No. _____

In the Supreme Court of the United States

Wendy Marie Meigs, Petitioner
v.
Tod Zucker and Bohreer & Zucker, LLP,
Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

Wendy Meigs
Pro-se
3131 Blackcastle Dr.
Houston, Texas 77068
281.798.0780

Sam Houston
Attorney on Record for
Todd Zucker and
Bohreer & Zucker, LLP.
2727 Allen Parkway,
7th Floor
Houston, Texas 77019
shouston@sschlaw.com
713.650.6600

Question Presented for Review

1. Does this Country contribute to Court Bias, Violations of Due Process and Constitutional Rights, and Discrimination in courts by consciously ignoring the utilization of technicalities, manipulation of weaknesses in the eFile system, failing to address Pro-se discrimination, and refusing to create strict, accountable guidelines against court official corruptive actions that can protect the people of this great country instead of creating victims of the courts? Should all court officials be held liable for allowing the abuse and manipulation of a vulnerable-victim, especially in a legal malpractice against one of their own, similar to criminal charges regarding vulnerable-victims? (Murphy, 2021)(*USA v. Jeffrey L. Goldberg*, 406 F.3d 891 (7th Cir. 2005).

2. Should the US Supreme Court take steps to universally protect the discriminated and suppressed class of Pro-se who come to the courts as a final reprieve for aid in times of duress, only to be forced to compete on "EQUAL" terms with the highly entitled and elitist "Fraternity" of lawyers capable of manipulating technicalities and eFile, and enlist "buddy"s" to prejudice a Pro-se towards the inevitable outcome of loss of time, money, property, and more to pursue a case doomed to fail as courts prejudice Pro-se? When is the time for Pro-se to demand EQUITY?

Parties Involved

The parties involved are identified in the style of the case.

Related Cases

Meigs v. Todd Zucker and Bohreer & Zucker, LLP, No. 2017-73029 of the 133th District Court of Texas. Judgment entered: December 4th, 2018.

Meigs v. Todd Zucker and Bohreer & Zucker, LLP, No. 01-19-00321-CV, First Court of Appeals: Judgment entered on December 4th, 2018 and affirmed on October 13th, 2020. https://search.txcourts.gov/Case.aspx?cn=01-19-00321-CV&coa=coa01

Meigs v. Todd Zucker and Bohreer & Zucker, LLP No. 21-0545 of the Texas Supreme Court. Judgment denied on December 17th, 2021. https://search.txcourts.gov/Case.aspx?cn=21-0545&coa=cossup

Table of Contents

Table of Authorities

Cases Page

Table of Authoritites (2)

Cases Page

Statutes

Rules

Other Authorities:

Coleman, B. (2019). *Dark Psychology and Manipulation*. (ed). Pub. P 57…….Page 21

efileTexas.gov. *How Does eFileTexas.gov Work*. Tyler Technologies. http://efiletexas.gov/reviewers/eFileTexas.gov_Returned_for_Correction_Reviewer_Process.pdf……. 5, 6, 16, 18

efileTexas.gov. (2015). *Mastering the New eFiling System (revised).* https://www.hcdistrictclerk.com/common/forms/pdf/Mastering%20the%20basics%20of%20the%20new%20efiling%20system%20Revised%20Oct%202015_V2.pdf……..6

eFileTexas.gov. (2013). *Returned for Correction – Court Procedures*. Tyler Technologies……..…5, 6, 16, 18

Meigs, W. (2021). Petition for Review. Supreme Court of Texas. 21-0545 https://search.txcourts.gov/SearchMedia.aspx?MediaVersionID=fcf94405-e2df-45fb-83c7-84cb73ce3d45&coa=cossup&DT=BRIEFS&MediaID=708b78cc-cbaa-44c3-bb34-6600f5996006

Other Authorities Cont'd

Citations of Opinions

1. 133rd District Court of Texas; Case #2017-73029
2. 1st Court of Appeals; Case #01-19-00321-CV
3. Texas Supreme Court; Case # 21-0545

Statement of the Basis for the Jurisdiction

The First Court of Appeals affirmed the opinion of the 133rd District Court of Texas on July 28th, 2020, dismissed the Petition for Rehearing En Blan on April 6th, 2021, and dismissed the "Motion to Reinstate Case on Docket" on June 15th, 2021. The Texas Supreme Court refused to hear the Petition for Review on October 29th, 2021, and denied a Motion for Rehearing on December 17th, 2021. This court requires 90 days to file a Writ of Certiorari due March 17th, 2022; thus making the petition, timely.

The jurisdiction of this Honorable Court is invoked pursuant to 42 USC §1983. The courts committed serious errors of law, demonstrated unrestrained technical manipulation including eFile tampering as well as blocking any opportunity for Petitioner as Pro-se to exercise Petitioner's Constitutional Rights which affects all people in all states. (*Haines v. Kerner)*

Constitutional Provisions

US Constitution, 1st Amendment .....passim
US Constitution, 5st Amendment .....passim
US Constitution, 6th Amendment .....passim
US Constitution, 7th Amendment .....passim
US Constitution, 14th Amendment .....passim
Federal Rule of Civil Procedure 8(a)(2)

STATEMENT OF THE CASE

The Texas Supreme Court denied review, and the 1st Court of Appeals erred in affirming the trial court as an abuse of discretion and significant misdirection by Respondents over facts of the case as seen in the Petition to the Texas Supreme Court and by clear manipulation of the eFile system to benefit Respondents as evidenced in the district and appellate court, and ignored by the Texas Supreme Court. Such atrocities against Constitutional rights and Due Process were not important enough for the Texas Supreme Court to review.

As such, granting summary judgment (SJ) for a never-seen "amended" summary judgment (ASJ) falls under question of professional bias with extraordinary examples of Due Process and Constitutional rights violations as the case progressed from District to the Texas Supreme Court. Such individuals must also fall under scrutiny as to the purpose for the "hidden" ASJ when the amended version only repeated sections of the original version which received a 33 page opposition *"Plaintiffs Response in Opposition to Defendant's No-evidence Motion for Summary Judgment, Summary Judgment Evidence, and Defendants Counterclaim"* and a 22 page Affidavit in oppositional response. And a pleading hidden from the docket cannot receive a timely response as no one knows the pleading exists other than the authoring lawyer and court clerk. The legal malpractice arose from actions under divorce proceedings in Family court 133rd.

INTRODUCTION OF GRAVE CONCERN:

Before stating Respondents' manipulations to misdirect the courts and those helping Respondents, the shocking failure in appellate court's opinions and the necessity in exposing corruption that Petitioner endured as Pro-se in this most horrendous experience for righteousness to regain control of her company, against the coven of lawyers recruited to protect one lawyer from his mistake of dual-representation, the crippling manipulation of the weaknesses in the electronic filing (eFile) system must first be discussed to create guidelines to protect the people of this country. TLG Code-Chapter 195 (b)(5). (Olson, 2015) Briefing required.

To aid in conceiving the level of manipulation and corruption and to emphasize the necessity for immediate action, please reference the ignored "Petition for Review" case no. 21-0545 in the Supreme Court of Texas (SCT) filed 8/24/21 regarding document tampering and dismissal with link in "Related Cases" hereafter referenced as (SCT-PR:TP and pages). At 486 pages due to exhibits, the petition was too much to add here. (Any requirements to view the documents will be met.) Respondents' misleading accounting of documents, and descriptions of how clerks work the eFile required numerous exhibits, especially since the appellate judges either failed to recognize.. or did understand or participated in the concealment of fraud.

I feel confident these Honorable Justices can access the Petition to see references describing the acute and shocking misinterpretation of the eFile used by appellate courts for dismissal. Granted, the eFile can be complicated to understand when mere words such as "docket" is foreign to someone, not a part of the legal system, but I AM A PRO-SE, and "I" described in detail the misuse of the eFile and the misdirection of the printouts due to the abuse of eFile allowing corrupt manipulation. Does corruption exist due to the weakness of the eFile system or due to the manipulation of eFile? And the fact that I am a Pro-se and must expose this level of manipulation of the courts against the people induces fear for the people's safety as Constitutional Rights cease to exist.

