

ORIGINAL

No. 25-63

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SUPREME COURT, U.S.

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IN THE  
**Supreme Court of the United States**

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Judith Clinton,  
*Petitioner,*

v.

Chad Babcock, Lisa Nelson, Regina Foster Bartlett,  
Caryn Sullivan, Maria DiMaggio, and  
Toastmasters International,  
*Respondents.*

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On Petition for a Writ of Certiorari to the  
Rhode Island Supreme Court

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**PETITION FOR WRIT OF CERTIORARI**

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**QUESTION**

Whether a state's highest court violates the Due Process and Equal Protection Clauses of the Fifth and Fourteenth Amendment, demonstrating disparate treatment of Self-represented individuals by affirming the reinstatement of a rescinded dismissal agreement without notice or hearing, foreclosing trial, a protected constitutional right, based on inapplicable legal theories never raised below, with factual alterations, and complete disregard for arguments by a self-represented litigant.

**RELATED PROCEEDINGS**

STATE OF RHODE ISLAND SUPERIOR COURT  
JUDITH CLINTON

*Plaintiff/Counterclaimant* (WC- 2017-0376)

vs :

CHAD BABCOCK, LISA NELSON,  
REGINA FOSTER BARTLESS :  
CARYN SULLIVAN, MARIA :  
MARIA DIMAGGIO and :  
TOASTMASTER INTERNATIONAL

*Defendants*

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The Rhode Island Supreme Court opinion posted March 24, 2025, is reprinted in Appendix A at App-1a. The Superior Court decision read from the bench is reprinted in Appendix B at App-16a the relevant Order was entered on September 1, 2023 at App-14a A timely filed Petition to Reargue - denied on May 16,2025 at App-27a

**STATEMENT OF FINALITY**

The decision of the Supreme Court of Rhode Island constitutes a final judgment for purposes of review by this Court. No petition for rehearing remains pending, and no further avenue for state court review exists. Accordingly, the decision below is final within the meaning of 28 U.S.C. § 1257(a).

**JURISDICTION**

The Rhode Island Supreme Court entered judgment on March 24, 2025. Rule 25 Petition to Reargue was timely filed and denied on May 16, 2025. A petition for writ of Certiorari is timely under Rule 13. This Court has jurisdiction under 28 U.S.C. § 1257(a).

**CONSTITUTIONAL PROVISIONS INVOLVED**

U.S. Const. amend. I, Article III Right to Petition

U.S. Const. amend. V, Right to Due Process

U.S. Const. amend. XIV, § 1 Right to Due Process

U.S. Const. amend. XIV, § 1 Equal Protection

R.I. Const. art. I § 5, Right to a trial

R.I. Const. art. I § 15, Protection of Reputation

**INTRODUCTION:**

Petitioner, a 73-year-old single woman, forced to proceed *pro se* after attorneys refused representation due to unregulated, unethical conduct by opposing counsel, was subjected to procedural ambush, judicial silence, denial of due process and her fundamental right to a trial. The trial court reinstated a rescinded Dismissal Agreement *Sua sponte*, without motion, notice, or hearing. Petitioner heard the court's pre-written decision, delivered as a **fait accompli** at the end of a hearing about another matter. The pre-written seven-page decision read from the bench, violating Petitioner's rights, was shocking. She was left in the dark without access to the transcript for several days, before she could understand the Court's basis for the "reinstatement" of a previously rescinded Dismissal Agreement taking away her right to trial and ending her case. This case is not merely about the state's highest court affirming missteps made by a trial court, it presents deeper constitutional questions. The procedural anomalies in this case not only compromised the fairness of the outcome, but left uncorrected, institutionalize a dual system of justice, systematically disadvantaged to unrepresented individuals, illustrating not just a denial of due process, but a systemic evasion of accountability, that leaves litigants without meaningful redress.

The Rhode Island Supreme Court affirmed. Respondents were relieved from defending in a trial or negotiating a settlement. Counsel walked away having been paid tens of thousands of dollars. Petitioner was left without recourse, except for this

application to the US Supreme Court. This case presents urgent constitutional questions with national implications for all unrepresented civil litigants who rely on courts to uphold the rule of law impartially.

After denial of Petitioner's Appellate Rule 25, Petition to Reargue, Petitioner now seeks review of the Rhode Island Supreme Court's decision on the grounds that it violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution, as well as the Fifth Amendment of both the United States Constitution and the Rhode Island Constitution for a right to trial.

## **STATEMENT OF THE CASE**

### **A. Background and Procedural History**

**August 7, 2017**, Petitioner commenced, a civil action in Rhode Island Superior Court alleging defamation, emotional distress, and reputational harm caused by individuals affiliated with the "Wonderful Westerly Toastmasters Club," as well as breach of contract claims against Toastmasters International; a personal injury that caused Petitioner physical and psychological damages requiring rehabilitative care.

**August 2017-March 2019**, Petitioner was represented by counsel and thereafter, Petitioner continued to pursue her claims Pro se, while seeking new counsel. Petitioner intermittently received limited-scope legal assistance, but no attorney agreed to enter a full appearance due to ethical concerns for opposing counsels' abusive litigation.

Over the next six years, Petitioner actively participated in extensive litigation to protect her right to seek justice. She prosecuted her complaints and defended against crossclaims and third-party actions, including a meritless trademark claim brought by Toastmasters, and frivolous abuse of process claims brought by the individual Respondents that were dismissed when discovered to be false. Petitioner counterclaimed Abuse of Process against them. The individual Respondents brought a Third-party claim for Negligence later superseded by a Crossclaim for Negligence against Toastmasters International, which they claimed as their defense for actions taken against Petitioner that caused her harm.

