10/22/25

No. 25-522

In the Supreme Court of the United States

RUBY TANG,

PETITIONER,

v.

SOMERSET HOUSE CONDOMINIUM ASSOCIATION, INC.

SOMERSET HOUSE MANAGEMENT ASSOCIATION, INC.,

RESPONDENTS.

On Petition for Writ of Certiorari to the Supreme Court of Maryland

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Whether the Due Process Clause permits a state court to deny a statutorily guaranteed *de novo* evidentiary hearing after collecting the required fees, and whether a judgment reciting testimony and evidence that never occurred satisfies constitutional due process.

LIST OF RELATED PROCEEDINGS

Ruby Tang v. Somerset House Condominium Association, Inc., and Somerset House Management Association, Inc., No. SCM-PET-175-2025, Supreme Court of Maryland (formerly Court of Appeals of Maryland). Petition for Writ of Certiorari denied August 22, 2025. (App.1a.)

Ruby Tang v. Somerset House Condominium Association, Inc., and Somerset House Management Association, Inc., No. C-15-CV-25-001328, Circuit Court for Montgomery County, Maryland. Post-judgment denying motion to alter or amend the judgment entered June 12, 2025; Judgment entered May 20, 2025; Court Room Hearing Sheet docketed May 14, 2025; Notice of De Novo Trial and Notice of De Novo Appeal docketed and sent March 24, 2025. (App. 2a–9a.)

Ruby Tang v. Somerset House Condominium Association, Inc., and Somerset House Management Association, Inc., No. D-06-CV-24-025898, District Court for Montgomery County, Maryland. Judgment entered February 28, 2025. Petitioner appealed on February 28, 2025. Intracourt Case Transmittal for appeal de novo sent on March 21, 2025. (App. 10a–13a.)

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The order of the Circuit Court for Montgomery County, Maryland denying Petitioner's motion to alter or amend judgment, entered on June 12, 2025, is unreported. (App. 2a–3a.)

The order of the Circuit Court for Montgomery County, Maryland dismissing Petitioner's de novo appeal and affirming judgment of District Court entered on May 20, 2025, is unreported. (App. 4a–5a.)

The order of the District Court of Maryland for Montgomery County dismissing the case, entered on February 28, 2025 (Petitioner appealed de novo to the Circuit Court the same day), is unreported. (App. 12a–13a.)

JURISDICTION

On August 22, 2025, the Supreme Court of Maryland denied Petitioner's petition for a writ of certiorari presenting federal due process questions. (App. 1a). The judgment sought to be reviewed is the order of the Circuit Court for Montgomery County, Maryland entered on May 20, 2025. The presiding judge is Debra L. Dwyer. (App. 4a–5a.)

This petition is timely under Sup. Ct. R. 13.1, filed within 90 days of the August 22, 2025 denial. This Court has jurisdiction under 28 U.S.C. § 1257(a).

CONSTITUTIONAL, STATUTORY, AND RULE PROVISIONS INVOLVED

The following provisions involved in this case are reproduced in Appendix N to this petition. (App. 67a–78a.)

Federal Constitution

- U.S. Const. amend. XIV, § 1 — Due Process Clause. (App. 67a.)

Maryland Constitution

- Md. Declaration of Rights, Art. 24. (App. 67a.)

Maryland Statutes (Courts & Judicial Proceedings Article)

- § 12-401(f) Right to De Novo Trial in Small Claims Involving $5,000 or Less Appeals. (App. 67a.)
- § 12-305 Writ of Certiorari Required for Review by Supreme Court of Maryland. (App. 68a.)
- § 12-307(2) Certiorari Jurisdiction of Supreme Court of Maryland. (App. 69a.)

Maryland Rules of Procedure

- Rule 7-112 Appeal Heard De Novo. (App. 69a.)
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STATEMENT OF THE CASE

This petition arises from a small-claims *de novo* appeal under Md. Code Ann., Cts. & Jud. Proc. § 12-401(f) and Md. Rule 7-112 (App. 67a, 69a), in which the Circuit Court for Montgomery County, Maryland declined to conduct the statutorily required evidentiary hearing despite Petitioner's payment of the required fee and the issuance of the *de novo* trial notice. (App. 8a-11a).

Despite Petitioner's appearance with subpoenaed witnesses and exhibits at May 14, 2025 proceeding, the Circuit Court declined to take testimony, referenced the District Court ruling not transferred under Md. Rule 7-113 (App. 72a) and considered unadmitted exhibit (Tr. 24:6–15; App. 32a; Tr. 26:1–4, App. 33a). The final order entered May 20, 2025, references "The Court having heard testimony and taken evidence" (App. 4a–5a), whereas the transcript indicates no such presentation took place. (Tr. 24:1–2; App. 31a; Tr. 34:1–2; App. 40a).

