

No. _____

In The
Supreme Court of the United States

CRYSTAL VL RIVERS,

Petitioner,

v.

JOSEPH SANZONE, *et al.*,

Respondents.

On Petition For Writ Of Certiorari
To The Supreme Court of Virginia

PETITION FOR WRIT OF CERTIORARI

CRYSTAL VL RIVERS
3831 Old Forest Rd, Ste 6
Lynchburg, VA 24501
434-818-2921
Pro se Petitioner

QUESTIONS PRESENTED

The following questions are presented by the petitioner:

I. Is the Circuit Court Order Void Ab Initio?

II. Did the Supreme Court of Virginia overlook the precedent Circuit Court Order signed by the entire Twenty-Fourth Circuit of judges?

III. Did Judge Edwin Burnette, Jr.'s errors violate the due process clause of the Fourteenth Amendment?

PARTIES BELOW

Petitioner Crystal VL Rivers was the plaintiff-appellant in both the Supreme Court of Virginia (Petition for Appeal) and the Circuit Court for The City of Lynchburg case.

Defendants Virginia State Corporation Commissioners Judge James Dimitri and Commissioner of Revenue, Bureau of Financial Institutions, E. Joseph Face, Joseph A. Sanzone VSB #20577, Gary M. Bowman VSB #28866, Seth Twery VSB #20031, Sherwood Day VSB #15128, Lisa Schenkel VSB #21521, Steven R. Grant VSB #27178, Richard Livingston VSB #00095, Carter Garrett VSB #32714, T. Rann Paynter, Patel & Dalrymple, Sam Patel, Liberty University, Virginia Bankers Association, Bill Herbert, Teresa Polinek, Old Dominion National Bank, Shana Beck Lester, Ralph Beck, S&R Farm, LLC., Advantage Title and Closing, LLC, B-Boys, LLC., Colonial Title Insurance, LLC., Gina R. Williams, Serenity Acres Farm, LLC., Freedom Settlement Services, LLC., Formerly Seven Hills Settlement, Eustice – Merchant Ford, Inc., DBA Battlefield Ford, Charles Darnell, Glen White, Glen White Construction, LLC., Henry Beck, James Michael Thomas, Jennifer Richardson, Margie Callahan, Mary Lou Hopkins, Matthew Krycinski, Josh Ballengee, Northcreek Incorporated, Robert Thomas Beach, Serene Creek Run Association, Tessy Plastics, Inc., Terrance White, Walter G. Mason, Poplar Forest Settlement Services, Ted Counts Realty Group and Auction Co., Inc., Mid States Title Insurance Agency, Inc., were defendants-appellees in both the Supreme Court of Virginia (Appeal) and the Circuit Court For The City of Lynchburg case

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED.	i
PARTIES BELOW	ii
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES.	iv, v, vi
CONSTITUTIONAL PROVISIONS.....	v
STATUTES.....	vi
VIRGINIA CODES.....	vi
RULES	vii
OTHER AUTHORITIES.....	vii
OPINIONS BELOW	5
JURISDICTIONAL STATEMENT	5
CONSTITUTIONAL PROVISIONS INVOLVED.	6
STATUTORY PROVISIONS INVOLVED	6
STATEMENT OF THE CASE	8
REASONS FOR GRANTING THE WRIT	8
I. THE DISMISSAL ORDER IS VOID AB INITIO	8
II. THE JUDGES ERRORS VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT.....	10

III. THE SUPREME COURT OF VIRGINIA OVERLOOKED THE
ORDER SIGNED BY THE ENTIRE TWENTY FOURTH
CIRCUIT OF JUDGES.....19

CONCLUSION 26

APPENDIX	October 6, 2017 Sup. Ct. of VA Order.....	App 30
	June 16, 2017 Sup. Ct. of VA Order.....	App 31
	August 2, 2016 City of Lynchburg Order.....	App 32
	July 12, 2011 City of Lynchburg Order.....	App 33
	July 23, 2011 Sup. Ct.of VA Designate/Order	App 34
	July 2, 2015 Oath/Judge Edwin Burnette, Jr.	App 35
	January 18, 2011 Grand Jury MJ Subpoena..	App 36
	December 7, 2010 Grand Jury MJ Subpoena..	App 37
	September 26, 2012 Sup.Ct.VA Authorization	App 38
	September 28, 2010 Sup.Ct.VA Authorization	App 39
	April 2, 2010 Sup.Ct. of VA Authorization	App 40
	June 8, 2010 Sup. Ct. of VA Authorization....	App 41
	September 30, 2015 Letter.....	App 42
	May 29, 2013 U.S.Ct. of Appeals Opinion.....	App 43

TABLE OF AUTHORITIES

Cases	Page
J.B.K, 931 S.W. 2d, 581, 584-85 (Tex. Ct. App. 1996) In Cap. Rock Electric Cooperative, Inc. v. Texas Utilities Electric Ca, 874 S. W. 2d 92 (Tex. Ct. App. 1994).....	3,27
Aetna 474 U.S. at 821, 106 S. Ct. at 1585.....	4
Murchison, 349 U.S. 133, 136, 75 S. Ct. 623, 625, 99 L. Ed. 942 (1955).....	4
Chisholm v Georgia, 2 U.S. 419 (1793).....	5
Campbell v. Wells Fargo Bank, 781 F.2d 440, 442 (5 th Cir.1986).	9
Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)	9

Blackburn v. City of Marshall, 42 F.3d 925 (5th Cir. 1995).....9

TABLE OF AUTHORITIES – Continued

Cases	Page
Hearth Inc. v. Department of Public Welfare, 617 F.2d 381, 382-10383 (5 th Cir. 1980).....	10
H.J. Inc, 492 U.S. at 241.....	12
<i>United States v Lee</i> , 106 U.S. 196 – Supreme Court 1882	
Dennis v. Sparks, 449 U.S. 24 (1980).....	18
Moore v Marketplace Rest.754 F. 2d 1335,1352 (9 th Cir.1985)...18	
Wall v. Charleston Area Medical Ctr., 2004 U.S. Dist LEXIS 21726 (S.D.W.V. Oct 27, 2004).....	18
Stump v. Sparkman 435 U.S. 349, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978).....	18
Evans v. Smyth-Wythe Airport Comm’n. 255 Va 69, 73, 495 S.E. 2d 825, 828 (1998).....	23
Caperton v.A.T.Massey Coal Co.,556 U.S.868, 872 (2009).....	23
Ruff v. Montgomery, 83 Miss. 185, 36 South. 67.....	25
Kinealy v. Macklin, 67 Mo. 95.....	25
<i>Wesson v. United States</i> , 48 F.3d 894, 901 (5 th Cir. 1995).....	25
<i>Fast v.School Dist.Of City of Ladue</i> , 728 F.2d 1030,1034 (8 th Cir. 1984) (en banc).....	25

Belgard v. Hawaii, 883 F.Supp. 510, 514 (D. Hawaii 1995).....25

vi

Caperton v. A.T.Massey Coal Co., 556 U.S. 868, 872 (2009). As in
Withrow V. Larkin, 421 U.S. 35, 47 (1975).....25