Despite repeated, unsuccessful efforts to discuss settlement, (20+) and multiple offers of mediation, (including Appellate Mediation,) all rejected by Respondents, on December 13, 2022, during a period of acute emotional and physical distress, including hospitalizations and documented treatment for major depressive disorder, a documented consequence of the litigation, Petitioner, unable to find counsel to assist her on a limited basis, even just to proffer a Dismissal Agreement, proffered it through the insurer paying for the individual Respondents, who facilitated the Respondents signing the offer. The filing was accepted by the clerk and marked "closed/dismissed" on December 13, 2022. The Dismissal Agreement was voluntarily filed by Petitioner, pursuant to Rule 41(a)(1)(b) without court order, without benefit of counsel, or consideration, stated in the memorandum she was doing so to protect her health. (*App-136a*)

**December 27, 2022**, two weeks later Respondent filed a separate “Stipulation of Dismissal” purporting to dismiss “remaining claims” between themselves and Toastmasters International. (*App-136a*) Petitioner discovered that this second filing conflicted with the original Dismissal Agreement’s express language referencing All Claims, Crossclaims and Counterclaims under docket # 2017-0376. In fact, there were no “remaining claims.” Signing the first Dismissal Agreement precluded them from signing a second Dismissal Agreement under Rule 11.

**February 8, 2023**, Petitioner filed a Reply and Statement to this second Dismissal, explaining, her intent to withdraw the Dismissal Agreement (upon restoration of her health) filed under documented duress, and with new awareness of the second agreement’s misleading nature, constituting Rule 11 violations spelled out in the February 8, 2023, document preserving her constitutional rights. That same day, treating the filing as a motion, the trial court scheduled a hearing for six weeks later, on March 24, 2023, regarding the February 8, 2023, document. (*App-120a*)

**March 13, 2023**, eleven days prior to the **hearing date**, Respondents filed an objection to Petitioner’s February 8, 2023, document, The objection **raised no opposition** to Petitioner’s asserted intention to withdraw the Dismissal Agreement. It purported to justify the second Dismissal Agreement (*App-133a*) with the same misrepresentation that there were “remaining claims,” No denial of a Rule 11 violation was asserted.

**March 24, 2023**, based upon evidence of duress (a fact the trial justice was very familiar with from multiple medical excusals sent directly to her throughout the litigation from Petitioner's doctors and from the ER at Butler and Kent hospital)<sup>1</sup> and fraud, evidence contained in her **February 8, 2023, pleading**, and her Reply to Respondents' March 13, 2023, objection, the Court granted rescission of the Dismissal Agreement. This evidence was before the Court, and the Court admitted she had reviewed and understood it. (*App-107a*) The Lower Court's statements are part of the record and are set forth with transcript pages in Petitioner's appeal brief. The Court announced to Petitioner: **"Now you will have your day in court," and reiterated this two more times during the hearing. (App-108a)**

Respondents didn't object. Without objection from Respondents, the Dismissal Agreement was rescinded and the case returned to the trial calendar. During the hearing, a Trial date certain and a Pre-trial conference date were consented to by all parties. Pretrial orders were issued. (*App-100a*) Litigation resumed. Respondents filed multiple motions in limine, jury instructions, a witness list, two dispositive motions, a Motion for Summary Judgment and a Motion to Dismiss Two Counts of Petitioner's Abuse of Process claim against the Individual Respondents to which Petitioner filed objections. All

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<sup>1</sup> It was well established that the Dismissal Agreement proffered by Petitioner through the insurer covering the expenses of the individual Respondents was done under duress. Documentation was hand delivered to the judge in real time as the medical excusals came in by fax and multiple hearings had been reset and continued as a result. Continuances are only given for good cause shown and it was provided with Petitioner's Appeal Briefs. However, the Court's decision states that there is nothing on the record regarding this issue.

parties attended the Pre-trial conference on April 21, 2023, where the trial date was vacated and a scheduling order was made with a June date to hear Respondents Dispositive motions.

**June 20, 2023**, three months after rescission, was granted, Petitioner appeared in Rhode Island Superior Court prepared to argue objections to Respondents' two dispositive motions. However, ten days before the hearing, Respondents filed two additional motions: 1)**Motion to Enforce the Dismissal Agreement**, and 2)**Motion to Vacate Pretrial Scheduling Order**. Petitioner filed written objections to both motions and went to the June 20, 2023, hearing prepared to argue the two new motions and the two Dispositive motions.

**June 20, 2023**, after hearing the arguments on the two aforementioned motions, the trial justice made a statement from the bench.... **"Before getting to the dispositive motions...."** She then proceeded to read a pre-written decision on the two aforementioned motions. (*App-17a*) Petitioner learned for the first time that the court decided to **recharacterize** the Respondents two motions as motions for reconsideration, that had the effect of "reinstating" the rescission of the Dismissal Agreement granted three months earlier, stopping the case from going to trial and ending it. This **recharacterization** was done *Sua sponte*, without prior notice to Petitioner, without a pending motion to reconsider or objection to it before the court; based on post hearing arguments of the two aforementioned motions requesting "enforcement" of the Dismissal Agreement. The trial justice invoked "plenary authority," asserting she made a mistake granting

recission because the Respondents didn't have at least 10 days prior notification of Petitioner's intention to withdraw the Dismissal Agreement to prepare an objection, citing RI Civ Pr Rule 7 (b) (1).<sup>2</sup> Based on this claim of error, the trial justice "reinstated" the previously rescinded Dismissal Agreement ending the case. Petitioner appealed. The Rhode Island Supreme Court decision affirmed.

### SUMMARY OF ARGUMENT

The court's ruling had the effect of reinstating a previously rescinded Dismissal Agreement, an interlocutory decision that was not an order of the court, that had been filed under documented duress, without benefit of counsel, without judicial oversight, and without a consideration, filed by Petitioner, voluntarily, to protect her health, pursuant to Rule 41 (a) (1) (b) that allows it to be filed without a court order. (*App-136a*)

In the June 20, 2023, hearing, no party had requested reinstatement, and the court gave no opportunity for Petitioner to be heard on the issue. The hearing was for Respondents' two motions, based on a narrative that was contrary to the record that the Dismissal Agreement had already been reinstated in the April 21, 2023, Pre-trial conference, which the Court's decision refuted. Despite these facts the Court stated: "*Although the Respondents' motions are*

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<sup>2</sup> 7. (b) Motions and Other Papers (1) An application to the court for an order shall be by motion which, unless made during a hearing or trial or during the course of a deposition, shall be made in writing, shall state with particularity the grounds therefore, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