The court also dismissed the appeal *sua sponte* and on respondent's request, and granted respondents' dispositive motions without findings or legal citation, while denying Petitioner's motion to amend complaint without reviewing it and directing Petitioner to pursue an appellate path not authorized by statute or rule. (App. 14a–45a). Petitioner raised and preserved federal due process claims under the Fourteenth Amendment in post-judgment motions and before the Supreme Court of Maryland (formerly the Court of Appeal of Maryland). (App. 56a-66a.)

The following account presents the due process issues in chronological order, as reflected in the transcript and docket. (App. 14a–45a, 53a–55a).

A. District Court Proceedings

On October 29, 2024, Petitioner Ruby Tang, proceeding pro se, filed a $5,000 breach-of-contract small-claims action against Respondents Somerset House Condominium Association, Inc. ("SHCA") and Somerset House Management Association, Inc. ("SHMA") in the District Court for Montgomery County, Maryland. The District Court dismissed the case on February 28, 2025, based on SHCA's *res judicata* assertion related to proceedings before the Commission on Common Ownership Communities ("CCOC") at Department of Housing and Community Affairs ("DHCA") for Montgomery County, Maryland. (App. 12a–13a.)

B. Appeal to the Circuit Court

Petitioner appealed *de novo* to the Circuit Court the same day, February 28, 2025, paying the required fee. The clerk issued a Notice of Hearing for a *de novo* trial under Md. Rule 7-112. (App. 8a–11a.)

C. The Circuit Court Proceedings

1. No evidentiary hearing held

On May 14, 2025, Petitioner appeared with subpoenaed witnesses—including Richard Binder (then SHCA president) and Ifeoluwapo Fabayo (DHCA investigator and records custodian)—as well

as documentary materials rebutting SHCA's anticipated *res judicata* defense and supporting Petitioner's breach of contract claim. (App. 14a–55a.)

On the record, the court stated it would not hold a *de novo* trial and declined to take testimony, without citing any authority or refunding the *de novo* appeal fee, although the docket reflects the May 14, 2025 proceeding as a 'Trial - De Novo Appeal' concluded (App.55a) and the May 20, 2025 judgment stated "The Court having heard testimony and taken evidence". (App. 4a). See hearing transcript excerpts:

> (Tr. 12:17–18, App. 22a)
> THE INTERPRETER: Your Honor, Ms. Tang earlier was saying that this is a de novo appeal.
>
> (Tr. 24:1–2, App. 31a)
> THE COURT: –– second, ma'am, second, you don't get a hearing here because we're now in May of 2025.
>
> (Tr. 34:1–2, App. 40a)
> THE COURT: So Dr. Tang, we're dealing solely –– I'm not going -- I'm not trying the case right now.

2. Disposition by reference to District Court proceedings without a transferred record

Without prior notice, the court shifted the *de novo* trial to a discussion with respondents' counsels on the prior District Court dismissal. (App. 16a–43a). However, the District Court did not transfer the case record—including the mandatory transcript, exhibits,

and memorandum—to the Circuit Court, as would be required under Md. Rule 7-113 (Appeals Heard On the Record) (App. 72a), because the appeal was *de novo* under Md. Rule 7-112 (Appeals Heard De Novo). (App. 8a–11a). The Circuit Court acknowledged during the discussion with SHCA's counsel, Ursola Burgess, that it lacked a complete District Court record but nonetheless affirmed the District Court's judgment. See hearing transcript excerpts:

> (Tr. 8:10–11, App. 18a)
> THE COURT: Can I see that? We don't have copies of everything from the District Court.
>
> (Tr. 21: 5–11, App. 29a)
> MS. BURGESS: I do not, and in fact, we prevailed on our motion to dismiss for res judicata in the District Court. That was the basis.
> THE COURT: And I was just going to ask you, did you raise that before –– who was the judge, by the way? Do you remember?
> MS. BURGESS: Oh, gosh, he was a very nice man.
>
> (Tr. 39:24–25, App. 44a)
> THE COURT: I changed the order to reflect the District Court's judgment is affirmed.