We Start on file template page 14 aka page 1 of "Statement of the Case" of the Supreme Court of Texas, "Petition for Review" (SCT-PR) to access related documents, not the last pleading denied 12.17.2021 allowing this pleading. Briefing required.

Responses below follow appellate court opinions in Appendix A inducing case dismissal.

Efile Document Tampering (DT) Evidence (18 U.S. Code § 2071)

1. **1st Appellate Court DT1:** (SCT-PR:TP 14-15, 295-298) Other than hiding the timely December 7th pleading (p.295)from view on the docket, this same court also manipulated viewing of the "Motion for Reinstatement". See detailed variations in time (p.296-298) from accepted and filed 4.21.21 6:03PM v stamp-date filing 4.22.21 7:42AM. (p.296) Most interesting...the motion did not appear on the docket until 4.24.21 whilst still containing the earlier stamp. **Hence PROOF, the clerks can hide a document and prevent view whilst stamping the pleading with one date and holding for longer at will.** No one would know about the 4.24.21 late load to the docket… except the filer. (p.297-298) Everyone else would assume the upload occurred on 4.21.21 as they would not be screen-shooting each day waiting for delivery of a pleading that they NEVER knew existed. Petitioner screenshot the docket each day to demonstrate the willful ability to manipulate the documents as triggered by the December 7th timely filing being hidden and the hiding of the "ASJ" that dismissed the valid case in District Court. With full control over holding a pleading without accountability or recognition, (eFileTexas.gov, 2013) **the clerk can assist in fraud and wrongful case dismissal and DID.** Thus, not responding timely to a pleading never-seen can occur to anyone as did with Petitioner in the district court leading to dismissal.

2. **1st Appellate Court DT2**: (SCT-PR:TP p.15-16, 103-105, 107-112, 300-309) also, (eFileTexas.gov, 2013, p5) After rejection of the December 7th, 2020 pleading (SCT-PR:TP.p.103-105) by the court clerk who withheld the pleading from the docket and sent the pleading back to Petitioner with instructions to correct the pleading and resubmit, the court clerk appears to have intentionally NOT ALLOWED "copying of the envelope" as the clerk did not correct this mistake upon notification. Thus action caused loss of the original envelope number and timely filing date that allows correction and resubmittal while retaining the original filing date, original email sent, and envelope number of the pleading to remain a timely filing(Id.p.103).

Instead, the eFile automatically assigned a new envelope number and date. This prevented the view of the a corrected original on the docket and eventual dismissal for untimeliness due to no fault of Petitioner. Petitioner submitted subsequent modifications of this same petition at request of the clerk referencing the original envelope number and date to ensure timely filing awareness (Id.p.184-187), and multiple ones were allowed without dismissal, and such would have been known by Respondents and court in what appears to waste Petitioner's time. **The ability to "copy the envelope" remains sole control of the court clerk (eFileTexas.gov, 2015, p.47) (**SCT-PR:TP:**p.192-197) and**

thus PROOF that the ability to retain the timely date or lose a case for being untimely lies in the hands of the Clerk to be tampered, manipulated and corrupted without accountability in this case and cases across the nation. Letter sent with screenshots to District Court Clerk, Chris Daniels for help. (p.300-309))No help followed.

3. District Court DT3: (SCT-PR:TP16) Manipulating the placement of documents on the docket, either out of number order or not under the pleadings can prevent exhibits of a pleading from getting on the clerk's record for appellate consideration when a pleading is requested with exhibits since the clerk will not know those exhibits, not under the pleading, actually belong to the pleading. Exhibits out of order give appearance a litigant lacks care and can frustrate the court searching for documents. Lack of evidence prevents the court's ability to make informed decisions. **PROOF: document manipulation is document tampering that can affect a case, another control of the Clerk leading to case dismissal.** Looking at many cases over the years, the unfavored by the court gets exhibits loaded discombobulated. Court clerks affect all cases without restraint.

4. District Court DT4: (SCT-PR:TP16-17) **The clerks can load a pleading on the docket and simultaneously prevent viewing of the pleading by labeling it as "not in a viewable format",** although it is, which prevents response to a motion causing harm to the litigant (Id.p. 300-310).

This occurred to Petitioner in the district court with pleading, "Objection to Mediation." Frustrated by the court manipulating the eFile system, Petitioner uploaded "Objection to Mediation" a second time, noting it as such on the pleading itself. With the "first" orderly upload by petitioner (Id.p.311-317), the clerks put exhibits out of order under the pleading and some not even under the pleading, and kept the pleading *not viewable*. **That is document tampering.** The second upload went beautifully (Id.p. 308). Not surprisingly with the multiple manipulations of court documents by this court, the second upload was viewable with exhibits in order, while much to petitioner's surprise…, the upload of the second same pleading somehow made the original non-viewable document suddenly become viewable. Letter to Court Clerk Chris Daniels over fear of case.

5. District Court DT5: (SCT-PR:TP17-18) The ability of the clerk to keep a document off of the docket, regardless of the date of submission, led to Petitioner not seeing the ASJ that caused court dismissal. Examination of the filing shows the date/time submitted as the same for envelope details, notification, order and pleadings as 11.21.2018 10:43am. Oddly, the judge signed the order on 01.23.2019, two months after the time-stamp. This means the court clerk can pull the filing months later, make changes to the document and reload. What else can be altered to the document? Possible path of tampering?

6. (new) District Court DT6: (original court-order for 2015 mediation) Multiple pulling of a document indicates that **anything can be done to a docketed document, including altering the document and changing the document without knowledge of the litigants**… "**document tampering".** (18 U.S. Code § 2071) This occurred to the court-ordered mediation order as evidenced by appearingly four dates. Who did and why was the court-ordered mediation document pulled so many times? The court-order for mediation, as told Petitioner, was over Asyntria, between the divorcing Meigs only due to an active post-nup and to reach agreement over shares as for future Rule 11 over community property (misled by Respondents to the courts). Inclusion of business partner Johnston to mediation was only due to Johnston's shareholder ownership? Jody left before mediation for conspired lack of access to money. Why did it continue? Under the shadows of corruption, what changes were made to this court-order to give the perception that such agreement fell under business agreements instead of family-court codes, codes that allowed rightful revocation for missing family court code 6.602 which Petitioner rightfully revoked the next week, known by all lawyers including Evans, Respondents, Bergman, et al? Emails between Evans and Respondent demonstrates all knew the msa fell under family-court and was not a business agreement.

Counter of ASJ Contents aka Hidden ASJ:

1. Respondents misled the court by NOT referencing that the family court-ordered mediation comes under a different set of codes than business mediations in Texas. Indicating a standard business MSA, led the judges to follow standard agreement rules to dismiss. Intentional misdirection.

2. Respondents misuse the purpose of the worried texts Petitioner used to protect herself and children from a man she fears, when she could not remember events at mediation from incapacitation, to fully know whether Petitioner should fear Johnston or not based on whether the outcome favored Johnston or Petitioner. And Johnston did tell Petitioner and her husband that he could kill anyone and get away with it due to his mental instability. How dare Respondents dismiss the fear of a woman attempting to protect herself and children from a man who knows where she lives. Obviously, Respondents did not care the status of their client at the mediation where they abandoned and allowed her to be abused.

3. If Respondents can write a memorandum about their allowing the intoxication of Petitioner and abandoning her with a man she feared the most, can the court only imagine what the truth really is… and some excerpts appear quoted in the ASJ except for the manipulations taken to dictate the outcome. Respondents appear to add the excerpts in effort for exaggeration, but sadly, not.

4. Respondents used the term “Avoid” when all lawyers knew the agreement was rightfully “VOIDED” per later found emails between Respondents and Evans with reference to mediator Bergman. The purported MSA failing to comply with Section 6.602 of the TEX. FAM. CODE is not enforceable by way of judgment, by an action to enforce the Agreement, or otherwise. Intentional misdirection to confuse courts.