*styled as a motion to enforce the dismissal agreement and a motion to vacate the scheduling order, they are, in essence, asking the Court to reconsider its decision to grant Petitioner's request to withdraw the stipulated agreement of dismissal, due to error of law."*

The trial court "essentially" invoked a Rule 60 motion on the Respondents' behalf. Rule 60 (b) Motion to Vacate (*App-139a*) is often mischaracterized as a Motion to Reconsider. Rhode Island case law *Atmed v. Travelers Insurance*, 843 A.2d 663 (R.I. 2022), cited by both the lower court and the RI Supreme Court has held that Rule 60(b) is "not a tool for revisiting interlocutory decisions based on arguments that should have been made during the original hearing. The US Supreme Court has held that "parties in a legal case are responsible for presenting facts and arguments to the court. The court acts as a neutral decision-maker, addressing only the issues and claims brought forth by the parties, preventing courts from introducing new arguments or modifying outcomes without being prompted by the parties involved." *Greenlaw v United States*, 554 U.S. 237 (2008)

During the March 24, 2023, hearing, (*App-111a*) Respondents raised no objection and raised no arguments when the Dismissal Agreement was rescinded, despite having had six weeks prior notice of Petitioner's intention to withdraw, and despite Petitioner repeating the request to rescind when they didn't object the first time. Respondents consented to Trial and Pre-trial dates complying with the Pre-trial

orders, filing multiple pre-trial motions as well as dispositive motions. Respondents' inaction on March 24, 2023, and compliance afterwards constituted waiver of objection, *Laplante v. Rhode Island Hosp.*, 110 A.3d 261, 267 (R.I. 2015).

On June 20, 2023, Petitioner argued against Respondents' two motions failing to cite applicable law and had multiple deliberate factual distortions (15+) (Rule 11 violations,) called out by Petitioner's objections. Evidence Respondents had prior notice of Petitioner's intention to withdraw the Dismissal Agreement is found in Respondents Motion to Vacate the Scheduling Order quoting page 8 from Petitioner's February 8, 2023, document clearly acknowledging Petitioner's notification of her intention to withdraw the Dismissal Agreement:

(Wherefore Petitioner files this reply and statement for the record before withdrawal of the stipulated agreement to dismiss filed by Petitioner on December 13, 2022" ( and from Page 9) "Petitioner is within her right to Withdraw the dismissal document she filed on December 13, 2023, at such time as Petitioner 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 this litigation, then it will be when Petitioner's health has been restored to feel capable of resuming Self-Litigation.

**RI Supreme Court decision states:** “The record clearly reflects that all parties never assented to the vacating of the Stipulated Agreement of Dismissal.” In fact, Respondents consented to rescission and never argued that rescission was not proper. A full 4 days later Respondents began asserting arguments that Petitioner was required to make a Rule 60 Motion to vacate, in order to withdraw the Dismissal Agreement, with full knowledge that a court cannot “revisit” or “vacate” a stipulation between parties unless it has been **incorporated into a court order or judgment**. *Smith v. Phillips*, 881 A.2d 713 (R.I. 2005) Respondents’ motions couldn’t be construed or imagined to be anything that even resembled a Motion to Reconsider. This court has held that “Courts may not act as advocates or resolve unlitigated issues absent party request *United Student Aid Funds v Espinosa* 08-1134 (U.S. 3-23-2101) Respondents were granted relief not requested. *The Rhode Island Supreme Court affirmed and institutionalized a violation of fundamental rights to due process and equal protection, removing Petitioner’s constitutional right to trial without notice, motion, hearing or cause.*

The decisions below exemplify a troubling pattern of systemic disadvantage against Self-represented litigants. By affording procedural flexibility to represented parties, while rigidly enforcing formalities against pro se individuals, the courts create a dual standard of justice incompatible with equal protection. *This is the opposite of the protections afforded Self represented parties pursuant to Haines v. Kerner, 404 U.S. 519 (1972),*

to be held to more lenient standards than attorneys.

In *Caperton v. A.T. Massey Coal Co.*, 556 U.S. (2009), this Court emphasized the importance of judicial neutrality and the harm caused by structural bias; creating dual standards based on representation status, violates impartiality required by due process.

The right to a civil trial is protected by both federal and state constitutions. The Fourteenth Amendment guarantees due process, including a fair trial before deprivation of rights. The Seventh Amendment preserves jury trials in federal civil cases, and while not binding on states, state constitutions mirror this protection, reinforcing access to a civil jury trial is a fundamental right, and must not be denied based on status, representation, or judicial discretion. RI Constitution, Article I, Section 15, affirms: “**The right of trial by jury shall remain inviolate.**”

## **REASONS FOR GRANTING THE WRIT**

**I. Serious Departures from Judicial Norms or Law Warrants Exercise of Supervisory Authority Under Rule 10 (c)** This case warrants the US Supreme Court’s intervention, as it meets multiple criteria set forth in US Supreme Court Rule 10 (c) justifying certiorari under both the Court’s conflict resolution and supervisory authority: The Court’s actions violated due process under *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. 254 (1970) *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982) substituting assumption for motion, (“*They are, in essence, asking the Court to reconsider its*

