

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES

MARK ALLEN KOCH – PETITIONER

VS.

CITY OF SARGENT, NEBRASKA- RESPONDENT

ON PETITION OF WRIT OF CERTIORARI

MARK ALLEN KOCH

500 EDITH, P. O. BOX 280

SARGENT, NEBRASKA 68874-0280

308-880-0008

sewandvac@frontier.com

QUESTIONS PRESENTED

1. CAN A CITY OF SECOND CLASS BY ROLL CALL VOTE (DIRECTLY AFTER AN EXECUTIVE SESSION) HIRE A NEW CITY ADMINISTRATOR 2 WEEKS AFTER ABRUPTLY FIRING THE PAST CITY ADMINISTRATOR WITH NO NOTIFICATION ON THE AGENDA FOR THE CITY COUNCIL MEETING *AND ALL DISCUSSION ABOUT THE HIRING DONE IN EXECUTIVE SESSION?*
2. CAN A TRIAL COURT JUDGE IN THIS OPEN MEETINGS ACT CIVIL LAWSUIT BROUGHT ACCORDING TO STATE STATUTE:
 - A. VERIFY THE PLAINTIFF HAS THE RIGHT TO RECORD THE FULL PUBLIC MEETING (APPENDIX B, P2, LINE 4) BY NEBRASKA REVISED STATE STATUTE 84-1412
 - B. VERIFY THAT THE PLAINTIFF HAS “ALLEGED HE WAS NOT ALLOWED TO RECORD PARTS OF THE PUBLIC MEETING” OCTOBER 14, 2013 (WITH A DVD RECORDING AND NEBRASKA STATE ATTORNEY GENERAL’S VERIFICATION)AND YET OVERRULE THE PLAINTIFF’S RIGHT TO A MANDAMUS WHEN THE PLAINTIFF WAS ON DVD DENIED THE VERY RIGHT THE JUDGE VERIFIED STATUTORILY REQUIRED?
3. CAN A TRIAL COURT JUDGE LIE TWICE ABOUT WHO WAS IN ATTENDANCE (MADE APPEARANCE) ONCE IN THE RULING FOR THE HEARING 7/7/2016 FILED 7/18/2016 (APPENDIX B) AND ANOTHER IN

THE RULING FOR THE TRIAL ON 9/22/2106 (APPENDIX B) IN WRITING
“DEFENDANT IS REPRESENTED BY GLENN CLARK. THERE ARE NO
OTHER APPEARANCES.” WHEN THE BILL OF EXCEPTIONS IN BOTH
HEARING AND TRIAL STATES “PLAINTIFF MARK KOCH APPEARING
PRO SE” (BILL OF EXCEPTIONS P 20, AND P 27 RESPECTIVELY)?

4. CAN A TRIAL JUDGE DENY THE RIGHT OF THE PLAINTIFF TO VOID
AN ACTION (RULING FILED 7/18/2016, APPENDIX B, P2, LINE 19) MADE
AGAINST THE OPEN MEETINGS ACT WHEN THE STATE STATUTE
ALLOWS THE CITIZEN TO DO THE SAME? (APPENDIX B, P2, LINE 11)
5. CAN A TRIAL JUDGE DENY THE DVD (E1: 28: 30, 46 RULED 30, 47)(E2:
28: 29,46 RULED 29, 47) RECORDINGS OF THE PUBLIC MEETING OF
THE SARGENT CITY COUNCIL WHEN OFFERED AS EVIDENCE AFTER
ALLOWING (AT THE CITY OF SARGENT ATTORNEYS DEMAND) THE
LETTER FROM THE STATE ATTORNEY GENERAL (E 5 AND 10, BILL OF
EXCEPTIONS)TO BE PRESENTED AND RECEIVED AS EVIDENCE
BASED ON THE VERY SAME DVD RECORDING?
6. CAN A CITY OF SECOND CLASS HOLD PUBLIC LEGAL MEETINGS ON A
FEDERAL LEGAL HOLIDAY (COLUMBUS DAY) EACH YEAR?
7. CAN A TRIAL COURT JUDGE ALLOW THE MAYOR OF A CITY OF
SECOND CLASS TO ORDER (AFTER THE MEETING WAS IN SESSION
APPROXIMATELY 10 MINUTES WITH NO PROBLEM WITH THE
RECORDING DEVICE INTERRUPTING OR CAUSING ANY DISRUPTION