5. Petitioner, by affidavit, noted three handwritten agreements and one typed agreement with location reference citing divorce lawyer, Evans, as the originator of the printed MSA in the five boxes. A printed mediation agreement falling under a divorce court-ordered mediation written by the divorce lawyer fails to justify Respondent’s claims of a business mediation. Intentional misdirection.

6. Citing Johnston’s statements in the ASJ as to what Johnston thinks will always be directed away from the truth hiding significant appearing embezzlement and asset thefts by Johnston indicating subversion as CEO and under the representation and direction of a dual-representing lawyer (D-R)

7. Respondents boldly reference that no judgment was ever made on the settlement agreement leaving out the fact that a judge cannot rule on a legally revoked and "voided" agreement as seen in six SJ filed for the same agreement and never ruled upon. Intentional misdirection and vexatious litigation.

8. ASJ mentioned that respondent withdrew on 04/13/2016 but conveniently left out that Respondents decided not to represent Petitioner when Petitioner demanded the agreement voided in November/December of 2015; thus billed Petitioner for actions contrary to representation. (ABA Rule 1.2)

9. More significantly, Respondent failed to mention in the ASJ that they were still legal counsel for Petitioner at the first SJ hearing to force the handwritten agreement against Petitioner's wishes but refused to represent Petitioner forcing Petitioner to find a new lawyer. **Instead they stood in support of forcing the MSA through against Petitioner's wishes and continued to bill Petitioner for acts against Petitioner.**

10. And RESPONDENTS KNEW THAT PETITIONER RIGHTFULLY REVOKED THE AGREEMENT PER THE MISSING FAMILY COURT CODE 6.602 that states the agreement cannot be revoked. Without the statement, the MSA can be revoked and was one week after the abusive 2015 mediation. NO ONE TOLD PETITIONER THAT SHE STILL OWNED THE COMPANY and ALLOWED VEXATIOUS LITIGATION.

11. Yet, the ASJ, hidden from the docket on date submitted, prevented response and conveniently gave purpose to judge dismissal. (FRCP Rule 5(d)(4).

12. Granting the "amended" summary judgment when potential for not-seeing a pleading exists, where leniency is normally granted, is a procedural default and abuse of discretion(*Mathews v. Eldridge*), and in this case, participation in fraud. (an act foreign to judicial responsibilities). Possibly, in all courts in Texas. All issues mentioned were addressed in all courts and represent disgusting abuse of the courts by court officials.

13. Document tampering (18 U.S. Code § 2071)via eFile by court officials to enhance dismissal of a valid case indicates widespread involvement to protect fellow court officials by subjugating the laws for personal gain. (As seen prior in the news with eFile.) A person deprives another of a constitutional right, within the meaning of §1983, "if he does an affirmative act, participates in another's affirmative act, or omits to perform an act which he is legally required to do that causes the deprivation of which complaint is made." *Preschooler II v. Clark Cnty. Sch. Bd. of Trs.*, 479 F.3d 1175, 1183 (9th Cir. 2007) (quoting *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978)). All done to protect a dual-representing lawyer over Petitioner.

NO ONE TOLD MEIGS THAT SHE RIGHTFULLY REVOKED THE AGREEMENT LEADING TO YEARS OF VEXATIOUS LITIGATION… until @five years later. Misdirection by Respondents confused the appellate court enhancing dismissal of a very valid case. Case dismissal for a horrendous mediation, not of law, showing multiple access of a court-order indicates concern over Constitutional Rights for all people.

Lack of Known eFile Traceability/Accountability

Upon calling the court to request tracing of access to certain documents, court IT explained that the courts had no way to determine who accessed the pleadings. Petitioner requested if IP addresses or sign-ins were linked to documents for tracing. The court IT said, "no." How did California track their docket access and uncover clerks document tampering with the eFile for personal benefit? A method of accountability and traceability will assist in uncovering court corruption that denies Constitutional Rights and Due Process. Federal involvement required.

REFUTING COURT OPINIONS

(SCT-PR:TP18-26) "Constitutional imperatives favor the determination of cases on their merits rather than on harmless procedural defaults." (*Marino v. King*, 355S.W.3d 629, 634 (Tex.2011. The gross failures in the appellate court abound. Did the court actually read Petitioner's disputes and such evidenced from Respondent's own case files?

Is the appellate court protecting the unlimited power given to decide a case by eFile manipulation in order to perpetrate bias for personal gratification and to do so with judicial immunity? Exposure should erase these tactics of Constitutional Right violations.

Summary Judgment: (SCT-PR:TP16-17, 91-101)

1. The district court and appellate court erred with granting ASJ with Petitioner failing to see **an ASJ that oddly contained the same claims as the original SJ, an SJ timely responded to in detail**, especially amidst valid evidence of document tampering contrary to Appellate court statements. Lack of leniency for not seeing one pleading, a pleading not seen by Petitioner or her temporary LAWYER indicates bias against the Pro-se and possible conspiracy. As such, granting summary judgment is a procedural default and abuse of discretion. (*Sch. Spectrum, Inc. v. Martinez,* 941 S.W.2d 910, 911 (Tex. 1997).

2. Why would Respondents submit as ASJ similar to the original SJ? The ASJ gave ability to manipulate a timely response for faster dismissal to prevent the delivery of subpoenas that show the corruption?

Refuting Court Opinions:(SCT-PR:TP19-20)
1. The court rebutted Petitioner not receiving service by referencing cases before the use of eFile in 1997. Referencing prima facie

evidence fails as reference is prior to the eFile and potential for tampering. As such notice cannot be considered service, if it is not a true service of notice.(Rule 57) Is this intentional misdirection by the appellate court? Dates are obvious. Such occurs again in #2 reference, *Roob v. Von* Beregshasy, 866 S.W.2d 765, 766. And add #3 referencing snail mail of which petitioner never received and once again prior to eFile, *Cliff v. Huggins*, 724 S.W.2d 778, 780 (Tex. 1987) All appellate opinions intentionally site old case law prior to eFile, and do so not acknowledging the new ability for eFile manipulation and corruption.

Misdirection of Respondents Exhibits (SCT-PR:TP20-21) almost verbatim from SCT-PR

1. Looking at Respondents Exhibit A, envelope details, the court will notice at the bottom of the page shows the date of 4.11.2019 as the date printed.

a. Top page shows 11.21.2018 11:06AM while accepted the same and time, but the actual pleading shows the accepted date is 11.21.2018 at 10:43:46 AM. **Both times should match unless the document was withheld from the docket and the clerk changed the date and not time, showing tampering.** (eFileTexas.gov, 2013) Presenting a document to the court as truthful and knowing it is not... intentionally misdirect the courts.

b. Date at the bottom of the page is 4.11.2019 and notice for eService, referring to status states "sent". The "Date /Time Opened" shows that the pleading was never opened. Over four months passed and no one opened the file? Or was the document held and released later such that the filing could not be seen to be opened. **As such, this document demonstrates tampering.** Respondents intentionally and willfully misdirected the courts, once again.

2. In respondents Exhibit A1, page shows the email notification of service, printed on 04.12.2019 per bottom of the page for the supposed email sent on 11.21.2018.

a. Understanding the efile system allows the court clerk to hold documents for any length of time before releasing to the docket (Tab 6), the email as well as the pleading will retain the original date, regardless of when released. This is important, WHEN NOT USED CORRUPTLY, so that the email as well as the pleading need to show the original date for the time to begin counting for due date of response.

b. As such, **Exhibit A1 lacks authenticity**. Unless the email printout can show 11.21.2018 as print date instead of 04.12.2019, there is no way of actually knowing when the pleading/email was released between those dates.

3. In Exhibit B, Respondents demonstrated that Petitioner knows how to file electronically like all Pro-se in Texas, and indicates how Petitioner understands docket manipulation by court clerks.

