852, 877 (Tenn. 2016). Under this approach a court determining the nature of a shareholder's claim should consider "solely the following questions: 1) who suffered the alleged harm (the corporation or the suing stockholder, individually); 2) who would receive the benefit of any recovery or other remedy, (the corporation or the stockholders, individually?)".

Ironically, Petitioner cited *Kepley v. Lang*, as well as *Tooley v. Donaldson, Lufkin and Jenrette, Inc.* in his FRCP 59(e) Motion for Reconsideration and New Trial. Petitioner's personal injuries perfectly and exactly match the requirements and criteria laid out in *Tooley* and adopted by the Tennessee Supreme Court. Petitioner personally suffered the harm and if this case

were allowed to move forward on the merits, Petitioner would receive the benefit of recovery. In this case, Respondents' fraudulent conduct directly caused petitioner and his mother's personal guarantees to default, resulting in more than \$3,000,000 of cash and judgment injuries. The United States Court of Appeals for the Sixth Circuit was in error not to remand the case back to the district court, to move forward on merits, based on the newly adopted approach for determining standing, as was held in *Keller v. Estate of McRedmond* by the Tennessee Supreme Court, in 2016.

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### CONCLUSION

Petitioner prays that this Highest Court will grant this Petition for Rehearing, as justice so requires.

Respectfully submitted,

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**CERTIFICATE OF GOOD FAITH**

Pursuant to Rule 44.2, I certify that the Petition is restricted to the grounds specified in the Rule with substantial grounds not previously presented. I certify that this Petition is presented in good faith and not for delay.

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LOUIS SAIA, III