

ORIGINAL

No.

IN THE SUPREME COURT OF THE UNITED STATES

Edgar J. Dietrich – PETITIONER

vs.

City of Grosse Pointe Park and Dale Krajniak, in his personal and in his official
capacity as City Manager – RESPONDENTS

ON PETITION FOR A WRIT OF CERTIORARI TO

Sixth Circuit Court of Appeals

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Did the United States Sixth Circuit Court of Appeals err in affirming the decision of the U.S. District Court for the Eastern District of Michigan, that the *Rooker-Feldman* doctrine deprives the U.S. District Court of jurisdiction over Appellant's constitutional and tort claims?

Suggested Answer: Yes

2. Did the United States Sixth Circuit Court of Appeals err in affirming the decision of the U.S. District Court for the Eastern District of Michigan, that Appellant failed to state a claim for relief because the allegations raised in the complaint were barred by a release Appellant executed in 2014, and that Appellant was not under duress when he executed the release?

Suggested Answer: Yes

3. Was Appellant denied his 5th Amendment constitutional rights, being deprived of property without due process of law, when Respondents granted federal bankruptcy trustee Basil T. Simon access to Le Chateau Art Gallery while, at the same time, denying Appellant access to the art gallery and to his office on repeated occasions?

Suggested Answer: Yes

4. Did the United States Sixth Circuit Court of Appeals err in affirming the decision of the U.S. District Court for the Eastern District of Michigan, summarily dismissing Appellant's complaint without discovery or a trial, and without any review of the well-pleaded allegations, thereby denying Appellant his constitutionally protected 5th Amendment due process rights to his day in court.

Suggested Answer: Yes

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:

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States Court of Appeals appears at Appendix A 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 United States District Court appears at Appendix B to the petition and is

☐ 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

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

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was

September 29, 2017 .

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals 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.

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.

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution, Fifth Amendment:

"No person shall be ... deprived of life, liberty, or property, without due process of law;"

28 U.S.C. § 1915:

" (a)(1) Subject to subsection (b), any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees or security therefor, by a person who submits an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that the person is entitled to redress.

(2) ...

(3) An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

...

(e)

(1)

The court may request an attorney to represent any person unable to afford counsel.

(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that -

(A)

the allegation of poverty is untrue; or

(B) the action or appeal -

(i) is frivolous or malicious;"

Rule 24. Proceeding In Forma Pauperis

(a) LEAVE TO PROCEED IN FORMA PAUPERIS.

(1) *Motion in the District Court.* Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

(2) *Action on the Motion.* If the district court grants the motion, the party may proceed on appeal without prepaying or giving security for fees and costs, unless a statute provides otherwise. If the district court denies the motion, it must state its reasons in writing.

(3) *Prior Approval.* A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

(4) *Notice of District Court's Denial.* The district clerk must immediately notify the parties and the court of appeals when the district court does any of the following:

(A) denies a motion to proceed on appeal in forma pauperis;

(B) certifies that the appeal is not taken in good faith; or

(C) finds that the party is not otherwise entitled to proceed in forma pauperis.

(5) *Motion in the Court of Appeals.* A party may file a motion to proceed on appeal in forma pauperis in the court of appeals within 30 days after service of the notice prescribed in Rule 24(a)(4). The motion must include a copy of the affidavit filed in the district court and the district court's statement of reasons for its action. If no affidavit was filed in the district court, the party must include the affidavit prescribed by Rule 24(a)(1).

STATEMENT OF THE CASE

1. Appellant Edgar J. Dietrich filed the suit below in the U.S. District Court for the Eastern District of Michigan on March 18, 2016, "Edgar J. Dietrich v. City of Grosse Pointe Park, and Dale Krajniak, in his personal and in his official capacity as City Manager," Case No. 16-11049.
2. Dietrich is a 92 year old honorably discharged veteran of WWII who volunteered for service, saw action and suffered an injury in the Pacific Theatre, for which he was awarded a 40% disability.
3. Dietrich was the director and operator of Le Chateau Art Gallery which operated out of a building at 15001 Charlevoix Street in the City of Grosse Pointe Park. This building was owned by the City of Grosse Pointe Park; LeChateau Art Gallery leased the property from the city pursuant to a lease entered into by Dietrich on behalf of the Dietrich Family Trust.
4. Dietrich also maintained a private office within the gallery building.
5. On August 21, 2013, Dietrich filed a Chapter 7 bankruptcy petition in the U.S. Bankruptcy Court (Case No. 13-57297). Dietrich's bankruptcy petition automatically placed a mandatory stay on any proceedings against him in any courts, under the provisions of Bankruptcy Code 11 U.S.C. 362.
6. This case revolves around the City of Grosse Pointe Park violating this valid automatic bankruptcy stay, despite numerous protestations by Dietrich to Dale Krajniak, the city manager, to be let into the premises.

