

No. 17-8641

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# In the Supreme Court of the United States

Marina J Boyd

PETITIONER/PLAINTIFF

vs.

California Supreme Court

RESPONDENT

CitiMortgage, Inc. Real Party at Interest

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## PETITION FOR WRIT OF CERTIORARI

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Marina J Boyd  
10951 National Blvd., #302  
Los Angeles, CA 90064  
Petitioner/Plaintiff in Pro Per

California Supreme Court  
450 McAlister Street  
San Francisco, California 94101  
Respondent Court

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## QUESTION PRESENTED

1. Was the Los Angeles Superior Court ruling GRANTING Summary Judgment against Petitioner a violation of Petitioner's right to a trial by jury and trial before a fair tribunal?
2. Was the California Court of Appeals dismissal of Petitioner's appeal, and refusal to vacate the dismissal upon Petitioner's properly submitted motion, when the Court routinely vacates the dismissal of appeals for appellants with identical circumstances as Petitioner, a violation of Petitioner's right to equal protection under the law?
3. Whether the law providing unqualified Absolute Immunity to California judges is out of proportion with the immunities offered to other public servants in our free and fair society and an inherent threat to the constitutional rights of litigant to a fair tribunal?
4. Whether Summary Judgment laws, combined with Absolute immunity for Judges, as implemented in California and across the Country, are a Violation of Plaintiffs right to Due Process, and jury trial?

## OPINIONS BELOW

The Los Angeles Superior Court issued its ruling on May 25, 2016. Petitioner filed a timely appeal, which was dismissed on January 5, 2017. Petitioner timely filed a motion to vacate the dismissal with the California Court of Appeals on February 6, 2017 which the Court received on February 6, 2017, but did not file for reason which are not explained in the record, or otherwise. On April 14, 2017, the California Court of Appeals denied petitioners motion to vacate the dismissal, but did not provide statutory support for their ruling. On May 2, 2017, Petitioner timely filed a Petition for Rehearing with the California Court of Appeals, however the California Court of Appeals refused to file the Petition for Rehearing stating they did not have jurisdiction to hear the petition. On May 25, 2017, petitioner filed a Petition for Review with the California Supreme Court, the California Supreme Court issued a Summary Denial on July 12, 2017. All opinions of the California Appeals Court and California Supreme Court are unpublished and unreported.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment XIV Sec. 1 provides in part that “No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. In this case, there is no dispute about the loss of property or how the loss occurred, however the result demonstrates that throughout the proceedings, the Petitioner was denied any meaningful finding of fact, or weighing of evidence which led to Petitioner being deprived of any remedy for loss at the hands of another.

The US Supreme Court has not recently examined whether or not the extensive procedural road blocks which exist to a jury trial in a civil matter in California, have grown to the extent where it violates the constitutional rights of litigants, in particularly indigent (and/or pro se litigants), or whether the State has so departed from a proper or consistent implication of their procedures so as to facilitate tyranny and oppression.

## **JURISDICTION**

The California Supreme Court issued its summary denial of review in this matter on July 12, 2017, and this Petition for Writ of Certiorari was filed October 10, 2017. Petitioner is requesting review of a decree rendered by the highest court of the State of California in which a decision could be had, therefore this Court has jurisdiction under 28 U.S.C. § 1257(a) to review by Writ of Certiorari to examine the validity of California statutes which are repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity.

## **STATEMENT OF THE CASE**

This is a case of conversion of personal property, where Respondent refused to allow Petitioner access to a locked facility under their control for the purpose of retrieving personal property following a foreclosure, eviction and lockout. The evidence in this case includes phone and e-mail records to Respondent's designated agent, showing the multiple contacts by Petitioner requesting access to retrieve her personal property. After four years of litigation, a Los Angeles Superior Court Judge granted Summary Judgment for the Respondent/Defendant in this case. The Court ruling cited the relevant statutes and provisions of California law regarding handling of personal property following an eviction, however, upon close examination, the ruling ignores the fact that the Respondent/Defendant never followed any of those provisions, the ruling also misstates the facts and evidence in the record, and ultimately provides NO statutory support for why the Respondent/Defendant was not liable for Petitioner/Plaintiff's loss.

The Summary Judgment ruling included the COURT, weighing of evidence, weighing credibility of witnesses and making findings of material fact, all of which are functions reserved for a jury, which was DEMANDED by Petitioner/Plaintiff in this case.

Following Summary Judgment, Petitioner/Plaintiff timely appealed. The record demonstrates that the California Court of Appeals failed to follow California Statute in the handling of Petitioners fee waivers, in dismissing Petitioners appeal, in refusing to vacate the dismissal of Petitioner's appeal upon timely motion, and in refusing to exercise jurisdiction to hear Petitioners petition for

rehearing, all in violation of Petitioners constitutional right to due process and equal protection under the law and a fair tribunal.

Petitioner timely filed a Petition for Review in the California Supreme Court, and their summary denial did not address any of the issues of merit or procedure raised by Petitioner.

**PARTIES TO PROCEEDING:**

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California Court of Appeals 2<sup>nd</sup> District  
300 S. Spring Street  
Los Angeles, California 90012

Los Angeles Superior Court  
West District  
1725 S. Main Street  
Santa Monica, California 90401

## REASON FOR GRANTING THE PETITION

I present this Writ of Certiorari seeking the Courts relief in what may be the most SHOCKING case of denial of due process, equal protection and Fair Tribunal you've ever witnessed in a civil case. The constitutional and statutory violations are so overwhelming, that you might find yourself searching through this petition to figure out what you're missing. But I assure you, you're not missing anything. This is what actually happened, and egregious violation of my rights at each stage of the proceeding serves as validation that the previous acts and orders were erroneous.

The Court may sometimes grants certiorari because a lower court's decision is perceived as conflicting directly with controlling Supreme Court precedents, see S. Ct. R. 10(c), A fairly blatant disregard of Supreme Court precedent is generally necessary to induce the Court to grant certiorari based on a claimed conflict with decisions of the Supreme Court. This Court has confirmed repeatedly the steps in the litigation process which constitutional violations, these cases are indicated in this petition. "Nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. 'These provisions are universal in their application, to all persons within the territorial jurisdiction. (*Jean v. Nelson*).