TO THE MEETING) THE RECORDING DEVICES TO BE "REMOVED..... OR SHUT OFF" WHEN THE OPEN MEETINGS ACT REQUIRES THE CITY TO ALLOW SUCH RECORDING?

8. CAN A TRIAL JUDGE ALLOW A CITY OF SECOND CLASS TO NOT ALLOW THE RECORDING OF THE FULL PUBLIC CITY COUNCIL MEETING WHEN REQUIRED BY LAW? (PLAINTIFF WAS ORDERED TO REMOVE RECORDING EQUIPMENT FOR AN EXECUTIVE SESSION THEN NOT ALLOWED ANY TIME TO RESET THE EQUIPMENT AFTER THE EXECUTIVE SESSION.)
9. CAN AN APPELLATE COURT IN THE ORDER (APPENDIX A, P8) RULE THAT THE CITY WAS NOT "LEGALLY OBLIGATED TO ACT" WHEN THE STATUTE REQUIRES THAT THE PLAINTIFF (CITIZEN) BE ALLOWED TO RECORD PUBLIC MEETINGS IN THE NEBRASKA OPEN MEETINGS ACT AND "ENCOURAGED" TO RECORD AND DISSEMINATE THE RECORDINGS IN THE NEBRASKA FREEDOM OF FLOW OF INFORMATION ACT (NE REV STATUTE 20-144)?
10. CAN A JUDGE RULE THAT THE CITY DID NOT VIOLATE THE OPEN MEETINGS ACT WHEN ALL DISCUSSION FOR THE APPOINTMENT OF THE NEW CITY ADMINISTRATOR WAS IN CLOSED SESSION (WHEN STATE STATUTE STATES 84-1408 It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.)? AND

The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. Marks v. Judicial Nominating Comm., 236 Neb. 429, 461 N.W.2d 551 (1990).

The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. Grein v. Board of Education of Fremont, 216 Neb. 158, 343 N.W.2d 718 (1984).

11. ADDITIONAL 18 QUESTIONS LISTED IN THE APPELLANT'S REPLACEMENT BRIEF (APPENDIX E) PAGES 3-6.
12. ADDITIONAL 8 QUESTIONS LISTED IN THE APPELLANT'S REPLACEMENT REPLY BRIEF (APPENDIX F) PAGES 6-8.
13. CAN A JUDGE ALLOW (DURING THE DISCOVERY PROTION OF THE CASE) THE SARGENT CITY CLERK TO REQUEST IN WRITING \$444.00 BEFORE THE PLAINTIFF CAN COPY PUBLIC RECORD DURING REGULAR BUSINESS HOURS OF THE CLERK'S OFFICE WITH THE PLAINTIFF'S OWN EQUIPMENT? AGAINST THE NEBRASKA FREEDOM OF INFORMATION ACT?
14. CAN A CITY OF SECOND CLASS IN THE UNITED STATES OF AMERICA DEFY ALL OPEN MEETINGS LAWS OF THE STATE TO SLAM THROUGH THE APPOINTMENT OF THE CITY ADMINISTRATOR?
15. CAN THE CITY OF SARGENT HIRE A CITY ADMINISTRATOR CIRCUMVENTING BOTH EQUAL OPORTUNITY AND FREE PUBLIC

KNOWLEDGE OF THE SAME THROUGH PROPER AGENDA LISTING,
PUBLISHING THE JOB(NOT IN TWO WEEKS), AND VETTING THE
POSITION PROPERLY TO FIND THE BEST CANDIDATE FOR THE
PEOPLE (CITIZENS) OF SARGENT NEBRASKA INSTEAD OF VETTING
FOR THE LEADERSHIPS DESIRE OUTSIDE OF THE PUBLIC VIEW?