CONSTITUTIONAL PROVISIONS

Eleventh Amendment U.S. Constitution.....5

Fourteenth Amendment U. S. Constitution.....5

Constitution of Virginia.....5, 12

STATUTES

28 U.S. Code §1447, 24

28 U.S. Code §455 (a)(b)(1)(4)(5)(iii)(c)(d)(1).....4, 7, 24

28 U. S. Code §1254(1).....5, 7

42 U.S. Code §19837, 9, 18, 22

Virginia Codes

Virginia Code §19.2-153.....2

Virginia Code 8.01-670(A)(1)(a), (3).....2

Virginia Code §17.1-105 (B),.....2, 6, 9, 11, 13, 24

Model Code of Judicial Conduct.....4, 24

Virginia Code of Judicial Conduct, Canons 3B(1), (5)

(7)(a)(i)(ii)(e), D(1)(2), E(a)..... 11, 20, 21

Virginia Code §19.2-215.3, 1950.....13

Virginia Code §19.2-215.1.....13

Act of May 8, 1792, Ch. 36, §11, 1 Stat. 178-79 (1792), further amended in 1948,	24
--	----

vii

ABA's 1972 adoption of the Model Code of Judicial Conduct....	24
---	----

MODEL CODE OF JUDICIAL CONDUCT, Canon 3C (1972), R.

2. 11 (2007)(A)(1).....	24
-------------------------	----

Rules

Rule 8.3 of the Model Rules of Professional Conduct.....	20
--	----

OTHER AUTHORITIES

Legal Monitor Worldwide, Ethics experts, November 13, 2014...1

Jeremy Miller, Judicial Recusal.....	2
--------------------------------------	---

JAMES ALFINIK JEFFREY SHAMAN, STEVEN LUBET & CHARLES
GARDNER GEYH, JUDICIAL CONDUCT AND ETHICS §4.(2007)....23

PETITION FOR WRIT OF CERTIORARI

Crystal VL Rivers, Pro Se, hereby Petitions for a Writ of Certiorari to review the judgment of the Supreme Court of Virginia, rendered on the 16th day of June 2017 and whose prayer of the said Petition to set aside the judgment was denied on October 6, 2017. The Petitioner is unsatisfied with Supreme Court of Virginia decision and finding that Circuit Court Judge Burnette, Jr. did not error in this matter. The Supreme Court of Virginia itself erred by overlooking and not addressing the facts and Judge Burnette, Jr's., abuse of discretion standards, precedence of the Circuit Court Order and his actions as plead in Petitioners Petition for Rehearing and the original Petition for Appeal.

If the judge is having ex parte or a "private" communication with the Commissioners and attorneys named defendant, without the Petitioner knowing what is going on and can't respond to a statement in error, legal ethics expert, Ron Rotunda, at Chapman University's Dale E. Fowler School of Law in Orange, Calif. Says, "That's not a fair proceeding." "The fundamental fairness of the American justice system depends on openness. Communication between the court and people on one side of the case, but not the other, destroys that fairness," Rotunda said.

"If in the communications, any of them referred in any way to merits of the case before the court or on the court's docket, that constitutes an ex parte communication", stated Geoffrey Hazard Jr. an ethics professor University of California Hastings College of Law. "Ex parte communication is the legal term for a one-sided conversation about a case, and it is specifically barred under the code of judicial conduct", Hazard said.¹

¹ Ethics experts say justices emails to AG's office warrant review November 3, 2014, Legal Monitor Worldwide, Syndicate Media Inc.

The Model Code (2007)² says nothing about whether a judge must disqualify himself when a party, lawyer or key witness is an acquaintance, a “personal friend”, best friend, love interest, or for that matter a rival or an enemy. When the Code offers no specific guidance, the default option, as always, is to “revert back” to the general directive that a judge must disqualify himself if his impartiality might reasonably be questioned. In this matter, the judge did not have one close friend, he offered for the record, that all the attorneys named defendant were “close friends” of his, he also was aware and had reviewed the recorded precedent Circuit Court Order that was in place in Petitioners original case before non-suit, and recognized by the Supreme Court of Virginia, disqualifying or removing all judges in the Twenty-Fourth Circuit of Virginia from this matter.³

Jeremy Miller argues that friendship (as distinguished from acquaintance) with a party or lawyer to a proceeding should be a specific ground for disqualification, because “friendship is loyalty, and loyalty to one side of a case (be it a named party or lawyer) is the perfect antonym to impartiality. Partiality being the perfect definition of a bad judge.”⁴

There was no good-faith determination of the law in Petitioner’s Case Record No. 161486 in either the Supreme Court of Virginia or the Circuit Court of the City of Lynchburg Virginia Circuit Court No. CL15000525. It is also elementary that Petitioner is an aggrieved party by the courts judgment in controversy concerning (1) the title to land, property of interest, and tort claims valued at over Twenty Million Three Hundred Thirty Four Thousand Six Hundred Seventy Two Dollars and Fifty Cents (\$20,334,672.50) trebled, and; (2) the courts final judgment resulting from judicial error (s).⁵ Keeping in mind that

² Model Code (2007)

³ Va. Code §17.1-105 and 19.2-153

⁴ JEREMY MILLER, Judicial Recusal and Disqualification: The Need for a per se Rule on Friendship (Not Acquaintance), 33 PEPP. L. REV. 575, 579 (2006)

⁵ Code 8.01-670(A)(1)(a),

Judges that preside in the State of Virginia are licensed attorneys.

The Supreme Court of Virginia has a duty to the Petitioner and the public at large, and even members of the judiciary to ensure that our democracy is preserved and protected and that professionalism and fairness reigns supreme.⁶

The standard of judicial conduct should apply to this case, with Judge Burnette, Jr. as it did in J.B.K. as cited above. On a scale of 1 to 10, J.B.K. being a 4 in comparison to this case, this case being a 10 because of the extreme. Nine attorneys, Two State Commissioners (1 of which is a Judge) are named defendant and the precedent Order for recusal was in place. Ex parte communications frustrate the judiciary's responsibility to promote and provide fair and equal treatment to all parties. J.B.K. who served as counsel for a party and presented oral argument, communicated ex parte with the Eighth District Court of appeals directly with a member of the Court's staff, telephonically, who was his acquaintance, for the purpose of "inquiring" about his chances prior to the issuance of the court's opinion or if he should settle. The Eighth District Court of Appeals wrote in their opinion that the concept, simply stated, is that the justices themselves are in the unique position of putting a stop to unethical and unprofessional behavior.

The Supreme Court of Virginia overlooked the facts surrounding the original recorded precedent Order signed by Chief Judge Mosby Perrow, III of the Twenty-Fourth Circuit Court and agreed to by each judge in the entire Twenty-Forth Circuit of Virginia and recognized by the Supreme Court of Virginia. Judge Burnette, Jr. also of the Twenty-Fourth Circuit, was aware of the Order ongoing federal investigations concerning

⁶ J.B.K, 931 S.W. 2d, 581, 584-85 (Tex. Ct. App. 1996) In Cap. Rock Electric Cooperative, Inc. v. Texas Utilities Electric Co, 874 S. W. 2d 92 (Tex. Ct. App. 1994)

Petitioners claims and did not have a “duty to sit” on Petitioners case.⁷ Adopted by the State of Virginia.