*decision*”) stripping Petitioner of a meaningful opportunity to be heard. The Rhode Island Supreme Court affirmed the decision, without addressing this constitutional failure; misstating facts, to excuse Respondents failure to object, using Respondents’ first time arguments provided in their appeal briefs, to recharacterize the Dismissal Agreement as a Consent Order, with caselaw diametrically opposed to the facts, ignoring Raise or Waive requirements, mischaracterized Petitioner’s February 8, 2023, filing as noncompliant with Rule 7(b)(1), despite its clear intent to withdraw the Dismissal Agreement including supporting facts. The RI Supreme Court erroneously claimed noncompliance with Rule 6(c), ignoring Respondents’ written objection filed March 13, 2023, **-11 days before the March 24 hearing**, as evidence the 10-day notice requirement was met. Petitioner’s February 8, filing gave Respondents **six weeks’ notice**, refusing to acknowledge clear evidence Petitioner had indeed fulfilled the requirements. The RI Supreme Court changed facts to favor the Respondents. The lower court’s decision states: ***“She further objected to the stipulation of dismissal because she was not served with a copy, and she indicated that she might withdraw her stipulated agreement of dismissal based on duress.”*** Both statements seek to diminish Petitioner’s vehement objection to the fraudulent nature of the second Dismissal, and Petitioner’s unequivocal assertion to withdraw the Dismissal in the February 8, 2023, filing. Each of these anomalies were highlighted in Petitioner’s Appeal briefs yet completely ignored by the RI Supreme Court’s decision affirming. The decisions below reflect a

serious departure from accepted judicial procedure and warrants this Court's intervention under Rule 10(c), which provides that a writ may be appropriate where "a state court has decided an important federal question in a way that conflicts with relevant decisions of this Court (*Mullane, Logan, Goldberg*) or has departed so far from the accepted and usual course of judicial proceedings, as to call for an exercise of this Court's supervisory power." ***Both conditions exist here.***

**II-The RI Supreme Court's decision states in a footnote (*App-2a-pg5*):** "In view of the trial justice's broad authority to grant relief from interlocutory rulings (*see Atmed.....*) we see no need to opine as to the applicability *vel non* of Rule 60(b)..." Thus, the decision completely avoids discussion of Rule 60, which is at the heart of the trial court's decision. In fact, the basis for the said authority in this case was absent. The decision makes no mention of the Court's *Sua Sponte* act to **recharacterize** Respondents two motions as Motions to Reconsider without prior notice. Rule 60 Motions, whether called a Motion to Reconsider or Motion to Vacate, is a serious undertaking that affords opposition arguments with all aspects being before the Court to consider, before making a decision. The issue here **was not properly before the court**. Whether there was plenary authority or not (and there wasn't) it can't be decided. ***The Court has, by judicial fiat, transformed Respondents' motions into a dispositive remedy far exceeding their original scope.***

**III-Fundamental Rights Cannot be Erased by Judicial Fiat-** The Major Questions Doctrine bars the exercise of extraordinary governmental power without clear legal authority. *West Virginia v. EPA*, 597 U.S. (2022). Often applied to agencies, its core principle applies equally to courts: significant legal outcomes require unmistakable statutory grounding. No court may deprive a litigant access to justice through judicial fiat; Unchecked judicial discretion violates both the Major Questions Doctrine and the Due Process Clause.

**IV-Petitioner was Deprived of her Right to a Trial** The court's abrupt reversal denied Petitioner the right to have her claims heard on the merits or resolved through settlement, violating the principle that civil litigants are entitled to fair adjudication. *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982).

**V-RI Supreme Court Mischaracterized the Procedural Rules to Favor Respondents.** The trial court's *Sua sponte* ruling was unjustified, and plenary authority improperly applied. The alleged "error" to justify plenary authority - less than 10 days' notice of Petitioner's unequivocal intent to withdraw the Dismissal Agreement, didn't exist.

**VI-The Trial Court's Sua Sponte Invocation of Rule 60(b) Violated Fundamental Due Process** The misuse of Rule 60(b) contravenes precedent in *Acosta v. Artuz*, 221 F.3d 117 (2d Cir. 2000), and undermines the predictability of procedural rules.

The Second Circuit's decision in *Acosta et al. v. Artuz*<sup>3</sup> stands as a pivotal ruling reinforcing the balance between judicial efficiency and the rights of individuals seeking legal redress. The unilateral judicial action in this case violates essential requirements of procedural due process under the Fourteenth Amendment.

**VII-RI Supreme Court Failed to Use a Standard of Review and Created One Out of Whole Cloth.**

The Rhode Island Supreme Court applied no recognized standard of review. Rather than engaging in **de novo**, **abuse of discretion**, **clear error**, or any traditional category, it cited *Atmed v. Travelers Insurance*, 843 A.2d 663 (RI 2022), addressing when interlocutory decisions may be “reconsidered” not reversed on appeal. This stands in sharp contrast to the **abuse of discretion** standards asserted by Petitioner in her appeal briefs and Petition to Reargue. Under *Ondis v. City of Woonsocket*, 934 A.2d 799, (RI 2007), abuse of discretion exists where the trial court misapplies the law, misconceives or overlooks material evidence or makes clearly erroneous findings of fact. The trial court’s June 20, 2023, decision meets all four criteria. Rhode Island

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<sup>3</sup> *Acosta*, not only clarifies the procedural expectations for federal courts handling habeas corpus petitions but also serves as a safeguard for petitioners, particularly those lacking legal representation. It underscores the judiciary's commitment to fairness and the fundamental principles of justice, ensuring that individuals are not unjustly deprived of their rights due to procedural oversights.

precedent further confirms that **abuse of discretion** applies to motions under Rule 60(b). See *Allen ex rel. Allen v. South County Hospital*, 945 A.2d 289, 293 (R.I. 2008); Petitioner’s filings document each abuse in detail with a final summary in Reply to Respondent’s Opposition to Petition to Reargue (***App-28a***)

**VIII-RI Supreme Court Misapprehended Its Own Precedents and Procedural Doctrine-** On appeal, the Rhode Island Supreme Court affirmed the trial court’s decision by selectively applying its Raise or Waive doctrine to benefit represented parties. It upheld a *Sua sponte* reinstatement of a rescinded Dismissal Agreement by relying on arguments raised for the first time on appeal, adopting Respondents’ arguments that the Dismissal Agreement was a “consent order” despite case law holding that such orders require either judicial oversight or mutual assent with counsel. See *Mendes v. Kirshenbaum*, 309 A.3d 1176 (R.I. 2024); *Resendes v. Brown*, 966 A.2d 1249 (R.I. 2009). No judicial oversight occurred, and Petitioner was self-represented. On appeal, Petitioner objected to the late-raised arguments and misapplied caselaw in a motion requesting judicial notice. The full Court denied the motion. However, despite knowledge of Petitioner’s objections, those arguments appeared in the final decision, missing the relevant parts that spell out the requirements for a Dismissal Agreement to be considered a Consent Order. Selective enforcement reflects disparate treatment and systemic bias against unrepresented litigants. ***Mischaracterizing the Dismissal Agreement as a consent order*** allowed the court