4. In Exhibit C, docket, the Respondents attempt to trick the court with a docket print dated 04.11.2019. **The pleadings shown were visible on 04.11.2019, but not necessarily on the earlier date shown on each pleading.** The court clerk can hold a pleading for a month, for any reason, and that pleading will not appear on that docket for a month… at the clerk's discretion. (eFileTexas.gov, 2013, p3) Once the clerk releases the pleading, that pleading will load into the original date spot like it had always been there. Thus, only a docket printout, occurring the same date as the date of the pleading, shows the actual date the pleading was loaded… Judge McFarland took great pleasure in holding up the docket to show the ASJ was visible on original date. With representation at that time, Petitioner restrained from calling shenanigans.

Court Error in Rules: (SCT-PR:TP21-22)

1. Court citing, *Brandon v. Rudisel*, 586 S.W.3d 94, 102., fails Harris County Local Rules of the County Courts, Rule 5.2 "Completion of Service and Date of Service: (a) Electronic service shall be complete upon transmission of the document by the filer to the party at the party's e-mail address." **This differs from the above reference as completion involves receipt by the party rather than filing to the filer's service provider as receipt. The court's lacks consideration of clerk manipulation before release to the docket. (Tab 6,7,8)** Court manipulation for personal agendas.

2.Dismissing with potential of filing errors is an abuse of discretion as errors did exist and show
3. Point 4, the inability to see the ASJ created a cascade of potential responses that could not occur for not knowing a pleading existed. Expecting these processes amidst severe document tampering signals an inability to understand the gravity experienced by petitioner and apparently many others with document tampering. Technicalities should not prevent the fact finder or truth. Why did these experienced judges side with Respondents over facts?

Courts Abuse Discovery Process (SCT-PR:TP22-24)

1. In regards to the courts review over adequate time for discovery, another Pro-se discrimination, (Affidavit, p.485) Final judgment issued on February 12th, 2019 with timely request for new trial allowed extension of discovery, but denied by judged. [Tenneco Inc. v. Enter. Prods.Co., 925 S.W.2d 640,647 (Tex. 1996)].

2. **The docket lacked guidance for end dates giving fluidity to determine dates any way the judge feels and then the judge states that she could be wrong**(Recorders Record). Since neither Petitioner or her new lawyer, Jahani, saw the pleading, there is no way any response, could occur. Disparity exists when the courts decide the winner based on court tampering. Laughlin, 962 S.W.2d at 66

3. The new docket set new timeline points for expert-designation, discovery, and receipt of subpoenas denied by ASJ. Judge picking and choosing which docket (Recorders Record), old or current, to follow appears prejudicial as the old dismisses to benefit Respondents and new continues a valid case. Failure in discretion, due process, and decency. Intentional manipulation of docket interpretation benefits respondents.
4. Petitioner cannot request relief that she did not know she needed to request as she NEVER SAW the amended petition to know to respond. Ridiculous demands and just listing this indicates bias. (*Pearle Vision, Inc. v. Romm*, 541 F.3d 751)

Abuse of discretion. (SCT-PR:TP24)
Disgraceful Demand of Expert Witness
1. Herein lies the great disparity between a Pro-se and lawyer besides legal knowledge, skill, technical knowledge, buddy call, and many other: No expert witness will ever represent a Pro-se due to the large number of Pro-se' losing their cases. (Id.p. 438) Demanding expert witnesses when none will represent a Pro-se is a horrible injustice to the American people seeking rectification in courts against abuse by lawyers in what appears to be a protective mechanism put in place for that purpose. Pro-se are a discriminated class due to no fault of their own but from the courts geared against Pro-se. Pro-se can never win, especially in a legal malpractice cases, as demands of the court can never be met.

2. **Petitioner states Respondent's actions fall under outrageous actions without a need for an expert witness to assess malpractice, negligence and all as mentioned in District Court.** *Tangwall v. Robb,* No.01-10008-BC, 2003 WL 23142190, at *3 (E.D. Mich. Dec. 23, 2003) (citations omitted). Instead of accepting evidence directly from Respondents files, the judges refused to acknowledge such egregious actions.

MISDIRECTION OF RESPONDENTS OVER FACTS

Respondents acted as a predator by blaming the victim, the Petitioner, in the memorandum and mediation as a form of emotional manipulation. (Murphy, 2021) "Establishing trust and familiarity is one of the most important aspects of a successful effort to exploit someone's emotional vulnerability, then manipulate them either for personal gain or simply out of pure malice…" as in the entire case to protect a dual-representing lawyer. (Coleman, 2019).

PATH OF DECEPTION

Beginning

1. Texas community property rules for divorces included the company, Asyntria, Inc., as community assets for Jody, husband, and Wendy Meigs, Petitioner. Petitioner, Jody and Johnston were sole Asyntria shareholders.

2. M. Johnston (Johnston), CEO of Asyntria, hired lawyer, Todd Frankfort (Frankfort), who appearingly dual-represented both Asyntria and Johnston by writing contracts to help Johnston attempt to steal shares of stock and misappropriate assets of Asyntria and subsidiaries shown in documents.
3. The theft of assets and company by Johnston led Sheri Evans (Evans), divorce lawyer, to add the thefts to the divorce lawsuit in effort to protect further depletion of community assets of Asyntria by Johnston. Thereafter, the **corporate issue with Johnston became part of the Texas family court divorce as well as the 2015 mediation that followed.**
4. Evans procured friend, Respondents to handle Asyntria/Johnston.
5. Prior to adding the claims, Evans emailed Frankfort as to who he represented as many companies shown. (p.472)
6. **In an attempt to hide the dual representation of Frankfort and misdirect the courts**, Brady appears hired to act as corporate counsel but did not know the company as displayed in deposition and retained after the contractual attempt to steal shares of stock as evidenced by the retainer check. Plus Brady swears in affidavit, filed 01/25/2017 to have written the printed MSA but Petitioner holds an earlier written one from Evans. Intentional redirection?

7. Deposition demonstrated serious dual-representation including the sale of shares from Johnston to Johnston was not legal and more.
8. This led Respondent Bohreer to ask Petitioner at break if she would like respondents to represent her in the dual-representation claims as that would cover all legal issues. Petitioner said, "yes", but consistent follow-up afterwards led to redirection by respondents.
9. At deposition, Bohreer appeared to believe Brady dual-represented and wrote the bad sale instead of Frankfort as Brady claimed to be Asyntria counsel… but evidently did not know Asyntria based on deposition statements. (email)
10. Email then shows respondents researched for fiduciary liability appearingly in attempt to understand Frankfort's actions/error. Thereafter:
11. Evans emailed Bohreer to separate billing for the corporate issues separate from Evans but maintained all claims under Evans control within the family court lawsuit.
12. Respondent Zucker indicated in an email on the same day of receipt of retainer money from Petitioner and deposition, to not represent and to hide from Petitioner all claims for dual-representation, to give those claims to the mediator to handle, after **acknowledging to other Respondent Bohreer that Petitioner had claims for dual representation (DR) in the same email**.

That same email stated hiding from Petitioner the memorandum written of claims against Johnston given to Mediator. Hiding facts allowed Respondent control over Petitioner fighting.

13. Emails show Frankfort, contacted Bergman to act as mediator and Bergman responded in @7 minutes. 7 minutes is not enough time to research all people and positions for a seasoned mediator, once national president of mediation and then current sitting chair of the Texas State Bar on ADR.

14. Bergman's email signature statement differs from the business one indicating a personal connection; although Bergman's lawyer stated Bergman did not know Frankfurt which means someone else contacted Bergman to mediate and set up Frankfort to call or Frankfort would not be contacting Bergman on Bergman's other email unless positioned by a friend.

15. Respondent Zucker is good friends with Bergman per Bergman's lawyer. Thus appears Respondent wanted Bergman to protect Frankfort with D.R. claims as seen in the condemning email of legal malpractice. Bergman, sued several times for manipulating a mediation, and friend to Respondent, may be more willing to manipulate a court-ordered mediation for personal goals to help Respondent to help Frankfort. (*Bates v. Laminack*)(*Ramsey v. Palm Harbor*)

16. The court-ordered mediation was not law.

17. Emails show show Respondents knew (p. 473) and allowed the continual dual-representation by Frankfort even after retainer, and also show close interaction between Respondent and Frankfort/Brady to **prevent production of damning evidence at the 2015** ***Family Court-Ordered Mediation***.