3. Exhibits and witnesses handling for SHCA's motion to dismiss on *Res Judicata* grounds

Respondent SHCA's Exhibit 1, offered in support of its *res judicata* defense, was discussed on the record but never admitted into evidence. Petitioner objected

to the document as false, asserting that it misrepresented the underlying CCOC proceedings. SHCA did not object. The court marked the document for identification only, yet later relied on it in its ruling. See hearing transcript excerpts:

> (Tr. 24:6–15, App. 31a–32a)
> MS. TANG: (Through interpreter) That was the fake document.
> THE COURT: Excuse me?
> MS. TANG: (Through interpreter) I have the genuine document.
> THE COURT: Wait, wait, wait. Did you say fake, F–A–K–E?
> MS. TANG: (In English) Yeah. That's not true.
> THE COURT: Like, false?
> MS. TANG: (In English) I, I have the document.
> THE COURT: Okay.
> MS. TANG: (In English) I bring it up. I already filed in my opposition. This is my case.
>
> (Tr. 25:17–20, App. 33a)
> THE COURT: I'm going to mark this as Defendant's -- Defendant Somerset House Condo[minium] Association's Exhibit 1. May I?
> MS. BURGESS: Yes, Your Honor. And just for the record, it is attached as Exhibit E to our motion to dismiss.
>
> (Tr. 26:1–4, App. 33a)
> (The document referred to was marked as Defendant Somerset House Condo[minium] Association's Exhibit No. 1 for identification.)

Petitioner's Exhibit 1—official CCOC documents

rebutting that defense—was admitted into evidence but disregarded in the court's ruling. See hearing transcript excerpts:

> (Tr. 27:4–9, App. 34a)
> MS. TANG: (Through interpreter) The CCOC case was a different case than my case today. They should not be mixed together. The CCOC case was between me and the Somerset House, comma, A Condominium.
> THE COURT: Okay. All right. Well, ma'am, you can caption it however you want.

> (Tr. 33:13–21, App. 39a)
> THE COURT: So Dr. Tang, I'm going to allow you to admit these documents, and this will --
> MS. TANG: (In English) Thank you.
> THE COURT: -- preserve your rights to any – reserve the record should you appeal. So those will be admitted.
> (The documents marked for identification as Plaintiff's Exhibit No. 1 were received in evidence.)

The court reviewed the CCOC Notice of Complaint from Petitioner's Exhibit 1 and noted that the CCOC case involved distinct parties (not the respondents in this case) and issues (not the breach of contract claim in this case). See hearing transcript excerpts:

> (Tr. 29:9–22, App. 36a–37a)
> THE COURT: Okay. Let me put on the record what these documents are. The first document is dated March 18, 2022, and it is on Department of Housing and Community

> Affairs' letterhead, and it is directed to Somerset House, A Condominium, care of Lisa Mezzetti, president, Somerset House, [A Condominium], regarding Case No. 2022-077, Tang v. Somerset [House, A Condominium]. It's a letter, and there's a complaint form that was filled out, I assume by Dr. Tang. Yes, it's signed Ruby Tang, and it summarizes the complaint, and the complaint alleges fund abuse, incomplete budget votes, misrepresentation and fund loss, conflict of interest, unfair trade practices, et cetera, et cetera, et cetera, et cetera. "This is to" -- and it says, "This is to inform you a formal complaint was filed against you by Ruby Tang."

The DHCA Notice of Complaint referenced above is reproduced at App. 46a–48a. Lisa Mezzetti—the addressee of the notice and then-President of Somerset House, A Condominium—was present in the courtroom. However, SHCA's counsel did not inform the court of her presence, nor did they attempt to call her as a witness.

The court read the official CCOC Notice of Hearing from Petitioner's Exhibit 1, which stated that the hearing was scheduled for October 28, 2024—contradicting unadmitted SHCA's Exhibit 1, which claimed the hearing occurred on October 8, 2024. This discrepancy undermines SHCA's *res judicata* defense and supports Petitioner's objection to SHCA's Exhibit 1 as false. See hearing transcript excerpts:

> (Tr. 32:1–7, App. 38a)
> THE COURT: Next is a letter dated July 8,

> 2024, on Department of Housing and Community Affairs' letterhead, directed to the parties. I don't know who they are. It says, "Ruby Tang, v. Somerset House, A Condo[minium], care of Mr. Dwyer and Ursula Koenig Burgess, Esquire: Noting of a hearing. The above-referenced case is scheduled for a hearing Monday, October 28, 2024, at 6:30 by way of Zoom." That was sent by certified mail.

The DHCA Notice of Hearing reference above is reproduced at App. 49a–52a. Its sender, Ifeoluwapo Fabayo, a DHCA case investigator and records custodian, was subpoenaed and prepared to testify regarding the CCOC matter, including identity of party, the status of the hearing, witness participation, and the evidentiary record. (App. 53a). The petitioner sought to call witnesses to clarify disputed issues, but the court declined to hear testimony, thereby rendering SHCA's *res judicata* defense unsupported. See hearing transcript excerpts:

> (Tr. 28:7–12, App. 35a)
> MS. TANG: (Through interpreter) Res judicata only applies to the same parties involved in the case, same issue, and it needs to have a final judgment after hearing. However, earlier for the CCOC case, it was a different party, it was a different issue, and there was not a hearing.
> THE COURT: Okay. All right. Anything else?