This Supreme Court has held that the Constitution does not reach every issue of judicial qualification,⁸ the Court has moreover, acknowledged, that “what degree or kind of interest is sufficient to disqualify a judge from sitting “cannot be defined with precision” quoting in re.⁹ The inquiry commanded by section 455 and that commanded by the Due Process Clause are not the same. The Due Process Clause requires a judge to step aside when a reasonable judge would find it necessary to do so. Section 455 requires disqualification when others would have reasonable cause to question the judge’s impartiality. It is this additional, systemic concern for avoiding the appearance of impropriety that makes the section 455 standard for disqualification more demanding than that imposed by the Due Process Clause. At some point the two tests overlap. It is this area of overlap that the courts were referring to when it was noted that the concern for public perceptions of judicial integrity has “constitutional dimensions.” The Twenty-Fourth Circuit judges were “reasonable judges” and they all felt it would be improper for them to preside over Petitioners trial and found it necessary to remove themselves from the Petitioners case, thereby lies the precedent Order for this case applying the standard provision signed and recognized by the Supreme Court of Virginia.

The Canons of Judicial Conduct for the State of Virginia, PREAMBLE, apply to all active Justices of the Supreme Court of Virginia, and Judges of the Court of Appeals of Virginia, Circuit Courts, General District Courts, and Members of the State Corporation Commission.

⁷ 1972 revised MODEL CODE OF JUDICIAL CONDUCT, Amended in 1999 MODEL CODE OF JUDICIAL CONDUCT, Canon 3E (1)(a) (1999)

⁸ Aetna 474 U.S. at 821, 106 S. Ct. at 1585,

⁹ Murchison, 349 U.S. 133, 136, 75 S. Ct. 623, 625, 99 L. Ed. 942 (1955)

OPINION BELOW

The Supreme Court of Virginia is of the opinion there is no reversible error in the judgment complained of. Accordingly, the Supreme Court of Virginia refused the Petitioners' Petition for Appeal. Whereof, the Appellees' Motions to Dismiss were denied.

JURISDICTIONAL STATEMENT

The Supreme Court of Virginia's final decision to deny Petitioners' Petition for rehearing to set aside their judgment rendered on the 16th day of June 2017 was entered on October 6, 2017. This Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

This case involves the Eleventh and Fourteenth Amendments to the United States Constitution, and the Constitution of Virginia.

The Eleventh Amendment deals with each state's sovereign immunity and was adopted to overrule the U.S. Supreme Court's decision in ¹⁰

Defendant Virginia State Corporation Commissioner, Judge Dimitri and Commissioner of Revenue, E. Joseph Face are non-immune to the acts plead by the Petitioner. The Constitution of Virginia provides that in¹¹ Impeachment, The Governor, Lieutenant Governor, Attorney General, judges, members of the Virginia State Corporation Commission, and all officers appointed by the Governor or elected by the General Assembly, offending against the Commonwealth by malfeasance in office, corruption, neglect of duty, or other high crime or misdemeanor may be impeached by the House of Delegates and prosecuted before the Senate, which shall have the sole power to try impeachments, and; Petitioner's constitutional challenge is not barred by the

¹⁰ Chisholm v Georgia, 2 U.S. 419 (1793)

¹¹ Constitution of Virginia, Article IV, Section 17,

Eleventh Amendment because Commissioners Dimitri and Face do have a relationship to the enforcement of the statutes, they both personally approved the illegal banking activity.

The Fourteenth Amendment, U.S. Constitution, provides in its Due Process Clause that it prohibits state and local government officials from depriving persons of life, liberty, or property without legislative authorization. The Court has ruled that the Due Process Clause requires judges to recuse themselves in cases where the judge has a conflict of interest.

The Constitution of Virginia provides in **Article I, Section 4**, That no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary. In **Section 11**, That no person shall be deprived of his life, liberty, or property without due process of law; that the General Assembly shall not pass any law impairing the obligation of contracts; and that the right to be free from any governmental discrimination upon the basis of religious conviction, race, color, sex, or national origin shall not be abridged, except that the mere separation of the sexes shall not be considered discrimination. In **Article II, Section 17**, The Governor, Lieutenant Governor, Attorney General, judges, members of the State Corporation Commission, and all officers appointed by the Governor or elected by the General Assembly, offending against the Commonwealth by malfeasance in office, corruption, neglect of duty, or other high crime or misdemeanor may be impeached by the House of Delegates and prosecuted before the Senate, which shall have the sole power to try impeachments. In **Article VI, Section 10**¹², This section shall apply to justices of the Supreme Court, to judges of other courts of record, and to members of the State Corporation Commission.

¹² Constitution of Virginia, Article VI, Section 10

STATUTORY PROVISIONS INVOLVED

This case involves Title 28 U.S.C. §144, 28 U.S. Code §455 (a)(b)(1)(4)(5)(iii)(c)(d)(1), 28 U. S. C. §1254(1) and 42 U.S.C. §1983

The two principle statutes dealing with judicial recusal are 28 U.S.C §144 "Bias or prejudice of judge" and 28 U.S.C. §455 "Disqualification of justice, judge, or magistrate." 455 substantially overlaps and subsumes section 144. The differences are first that 144 aims exclusively at "actual" bias or prejudice, whereas section 455 deals not only with actual bias as well as other specific conflicts of interest, but also with the "appearance" of partiality. Second, §144 is triggered by a party's affidavit, whereas §455 not only may be invoked by motion but also requires judges to recuse "sua sponte" where appropriate, as in this case. Third §144 applies only to district judges while §455 covers "any justice, judge, or magistrate of the United States."

Title 28 U.S.C. §1254(1) provides the review of the Supreme Court of Virginia decision of Petitioner's matters

Title 42 U.S.C. §1983, "section 1983" (part of the Civil Rights Act) was intended to provide a private remedy for such violations of federal law, and has subsequently been interpreted to create a species of tort liability

(i)"every person"... (ii) "who under the color of law"... (iii) subjects or causes to be subjected"...(iv) any person to the deprivation of rights...(v) shall be liable...in an action at law, Suit in equity, or other proper proceeding for redress....(vi)

The Supreme Court's decision in *Monroe v Pape*, liability can be attached where a government official acted outside the scope of the authority granted to them by state law. Since *Monroe v. Pape* was decided, an extensive body of law has developed to govern section 1983 claims.

STATEMENT OF THE CASE

The presiding Circuit Court of the City of Lynchburg, Judge Burnette, Jr., defendants Virginia State Corporation Commissioner, Judge Dimitri and the nine (9) attorneys named defendant, are licensed with the Virginia State Bar and do not have immunity of their errors or the claims plead against them. The defendants, among the others, engaged in the practice of negligence, professional malpractice, tortuous business interference, fraud, and conspiracy while covering up the illegal banking activity of prior defendants John L Wynne, Rivermont Banking Co and others.

REASONS FOR GRANTING THE WRIT

The Writ must be granted because the Supreme Court of Virginia decision conflicts with the original intent of the Canons, Virginia Code of Judicial Conduct, Model Codes of Judicial Conduct, Constitution of Virginia, this Court's prior decisions, decisions of the other Court of Appeals, and the Twenty-Fourth Circuit Court Judges' own precedent; as stated in this statement of the case and as Petitioner will also demonstrate, her Petition for Rehearing and the Denial of her Petition for Appeal were wrongly decided and must be corrected by this Court or by Congress.

