No. 25-63

IN THE

Supreme Court of the United States

JUDITH CLINTON,

Petitioner,

v.

CHAD BABCOCK, LISA NELSON, REGINA FOSTER BARTLETT, CARYN SULLIVAN, MARIA DIMAGGIO, AND TOASTMASTERS INTERNATIONAL,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF RHODE ISLAND

BRIEF OF RESPONDENT TOASTMASTERS INTERNATIONAL IN OPPOSITION

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QUESTION PRESENTED

Whether the Rhode Island Supreme Court affirming the trial court's decision to enforce a mutual agreement dismissing *pro se* Petitioner's civil complaint with prejudice violated Petitioner's constitutional rights to petition, civil trial, legal counsel, a neutral and impartial decisionmaker, and further constituted Equal Protection violations based on so-called disparate treatment on the basis of a litigant's representation status, despite none of these constitutional issues being properly raised below, and in the absence of any evidence supporting the underlying allegations.

STATEMENT REQUIRED BY RULE 29.6

Respondent Toastmasters International discloses that it has no parent companies or affiliates. Toastmasters International does however have the following subsidiaries:

1. Toastmasters International Singapore Ltd.;
2. Toastmasters International (Hong Kong) Limited;
3. Toastmasters International India Association; and
4. Toastmasters (Shanghai) Education Technology Co. Ltd.

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STATEMENT OF THE CASE

A. Counterstatement.

The *pro se* Petitioner, Judith Clinton, seeks review of the Rhode Island Supreme Court affirming a trial court's order enforcing a stipulation to dismiss Petitioner's claim with prejudice. Petitioner's attempt to frame the issues as a violation of her due process and equal protection rights under the Fifth and Fourteenth Amendments, generally alleging purported "disparate treatment" on the basis of a litigant's representation status, deprivation of her rights to a civil trial, to counsel, and to petition (under the First Amendment) are raised for the first time in her Petition for Writ of Certiorari. These issues were not properly before the lower courts and were therefore never the subject of judicial inquiry and deliberation. Petitioner's claims were not properly raised in the lower courts and do not merit consideration by this Court. Accordingly, the state courts did not decide a federal question resulting in conflict with its peers. Moreover, the Petition is littered with unsubstantiated allegations, meaning Petitioner has failed to prove any of the underlying facts necessary to suggest such constitutional violations.

B. History of the Case.

Petitioner (through counsel) filed a complaint in the Superior Court for Washington County on August 7, 2017. Within her complaint, Petitioner alleged reputational harm, emotional distress, and monetary damages due to purportedly false and

malicious statements made by several of the named Respondents. Those individual Respondents filed an answer and third-party complaint against Toastmasters International. Petitioner (again through counsel) subsequently amended her complaint to add another individual, Maria DiMaggio, and Toastmasters International, adding a breach of contract claim against the latter. Individual Respondents filed an answer and crossclaim against Toastmasters International. Another amendment was permitted, and Petitioner (*pro se*) added claims of defamation and emotional and physical distress against Toastmasters International. Petitioner's third and fourth motions to amend her complaint were denied by the trial court. Eventually, all parties to this matter agreed to and signed a "Stipulated Agreement of Dismissal of All Claims" which was filed on December 13, 2022. According to the Stipulated Agreement of Dismissal, Petitioner stipulated and agreed "to the dismissal of all claims, counterclaims, and crossclaims under the Docket #2017-0376 with prejudice." Petitioner drafted that Stipulated Agreement of Dismissal and presented it to Respondents as an all or nothing proposition. Upon filing, that dismissal stipulation had the attributes of a consent order and could only be vacated by written motion with notice to each party. *Resendes v. Brown*, 966 A.2d 1249 (R.I. 2009) and *Richardson v. Smith*, 691 A.2d 543 (R.I. 1997).

Two weeks later, on December 27, 2022, the individual Respondents and Toastmasters International filed a "Stipulation of Dismissal," dismissing with prejudice "all remaining claims" – specifically with the third-party complaint in mind –

between the individual Respondents and Toastmasters International. Petitioner, having already dismissed her claim against the Respondents, was not a party to this Stipulation of Dismissal. This stipulation was Respondents' collective "belt-and-suspenders" approach to formally foreclosing any claims which may have then existed between them. For reasons that are not clear, Petitioner seized upon this legal formality to insist (baselessly) that the subsequent Stipulation of Dismissal is evidence of a grand conspiracy between Respondents to defraud her and the legal system. She has not produced any evidence in support of this claim, instead resorting to empty accusations.

Seizing upon her gross mischaracterization of the Respondents' Stipulation of Dismissal, on February 8, 2023, Petitioner filed *Plaintiff Judith Clinton's Reply And Statement For The Record Pertaining To The Re-Opening Of The File Under Docket #2017-0376 For The Purpose Of Filing A False Document Executed And Signed By Attorney Stephen Brouillard And Attorney Todd Romano Filed By Todd Romano*. In that filing she asserted wild allegations concerning the Respondents and said she may in the future (without any supporting authority) seek to unilaterally withdraw the Stipulated Agreement of Dismissal. See p. 8 ("Wherefore plaintiff files this reply and statement for the record before withdrawal of the stipulated agreement to dismiss filed by plaintiff on December 13, 2022."); Pg. 9: "Plaintiff is within her rights to Withdraw the dismissal document she filed on December 13, 2023, at such time as Plaintiff has either successfully retained counsel, or if that is still not possible because an

attorney does not want to get their hands dirty in such an ugly mess as the two attorneys have made of the litigation, then it will be when Plaintiff's health has been restored so she feels capable of resuming Self-litigation process. When the document is withdrawn, the agreement to dismiss will no longer have any force or effect.") Respondent Toastmasters International filed a written objection to this so-called Reply.