> (Tr. 34:16–20, App. 40a)
> MS. TANG: (Through interpreter) I have brought CCOC witness, who can prove that for that particular case, it was not being heard.

> There were no witnesses.
> THE COURT: Okay. I don't need to hear anything more.

The court granted SHCA's motion to dismiss Petitioner's second amended complaint on May 14, 2025, without referencing legal authority or making factual findings, and relied on a District Court ruling not transferred to the Circuit Court. See hearing transcript excerpts:

> (Tr. 35:23–36:14, App. 41a–42a)
> THE COURT: It is a matter of law that res judicata bars that, and that is evidenced by what Judge Simmons did in the District Court. He dismissed the action against Somerset House Condo[minium] on what I have heard this morning, I find, as a matter of law, that Judge Simmons' ruling is grounded in law and is appropriate and is legally binding upon Dr. Tang. And so without addressing whether or not Dr. Tang has a right to be here in this court, I think she does. I think she does have a right to appeal a decision of the District Court. Her request for relief today the Court denies and, as such, grants defendant-appellee Somerset House Condo[minium] Association's motion to dismiss the plaintiff's second amended complaint for the reasons I just stated.
>
> (Tr. 38:24–25, App. 44a)
> THE COURT: I am ordering that the Somerset House Condo[minium] Association's motion to dismiss [the second amended complaint] is granted.

4. Petitioner's Motion to Amend

On April 25, 2025, before the hearing, Petitioner filed a motion for leave to amend the second amended complaint under Md. Rule 2-341(c) (liberal amendment standard) to address SHCA's claim in the District Court that liability had been transferred to SHMA. (App. 53a–55a, 75a). On May 14, 2025, the court denied the motion, stating on the record that it had not reviewed the filing—despite the docket confirming timely submission. See case docket excerpts:

> (Cir. Ct. Docket, App. 53a–55a)
> File Date: 4/25/2025
> Document Name: Motion/Request
> Comment: for Leave to Amend the Second Amended Complaint
>
> File Date: 4/25/2025
> Document Name: Supporting Exhibit
> Comment: A to Motion/Request for Leave to Amend the Second Amended Complaint
>
> File Date: 4/25/2025
> Document Name: Supporting Exhibit
> Comment: B to Motion/Request for Leave to Amend the Second Amended Complaint

See hearing transcript excerpts:

> (Tr. 11:12–17, App. 21a)
> THE COURT: I don't have a third amended complaint. I have a second amended complaint.
> MS. TANG: (In English) I filed it -- I filed –

> THE COURT: I have no documents related to a third--
> MS. TANG: -- April 25th, 25th in the Circuit Court.
> THE COURT: Okay. I haven't seen it.

The court, without seeing the motion or entering findings, denied Petitioner's motion, despite Md. Rule 2-341(c) requiring that "[a]mendments shall be freely allowed when justice so permits." See transcript excerpts:

> (Tr. 39:3–4, App. 44a)
> THE COURT: I further order that the plaintiff-appellant's motion for leave to amend the second amended complaint is denied.

5. SHMA's Motions to Dismiss and Quash

The court granted SHMA's motion to dismiss the appeal and its motion to quash a subpoena—without issuing separate findings or citing any legal authority, where Md. Rule 7-112(f)(1) permits voluntary dismissal of the appeal only by the appellant prior to trial, and Md. Rule 2-510 authorizes quashing a subpoena only upon motion by the person served. (App. 69a, 76a). See hearing transcript excerpts:

> (Tr. 13:15–18, App. 23a–24a)
> THE COURT: So as far as I'm concerned -- and motion -- or excuse me, Somerset House Management [Association Inc.] has filed a motion to quash a subpoena on Richard Binder.

> (Tr. 14:19–15:4, App. 25a)

> MS. TANG: (Through interpreter) Richard Binder is currently the president of the [Somerset House] Condominium Association, [Inc.]. So he is my witness. He is not the witness of the [Somerset House] Management Association. [Inc.].
> THE COURT: Okay. All right. So you think that he has documents and information that are relevant to your matter here this morning?
> MS. TANG: (Through interpreter) His testimony is very important in relation to the liability.
> THE COURT: Okay. I'm not going to quash the subpoena at this point.
>
> (Tr. 39:3–9, App. 47a)
> THE COURT: I order the defendant-appellees Somerset House Management Association's motion to dismiss [the appeal] is granted, and I order that the defendant-appellant's [sic] motion –– okay, the last page has a typo –– Somerset House Management Association's motion to quash the subpoena is granted.