to invoke standards that didn't exist, thus justifying reinstatement under false pretenses. Because it wasn't a consent order, the Dismissal Agreement had been rescinded appropriately, due to fraud and duress, as documented in the February 8, 2023, filing, acknowledged by the trial justice before granting rescission. Thereafter all parties resumed litigation complying with Pre-Trial Orders. A Rule 60(b) motion wasn't required to withdraw the Dismissal Agreement, as misrepresented by Respondents in their *two motions recharacterized as Motions for Reconsideration*. According to the legal profession's code of ethics, a lawyer may only present good faith arguments about the legitimacy of their legal positions. The agreement had not been judicially endorsed nor even rose to the level of a binding contract due to lack of consideration. Rule 60 applies to **final judgments**, not to unilateral stipulations obtained through duress-Rescission of the Dismissal Agreement was appropriate, and the reinstatement of it was **improper and unconstitutional**. RI Supreme Court's use of asterisks omitting key elements of cited caselaw that is diametrically opposed to the argument asserted, (*App-11a*) mirrors the use of asterisks in place of missing docket numbers tied to the second dismissal. These Distortions and omissions represent a troubling pattern justifying this Court's intervention.

**IX- The Decision Omitted Key Facts** Having asterisks in place of the docket number in the caption and body of the Dismissal Agreement in RI Supreme Court's decision, changed the legal effect of the second dismissal filed by the Respondents, effectively disregarding misrepresentation of "remaining claims" and the intentional deceptive nature of the second

dismissal agreement. The agreement proffered by Petitioner included All claims, crossclaims and counterclaims under docket #2017-0376, specifically leaving no “remaining claims.” Using asterisks, *reframes the issue* as one of judicial discretion rather than contract interpretation or fraud. By deliberately omitting the docket number, the Court *abdicated its responsibility* to analyze the dispositive legal instrument with the full context necessary to ensure *procedural justice* and *protect the Self-represented party* from deceptive tactics. Omission of the docket # highlights this absolute flaw of the decision. (*App-4a*)

**X-RI Supreme Court Ignores Petitioner’s Appeal Asserting Due Process Violations**  
Petitioner asserted and preserved her constitutional rights in the February 8, 2023, document, and throughout the *appeal briefs*, asserting; “The Due Process clause “expresses the requirement of fundamental fairness.” *Lassiter v. Dept. Of Soc Servs*, 452 U.S. 18 (1981) In procedural-due-process claims, “the allegedly infirm process is an injury in itself.” *Am. Premier Underwriters Inc v. Nat’l R.R. Passenger Corp.*, 839F. 3d 458, (6<sup>th</sup> Cir. 2016) (*quoting Nasierowski Bros*, 949 F.2 894, holding that even when a deprivation is found to be “justified,” a party can still recover for the distress caused by the denial.” *In Appeal Briefs (App-76a) and the Petition to Reargue, (App-28a)* Petitioner asserts prejudicial impact and constitutional harm; “misapplied the law, mischaracterized the record, and extinguished Petitioner’s right to trial, violating both Rhode Island and U.S. constitutional protections.”

**XI-RI Supreme Court Ignores Documented Duress, Claims of Abusive Litigation, Violations of Petitioner's 5<sup>th</sup>, and 14<sup>th</sup> Constitutional Amendment Rights Asserted in Appeal Briefs.** Petitioner's *appeal brief* asserts a sustained campaign of abusive litigation by Respondents:

.....subjected to abusive litigation against Petitioner, forced to be Self-represented due to other attorneys refusing to file an appearance, even refusing large sums of money, because they would become subject to Professional Rule of Conduct 8.3(a), requiring them to report unethical actions per PRC 8.4. Unethical conduct has been allowed, tortiously interfering with Petitioner's right to counsel, depriving her of due process, equal protection, and a Trial, violations of 5<sup>th</sup>, and 14<sup>th</sup>, constitutional amendment rights.

Petitioner cited the Abusive Litigation law in Rhode Island, one of only 5 states that have such a law. (*R.I. Gen Laws §8-8.4-6*) Notwithstanding the law being for domestic violence, it establishes abusive litigation is just as damaging as physical violence **and** was the documented cause for Petitioner's forced Self-represented status, hospitalizations, and proffering a Dismissal Agreement without benefit of counsel. Studies have shown that 79% of individuals facing a legal problem report an adverse health impact especially when abuse of process is involved. The decision ignores documented duress. The judicial system offers no remedy for the imbalance faced by SRLs. Despite repeated efforts to seek help, complaints to Disciplinary Counsel were dismissed

for lack of jurisdiction, and motions for sanctions were denied, both at the trial and appellate levels. (**App-27a**) During the appeal, Petitioner filed several Motions for the Court to Take Notice of Respondents' pattern of deceptive assertions. One that highlighted a pattern of deceptive conduct was **granted**, (**App-58a**) but ignored in the final decision. Two others were denied, including one that flagged Respondents' reliance on new arguments and inapplicable case law, that appeared in the Court's opinion, edited to favor Respondents. Petitioner's Motion for Appellate Mediation was denied. Petitioner's Motion for Sanctions was denied at the same time as her Petition to Reargue was denied. The RI Supreme Court also failed to acknowledge documentation of duress repeatedly submitted with her appellate brief, and Petition to Reargue, claiming no record exists. During oral argument, Petitioner described physically threatening conduct by opposing counsel during a deposition, which led her to hire a security guard for the next session, an incident also cited in the denied motion for sanctions. All Petitioner's assertions and documentation were ignored. However, the filings are part of the record. After announcement of the trial, and facing repeated disparate treatment, being unable to secure counsel, Petitioner moved for court-appointed counsel. That motion, along with Respondents' two dispositive motions, became moot when the previously rescinded Dismissal Agreement was *Sua sponte* reinstated, abruptly ending the case. No mechanism exists for self-represented litigants to report abuse. No protection is available. Ongoing abusive litigation tactics by Respondents, their refusal to mediate or settle, and documented serious

health consequences experienced by Petitioner, were all ignored by RI Supreme Court. Treating attrition as 'zealous advocacy' when used to intimidate, or exhaust a pro se litigant, is not advocacy, it is abusive exploitation. **Indifference to harm being inflicted is not neutrality. It is unconscionable.**