The trial court then *sua sponte*, without motion pending or explanation, convened the parties on March 24, 2024, for a status conference. During that status conference, Petitioner opportunistically attempted to unilaterally renege the Stipulated Agreement of Dismissal and to vacate said stipulation via an oral motion. The trial judge granted that oral motion *sua sponte*.

Despite initially vacating the Stipulated Agreement of Dismissal, the trial judge ultimately reinstated it on June 20, 2023, following a hearing on Respondents' written motions to enforce the Stipulated Agreement of Dismissal and to vacate the scheduling order because the trial court appeared to reinstate the dismissal stipulation during a proceeding on April 21, 2023. The Petitioner objected to those motions and to the relief sought. Petitioner appeared at the June 20, 2023, hearing and argued against the Respondents' motions and relief sought.

The Respondents argued in their motions that as the other parties to this agreement they had not consented to vacation of the dismissal in March 2023 and had not been afforded proper notice or an opportunity to object with regard to Petitioner's oral motion to vacate the Stipulated Agreement of

Dismissal at the March 2023 *sua sponte* proceeding. Additionally, Respondents argued Petitioner failed to meet her burden to introduce any evidence of conduct which would justify the trial judge setting aside the Stipulated Agreement of Dismissal. Petitioner failed to produce a scintilla of evidence indicating the Stipulated Agreement of Dismissal was obtained via fraud or duress beyond making vociferous, naked assertions.

Taking umbrage with being held to her agreement, Petitioner appealed the order enforcing the Stipulated Agreement of Dismissal to the Rhode Island Supreme Court. Upon further consideration and inquiry, the Rhode Island Supreme Court was unable to discern any basis for disturbing the trial court's enforcement of the Stipulated Agreement of Dismissal. The Rhode Island Supreme Court recognized that a trial judge is free to vacate their original decision upon concluding that they may have erred. Accordingly, the trial judge's decision to reinstate the Stipulated Agreement of Dismissal, as she initially erred in agreeing to vacate said dismissal, was proper and upheld on review. Petitioner's allegations that she was not provided an opportunity to respond because the trial court characterized its decision a reconsideration of the prior *sua sponte* decision to vacate the Stipulated Agreement of Dismissal were found to be entirely without merit.

Petitioner again seeks to unilaterally vacate the Stipulated Agreement of Dismissal she and the Respondents agreed to. In so doing, she raises a slew of unsubstantiated allegations that her rights were violated under the U.S. and Rhode Island

constitutions. Petitioner failed to properly raise these constitutional issues with the Rhode Island Supreme Court and/or the Superior Court for Washington County, respectively, despite having ample opportunity to do so. Moreover, while a decision to grant a Petition for Writ of Certiorari is discretionary, the allegations and substance of the Petition fail to align with the compelling reasons identified in Rule 10 of the Rules of the Supreme Court of the United States, which provide a general basis for granting a Petition for Writ of Certiorari. Lastly, Petitioner extensively relies upon a high volume of misstated facts and legal rationale in her attempt to justify her Petition. A review of these pervasive misstatements (made in continuation of those persistently made to the trial court and Rhode Island Supreme Court) further makes clear that this Petition does not present a compelling issue which would warrant review. The more than eight years Petitioner spent litigating her claim (and fruitless collateral matters, such as failed motions for sanctions against opposing counsel) evince the fact that she has had ample access to justice, and now only seeks to use this Court's valuable time and resources in a futile effort to unilaterally vacate her valid agreement to dismiss her claim with prejudice.

Accordingly, this Court should deny review of the Petition for Writ of Certiorari.

REASONS FOR DENYING THE PETITION

I. Petitioner Failed to Properly Raise Alleged Constitutional Issues in the Lower Courts

a. The lack of constitutional violations preserved, discussed, and decided upon below leaves this Court without appellate jurisdiction.

Petitioner failed to properly raise the alleged constitutional issues in the lower courts and has failed to present any valid reason for this Court to accept these issues presented since they were not previously briefed, argued, or decided below. Now eight years into this lawsuit, Petitioner, for the first time, attempts to question the constitutionality of the proceedings below; she now claims, *inter alia*, purported "disparate treatment" based on representation status, lack of a neutral, impartial decisionmaker, and deprivation of her rights to petition, to a civil trial, and to counsel. As a court of review, not one of first view, this Court has refused to consider a petitioner's claim which was not properly raised in the lower courts. *Oklahoma Tax Comm'r v. Chickasaw Nation*, 515 U.S. 450 (1995); *Yee v. City of Escondido, California*, 503 U.S. 519, 532 (1992); *Illinois v. Gates*, 462 U.S. 213, 218-20 (1983).