6. Appellate Instructions

Maryland law provides that further review of a circuit-court judgment rendered in a District Court appeal lies by petition for writ of certiorari to the Supreme Court of Maryland. See Md. Code, Cts. & Jud. Proc. §§ 12-305, 12-307(2) and Md. Rule 8-302(b). (App. 68a, 69a, 77a). However, before entering final judgment, the court repeatedly instructed Petitioner to appeal to the Appellate Court of Maryland—an

appellate path not authorized under the governing statutes and rules. See hearing transcript excerpts:

> (Tr. 28:13–19, App. 35a)
> MS. TANG: (Through interpreter) If judge rules against my motion [to amend the second amended complaint], I'd like to preserve my right to appeal the ruling.
> THE COURT: Of course. You always have an absolute right to appeal; however, however, I will say this just as a reminder to you: Your right to appeal is very limited, and it must be done in a timely fashion.

> (Tr. 38:11–19, App. 43a)
> THE COURT: .... you have an absolute right to appeal what I have ruled today, and I –– you can go down to the civil office here in the Circuit Court and ask for those appellate papers. You must file them in a timely fashion. If you fail to do so, you will not find any relief in the appellate court.

> (Tr. 39:13–17, App. 44a)
> MS. TANG: (In English) Your Honor, I'd like to reserve the appeal.
> THE COURT: You can go downstairs and note your appeal, ma'am. I told you, you can go to the civil desk.

7. **Dismissal of Appeal**

Under Maryland Rule 7-114, a circuit court may dismiss an appeal either on a party's motion or on its own initiative. Dismissal is mandatory only in three

circumstances: (1) the appeal is not permitted by law; (2) the notice of appeal was untimely under Rule 7-104; or (3) an appellant voluntarily dismissed a *de novo* appeal under Rule 7-112(f)(1). The rule also permits discretionary dismissal in limited cases, such as improper appeal procedure, failure to transmit the record (unless caused by the court or appellee), mootness, or failure to appear. (App. 74a–75a).

Here, the Circuit Court issued multiple dismissals: it granted Respondent SHCA's motion to dismiss the complaint originally filed in the District Court; granted SHCA's motion to dismiss the appeal; and separately dismissed the appeal *sua sponte*. See hearing transcript excerpts:

> (Tr. 38:19–23, App. 43a–44a)
> THE COURT: So as far as this Court is concerned, this grievance –– this –– these issues that have been dragging on for three years now end here today. I am granting –– or excuse me. I am dismissing the plaintiff-appellant's appeal of the District Court judgment.
>
> (Tr. 38:24–25, App. 44a)
> THE COURT: I am ordering that the Somerset House Condo[minium] Association's motion to dismiss [the second amended complaint] is granted.
>
> (Tr. 39:5–6, App. 47a)
> I order the defendant-appellees Somerset House Management Association's motion to dismiss [the appeal] is granted.

None of these dismissals included findings, explanation, or citation to legal authority, nor did the court address the repetitive nature of the appeal dismissals.

D. Raising Federal Due Process Claims

On May 20, 2025, the Circuit Court entered judgment stating that "[t]he Court having heard testimony and taken evidence," despite the transcript reflects that no evidentiary hearing occurred, no witness testimony and no evidence taken on the merits. (App. 4a–5a, 14a–45a). See hearing transcript excerpts:

(Tr. 4, App. 15a)
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EXHIBITS	MARKED	RECEIVED
For the Plaintiff:		
Exhibit No. 1	---	33
For the Defendant Somerset House Condominium Association, Inc.:		
Exhibit No. 1	26	---

On May 25, 2025, Petitioner timely moved to alter or amend the judgment under Md. Rule 2-534, asserting that the absence of a *de novo* evidentiary hearing, the judgment's recital that testimony and evidence contrary to the record, the refusal to consider her third amended complaint, and multiple

procedural irregularities collectively violated her constitutional right to due process. The Circuit Court denied the motion without hearing or explanation on June 12, 2025. (App. 2a–3a, 56a–57a, 77a).

On June 27, 2025, Petitioner sought certiorari in the Supreme Court of Maryland, presenting four federal due process questions arising from a *de novo* small-claims appeal governed by Md. Rule 7-112(d) and CJP § 12-401(f). Each question reflects a distinct constitutional deficiency in the Circuit Court's handling of the appeal and post-judgment proceedings. (App. 58a–66a).

The Supreme Court of Maryland denied review on August 22, 2025. (App. 1a). This petition follows.

REASONS FOR GRANTING THE PETITION

This petition presents a recurring and unresolved constitutional question: a state court denied a statutorily guaranteed evidentiary hearing in a small-claims *de novo* appeal and then entered a judgment reciting—contrary to the record—that such a hearing occurred, warranting review under Sup. Ct. R. 10(b) and (c).

