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 a Writ of Certiorari to the Supreme Court of Rhode Island

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REPLY IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

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INTRODUCTION

Petitioner files this Reply to Respondents' Brief in Opposition pursuant to Sup. Ct. R. 15.6. Respondents' submission poses a new question, relies on factual disputes and personal attacks, misrepresenting Petitioner's preservation of constitutional rights, making clarification essential.

Respondents reach back ***thirty*** **years** to unrelated litigation in another state. Decades old cases have no probative value, and that one is doubly irrelevant: involving a bad faith claim against an insolvent insurer concluding after two years, with a satisfactory settlement to Petitioner, unlike this case. When Respondents rely on character attacks and decades-old irrelevancies, it underscores a meritless defense.[1]

Respondents' brief, replays defenses in the appeal, rebutted by Petitioner, disregarded by RI Supreme Court. Rearguing them here disregards the constitutional issues at stake. Basing their entire request to deny Certiorari on lack of jurisdiction, is unprincipled. Rehashing facts, Respondents obscure the controlling issue: May a state judiciary adopt a no-duty to accommodate Self-represented parties **(SRLs)** depriving SRLs of notice, meaningful hearing, and

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[1] Petitioner stands by her comparison of opposing counsel to the fabulist, George Santos, having made a record of 17+ false assertions in their motion granted, ending Petitioner's right to trial.

neutral adjudication of their claim while shielding that disparity from accountability.

Constitutional Assertions Disregarded
More than "gratuitous constitutional allegations," Petitioner preserved due process, and equal protection, in the trial court, **(Petition App. 212a–132a**), in Appellate brief, **(pp.5,8,10,15,16)** Supplemental brief (**pp.12–14,18**), directly to Respondents' opposition motions (**App. 34a),** and again citing briefs in the Petition itself (**Reasons for Granting Petition X at 19, XI at 20**), ensuring constitutional claims were squarely before the courts.

Not a Fact-Based Review
This Petition isn't a plea for indulgence to cure pro se missteps. Petitioner did everything the rules require, filed timely objections, preserved issues on the record, and exposed Respondents' multiple false assertions (including the invented "reinstatement" at the April 21, 2023 hearing). The trial court acknowledged the falsities yet imposed no Rule 11 consequences. Instead, she *Sua sponte* recharacterized those filings as Rule 60 motions, granted relief never requested, reinstated a rescinded dismissal agreement, without supporting rules or law, without prior notice or hearing and mooted legitimate dispositive motions, turning Respondents motions into dispositive motions by judicial fiat.

Unconstitutional Disregard
Petitioner's RI Supreme Court appeal recited a multitude of actions by Respondents that violated Petitioner's rights during the litigation; an example citing this Court's decision of *Logan* in her appeal, one

of the definitive cases supporting **constitutional right to due process safeguards**; disregarded by RI Supreme Court:

> (Respondents) Asserting a fraudulent defense, covering-up negligence, the cause of interfering in Plaintiff's right to contract counsel, resulting in exploitation, procuring a monetary reward via a second Dismissal[2] filed under false pretenses, after coercing Plaintiff to voluntarily dismiss her claim without benefit of counsel, consequent of duress she could no longer endure, depriving Plaintiff of her right to trial, an "entitlement" grounded in state law which can't be removed without "cause." *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982).

Contrary to its claim of "no record," Petitioner's appeal included hospital and doctor letters, transcript pages of the judge acknowledging health issues, docket entries showing repeated continuances for medical excusals, all on the record below, known to opposing counsel and the Court. **Disregard of this**

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[2] Notably, the attorney responsible for the second fraudulent dismissal agreement is absent on Respondents' brief. They engaged new counsel, implicit acknowledgment that defending the agreement's defects, would place prior counsel in a posture of bad faith for having unclean hands. The trial Court acknowledged evidence of fraud when granting the recission of Petitioner's Dismissal Agreement, proffered under documented duress, all part of the record.

documentation speaks volumes about the abuse that caused it, and the failure of the Court to protect fundamental constitutional rights.

RI Supreme Court's Decision Conflicts with Relevant Decisions of This Court

This case isn't about one litigant's loss, but about whether the most basic constitutional safeguards requiring fair notice and a meaningful opportunity to be heard found in *Mullane v. Cent. Hanover Bank & Tr. Co.,* 339 U.S. 306 *(1950) Liteky v. United States*, 510 U.S. 540, 548 (1994). *Goldberg v. Kelly,* 397 U.S. 25 (1970) *Boddie v. Connecticut*, 401 U.S. 371 (1971) *Mathews v. Eldridge*, 424 U.S. 319 (1976) *Logan v. Zimmerman Brush Co.,* 455 U.S. 422 (1982), apply to all who come before the courts, represented or not. This isn't an isolated case. These issues **routinely arise** for thousands of SRLs, across jurisdictions.