Petitioner's attempt at posing a federal question fails as it was not properly raised, preserved, or passed upon by the Rhode Island Supreme Court and/or the Superior Court for Washington County. For this Court to possess appellate jurisdiction under

the Judiciary Act of 1789, a federal question must be raised and decided in the state court below. *Cardinale v. Louisiana*, 394 U.S. 437, 438 (1969); *Crowell v. Randell*, 10 Pet. 368, 391 (1836). This Court has consistently declined to hear federal constitutional issues raised for the first time at this point in proceedings when posed with review of state court decisions. *Miller for Use of United States v. Nicholls*, 4 Wheat. 311, 315 (1819); *Safeway Stores, Inc. v. Oklahoma Retail Grocers Ass'n, Inc.*, 360 U.S. 334, 342, n. 7 (1959); *State Farm Mutual Auto. Ins. Co. v. Duel*, 324 U.S. 154, 160-63 (1945); *McGoldrick v. Compagnie Generale Transatlantique*, 309 U.S. 430, 434-35 (1940); *Whitney v. California*, 274 U.S. 357, 362-63 (1927); *Dewey v. Des Moines*, 173 U.S. 193, 197-201 (1899); *Murdock v. City of Memphis*, 20 Wall. 590 (1875). There is no jurisdiction to review a judgment of the highest court of a state, on the grounds that it decided against a constitutional right, unless such right has been specially set up or claimed at the proper time and in the proper way. *Morrison v. Watson*, 154 U.S. 111, 115 (1894). A state supreme court's silence on a federal question creates an assumption that such an issue was not properly presented. *Adams v. Robertson*, 520 U.S. 83, 86–87 (1997).

A federal question must be properly raised and decided in the state court below for several important reasons. A question not raised below is one in which the record is very likely to be inadequate since it was not compiled with said federal question(s) in mind. *Cardinale*, 394 U.S. at 439. Respondents are therefore prejudiced by the lack of opportunity to fill the record below with adequate defenses to such federal

questions contemporaneous with the allegations and proceedings in question. Furthermore, in a federal system, it is important that state courts be given the first opportunity to consider constitutional issues. *Id*. It would be unseemly to disturb the finality of state judgments on a federal ground that the state court did not have occasion to consider. *Adams*, 520 U.S. at 90 (internal citation omitted). This rule affords state courts "an opportunity to consider the constitutionality of the actions of state officials, and, equally important, proposed [*sic*] changes" that could obviate any challenges to state action in federal court. *Id.* (quoting *Gates,* 462 U.S. at 221–22). This traditional standard reflects practical considerations relating to this Court's capacity to decide issues; requiring parties to raise issues below not only avoids unnecessary adjudication in this Court by allowing state courts to resolve issues on state-law grounds, but also assists in subsequent deliberations by promoting the creation of an adequate factual and legal record. *Id*. at 90-91.

The jurisdiction of this Court to review cases by way of Writ of Certiorari was not conferred merely to give the defeated party another hearing. *Magnum Import Co. v. Coty*, 262 U.S. 159, 163 (1923). In *Yee*, another case in which the petitioners did not raise their constitutional claim until filing a petition for Writ of Certiorari in the California Supreme Court, which denied review, this Court held that, "[i]n reviewing the judgments of the state courts under the jurisdictional grant of 28 U.S.C. § 1257, the Court has, with very rare exceptions, refused to consider a petitioner's claim that was not raised or addressed below." *Yee*, 503 U.S. at 532, citing *Gates*, 462 U.S. at

218-20. "As a court of review, not of first view, we will entertain issues withheld until merits briefing, 'only in the most exceptional cases.'" *Chickasaw Nation*, 515 U.S. at 457 (citation omitted).

The questions Petitioner has fashioned for review were not properly before any lower court. Three random quotes in Petitioner's Supplemental Memorandum in Support of Rule 12A Statement filed with the Rhode Island Supreme Court does not constitute properly raising the issues. Moreover, Petitioner did not amend her complaint and never made a motion specifically raising these issues. Accordingly, the Rhode Island Supreme Court and/or the Superior Court for Washington County were not afforded an opportunity to address, inquire, and deliberate as to Petitioner's alleged constitutional violations. This leaves the present record inadequate as to the question now posed to the Court. Respondents, similarly, were denied an opportunity to inquire and place corresponding defenses on the record contemporaneous with the proceedings and allegations. This prejudice highlights the grave importance of properly presenting such a question to the courts below. The fact that Petitioner's constitutional allegations are absent from the Rhode Island Supreme Court's opinion confirms said allegations were not properly presented below.

Furthermore, the underlying allegations Petitioner's question necessarily relies upon (i.e., fraud, duress, etc.) do not represent a circumstance or issue warranting an exception to this rule, in large part because said allegations are completely unsubstantiated. As evidenced by the recent eight-year anniversary of Petitioner bringing suit, she has

had her day in court. Petitioner never brought an actual claim asserting a violation of her constitutional rights. This Petition is an ancillary attack on the lower court's judgment, and a crude attempt at circumventing the proper procedure for the adjudication of such a claim.

b. Despite leniency afforded *pro se* litigants, Petitioner cannot escape lack of appellate jurisdiction, a highly-specific legal obstacle she has faced before.

As discussed *infra*, Petitioner attempts to invoke *Haines v. Kerner*, 404 U.S. 519 (1972), in which the Court recognizes that *pro se* litigants' pleadings be treated with leniency. She suggests she was not treated with due leniency below. This is patently false and if anything, she took advantage of the leeway she was provided.

