

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

Katherine S. Johnson, Petitioner

vs.

Loyola University New Orleans-Respondent

On Petition for A Writ of Certiorari to the
Supreme Court of the United States

On Appeal from the Ruling of the Louisiana Supreme Court
Proceedings No. 2017-C-0776
On Appeal from the Ruling of the Fourth Circuit, Parish of Orleans
Proceedings No. 2016-CA-0881
On appeal from the Ruling of Civil District Court for the
Parish of Orleans, State of Louisiana,
Proceedings No. 2009-06133 "G-11"

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS OF PRESENTED FOR REVIEW

- 1) Whether the Louisiana Supreme Court violated the First Amendment Rights of the Petitioner and erroneously denied the Petitioner's Writ because the Honorable Justice Crichton stated that the Petitioner insulted and made false statements about the Respondent;
- 2) Whether the Louisiana Supreme Court and Fourth Circuit of Appeal sanctioned the abuse of the Petitioner by the Civil District Court of New Orleans and violated the Federal Education Rights and Privacy Act, the Seventh Amendment of the United States Constitution, and Federal Rule of Civil Procedure 38(b) and subjecting the Petitioner to identity theft for the rest of her life; and
- 3) Whether the Louisiana Supreme Court and Fourth Circuit Court of Appeal violated the Fourteenth Amendment by denying the Petitioner the due process of law in a decision that will cause material injustice, irreparable injury to the Petitioner, and significantly affect the public interest of college students in the United States of America.

LIST OF PARTIES

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

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- III. Review is Warranted Because This is an Important Issue Subject to An Intractable Split of Authority in The Lower Courts and Should Be Resolved by This Court.
- IV. Review is Warranted Because Retaliation For Constitutionally Protected Speech And Association In Violation Of First Amendment 42 U. S. C. §1983 Said Degree prior to the Civil Rights Investigation Has Not Been addressed and whether the Respondent is an accredited provider to issue Masters in Education Degrees in the United States.
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**IN THE
SUPREME COURT OF THE UNITED STATES**

PETITION FOR WRIT OF CERTIORARI

Petitioner Katherine S. Johnson respectfully prays that a writ of certiorari be issued to review the judgment below.

OPINIONS BELOW

The opinion of the Louisiana Supreme Court appears at Appendix A to this petition. Justice Crichton's concurring statements appear at Appendix B. Fourth Circuit Court of Appeal Judgment appears at Appendix C. Petitioner's Appeal to the Fourth Circuit appears at Appendix D. Petitioner's Writ of Certiorari to the Louisiana Supreme Court appears at G. Orleans Parish Civil District Court Judgments appear at Appendices N and O respectively.

JURISDICTION

1. The Petitioner brings this action under the First, Seventh and Fourteenth Amendments to the United States Constitution 42 U. S. C § 1983 and Louisiana law.
2. This Honorable Court has jurisdiction over Petitioner's claims pursuant to 28 U. S. C. § 1331 (federal question jurisdiction). This court has jurisdiction over Petitioner's Louisiana law claims pursuant to 28 U. S. C. § 1367 (supplemental jurisdiction).
3. The jurisdiction of this court is invoked under 28 U. S. C. § 1254 (1) and 28 U. S. C. § 1257 (a), and 15 U. S. C. § 57 (a).

CONSTITUTIONAL PROVISIONS, STATUES AND POLICIES AT ISSUE

1. First Amendment to the United States Constitution:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble.

2. Seventh Amendment to the United States Constitution

At Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States than according to the rules of the common law.

3. Fourteenth Amendment to the United States Constitution:

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without the due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

We hold that the Louisiana Supreme Court denied Petitioner's Writ for Certiorari in error. Furthermore, the decisions of the Fourth Circuit Court of Appeal and Fifth Circuit Court of Appeal for the Eastern District conflict with the Sixth Circuit for the Eastern District of Michigan at Detroit (*Ward vs Polite*) and with the Seventh Circuit Court of Appeal in *Ross v. Creighton University*. Additionally, the Fourth Circuit of Appeal decision in this case conflicts with Orleans Parish Civil District Court in *Jody Doe vs Loyola University New Orleans*.

Justice Crichton in his concurring statements that went viral regarding "insulting and untrue" statements supposedly made "against Loyola University [New

Orleans]” by the Petitioner are misplaced. Furthermore, the statements were not discourteous, insulting, or otherwise offensive to the Respondent.

Jody Doe vs Loyola University New Orleans, Civil District Court Case No. 2006-03912 ended in a summary judgment for Jody Doe which was published in the Chronicle of Higher Education. Jody Doe’s case was removed from the Civil District Court in New Orleans, and Doe’s summary judgment was reversed by Justice G. Thomas Porteous, who was incidentally impeached and removed from the bench.

As Justice Crichton was making his concurring statements, the Respondent was in litigation at Division G of Civil District Court for Case No. 2015-04185 with another former student seeking damages.

Petitioner unequivocally denies making insulting and making untrue statements about LUNO in her writ application as contended by Justice Crichton in his concurring reasons on the denial of Plaintiff’s writ. Furthermore, Petitioner submits that Justice Crichton’s release of these statements defames her character.