If the Court finds the conversion of Personal Property tolerable, without liability for damages, and with the denial of damages being in the hands of a single judge, where the I NEVER waived a jury trial, and was denied appellate review, and the decision was CLEARLY based on an issue of fact, and not law, and on a DISPUTED fact at that, the Court may elect to decline to hear this petition, but then what rights does any entity have to their own property?

"A credible argument that a decision will have widespread, deleterious effects, particularly on law enforcement, the conduct of government agencies, or the practices [thereof]" "It is .... important that [this] ambiguous or obscure

adjudication by state courts do not stand as [a] barrier to a determination by this Court of the validity under the federal constitution of state action. Intelligent exercise of our appellate powers compels us to ask for the elimination of the obscurities and ambiguities from the opinions in such cases” (*Arizona v. Evans, 514 US 1 - Supreme Court 1995*).

If the Court declines to hear this petition, it is a declaration of the end of long held constitutional right to acquire and keep Personal Property, the right to Redress the Government for Grievances, the right to Due Process, wherein state laws are observed throughout legal proceedings, and the right that poor, and/or unrepresented parties are provided with Equal Protection of the laws as is provided to the rich and powerful in society.

## **FACTUAL AND PROCEDURAL BACKGROUND**

On May 18, 2012, I, Marina J Boyd, Petitioner/Plaintiff, filed a Complaint in Los Angeles Superior Court against CitiMortgage (hereinafter referred to as CMI) for damages as a result of the disposal of my Personal Property following trustee sale, eviction and lockout from the CONDO I previously owned at 12321 Ocean Park Blvd., Unit 1, Los Angeles, CA 90064.

The Complaint was assigned Case #SC117126, and was assigned to Department M, the Hon. Linda K. Lefkowitz presiding, but prior to the first hearing in the matter, the case was reassigned to Hon. Bobbi Tilmon, who sustained, with leave to amend, CMI’s demurrer to the complaint on October 19, 2012. The Corresponding Motion to Strike was denied as Moot.

On, or about November 15, 2012, Plaintiff filed a first amended complaint adding additional Plaintiffs, Anita Faye Boyd (hereinafter referred to as Anita) and Alexis Boyd-Holling (minor daughter of Plaintiff Marina J Boyd, hereinafter referred to as Alexis). “CMI” demurred all causes of action and move to strike portions of Plaintiffs 1st Amended Complaint and Plaintiffs Anita and Alexis. On or about April 12, 2013, Hon. Bobbi Tilmon sustained “CMI” demurrer to

Plaintiffs First Amended Complaint with Leave to Amend and granted the Motion to Strike Plaintiffs Anita and Alexis.

On or about May 6, 2013, the case was transferred to the Stanley Mosk Courthouse in Department 92, Hon. Amy K. Hogue presiding.

On or about June 4, 2013, through newly retained counsel R. Alexander Comley, Plaintiff filed a Second Amended Complaint alleging six causes of action for Negligence, Violation of California Civil Codes §§1965, 1983, 1984 and 1987, California Code of Civil Procedure §1174, Negligent Infliction of Emotional Distress, Intentional Infliction of Emotional Distress and Business and Professions Code §17200.

The hearing on “CMI” demurrer and motion to strike Plaintiffs portions of 2nd Amended Complaint was scheduled for hearing on December 4, 2013, however, on December 4, 2013, on the Court, on its own motion, transferred the case back to West District Courthouse in Santa Monica to Independent Calendar Court and assigned to Department O, Hon. Lisa Hart Cole presiding. The hearing on CMI demurrer and Motion to Strike was reset for June 20, 2014.

On or about October 3, 2013, CMI filed their first Motion for Summary Judgment which was set for hearing on December 19, 2013, then vacated and reset for hearing on June 20, 2014 following transfer to back to the West District Court.

On or about November 11, 2013, CMI served identical Form Interrogatories (55 items each), Special Interrogatories (94 items each), Request for Admissions (32 items each), Request for Production of Documents (39 Document Request each) and Notice of Depositions and Demand for Production of Documents at the time of Deposition on Plaintiffs Marina J. Boyd, Anita and Alexis (39 Document Request each).

On March 9, 2014, Plaintiffs served “CMI” with Form Interrogatories, Request for Admissions and Request for Production of Documents. After several extensions, CMI served boilerplate objections to 100% of Plaintiffs discovery

request and after three additional months of extensions and concessions by Plaintiff “CMI” served Plaintiffs incomplete (missing and redacted documents) and non-compliant (not produced in the same for as kept in the normal course of business) discovery responses on September 18, 2014, which were verified by Travis Nurse.

Beginning just days following the receipt of “CMI’s” discovery responses, Plaintiff made repeated attempts by phone and e-mail to meet and confer with Samantha Lamm, then counsel for “CMI”, in an effort to resolve the discovery issues, however Ms. Lamm ignored Plaintiffs inquiries until December 2014 when she presumably left the firm of Wolfe and Wyman, LLP.

On December 22, 2014, Plaintiff received notice of “CMI’s” removal of this case to Federal Court and Cathy L Granger (partner at Wolfe & Wyman) assumed representation of “CMI”. On December 27, 2014 “CMI” filed a Motion to Dismiss Plaintiffs Third Amended Complaint which was granted (for none opposition) with Leave to Amend on January 26, 2015.

In January 2015, Plaintiffs initiated efforts to meet and confer with Ms. Granger to resolve the discovery disputes which were left outstanding by Ms. Lamm, however on in mid February 2015, Ms. Granger denied withholding production of any discovery.

On April 18, 2014, Plaintiff brought an ex-parte Motion for Order Granting Leave to amend (the motion was brought ex-parte at the request of CMI), with a proposed Third Amended Complaint, but the Court denied the motion without stated reason and at that time vacated the hearing on CMI’s October 2013 Motion for Summary Judgment stating the “case was not yet at issue”.