Importantly, courts have, as they must, dismissed claims for lack of jurisdiction despite acknowledging the leniency *pro se* litigants are entitled to under *Haines*. *See Adeogba v. Migliaccio*, 266 F. Supp. 2d 142, 144-46 (D.D.C. 2003) (dismissing *pro se* litigant's Federal Tort Claims Act action as, despite *Haines* leniency, they failed to exhaust administrative remedy, depriving court of subject matter jurisdiction). "[L]eniency with respect to mere formalities should be extended to a *pro se* party ... [but] a court may not similarly take a liberal view of [a] jurisdictional requirement and set a different rule for *pro se* litigants only." *Kelley v. Sec'y, U.S. Dep't of Labor*, 812 F.2d 1378, 1380 (Fed.Cir. 1987). Indeed, "a court's leniency is tempered by the exacting

requirements of jurisdiction." *Carter v. United States*, 62 Fed.Cl. 66, 69 (Fed.Cl. 2004). Because Petitioner failed to properly present the alleged constitutional violations below, this Court respectfully lacks appellate jurisdiction over this Petition. The leniency afforded to Petitioner as a *pro se* litigant is simply irrelevant in the face of this insurmountable jurisdictional hurdle.

Despite her *pro* se status, Petitioner is well aware of this procedural requirement; she engaged in substantially similar behavior before this very Court. *Middlesex Mut. Assurance Co. v. Clinton*, 662 A.2d 1319 (Conn. App. Ct. 1995), cert. denied, 517 U.S. 1104 (March 25, 1996) (No. 95-1199). In 1995, Ms. Clinton brought a Petition for Writ of Certiorari in which she disputed a Connecticut appeals court decision compelling her to proceed with an insurance company's appraisal process following a house fire. Ms. Clinton decided to characterize the issue of the case as a violation of her due process rights under the Fourteenth Amendment, and a violation of the protection against unreasonable search and seizure under the Fourth Amendment. She failed to raise these federal issues in the courts below, instead choosing to raise them for the first time in her Petition for Writ of Certiorari.[1] Petitioner therefore knows better that constitutional issues must be properly raised below, yet she chose not to bring the present alleged constitutional violations via proper procedure. In her continued quest to keep this matter alive, motivated by intentional and deliberate efforts

[1] This Court ultimately denied Ms. Clinton's Petition for Writ of Certiorari to the Appellate Court of Connecticut.

to cause Respondents to incur additional legal costs, Petitioner seeks review even though she admits it is highly unlikely that her Petition will be granted. Her foresight is likely attributable to the fact that her 1995 Petition for Writ of Certiorari, also claiming her due process rights were violated at the last possible juncture, was summarily denied. There should be no different outcome here.

Accordingly, Petitioner's failure to properly present her constitutional allegations below deprives this Court of appellate jurisdiction and requires her Petition for Writ of Certiorari be denied.

II. While Not Dispositive, Petitioner Fails to Justify Why the Petition Warrants Consideration Under Rule 10.

Review on a Writ of Certiorari is not a matter of right, but of judicial discretion, and is granted only for compelling reasons. U.S. Sup. Ct. R. 10. Within the context of cases arising from a state court, the limited circumstances identified in Rule 10 which may justify granting a Writ of Certiorari are as follows:

> (b) a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeals;
>
> (c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

As discussed herein, this Petition fails to arise under Rule 10(b) and (c) as all alleged constitutional violations (as fleeting and spurious as they may be) were never properly placed before the courts below. Neither the Rhode Island Supreme Court nor the Superior Court for Washington County decided a federal question. The Rhode Island Supreme Court's silence as to the onslaught of constitutional violations Petitioner now alleges lends credence to the fact that such federal questions were not properly placed before them in the proceedings below. Since neither court below decided a question of federal law, there is no resulting conflict that would warrant this Court granting the Petition for Writ of Certiorari. Accordingly, this Petition should be denied.

III. Petitioner's Alleged Constitutional Violations are Completely Unsubstantiated and Rely on Pervasive Misstatements of Fact and Law.

Given the haphazard nature of Petitioner's unsubstantiated allegations of constitutional violations and pervasive misstatements of fact and law, Respondent Toastmasters International will endeavor to swiftly and concisely dispense with each alleged constitutional violation in turn (despite said issues not properly being presented below). To the extent such an allegation escapes mention herein due to the Petitioner's scattershot approach, Respondent fully rejects the substance of the constitutional allegation. Petitioner strains to frame the issues as a violation of her due process and equal protection rights under the Fifth and Fourteenth Amendments, generally alleging purported "disparate treatment" on

the basis of a litigant's representation status, deprivation of her rights to a civil trial, to counsel, and to petition (under the First Amendment) - all raised for the first time in her Petition for Writ of Certiorari.

a. Petitioner's claim that her treatment as a *pro se* litigant was not sufficiently lenient under *Haines*, and was arbitrary and discriminatory, is completely unsupported in the record below.

Petitioner claims, without substantiation, victimhood at the hands of a legal system designed to disadvantage litigants based on representation status. The allegation that she, proceeding *pro se*, had her equal protection rights violated when comparing her treatment to that of a party represented by counsel is without merit.

Petitioner attempts to invoke this Court's opinion in *Haines* to suggest that she was not accorded proper leniency during proceedings as befitting her self-represented status. While it is undeniable the *Haines* Court urged leniency, it was done in the context of holding a *pro se* litigant's pleadings to less stringent standards than formal pleadings drafted by lawyers. *Haines*, 404 U.S. at 520.[2] Petitioner does not explain how she failed to

[2] Despite *pro se* litigants enjoying leniency under *Haines*, it should be noted that such litigants must still honor bare minimum standards and expectations of decorum in our legal system. *Pro se* litigants cannot conduct themselves carte blanche. *See generally Schramek v. Jones*, 161 F.R.D. 119 (M.D. Fla. 1995) (granting Rule 11 sanctions against *pro se* litigant who, *inter alia*, filed lawsuit in bad faith to expose opposition to delays and to increase costs and attorney's fees); *Mills v. Brown*,

receive the benefit of more lenient standards in the preparation of her pleadings. Concerning her attempt to fashion the instant matter as an "Access to Justice" issue, Petitioner pursued her civil complaint (and ancillary matters such as failed motions for sanctions against opposing counsel) for over eight years. She received aid from two different attorneys who would both end up withdrawing their representation. Per Petitioner's own admission, the former withdrew due to a communication breakdown. Petitioner further engaged limited-scope counsel for the purpose of amending her civil complaint.