Petitioner has always maintained the following: (1) LUNO knowingly made false claims during the federal mediation to the Honorable Clare Jupiter, Elnora Stokes (a federal investigator), and the Petitioner, all in violation of the federal False Claims Act, (2) Loyola University New Orleans engaged in unfair trade practices in violation of LSA-R.S. § 51:1401, *et seq*; (3) Petitioner does not qualify for and did not receive an education degree from the Respondent and the degree in question does not qualify as an education degree in the State of Louisiana; (4) Petitioner demanded a refund from the Respondent and Respondent refused to return Plaintiff’s tuition and

fees; (5) Plaintiff's official graduate school transcript has never been allowed into any proceeding in any Louisiana court; and (6) Petitioner suffered damages by actions of the Respondent and said damages are ongoing. It is respectfully submitted that the decision as to who is telling the truth can only be determined by the trier of fact at trial in this matter.

Shortly after Justice Crichton's statements went viral, Petitioner was contacted by Rafael J. Hernandez of the United States Department of Justice in Washington D. C. informing the Petitioner that a member of the United States House Committee had contacted the U. S. Department of Justice regarding this case.

Petitioner contacted the consumer protection division at www.caselaw.com and asked them to remove Justice Crichton's concurrence off the Internet. Petitioner received a response that she would have to go back to court because they could not take Justice Crichton's statements off the site.

A. Facts Giving Rise to This Case

This litigation arises out of a discrimination complaint filed against Loyola University of New Orleans ("LUNO") after Petitioner was dismissed from the counseling program for failing to sign a Southwest Texas University evaluation form dated 1996, presented to her on August 14, 2007, by Professor Rheta LeAnne Steen (hereinafter "Steen") more than two weeks after the practicum course ended¹ because Professor Steen stated the Petitioner was a remedial student.

¹ Southwest Texas Evaluation Form

Of note, Petitioner's graduate school GPA was 3.67 prior to enrolling in this practicum course. When Petitioner complained about Steen's unprofessional behavior to Assistant Dean Angela Brocato, Steen changed Petitioner's grade from "T" to "F" on August 22, 2007 at the beginning of the fall semester². Steen gave all the students an "T" for the course because her class was running on the LUNO summer school schedule. Petitioner knows when Steen changed her grade because the Respondent's computer system "LORA" e-mailed the Petitioner and told when her grade was changed. Petitioner was not a student at LUNO when her grade was changed by Steen.

It is further submitted that Petitioner was the only African-American in the practicum course and the only student subject to the Southwest Texas University evaluation and who was then dismissed from the counseling program.

The dismissal came in spite of the fact that the Petitioner had over a decade of experience working with homeless, runaway and exploited teenagers prior to enrolling in this practicum course. Professor Steen and her practicum supervisor, Roseanna DiChiro, had little to no experience with the population (homeless, runaway and exploited teens)³.

Initially, the Petitioner contacted the United States Department of Education Ethics Division. After Arlene McCarthy, attorney for the United States Department of Ethics, read the Petitioner grade appeal letter, Petitioner was referred to the United States Department of Education Office of Civil Rights in Dallas, Texas

² LORA Notification on August 22, 2007 (Fall Semester)

³ E-mail from Professor Steen to Plaintiff/Petitioner

(hereinafter “OCR”). The United States Department of Justice also referred to OCR in Dallas, Texas.

On December 12, 2007, Petitioner filed a discrimination complaint with the OCR, alleging age, race and other violations of law by LUNO and its employee, Steen. OCR arranged a federal mediation of the civil rights complaint under Title VI of the Civil Rights Act of 1964, (Title VI), 42 U.S.C. §2000 et seq. and its implementing regulation found at 34 C.F.R. Part 100 (2008) as well as the Age Discrimination Act of 1975 (Age Act), 42 U. S. C. § 6101, et, seq. and its implementing regulation found at 24 C. F. R. Part 110 (2008) in the delivery of services.

Mr. John Harris (hereinafter “Harris”), who was federal mediator, stated to the Petitioner and the Respondent that the case was not appropriate for federal mediation because Petitioner was not a student at LUNO. The federal mediation proceeded, however.

During the federal mediation of the case, the Petitioner offered to resolve the issue by retaking the practicum course; however, LUNO refused to allow Petitioner to retake the practicum course⁴. Attorney Brooke Duncan (hereinafter “Duncan”) and Roger White, Provost (hereinafter “White”) asked Harris to contact OCR to request an extension of time to make Petitioner an offer to settle her civil rights complaint. Harris advised Petitioner not to speak with the Respondent during the mediation.

The negotiation consisted of Honorable Claire Jupiter (hereinafter “Judge Jupiter”, Duncan, White, and the OCR federal investigators, Paul Coxe (hereinafter

⁴ Appellant’s Offer to Respondent

“Coxe”) and Elnora Stokes (hereinafter “Stokes”). LUNO’s offer to Petitioner in writing was as follows: “Masters in Education with a Major in Counseling Degree that would provide immediate employment in the State of Louisiana”; greater earnings; and, Petitioner could also earn a Ph. D⁵. White stated to Stokes that Petitioner was receiving a certified education degree from LUNO, and anyone who contacted LUNO would be told that Plaintiff/Petitioner received a certified education degree.