On or about June 20, 2014, Hon. Lisa Hart Cole sustained with 20 days leave to amend (except intentional infliction of emotional distress which was sustained without leave to amend), “CMI’s” demurrer to Plaintiffs 2nd Amended Complaint. Plaintiff asked the Court to adopt the Proposed Third Amended

Complaint which was filed on April 18, 2014, but the Court declined and granted 20 days leave to amend.

On July 17, 2014, re-filed (as a Noticed Motion) the Motion for Order Granting Leave to Amend and with a Proposed Third Amended Complaint seeking leave to add Plaintiffs Anita and Alexis, Defendant Mark Edward Alston and Causes of Action for Conversion, Racketeering, Violation of the Unruh Act, and Intentional Infliction of Emotional Distress (citing new facts which had been discovered since the 2nd Amended Complaint wherein the court denied Leave to Amend that cause of action). The Motion was set for hearing on October 29, 2014. On July 18, 2014, "CMI" brought an ex-parte Motion to Dismiss Plaintiffs Second Amended Complaint with Prejudice based on a failure to file an amended complaint within 10 days; HOWEVER the Court had ordered that the amended complaint be filed within 20 days. On July 22, 2014, Plaintiff filed a Third Amended Complaint. Lisa Hart Cole's courtroom was dark on July 18, 2014, and Hon. Alan Goodman of Department P continued the hearing on CMI's Motion to Dismiss to July 29, 2014.

On July 29, 2014, Judge Lisa Hart Cole refused to deny "CMI" erroneous Motion to Dismiss, even though at the time of hearing, a Third Amended Complaint had been timely filed by Plaintiff, and instead, continued the hearing on "CMI's" erroneous Motion to Dismiss Plaintiffs 2nd Amended Complaint to coincide with the hearing date for Plaintiffs Motion for Order Granting Leave to Amend, on October 29, 2014.

On or about October 28, 2014, Department O issued a tentative ruling GRANTING "CMI's" improper motion to Dismiss Plaintiffs complaint with Prejudice and DENYING Plaintiffs Motion for Order Granting Leave to Amend based on a Procedural defect WHICH was not raised in "CMI" Opposition to Plaintiffs Motion (Plaintiffs Motion is Denied based on a failure to comply with C.R.C. 3.1324).

On October 29, 2014, at the hearing, with court reporter present Plaintiff presented to the court a document with the missing procedural elements along with a supplemental opposition to “CMI” Motion to Dismiss Plaintiffs Second Amended Complaint. Again, the Court refused to deny “CMI” Motion to Dismiss Plaintiffs 2nd Amended Complaint with Prejudice, but instead continued the hearing on Plaintiffs Motion for Order Granting Leave to Amend to November 19, 2014 and granted “CMI” opportunity to reply to Plaintiffs Declaration pursuant to C.R.C 3.1324 even though they did not raise this issue in their opposition to Plaintiffs Motion for Order Granting Leave to Amend.

On November 19, 2014, with court reporter present, Hon. Lisa Hart Cole finally GRANTED Plaintiffs Motion for Order Granting Leave to Amend with the exception of the Cause of Action for Intentional Infliction of Emotional Distress, which she directed Plaintiff to remove that cause of action and file a 3rd Amended Complaint within five days. At the end of the hearing, Plaintiff Marina J Boyd request the Court allow Plaintiff to make arguments for the records on the cause of action which was sustained without leave to amend, which the Court denied. This is contrary to Cannon 3B (7) of the Code of Judicial Ethics which states “A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, full right to be heard according to law. Making a record for appeal is a fundamental cornerstone of appellate practice.

On or about November 22, 2014, following removal of the Cause of Action for Intentional Infliction of Emotional Distress as order Plaintiff filed a Verified Third Amended Complaint.

On December 22, 2014, Plaintiff received notice of “CMI’s” removal of this case to Federal Court and concurrently was informed that Cathy L Granger would be assuming the representation of “CMI” in this case, and that the case was assigned to Hon. Fernando Olguin for general purposes and Hon. John McDermott was assigned as Magistrate Judge in the proceedings.

On December 27, 2014 “CMI” filed a Motion to Dismiss Plaintiffs Third Amended Complaint which was granted with Leave to Amend on January 26, 2015.

In January 2015, Plaintiffs initiated efforts to meet and confer with Ms. Granger to resolve the discovery disputes which were left outstanding by Ms. Lamm, however on in mid February 2015, Ms. Granger informed Plaintiffs that she had conferred extensively with “CMI” and that no additional documents responsive to Plaintiffs request existed.

On February 2, 2015, Plaintiff filed a Fourth Amended Complaint in U.S. District Court alleging ten causes of action for Conspiracy to Commit Conversion in Violation of Civil Code §1708, 1712 and 1714, Violation of Civil Code §1983, Violation of Civil Code §1986, Violation of Civil Code §1987, Violation of Civil Code §1988, Violation of California Code of Civil Procedure §1174, Violation of Business and Professions Code §17200, Violation of Civil Code §51, and Intentional Infliction of Emotional Distress and R.I.C.O. Violations.

On February 23, 2015, Plaintiff served a second set of Request for Production of Documents to “CMI” for electronically stored information with metadata and expanding the scope of the documents sought pursuant to the new Causes of Action since the first discovery request in 2014.

On February 26, “CMI” filed a Motion to Dismiss portions of Plaintiffs Fourth Amended Complaint as well as Motion to Strike in US District Court.

On March 6, 2015, Plaintiff filed a motion to Compel Further Responses, however despite almost a year of conferring to resolve the disputes and having well met the burden to meet and confer under California Code of Civil Procedures, the US District Court denied Plaintiffs motion because a stipulation regarding Plaintiffs Meet and Confer efforts was included.

During the pending of Plaintiffs Motion to Compel in Federal Court, “CMI” suggested they would like to further confer in efforts to resolve outstanding discovery disputes and on April 30, 2015 and May 15, 2015 CMI served further

responses to Plaintiffs Request for Production of Documents Set One despite the previous representation that all responses had been provided.