16. CAN THE MAYOR OF SARGENT NEBRASKA WHEN REVOTING THE
ITEMS (INCLUDING THE APPOINTMENT OF TH ECITY
ADMINISTRATOR) NOT ALLOW ANY PUBLIC DISCUSSION
THREATENING TO ORDER THE POLICE OFFICER OF SARGENT TO
"REMOVE YOU FROM THE COUNCIL MEETING" (SPEAKING TO THE
PLAINTIFF AS TESTIFIED TO UNDER OATH IN THE SEPTEMBER 22,
2016 TRIAL)?

LIST OF PARTIES

**ALL PARTIES TO THE CASE APPEAR ON THE CAPTION OF THE CASE
ON THE COVER PAGE.**

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	NEBRASKA COURT OF APPEALS MEMORANDUM OPINION AND JUDGMENT ON APPEAL
APPENDIX B	DISTRICT COURT OF CUSTER COUNTY / TRIAL COURT PARTIAL JUDGMENT AND FINAL ORDER 7/12/2016 9/22/2016
APPENDIX C	NEBRASKA SUPREME COURT DENIAL OF FURTHER REVIEW
APPENDIX D	SUPREME COURT RULE 2-113 MOTION FOR REHEARING NOT RETRMITTED
APPENDIX E	REPLACEMENT BRIEF OF APPELLANT
APPENDIX F	REPLACEMENT REPLY BRIEF OF APPELLANT

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

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

The opinion of the United States district court appears at Appendix _____ to the petition and is

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

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix C to the petition and is

- ☒ reported at NEBRASKA SUPREME COURT; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the NEBRASKA COURT OF APPEALS court appears at Appendix A to the petition and is

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

JURISDICTION

☐ For cases from **federal courts**:

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

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

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was NOVEMBER 4, 2017.
A copy of that decision appears at Appendix C.

☐ A timely petition for rehearing was thereafter denied on the following date: POST MARK (FED EX) MONDAY 2/5/2018
_____, and a copy of the order denying rehearing appears at Appendix D. NOT ALLOWED

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

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

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

*On Brief and Reply Brief
Appendix E and F*

STATUTES AND RULES

*On Brief and Reply Brief
Appendix E and F*

OTHER

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

*Filed on Appellate Brief
and Reply Brief
Appendix E and F*

STATEMENT OF CASE

THE CASE FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES SUPREME COURT IS APPEALED FROM THE NEBRASKA SUPREME COURT CASE A-16-001008.

THE CASE IS A CIVIL PROCEEDINGS THAT WAS FILED BY A CONCERNED CITIZEN (IN ACCORDANCE TO THE NEBRASKA STATE STATUTE 84-1414 ALLOWING THE CITIZEN TO FILE FOR WRIT OF MANDAMUS TO VOID PORTIONS OR ALL OF A PUBLIC MEETING IN VIOLATION OF THE NEBRASKA OPEN MEETINGS ACT) THAT BELIEVES THE NEBRASKA OPEN MEETINGS ACT (NEBRASKA REVISED STATUTE SECTIONS 84-1407 - 84-1414)WAS VIOLATED REPEATEDLY IN THE CITY COUNCIL MEETING OF THE CITY OF SARGENT, NEBRASKA ON OCTOBER 14, 2013 (A FEDERAL LEGAL HOLIDAY-COLUMBUS DAY). TWO WEEKS AFTER FIRING THE PREVIOUS SARGENT CITY ADMINISTRATOR, **WITHOUT ANY NOTICE ON THE AGENDA**, THE CITY OF SARGENT, NEBRASKA CHOSE TO PLACE FOUR ITEMS IN THE SARGENT CITY COUNCIL MEETING (HOLDING ROLL CALL VOTES FOR EACH) INCLUDING THE APPOINTMENT OF A NEW CITY ADMINISTRATOR. THERE WAS NO PUBLIC DISCUSSION FOR THE APPOINTMENT-ALL DISCUSSIONS WERE HELD IN EXECUTIVE SESSION OUTSIDE THE PUBLIC VIEW. THE MAYOR ORDERED THE PLAINTIFF/APPELLANT TO "...SHUT OFF" HIS RECORDING EQUIPMENT APPROXIMATELY 10 MINUTES INTO THE MEETING THAT WAS SET ON THE COUNCIL TABLE 10 MINUTES BEFORE THE MEETING WITH NO