Unfortunately, Respondent made false statements in violation of the False Claims Act (FCA), 31 U.S.C. §§ 3729 - 3733 to Jupiter and Stokes regarding this education degree during federal mediation.⁶ Court records in *Doyle vs. Loyola University* (07-3300), *Melancon vs. Loyola University* (07-3300) and *Dermdoy vs. Loyola University* (07-3305) show that LUNO’s education department closed in 2006, and they entered into an articulation agreement to certify only some education degrees. Therefore, the offer submitted in federal mediation was invalid.

Petitioner did not put the letter from OCR on record because OCR did not investigate the Petitioner’s civil rights complaint until 1 ½ years later, and the letter contains errors. White not only made false statements in LUNO’s affidavit filed in court and to Stokes, federal investigator, but he also informed Stokes that LUNO planned to award the Petitioner, an African American, a different degree than the Caucasian students. For this reason, the OCR letter is factually incorrect.

⁵ E-mail from Duncan to Jupiter

⁶ E-mail between Stokes and White

In addition, OCR never found out any information about Mimi Robertson. Ms. Robertson was a former LUNO graduate student that DiChiro was supervising in a counseling internship at the practicum site where Petitioner was completing her practicum.

DiChiro is a psychologist, not a licensed professional counselor ("LPC"), and was not attending the Petitioner's group counseling sessions. This is important because the treatment modality is different, and the Petitioner had more experience with the population than Dichiro and Steen.

Several former employees of the practicum site as well as one of Petitioner's former teachers who is a licensed professional counselor wrote letters called "verification of assertions" to OCR. Everyone who wrote a letter to OCR stated to the Petitioner that they were never contacted in the civil rights investigation. The initial federal investigator assigned to the case stated that he wanted to handle this case as academic harassment. However, he was involved in a car accident and was unable to continue the investigation.

Petitioner asked Dr. James Bray, former President of the APA, and Dr. Stephen Behnke, J. D., PhD. how to handle the situation with DiChiro. Dr. Behnke stated that DiChiro was not a member of the APA; therefore, he advised Petitioner to write a "cease and desist libel" letter to DiChiro. Petitioner knows DiChiro received the letter because Respondent had a copy at the first deposition.

In March 2008, Petitioner received a letter from Judge Jupiter with Duncan's signature accepting the offer, but no degree⁷. However, the copy of the release filed under seal as evidence by the Respondent is different than the signed release mailed to the Petitioner by Judge Jupiter. Missing from this exhibit is "accepted on behalf of Loyola University New Orleans by Brooke Duncan, III attorney." The Petitioner and the Respondent have different versions of the release filed under seal in Civil District Court New Orleans by the Respondent⁸.

On May 10, 2008, LUNO's graduation program⁹ and the Times Picayune¹⁰ stated the Respondent was receiving the same degree as the Caucasian students. Respondent awarded the Caucasian students an accredited degree entitled, "Masters of Science in Counseling" and tried to award to Petitioner an unaccredited, substandard, uncertified degree entitled, "Masters in Education in Counseling".

On June 2, 2008, Petitioner went to pick up her degree and transcript only to find out no degree had been awarded. However, a second transcript indicated that a degree had been awarded stating it was a "Masters of Science" in "Graduate Education".¹¹

At that time, White informed Petitioner that he would have to get back with her regarding the Masters in Education degree because several people he needed to

⁷ Release mailed to Petitioner from Judge Jupiter

⁸ Respondent has the original release mailed to her by Jupiter as accepted by Loyola University by Brooke Duncan. The copy of the release filed by the Respondent in Civil District Court does not have this release being accepted by Loyola University New Orleans.

⁹ Graduation program

¹⁰ Times Picayune

¹¹ Second Transcript

speaking with were out of town. Petitioner never heard again from White regarding this education degree.

Once again, Petitioner contacted OCR and reported that she was not able to obtain her degree from LUNO because she discovered that Respondent's education department closed in 2006. White informed Stokes that if anyone called to inquire, the Respondent issued to Petitioner a "certified education degree" from LUNO. White not only made false statements to the federal investigator, but he informed Stokes that Respondent planned to award the Petitioner, an African American, a different degree than the Caucasian students in the civil rights complaint.

The Petitioner does not qualify for and has never received an education degree from the Respondent. Petitioner received only a Xerox copy of a diploma which is filed in a Ziploc sandwich bag under seal in Civil District Court but never an actual diploma or transcript for this "education degree"¹². Petitioner received a Xerox copy of the transcript of this degree when it was submitted as evidence in court¹³. Petitioner was unable to pick up this diploma or transcript from the Respondent Registrars' Office.