I. THE DISMISSAL ORDER IS VOID AB INITIO

Judge R. Edwin Burnett, Jr. solemnly swore an Oath that he would support the Constitution of the United States, and the Constitution of Virginia, and that he would faithfully and impartially discharge all the duties incumbent on him as a judge of the Twenty-fourth-Judicial Circuit according to the best of his ability on the 2nd day of July 2015. Judge Edwin Burnett, Jr. violated and did not recognize the July 12, 2011 precedent Circuit Court Order recorded in Petitioners original case. Pursuant to the

provisions of¹³ as amended, the said Judges entered such fact of record and directed that the Clerk of the Court certify the same to the Chief Justice of the Supreme Court of Virginia. The Order set the precedent for the Judge designate for the Petitioners' cases and triggered an automatic designate of the Honorable Jay T. Swett, Retired Judge of the Sixteenth Judicial Circuit to preside in the Petitioners' original case.

Because of the gross conflict of interest issue, Judge Burnette, Jr. stated for the record that he could not rule on the merits of the case. He could not rule on the substantive matters, i.e., the merits, he could not rule on the Defendants' Motion to Dismiss. Petitioner did not file, argue, or put on evidence to defend Defendants' Motion to Dismiss. The Order is intentionally prepared incorrectly to read Petitioners' Motion to Dismiss. For all reasons stated in the statements of this case; the order is void ab initio.

The justices of the Supreme Court of Virginia appear to have overlooked the facts plead, amongst others, including the fact that Petitioner did not file a Motion to Dismiss as is stated in the Lynchburg City Order. As in¹⁴ A motion to dismiss should not be granted unless it appears beyond doubt that plaintiff can prove no set of facts in support of her claim that would entitle her or him to relief. A court may dismiss a claim only when it is clear, that no relief can be granted under any set of facts that could be proved consistent with the allegations found in the complaint.¹⁵ Further, a court may not look beyond the pleadings. As in¹⁶ The court must accept as true the allegations in the complaint, and must view the allegations in the light most favorable to the plaintiff.

Congress provided¹⁷ as a method for seeking relief against a state official for a constitutional violation.¹⁸ Therefore the claims

¹³ Section 17.1-105 (B) of the Code of Virginia,

¹⁴ Campbell v. Wells Fargo Bank, 781 F.2d 440, 442 (5th Cir. 1986),

¹⁵ Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)

¹⁶ Blackburn v. City of Marshall, 42 F.3d 925 (5th Cir. 1995).

¹⁷ 42 U.S.C. §1983

brought against the named state officials acting outside the scope of their authority are not barred by Eleventh Amendment immunity.

The facts within this statement merely are meant to emphasize why it is appropriate for this Court to consider the issue. Petitioner is indigent and has committed career suicide (as a paralegal) in defending the actions plead against some of the most prominent attorneys and powerful men in Virginia, not to mention one sitting Judge for the State Corporation Commission. Due to the parties involved in the illegal land fraud and banking scheme, Petitioner and other victims are unable to obtain counsel for this matter or any matters relating to the issue, Circuit Court judges will not take our cases and the cases sit dormant, active for years. The Supreme Court of Virginia overlooked the fact that Petitioner was not an attorney or an expert on the circumstances of the ex-parte hearing to protect her interest. Petitioner asks this Court to consider that as a matter of fundamental importance.

II. THE SUPREME COURT OF VIRGINIA OVERLOOKED THE ORDER SIGNED BY THE ENTIRE TWENTY FOURTH CIRCUIT OF JUDGES

The defendants engaged in, among other things, fraud, conspiracy and the practice of gross negligence and misconduct. Their acts were intentional, damaging to the Petitioner, criminal and civil in nature. The defendants knowingly conspired to allow prior defendant John L. Wynne, President of the Rivermont Banking Company and Rivermont Consultants, Inc and 1650 Partners LLC, its members, Southgate Leigh Wynne Trust to operate an illegal banking enterprise in the State of Virginia. Judge Burnette, Jr. and professional defendants' knowledge of the federal investigation, criminal acts and some with personal mortgages naming Wynne as trustee, covered up and allowed the illegal banking activities to continue using the Petitioners' (and other known victims) signature, equity, contracts, assets and insurance policies to complete the fraud scheme. Judge Burnette, Jr. erred and the defendants aided and abetting the defendant's

¹⁸ *Hearth Inc. v. Department of Public Welfare*, 617 F.2d 381, 382-383 (5th Cir. 1980).

actions along with non-reporting or self-reporting the acts that included the named defendant Commissioners.¹⁹

Petitioner's business, CVLR Performance Horses, Inc. settled its RICO/Racketeering federal action with John Wynne and his entities on February 24, 2014. The RICO action had been dismissed by Federal Judge Norman K. Moon in 2013 and was reversed on appeal to the Supreme Court of Virginia finding open ended continuity.

Petitioner originally filed this case matter on February 23, 2011, in the City of Lynchburg, Case No. CL11005616, against John Wynne, The Rivermont Banking Co, Seth Twery, Old Dominion National Bank and 1650 Partners LLC. Petitioner and her company CVLR Performance Horses Inc. were plaintiffs in the matter. On July 12, 2011, by Circuit Court Order, all the Judges of the 24th Judicial Circuit were so situated in respect to the Petitioner's case as to render it improper, in their opinion, for them to preside at the trial of said case. Pursuant to the provisions of the Code of Virginia²⁰, as amended, the said Judges entered such fact of record and direct that the Clerk of the Court certify the same to the Chief Justice of the Supreme Court of Virginia. The Supreme Court of Virginia designated the Honorable Jay T. Swett, Retired Judge of the 16th Judicial Circuit to preside in the case in place of the Judges of the 24th Judicial Circuit. (attached appendix)

Petitioners \$20,334,672.50 state tort claims, this matter before the court, were filed on February 23, 2011 in the Circuit Court for the City of Lynchburg prior to her business CVLR PERFORMANCE HORSES INC., "CVLR Inc." filing a \$9,430,000, RICO/Racketeering action in the U.S. District Court Western District of Virginia (Lynchburg) Case No. #6:11-cv-00035-NKM, on September 8, 2011. Several of the defendants were named in both this matter and the federal case. John L. Wynne, 1650

¹⁹ Canon 3B(3) of the 1972 Virginia Code of Conduct Va.

²⁰ Section 17.1-105 (B) of the Code of Virginia

Partners LLC, and the Rivermont Banking Company were later removed as defendants from this matter after Petitioner settled with them on February 24, 2014.

Petitioner was not named Plaintiff in the CVLR Inc., RICO/Racketeering action. CVLR Inc.'s case was dismissed on April 2, 2012 and the state claims were remanded to state courts. The case was noticed for appeal on June 22, 2012. The appeals matter No. 12-1591, 12-1787 was argued in the U.S. Court of Appeals for the Fourth Circuit before Supreme Court Chief Justice Traxler, Circuit Judge Shedd, and David A. Faber, Senior U.S. District Judge for the Southern District of WV. On May 29, 2013, the CVLR Inc. case was Reversed in Part, Dismissed in Part, and Remanded back for further proceedings.