COMPLAINT AND NO DISTURBANCE FROM THE EQUIPMENT AS SHOWN ON DVD RECORDING.

THE MAYOR ORDERED ALL RECORDING EQUIPMENT TO BE REMOVED FROM THE CITY COUNCIL CHAMBERS WHILE THE COUNCIL CONVENED IN EXECUTIVE SESSION, HOWEVER THE COUNCIL AND MAYOR REFUSED TO GIVE TIME TO RESET THE EQUIPMENT AFTER THE EXECUTIVE SESSION WAS CLOSED AND THE MEETING RETURNED TO REGULAR OPEN SESSION WHEN NEBRASKA STATE STATUTE GIVES THE PEOPLE IN ATTENDANCE THE RIGHT TO RECORD ALL PUBLIC MEETINGS (ALL THAT ARE IN OPEN SESSION).

THE VOTE FOR THE CITY ADMINISTRATOR CAME DIRECTLY AFTER THE EXECUTIVE SESSION CLOSED. THE PLAINTIFF/APPELLANT HAD TO WALK ABOUT 8-14 STEPS AFTER THE DOOR WAS AGAIN REOPENED FOR THE CITIZENS TO ENTER INTO THE COUNCIL CHAMBERS. BEFORE THE PLAINTIFF, APPELLANT COULD WALK THE DISTANCE, THE VOTE WAS ALREADY CALLED FOR AND MOTION MADE. THE SECOND MOTION WAS BEING CALLED FOR WHEN THE PLAINTIFF/APPELLANT WALKED THROUGH THE DOORWAY. THERE WAS NO WAY TO RECORD ALL THE OPEN SESSION DUE TO THE QUICK VOTE.

THERE WAS NO VETTING OF THE CITY ADMINISTRATOR POSITION (OPENING ONLY TWO WEEKS PRIOR) NOR PRESENTMENT TO THE PUBLIC IN OPEN SESSION OF **MULTIPLE POSSIBLE CANDIDATES** FOR THE POSITION.

ACCORDING TO THE NEBRASKA STATE ATTORNEY GENERAL OPINION THERE WERE FOUR OPEN MEETINGS ACT VIOLATIONS DURING THE MEETING. THE PLAINTIFF/APPELLANT DIFFERS IN THAT OPINION THAT THERE WERE AT LEAST 7-8 VIOLATIONS OF THE NEBRASKA OPEN MEETINGS ACT IN THE SARGENT, NE CITY COUNCIL MEETING OCTOBER 14, 2013.

DURING DISCOVERY THE SARGENT CITY CLERK DID DEMAND IN WRITING \$444.00 IN ADVANCE FOR THE PLAINTIFF/APPELLANT TO COPY PUBLIC RECORD IN HER CUSTODY USING HIS OWN EQUIPMENT DURING REGULAR BUSINESS HOURS. WHEN THE PLAINTIFF/APPELLANT DID VEHEMENTLY DEMAND THE RIGHT TO COPY ACCORDING TO NEBRASKA STATE STATUTE 84-712 **ALL FREE OF CHARGE**, THE CITY CLERK SENT ANOTHER LETTER DEMANDING \$250.00 IN ADVANCE FOR THE PLAINTIFF/APPELLANT TO COPY PUBLIC RECORD IN HER CUSTODY WITH HIS OWN EQUIPMENT DURING REGULAR BUSINESS HOURS.