Upon receiving the unfavorable opinion from the Rhode Island Supreme Court, Petitioner filed a sixty-page Petition for Reargument, which was accompanied by a 136-page appendix.[3] She was also permitted to file a reply memorandum to Respondent's Objection to her Petition for Reargument. Ultimately, the Rhode Island Supreme Court entered an order denying this petition. This sequence of events, which finally drew litigation before the Rhode Island state judiciary to a close, encapsulates the ample time and opportunity Petitioner had to access the legal system. It is simply without merit to claim she has not been extended

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372 F. Supp. 2d 683, 692–94 (D.R.I. 2005) (warning *pro se* of potential Rule 11 sanctions as, despite *Haines* leniency, a *pro se* litigant is still obligated to submit materials to court that are grounded in fact, warranted by law or good faith argument, and not motivated by an improper purpose such as to harass, cause unnecessary delay, or needlessly increase litigation costs).

[3] For sake of brevity, Respondent will spare this Court the attachment of this Petition for Reargument with appendix unless it is requested.

leniency as befitting her *pro se* status, especially in the absence of a specific allegation to that effect in her Petition.

Petitioner similarly proceeds to fail to identify how her purported treatment remotely resembles a violation of the Equal Protection Clause. Even if Petitioner could offer a specific instance of alleged discrimination on the basis of representation status, merely treating two groups differently does not violate the Fourteenth Amendment. *Reed v. Reed*, 404 U.S. 71, 75 (1971). Viewed in the most charitable light possible, Petitioner appears to insinuate "disparate treatment" based on the Rhode Island Supreme Court, in another matter, vacating and remanding when a party represented by counsel was prejudiced by a trial court dismissing a case for lack of subject matter jurisdiction *sua sponte*. *Mill Rd. Realty Assocs., LLC v. Town of Foster*, 326 A.3d 1085 (R.I. 2024). As best Respondent can tell, Petitioner appears to insinuate she is similarly situated and that the Rhode Island Supreme Court treated her differently compared to the represented party in *Mill Rd. Realty Assocs.* because she is *pro se*. Not only has Petitioner failed to meet her burden, but the circumstances of the dismissal in *Mill Rd. Realty Assocs*. is not analogous to the reinstatement of Stipulated Agreement of Dismissal here.

To the extent Petitioner is insinuating such an allegation, she has failed to meet her burden by showing she has suffered arbitrary and discriminatory treatment. *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000). Petitioner's insinuation fails to account for any of the legal reasoning expressed by the Rhode Island Supreme Court, and it

also ignores the significant difference in what the trial court acted upon *sua sponte*. The trial court in the present matter erred in *sua sponte* rescinding the Stipulated Agreement of Dismissal during the March 2023 proceeding; the subsequent decision to reinstate it, at Respondents' urging, remediated that errant decision and it was not done *sua sponte*. Petitioner was proceeding down a path she was legally never entitled to (thus underscoring her lack of prejudice); the trial judge should not have *sua sponte* rescinded the Stipulated Agreement of Dismissal, Petitioner never filed a written motion to vacate the same, and Respondents have never been afforded an opportunity to oppose such a motion. Moreover, the trial court's decision to reinstate the Stipulated Agreement of Dismissal returned the case to the *status quo*, a state of affairs Petitioner had personally, freely, and validly agreed to when she drafted and presented the Stipulated Agreement of Dismissal to Respondents. Accordingly, the trial judge's decision to reinstate the Stipulated Agreement of Dismissal was affirmed by the Rhode Island Supreme Court for firmly being within its plenary authority. *Clinton v. Babcock*, 332 A.3d 167, 172 (R.I. 2025)

In *Mill Rd. Realty Assocs.*, the Rhode Island Supreme Court reversed the *sua sponte* decision to dismiss for lack of subject matter jurisdiction because the litigants were placed in a precarious situation of defending against an entirely unexpected determination, and were without the opportunity to present evidence, briefing, or argument.[4] *Mill Rd.*

[4] The Court further vacated the *sua sponte* dismissal because the substantive issue of whether the plaintiff had the ability to bring the lawsuit did not implicate the court's subject matter

Realty Assocs., 326 A.3d at 1088. There, the trial judge converted the hearing into something entirely different, with insufficient notice to the parties.

In comparison, the reinstatement of the Stipulated Agreement of Dismissal in June 2023 was the subject of distinct motions filed by the Respondents, which sought to give effect to the Stipulated Agreement of Dismissal. The Petitioner filed written objections to these motions, appeared at the hearing, and argued against the motions. The trial court did not act unexpectedly when it reinstated the Stipulated Agreement of Dismissal to correct its earlier, errant, *sua sponte* decision rescinding the Stipulated Agreement of Dismissal. Rather, it granted the relief requested and granted it based on the arguments asserted by the Respondents.