RI Precedent Disregarded at Petitioner's Expense

Acosta v. Artuz, 221 F.3d 117 (2d Cir. 2000); *Village of Willowbrook v. Olech,* 528 U.S. 562 (2000); *Washington v. Davis,* 426 U.S. 229 (1976); each controlling precedents, prohibit arbitrary or disparate treatment. The RI Supreme Court's failure to apply its own precedent, *Mills Road Realty Associates, LLC v. Town of Foster,* 326 A.3d 1085 (R.I. 2024), that sent a case back to the superior court due to the trial judge's *Sua sponte* dismissal of the appellant's claim, a case where both parties were represented. The same occurred in Petitioner's case where one party was Self-represented but was not provided the same relief.

The details are not the issue, only the outcome. In *Mills,* the **RI Supreme Court decision stated:**

"We have made clear that when ruling on an issue *Sua sponte,* a trial justice must afford parties notice of the identified issue and allow them to present evidence and argument on that issue. See *Bruce Brayman Builders, Inc. v. Lamphere,* 109 A.3d 395, 398 (R.I. 2015) (finding trial justice abused their discretion in applying administrative exhaustion doctrine *Sua sponte* to a plaintiff's claims, denying the parties the opportunity to present argument on the issue); see also 16B Am. Jur. 2d Constitutional Law § 945 (Oct. 2024 Update) ("[T]he essential elements of procedural due process of law are notice and the opportunity to be heard"). We see no reason to deviate from this requirement"

Like *Mills Road Realty*, Petitioner's case should have been vacated and sent back to the trial court, but for being an SRL it wasn't. When courts treat self-represented litigants differently simply because they're not lawyers, not based on the merits, that's invidious discrimination, disparate treatment the Constitution forbids.

***Mathews Provides* the Required Framework**

The Petition cited the doctrinal framework necessary to evaluate whether RI Supreme Court's decision comports with constitutional protections of due process and equal protection, as this Court has defined it. *Mathews v. Eldridge*, 424 U.S. 319 (1976) is the governing balancing test for all procedural due process questions, both administrative and civil. Incorporating *Mathews* into the analysis is essential

to the proper resolution of the question presented. It's precisely **the tool needed to evaluate the systemic disadvantages faced by self-represented litigants in state courts across the country,** ensuring due process protections are not contingent upon the ability to afford counsel. The RI Supreme Court decision was **silent** on *Mathews.* **Here:**

1)The private interest, Petitioner's right to due process and a trial under the RI Constitution and equal protection of the 5th and 14th Amendment, or settlement.

2) The risk of erroneous deprivation through the procedures used (Recharacterizing motions as Motions for Reconsideration without request in a Rule 60 Motion before the court) Significant risk of erroneous deprivation is heightened by Petitioner's self-represented status, and the value of safeguards such as prior notice, and a meaningful opportunity to object.

3)The value of additional safeguards Petitioner's right to prior notice that the motions would be *Sua sponte* turned into dispositive motions ending her case, depriving her of the right to adjudication on the merits, a minimal burden to the government.

Instead of applying *Mathews* RI Supreme Court: 1)Mischaracterized the Dismissal Agreement as a Consent Order despite being filed without a court order under **Rule 41(a)(1)(b),** 2) **Accused** Petitioner of failing to comply with procedural rules while

disregarding anomalies shown revealing rules were complied with **3) Omitted** the docket number in the Dismissal, changing the legal significance of the second Dismissal **4) Abandoned** the Raise or Waive doctrine, allowing new inapplicable caselaw, excluding the parts of the law that make it inapplicable. **5)Disregarded** documented duress **6) Didn't** apply a standard of review. **7)Denied** Request for Judicial Notice of false assertions **8)Disregarded** Petitioner's appeal briefs asserting her constitutional rights. **9)Denied** sanctions and mediation **10)Denied** Motion to Reargue.

Self-representation is a Constitutional Right

The legitimacy of self-represented participation in state courts doesn't depend on statutory grace but on constitutional command. In *Faretta v. California,* 422 U.S. 806, 834 (1975) this Court recognized that the right to self-representation is "basic in our system of law." Once a litigant is compelled to proceed without counsel, courts cannot treat their participation as second-class because they're without counsel. Due process and equal protection of the 5th and 14th Amendments guarantees that self-represented litigants for both civil and criminal matters stand before both state and federal court, as full participants, entitled to fair treatment and reasonable safeguards.