**XII-Noteworthy Disparate Treatment<sup>4</sup> False Accusations, Threats to Sanction and Enjoin** Before the June 20, 2023, hearing, the trial justice, without motion, notice, or evidence, accused Petitioner of misconduct, threatened sanctions, and suggested enjoining her from future filings, citing alleged rudeness to court staff. Falsely painting Petitioner as a pesky Pro se filing too many pages and not using caselaw, taking up the Court's time, shifting blame for abusive tactics to Petitioner. **(App-83a)** When the hearing began, Petitioner attempted to clarify **for the record (App-89a)** that her pro se status was not voluntary, a fact well known to the court. Despite three objections, the court barred her from responding, raising serious due process and First Amendment concerns. Petitioner categorically denies

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<sup>4</sup>Courts have long held that **intentional disparate treatment** by state actors violates the Equal Protection Clause of the Fourteenth Amendment when similarly situated individuals are treated unequally without a sufficient justification. In *Village of Willowbrook v. Olech*, 528 U.S. 562 (2000), this Court recognized that even a single individual can invoke equal protection principles where the government treats them differently from others similarly situated without a rational basis. Likewise, in *Washington v. Davis*, 426 U.S. 229 (1976), Such disparate treatment, especially when it results in denial of a fundamental right like denial of a trial and due process, is presumptively unconstitutional

the allegations. Communications with court staff were entirely in writing. As the Ninth Circuit held in *Sherar v. Cullen*, 481 F.2d 946 (1975) "There can be no sanction imposed upon one because of his exercise of Constitutional Rights." Relying solely on the transcript, The RI Supreme Court described the trial justice's conduct as "admirable decorum," This deference ignored the public shaming that laid the groundwork to justify reinstating the rescinded Dismissal Agreement, shielding the attorneys regarding abusive tactics, while they profited by tens of thousands of dollars in the name of zealous advocacy. Petitioner has fought to defend, not just her legal position, but her *reputation*, a constitutionally protected interest. Under *Gertz v. Robert Welch, Inc.*, 418 U.S. 323 (1974), the Supreme Court recognized that the law must safeguard individuals from reputational harm. The RI Constitution Art. I, Sec. 5, guarantees a remedy for injuries to one's "person, property or character" an explicit acknowledgment of the fundamental value of reputation.

### **XIII-RI Supreme Court Failed to Address a Concurrently Pending Interlocutory Appeal Challenging the Denial of a Motion to Amend**

This failure allowed a significant procedural ruling to escape review. Once the trial court reinstated the rescinded dismissal agreement and terminated the case, the interlocutory order effectively became final. The court's silence on that issue deprived Petitioner of a fair appellate hearing violating the well-established rule that a final judgment brings up for review all prior interlocutory orders that led to it. *Behrens v. Pelletier*, 516 U.S. 299, 305 (1996).

**XIV-Important Federal Question Not Settled**

This case presents a pressing federal constitutional question: *To what extent may courts rely on inherent or “plenary” authority to override basic procedural due process rights?* Although the Court has repeatedly held that notice and an opportunity to be heard are fundamental (*Mullane, Goldberg, Logan*), it has not directly addressed the question of how those protections apply when state courts use *Sua sponte* powers to make decisions, or to dismiss cases without being requested to do so. The Petition raises a related issue concerning *the systemic procedural disadvantages imposed on Self-represented parties*, a topic addressed in *Turner v. Rogers*, 564 U.S. 431 (2011) but not fully resolved in the civil litigation context. A decision here would clarify requirements of fair process in civil courts and contribute to **establishing protections** against abuse of discretion, affecting SRLs.

**XV- RI Supreme Court Applies Procedural Boundaries for Judicial Discretion in Another Case Yet Doesn’t Apply Them Here.** Just seven days after Petitioner’s show cause hearing, the RI Supreme Court issued a decision in the case, *Mill Road Realty Associates, LLC v. Town of Foster*, 326 A.3d 1085, (R.I. 2024). Petitioner attended the hearing. The decision emphasized “when a trial justice rules on an issue *Sua Sponte*, it is imperative to provide notice to the parties and allow them to present evidence and arguments.” The decision noted that failing to do so is substantially unfair to litigants and should not be permitted. The trial justice’s dismissal in *Mill Road Realty* was found to be unjust because it

didn't adhere to the requisite procedural fairness. The RI Supreme Court vacated the order of the Superior court and remanded the case for further proceedings. Yet, despite a clear acknowledgement of violations in that case, Petitioner's case was inexplicably not given the same acknowledgment. **Further demonstration of disparate treatment by the RI Supreme Court, a violation of the 14<sup>th</sup> Amendments' Equal Protection clause.**

**XVI-Conflict Among Courts** - While no direct circuit split exists, this case highlights inconsistent due process protections based on representation status, implicating *Turner*, and warranting uniform constitutional standards. Some courts rigidly adhere to due process standards, others, apply discretionary standards to SRLs. Inconsistency implicates the reasoning in *Turner* and underscores an urgent need for **uniform protection**. The lower courts' actions in this case reflect a clear misapplication of the due process principles articulated in *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306 (1950), which remains foundational in evaluating due process violations. *Mullane* has been cited across numerous decisions, including the recent *Trump v. J.G.G.*, 604 U.S.\_\_(2025), reaffirming that "detainees are entitled to notice and an opportunity to be heard appropriate to the nature of the case," and *Noem v. Abrego Garcia*, 604 U.S.\_\_(2025), emphasized due process rights even for noncitizens. If noncitizens are constitutionally entitled to such protections, surely an American citizen, denied due process and trial, deserves no less.

**XVII- A Vehicle to Clarify the Constitutional Boundaries of Judicial Authority** The constitutional questions are clearly presented and preserved in the record throughout the litigation, on appeal to the Rhode Island Supreme Court and in a timely Petition to Reargue. There is no jurisdictional defect or procedural barrier to this Court's review.