Manipulation of Courts

1. Hidden from Petitioner:

a. Per email, Respondents hid the pre-mediation memorandum of claims written to Bergman addressing Johnston's liability and the lawyer's failures (DR). Hence, Bergman knew claims, bantered with Respondent Zucker and lied to Petitioner at mediation session stating no claims existed whilst placing Petitioner in extreme fear of learning of the potential decline in mental status of Johnston per Bergman statements. Such statements add to more control over Petitioner by increasing fear.

b. Per email, Respondent **gave Petitioner's vital claims of DR to the mediator to "handle" a**t **2015 mediation**, a mediation orchestrated by Bergman and supported by Respondent which **included threats, lies and drugging as indicated in a semi-truthful memorandum written by Respondent. A memorandum** acknowledging allowing alcohol and asking for a martini by Respondent himself. All false claims in the memorandum were denied in pleadings by Petitioner and ignored by district and appellate judges for what appears colluding to protect, well-known Respondent.

c. In essence, **Respondent pretended to represent Petitioner, took her money and time, and assisted in orchestrating the most horrendous experience** of fraud plus to obtain more money, protect a fellow colleague, enlist fellow lawyers to continue such deception, and **at no time, during or after representation, told Petitioner that she rightfully voided the agreement for failure of the mediator, Bergman, to add the family court code 6.602** that states the agreement is not revocable. With that statement gone, Petitioner could revoke the agreement and did so the week following mediation. No one, absolutely no one told Petitioner leading to years of vexatious litigation. Abuse of Pro-se

d. Respondent's email indicates the conversation with divorce lawyer Evans, who suggested using the family court mediation "remedy" aka code 6.602 to assist the opposition in forcing the mediation agreement validity, not to help Petitioner, her co-client under the same family court case, but to appearingly help opposition, including the dual-representing lawyer. (p.436) Abuse of Pro-se.

e. Respondent apparently aware of the missing code stated that Bergman does not normally do family court mediations and did not include the "bells and whistles". **Hence, all knew the agreement was validly revoked by Petitioner and no one, absolutely no one told her…. Instead, Respondents and all orchestrated the family court-ordered mediation to look like a business mediation...(Manipulation of court for personal reasons)**

f. The many versions of the "handwritten" 2015 mediation agreement had no protection clauses for all lawyers, only the written version. However, if the summary judgment for the handwritten agreement could force validity against Petitioner' refusing to sign the printed version, the respondents, mediator, participating lawyers and especially the dual-representing lawyer would be free from responsibility…. As the printed version released all lawyers from all liability for all actions before, during and after the most horrendous, abusive and dangerous 2015 mediation known.

g. The forced signature on the handwritten agreement was never posted to court as valid, but used in summary judgment in attempt to force signature on the handwritten agreement.

h. Petitioner refused to sign the written mediation agreement due to the abuse, threats and drugging at mediation, and rightfully revoked the 2015 mediation per family court guidelines missing code 6.602. Yet, all lawyers continued to pretend the agreement valid and enlisted more lawyers to do the same.

i. Not until Petitioner figured out upon filing in the appellate court as Pro-se years later that all the money and time lost indicated **vexatious litigation with about six summary judgments filed for and against the validity of the same agreement** which were never judged as a judge cannot judge on a void agreement.

.

j. Contributing to further loss and abuse, a judge cannot tell the client that she does not need to further the lawsuit as the agreement was already void, and Petitioner should regain her company and pursue the embezzlement and theft charges against Johnston.
k. The judges knew and did nothing. Apparently, judges cannot reveal the corruption of other court officials including the representing lawyer, especially as judges fall under the same Bar and depend on political contributions for re-election.
l. Instead, judges **allow the increase demand on the courts by allowing lawyers to increase their income with multiple vexatious pleadings** that remain self-serving and abuse the judicial process. All pleadings from Castille and Jamison, except for Castille's first pleading that caused the failure of the first summary judgment to force the agreement, were vexatious litigation. And Jamison turned out to be the Mediator's friend, and the mediator… turned out to be Respondent's friend.

2. **Manipulating the 2015 Family Court-Ordered Mediation**

A. Petitioner requested the bank records multiple times for mediation and Respondents ignored the request. How can any agreement be decided without enough data to make a decision? **Preventing access to those bank records allowed respondents, mediator and all to control the mediation to appearingly protect Frankfort.**

With bank records, mediation would have been analysis of what Johnston owed back to Asyntria for his thefts and his stepping down from any involvement with Asyntria. Why did Respondents not want Petitioner to see the books?

3. **Court pleadings from Respondents and Bergman intentionally misrepresent that Jody did not want to pay**. Jody wanted to pay and could not.

4. And such was a scheme: Evans ensured lack of funds for mediation. Bergman ensured refusal into mediation without payment knowing the lack of funds. And Respondents threatened Petitioner that she could not leave like Jody or the judge could take away her company for leaving regardless of any agreement made with Johnston. Respondent added that Petitioner must do all asked or the judge would think she was not participating and give the company to Johnston.

5. Respondent misrepresented and told Petitioner that the 2015 mediation was to discuss between the divorcing, a position on the shares of stock owned by Jody which may fall to Petitioner depending on interpretation of the postnup. Respondent, however, sent a business memorandum, unknown and intentionally hidden from Petitioner per Respondents email to Bergman months earlier, covering the "rough-shedding", thefts and all by Johnston and the failed sale with contracts written by a lawyer lacking knowledge of business contracts…

Todd Frankfort focused on divorce whereas Brady was a business lawyer, retained by Asyntria AFTER the bogus sale and contract. Hence, Frankfort was the dual-representing lawyer.

6. So why was Petitioner told the mediation was over community property assets prior to the Rule 11 for assets and then somehow attempted to change it to a business mediation afterwards, but failed to tell anyone? Is that why the docketed court-order to mediation was accessed more than twice? To attempt changing it to a business mediation to fit respondents' agenda? What was changed?

7. Respondents misrepresented in court pleadings that the Rule 11, written prior to mediation, was over community assets instead of money access assisting in dismissal. Intentional misstatement.

8. Regardless of Petitioner correcting this error and many misstatements in pleadings, the courts sided with Respondents, a well-known lawyer, and ignored what Petitioner produced as Pro-se. Why is a Pro-se's evidence straight from Respondents' own case files less significant than hearsay of a lawyer Respondent? Are these courts solely for business use of the legal profession or do courts actually function for the public?

D.**Abusive and threatening tactics at mediation**

1. In addition, the allowance of alcohol and isolating and threatening of Petitioner also indicates subversive reasons for mediation. What mediator allows threats, drugging, and abuse… and then allows the dual-representing (DR) lawyer to leave mediation to go to the liquor store to intoxicate clients who have not made final agreements? Why would the mediator allow Frankfort, known to the mediator as having botched the sale directly causing serious loss of Petitioner's assets directly tied to this mediation, to leave for alcohol? How did allowing the intentional intoxication of Petitioner in the evening with no food benefit the mediation? Benefit Bergman in "handling" the dual representation at mediation as assigned by Respondents to Bergman in a hidden email that acknowledged DR? Benefit Frankfort?

2. How did Respondent's disappearance for hours to allow abuse of Petitioner, his client, benefit the mediator in handling Petitioner's claims against Frankfort? How did the mediator handle a vulnerable-victim, the Petitioner, in dual-representing claims? Where is the accountability and enforceable guidelines to protect the public? Who allows the intoxication of the only woman among five men at mediation and then asks her to stay afterwards to discuss the result? (Thank God for the man behind the door who stopped that one… who was not the Respondents.)

4. A mediator who is mediating for bias and pre-determined outcomes creates such an abhorrence to justice and can do so only with the cooperation of the lawyers present. Respondent at no time represented Petitioner and attempted to purport the courts by enlisting the sign-in sheet as known participation in the most abusive mediation known. Abusing court documents for personal agendas and to give the appearance that all actions done to Petitioner were under the oversight of Respondents as a reflection of representation fail when the mediation was never intended for the court-ordered purpose, and existed as a collusion of lawyers and mediator for the ultimate goal of conspiring protection of Frankfort, then officer of the Houston Bar on ADR.