Petitioner contacted the Texas Board of Higher Education and Texas Attorney General's Office who informed her that this must be a substandard, fictitious or fraudulent college degree and is prohibited by law in Texas and other states¹⁴. This is due to the fact that Respondent is not an accredited provider of education degrees

¹² Letter from Duncan stating to Mr. Courtney Wilson this is a copy of the diploma and give it to the Appellant.

¹³ Transcript

¹⁴ Texas Penal Code

and has no legal authority to issue this “education degree”¹⁵. Civil District Court records show that after the Respondent’s education department closed, they entered into an articulation agreement with Our Lady of Holy Cross College to certify only some education degrees. Respondent did not reveal that its education department was closed for a couple of years during the federal mediation of the Civil Rights complaint.

On August 11, 2008, believing the Respondent had breached the Release, Petitioner filed a complaint with the Louisiana Licensed Professional Counselors Board of Examiners Disciplinary Committee (hereinafter “Louisiana LPC Board”) against Steen. Petitioner also requested assistance in transferring her graduate school credits¹⁶. Of note, the document filed by the Respondent was written by Steen and is not Petitioner’s complaint to the Louisiana LPC Board.

Petitioner tried to prevent the Respondent from unveiling this information into court by filing a motion to quash the subpoena to the Louisiana LPC Board. Civil District Court New Orleans wrote “MOOT” on Petitioner’s motion to quash. This allowed the Respondent to take a letter written by Attorney Meredith J. Trahan on behalf of Louisiana Attorney General Buddy Caldwell and place them on top of statements written by Steen to defame the Petitioner’s character. Petitioner had no legal representation at any of the Rule to Show Case hearings and was denied legal representation from the bench. Judge Giarrusso did not reveal that her husband was employed by the Respondent as an adjunct law professor. In fact, despite this case

¹⁵ Letter from Stephen to Respondent

¹⁶ Petitioner complaint to Louisiana LPC Board of Examiners

being under seal, students from the Loyola University law school attended the first Rule to Show Cause hearing. Respondent had no legal counsel for any of the hearings, and although she paid Civil District Court, she did not receive a Jury trial.

A letter sent to both the Petitioner and Respondent by Charles H. Braud, Assistant Louisiana Attorney General, states that the Louisiana Attorney General Office has not investigated this case; therefore, Petitioner filed this Motion to quash the subpoena which was denied by Civil District Court New Orleans¹⁷.

On September 8, 2008, the University of New Orleans and Xavier University entered into an agreement allowing Petitioner to take the class at Xavier University¹⁸. The Respondent refused to take the 3 hours from Xavier University to resolve this matter. The Respondent does not have reciprocity¹⁹

On December 9, 2008, the Respondent sent Petitioner a notice that because she filed a complaint with the Louisiana LPC Board of Examiners, she was in violation of the Release and that it intended to rescind the degree if she did not withdraw the complaint by December 15, 2008. Petitioner refused to drop her complaint against Steen. At the time, Respondent was under sanction by the American Association of College and University Professors for violating the rights of former tenured education professors. Petitioner was protected by her First

¹⁷ Letter from Charles H. Braud, Assistant Louisiana Attorney General

¹⁸ UNO and Xavier Agreement

¹⁹ Reciprocity of Louisiana Colleges and Universities

Amendment Rights and by the Joint Statement on Rights and Freedoms of Students from improper academic evaluation.²⁰

On December 22, 2008, the Respondent informed the Petitioner that they rescinded her Master's in Education with a Major in Counseling degree because she refused to drop her complaint against Steen to the Louisiana LPC Board of Examiners.

On December 27, 2008, Petitioner sent a letter to Duncan which advised that LUNO breached the Release by consumer fraud and they had no legal authority to issue this "education degree". Legal authority to issue college degrees comes from Congress, state legislature or sovereign Indian tribes. Petitioner formally demanded a refund, and Respondent refused to refund Petitioner's money.

On June 15, 2009, Petitioner filed a Petition for Specific Performance and Damages against LUNO seeking to enforce the Release for failure to issue a timely degree and for trying to confer on Petitioner a substandard, fictitious, fraudulent degree in exchange for thousands of dollars in tuition and fees.

In March of 2010, Petitioner contacted her Louisiana state legislator for help to create a law to protect college students in Louisiana from substandard, fictitious and fraudulent college degrees²¹.

²⁰ Joint Statement on Rights and Freedoms of Students from improper academic evaluation
<http://www.aaup.org/academic-freedom-students-and-professors-and-political-discrimination>

²¹ Louisiana Act 260

B. Civil District Court Proceedings

Petitioner was repeatedly denied due process. There were no evidentiary or contradictory hearings. There was no hearing on Petitioner Motion to Strike exhibits from the Respondent's Motion for Summary Judgment. The witness for the Respondent failed to show up for the Rule to Show Cause hearing. The Respondent failed to produce any documents regarding this "Masters in Education" with a Major in Counseling degree after being subpoenaed twice by the Orleans Parish Sheriff's Office and the United States Marshall Service for information regarding this degree. Petitioner's lawyer appointed by the Civil District Court trial Judge Robin Giarrusso failed to show up for the Rule to Show Cause hearing. There were no trial-level fact findings in this case, therefore, Petitioner should get the benefit of all reasonable factual inferences in challenging the summary-judgment decisions entered against her. Once again, Judge Robin Giarrusso ruled against the Petitioner.