Precedents Command Accommodations

This Court has long recognized that SRLs are entitled to procedural safeguards ensuring their matters are fairly heard. *Haines v. Kerner*, 404 U.S. 519 (1972),

instructed that pro se pleadings must be liberally construed. *Bounds v. Smith*, 430 U.S. 817 (1977), held that access to the courts requires affirmative measures to make access meaningful. *Acosta v. Artuz*, 221 F.3d 117, 123 (2d Cir. 2000), The Second Circuit recognized "procedural rules should be applied with sensitivity to the special circumstances of pro se litigants to ensure access to courts." *Castro v. United States*, 540 U.S. 375 (2003) "This Court recognized that pro se litigants face unique risks of forfeiting fundamental rights when courts **recharacterize filings** without adequate safeguards," as was done in Petitioner's case. "*Turner v. Rogers*, 564 U.S. 431 (2011), reaffirmed-where counsel is absent, courts must implement alternative safeguards to protect due process. These decisions collectively confirm that accommodations for SRLs isn't aspirational, it's a constitutional duty sanctioned by the US Supreme Court in all courts both state and federal, throughout all jurisdictions.

Unconstitutional Condition Permitting Disparate Treatment of SRLs

Rule 2.2 of the Judicial Code of Conduct states:

"A judge shall uphold and apply the law and shall perform all duties of judicial office fairly and impartially."

Comment [4] clarifies that.

"It isn't a violation of this Rule for a judge to make reasonable accommodations to ensure

pro se litigants the opportunity to have their matters fairly heard."

This language **makes explicit that accommodations for SRLs, doesn't compromise impartiality.** By contrast, Rhode Island elected a narrower version of Rule 2.2. Excluding Comment [4], Rhode Island elected Rule 2.2(B), which states, a judge **"may" make reasonable** efforts, consistent with law and court rules, to help all litigants be fairly heard. This allows **accommodations to be discretionary**, leaving judges with **wide latitude to ignore** them. The omission of Comment [4] signals that **fairness for SRLs is optional**, not a judicial duty. The Rhode Island Judiciary's website page, **Your Day in Court "Representing Yourself"** states:

"**Although you can represent yourself, when you enter the courtroom, you are *tasked* with having the same knowledge of the court process as an attorney."**[3]

This statement is not a "Rule" however, it is a **"condition"** placed on every citizen who appears in court without a lawyer, and it's found in nearly every court in the country. Without grounding in statute, it stands in direct conflict with controlling precedent. For over fifty years, this Court has recognized "the

[3] Unknown until recently, this "condition" that SRLs must have attorney-level knowledge is clearly the cause of being disregarded on all matters. Closely held information that must be widely publicized and made known to the public.

fundamental right of access to the courts," *Bounds v. Smith*, 430 U.S. 817, 828 (1977), "the autonomy and dignity protected in self-representation," *Faretta v. California*, 422 U.S. 806, 834 and that "States may not impose **conditions** that chill the exercise of constitutional rights." (1975), *Perry v. Sindermann*, 408 U.S. 593, 597 (1972**).** Yet constitutional guarantees are rendered null by an unlegislated, "condition" on the right to access courts by ordinary citizens, denying fairness, establishing a two-tiered justice system. A requirement, never plainly disclosed to the public, yet relied upon by judges, including RI Supreme Court, as a loophole to **disregard, and deny** Petitioners' Appeals, Motions for Sanctions, Mediation, Requests for Judicial Notice and Petition to Reargue, not because they lacked merit; solely because Petitioner isn't a lawyer. A "condition" amounting to an egregious violation of due process and equal protection, contradicting the foundation of access to justice.

Unconstitutional Two-Tiered Justice System

Respondents digging into *Caperton v. A.T. Massey Coal Co.,* 556 U.S. 868 (2009), do so to distract from the core point. While *Caperton* addressed campaign funds as tilting the system, its principle is broader: equal protection is violated whenever the system builds in a structural tilt. Courts favoring lawyers over SRLs embed structural bias. A system telling judges they **"may"** provide accommodations, effectively authorizes unequal treatment, depriving SRLs of constitutional protections. **Fundamental rights are not optional**. Excluding Comment [4] and requiring SRLs to meet attorney-level knowledge,