On March 30, 2015, “CMI” served boiler plate objections to Plaintiffs second set of Request for Production of Documents as Electronically Stored Information (ESI). Plaintiff advised “CMI” in June 2015 that in order to avoid a renewed motion to compel, Plaintiff wished to take the Deposition of Travis Nurse, the employee for “CMI”, who certified their discovery responses and who also submitted testimony under oath, by way of declaration in opposition to Plaintiffs Motion to Compel Further Responses in US District Court to determine whether their search efforts were sufficient, to ascertain the credibility that additional searches would either be overly burdensome, and/or unlikely to lead to discoverable documents, and to determine if production of documents was complete pursuant to California Discovery Act.

On at least four separate occasions, Plaintiff sought to meet and confer with counsel for “CMI” regarding the setting of deposition for Travis Nurse, however after those efforts were ignored.

On June 17, 2015, the US District Court granted “CMI’s” Motion to Dismiss the R.I.C.O. cause of action and remanded the remaining causes of action to the State Court. On June 30, 2015, Department O of the Los Angeles Superior Court issued a notice ex-parte to counsel for “CMI” setting case management hearing for August 4, 2015 and ordering “CMI” to give notice of the Orders to Plaintiff.

On or about July 8, 2015, Plaintiff served a Statement of Damages to counsel for “CMI” and on July 14, 2015, Plaintiff obtained an Entry of Default against “CMI”, Inc. for failure to file a responsive pleading to Plaintiffs Third Amended Complaint.

On July 22, 2015, “CMI” filed a Demurrer to and Motion to Strike Plaintiffs Fourth Amended Complaint which was set for hearing on August 19, 2015. Namely “CMI” sought to strike additional Plaintiffs Anita Faye Boyd and Alexis

Boyd-Holling stating that “Judge Lisa Hart Cole had never ruled on that portion of Plaintiffs Motion for Order Granting Leave to Amend”.

On or August 4, 2015, Case Management hearing was held in Department O of the Los Angeles Superior Court in which the Court ordered Plaintiff file the Fourth Amended Complaint under separate cover, and vacated Plaintiffs Entry of Default. Upon request by counsel for “CMI” to the Court, Plaintiff agreed to a voluntary Settlement Conference on September 11, 2015 to determine if any or all of the matters at issue in the case could be resolved.

On August 4, 2015 pursuant to a brief meet and confer regarding discovery matters following the hearing, Cathy Granger sent an e-mail to Plaintiff granting a two week extension for Plaintiff to bring a Motion to Compel further responses to request for Production of Documents but did not offer a date for the Deposition of Travis Nurse.

On or about August 5, 2015, Plaintiff noticed the Deposition of Travis Nurse to take place on August 31, 2015 at the offices of Wolfe and Wyman, LLC in Irvine, California.

On August 6, 2015, Plaintiff filed a Motion to Compel Further Responses to Request for Production of Documents Set One and second set of Request for Production of Documents which was set for hearing on February 17, 2016.

On August 26, 2015 Plaintiffs received notice from “CMI” of their objection to the Deposition of Travis Nurse and Plaintiff made four separate attempts to contact counsel for “CMI” in effort to resolve their objections, however Plaintiffs messages were ignored by until Wednesday, September 2, 2015 AFTER they received ex-parte notice of Plaintiffs Motion to Compel the Deposition of Travis Nurse.

On August 19, 2015, the Court heard “CMI” Demurrer and Motion to Strike and sustained, without leave to amend, “CMI” Demurrer to Plaintiffs Causes of Action for violation of California Civil Code §§51, 52 (The Unruh Act), Violations of Code of Civil Procedure §1174, Violations of Business and Professions Code

§17200 and granted “CMI’s” Motion to Strike Plaintiffs Anita Alexis in contradiction to her November 19, 2014 order granting leave to amend to add Plaintiffs. CMI plead no arguments as to why Plaintiffs should be stricken nor did they allege that the Plaintiffs were improperly added, but when asked to explain, simply recited the unsupported reason CMI stated in their motion “that she never ruled on that portion of the Motion for Leave to amend”.

On September 2, 2015, Plaintiff gave notice to “CMI” of their Ex-Parte Application for Order Shortening Time to hear a Motion to Compel the Deposition of Travis Nurse and to hear the Motion to Compel Further Responses to Request for Production of Documents.

Only AFTER having received notice of the Ex-Parte hearing did “CMI”, on September 3, 2015, counsel for “CMI” agreed to a meet and confer phone conference, but during the conference, they refused to agree on a date and/or terms for the deposition even though Plaintiff advised that the deposition could be taken by video conference or by Plaintiff traveling to Missouri to take the deposition. On September 4, 2015, Plaintiff filed a Motion to Compel the Deposition of Travis Nurse which was set for hearing on February 23, 2016, and brought an Ex-Parte Application for Order Shortening Time for hearing the Motion to Compel Further Responses to Request for Production of Documents, a Motion to Compel the Deposition of Travis Nurse to October 6, 2015 (instead of February 17 2016, and February 23, 2016 respectively).

On September 4, 2015, the Court continued Plaintiffs Motion for Order Shortening time to September 11, 2015 which was the date previously set for a settlement conference and upon request of Ms. Granger, took the Settlement Conference off Calendar.

On September 11, 2015, the Court denied Plaintiffs UNOPPOSED Motion to Compel further Responses to the Request for Production of Documents, as untimely and the UNOPPOSED Motion to Compel the Deposition of Travis Nurse because he lived more than 75 miles from the noticed location.

The Court denied sanctions which had been demanded for misuse of the discovery process and failure to meet and confer regarding the Deposition of Travis Nurse citing first the denial of the motion, then upon Plaintiffs arguing CCP §2016, changed her reason to “substantial justification”, however as the Motions were unopposed, CMI did not plead nor did the Court specify what justification it relied upon. On or about October 2, 2015, Plaintiff filed a Petition for Writ of Mandate with the Court of Appeals which was summarily denied on or about November 12, 2015 for inadequate record.

On or about December 13, 2015, Plaintiff filed a Petition for Review in the Supreme Court of the State of California, but the Petition was summarily denied without comment.

On January 26, 2016, “CMI” filed a Motion for Summary Judgment or in the alternative, Summary Adjudication.

On or about February 3, 2016 Plaintiff served a Notice of taking of Deposition of Person Most Knowledgeable for “CMI” to take place on March 8, 2016, however, on or about February 28, 2016, “CMI” served boilerplate objections to the entire notice.