All judgments against the Petitioner in Civil District Court New Orleans are not based on any laws. Conferring of this degree on Civil District Court is in violation 20 U. S. C. §1011. Petitioner was not a student at Loyola University at the time in question by the Court and does not qualify for an education degree in the State of Louisiana. Unaccredited, substandard, fictitious degrees are prohibited in several states and foreign countries with fines ranging from \$10,000 in Chicago to \$100,000 in Texas²². In the remediation and dismissal case of an African American student in Michigan, *Ward vs Polite, supra* said case settled for \$75,000.

²² Texas Penal Code and Map of States

C. The Appellate Court Proceedings

On date, May 5, 2016, Petitioner filed a notice of appeal from Civil District Court New Orleans. The Fourth Circuit issued an opinion affirming the decision of Civil District Court New Orleans. Petitioner appealed the Fourth Circuit for a new hearing. On April 4, 2017, the appeal for a new hearing was denied.

D. The Louisiana Supreme Court Proceedings

The Petitioner filed a petition for Writ of Certiorari on May 17, 2017. On September 22, 2017, Petitioner's Writ was denied.

REASONS WHY CERTIORARI SHOULD BE GRANTED

1.

Review is Warranted Because the Louisiana Fourth Circuit Court of Appeal violated the Family Education Rights and Privacy Act and Failed to enforce Petitioner's Motion to Strike Exhibits from the Motion for Summary Judgment allowing the Petitioner to be subject to identity theft.

The Fourth Circuit Court of Appeal refused to allow Petitioner's sealed transcript into Court and only reviewed opened, unofficial copies of transcripts.

Richard McCormick, attorney for the Respondent, breached Petitioner's social security number, telephone number, address and other confidential information in court pleadings giving court employee's full access to steal Petitioner's identity for an unlimited amount of years. Petitioner has been paying Life Lock for years over this matter and Equifax had to lock down her credit report. Terri Law, Executive Counsel for the Louisiana Department of Children and Family Services, tried to help the Petitioner by writing an affidavit on the retention of Civil Service Applications.

However, the Fourth Circuit Court of Appeal refused to allow his affidavit in court. The trial court did not hold contradictory or evidentiary hearings on Petitioner's motion to strike the Respondent's exhibits from the motion for summary judgment subjecting her to identity theft for the rest of her life.

2.

Review is Warranted Because Fourth Circuit Court of Appeal and the Louisiana Supreme Court has Departed from Proper Judicial Proceedings in Violation of the Fourteenth and Seven Amendments to the Constitution Sanctioning Abuse by Civil District Court New Orleans Against the Pro Se Petitioner, as to Call For An Exercise Of This Court's Supervisory Authority.

Where one or more parties to a matter is unrepresented in a complex case where there is no law to issue a ruling, a judge has heightened responsibility to ensure the proceedings are fair. Whenever appropriate, judges should explain the proceedings in simple terms and consider granting a continuance to allow the unrepresented party time and opportunity to obtain counsel. In this case, the Petitioner was denied legal assistance by Civil District Court New Orleans.

In *Johnson I*, the Petitioner filed a motion to continue the first rule to show cause hearing in order to obtain legal counsel because Mr. Glyn Godwin quit the case and kept the file. In that case, several members of the Slidell Police Force assisted the Petitioner in attempts to obtain the file from Mr. Godwin prior to the First Rule to Show Cause hearing. Mr. Godwin stated that he needed to copy the file, and the police could not enter his office without a search warrant. The Slidell Police Department told the Petitioner to report this matter to the Louisiana State Bar. Petitioner had to go to the first Rule to Show Cause hearing pro se and without a file.

In this case, Judge Robin Giarrusso stated to the Petitioner from the bench that Plaintiff's only right was to be served by the Orleans Parish Sheriff's Office.

Judge Giarrusso failed to disclose that her husband was employed by the Respondent as an adjunct law professor. Despite this case being under seal, students from the Loyola Law School were invited and attended the Rule to Show Hearing. Additionally, Judge Giarrusso allowed this case to linger in her court room for several years.

Petitioner demanded and paid for a trial by jury and on all issues and claims set forth in her Complaint pursuant to the Seventh Amendment of the United States Constitution and Federal Rule of Civil Procedure 38 (b). Judge Giarrusso reversed the order of the cases and awarded the Respondent a summary judgment based on "no law." The Petitioner was not able to file a motion for a new hearing because Judge Giarrusso denied Petitioner access to the file stating that "it was under seal." Civil District Court New Orleans granted the motion summary judgment and Fourth Circuit Court of Appeals affirmed in part and reversed in part (*Johnson I*). Petitioner was not represented by legal counsel at any court hearings.