access to justice becomes illusory: ordinary citizens held to impossible standards while safeguards of due process and equal protection are withheld. Designed to deter ordinary citizens from seeking justice without counsel, it is a relic from another era. With 75% of civil cases involving one SRL, maintaining this unconstitutional condition is unconscionable. By withholding accommodations, judges aren't neutral, they tilt the scale toward represented parties. dismissing SRLs as not meeting attorney standards, justifying outcomes on the circular premise that lawyers "know the law" SRLs don't, it's no contest, based on status, not merit. The decisions below expose these tensions, showing how ordinary citizens are forced to navigate a system without protection fairness demands. Examined in depth by scholars with the same conclusion, exemplified in the article *Equal **Injustice** for All: High Quality Self-Representation Doesn't Ensure a Matter Is "Fairly Heard,"*[4] Tolerating unethical advocacy, fundamental rights are violated, extinguishing the right of meaningful participation, silencing citizens who cannot afford counsel, and undermining the public's confidence in the integrity of the judiciary. Only one court (U.S. District Court, Kansas.): changed this antiquated condition to **"You must follow the same rules and procedures as licensed attorneys,"**

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[4] ***Jona Goldschmidt, Injustice for All, 44:2 Seattle U. L. Rev. Supra 75 (2021).*** An expert on Access to Justice, it examines three cases highly competent SRLs conducted litigation on a very high level, yet not a single one could prevail against the represented parties, when they should have.

removing the unconstitutional "condition" requiring Attorney level knowledge.

Rhode Island Stands Apart

A state without an Access to Justice Commission, a version of Rule 2.2 that allows no accommodations, unless the judge chooses it, and a blatant hostility towards SRLs, requiring them to have attorney level knowledge, the Rhode Island judiciary has baked discrimination into the process. By affirming, RI Supreme Court did more than leave error uncorrected; it continued a tradition under which "no accommodations for SRLs" operates as a **safe-harbor to disregard** SRL record-supported arguments, converting **neutrality into advocacy**. Petitioner believes it's safe to say; in the history of the RI Supreme Court, no appeal with one SRL, has the SRL ever prevailed. With chances of acceptance here being miniscule, denial of appeals for SRLs continues to be a safe-harbor in Rhode Island.

Uniform Protection Needed

This case exemplifies a mature conflict. Rule 2.2 inconsistency across jurisdictions implicates reasoning in *Turner,* underscoring an urgent need for **uniform protection**. Although concerning civil contempt, *Turner* isn't just about contempt, as Respondents brief focuses. It signals that **judges must do more when one side is at a disadvantage because they lack a lawyer, taking active steps** to ensure fairness, comprehension, and dignity in the courtroom. After *Turner,* (2011) the ABA promoted a Commission for

Access to Justice, providing funds to all states, including Rhode Island. Despite efforts by A2J advocates,[5] they refuse to create one, along with six other states. **A2J** Commissions unify a state's often-fragmented civil justice system, ensuring coordinated, equitable access for all.

Conclusion

Law demands clarity not cleverness, and meaning not manipulation. Its power lies in the trust it earns through coherence, transparency, and the character of those who interpret and apply it. Without integrity, law becomes noise. With integrity, it's the language through which a just society speaks its highest values. The constitutional duty of due process includes a defined standard of care for SRLs, transforming judicial accommodations into *mandatory safeguards*, erasing state-by-state variations, guaranteeing all SRLs the same **baseline protections** nationwide, combined with nullification of the "condition" making access to court, due process, and equal protection, on having attorney-level knowledge, providing a safe-harbor to disregard SRL arguments. The question presented in this Petition is **pressing, recurring, and national in scope.**

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[5] Rotimi, Amanda (2023) "Dream Big and Lay the Groundwork: How Rhode Island Can Improve Access to Civil Justice for Self-Represented Litigants," Roger Williams University Law Review:Vol.28:Iss.3,Article14.Availableat:https://docs.rwu.edu/rwu_LR/vol28/iss3/14 and - https://www.geoffschoos.com/post/no-access-to-justice-in-rhode-island

"Until we create a world in which all who need counsel in civil cases have access to counsel, we must do all we can to make the court system more understandable and accessible for the many litigants who must represent themselves."[6] **Hon. Ralph D. Gants**

Petitioner respectfully requests this Court grant the Petition under Rule 10 (c) calling for an exercise of supervisory power; "when a state court of last resort has decided an important federal question in a way that conflicts with relevant decisions of this Court;" Due Process and Equal Protection under *Mullane, Liteky, Logan, Boddie. Goldberg,* and *Mathews.* Alternatively, Grant, vacate, remand, for reconsideration under the *Mathews* fairness test and procedures developed by A2J Commissions ensuring fairness to SRLs.

Respectfully Submitted,

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[6] **Hon. Ralph D. Gants 37th Chief Justice** of the **Massachusetts Supreme Judicial Court**, serving from 2014 until his death in 2020, with a distinguished prior tenure on the state's Superior Court. He was also a prominent advocate for access to justice leading major reforms to make courts more equitable for self-represented individuals.