7. From September 3, 2013 for a nine month period, Appellant and all other art gallery personnel were barred from the premises by the Respondents.

8. Further, from September of 2013 through December of 2013, Appellant was told by City of Grosse Pointe Park Police Chief David Hillar, who was acting under the direction and control of City Manager Dale Krajniak, that he is "not getting in" to his private office or the gallery premises.

9. As a result of the City barring Appellant and all gallery personnel permanently from the premises, the Le Chateau Art Gallery business, which had an estimated value of \$1,600,000, was totally destroyed as clients could not be contacted, bills could not be paid, and the day-to-day operations of the business were wiped out. Further, a very valuable gallery business that was the livelihood and source of income for six individuals was completely destroyed.

10. That Respondents, by not allowing Dietrich or any other gallery personnel into the subject premises for a nine-month period of time, violated Dietrich's constitutional due process and property rights, as well as his personal liberties, as guaranteed by the Fifth Amendment to the U.S. Constitution.

11. Further, Respondents breached their duty to protect the property located in the City of Grosse Pointe Park in the following manner: 1) allowing the gallery property (paintings, books, and other very valuable collectibles) to be stolen by an improperly appointed bankruptcy trustee, 2) refusing to take Plaintiff's complaint of the theft, while acknowledging at a meeting on January 15, 2014, their awareness that the property removed was not owned by Dietrich, rather by Le Chateau Art Gallery and third-party consignors, 3) advising Dietrich repeatedly, through Police Chief Hillar, that the illegally appointed receiver "Can do what he wants, he has the key," and 4) continuing to

enforce the "lock out." All of these actions were direct violations of Appellant's constitutional rights as outlined above.

12. Respondents' actions during the relevant nine month period were devastating and caused incredible damage to Dietrich (and third-party consignors to whom Dietrich was legally responsible) through his inability to contact business clients and gallery personnel, pay bills of the gallery, carry on gallery business, access business files and accounting records, **and preventing him from paying mandatory federal income taxes on both the Le Chateau Art Gallery business income and Dietrich's personal income.**

13. Respondents' conduct during this nine month period in barring Dietrich from using his personal office also violated Appellant's constitutional due process and property rights as well as his personal liberties, as guaranteed by the Fifth Amendment.

14. That Respondent, the City of Grosse Pointe Park, by and through Respondent City Manager Dale Krajniak, had informed Dietrich on at least 11 occasions, that the City did not want to be involved in the matter when, in all actuality, the City, through the City Manager, was complicit in the underlying theft.

15. Respondents further permitted bankruptcy trustee Basil T. Simon to remove all personal and LeChateau property, as well as third-party consigned properties that had been entrusted to Dietrich for which he was legally responsible by contract. The trustee and his auctioneer were notified several times in writing and by telephone that these properties were not owned by the gallery and could not be sold without the express permission of the owners.

16. All properties of Dietrich, LeChateau, and Consignees were sold at auction by R.J.M. Auctioneers for pennies on the dollar, and a majority of the proceeds were

swallowed by the bankruptcy trustee with virtually nothing going to the bankruptcy estate. Respondents violated Appellant's Fifth Amendment rights by barring him from the premises and permitting all properties to be illegally seized and sold at auction.

17. Dietrich filed suit in the U.S. District Court for the Eastern District of Michigan asserting claims for violation of his constitutional Fifth Amendment rights not to be deprived of property without due process of law, tortious interference with a business relationship, breach of contract, gross negligence, and conversion.

18. Respondents filed a motion to dismiss in the U.S. District Court for the Eastern District of Michigan, arguing that the district court lacked subject-matter jurisdiction under the *Rooker-Feldman* doctrine, which prevents federal district courts from providing appellate review of state court judgments. Respondents also argued that Appellant's claims were barred by a release that he had signed with the City of Grosse Pointe Park in August 2014. The District Court and Court of Appeals ruled in favor of Respondents on both of these issues, despite the fact that Appellant's complaint was well-pleaded and supported by facts which entitle him to relief.