**XVIII-Intervention Could Change the Outcome.** The RI Supreme Court's opinion shows a pattern of omission and misapprehension that gave rise to a fundamentally flawed ruling reflecting neither the factual record nor a fair application of law. Reinstating the dismissal agreement terminated litigation and denied Petitioner's right to a trial. Reversal would restore that right or allow settlement, given a proper Status Conference, Settlement Conference or mediation. Without intervention, the decisions below signal that it's acceptable to abridge the rights of Self represented litigants, an outcome wholly inconsistent with the 14th Amendment's guarantee of due process and equal protection.

**Accordingly, for the foregoing reasons, the Petition for a Writ of Certiorari should be granted.**

#### **POLICY REFORM STATEMENT**

To be Self-represented in a courtroom is not merely to stand alone, but to stand apart, outside the gates of a profession that guards its privileges with ferocity. The Self-represented litigant doesn't simply face an opposing party, but the unyielding force of a system

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that views them not as a participant, but as an intruder. In courtrooms across Rhode Island and the nation, it is an unspoken rule: the attorney must prevail, not because they are right, but because they belong to the system. Even when Self-represented litigants present carefully reasoned facts, supported by the record, and cite relevant case law, they are denied favorable outcomes. The individual without a bar number is treated as though their words carry no weight, their documents are written in invisible ink, and their presence is an inconvenience to be tolerated. It is as though they are speaking into the void. The resistance they face is not only procedural, but also cultural. The assertion that legal legitimacy belongs only to the licensed; that justice is not a right, but a privilege, is like the lone man who stood before the tank in Tiananmen Square. The Self-represented litigant stands alone, against an institution, an army of people that refuse to hear them, determined to crush them and run them out of the courtroom. When the States' highest court affirms a decision fraught with irregularities, new young lawyers performing their duties as clerks learn right away the accepted method for appeals filed by a Pro se. U.S. courts have long normalized aggressive litigation tactics between attorneys, as part of doing business. **This policy is no longer tenable.** The adversarial model assumes both parties have legal counsel, which no longer reflects reality. SRLs are routinely dismissed, and denied dignity afforded represented parties, enabling courts' procedural shortcuts as they operate under

the belief *pro se litigants won't succeed on appeal regardless of merit*. At oral argument, the Chief Justice suggested settlement before a decision was written. Petitioner reached out to opposing counsel offering mediation. Opposing counsel's dismissive reply reflected a foregone conclusion:

***"You have no chance of winning this appeal. We don't want to give you anything."***

There is no doubt that this same stance is held by the RI Supreme Court regarding this appeal of its decision to affirm; Each year, the majority of cert petitions submitted to this Court are filed by pro se litigants. This reality is not incidental; it reflects a nationwide failure of the judicial system to fairly adjudicate cases involving unrepresented parties. Given the staggering rising statistics, the RI Supreme Court's decision reflects confidence that the possibility of Petitioner's acceptance here is miniscule.

**Policy reform in Rhode Island is badly needed.** In 2014 the state of Rhode Island received money from the ABA to create a Commission for Access to Justice. Eleven years later the state still doesn't have one. In 2021 the Office for Access to Justice opened a long-awaited resource for language interpreter access, but it offers little else, only the appearance of **A2J** In fact, there has been noted resistance to the possibility of having one. Petitioner pleaded for this change in her Petition to Reargue and in her oral argument. It fell on deaf ears, demonstrated by the denial of the Petition to reargue

with the same arguments in this Petition, without a reply from Respondents or a reason for the denial.

Reform is beneficial to both the courts and taxpayers, clearing dockets in fair and equitable ways, changing the current public perception that the Rhode Island judiciary is unfair. Currently their priority appears to be maintaining the status quo methods of guarding the gates of the profession, no matter how many are denied just outcomes.

States with Access to Justice Commissions create a strategic approach to addressing legal inequity, providing tools to **modernize**, instead of maintaining antiquated, provincial, backward attitudes. Commissions provide uniformity, statistical records, and oversight, promoting fairness. The remaining states like Rhode Island, without commissions are likely the most egregious violators of the rights of the Self-represented. **Continued disallowance of appointment of counsel in civil cases demands that courts must go beyond aspirational fairness when a civil litigant is self-represented against counsel.** Adjustments must be made to provide affirmative procedural safeguards to ensure fairness, reduce legal complexity, to uphold human dignity. Cases need to be managed differently, promoting collaboration over combat, encourage settlement efforts, and require participation in supervised ADR when one side refuses to negotiate in good faith. The imbalance deepens when SRLs face highly paid institutional corporate, insurance, or government lawyers, exploiting procedural hurdles using attrition to avoid adjudication on the merits. In cases like this, where lengthy pre-written, unpublishable decisions are read from the bench, due

process certifications with checklists should be required, signed by the hearing justice, ensuring a case has gone through the requisite stages of litigation with outcomes recorded therein. Without procedural guidelines, meaningful participation in pretrial preparation, compounds due process violations.

The March 24, 2023, hearing transcript shows the trial court conflated the distinct purposes of a Status Conference and a Pretrial Conference under Rule 16, setting a Trial Date Certain during what was labeled a “Status Conference,” even though no prior status conference had occurred, discovery issues were unresolved, no effort was made to clarify the claims or defenses to be tried. Petitioner repeatedly asked what issues would proceed to trial but was brushed off. Unresolved questions created by Respondents’ reliance on a one-word typographical error that called into question all of Petitioner’s claims, resulted in confusion, procedural disadvantages, a violation of Petitioner’s right to a fair and orderly path to trial. (*App-105a*)

This case exposes a broader systemic failure. The legal profession must shift from guarding the gates of justice to building more entrances. Protecting procedural fairness requires rejecting outdated norms and enforcing ethical limits on coercive tactics, as opposed to remaining stoically unmoved when SRLs are sent to hospital in the name of victory, declaring opposing counsel the winners.