THE PLAINTIFF HAS REQUESTED THE COURT TO VOID ALL THE MEETING DUE TO THE MEETING BEING HELD ON A FEDERAL LEGAL HOLIDAY (WHICH ACCORDING TO THE STATE ATTORNEY GENERAL'S OPINION HAD OCCURRED FOUR YEARS IN A ROW.

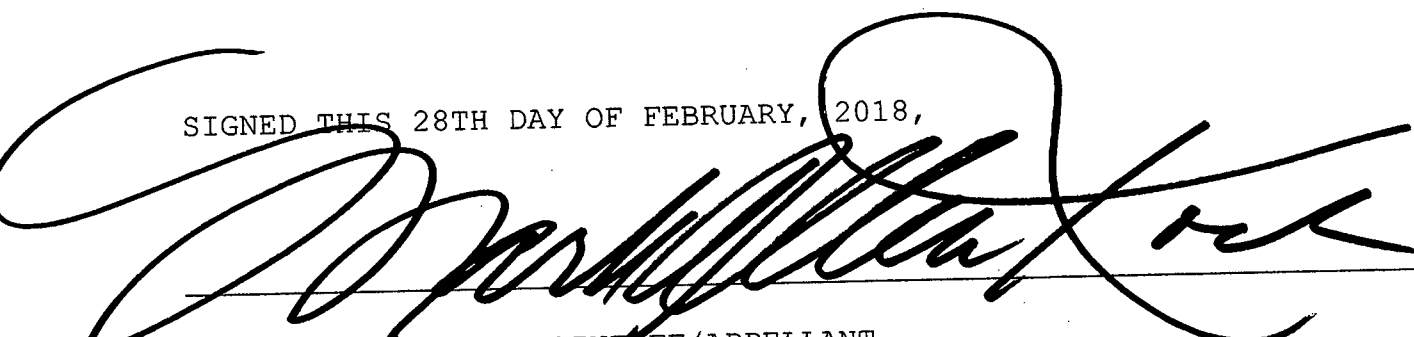
THE PLAINTIFF/APPELLANT HAS ALSO REQUESTED A WRIT OF MANDAMUS REQUIRING THE CITY OF SARGENT NEBRASKA TO ALLOW THE RECORDING OF ALL THE PUBLIC RECORD MEETINGS (NOT ONLY PARTS) THAT

ARE NOT IN EXECUTIVE SESSION ACCORDING TO THE NEBRASKA OPEN MEETINGS ACT.

THE PLAINTIFF/APPELLANT HAS ALSO REQUESTED THAT:

1. THE CITY ADMINISTRATOR'S APPOINTMENT BE VOIDED REQUIRING THE CITY OF SARGENT, NE TO PROPERLY GIVE EQUAL OPPORTUNITY TO ALL POSSIBLE CANDIDATES FOR THE JOB IN A REASONABLE RESPONSE TIME.
2. THE PLAINTIFF/APPELLANT BE COMPENSATED FOR ALL THE TIME, EXPENSE, AND LABOR OF THE CASE IN ACCORDANCE WITH THE NEBRASKA STATE STATUTE REQUIRING A SUCCESSFUL REQUEST FOR WRIT OF MANDAMUS BE COMPENSATED.
3. HOLD ALL RESPONSIBLE IN THE SARGENT GOVERNMENT FOR THE CRIMINAL STATUTES FOR VIOLATING THE NEBRASKA OPEN MEETINGS ACT WHICH INCLUDED REMOVAL FROM OFFICE AND A CLASS THREE MISDEMEANOR FOR EACH VIOLATION AT THE TIME OF THE ACT OCTOBER 14, 2013.