If there is any similarity between *Mill Rd. Realty Assocs.* and this matter, it was the wrongly made *sua sponte* decision to grant Petitioner's oral motion to rescind the Stipulated Agreement of Dismissal; a decision that no one expected during the March 2023 proceeding and which was not presented as a written motion, was never scheduled for hearing, and the Respondents did not have an opportunity to oppose. Hence, the only way *Mill Rd. Realty Assocs.* is relevant is in the respect that it fully supports the trial court's decision to reinstate the Stipulated Agreement of Dismissal after making the errant *sua sponte* decision to rescind the same. The Petitioner is not in the same shoes as the plaintiff was in *Mill Rd.*

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jurisdiction to hear a declaratory judgment action and thus could not be raised *sua sponte* by the court or at any time. *Mill Rd. Realty Assocs.*, 326 A.3d at 1088-89.

Realty Assocs., she has not suffered any prejudice, and there is sufficient rationale for the different treatment.

Therefore, even if viewed in the most charitable light possible, Petitioner has failed to present a viable equal protection claim on the basis of representation status. The different outcomes in *Mill Rd. Realty Assocs.* and the current matter, as it concerns the Rhode Island Supreme Court's review of *sua sponte* trial court decisions, are justified in context. This legal rationale, explaining different outcomes in merely superficially similar situations, removes any doubt that Petitioner was subjected to arbitrary treatment. Petitioner also fails to show discriminatory intent – that she was deliberately treated differently based on being *pro se*. She instead opts to rely on a torrent of spurious allegations without offering anything rooted in fact. A showing of discriminatory intent is necessary to sustain her equal protection claim. *Sioux City Bridge Co. v. Dakota Cty.*, 260 U.S. 441 (1923); *Allegheny Pittsburgh Coal Co. v. Comm'n of Webster Cty.*, 488 U.S. 336 (1989).

b. Petitioner fails to sustain various arguments for due process violations because she relies on misstatements of fact and inapplicable caselaw.

i. Petitioner has not shown a member of the Rhode Island judiciary possessed the conflict of interest or intolerably high likelihood of bias necessary to sustain a due process violation.

Petitioner similarly fails to substantiate a claim that her due process rights were violated because she was deprived of a neutral, impartial decisionmaker per *Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009). In *Caperton*, this Court found a due process violation when a judge failed to recuse from a matter involving a corporation whose president and CEO donated $3 million to his election campaign. *Id.* Petitioner, again, fails to establish a basis requiring that a judge from the proceedings below ought to have recused themselves. Judges must recuse when they have a direct, personal, substantial pecuniary interest in a case, or when the probability of actual bias is too high to be constitutionally tolerable. *Id.* at 876-77. There is nothing to suggest any of the members of the Rhode Island judiciary involved with this case deserve to be maligned by Petitioner's naked assertions that they were biased to the point of depriving her of due process. Petitioner baselessly claims that the judiciary was biased against her for being a *pro se* litigant, and that the

Rhode Island Supreme Court "changed facts to favor Respondents[.]" *Petition*, p. 13. These allegations are without merit, and they are not substantiated by Petitioner in the record below. Petitioner's petty allegation is likely motivated by the Rhode Island Supreme Court calling out her disrespectful treatment of the judiciary and its staff. *Clinton*, 332 A.3d at 173. Accordingly, Petitioner falls well short of remotely satisfying her burden to show that she was deprived of a neutral, impartial decision maker in violation of her due process rights.

ii. Petitioner poses an empty allegation that her right to a civil trial was violated since she never showed her agreement to dismiss her lawsuit was obtained by improper means.

Petitioner further appears to allege she was deprived of a right to a civil trial. This claim is also meritless. Petitioner drafted and presented the Stipulated Agreement of Dismissal to Respondents. She freely and validly agreed and stipulated to the dismissal of her claim with prejudice. As discussed, Petitioner has fruitlessly attempted to unilaterally vacate the Stipulated Agreement of Dismissal with unsupported allegations that said dismissal was obtained by Respondents via fraud and/or duress.

The Stipulated Agreement of Dismissal may only be set aside, without the assent of all parties, upon a showing it was obtained by fraud, mutual mistake, or other extraordinary circumstances. To constitute fraud under Rule 60(b)(3) of the Rhode

Island Superior Court Rules of Civil Procedure, testimony must "have been willfully and purposely falsely given, and to have been material to the issue tried and probably to have controlled the result." *Pari v. Pari*, 558 A.2d 632, 636 (R.I. 1989). There also must be "clear and convincing evidence of actual fraud." *Forcier v. Forcier*, 558 A.2d 212, 214 (R.I. 1989).

Although alleging fraud, Petitioner failed to meet her burden. Instead, Petitioner quizzically seized upon the subsequently filed Stipulation of Dismissal and insists, without a scintilla of supporting evidence, that it implicates counsel for the Respondents as part of a fantastical scheme to defraud her and the legal system. As noted by the Rhode Island Supreme Court, there is nothing in the record that supports such a wild and unjustified accusation.[5] Petitioner has not identified any falsity purposely given and material to any issue, and she

[5] Petitioner's patently ridiculous fraud allegation must be viewed as a continuation of her persistent efforts to baselessly malign the reputations of counsel for the Respondents. For instance, in filings with the Rhode Island judiciary, Petitioner has called counsel for Respondents "terrorists" (*Petition App.*, p. 131), expressly compared their alleged fraud to that of disgraced, convicted Congressman George Santos (*Petition App.*, p. 130a), and suggested that counsel's legal opposition to Petitioner's civil complaint was akin to violation of Rhode Island's domestic violence statute (*Petition*, p. 20). Accordingly, the fraud accusation must be understood as yet another tasteless, bad faith smear by an individual who affords the legal system and Respondents without even an infinitesimal amount of respect. *Petition*, pp. 8, 13, 18, and 19. Petitioner's fruitless efforts to bring complaints to the Office of Disciplinary Counsel and motions for sanctions further show she proceeds entirely in bad faith to vilify counsel for the Respondents. *Petition*, p. 20.

has not provided anything more than baseless assertions.