19. Appellant asserts that the District Court and Court of Appeals made three errors of law: (1) Failing to exercise jurisdiction based on the *Rooker-Feldman* doctrine, despite the fact that this matter is clearly a Federal law matter and not a State law matter; (2) Incorrectly applying *Rooker-Feldman* to bar Appellant's purely Federal constitutional and tort claims, issues which are aside from, but collateral to, the bankruptcy issues; and (3) The District Court erred in awarding sanctions to Respondents against Appellant (ALTHOUGH RESPONDENTS HAVE SINCE OPTED NOT TO PURSUE SANCTIONS IN THIS MATTER –

ACCORDINGLY, THIS IS NO LONGER AN ISSUE).

20. Further, the District Court erroneously held that Appellant's claims were barred by the release he signed in 2014, and the Court of Appeals upheld this erroneous finding without looking at the facts or applicable law. Appellant argues that both the District Court and the Court of Appeals erred in determining that the release acted to bar all claims filed by Dietrich.

21. In fact, Appellant could not (and did not) release the City of Grosse Pointe Park from their multiple obligations to Le Chateau since, as director, he was an employee of the gallery. The only claims Appellant had authority to release were claims against him individually. The art gallery and its assets was owned by the Dietrich Family Trust, of which Eric Dietrich was the Trustee, and the sole individual with the requisite authority to release claims against the art gallery. Assets of the gallery belonged to Eric and Jason Dietrich, and not to Appellant, including a large number of shelves and furniture also owned by the Dietrich Family Trust only. In addition, valuable assets including original paintings and other art and collectibles were owned by third-party consignors on contract with the gallery, which were illegally seized and sold by bankruptcy trustee Simon for pennies on the dollar.

22. Further, Dietrich's well-pleaded Complaint pointed out that the subject release was executed under duress, wherein the City gave notice that on the next day, they were going to evict putting everything out into the street which would include records needed for taxes, and obligations to business associates and buyers. The release was sent over with no time for an attorney to review, thus forcing Appellant to sign it under duress in order to gain time to move his

personal records and and the business records of Le Chateau Art Gallery. Accordingly, Dietrich, under duress, signed the release with the only authority he had, which was to his personal records and office.

23. The eviction was incredibly illegal, improper, and unethical since the City was claiming rent for this period from (1) bankruptcy trustee Simon, (2) the Park Grille (an area restaurant), and (3) Le Chateau Art Gallery. Prior to the City's unilateral, illegal order of eviction, the City had sued the bankruptcy trustee for the many months they had custody of the gallery premises and Appellant's office. The bankruptcy trustee paid and settled with the City. Upon regaining occupancy of the premises, which was weeks after the Court had ordered Simon's attorney to turn the property back to the gallery, it was found the City had also leased a large portion of the premises to a restaurant which stored a large amount of food on the shelves built and owned by Le Chateau. They put in a commercial refrigerator and a very large commercial sink and water system, for which the restaurant paid rent, so that the City was "triple dipping".

24. The trial court erred in summarily dismissing Appellant's Complaint without discovery or a trial, and without any review of the well-pleaded allegations in Dietrich's Complaint, thereby denying Appellant his Fifth Amendment constitutionally protected due process rights to a full and fair hearing. The Court of Appeals erred in upholding that decision.

25. Appellant now looks to this Honorable Court for relief, and respectfully prays that the Supreme Court grant his Petition for Writ of Certiorari, REVERSE the decision of the U.S. Sixth Circuit Court of Appeals, and remand for a District Court decision on the merits of Appellant's Complaint.

REASONS FOR GRANTING THE PETITION

In order to invoke this Honorable Court's interest, a petitioner must demonstrate, with respect to the decision of the U.S. Court of Appeals, as follows:

"Review on a writ of certiorari is not a matter of right, but of judicial discretion. A petition for a writ of certiorari will be granted only for compelling reasons. The following, although neither controlling nor fully measuring the Court's discretion, indicate the character of the reasons the Court considers:

(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; **or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;**

(b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;

(c) a state court or a United States court of appeals has 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...."

Emphasis added.

Supreme Court Rule 10.

Petitioner's Argument

In this matter, **compelling reasons to hear this appeal do exist** and the decision below has offended the principles of Supreme Court Rule 10 at part 10(a), **in that the Sixth Circuit has “so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court’s supervisory power,” by failing to make any of its own determinations**, and has merely relied on (e.g. sanctioned) the District Court's departure from the Supreme Court’s directives and guidance in allowing Dietrich's District Court Complaint to be denied without any meaningful discovery or a hearing, thus denying Dietrich his 5th Amendment rights to a full fair opportunity to litigate his claims.