Petitioner had two witnesses at the first Rule to Show Cause hearing. A social worker from her practicum site stated he was appalled at the handling of the Rule to Show Cause hearing. There was also a state employee formerly with the Louisiana Department of Health and Hospitals in attendance. The Louisiana Department of Health and Hospitals maintains a database of adverse actions of individuals who fail to pay back student loans at <https://adverseactions.dhh.la.gov>. This Court relied on

various discovery responses and affidavits submitted by LUNO to conclude that there was an absence of factual support for Petitioner's damages claim. This conclusion ignores the fact that the Respondent filed documents in court as evidence that could be used in deceptive practice.

Post *Johnson I*, Respondent conducted discovery as to the issue of damages and filed a second motion for summary judgment contending that Petitioner did not suffer any damages as a result of the five-month delay in providing her with a corrected and accurate academic transcript. The trial court granted this motion for a second summary judgment. During the second Rule to Show Case Hearing, respondent's witness, Mr. Ranzy Montent, failed to appear in Court and to tell the truth in court after being subpoenaed by the Orleans Parish Sheriff's Office. Barbara Gadue, Deputy Clerk, verified that he was not employed at the University of New Orleans at the time under question by the Court. He signed his affidavit without consulting with legal counsel for the University of New Orleans. The Respondent produced no documents in response to the Request for the Production of Documents. Mr. Doug J. Sunseri, plaintiffs' appointed counsel, did not appear in Court for the hearing. Judge Robin Giarrusso once again ruled against the Petitioner.

The judgment once again did not contain any decretal language setting forth with particularity the relief being granted, nor does the judgment "decree the dismissal of Petitioner's lawsuit with prejudice." Petitioner filed a motion for a rehearing because Mr. Montet and Mr. Sunseri did not show up for the hearing. Petitioner's request for a rehearing was denied by the trial court.

Petitioner filed an Appeal to the Fourth Circuit Court of Appeal that affirmed the lower Court ruling. The Fourth Circuit of Appeal denied statements from the Slidell Police Force, Orleans Parish Sheriff's Office, U. S. Marshall and Terri Ricks, Executive Counsel for the Louisiana Department of Children and Family Services into Court. The Orleans Parish Sheriff's Office has an outstanding subpoena for LUNO called the "Second Request for the Production of Documents" regarding this degree in the Sheriff's Office.

3.

Review is Warranted Because This is an Important Issue Subject to An Intractable Split of Authority in The Lower Courts and Should Be Resolved by This Court.

Louisiana Supreme Court denied Petitioner's Writ for Certiorari in error. The decisions of the Fourth Circuit Court of Appeal and Fifth Circuit Court of Appeal for the Eastern District conflict with the Sixth Circuit for the Eastern District of Michigan at Detroit (*Ward vs Polite*) and with the Seventh Circuit Court of Appeal in *Ross v. Creighton University*. Additionally, the decision of Orleans Parish Civil District Court New Orleans in this matter conflicts with *Jody Doe vs. Loyola University New Orleans* in Orleans Parish Civil District Court with a different judge. Doe won a summary judgment against Loyola University, and this information was published in the Chronicle of Higher Education. Jody Doe was trying to obtain a class action against Loyola University New Orleans for refunds of tuition and fees that the Respondent kept from students after Hurricane Katrina. Former Justice Porteous

reversed Jody Doe's summary judgment, and the United States Supreme Court later impeached and removed him from the bench.

In *Ross v. Creighton University*, the Seventh Circuit Court of Appeals did in fact award the Petitioner limited cause of action for educational malpractice based on a breach of contract claim and remanded the case for further proceedings²³. The Court in *Ross* stated, "Accordingly, we must disagree respectfully with our colleague in the district court as to whether the contract counts of the complaints can be dismissed at the pleadings stage. In our view, the allegations of the complaint are sufficient to warrant further proceedings... we believe that the District Court can adjudicate Mr. Ross' specific narrow claim that he was barred from any participation in and benefit from the University's academic program without second-guessing the professional judgment of the University faculty on academic matters." In this case, there are numerous causes of action including and not limited to breach of contract, deceptive practice, and tortious interference with contract, conspiracy, supervisory liability, and unjust enrichment, Violation of the False Claims Act, Retaliation, Supervisory Liability and Discrimination.

In *Ward vs Polite*, the Sixth Court of Appeal stated, "as for the money-damages claims, the question is whether the Respondent violated clearly established constitutional rights of which a reasonable person would have known." Citing *Harlow* 457 U. S. at 818, "For these reasons, we reverse and remand to the district court for further proceedings."

²³ *Ross v. Creighton University* 957 F. ed at 416.

4.

Review is Warranted Because Retaliation For Constitutionally Protected Speech And Association In Violation Of First Amendment 42 U. S. C. §1983 Said Degree prior to the Civil Rights Investigation Has Not Been addressed and whether the Respondent is an accredited provider to issue Masters in Education Degrees in the United States.

In her First Supplemental Petition, Petitioner pleaded various causes of action that had not been previously pleaded in her initial Petition for Specific Performance. Respondent filed a motion for summary judgment, which was granted after the matter came on for hearing. On appeal, this Court clearly stated that there were two issues outstanding; (1) whether Loyola was entitled to rescind the master's degree it had previously awarded to Petitioner, and (2) whether Petitioner had sustained damages, and assuming the previous question was answered in the affirmative, the amount of those damages.