A. The Decision Below Conflicts with This Court's Due Process Precedents

For decades, this Court has required a meaningful opportunity to be heard before the State may deprive a person of property. See *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) ("opportunity to present objections"); *Goldberg v.*

Kelly, 397 U.S. 254, 267–68 (1970) ("opportunity to confront and cross-examine adverse witnesses"). Maryland law guaranteed a *de novo* trial; Petitioner paid the fee and appeared with witnesses and exhibits. Yet the Circuit Court denied the *de novo* trial and later entered judgment reciting that it had "heard testimony and taken evidence." (App. 4a–5a; Tr. 24:1–2; 34:1–2. App. 31a, 40a). That combination—denying the hearing while reciting that it occurred—cannot be reconciled with this Court's due-process precedents.

The *Mathews v. Eldridge* 424 U.S. 319, 334–35 (1976) factors confirm the constitutional violation. **Private interest:** Petitioner's property claim. **Risk of error:** extraordinary—no testimony was taken; admitted rebuttal materials were disregarded; the court relied on an unadmitted, unauthenticated exhibit. See Tr. 28:7–12; 33:13–21; 34:16–20. App. 15a, 35a, 38a–42a. **Government burden:** minimal—Maryland already schedules streamlined *de novo* trials and collected the fee for that very proceeding.

Preclusion fails to cure the procedural defect. Preclusion presupposes a prior adjudication consistent with due process; the record here shows different parties and issues—and no hearing. The court refused to hear testimony from the DHCA investigator and the then-SHCA president, even though both were present under subpoena, relied on an unadmitted defense document, and disregarded Petitioner's admitted rebuttal materials. cf. *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010) ("Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of

due process that deprives a party of notice or the opportunity to be heard"). Petitioner does not challenge the legal reasoning of the judgment, but the absence of adjudicatory process.

B. The Decision Below Materially Departs From The Accepted and Usual Course of Judicial Proceedings

Review is warranted under Sup. Ct. R. 10(b) and (c).

Denying Hearing After Receiving Fee: The Circuit Court's actions not only conflict with this Court's due process precedents but also materially depart from the accepted and usual judicial proceedings, which universally require courts to afford litigants a meaningful opportunity to present evidence in statutorily mandated hearings. Maryland law Md. Code Ann., Cts. & Jud. Proc. § 12-401(f); Md. Rule 7-112 requires a *de novo* trial in small-claims appeals. (App. 67a, 69a). Petitioner paid the fee; clerks scheduled the *de novo* trial; Petitioner appeared with witnesses and exhibits. (App. 8a–11a, 46a-52a). The Circuit Court refused to hear witness testimony, disregarded Petitioner's admitted evidence, and instead relied on an untransferred District Court ruling to grant Respondent SHCA's motion to dismiss based on *res judicata*. That reliance was unlawful because the District Court record had not been transmitted under Md. Rule 7-113(g)(1)(B)—which permits affirmance only "with the full record"—and because the court's factual determinations were made without any evidentiary basis. See Tr. 35:23-36:14; 38:24-25. App. 37a, 41a–44a, 72a. Such a ruling

directly contradicts *Tengeres v. State*, 474 Md. 126, 142 (2021) ("a de novo appeal must proceed from the beginning, not by reference to prior proceedings"). When a statute requires a *de novo* proceeding, due process demands an independent judicial determination of facts and law, not a perfunctory ratification of prior results. *Crowell v. Benson*, 285 U.S. 22, 45–46 (1932); *United States v. Raddatz*, 447 U.S. 667, 675–77 (1980). *Morgan v. United States*, 298 U.S. 468 (1936) ("The one who decides must hear. ... The officer who makes the determinations must consider and appraise the evidence which justifies them").

Misapplying *Res Judicata* Doctrine: The Circuit Court's refusal to conduct the required *de novo* hearing barred live testimony from subpoenaed witnesses—including SHCA's then-president and the DHCA records custodian. This foreclosed proof on identity of parties, issues, and the absence of any prior hearing, and substituted an incomplete record in violation of both Maryland's mandate and the Fourteenth Amendment's guarantee of a meaningful opportunity to be heard. Despite the presence of Lisa Mezzetti—the addressee of the CCOC notice and then-president of Somerset House, A Condominium—in the courtroom, SHCA's counsel did not call her to testify, further depriving Petitioner of a fair opportunity to rebut the *res judicata* defense. See *Goldberg v. Kelly*, 397 U.S. 254, 267–68 (1970) (due process requires "an effective opportunity to defend by confronting adverse witnesses and by presenting [one's] own arguments and evidence"); *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) ("The fundamental requirement of due process is the opportunity to be

heard at a meaningful time and in a meaningful manner"). The Petitioner's evidence (App. 46a–52a) show that both Respondents SHCA and SHMA were not parties to the CCOC proceeding and cannot invoke SHCA's unadmitted "judgment" against Petitioner. Under *Taylor v. Sturgell*, 553 U.S. 880 (2008), nonparty preclusion is permitted only under six narrowly defined exceptions, none of which apply here. The Circuit Court's reliance on the unadmitted "CCOC ruling" and disregard Petitioner's admitted CCOC documents to dismiss Petitioner's claims violated both Maryland's statutory mandate for *de novo* review, rule of evidence and the Fourteenth Amendment's guarantee of a meaningful opportunity to be heard.