Petitioner's claim that the Stipulated Agreement of Dismissal was submitted under duress is similarly bereft of any supporting evidence. The Rhode Island Supreme Court endorsed the trial judge's finding that Petitioner did not adequately demonstrate she was under duress when agreeing to and signing the Stipulated Agreement of Dismissal. *Clinton*, 332 A.3d at 172. Petitioner had only ever gestured vaguely to having a medical condition at the time of her assent, falling well short of showing she was robbed of her freewill. (It should be noted the trial court continued hearings for Petitioner due to alleged health issues.) Duress exists when one, by the unlawful act of another, is induced to perform some act under circumstances which deprive them of the exercise of free will. *Miller v. Metro. Prop. & Cas. Ins. Co.*, 111 A.3d 332 (R.I. 2015). Duress is not shown, for instance, by the fact that one was subjected to personal embarrassment, a difficult bargaining position, or the pressure of financial circumstances. *Id.* at 343. Further, one cannot successfully claim duress as a defense to a contract when they had an alternative to signing the agreement. *Id.* Respondents did not undertake an unlawful act to induce Petitioner to sign the Stipulated Agreement of Dismissal that Petitioner alone drafted and presented to Respondents. Even if Petitioner had shown below that she signed the Stipulated Agreement of Dismissal because of her health (which she did not), that does not show she was deprived of her free will.

Therefore, Petitioner has not shown she was deprived of a right to a civil trial because she has

failed to establish anything in the record which may remotely support a finding that the Stipulated Agreement of Dismissal was obtained via fraud or duress.

iii. Despite Petitioner claiming she was deprived of sufficient notice and an opportunity to heard, the record below shows she was clearly made aware of the nature of the legal proceedings at issue.

Regarding other gratuitous constitutional allegations, Petitioner makes fleeting, perfunctory references to several cases without attempting to explain their significance to the matter at hand. To the extent Petitioner attempts to invoke this caselaw, *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306 (1950) and the other cases cited, concern insufficient notice as a matter of due process. Petitioner had ample prior notice that Respondents' sought to enforce the dismissal stipulation. After Petitioner's oral motion to vacate was errantly granted, Respondents lodged timely objections in advance of the next appearance. Petitioner therefore knew her improperly granted oral motion was in dispute. She was subsequently put on additional notice when Respondents filed a motion to enforce the dismissal stipulation and to vacate the scheduling order because the trial court had reinstated the Stipulated Agreement of Dismissal during the April 21, 2023 hearing. Importantly, Petitioner objected to these motions, appeared at the hearing on June 20, 2023, and opposed the motions. The relief sought in those motions was the relief granted by the trial court

– reinstatement of the Stipulated Agreement of Dismissal. Accordingly, Petitioner had proper understanding of the proceedings, meaning *Mullane,* and related insufficient notice caselaw, is inapplicable to the instant matter.

iv. Petitioner claims constitutionally inadequate procedure despite refusing to provide a sufficiently detailed accusation and further overlooks her more than eight years spent enjoying ample opportunity to present her case.

Petitioner also cites to, without explanation, *Goldberg v. Kelly*, 397 U.S. 254 (1970), in which this Court ruled that New York's procedure for terminating public assistance benefits is constitutionally inadequate. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982) is similarly referenced for unknown reasons, presumably because it mentions constitutionally deficient adjudicatory procedures (albeit under the Fair Employment Practices Act). Again, Petitioner has failed to prove the constitutional inadequacy of the proceedings below. Her lawsuit gestated for more than eight years throughout the Rhode Island legal system. She had ample time and opportunity to prosecute her complaint and failed to do so. She has thoroughly exercised every opportunity to be heard at every turn of her legal odyssey (even taking detours to vociferously pursue ancillary matters against Respondents' counsel as discussed *supra*).

v. Petitioner blatantly mischaracterizes the Court's opinion in *W. Virginia v. Env't Prot. Agency* to insist the Rhode Island Supreme Court's legal authority is constrained by the major questions doctrine, despite said rationale expressly applying to just administrative agencies.

In continuation of this flippant approach, Petitioner then references *W. Virginia v. Env't Prot. Agency*, 597 U.S. 697 (2022) for the proposition that the major questions doctrine bars the trial court's decision to grant Respondents' motion to enforce the Stipulated Agreement of Dismissal, purportedly because the trial court lacked requisite legal authority. This is a blatant misstatement of law; despite Petitioner's confident assertion to the contrary, the major questions doctrine only applies to administrative agencies, not state courts: "[a]s for the major questions doctrine . . . it took hold because it refers to an identifiable body of law that has developed over a series of significant cases all addressing a particular and recurring problem: agencies asserting highly consequential power beyond what Congress could reasonably be understood to have granted." *W. Virginia v. Env't Prot. Agency*, 597 U.S. at 724. This blatant, gross mischaracterization of a fleeting reference to caselaw succinctly embodies her spurious approach to this Petition and her conduct in the proceedings below.

vi. Petitioner does not explain why procedural safeguards for prisoners seeking *habeas* relief are applicable to the instant matter.