The issue of rescission was not addressed in Respondent's second motion for summary judgment. That motion dealt strictly with the issue of whether Ms. Petitioner was entitled to damages as a result of LUNO's delay in sending her an accurate transcript. The judgment issued after the hearing likewise contains no language about the two issues still properly before the Court. It simply reads that the "Respondent's Motion for Summary Judgment be and it is hereby **GRANTED.**"

Thus, the issue of whether Loyola was entitled to rescind Petitioner's master's degree has never been addressed. Petitioner suggests that the failure to address this requires a remand. At the very least, this Court should grant rehearing to clarify the status of the issue.

Petitioner refused to drop her complaint against Steen because the Respondent was under sanction by the American Association of College and University Professors for violating the rights of former education tenured professors. Petitioner was also protected by her First Amendment Rights and by the Joint Statement on Rights and Freedoms of Students from improper academic evaluation.²⁴

The Federal Civil Rights laws make it unlawful to retaliate against an individual for the purpose of interfering with any right or privilege secured by these laws²⁵. Thus, once a student or other individual complains formally or informally to a school or the United States Office of Civil Rights about a potential civil rights violation or participates in an OCR investigation or proceeding, the recipient is prohibited from retaliating including intimidating, threatening, coercing, or rescinding a college degree prior to the civil rights investigation, such as in this case. The First Amendment to the United States Constitution, applicable to the States through the Fourteenth Amendment, prohibits governments from “abridging the freedom of speech.” Petitioner claims LUNO violated all three guarantees.

5.

Review Is Warranted Because The Fourth Circuit Court of Appeal Erred in Stating Petitioner Has Shown A Lack of Factual Support For Her Damages Claim and Failed to Demonstrate That She Would Meet Her Burden of Proof As to Damages In Response To Loyola’s Motion For Summary Judgment.

²⁴ Joint Statement on Rights and Freedoms of Students from improper academic evaluation
<http://www.aaup.org/academic-freedom-students-and-professors-and-political-discrimination>

²⁵ 34 C.F.R §100.7(e) (Title VI); 34 C. F. R. §106.71 (Title IX) (incorporating 34 C. F. R. § 100.7 (e); 34 C. F. R. § 100.34 (Age Act).

Petitioner established that there remains a genuine issue of material fact as to whether she sustained damages in this matter. Petitioner presented the Respondent with an Excel spreadsheet of damages and a medical statement from the Daughters of Charity and a Christian counselor. In fact, the Respondent accidentally filed some of the Petitioner's damages in their pleadings.

The Court found that there was no genuine issue of material fact as to damages because Petitioner did not apply for a job requiring that she have a master's degree or a job that required her to provide a transcript to her potential employer during the five-month period it took LUNO to correct her transcript. Even if that were the case, which Petitioner denies, it ignores the fact that Petitioner suffered damages and will continue to incur damages indefinitely. The Court apparently did not consider that Petitioner spent an excessive amount of money attempting to obtain a degree from LUNO with absolutely no return. Obviously, a master's degree whether a Master of Science or a Master of Arts, is a professional credential of great significance. Courts have recognized that such a degree is a valuable commodity on several different occasions. See, *e.g.*, *Billes/Manning Architects v. Accountemps*, 98-3044 (La.App 4 Cir. 9/15/99), 742 So.2d 728, 735 (Armstrong, J., dissenting) which states, "I would not presume that the services of a non-CPA can be the equivalent to the services of a CPA."

Furthermore, Petitioner argued in her First Supplemental Petition that she suffered "loss of salary and income and benefits and emoluments of employment, present, and future" due to LUNO's actions. Many Louisiana cases have held that

holding an advanced degree provides the holder with greater earning potential than not holding the same. See, e.g., *Branan v. Allstate Ins. Co.*, 99-1209 and 99-1210 (La.App 5 Cir. 4/25/00), 761 So.2d 612, 615 which compared earning potential of Petitioner with a master's degree in technical theatre with Petitioner with a bachelor's degree in stage theatre. The question of whether Petitioner suffered from loss of earning capacity and loss of a professional credential due to LUNO rescinding her degree was not addressed by the Court. Furthermore, it is a genuine issue of material fact that is not appropriate for summary judgment.

Petitioner can show that Loyola unjustly enriched itself pursuant to LSA-C.C. art. 2298 by keeping her tuition money while rescinding her degree. There are several other aspects of this litigation that are ripe for a determination of damages.

Finally, Petitioner stresses to this Court that the question of whether or not a litigant has sustained actual damages is a question of fact. See, e.g., *Snearl v. Mercer*, 99-1738 (La.App. 1st Cir.2/16/01), 780 So.2d 563, 574. In addition, credibility determinations, including the evaluation of expert testimony, are factual issues to be resolved by the trier-of-fact. See, e.g., *Orea v. Scallan*, 32,622, (La.App. 2nd Cir.1/26/00), 750 So.2d 483, 488. Factual issues are best determined by a trial on the merits, not on summary judgment.