Dismissing Appeal Multiple Times: The circuit court also granted an appellee SHMA's motion to dismiss the *de novo* appeal—despite Md. Rule 7-112(f)(1) reserving voluntary dismissal to the appellant. It did so without findings, extinguishing Petitioner's statutory right to a merits hearing. Although Md. Rule 7-114 enumerates the only mandatory and discretionary grounds for dismissal, the Circuit Court identified none. (App. 74a). Instead, it dismissed the appeal *sua sponte* and again on appellee SHMA's motions, resulting in redundant and unexplained dismissals. This arbitrary deprivation of a statutory right to a *de novo* hearing violates the Due Process Clause. See *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 433–34 (1982) ("The State may not finally destroy a property interest without first giving the putative owner an opportunity to present his claim"); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 632 (1962) ("The adequacy of notice and hearing

respecting judicial action has long been a subject of constitutional scrutiny"); *Societe Internationale v. Rogers*, 357 U.S. 197, 209 (1958) ("Dismissal of the complaint with prejudice was not justified in view of the findings below as to petitioner's good faith and efforts to comply with the production order, and in view of constitutional considerations which bear on this question."). In particular, the Circuit Court did not find bad faith of the appeal. See transcript excerpts:

> (Tr. 39:1–2, 44a)
> THE COURT: I do not find bad faith given the circumstances.

See also *Hovey v. Elliott*, 167 U.S. 409 (1897) ("Condemnation only after hearing" is a fundamental requirement of due process; courts cannot suppress pleadings and testimony and render judgment without consideration thereof).

Quash Subpoena Without Standing: The court granted SHMA's motion to quash a subpoena without standing or required findings. Under Maryland law Md. Rule 2-510(f), a motion to quash a subpoena is generally limited to the subpoenaed party or a party with a direct and protectable interest. (App. 76a). See *United States v. Nixon*, 418 U.S. 683 (1974) (holding that a motion to quash a subpoena must be supported by a legitimate claim of privilege or protectable interest).

Denying Amendment of Pleading Without Seeing It: The Circuit Court denied leave to amend while expressly stating it had not reviewed the filing.

This refusal violates to Md. Rule 2-341(c) (App. 75a) and the federal standard articulated in *Foman v. Davis*, 371 U.S. 178 (1962), which requires that leave to amend be "freely given when justice so requires." Denial without review is not a valid exercise of discretion—it is a procedural deprivation that compounds the lack of notice and opportunity to be heard.

Misdirection to Appellate Procedure: The same court repeatedly misdirected Petitioner to appeal to the Appellate Court of Maryland before entering final judgment, creating a procedural dead end. This occurred despite clear statutory authority for *de novo* review under CJP §§ 12-401(f), 12-305, Md. Rule 7-112(d), and Md. Rule 8-302(b). (App. 67a, 68a, 69a, 77a). Such misdirection effectively nullified Petitioner's right to meaningful appellate access. As the Supreme Court recognized in *Evitts v. Lucey*, 469 U.S. 387, 396 (1985), "Nominal representation on an appeal as of right... does not suffice to render the proceedings constitutionally adequate." The court's own procedural misguidance placed Petitioner in no better position than one who had no counsel at all. This deprivation of access to the proper statutory forum parallels the due-process violations condemned in *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 433–35 (1982) ("The State may not finally destroy a property interest without first giving the putative owner an opportunity to present his claim").

Denial of Procedural Due Process: The Circuit Court denied Petitioner's timely post-judgment motion filed under Md. Rule 2-534 without a hearing or explanation, despite the motion squarely

presenting multiple federal due-process violations. (App. 2a–3a, 77a.) Those violations included: (1) refusing to conduct the statutorily required *de novo* evidentiary hearing while later reciting that testimony and evidence were taken; (2) granting SHCA's *res judicata* dismissal by relying on an untransferred District Court ruling and disregarding Petitioner's admitted evidence while barring witness testimony; (3) dismissing the *de novo* appeal at an appellee's request and quashing a subpoena without authority or findings; and (4) denying leave to amend without even seeing it, even as the court treated SHMA as a party for defense purposes. (App. 53a-55a, 56a–57a). These actions collectively deprived Petitioner of notice and a meaningful opportunity to be heard on the merits—core guarantees of the Fourteenth Amendment's Due Process Clause. See *Goldberg v. Kelly*, 397 U.S. 254, 267–68 (1970); *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965). And where a statute mandates a hearing or *de novo* adjudication, the decision-maker must hear and independently evaluate the evidence, not ratify prior results or decide on an incomplete record. See *Morgan v. United States*, 298 U.S. 468, 480–81 (1936); *Crowell v. Benson*, 285 U.S. 22, 45–46 (1932). By denying Md. Rule 2-534 relief without addressing the constitutional claim, the court compounded the procedural breakdown and left the federal issue preserved but unresolved—further underscoring the need for corrective review.