Petitioner further invokes *Acosta v. Artuz*, 221 F.3d 117 (2d Cir. 2000) to assert the importance of procedural safeguards. She insists, without any explanation, that *Acosta*'s contemplation of safeguards for prisoners seeking *habeas* relief is relevant to a *pro se* civil complaint for, *inter alia*, reputational harm and breach of contract. The notice and opportunity to be heard, as discussed in *Acosta*, arises in the highly specific, and uniquely important, context of prisoners pursuing "the Great Writ" of *habeas corpus*. As discussed herein, Petitioner had ample opportunity below to be heard on her lawsuit and received sufficient notice and opportunity to be heard specific to its final disposal from Rhode Island's legal system. She cannot explain how she is entitled to safeguards meant for those seeking *habeas* relief.

vii. Even if Petitioner properly alleged a First Amendment violation of the Petition Clause, such a right is not implicated since her litigation is objectively baseless.

Under "Constitutional Provisions Involved", Petitioner lists a constitutional "Right to Petition." At no point does she appear to expressly state any facts or legal authority in furtherance of this purported constitutional violation pursuant to the First Amendment's Petition Clause. Even if she did, the

Petition Clause does not protect litigation which is objectively baseless. *Pro. Real Est. Invs., Inc. v. Columbia Pictures Indus., Inc.*, 508 U.S. 49, 50 (1993). Despite arising in the antitrust context (and accordingly invoking business rationale in the ultimate holding), *Pro. Real Est. Invs., Inc.* shows that the Petition Clause does not immunize a suit when no reasonable litigant could realistically expect success on the merits. *Id.* Petitioner has already acknowledged the futility of her claim. She further failed to build a record in support of her numerous, extreme accusations. Accordingly, Petitioner has failed to present a colorable argument that her rights were violated under the Petition Clause (both in her Petition and the proceedings below).

viii. Petitioner fails to show why she has a right to counsel in the context of a civil proceeding which does not risk her incarceration.

Lastly, Petitioner generally insinuates a deprivation of a right to counsel (apart from, and in conjunction with, her spurious allegations that she was subject to proceedings which lacked constitutionally-sufficient safeguards) by attempting to invoke *Logan* and *Turner v. Rogers*, 564 U.S. 431 (2011). *Turner* concerned a right to counsel in a civil contempt proceeding in which a parent failed to comply with an order for child support. *Id.* The *Turner* Court acknowledges that the right to counsel in civil matters is not clear, but tends to exist for a civil proceeding which may result in a litigant's physical liberty being deprived. *Id.* at 442-43; *In re Gault*, 387 U.S. 1, 35-42 (1967) (Fourteenth Amendment

requires counsel for juvenile delinquency proceeding which could lead to incarceration); *Vitek v. Jones*, 445 U.S. 480, 496-97 (1980) (plurality believing Fourteenth Amendment requires counsel in proceeding to transfer a prison inmate to mental hospital despite ultimate holding that no right to counsel existed); *Lassiter v. Dep't of Social Servs. Of Durham Cty.*, 452 U.S. 18, 25 (1981) (indigent parents in proceeding for termination of parental status not entitled to counsel because, *inter alia*, petition lacked opportunity for criminal charges). Ultimately, the *Turner* Court harmonized these cases and concludes that, while a right to counsel only exists in civil cases involving incarceration, a right to counsel does not necessarily exist in all such cases. *Turner*, 564 U.S. at 444.

The matter at bar does not remotely involve potential incarceration. Accordingly, Petitioner's vague insinuations that she has been deprived of a right to counsel, along with being deprived of constitutionally required safeguards, are meritless. Petitioner was represented by two different attorneys (plus limited scope counsel), and in both instances the attorney-client relationship failed to survive (including Petitioner admitting a communication breakdown in the first instance). Petitioner nakedly asserts, without evidence, that she is not *pro se* by choice. She insists that prospective counsel invariably loses all interest upon realizing they will be compelled to file ethics complaints against Respondents' counsel. Petitioner failed to introduce a scintilla of evidence in support of this wild accusation. Petitioner is not entitled to counsel in the context of her civil complaint as it does not implicate potential

incarceration. Accordingly, her alleged constitutional violation must be disregarded.

Petitioner's alleged constitutional violations should be summarily denied as they were not properly presented below. The Rhode Island Supreme Court's silence as to the purported constitutional violations presumes as much. These issues were not properly before the courts below because, among other things, the underlying factual assertions are unsupported in the record. Petitioner repeatedly, vociferously, makes fleeting accusations of constitutional violations which are unsupported by the record below (i.e., the accusation of a grand conspiracy to commit fraud, the accusation that her assent to dispose of her case was obtained via duress, etc.). Because the record below is bereft of supporting facts, and Petitioner grasps at unrelated, misstated, and/or inapplicable caselaw, the Petition must be denied on substantive grounds, too.

IV. Conclusion.

Respondent Toastmasters International respectfully requests that the Petition for Writ of Certiorari be denied. Petitioner's failure to properly raise her numerous allegations of constitutional violations in the proceedings below critically deprives this Court of appellate jurisdiction. Not even the leniency accorded a *pro se* litigant can overcome this lack of jurisdiction. As the record below was bereft of any federal questions, Petitioner does not present a compelling issue which would warrant her Petition being granted as a matter of judicial discretion. In short, the lack of federal question decided on below

means the Rhode Island judiciary has not acted in conflict with their peers. Moreover, the constitutional violations Petitioner now chooses to allege are completely unsubstantiated and rely entirely on misstatements of fact and law. Accordingly, this Petition should be denied.

Respectfully submitted,

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