On or about March 2, 2016, Plaintiff meet and conferred with counsel for “CMI” by phone regarding the outstand discovery and requested dates of Depositions for five CitiMortgage employees. Counsel for “CMI” refused to agree to any dates except to “get back to Plaintiff with an update” by Thursday, March 10, 2016. On Friday, March 11, 2016, in the first communication regarding outstanding discovery matters since the March 2, 2016 meet and confer, counsel for “CMI” sent an e-mail stating they would get back to me on Friday, March 18, 2016.

On or about March 26, 2016 CMI finally identified their Persons Most Knowledgeable, as Kevin Smith and Jeanine Cohoon and the first available date for the first Deposition “CMI” provided was April 11, 2016. CMI’s also advised that Travis Nurse was no longer associated with “CMI” and as such after almost

a year of effort, Plaintiff was never able to depose the person who verified their discovery responses.

On April 18, 2016, Plaintiff took the Deposition of “CMI” person most Knowledgeable, Kevin Smith. “CMI” objected to, and did not provide any documents responsive to the Notice of Taking of Deposition of Kevin Smith and request for Production of Documents at the time of Deposition.

On April 19, 2016, Plaintiff took the Deposition of “CMI” employee Demetrios Bageris, however “CMI” objected to and did not provide any documents responsive to the Notice of Taking of Deposition of Kevin Smith and request for Production of Documents at the time of Deposition.

On April 22, 2016, Plaintiff took the Deposition of “CMI” person most Knowledgeable, Jeanine Cohoon. “CMI” objected to and did not provide any documents responsive to the Notice of Taking of Deposition of Jeanine Cohoon and request for Production of Documents at the time of Deposition.

On April 26, 2016, Plaintiff took the Deposition of “CMI” employee Krista McCullough, however “CMI” objected to and did not provide any documents responsive to the Notice of Taking of Deposition of Krista McCullough and request for Production of Documents at the time of Deposition.

On May 20, 2016, I filed and served Memorandum of Points and Authorities, Separate Statement of Undisputed Facts, Objection to Evidence in Opposition of, Request for Judicial Notice in Opposition and Declaration in Opposition to “CMI’s” Motion for Summary Judgment, (the Memorandum of Points and Authorities in Opposition was also served by e-mail on May 17, 2016, and Separate Statement of Undisputed Facts was served by e-mail on May 18, 2016).

On or about May 23, 2016, “CMI” filed a Reply and Objections to Plaintiffs late response. On May 25, 2016, the Court granted “CMI’s” Motion for Summary Judgment over objection by Plaintiff that Judge Lisa Hart Cole recuse herself

from the Case. Plaintiff's objection and request for recusal pursuant to 170.1 was not entered into the minute order (See RJN, Exhibit G, Order on MSJ).

On May 26, 2016, I filed a Statement of Disqualification against Judge Lisa Hart Cole for bias, and included by referenced a May 24, 2016, Complaint for Equity which set forth facts constituting bias.

On June 1, 2016, Judge Lisa Hart Cole filed a Verified Answer generally denying any Bias, and in refusing to incorporate the facts set forth in the Complaint for Equity Ordered the Statement of Disqualification stricken. The Second district Court of Appeals summarily denied a subsequent Writ of Mandate on June 17, 2016, but only ruled that the trial court did not error in striking the Statement of Disqualification.

On, or about June 23, 2017, I filed a Motion for New Trial, which was heard after two separate Writ Petitions to the California Court of Appeals for the 2<sup>nd</sup> District and one Petition for Review to the California Supreme Court, on the issue of disqualification of Judge Lisa Hart Cole. All petitions were summarily denied, without Comment contrary to California Law.

On September 7, 2016, I filed a Notice of Appeal and proceeded to perfect the appeal. Judge Lisa Hart Cole issued a late denial of my Motion for New Trial on, or about October 7, 2016.

On January 31, 2017, the 2<sup>nd</sup> District Court of Appeals dismissed my appeal, and on February 6, 2017, I electronically submitted a Motion for Relief from default and to Vacation Dismissal, pursuant to California Rules of Court 8.54 and per instructions provided in a phone conversation with an Appeals Court Clerk on January 10, 2017. On February 6, 2017, the court forwarded a confirmation of receipt of the document I filed, but for reasons which the court could NOT explain, the motion was ignored without comment, even after the court acknowledged receipt of the motion electronically, and the Court issued a remittitur on March 8, 2017.

Immediately upon receipt of the electronic notice of remittitur, I contacted the Court of Appeals, and inquired as to why my February 6, 2017, Motion had been ignored.

I was advised by the Court that I must file a Motion to Recall the Remittitur to explain what happened, which I did on April 7, 2017, however, the Court “considered” and denied on a basis not consistent with California Statute.

On May 5, 2017, I filed a Petition for Rehearing to the 2<sup>nd</sup> District Court of Appeals, the Court REJECTED the filing, which was also inconsistent with California Statute.

On May 30, 2017, I filed a Petition for Review in the California Supreme Court which was summarily denied on July 12, 2017.

## **LEGAL STANDARD**

The US Supreme Court has already decided that multiple violations of State Law in sum, can amount to a violation of constitutional rights of a litigant. In this case, the party responsible for my loss is not in dispute, and the manner in which the State of California obstructed my right to meaningful review on appeal, means that this ENTIRE matter was disposed of, on the UNREVIEWED opinion, of a SINGLE JUDGE, who’s bias, or lack thereof, was NEVER reviewed by anyone by the judge who may, or may not have been impartial. The Court MUST grant review in this case, because I was denied access to EVERY check and balance put in place by California Statute, precedence and Rules of Court.

- 1. The Trial Court departed from California Statute in their Ruling on Defendant CMI’s Motion for Summary Judgment (See RJN Exhibit A, Motion for New Trial).**

The right to regain possession of one's property is a substantial right which may not be dependent upon the whim and caprice of a court. Neither can it be subject to some “unspecified” and/or conflicting date of CMI to justify their unlawful interference with Plaintiffs Personal Property Rights. When a statute’s

meaning is clear, it must be applied as written. (*Conn. Nat'l Bank v. Germain*, 5 503 U.S. 249, 253-254 (1992)). The Los Angeles Superior Court DID NOT apply this standard in the ruling on the Motion for Summary Judgment.