D. **Respondents failed in numerous ways.** Below are a few ways to minimize word.

1. Respondents:

a. Did NOT shut down mediation when the most important person, Jody, person Petitioner was divorcing, left mediation before it began knowingly placing Petitioner in a vulnerable position.

b. told Petitioner that she could NOT leave mediation.

c. Told Petitioner that she must do everything asked or the judge would rule against her regardless of what decision was made at mediation

d. Knew, allowed, and condoned the use of alcohol prior to signatures on the mediation agreement shown by Respondent asking for a martini ..
e. Did NOT stop Frankfort from getting alcohol to intoxicate Petitioner.
f. Did NOT leave to check on client after learning the opposing counsel intended on intoxicating his client.
g. Did NOT check on client to see why Petitioner would even agree to alcohol at mediation to understand what premeditated such decision. **Respondent did not care about Petitioner as the mediation existed to protect Frankfort.**
h. Did NOT appear for hours while Petitioner was left alone with the man whom she greatly feared.
i. Did NOT appear in the room until Petitioner had been served two glasses of scotch, thus not knowing how much alcohol was served to his client; yet, **included in his post-mediation memorandum multiple hearsay and false statements that protected himself, the mediator and all legal participants.** Such post-mediation memorandum, falsely held up as truth by the courts in their verdicts when Petitioner negated via affidavit all such statements, indicates bias of the courts. Why is Respondents' statements more believable when Pro-se bases her statements on Respondents own case files and emails? Collusion? Conspiracy?
j. Respondent threatened her by physically pushing on her arm stating that she must sign. (Byrd, 409 S.W.3d at 780) **assault**.

k. Did NOT write the memorandum believed by the courts as truth until two weeks AFTER MEIGS REFUSED TO SIGN THE PRINTED VERSION OF THE AGREEMENT and DEMANDED THE HANDWRITTEN AGREEMENT VOIDED for being exposed to the most abusive and manipulative mediation for only reason to protect the actions of court officials.

l. Victim-blamed and threatened Meigs, throughout that semi-truthful memorandum filled with hearsay, for staying at mediation and being forced to drink when she did not want to drink... And then for signing an agreement

m. Respondents attacked their own client in the post-mediation memorandum, whilst representing and billing their client, instead of doing exactly what Meigs requested. Why? Why did the printed version of the handwritten agreement need to be signed then? What else was hidden? Bank statements? Collusion? Frankfort or Brady as an officer of Asyntria as stated by lawyer Castille? Aiding and abetting?

n. **Even the Mediator,** Bergman, as assigned by Respondents condoned alcohol in this mediation that he oversaw by allowing Frankfort to leave in the middle of mediation for a liquor store and helping this lawyer find glasses to use for the liquor, the mediator's personal glasses. What purpose served Respondent? (Tex.Disciplinary Rules Prof. Conduct R. 8.04(a)(3)) (ABA Rules of Prof Conduct)

E. **Unaccountable Abuse against a Vulnerable-Victim** *USA v. Jeffrey L. Goldberg,* 406 F.3d 891

1. Petitioner, within six months prior to mediation, lost her husband of 31 years, discovered the affair between her husband and a close employee, appearingly lost her company, had to fight for a company created for legacy and retirement, had her car broken into when getting her 90 yo father as her mother was coding and required hospitalization, was fired for leaving work to be with her mother on her death bed who died within 30 minutes, lost her mother, thought she had breast cancer but had no insurance to check, and truly was in the most vulnerable position of her life. (406 F.3d 891 (7th Cir. 2005))

2. Petitioner needed someone trust so Petitioner placed all of her trust in divorce lawyer Sheri Evans, and Respondents. Petitioner trusted previous lawyers before of which she did not understand their reasoning and all turned out good. Hence, Petitioner felt safe trusting respondents.

3. Petitioner's vulnerable position and need to trust anyone, allowed Respondents to orchestrated abuse, threats and manipulation for the personal goal of protecting Frankfort as did the mediator, Bergman, and subsequent lawyers whom Petitioner learned belonged to an organized group of legal professionals called, "the Fraternity" as told to her by a court clerk and that they always protect one another, located in all courts and State Bar. Victimized.

4. **Respondent physically pushed** on Petitioner's arm twice threatening that she had to sign or the judge would be upset and needed proof that we had mediation. Out of fear Petitioner signed, realized that she signed on the wrong line, and signed again. **Two signatures.**

5. **Forgery.** 1. In effort to hide the two signatures indicating incapacitation and unknown to Petitioner as this occurred after Petitioner signed twice, Petitioner's relief pharmacist company named, Eagles Klaw, was added under one signature to give the appearance that Eagles Klaw had something to do with the issues and mediation. Undisputed fraud and forgery evident with no recognition from courts. Corruption and Fraud appear to perpetrate all areas of Texas courts.

D. **Final Atrocity of Respondents**

1. Remembering that Petitioner legally voided the agreement and could do so for lack of the family court code 6.602 as mentioned as remedy from Evans to Respondent to help Frankfort/Brady force through the agreement at the first summary judgment, **Respondents always knew that Meigs rightfully revoked the agreement and never said anything to her nor tried to ever defend her even at the summary judgment hearing** to force the agreement. Years of vexatious litigation followed depleting retirement savings, savings, assets, increased credit card debt, prevented repairs, and more.

THE PRO-SE PLIGHT

1. **The plot is simple**. Most case law states an expert witness is required for a legal malpractice, forgery and all. Courts then make pursuing a valid claim harder by demanding an expert witness from whatever college the lawyer graduated.

2. Then lawyers file a summary judgment for causation that requires an expert witness. This allows the judge to help the malpracticing lawyer by approving the summary judgment for lack of an expert witness. (Code of Conduct for United States Judges (Guide, Vol. 2A, Ch. 2)

4. Of course if collusion exists between the judge and Respondents, the judge will ignore the fact that multiple case law exists stating an expert witness is not required and grant summary judgment… and this is what occurred and was supported by the appellate courts. The people need their courts back.

5. Knowing the plight of Pro-se in courts, malpracticing lawyers need only vexatious litigation to deplete assets and compliant judges willing to misuse their status to free legal "buddies" by granting summary judgment.(§320 Canons)

RESPONDENT'S CASE FILES:

1. Petitioner received five boxes of Respondent's case files including a flash drive which is a lot of documentation. (Fed. Rules of Evidence 401)

2. Petitioner believes that Petitioner would not have received such detailed case files of Respondents, highlighting the many abuses of Petitioner with detailed documents and emails, had the Respondents not trusted Jamison to vexatiously litigate Petitioner into debt and sent their complete files indicating collusion, conspiracy, fraud, fraud on the court, and multiple abuses of the courts for personal gain.

3. Oddly, the district and appellate courts found hearsay of Respondents more believable than Respondents own case files presented to the courts. Why is that? Is it disrespect for the Pro-se? An attempt to prevent outsiders into protected courts? Or is it something more sinister like conspiracy and organized crime? The public wants to know. Who will be the champion of the people in courts?

4. Multiple other issues require further addressing including extensive roadblocks.

5. Even with reading, understanding the legal jargon in the documents requires researching. Petitioner's first word to research was "docket". What is a docket? And for some reason, the courts believe that EQUAL means justice? No. No. In this case, equal means discrimination. Equity required.

.

REASONS FOR GRANTING THE WRIT

The court should grant the Writ of Certiorari to the plaintiff as the issues addressed indicate gross manipulation and prejudice in the system. The court system and eFile manipulation are so flawed that Constitutional Rights and Due Process appear randomly depending on the lawyer and lawsuit instead of the guarantee to each person. When lawyers, judges and courts can manipulate the eFile and technicalities for the self-protection of a fellow lawyer as in this lawsuit and do so all the way to the US Supreme Court, the United States faces a serious problem in government administration, fraud, conspiracy, and intent. Courts of the state run amok and the public suffers.