SIGNED THIS 28TH DAY OF FEBRUARY, 2018,



MARK ALLEN KOCH, PLAINTIFF/APPELLANT

REASONS FOR GRANTING THE PETITION

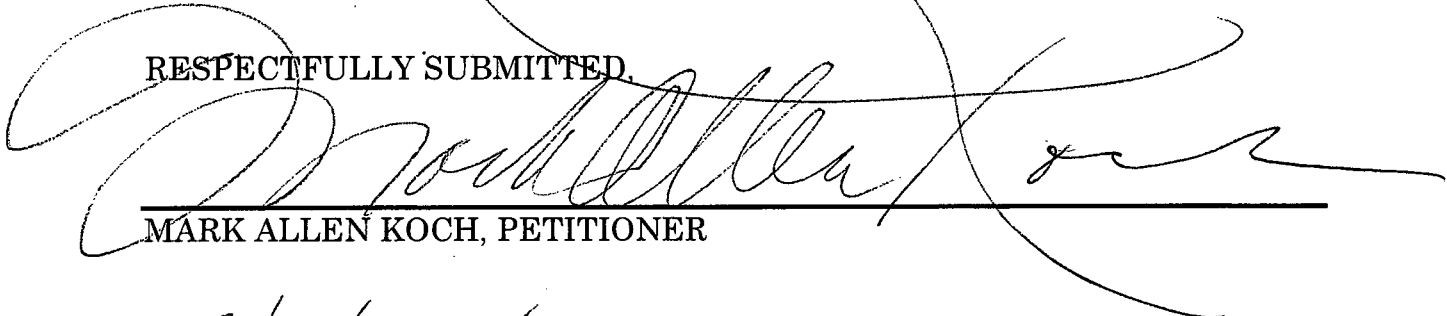
THE CITY GOVERNMENTS ARE A MESS. THE OPEN MEETINGS ACT IS VIOLATED WITHOUT REGARD TO THE OPENNESS REQUIRED IN THE STATE STATUTES. THE PROVERBIAL "SMALL TOWN GOVERNMENT" (SMALL TOWN LIES) WHEREIN THE MAYORS FRIENDS ARE SECRETLY APPOINTED TO PROMINENT POSITIONS IN THE TOWN STRUCTURE SHOULD BE STOPPED. THE PROPER HIRING PROCEEDURES SHOULD BE IMPLIMENTED WITH PROPER NOTIFICATION IN THE AGENDA AND PROPER PUBLIC VETTING OF THE APPLICANTS FOR THE POSITION. TO DO ANYTHING LESS IS SIMPLY NOT HOW AMERICAN LAWS ARE MADE TO WORK. THE UNITED STATES SUPREME COURT CAN REVERSE THE CYCLE OF ABUSE OF AUTHORITY IN THE SMALL TOWN GOVERNMENT WITH A REVERSAL OF THE ORDERS GIVEN IN THE FACE OF THE CLEAR TESTIMONY OF THE ABUSE. THERE WERE NO WITNESS AND OR EVIDENCE PRODUCED TO THE CONTRARY OF THE TESTIMONY AND DVD EVIDENCE OF THE PLAINTIFF. THE CORRUPTION OF A DEPUTY COUNTY ATTORNEY (ONE WHO IS TO ENFORCE THE OPEN MEETINGS ACT ALONG WITH THE STATE ATTORNEY GENERAL) REPRESENTING THE CITY OF SARGENT AGAINST THE PLAINTIFF IN THE CASE IS AN APPALLING DISPLAY OF GREED FOR MONEY FROM TAXPAYERS WITHOUT THE PROPER

REPRESENTATION TO PROTECT THE CITIZEN'S INTERESTS. THAT IS
LIKE AN ATTORNEY REPRESENTING BOTH SIDES OF A CASE.
THE ARGUMENT FOR THE REVERSAL OF THE COURT'S DECISION IS
IN THE BREIF'S IN THE APPENDIX E AND F.

CONCLUSION

THE PETITION FOR A WRIT OF CERTIORARI SHOULD BE GRANTED.

RESPECTFULLY SUBMITTED.



MARK ALLEN KOCH, PETITIONER

2/5/2018

DATE.