The 9<sup>th</sup> Circuit has held that when reviewing a case involving a pro se litigant the Court “we must consider as evidence in his opposition to summary judgment all of Jones's contentions offered in motions and pleadings, where such contentions are based on personal knowledge and set forth facts that would be admissible in evidence, and where Jones attested under penalty of perjury that the contents of the motions or pleadings are true and correct. (McElyea v. Babbitt, 833 F.2d 196, 197 (9th Cir.1987) (verified pleadings admissible to oppose summary judgment); (Johnson v. Meltzer, 134 F.3d 1393, 1399-1400 (9th Cir.1998) (verified motions admissible to oppose summary judgment); Schroeder v. McDonald, 55 F.3d 454, 460 n. 10 (9th Cir.1995) (pleading counts as "verified" if the drafter *states under penalty of perjury that the contents are true and correct*).

In this case, the judge IGNORED my contention that I requested the return of my Personal Property, a contention which was supported by phone records and e-mail records in evidence, and based he Summary Judgment ruling on my “failure to request their return” This is a claim that was NEVER made by the Defendant. This fact was MATERIAL to the case and it’s outcome. “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment," ie, are "material." (*Dunbar v. Pepsi-Cola General Bottlers of Iowa, 2003* ).

In deciding a summary judgment motion, a court must view the evidence in the light most favorable to the non-moving party and draw all justifiable inferences in its favor (SUN-MATE CORPORATION v. KOOLATRON CORPORATION, 2011) this also was ignored in the Summary Judgment ruling.

The court's function in a summary judgment motion is not to weigh the evidence and determine the truth of the matter but to determine whether there is

a genuine issue for trial (*Durham v. LINDUS CONSTRUCTION/MIDWEST LEAFGUARD, 2009*) and, the court must draw all justifiable inferences in the nonmoving party's favor and accept the nonmoving party's evidence as true (Siddique v. Macy's, 2013). All these basic principles are codified in both California statute and Federal law and they were ignored in my case.

**2. The Trial Court departed from California Statue in their Ruling on Petitioner/Plaintiff's Discovery Motions (See RJN Exhibit B, Petition for Writ of Mandate).**

Denial of my Discovery Motions and Sanctions (Motion to Compel Deposition and Motion to Compel Further Responses) was a plain error under California Statute, and it was denied meaningful review by Writ, or Appeal. This Court as the Court of last resort, must ensure that this violation of my equal protection of Discovery laws is addressed. "To prevail on plain error review," a party must demonstrate an error that was clear or obvious, that the error affected his substantial rights, and that "the fairness, integrity, or public reputation of [his] judicial proceedings" would be seriously affected if the error were not corrected. *Norton v. Dimazana, 122 F.3d 286, 289 (5th Cir. 1997)*. "It is the unusual case that will present [plain] error." (*Highlands Ins. Co. v. National Union Fire Ins. Co. of Pittsburgh, 27 F.3d 1027, 1032 (5th Cir. 1994)*), but THIS case does.

**3. The Trial Court departed from California Statue in their Ruling on Petitioner/Plaintiff's Motion for Disqualification of Judge Lisa Hart Cole, Motion for New Trial and (See RJN Exhibit C, Petition for Writ of Mandate).**

ENSURING a fair tribunal is a REQUIREMENT of Due Process. "A fair trial in a fair tribunal is a basic requirement of due process. Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness." (*Commonwealth v. Howard, 1975*).

How can a fair tribunal be INSURED if the only person to test the fairness of the tribunal, is the person accused of bias? California statute doesn't think so, and the 2<sup>nd</sup> District Court of Appeals and California Supreme Court's summary denial of my Writ and Petition for review was contrary to California Statue which REQUIRED that a judge OTHER THAN the judge accused of bias determine if bias exist. This did not happen. "It is axiomatic that `a fair trial in a fair tribunal is a basic requirement of due process." "Further, the Court explained that "[s] uch a stringent rule may sometimes bar trial by judges who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties. But to perform its high function in the best way `justice must satisfy the appearance of justice." (*FLESHNER v. PEPOSE VISION INSTITUTE, PC, 2010*).

In Taylor, the Supreme Court explained that "contemptuous conduct, though short of personal attack, may still provoke a trial judge and so embroil him in controversy that he cannot `hold the balance nice, clear, and true between the state and the accused." (*Railey v. Webb, 2008*) (*Taylor v. Hayes, 418 US 488 - Supreme Court 1974*).

As one Supreme Court justice has aptly stated, "Judicial integrity is, in consequence, a state interest of the highest order." (*PUBLIC UTILITY COM'N v. Cities of Harlingen, 2010*) (*Republican Party of Minn. v. White, 536 US 765 - Supreme Court 2002*) and any judge who fears scrutiny of their actions by a colleague, SHOULD raise suspicion of their impartiality. Not only is it improper for a judge to be so embroiled in a case that they fear the case being moved to another judge if possible bias is found, it calls into question of the judge is confident in their own impartiality. "Not only is a biased decision maker constitutionally unacceptable but `our system of law has always endeavored to prevent even the probability of unfairness." (*Stonecipher v. Poplar Bluff R1 School Dist., 2006*).

The Supreme Court has observed that a " `fair trial in a fair tribunal is a basic requirement of due process.'... This applies to administrative agencies which adjudicate as well as to courts." (*Withrow v. Larkin, 421 US 35 - Supreme Court 1975*). *The Court should apply* "the pervasive bias exception" to this case as it was "so Extreme as to display clear inability to render fair judgment." (*Liteky v. U.S., 510*)

4. **The 2<sup>nd</sup> District Court of Appeals departed from California Statute in their Ministerial Duty to File Petitioner/Plaintiff's February 6, 2017 Motion to Vacate Dismissal (See RJN Exhibit D, Motion to Recall Remittitur) and departed from their policy of granting access to Appellate Review in their denial of Petitioner/Plaintiff's UNOPPOSED Motion to Recall Remittitur (See RJN Exhibit E, Motion to Recall Remittitur and Ignored Feburay 6, 2017 Motion)**

It is well accepted that "[m]ost judicial mistakes or wrongs are open to correction through ordinary mechanisms of review, which are largely free of the harmful side-effects inevitably associated with exposing judges to personal liability." *Forrester v. White, 484 U.S. 219, 227, 108 S.Ct. 538, 98 L.Ed.2d 555 (1988)*. There is an inherent conflict and suspicion which arises when the same court who refuses to entertain allegations of bias, then violates California statues, rules of court and public policy precedence to prevent meaningful appellate review on the merits. We cannot rightfully continue to support UNABRIDGED absolute immunity for judges if the Court may deny meaningful review on select case by case basis.