Petitioner, a Pro-se, experienced so much in pursuit of righteousness and pleads with this court to allow a brief to detail and show all the emails and documents that support all said. No one should suffer as I have and am in pursuit against the devastation brought down upon my life by those who corrupted the courts for personal agendas. I am only one of many as evidenced on websites and news.

OVERALL, I do not qualify as indigent; yet, I do not have enough money for a lawyer, nor do I trust one in Texas for this case due to "the Fraternity", so I am Pro-se. Under 28 U.S.C. § 1915(d), counsel may be appointed to assist Petitioner and would be welcomed against such powerful, lawyers.

CONCLUSION

The US Supreme Court remains the last reprieve from growing manipulation and corruption that defaces the courts and Constitution. Please allow Petitioner to expose the extensive evidence and path experienced in order to conclude with a best practice to protect the eFile system, the people, the Pro-se, and the help others throughout the country. The time to address Pro-se is now as a discriminated class, unequal in courts, requiring equity as the only recourse.

Please excuse any errors and technicalities. I have tried very hard to get here and these issues are serious enough to qualify for interest.

Respectfully submitted,

/s/Wendy Meigs,
Pro-se
3131 Blackcastle Dr.,
Houston, Texas 77068

APPENDIX A

Opinion issued July 28, 2020

By Gordon Goodman Justice
Panel consists of Justices Goodman,
Landau, and Hightower.

In The Court of Appeals
For The
First District of Texas
No. 01-19-00321

Wendy Meigs,
Plaintiff-Appellant-Petitioner,
v.
Todd Zucker and Bohreer & Zucker, LLC
Defendants-Appellees-Respondents.

On Appeal from the 13rd District Court
Harris County, Texas
Trial Court Case No. 2017-73029
Honorable Judy McFarland

Memorandum Opinion

This is an appeal from a no-evidence summary judgment in a legal malpractice action. Wendy Meigs retained attorney Todd Zucker and his law firm, Bohreer & Zucker LLP (collectively "Zucker" unless otherwise indicated) to represent her in a shareholder oppression suit against her former business partner. The case went to mediation, and the parties settled. But Wendy later requested that Zucker seek a court order

voiding the settlement agreement, claiming that she had been drugged at the mediation and therefore lacked the capacity to enter into the agreement when it was formed. Zucker refused and ultimately withdrew as Wendy's counsel. Wendy then sued Zucker for malpractice, alleging that he allowed her former business partner to secretly drug her at the mediation and then coerced her into signing the settlement agreement.

Zucker moved for no-evidence summary judgment, arguing, among other things, that no evidence of the elements of breach, causation, or damages existed, as Wendy had failed to designate a testifying expert witness or produce expert testimony in support of her claim. See Starwood Mgmt., LLC v. Swaim, 530 S.W.3d 673, 679 (Tex. 2017) (per curiam) ("Generally, in a legal malpractice case, expert witness testimony is required to rebut a defendant's motion for summary judgment."). Wendy requested a continuance and an extension of her deadline for designating expert witnesses, which the trial court granted. But Wendy did not designate an expert by the extended deadline, and Zucker filed an amended no- evidence motion for summary judgment, which reiterated the arguments made in the first. Wendy did not file a response. After the submission date and without holding an oral hearing, the trial court granted Zucker's amended no-evidence motion and dismissed Wendy's claims with prejudice.

On appeal, Wendy argues that the trial court erred in granting Zucker's amended no-evidence motion because (1) Wendy was never served with the motion or notice of submission; (2) the trial court failed to permit adequate time for discovery; and (3) Wendy produced, in her response to Zucker's original no- evidence motion, summary judgment evidence that raised a genuine issue of material fact as to each element challenged in Zucker's amended no-evidence motion.

We hold that (1) the record reflects Wendy was properly served; (2) the trial court permitted adequate time for discovery; and (3) Wendy failed to produce summary judgment evidence raising a genuine issue of material fact as to causation and damages because she failed to produce expert testimony, which was necessary to raise fact issues as to those elements.

Therefore, we affirm.

Background is Grossly Inaccurate and Removed and Evolved from Respondents Misrepresentations without Regard to Petitioner's files.

After the trial court granted his no-evidence motion, Zucker filed a notice of nonsuit of his counterclaim. The trial court then ordered that Zucker's counterclaim be nonsuited without prejudice and declared that all interlocutory orders had become final.

O

On February 26, 2019, Wendy filed a verified motion for new trial. Wendy argued that the trial court erred in granting Zucker's no-evidence motion because she was never served with the motion or notice of submission. Wendy stated that she "suspected" the electronic filing system had been experiencing "problems" when Zucker filed the motion and notice, which prevented her from receiving electronic service and filing a response.

On April 12, 2019, Zucker filed a response to Wendy's motion for new trial, arguing that the evidence proved Wendy was properly served and noticed. Zucker explained that on November 21, 2018, he electronically filed his motion, a proposed order, and a notice of submission for hearing in accordance with Rule 21a. Zucker attached to his response a copy of the filing record with the Harris County Civil Court e-filing system, which reflected that Wendy was e-served on November 21, 2018. Zucker asserted that this evidence conclusively proved Wendy was served in accordance with Rule 21a. Zucker noted that Wendy was e-filing documents before she retained counsel; he attached e-filing service documents reflecting that Wendy had e-filed multiple documents in October 2018. Zucker asserted that the documents showed Wendy's email address was on file with the e-filing manager and thus constituted further evidence of proper service.

On April 17, 2019, the trial court denied Wendy's motion for new trial. Wendy appeals

No-Evidence Summary Judgment

On appeal, Wendy contends that the trial court erred in granting Zucker's no- evidence motion for summary judgment because: (1) she was never served with the motion or notice of its submission; (2) the trial court failed to permit adequate time for discovery; and (3) she produced, in her response to Zucker's original no-evidence motion, summary judgment evidence raising a genuine issue of material fact as to each challenged element of her malpractice claim.

A. Standard of review

After adequate time for discovery, a party may move for summary judgment on the ground that there is no evidence of one or more essential elements of a claim or defense on which an adverse party would have the burden of proof at trial. TEX. R. CIV. P. 166a(i). The motion must state the elements as to which there is no evidence. Id. Once the party seeking the no-evidence summary judgment files a proper motion, the respondent must produce summary judgment evidence that raises a genuine issue of material fact on the challenged elements. See id.; Roventini v. Ocular Scis., Inc., 111 S.W.3d 719, 722 (Tex. App.—Houston [1st Dist.] 2003, nopet.). If expert testimony is necessary to prove a challenged element at trial, the respondent must produce expert testimony to raise a genuine issue of material fact as to that element. See Praytor v. Ford Motor Co., 97 S.W.3d 237, 241–43 (Tex. App.—Houston [14th Dist.] 2002, no

pet.) (affirming no-evidence summary judgment dismissing negligence and products liability claims when nonmovant was required but failed to present expert testimony to establish causation). If the respondent fails to do so, the trial court "must" grant the motion. TEX. R. CIV. P. 166a(i); Roventini, 111 S.W.3d at 722.We review a trial court's no-evidence summary judgment de novo. Swaim, 530 S.W.3d at 678. In reviewing a no-evidence summary judgment, we consider the evidence in the light most favorable to the party against whom the summary judgment was rendered, crediting evidence favorable to that party if reasonable jurors could and disregarding contrary evidence unless reasonable jurors could not. Gonzalez v. Ramirez, 463 S.W.3d 499, 504 (Tex. 2015); see City of Keller v. Wilson,
168 S.W.3d 802, 827 (Tex. 2005). We will affirm the no-evidence summary judgment if (1) there is no evidence on the challenged element, (2) the evidence offered to prove the challenged element is no more than a scintilla, (3) the evidence establishes the opposite of the challenged element, or (4) the court is barred by law or the rules of evidence from considering the only evidence offered to prove thechallenged element. Sw. Bell Tel., L.P. v. Emmett, 459 S.W.3d 578, 589 (Tex. 2015); City of Keller, 168 S.W.3d at 810.