Further, the actions of the Sixth Circuit Court of Appeals and District Court continue an established practice of denying Dietrich any meaningful access to the Courts, by constantly and consistently dismissing Dietrich's pleadings – multiple pleadings attempting to rectify errors and illegality on the part of the trustee and associated parties to Dietrich’s bankruptcy have been dismissed out-of-hand, under Rule 12 motions from the putative Defendants. **PLAINLY, THE COURTS HAVE CLEARLY SIDED WITH THE TRUSTEE AND DID NOT GIVE ANY WEIGHT OR CREDENCE TO DIETRICH'S VALID CLAIMS.**

This should not be so.

I. The United States Sixth Circuit Court of Appeals erred in affirming the decision of the U.S. District Court for the Eastern District of Michigan, finding that the *Rooker-Feldman* doctrine deprives the U.S. District Court of jurisdiction over Appellant's constitutional and tort claims.

Plaintiff denies that the *Rooker-Feldman* doctrine applies inasmuch as Plaintiff isn't seeking a review of the State Court action. Plaintiff's Complaint does not in any way assert that the Circuit Court's Motion for the appointment of Receiver is the source of his claimed injuries. The Complaint states clearly that the city's illegal and improper activities in destroying Le Chateau Gallery's business was in violation of a mandatory stay on any proceeding against Dietrich under provision imposed under Bankruptcy Code 11 U.S.C. 362.

Further, the bankruptcy trustee, who was aided and abetted by the City, seized assets actually belonging to a non-related trust illegally and improperly, claiming they were assets of the Appellant while knowing full-well this was not so. The City aided and abetted the trustee by preventing Appellant and the gallery owners from entering the gallery and asserting ownership and dominion over their assets.

In *Abbott v Michigan*, 474 F.3d 324 (6th Cir. 2006), the Sixth Circuit Court of Appeals held that "The *Rooker-Feldman* doctrine prevents the lower federal courts from exercising jurisdiction over cases brought by 'state-court losers' challenging state-court judgments rendered before the district court proceedings commenced." The Court further held that the doctrine applies "only when a plaintiff complains of injury from the state court judgment itself."

Rooker-Feldman does not apply, because Plaintiff isn't seeking a review of a State Court action, rather he is only seeking it's proper interpretation to the degree it effects Federal pleadings and rights. On August 22, 2013, Anthony P. Patti, Peter Tiernan's attorney, was advised by the Wayne County Circuit Court that the Plaintiff's automatic bankruptcy stay pursuant to Title 11 U.S.C. 362 was in effect thus putting the case into Federal court, solely. Appellant's bankruptcy case impacting *Rooker-Feldman* is captioned "In re: Edgar J. Dietrich" and is filed under Chapter 7 of the U.S. Bankruptcy Code, assigned to Federal Bankruptcy Judge Marci B. McIvor, Case Number 13-57297-mbm. There is no question that this is clearly a federal case.

The August 23, 2013 illegal, improper, and unethical seizure of Appellant's and LeChateau's assets were carried out by Basil Simon acting not as receiver but as trustee of the previously filed Edgar J. Dietrich bankruptcy estate. As such, *Rooker-Feldman* cannot apply. The District Court failed to recognize that the claims in Appellant's Complaint are solidly Federal, and Constitutional in nature, and further included valid Federal tort claims.

This matter clearly involves a Federal Question – indeed the matter is already a Federal pleading. As to the analysis on whether or not a “claim” can be stated, the test whether the plaintiff has stated a claim for which relief can be granted, a court must ask if the plaintiff can prove **any set of facts in support of the claim that would entitle him or her to relief.** (*Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974); *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957)) Thus, this test also inquires into the legal sufficiency of the complaint; **the factual allegations are again accepted as true.** (See *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974); *Jenkins v. McKeithen*, 395 U.S. 411, 421-22 (1969); *Keniston v. Roberts*, 717 F.2d 1295, 1300 (9th Cir. 1983); *Watson v. Ault*, 525 F.2d 886, 891 (5th Cir. 1976)).

It is clear that the District Court and Court of Appeals made three errors of law: (1) Failing to exercise jurisdiction based on the *Rooker-Feldman* doctrine, despite the fact that this matter is clearly a Federal matter and **not** a State law matter; (2) Incorrectly applying *Rooker-Feldman* to bar Appellant's purely Federal constitutional and tort claims, issues which are aside from, but collateral to, the bankruptcy issues; and (3) The District Court erred in awarding sanctions to Respondents against Appellant (ALTHOUGH RESPONDENTS HAVE SINCE OPTED **NOT** TO PURSUE SANCTIONS IN THIS MATTER – ACCORDINGLY, THIS IS NOT LONGER AN ISSUE).