The opinion of the justices stated,

“At the time the Appellees’ acts occurred, the conduct “projected into the future with a threat of repetition”²¹ and there was no other indication that Wynne’s conduct was to be limited to only the identified victims. Thus, the victims’ discovery of the Appellees’ misconduct does not prevent CVLR from establishing open-ended continuity.

In sum, the Justices concluded that the Amended Complaint plead open-ended continuity. Because the district court based its dismissal on a conclusion to the contrary, they reversed the district court’s order granting the motion to dismiss. Mysteriously, no public indictment has been issued as was being sought by the Federal Authorities; i.e. the U.S. Attorney’s Office, Criminal Division of the IRS, the FBI, the Virginia State Police and the Department of Justice. Case No 10-86-02-1050, among others. The matter is still on-going and is plead in Petitioners complaint currently before this court.

²¹ H.J. Inc, 492 U.S. at 241,

The Supreme Court of Virginia issued, Pursuant to Virginia Code,²² as amended, upon application of a majority of the grand jurors of the multi-jurisdiction grand jury, impaneled from the Counties of Amherst, Appomattox, Bedford, Campbell, Nelson, and the City of Lynchburg, ordered the continuation of said multi-jurisdiction grand jury for a term of six months from April 3, 2010, and again from October 3, 2010 authorizing Honorable James W. Updike, Jr. of the Twenty-Fourth Judicial Circuit as presiding judge of the aforementioned multi-jurisdiction grand jury. The purpose of the grand jury was to investigate alleged criminal violations as specified in Virginia Code²³ in the Counties of Amherst, Appomattox, Bedford, Campbell, Nelson and the City of Lynchburg. Subpoenas were issued on December 7, 2010 and January 18, 2011, among others, for a Multi-Grand Jury empaneled and to be held on February 4, 2011. The Judges presiding in the Twenty-Fourth Circuit, including Judge Burnette, Jr., then a District Court judge, knew of the on-going federal investigation and who the targets of interest and concern to the investigations were. The judges, as aforementioned, had all offered their opinion by Order signed by Chief Judge Mosby Perrow, III of the Twenty-Fourth Circuit, to the Chief Justice of Supreme Court of Virginia, Pursuant to the provisions of the Virginia Code²⁴ that it would be improper for them to preside at the trial of Petitioners case.

Further investigation revealed that Honorable Judge Mosby Perrow, III had been authorized by Chief Justice Leroy Rountree Hassell, Sr., of the Supreme Court of Virginia, Pursuant to Va. Code §19.2-215.3 to preside over the multi-jurisdictional Grand Jury on June 8, 2006 for a term of 12 months! On September 28, 2010, the authorization was handed over to Honorable James W. Updike, Jr. also of the Twenty-Fourth Circuit, by Justice Rountree for six months and then by Chief Justice Cynthia D. Kinser on September 26, 2012, for an additional six months. Commonwealth attorneys in the Counties of Amherst,

²² Va. Code §19.2-215.3, 1950

²³ Va. Code §19.2-215.1

²⁴ Code of Virginia §17.1-105(B)

Appomattox, Bedford, Campbell and Nelson and the City of Lynchburg were designated as special counsel. The matter has been ongoing and in lies the heart of this matter.

“No man in this country is so high that he is above the law.” Courts of justice are established, not only to decide upon the controverter rights of the citizens as against each other, but also upon rights in controversy between them and the government; and the docket of the Lynchburg City court is crowded with controversies of the latter class, as Petitioner touched base on during her oral writ in front of the Supreme Court of Virginia Justices (see transcript page 14 and 15 from line 20) and as in ²⁵

On February 24, 2014, Petitioners’ company, CVLR Performance Horses Inc., settled with Wynne and his entities in the RICO/Racketeering matter. Part of the settlement agreement terms included that Wynne and his entities be removed from all claims filed against them. Petitioners’ former attorney, Defendant Gary M. Bowman and Wynne’s attorney filed an incorrect Order to Dismiss the case and attempted to have the entire Lynchburg case dismissed without Petitioners knowledge on April 2, 2014. Upon review of the record, Petitioner threatened sanctions against the two attorneys’ and wrote a letter to the Supreme Court of Virginia, the attorneys and to Judge Swett informing of the discrepancy of the two attorneys. Gary M Bowman filed a Motion to Modify the Order on May 16, 2014. The Circuit Court of the City of Lynchburg reinstated the case on May 27, 2014 and dismissed two defendants, John Wynne and 1650 Partners LLC. On January 12, 2015 Petitioner non-suited the case and refilled it as Case No CL15000525, on July 8, 2015, timely within the next six (6) months adding additional parties of interest as defendant to the new complaint.

Petitioner filed her new complaint on July 8, 2015, her declaration on March 16, 2016 and filed her Amended Complaint on July 6, 2016, because a judge had not been appointed and there

²⁵ United States v Lee, 106 U. S. 196 – Supreme Court 1882.

was only two (2) days left before failure to prosecute action could remove the case on summary judgment.

Mark Dunevant, counsel for Joseph Sanzone and Sanzone and Baker personally served the Petitioner at her office on July 26, 2016 at the end of the day, with a Notice of hearing indirectly informing her of his representation of Joseph Sanzone and Sanzone and Baker. Petitioner called the Clerk of Court of the Circuit Court of Lynchburg City and asked who had scheduled a hearing without contacting her first and who the Judge was. The Supreme Court had not designated a judge to the matter. Without Petitioners knowledge or notice, Mark Dunevant had filed Demurrer and Motion to Dismiss on July 25, 2016. Petitioner responded to Dunevant's improper Notice of hearing via email attaching a copy of the July 6, 2016 service process filing list and indicating that she did not have enough time to prepare and respond to his notice of hearing. The hearing came as a surprise and she didn't have the 2nd of August available anyway. Petitioner reminded Dunevant that the Supreme Court needed to designate a Judge to the case for all the reasons set forth in the Order filed in the original case. Petitioner copied all the defendants with the correspondence.

The Notice of hearing for Dunevant's Motions was not filed until July 28, 2016 (the day of the Democratic presidential nomination). Petitioner was not served a copy of Dunevant's Motions to Dismiss and Demurrer until the end of the business day on Friday, July 29, 2016. A second Notice of hearing was also filed on July 29, 2017, by defendant Bill Herbert, along with Demurrer and Plea in Bar without Petitioners notice, knowledge or service. The hearing was set for the Herbert matter on August 2, 2017 at 1:00 P.M. Petitioner had not received any motions, notice or contact from defendants or the clerk of the court or Judges scheduling clerk on the matter.

On the eve of July 30, 2016, Petitioner was informed that the August 2, 2016 8:30 A.M. hearing, noticed by Dunevant for Joseph Sanzone, was cancelled and they, Dunevant for Sanzone and

Sanzone and Baker, were all satisfied as far as they were concerned. Petitioner informed Dunevant that she would be out of town and asked for the draft order to be sent back to her signed, but it had been improperly hand delivered to the courthouse instead. At 8:30 A.M., Petitioner, on her way to work in Richmond Virginia, went to the courthouse to get the original draft order. Petitioner confirmed with the clerk that the 8:30 A.M. hearing was cancelled, and they would send her a certified copy of the order to nullify the Amended Complaint against Sanzone, after it was endorsed by the judge.