5. **The 2<sup>nd</sup> District Court of Appeals departed from California Statute in their refusal to file, consider and rule on Plaintiff's Petition for Rehearing (See RJN, Exhibit F, Petition for Rehearing/Refusal).**

We have previously held that most of the provisions of the Bill of Rights apply with full force to both the Federal Government and the States. Applying the standard that is well established in our case law, we hold that the Second

Amendment right is fully applicable to the States. (*Republican Party of Minn. v. White, 536 US 765 - Supreme Court 2002*).

**6. California Supreme Court summary denial of Petition for Review represents a departure from California long held public policy that cases should be resolved on the Merits (See RJN Exhibit G, Petition for Review to California Supreme Court/Denial)**

Whether or not the obstructions I encountered were by poorly trained staff, or intentional obstruction is immaterial. Either way, it interfered with my constitutional rights. "Judicial ethics reinforced by statute exact more than virtuous behavior; they command impeccable appearance. Purity of heart is not enough. Judge's robes must be as spotless as their actual conduct." (*Collins v. Dixie Transport, Inc., 1989*). Nothing in the law excludes Appellate and/or Supreme Court Justices from this requirement. The reviewing Courts singled me out to deny appellate review, and this is demonstrated in my petition for Review to the Supreme Court. The burden of ensuring the court's impartial appearance falls on the shoulders of law clerks as well as on judges. "[I]t is when execution of a government policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under § 1983." (*Monell v. New York City Dept. of Social Servs., 436 US 658 - Supreme Court 1978*)

A "policy" is a "deliberate choice to follow a course of action . . . made from among various alternatives by the official or officials responsible for establishing final policy with respect to the subject matter in question." Fogel v. Collins, 531 F.3d 824, 834 (9th Cir. 2008); Long, 442 F.3d at 1185. A "custom" for purposes of municipal liability is a "widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well-settled as to constitute a custom or usage with the force of law." (*St. Louis v. Praprotnik, 485 U.S. 112, 127 (1988)*); *L. A. Police Protective League v. Gates, 907 F.2d 879, 890 (9th Cir. 1990)*; see also *Bouman v. Block, 940 F.2d 1211, 1231-32 (9th Cir. 1991)*.

In other words, a custom is a widespread and longstanding practice that "constitutes the standard operating procedure of the local government entity." Trevino, 99 F.3d at 918 (*quoting Gillette v. Delmore, 979 F.2d 1342, 1346-47 (9th Cir. 1992)*).

The Appellate and Supreme Courts departed from both policy and custom in handling my case, and their "conduct was both the cause in fact and the proximate cause of the constitutional deprivation" See Harper v. City of L.A., 533 F.3d 1010, 1026 (9th Cir. 2008); Trevino, 99 F.3d at 918) which I suffered, "and these actions are directly responsible" for me being denied access to the Courts, and meaningful appellate review. (*Thompson v. Los Angeles, 885 F.2d 1439, 1443-44 (9th Cir. 1989)*).

#### **PRAYER FOR RELIEF**

That the Court shall vacate the Order GRANTING the Summary Judgment in favor of CMI, shall remand the case to Los Angeles Superior Court for a new trial, Or, that the Courts shall remand this Case to the California Court of Appeals, in a district OTHER than the 2<sup>nd</sup> District, and shall order that the 2<sup>nd</sup> District Court of Appeals Vacate the Dismissal of the Appeal and permit the case to proceed with a full hearing on the merits in a different district, OR

Any other relief that the Court deems appropriate to ensure the protection of constitutional rights and civil liberties.

Date: October 11, 2017

By:   
Marina J Boyd, Petitioner/Plaintiff

**Verification of Pleading**

BOYD VS CITIMORTGAGE, INC.

I, Marina J Boyd, declare I am the Petitioner/Plaintiff in the above-entitled matter. I have read the foregoing PETITION FOR WRIT OF CERTIORARI and know the contents thereof.

The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe it to be true.

Executed on October 11, 2017, at Los Angeles, County, California.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

By:  \_\_\_\_\_

MARINA J BOYD, Petitioner/Plaintiff

## CERTIFICATE OF WORD COUNT

I hereby certify that I have checked the length of this computer-generated brief using the word count feature of my word-processing application. (FRP 14) The brief as currently constituted contains 7,300 words.

A handwritten signature in black ink, appearing to read "Marina Joy Boyd", with a stylized flourish at the end.

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MARINA JOY BOYD

No. 17-8641

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**In the Supreme Court of the United States**

Marina J Boyd

PETITIONER/PLAINTIFF

vs.

California Supreme Court

RESPONDENT

CitiMortgage, Inc. Real Party at Interest

---

**REQUEST FOR JUDICIAL NOTICE  
IN SUPPORT OF  
PETITION FOR WRIT OF CERTIORARI**

---

Marina J Boyd  
10951 National Blvd., #302  
Los Angeles, CA 90064  
Petitioner/Plaintiff in Pro Per

California Supreme Court  
450 McAlister Street  
San Francisco, California 94101  
Respondent Court

Cathy Granger, Esq.  
Wolfe & Wyman, LLP  
2301 Dupont Drive, #300  
Irvine, California 92612

Attorney for CitiMortgage  
Real Party at Interest

California 2nd District  
Court of Appeals  
300 S. Spring St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90064

“The record of state court proceeding is a source whose accuracy cannot reasonably be questioned, and judicial notice may be taken of court records (*Mauldin v. Kates, 2012*)

The record in this case is extensive, and it, being impractical to submit the whole record, hereby request that the Court take Judicial Notice of the following records from this case.