II. The United States Sixth Circuit Court of Appeals erred in affirming the decision of the U.S. District Court for the Eastern District of Michigan, in finding that Dietrich failed to state a claim for relief because the allegations raised in the complaint were barred by a release he executed in 2014, and that Dietrich was not under duress when he executed the release.

Appellant argues that both the District Court and the Court of Appeals erred in determining that the release acted to bar all claims filed by Dietrich. In fact, Dietrich could not (and did not) release the City of Grosse Pointe Park from their multiple obligations to Le Chateau inasmuch, as director, he was an employee of the gallery. The only claims Dietrich had authority to release were claims against him individually. The art gallery and its assets was owned by the Dietrich Family Trust, of which Eric Dietrich was the Trustee, and the sole individual with the requisite authority to release claims against the gallery. Assets of the gallery belonged to Eric and Jason Dietrich, and not to Appellant. In addition, assets were also owned by third-party consignors on contract with the gallery, which were illegally seized and sold by bankruptcy Trustee Simon for pennies on the dollar. In addition, the valuable large number of shelves and furniture were owned by the Dietrich Family Trust.

Further, Dietrich's well-pleaded Complaint pointed out that the subject release was executed under duress, wherein the City gave notice that on the next day, they were going to evict putting everything out into the street which would include records needed for taxes, and obligations to business associates and buyers. The release was sent over with no time for an attorney to review, thus forcing Appellant to sign it under duress in order to gain time to save the records of Dietrich and LeChateau. Accordingly, Dietrich, under duress, signed the release with the only authority he had, which was as to his personal records.

Federal and Michigan law provide that a *pro se* litigant is entitled to have [his] pleadings construed liberally by the court, *pro se* litigants are afforded the benefit of any doubt in this regard, and well-pleaded allegations are accepted as true, as well as all reasonable inferences or conclusions that can be drawn from the allegations. See *Haines v Kerner*, 404 U.S. 519 (1972).

Further, a court should not dismiss a complaint for failure to state a claim "unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claims which would entitle him to relief." See *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). See also *EDI Holdings v Lear Corp*, 469 Mich 1021 (2003) and *Prussing v Gen Motors Corp*, 403 Mich 366 (1979). Also, it is well-settled that courts prefer to adjudicate matters based on their merits, rather than by way of dispositive motion. *Erickson, supra*.

Finally, in *Martin v. Overton*, 391 F.3d 710, 712 (6th Cir. 2004), the Sixth Circuit Court of Appeals further stated that a *pro se* litigant's pleadings are to be liberally construed and also stated that such complaints are held to a less stringent standard than pleadings prepared by attorneys.

In addition to both the District Court and Sixth Circuit Court of Appeals misconstruing the effect of the release signed under duress by Appellant, the eviction itself was incredibly illegal, improper, and unethical since the City claimed multiple rents for the period from September 2015 through July 2016 from (1) Bankruptcy Trustee Basil T. Simon, (2) the Park Grille restaurant, and (3) Le Chateau Art Gallery. Prior to the City's unilateral, illegal order of eviction, the City had sued the bankruptcy trustee for the many months they had custody of the gallery premises and Dietrich's office under nefarious condition, involving acts of skulduggery. The bankruptcy trustee paid and settled with the City.

Upon regaining occupancy of the premises, which was weeks after the Court had ordered Simon's attorney to turn the property back to the gallery, it was found the City had also leased a large portion of the premises to a restaurant which stored a large amount of food on the shelves built and owned by LeChateau. They put in a commercial refrigerator and a very large commercial sink and water system, for which the restaurant paid rent, so that the City of Grosse Pointe Park was "triple dipping".

III. Dietrich was denied his 5th Amendment Constitutional rights, being deprived of property without due process of law, when Respondents granted bankruptcy trustee Simon access to Le Chateau Art Gallery while, at the same time, denying Dietrich access to the art gallery and to his office on repeated occasions.

From September 3, 2013 for a nine-month period, Dietrich and all art gallery personnel were barred from the premises by the Respondents. Further, from September of 2013 through December of 2013, Dietrich was told by City of Grosse Pointe Pointe Park Police Chief David Hillar, who was acting under the direction and control of City Manager Dale Krajniak, that he is “not getting in” to his private office or the gallery premises. As a result of the City barring Dietrich and all gallery personnel permanently from the premises, the Le Chateau Art Gallery business, which had an estimated value of \$1,600,000, was totally destroyed as clients could not be contacted, bills could not be paid, and the day-to-day operations of the business were wiped out. Further, a very valuable gallery business that was the livelihood and source of income for 6 individuals, for nearly eight years, was completely destroyed.