While on the way to Richmond on the morning of August 2, 2016, Petitioner felt compelled to call the clerk of the court to ask if the judge had signed her draft Order. Petitioner was informed that he had not signed her draft Order, but he would at the 1:00 P.M. hearing! Petitioner was taken back by that and asked what hearing she was referring to. Petitioner was informed for the first time, that there was a hearing scheduled for 1:00 P.M. that day. Petitioner asked the clerk to tell the judge that she was on her way out of town but would turn around, would be late, but she would be there in a few hours. Petitioner arrived at the courthouse in her riding clothes and no files before 1:00 P.M. The Petitioner entered the courtroom, sat alone and within 20 minutes watched more than 19 attorneys' enter the courtroom from judges' chambers and the entrance. At that moment Petitioner wondered why she didn't get the memo!

Judge Burnette, Jr. refused to sign Petitioners' draft Order nullifying the amended complaint that had been signed by both Petitioner and Dunevant, he wanted to use his very own Order that he had prepared because he couldn't rule on the merits. The Judge informed the courtroom that he had a conflict of interest with all parties' defendant and he could not rule on the substantive matters- the merits of the case! He went on to opine that he had reached out to the attorneys in the courtroom regarding this case and that all or most of the defendants were associates and close personal friends of his, but he had not had a chance to reach out to the Petitioner yet! The Judge went on to

add that he or any of the Judges in the entire Twenty-Fourth Circuit of Virginia and Retired Judge Swett of the Sixteenth Circuit (who was designated to the case previously) could preside over Petitioners' case. He ruled that he could not rule on any motions or that the complaint was a nullity as Dunevant had asked. Petitioner explained to the Judge that she did not know any of the men in the courtroom except a few and that she hoped she hadn't wasted anyone's time and asked how we would get the Order to all parties for endorsement. Patronizingly; Judge Burnette, Jr. offered that he could "do that magical thing" called waiving endorsement and we could Rule 1:13 endorsements! It instantly appeared to Petitioner, that this is what was planned and discussed amongst the defendants and the Judge in their ex parte communications. Meaning they must have discussed the merits of the case and the docket.

Petitioner asks this court to make an exception to Rule 28.8 and allow Petitioner to argue her Petition in this matter. If she could, these statements would be her cry out; her commonsense approach; i.e. this is not a hypothetical scenario...this is an ongoing activity. Petitioner has the rights to a fair trial and the right to due process in another jurisdiction. This court must understand the box Petitioner found herself in at the hearing. There is no judge in the Circuits of Virginia that would take this case in the counties named in the Supreme Court appointments of the Chief Judges, Perrow, Cook and Updike to preside over Multijurisdictional Grand Jurys empaneled for the federal investigative matters which concerned Petitioners defendants. Petitioners remedy lies only with this court and another jurisdiction. Not Amherst, Bedford, Nelson, Campbell, or the City of Lynchburg. It must also be noted that the appointments of special counsel were to those counties Commonwealth Attorneys'. All complaints by Petitioner and other victims of these defendants to the Commonwealth Attorneys' was either forwarded to the federal agencies, fell on deaf ears or both.

In 449 U.S.24 ²⁶ the United States Supreme Court allowed application of 42 U.S.C. ²⁷ against private parties who act "In concert with" a state official. The court stated, "In order to establish a conspiracy, the plaintiff must demonstrate the state official and the private party somehow reached an understanding to deny the plaintiff's their constitutional right".²⁸ The complainant alleged the defendants "met and conferred" with the prosecutor concerning plaintiff, and "encouraged", "collaborated" and "acted in concert" during the discovery process. Those allegations, as the actions plead by the Petitioner, taken as true, adequately state a conspiracy claim under Section 1983".²⁹ Private parties who corruptly conspire with a judge, in connection with, such conduct are thus acting under color of state law within the meaning of 42 U.S.C. §1983 as it has been construed in prior cases.³⁰

Judge Burnette had his assistant bring out an already prepared Order for Dunevant and Petitioner to sign and left the courtroom. Petitioner objected to the Judge's order and returned it to his assistant to give back to him because it wasn't what the parties had agreed to and Petitioner hadn't filed a Motion to Dismiss. The Judge came back out of chambers and wanted to know what the problem with the court's Order was. Petitioner explained it to him and he reminded the courtroom, again, that he could not rule on the merits, the defendant's motions or that the amended complaint be a nullity as Dunevant had motioned. Dunevant just stood there with a dumbfounding look on his face and didn't respond. Petitioner asked Dunevant, repeatedly, as did the court, what do you want to do Mark? Dunevant looked around and found that his client, Joseph Sanzone, had left the courtroom

²⁶ Dennis v. Sparks, 449 U.S. 24 (1980)

²⁷ 42 U.S.C. Section 1983

²⁸ Moore v. Marketplace Rest., Inc. 754 F. 2d 1336, 1352 (9th Cir. 1985),

²⁹ In Wali v. Charleston Area Medical Ctr. 2004 U.S. Dist. LEXIS 212726 (S.D.W.V. Oct 27, 2004)

³⁰ Stump v. Sparkman 435 U.S. 349, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978)

and didn't answer. He just shrugged his shoulders and agreed to it.

The attached transcript cannot describe the mood in the room and the fear that fell over the Petitioner knowing that the ex-parte hearing must have been planned to be held without her present, the Order had to already be prepared because the judge didn't change the working of the Order when Petitioner sent it back. The mood in the courtroom was jovial in the conversations and demeanor between the attorneys; no one spoke to the Petitioner or even introduced themselves. If they had filed anything with the court, they didn't mention it or deliver it.

Petitioner would ask this court to consider, that she did not want her entire case to be dismissed. The very reason she made the decision to turn around halfway to Richmond and drive two hours, after learning of the 1:00 P.M. ex parte hearing is that she felt sure if she did not appear the court would certainly dismiss her entire case for her failure to appear. If she intended to dismiss the entire case, she would not have come back to the court. The Petitioner is not an expert on duress or the effects of duress in the courtroom given the circumstances. Petitioner is not an attorney capable of answering the judge's backward questions or differentiating between the merits of the case under the circumstances she found herself in.

III. THE JUDGES ERRORS VIOLATED THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT

All Codes, Rules, Statutes, Ethics standards, Canons, Authority, and Constitutions included in this Petition are well known and applied by Judge Burnette, Jr., Judges, Commissioners and attorneys named defendant throughout their legal careers. They were very much aware of the judicial errors committed and strategized on how to get rid of Petitioners case at any cost.

The Judge had ex-parte communications with friends he referred to as "close" friends and colleagues, each of whom are Virginia State Corporation Commissioners, Judges, named attorneys defendant and their attorneys without Petitioners knowledge or notice, even though he was aware and admitted that he had a conflict of interest and that he and each Virginia Circuit Court Judge could not preside over Petitioner's case. Judge Burnette, Jr. communicated with counsel for Commissioners Dimitri and Face, and arranged, discussed and agreed, with his close friends and colleagues, the defendants in the case, to preside over the ex-parte hearing, to prepare an incorrect Order of Dismissal, all predicated on the Petitioners not knowing or appearing.