*Justice is not about who wins, it’s about whether the process was fair, voices were heard, and truth had a chance to emerge.*

**Expanding *Turner v. Rogers*: The Need for Enforceable Guardrails for Pro Se Litigants** Pursuant to *Turner v. Rogers*, 564 U.S. 431 (2011) Self-represented litigants are entitled to equal treatment and procedural safeguards. In *Turner v. Rogers*, this Court acknowledged the profound due process implications for Self-represented individuals navigating the legal system without the aid of counsel. The Court held that absent a constitutional right to appointed counsel, when significant liberty or protected rights are at stake, courts must adopt procedures to ensure fairness for the pro se litigant. The right to a trial is a fundamental protected right.

Not since the 2011 *Turner v Rogers* decision has the US Supreme Court highlighted the need for safeguards concerning the Self-represented. Since 2011, the number of people accessing our courts on their own has exploded with the ABA reporting 75% (and growing) of cases having one party Self-represented. When funds to Legal Services Corp are ended, those numbers will dramatically increase.

*Turner's* reliance on judicial discretion, as opposed to enforceable procedural standards, has left SRLs vulnerable to the very inequities the decision sought to address. The ruling provided no binding framework for lower courts to follow in civil litigation, beyond a call for fairness. Consequently, its principles are honored in theory but ignored in practice.

This case demonstrates the urgent need to go further. Modern society, with modern problems, demands the evolution of an antiquated system created hundreds of years ago. There needs to be a spectrum of practical steps and strategies introduced to better address the presence and needs of Self-

represented litigants. This case exposes the insufficiency of *Turner* as a protective tool in the everyday functioning of civil courts. More than a few scholars have noted that *Turner* took a step in the right direction, but its procedural safeguards have proven insufficient. “Unless and until the Court revisits those safeguards, inequities against Pro se litigants will continue unabated being business as usual”<sup>5</sup> A decision in this case would give substance to *Turner’s* covenant by establishing critical guardrails. Guardrails do not ask courts to abandon neutrality or advocate for SRLs, but **set forth minimum procedural dignity, rebalance inherent structural disadvantages, and create an environment in which SRLs are judged on the merit of their claims, not their lack of counsel.**

**ORDINARY CITIZENS ARE MEMBERS OF THE PUBLIC-** Access to justice is a constitutional right, not a privilege for the wealthy. Thousands are forced to represent themselves in civil courts, by necessity. Their presence is not a threat to the legal profession but a referendum on it, exposing a legal system whose cost and culture have made justice inaccessible. “The Court has long held that ‘justice must satisfy the appearance of justice. *Offutt v. United States*, 348 U.S. 11, 14 (1954). The RI Supreme Court decision affirming a sudden reversal of a properly granted rescission, without notice, motion or legal basis resulting in constitutional violations undermines this

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<sup>5</sup> Revisiting *Turner v. Rogers* 69 STAN. L. REV. 1541 (2017)

principle. “[W]hat matters is not the reality of bias or prejudice but its appearance.” *Liteky v. United States*, 510 U.S. 540, 548(1994).

In a 2004 article published by the Georgetown Journal of Legal Ethics written by Richard Zorza titled: *Disconnect Between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear Pro Se: Causes, Solutions, Recommendations, and Implications*, the author states:

The conception of the ideal persona (of a judge) is completely grounded in the inaccurate and outdated courtroom model in which both parties have counsel. Today, since such a courtroom is no longer the statistical norm, the model represents a serious oversimplification of how fairness and neutrality can be achieved, and in particular, of the consequences for the actual, as opposed to perceived neutrality of the system when the judge acts according to this persona.

Richard Zorza, a lifetime advocate for Access to Justice, recognized the issue of the growing numbers of Self-represented people more than 20 years ago. Now, Self-representation is becoming as much the norm as it was the exception, soon to become 95% of cases having one party Self-represented. A paradigm shift is needed. Adjustments must be made. It is long overdue. The right to Due Process is at the forefront of the judicial landscape. Now is a critical time to set a new precedent ensuring cases are evenly decided.


Unlike attorneys, self-represented litigants engage with courts as members of the public, uniquely positioned to witness and assess, not just the appearance of justice, but the integrity of the judiciary itself. When an SRL enters a courtroom, it should not feel like being in the backroom of a casino where everyone is playing liars' poker. Trust is needed and in the current environment, there is no ability to trust. This case presents an opportunity to affirm that self-represented individuals are not excluded from constitutional protections. Access to courts is guaranteed by the First Amendment and affirmed in *Marbury v. Madison*, 5 U.S. 137 (1803): "every right withheld must have a remedy." The Fifth and Fourteenth Amendments, and *Boddie v. Connecticut*, 401 U.S. 371 (1971) confirm access is not legislative grace, but a vital safeguard. "While one without counsel cannot reap an advantage from that fact, nor should the party with counsel be able to reap benefit from that status." See *Kasson State Bank v. Haugen*, 410 N.W.2d 392,395 (1987).

Absent this Court's intervention, only the court of public opinion remains to expose inequities when one enters the court room alone. Despite years of litigation, thousands spent, and efforts by the Rhode Island judiciary to silence Petitioner with the ***last part of the order telling her to stop seeking justice, it's over***, Petitioner feels obligated to respectfully submit this Petition for Certiorari on behalf of the many others being treated in like manner.

**CONCLUSION**

A Supreme Court review is needed to affirm that due process and equal protection cannot be conditioned on a litigant's status. *If it can be denied to one, it can be denied to all.* Across the country, people are deported without hearing, families separated without notice, and self-represented litigants routinely stripped of their rights, ignored, disadvantaged, and silenced solely for lacking counsel. This case exemplifies how courts can exploit that vulnerability, raising a serious constitutional question about the fairness and integrity of our legal system for millions; a system that depends on all of us agreeing to abide by the rules, whether represented or not. This case transcends Petitioner's individual circumstances and highlights a national due process crisis rooted in procedural manipulation. This petition presents a compelling basis for full review under Rule 10(c). The right to due process, equal protection, and a trial are foundational guarantees. If the Court finds the issues sufficiently substantial, Petitioner respectfully submits that a **Call for Response** may be warranted to assist in further evaluation.

Respectfully submitted,

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