EXHIBIT	DOCUMENT	
Exhibit A	<a href="#">Motion for a New Trial</a>	
Exhibit B	<a href="#">Petition for Writ of Mandate (Discovery)</a>	
Exhibit C	<a href="#">Petition for Writ of Mandate (Disqualification)</a>	
Exhibit D	<a href="#">Motion 2 Vacate Dismissal (Recall Remittitur)</a>	
Exhibit E	<a href="#">Petition for Review (CA Supreme Court)</a>	

**PROOF OF SERVICE**

I, Earlie R. Jones, am a resident of Los Angeles County, state of California. I am over the age of 18 and not a party to this action. My address is 7257 Motz Avenue, Paramount, CA 90727.

On Wednesday, October 11, 2017, I served the document(s) described as:

**PETITION FOR WRIT OF CERTIORARI AND REQUEST FOR JUDICIAL NOTICE**

- (x) BY Mail as follows: I caused such documents to be deposited with the U.S. Postal Service with postage thereon fully prepaid at Los Angeles, California address to:

Cathy Granger  
Wolfe & Wyman, LLP  
2301 Dupont Drive, #300  
Irvine, CA 92612

Los Angeles Superior Court  
Department of Civil Appeals  
111 North Hill Street  
Los Angeles, California 90012

California 2<sup>nd</sup> District  
Court of Appeals  
300 S. Spring Street, 2<sup>nd</sup> floor  
Los Angeles, California 90012

California Supreme Court  
450 McAlister Street  
San Francisco, CA 94101

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed this 11th day of October 2017 at Los Angeles, California.

  
Signature

**Earlie R. Jones**

Print Name

# **REQUEST FOR JUDICIAL NOTICE**

**EXHIBIT A - Motion for a New Trial  
(Hearing Audio .wav)**

**EXHIBIT B - Petition for Writ of Mandate  
(Discovery)**

**EXHIBIT C - Petition for Writ of Mandate  
(Disqualification)**

**EXHIBIT D - Motion 2 Vacate Dismissal  
(Recall Remittitur)**

**EXHIBIT E - Petition for Review (CA Supreme  
Court)**

No. 17-8641

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# In the Supreme Court of the United States

In re: Marina J Boyd

PETITIONER/PLAINTIFF

vs.

California Supreme Court

RESPONDENT

CitiMortgage, Inc. Real Party at Interest

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## REQUEST TO FILE OUT OF TIME PETITION EXHIBITS

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Marina J Boyd  
10951 National Blvd., #302  
Los Angeles, CA 90064  
Petitioner/Plaintiff in Pro Per

California Supreme Court  
450 McAlister Street  
San Francisco, California 94101  
Respondent Court

Cathy Granger, Esq.  
Wolfe & Wyman, LLP  
2301 Dupont Drive, #300  
Irvine, California 92612

Attorney for CitiMortgage  
Real Party at Interest

California 2nd District  
Court of Appeals  
300 S. Spring St, 2<sup>nd</sup> Floor  
Los Angeles, CA 90064

I, Marina J Boyd, Petitioner/Plaintiff, in this action hereby request permission of this Court to file Petition for Writ of Certiorari Exhibits that may be considered to be jurisdictionally out of time pursuant to 28 U. S. C. §2101(c).

I believe good cause exist to grant this request in accordance with US 28 111, because extraordinary medical and US 28 xxxxx financial conditions exist which contributed to a slight delay filing the petition which will not prejudice any real party in this matter because all parties have been served within the same time period as if the petition was filed timely.

## **BACKGROUND**

According to my initial calculation, my Petition for Writ of Certiorari was due. I had to persevere through a debilitating autoimmune disorder in order to learn the procedure, prepare my petition, however, at the time of filing, I realized that I did not have the financial means for copying and mailing of all the pages of my petition. In desperation, I sent one copy of my Petition for Writ of Certiorari, without exhibits (weight and size of these exhibits would have required additional postage which I could not afford) by USPS overnight service, tracking #9581 7000 1178 7283 0005 04, on October 10, 2017, and I am following up with this request to file an out of time petition. This application is filed concurrently with a motion to proceed in forma pauperis, a single copy of my petition with all exhibits. Because of I ld a request for disability in the event that the single copy of the petition does

not meet the requirements of a timely filing. This application is filed concurrently

## **LEGAL STANDARD**

For good cause, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding 60 days, and in extraordinary circumstances, the application can be filed even if not done 10 days before the date the petition is due. “An application to extend the time to file shall set out the basis for jurisdiction in this Court, identify the judgment sought to be reviewed.....and set out specific reasons why an extension of time is justified. The application must be filed with the Clerk at least 10 days before the date the petition is due, except in extraordinary circumstances”. (US Supreme Court Rule 13.5).

### **1. THE COURT HAS JURISDICTION OVER THIS CASE**

The US Supreme Court has jurisdiction over this case, because the California Supreme Court, which is a Court of last resort in this state, has denied review of this case. This Court retains Jurisdiction of this case on the date of this Application because the Petition for Writ of Certiorari was filed by USPS on October 10, 2017, and that is sufficient to preserve the jurisdiction of this court.

### **2. EXTRAORDINARY FINANCIAL CONDITIONS EXIST**

I became aware of the substantial number of copies required to proceed with my petition, and the cost of delivering such a large package on the petition due date and I have taken immediate action to remedy

this matter to the best of my ability, financial and otherwise, however it remains that original petition was timely filed.

**3. THERE IS NO PREJUDICE TO REAL PARTIES**

Granting of this extension will not prejudice any real parties in this matter, because there will be no distinction or delay in the time in which real parties will be advised of this action.

**PRAYER FOR RELIEF**

I hereby pray for the following relief; That the Court will grant this motion and permit my petition to proceed in the interest of justice, and will grant my accompanying motion to proceed in forma pauperis, and that the court will allow me to proceed filing only a single copy of my petition and exhibits and allow the late filing of a single copy of my exhibits, pursuant to the Request for Judicial notice of portions of the record in this case.

Date: October 13, 2017

By: 