As previously stated, Petitioner had informed counsel the previous Saturday, that she would be out of town Monday and inquired if the hearing he had called for at 8:30 A.M., Monday morning was still on. Petitioner was told they were satisfied, they were out of it, they were done and there was no need for the hearing. Petitioner verified that with the clerk of the court at 8:30 Monday morning in person before she began her drive to Richmond Virginia to work.

The Petitioner suggests that her case "has truly compelling circumstances". The circuit court judge did not dismiss the case on the merits leaving the Petitioners claims ripe and defendable in the proper jurisdiction. Petitioner would ask this Court to consider Model Rule 8.3.³¹ Did Judge Burnett inform or report the Petitioner's pleadings of fact to an appropriate authority, or agency, or to the Supreme Court of Virginia? Did the justices of the Supreme Court of Virginia do the same? Did any one of the attorneys named defendant self-report or inform the appropriate authorities or agencies?³²

³¹ Model Rule 8.3.

³² Canon 3B (3) of the 1972 Virginia Code of Conduct Va. Paralleling Canon 3D (1)(2) of the 1990 Code, Canon 3D(2) lists two ethical obligations for a judge who learns of ethical violations by an attorney rather than another judge.

“A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct...should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct...that raises a substantial question as to the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority.”

The primary difference between the 1972 and 1990 Code Provisions is that, unlike the 1972 Code, the 1990 Code clearly expresses a mandatory duty. A judge who “receives information” about a likely Code violation “should” take “appropriate action” under the 1990 Code, and a judge who knows of a violation “shall” report it to the “appropriate authority.”³³

It is very important to understand and address that a judge’s duty to report judicial or lawyer misconduct not only depends on the extent of the judge’s knowledge concerning the wrongdoing, but also on the amount of time the judge can wait before reporting.³⁴

The fact, remains, that the Supreme Court of Virginia was notified of the circumstances surrounding the Petitioners case on July 12, 2011, by Court Order after the Twenty-Fourth Circuit Judges together and in total agreed that they rendered it improper to preside over a trial in the Petitioners case and that Judge Burnette Jr. swore his oath on July 2, 2015 to preside as a Judge in the Twenty-Fourth Circuit. Nothing has changed with the Petitioners case since 2011 except to add more “close friends” defendant to the matter. The July 12, 2100 Supreme Court Ruling set the rule of precedent for the Petitioner’s case, in so far as the Twenty-Fourth Circuit Court judges were concerned, and Judge Burnette, Jr. being one of them.

³³ Canon 3D(1)(2) of the 1990 Code, Canon 3D(2) lists two ethical obligations for a judge who learns of ethical violations by an attorney rather than another judge.

³⁴ Canon 3B(3) of the 1972 Code

One response to the notion that disciplining bodies deal effectively with conflicts of interest is that recusal remains necessary, not as a punishment, but to protect the integrity of the judicial. Ethics rules and judicial rulings supersede the common law rights insofar as they authorize engagement of a particular conduct.

Due to the case being considered a high-profile case, and the facts plead, it can be argued that the City of Lynchburg was the wrong jurisdiction. If so, the Judge erred and the Dismissal Order of the Circuit Court of the City of Lynchburg is not void, it is void ab initio, if not void ab initio, the Order is a result of judicial error and voidable.

Petitioner is aggrieved because she did not move the court to dismiss as is so defined in the courts order to dismiss. Petitioner did not file a motion to dismiss, nor did she ask for the hearing. The Judge erred before his Order was prepared, before discussing and authorizing the 1:00 P.M. hearing with the defendants, and by (1) agreeing with the defendants to hear the matter even after reviewing and discussing the prior Order prepared and agreed to by the entire Twenty-Fourth Circuit Court judges understanding that they and himself could not preside over the matter, and by (2) having ex-parte communications with the defendants to discuss the matter without the Petitioner present or notified intentionally strategizing the hearing and the Order dismissing the case. The Judge's error(s) was not correctable and any mistake made by the Petitioner at the hearing or upon signing the Dismissal Order are moot. As in Canon 3F³⁵, the parties to the case could not waive disqualification. The Judge, by taking judicial action in the clear absence of all jurisdiction (the "crucial issue") is not immune from damages liability under controlling authorities of a 42 U.S.C. tort claim.³⁶ The actions of the Judge bled over into the hearing making the Order VOID AB INITIO. An Order is void ab initio if entered by a court in the

³⁵ Canon 3F

³⁶ 42 U.S.C. 1983 Tort claim. (§1 of the Civil Rights Act of 1871. *Stump v Sparkman*, 435 U.S. 349 (1978).

absence of jurisdiction of the subject matter or OVER THE PARTIES, if the character of the Order is such that the court had no power to render it, or if the MODE OF PROCEDURE USED BY THE COURT could not lawfully adopt.³⁷

A judge who has grounds to recuse himself is expected to do so. The prior Order signed and agreed to by each circuit court judge of the Twenty-Forth circuit set the precedence for the case and the circuit court judges who may not preside over it. Depending on the jurisdiction, if an appellate court finds a judgment to have been made when the judge in question should have been recused, it may set aside the judgment and return the case for reinstatement. If the appellate court returns the case for whatever reason, it must designate a judge from another circuit (outside the counties named in this statement) or move the case to another jurisdiction, due to the high-profile circumstances of the case.

Petitioner suggests, any bias that threatens one judge's integrity, let alone an entire circuit of judges, as in this matter, affects the integrity of the institutional court.

The facts supporting both partiality and bias are strong in this matter and the Supreme Court of Virginia allowing a biased judge to preside over her case which violates her due process rights to a fair trial. The Court must find that precedence set forth an objective standard that requires recusal when the likelihood of bias on the part of the judge is too high to be constitutionally tolerable.³⁸ Applying this standard, the Court must conclude that due process compelled the judge's recusal.

The "rule of necessity" does not apply to this case because the Supreme Court of Virginia designated a retired judge from the Sixteenth Circuit to hear the matter previously.

³⁷ Evans v. Smyth-Wythe Airport Comm'n. 255 Va 69, 73, 495 S.E. 2d 825, 828 (1998)

³⁸ Caperton v. A.T.Massey Coal Co., 556 U.S. 868, 872 (2009) As in Withrow V. Larkin 421 U.S. 35, 47 (1975).

The entire Twenty Fourth Circuit opined that it was improper, in their opinion, for them to preside at the trial of the Petitioners case, pursuant to provisions of Section 17.1-105(B)³⁹ of the Code of Virginia, entered fact of record and directed the Clerk of the Court to certify same to the Chief Justice of the Supreme Court on the 12th day of July 2011. The Twenty-Fourth Circuit Court judge's opinion acts as request, a motion that they had a conflict of interest, personal bias or prejudice either against the Petitioner or in favor of the adverse party as in 28 U.S. Code §144⁴⁰, and gradually evolved into what is currently 28 U.S. Code §455 (a)(b)(1)(4)(5)(iii)(c)(d)(1).⁴¹ Were the district court judges, including Judge Burnette, Jr. "concerned in interest". If so a judge should disqualify himself as if he has been of counsel for either party to the case.⁴²

The Supreme Court of Virginia erred by overseeing and not adopting the ABA's 1972 adoption of the Model Code of Judicial Conduct⁴³ which sought to encapsulate the ethics of disqualification into a unified rule, currently recognized and used by the State of Virginia.⁴⁴ Amended in 1974 which, by virtue of its requirement that judges disqualify themselves whenever their impartiality might reasonably be questioned, representing as ending the "duty to sit".⁴⁵ A judge is subject to disqualification "in a proceeding in which his impartiality might reasonably be questioned, including but not limited to" cases in which, amongst other things, the judge has an actual bias concerning a party or had an interest in the case. This case affected not only the defendants in the matter but the entire Twenty-Fourth Circuit

³⁹ Va. Code Section 17.1-105(B)

⁴⁰ 28 U.S. Code §144

⁴¹ 28 U.S. Code §455 (a)(b)(1)(4)(5)(iii)(c)(d)(1).