C. The Question Is of Exceptional and Nationwide Importance to the Administration of Justice

The stakes extend well beyond this case. Self-represented litigants comprise a large share of civil court users nationwide. In 2023, state courts handled about 67 million cases.[1] In civil dockets, matters with at least one self-represented party now account for roughly 55%, with some case types regularly reaching 60–100%.[2] In federal level, 46% of appeals in 2023 and 48% in 2024 were filed pro se. [3]. Although those figures encompass all civil filings and appeals—not only small-claims *de novo* appeals—small-claims and other limited-jurisdiction matters are disproportionately self-represented, making a *de novo* appeal an essential path to a merits determination for many pro se litigants. Likewise, at the federal level, a substantial portion of appeals are filed pro se. These system-wide indicators underscore the national importance of preserving a genuine opportunity to be heard in statutorily mandated *de novo* hearings. When courts convert such appeals into motion practice and then misstate the record, the risk of erroneous deprivation is acute, while the

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[1] National Center for State Courts, *Caseloads rise in 2023,* at https://www.ncsc.org/resources-courts/data (reporting 67 million state-court filings in 2023).

[2] NCSC, *Trends in State Courts 2025*, at 48 ("Since the 1990s, state court cases with at least one self-represented litigant (SRL) surged from just 4 percent to 55 percent, with some case types regularly reaching 60–100 percent.").

[3] Chief Justice John G. Roberts, Jr., *2023 and 2024 Year-End Reports on the Federal Judiciary*, at 9 and 11 ("Appeals by pro se litigants, which amounted to 46% (2023) and 48% (2024) of filings.").

administrative burden of holding a brief evidentiary hearing is minimal—especially where the required appeal fee has been collected.

This case illustrates the problem. The court twice directed Petitioner to pursue an appeal in a court that lacked jurisdiction over District-Court appeals—misdirection that, if followed, would have forfeited review. (Tr. 28:13–19; 38:11–19; 39:13–17; App. 35a, 43a–44a.) Six days later, the judgment recited—contrary to the transcript—that the court had "heard testimony and taken evidence." (App. 4a–5a.) This pattern warrants this Court's guidance to ensure that guaranteed *de novo* hearings are not displaced by summary dispositions or post-hoc recitals and that litigants receive the "meaningful opportunity to be heard" the Fourteenth Amendment requires. See *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965) ("A fundamental requirement of due process is 'the opportunity to be heard'". "It is an opportunity which must be granted at a meaningful time and in a meaningful manner").

D. This Case Is an Excellent Vehicle to Resolve the Recurring Due Process Issue

No decision of this Court has squarely addressed whether, in a *de novo* appeal from a small-claims appeal, a state court may—absent any procedural default or jurisdictional defect—collect the required fee and then refuse to conduct the statutorily guaranteed evidentiary hearing while mischaracterizing the record in the judgment.

This case presents an ideal vehicle. The federal

due-process ground was preserved in a timely Rule 2-534 motion, supported by the transcript demonstrating that no evidentiary hearing occurred; the Circuit Court denied relief. (App. 56a–57a, 14a–45a, 2a–3a, 4a–5a). Petitioner subsequently presented the federal due process claim to the Supreme Court of Maryland, which denied review (App. 58a–66a, 1a). Before the court, Respondent SHCA filed no response—supporting review under Sup. Ct. R. 10(c)—and SHMA disclaimed party status even though the Circuit Court granted its motion to dismiss the appeal and its motion to quash a subpoena without findings or citation to law, and later adopted SHMA's proposed order denying Petitioner's Rule 2-534 motion without a hearing. Neither the Circuit Court nor the Supreme Court of Maryland issued a written opinion, leaving the federal due-process question unresolved but cleanly preserved on an undisputed record. That posture makes this an ideal vehicle, free of collateral entanglements.

Because the Supreme Court of Maryland treats this Court's due-process decisions as persuasive authority when construing Article 24 of the Maryland Declaration of Rights, see *Pitsenberger v. Pitsenberger*, 287 Md. 20, 27 (1980), review would clarify that the Fourteenth Amendment does not permit a state court to deny a statutorily guaranteed *de novo* evidentiary hearing after collecting the required fees, and that a judgment reciting testimony and evidence that never occurred cannot satisfy due process. The Court's intervention is warranted to restore the procedural safeguards that were promised but denied.

CONCLUSION

For the foregoing reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

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