Financial damages in the case could be determined by the School Employee Salary Schedule based on college degrees and years of service which is public information under the "Louisiana Sunshine Law" and information subpoenaed by the Orleans Parish Civil Sheriff's Office to the Respondent under the Gainful

Employment Rule. The Respondent failed to produce documents under the Gainful Employment Rule regarding this “Masters in Education with a Major in Counseling” degree after being subpoenaed twice by the Orleans Parish Sheriff’s Office and U. S. Marshalls.

It is critically important to note that Petitioner’s damages are continuous and ongoing. In *Johnson I*, the Court affirmed the portion of the trial court’s judgment dismissing Petitioner’s claim for specific performance. However, it reversed the trial court on the remainder of Petitioner’s claims and remanded “the matter for further proceedings regarding whether Loyola was entitled to rescind the master’s degree awarded to Petitioner, and for a determination of damages, if any, sustained by Petitioner in accordance with her petition as supplemented and amended.” *Petitioner I* at 926. See also LSA-C.C.P. art. 2164 which states, “The appellate court shall render any judgment just, legal, and proper upon the record on appeal.” Petitioner is therefore entitled to argue that LUNO has failed to show an absence of a genuine issue of material fact as to any of the causes of action pleaded by Petitioner in her Petition for Specific Performance, as amended by her First Supplemental Petition.

There is the question as to whether LUNO has legal authority to issue ‘Masters in Education’ or ‘Masters of Education’ degrees as an accredited provider in Louisiana or the United States of America. Legal authority to issue college degrees comes from Congress, state legislature or sovereign Indian tribes. Requirements for education degrees are clearly written in the Louisiana Administrative Code Bulletin 746.

Respondent LUNO is not an accredited provider of education degrees and does not have the legal authority to grant 'Masters in or of Masters of Education' degrees²⁶.

The Fourth Circuit Court of Appeals erroneously interpreted Louisiana Revised Statute 17:2075 which allows LUNO to give diplomas provided that the curriculum or course of study in the learned professions shall equal that maintained by other standard universities. In this case, there was no education department, professors, curriculum, and courses of study or students.

The Fourth Circuit Court of Appeals erroneously interpreted Louisiana Administrative Code Bulletin 746, which clearly shows that the Petitioner does not have the classes to be awarded an education degree in the State of Louisiana.

The Fourth Circuit Court of Appeals erroneously interpreted Louisiana Revised Statute 14:72.5 (Act 260) relative to a fraudulent postsecondary degree to create the crime of the unlawful production, manufacture, distribution, or possession of a fraudulent postsecondary education degree.

6.

Review is Warranted Because the Decision will Cause Material Injustice or Significantly Affect the Public Interest of Students in the United States and Several Foreign Countries.

Petitioner tried unsuccessfully to obtain an advisory opinion from the Louisiana Attorney General's office prior to submitting her Complaint. Respondent could continue to issue substandard, fictitious or fraudulent college degrees, and Attorneys

²⁶ Louisiana Revised Statute 17:2075

Generals in other states would not have the jurisdiction provided to protect non-Louisiana residents.

CONCLUSION

Based on the foregoing, Petitioner respectfully submits that the Petition for Writ of Certiorari should be granted. The Court may wish to consider summary reversal of the decisions of Civil District Court New Orleans, the Fourth Circuit of Appeals, and the Louisiana Supreme Court.

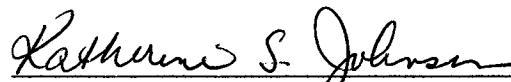
Prayer for Relief

For the reasons described above, Petitioner requests the following:

- A. Rulings of the trial court be reversed, nullified due to consumer fraud and the matter be remanded to Federal District for her oral argument and appointment of legal counsel.
- B. Order expungement of all unofficial college transcripts and set a date for evidentiary and contradictory hearings.
- C. Enter injunctive relief requiring Respondent to end the ongoing constitutional violations and violations of Louisiana law, equitable relief in the court's discretion that ensures the violations do not recur;
- D. The issue of rescission of the degree prior to the civil rights investigation and damages be addressed by the Supreme Court
- E. For any and all other relief to which Plaintiff may be entitled and that the Court deems just and proper in its discretion.

F. Refund of tuition and fees for all students during Hurricane Katrina and deemed by the Court. Petitioner was not a student at Loyola University New Orleans during Hurricane Katrina and has no record of attendance but knows there are other victims.

Respectfully submitted:



KATHERINE S. JOHNSON

PETITIONER , pro se

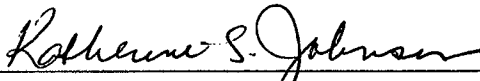
P.O. Box 4224

New Orleans, LA 70178

Phone: 504.458.3848

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of this Petition for Writ of Certiorari has this day been mailed to Respondent c/o Richard McCormick, Irwin Fritchie Urquhart & Moore, LLC., 400 Poydras Street, Ste. 2700, New Orleans, LA 70130, by first class United States mail with proper postage affixed this 16th day of January 2018.



KATHERINE S. JOHNSON