⁴² Act of May 8, 1792, Ch. 36, §11, 1 Stat. 178-79 (1792), further amended in 1948,

⁴³ ABA's 1972 adoption of the Model Code of Judicial Conduct

⁴⁴ MODEL CODE OF JUDICIAL CONDUCT, Canon 3C (1972) (Current version at MODEL CODE OF JUDICIAL CONDUCT, R. 2. 11 (2007)(A)(1)

⁴⁵ JAMES ALFINIK JEFFREY SHAMAN, STEVEN LUBET & CHARLES GARDNER GEYH, JUDICIAL CONDUCT AND ETHICS §4. (2007)

panel of judges. The case must be reversed and moved to another jurisdiction.

The Petitioner has been injured and suffered damages. Under statutes granting the right of appeal to the party aggrieved by an order or judgment, the party aggrieved is one whose pecuniary interest is directly affected by the adjudication; one whose right of property may be established or divested thereby.⁴⁶ Or one against whom error has been committed.⁴⁷

What Judge Burnett, Jr. and his colleagues attempted to do was seal up "Pandora's Box" for good and throw it in the ocean to sink to the bottom never to be found again. The Circuit Court of the City of Lynchburg has a proverbial revolving door with the money laundering, state and national banks acting as conduits, illegal banking enterprises, accomplices, attorneys and judges working as gate keepers managing the keys to our City as was offered in oral writ argument to Chief Justice Donald W. Lemons, Justices Lawrence L. Koontz, Jr., and Stephen R. McCullough on May 19, 2017 and embodied within the Federal Agencies investigative reports.

Congress has the authority to overrule wrongly decided cases.⁴⁸

Congress . . . may cure any error made by the courts.⁴⁹

Congress has the power to counter judicial doctrine.⁵⁰

⁴⁶ *Ruff v. Montgomery*, 83 Miss. 185, 36 South. 67; *McFarland v. Pierce*, 151 Ind. 546, 45 N.E. 706; *Lamar v. Lamar*, 118 Ga. 684, 45 S.E. 498; *Smith v. Bradstreet*, 16 Pick. (Mass.) 264; *Bryant v. Allen*, 6 N. H. 116; *Wiggin v. Swett*, 6 Mete. (Mass.) 194, 39 Am. Dec. 716; *Tillinghast v. Brown University*, 24 R. I. 179, 52 Atl. 891; *Lowery v. Lowery*, 64 N. C. 110; *Raleigh v. Rogers*, 25 N. J. Eq. 506.

⁴⁷ *Kinealy v. Macklin*, 67 Mo. 95.

⁴⁸ *Wesson v. United States*, 48 F.3d 894, 901 (5th Cir. 1995).

⁴⁹ *Fast v. School Dist. Of City of Ladue*, 728 F.2d 1030, 1034 (8th Cir. 1984) (en banc).

⁵⁰ *Belgard v. State of Hawaii*, 883 F.Supp. 510, 514 (D. Hawaii 1995).

It should not be necessary for Congress to visit this issue.

CONCLUSION

For the good of the United States of America, the judicial, the public at large, the Virginia communities, and the Petitioner; Petitioner's questions tests the application of checks and balances in our judicial system. It asks this Court to stop the revolving door and reverse the Supreme Court of Virginia's decision and find that Judge Burnette Jr. errored and had knowledge that it was improper for any Judge in the Twenty-Fourth Circuit of Virginia, including himself, in their opinions, to preside at the trial of Petitioners case and committed judicial error by, (i) not contacting the Supreme Court of Virginia for proper designation of the case, as was prior precedence in the case; (ii) not recusing himself from the Petitioners' case, (iii)(a) having ex-parte communications with the named Attorney's defendant and their attorneys all without the Petitioners' knowledge or notice to discuss the merits of the case, docket of the case and the ongoing federal investigation of the matters plead in the case, (b) how to get rid of the case, (c) the setting up of a ex-parte hearing without Petitioners knowledge or notice, (d) and the fact that Judge Burnette Jr. had contacted the entire Circuit of Judges in Virginia about the investigation and defendants in the case, and the fact that that they all had agreed it improper, on July 12, 2011, in their opinion for them to preside at the trial of Petitioners case, (iv) presiding over the agreed upon ex-parte hearing without proper notice to Petitioner, (v) for not asking the Supreme Court of Virginia to move the Petitioners' high profile case to another jurisdiction, (vi) for not reporting the federal investigation and the gross conflict of interest he had with the named defendants; and grant the Petitioners' Petition, Order the Supreme Court of Virginia to reinstate the matter and that the case be moved to another jurisdiction, and Order the investigation and discipline this Court seems just and meet.

The Court must find that the Circuit Court Order removing all Twenty-Fourth Circuit judges from Petitioners case set precedent

and set forth an objective standard that requires recusal when the likelihood of bias on the part of the judge is too high to be constitutionally tolerable.⁵¹ Applying this standard, the Court must conclude that due process compelled the judges' recusal and by presiding over Petitioners case, the Judge erred. Accordingly, Petitioner suggests that any bias that threatens one judge's integrity, let alone an entire circuit of judges, as in this matter, affects the integrity of the institutional court.

Petitioner also asks this court to overturn the Supreme Court of Virginia's decision to provide better guidance and set a precedence in that a judge recognized impartiality will not be condoned and he does not have a "duty to sit", and;

For the fact, that Judges that preside in the State of Virginia are licensed attorneys. This Court can forward its opinion to the Supreme Court of Virginia and to the Virginia State Bar to perform their duty to the Petitioner and the public at large, and even other members of the judiciary to ensure that our democracy is preserved and protected and that professionalism and fairness reigns supreme. As in J.B.K, 931 S.W. 2d, 581, 584-85 (Tex. Ct. App. 1996) In Cap. Rock Electric Cooperative, Inc. v. Texas Utilities Electric Co, 874 S. W. 2d 92 (Tex. Ct. App. 1994)

For the reason set forth above, this Petition for a Writ of Certiorari should be granted.

Dated: January 5, 2017

Respectfully submitted,

CRYSTAL VL RIVERS
3831 Old Forest Rd, Ste 6
Lynchburg, VA 24501
434-818-2921
Pro se Petitioner

⁵¹ Caperton v. A.T.Massey Coal Co., 556 U.S. 868, 872 (2009). As in Withrow V. Larkin, 421 U.S. 35, 47 (1975).