During this nine month period, Appellant hired a locksmith and attempted to enter the premises to secure business records. The City sent two corporals and a police sergeant, advising Appellant that he could not enter the building and advising the locksmith to leave. As a result, Appellant was not able to access the property in order to secure necessary business records.

Further, Respondents breached their duty to protect the property located in the City of Grosse Pointe Park in the following manner: 1) allowing the gallery property (paintings, books, and other very valuable collectibles) to be stolen by an improperly appointed bankruptcy trustee, 2) refusing to take Plaintiff's complaint of the theft, while acknowledging at a meeting on January 15, 2014, their awareness that the property removed was not owned by Dietrich, rather by Le Chateau Art Gallery and third-party consignors, 3) advising Dietrich repeatedly, through Police Chief Hillar, that the illegally appointed receiver “Can do what he wants, he has the key,” and 4) continuing to enforce the “lock out.”

Respondents' actions during the relevant nine month period were devastating and caused incredible damage to Appellant (and third-party consignors to whom

Appellant was legally responsible) through his inability to contact business clients and gallery personnel, pay bills of the gallery, carry on gallery business, access business files and accounting records, **and preventing him from paying mandatory federal income taxes on both the Le Chateau Art Gallery business income and Appellant's personal income.** The Respondents were timely notified in writing and in person to the federal bankruptcy trustee, Basil Simon, and to RLM Auctioneers, that valuable paintings belonging to more than 25 consignors, were the property of the consignors and did not belong to either Le Chateau Art Gallery or to Appellant. Nevertheless, the City prevented the Appellant from returning these paintings to their owners, and permitted the bankruptcy trustee to sell them at auction for pennies on the dollar.

Further, the Respondent, the City of Grosse Pointe Park, through its City Manager Dale Krajniak, informed Appellant on at least 11 occasions, that the City did not want to be involved in the matter when, in all actuality, the City, through the City Manager, was complicit in the underlying theft of its properties and complete destruction of a very valuable gallery business.

IV. The United States Sixth Circuit Court of Appeals erred in affirming the decision of the U.S. District Court for the Eastern District of Michigan, summarily dismissing Appellant's complaint without discovery or a trial, and without any review of the well-pleaded allegations, thereby denying Appellant his constitutionally protected Fifth Amendment due process rights to his day in court.

The United States Constitution, at Amendment IV, prohibits the taking of a person's property by a government official, including a court-appointed bankruptcy trustee. Despite this prohibition, the appointed bankruptcy trustee (Basil Simon) unlawfully took ALL property belonging to (1) Le Chateau Art Gallery, (2) numerous valuable third-party consignors, and (3) Appellant Edgar Dietrich. The art gallery housed numerous valuable paintings, miscellaneous art, and collectibles belonging to third-party consignors and to a non-related Trust over which Appellant had no right, title, or legal interest in. This theft by the bankruptcy trustee was effectuated through the actions of the City of Grosse Pointe Park in illegally barring Appellant and gallery

personnel from entering the premises, and permitting the auctioneer contracted by Basil Simon to seize assets including valuable art, books, and other collectibles.

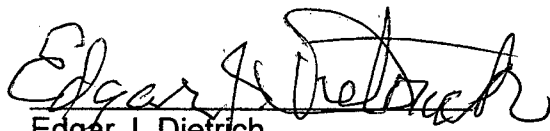
This was the gravamen of Appellant's civil complaint in District Court, a complaint which was "swept under the rug" by the illegal and precipitous dismissal of the suit in District Court, and the appeal of which was subsequently denied by the Sixth Circuit without an actual examination on the merits of the complaint through discovery, trial, or evidentiary hearing.

This is clearly a 5th Amendment violation by Respondents, the City of Grosse Pointe Park and city manager Dale Krajniak, for which Appellant is entitled to relief.

CONCLUSION

Appellant respectfully requests that the Petition for Writ of Certiorari be granted, and that this Honorable Court REVERSE the decision of the U.S. Sixth Circuit Court of Appeals and remand for a district court decision on the merits of the suit.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edgar J. Dietrich", written over a horizontal line.

Edgar J. Dietrich
Petitioner, *Pro Se*
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