B. Analysis

1. The record shows Wendy was properly served with the motion and notice of its

submission.

Wendy argues that the trial court erred in granting Zucker's amended no- evidence motion for summary judgment because she was never served with the motion or notice of its submission. Here, the record reflects that Zucker's amended no-evidence motion and the notice of its submission both contained certificates of service certifying that they were electronically served on Wendy in accordance with Rule 21a. These certificates raise a rebuttable presumption that the motion and notice were received by Wendy. See TEX. R. CIV. P. 21a(e) ("A certificate [of service] by a party or an attorney of record . . . showing service of a notice shall be prima facie evidence of the fact of service."); Roob v. Von Beregshasy, 866 S.W.2d 765, 766 (Tex. App.—Houston [1st Dist.] 1993, writ denied) ("A certificate of service creates a rebuttable presumption that the notice was served."); see also Cliff v. Huggins, 724 S.W.2d 778, 780 (Tex. 1987) ("Rule 21a sets up a presumption that when notice of trial setting properly addressed and postage prepaid is mailed, that the notice was duly received by the addressee.").Wendy contends the presumption has been rebutted by two pieces of evidence of nonreceipt: (1) her verified motion for new trial, in which she states that she never received the motion or notice, but had received other filings, and therefore "suspected" that the Harris County Civil Court e-filing system had been experiencing

"problems" when Zucker filed the motion and notice, which prevented the documents from being delivered to her; and (2) the original clerk's record, which does not include a copy of the notice of submission and, according, to Wendy, therefore supports her theory that she never received the motion or notice due to technical problems with the e-filing system. We disagree. First, in response to Wendy's motion for new trial, Zucker produced documentary evidence showing that the motion and notice were e-filed and delivered to Wendy's email address. This evidence included:

- copies of Harris County District Clerk records reflecting that Zucker's motion and notice were e-filed on November 21, 2018, at 10:43 am and accepted later that day at 11:06 am, which show that e-service was completed as of that time, see TEX. R. CIV. P. 21a(b)(3) ("Electronic service is complete on transmission of the document to the serving party's electronic filing service provider."); Brandon v. Rudisel, 586 S.W.3d 94, 102 (Tex. App.—Houston [14th Dist.] 2019, no pet.) ("The rule does not contemplate that electronic service is somehow incomplete when a party experiences computer or email problems.");
- a copy of the email sent to Wendy's email address by EFileTexas.gov and the link to the email identifying the filed documents, which show that Wendy received the motion and notice on the date they were filed;

• copies of other emails showing Wendy had e-filed multiple documents in October 2018 (before she retained counsel) and that her email address was thus on file with the e-filing manager, see TEX. R. CIV. P. 21a(a)(1) ("A document filed electronically under Rule 21 must be served electronically through the electronic filing manager if the email address of the party or attorney to be served is on file with the electronic filing manager."); and

• a copy of the document list for this case on the Harris County District Clerk website reflecting that Zucker's motion and notice were filed on November 21, 2018.

Second, regardless whether Zucker produced evidence rebutting Wendy's testimony, the trial court, as factfinder, could have disbelieved Wendy's testimony that she never received the motion or notice.

Third, Wendy's additional testimony that she "suspected" the e-filing system was experiencing "problems" when Zucker filed the motion and notice was not based on personal knowledge or other competent evidence and is thus conclusory and no evidence of the fact asserted.

Fourth, the notice of submission's absence from the original clerk's record does not support Wendy's claim that she never received the notice. The notice was not among those items that must be included in the clerk's record. See TEX. R. APP.

P. 34.5(a). So if Wendy wanted the notice to be included, she had to "specifically" request it.

designation, such as one for 'all papers filed in the case.'"). Thus, the original clerk's record did not include the notice because Wendy did not request it. The notice was, however, included in a supplemental clerk's record requested by Zucker.

We hold that Wendy has failed to rebut the presumption that she received Zucker's motion and notice.

2. The trial court permitted an adequate time for discovery.

We now consider whether the trial court permitted adequate time for discovery. Zucker filed his amended no-evidence motion for summary judgment on November 18, 2018, and set it for submission on December 17, 2018. See McInnis v. Mallia, 261 S.W.3d 197, 200 (Tex. App.—Houston [14th Dist.] 2008, no pet.) ("The pertinent date for [determining whether trial court permitted adequate time] is the final date on which the no-evidence motion is presented to the trial court for ruling."). By the date of submission:

- the case had been on file for over one year;
- the expert-designation and discovery deadlines in the original docket control order had passed;
- Zucker had already filed an original no-evidence motion emphasizing Wendy's failure to designate any expert witnesses by the original deadline; and

• Wendy had already filed a response to Zucker's original no-evidence motion, obtained a continuance of the hearing and extensions of the deadlines for designating expert witnesses and discovery, and served—and received documents responsive to—over 30 pages of written discovery.

Wendy nevertheless contends that the trial court failed to permit adequate time for discovery. More specifically, Wendy contends that the trial court should have refrained from ruling on Zucker's amended no-evidence motion until Wendy's counsel, who was retained less than three weeks before the motion's date of submission, had been afforded additional time to familiarize herself with the case, designate an expert witness, and file a response to the motion. We disagree for two reasons.

First, after Wendy retained counsel, she moved for neither a continuance of Zucker's amended no-evidence motion nor an extension of the deadline for designating expert witnesses. See Cardenas v. Bilfinger TEPSCO, Inc., 527 S.W.3d 391, 403 (Tex. App.—Houston [1st Dist.] 2017, no pet.) ("When a party contends that he has not had an adequate opportunity for discovery before the consideration of a no-evidence summary judgment, he 'must file either an affidavit explaining the need for further discovery or a verified motion for continuance.'" (quoting Tenneco Inc. v. Enter. Prods. Co., 925 S.W.2d 640, 647 (Tex. 1996))). Because Wendy failed to request this relief, the trial court did not err in failing to grant it.

Second, even if Wendy had moved for a continuance and extension, the trial court had discretion to deny the requests since Wendy had already been afforded adequate time to designate an expert witness and respond to Zucker's no-evidence motion, as the procedural history just discussed reflects.

We hold that Zucker moved for no-evidence summary judgment after adequate time for discovery.

3. Wendy failed to produce summary judgment evidence raising a genuine issue of material fact

Finally, we consider whether Wendy produced summary judgment evidence raising a genuine issue of material fact.

In his amended no-evidence motion, Zucker asserted that no evidence existed for three essential elements of Wendy's legal malpractice claim: breach, causation, and damages. See Swaim, 530 S.W.3d at 678 (stating elements). And Zucker emphasized, once again, that even though Wendy could not prove these elements without expert testimony, she still had not designated an expert witness. Thus, Zucker filed a proper no-evidence motion.

Because Zucker filed a proper motion, the burden shifted to Wendy to produce summary judgment evidence raising a genuine issue of material fact on each challenged element. TEX. R. CIV. P. 166a(i); Roventini, 111 S.W.3d at 722. But Wendy never filed a response to Zucker's

amended no-evidence motion. When, as here, the respondent fails to file a response to a motion that states sufficient grounds for a final summary judgment, the trial court may grant the motion and dismiss the respondent's claims. See Roventini, 111 S.W.3d at 722 ("Under rule 166a(i), therefore, as opposed to rule 166a(c), which governs traditional summary judgments, the trial court may render a summary judgment by default for lack of a response by the respondent, provided the movant's motion warranted rendition of a final summary judgment based on lack of evidence to support the respondent's claim or defense.").

Wendy nevertheless argues that the trial court erred in granting Zucker's amended no-evidence motion because the evidence attached to her response to Zucker's original no-evidence motion raised fact issues precluding summary judgment. Assuming without deciding this evidence was properly before the trial court, it would not have precluded summary judgment because it did not raise a genuine issue of material fact as to the element of causation. See Swaim, 530 S.W.3d at 679 ("And when appellate courts review no-evidence summary judgments, review is of 'the evidence presented by the motion and response.'" (quoting Timpte Indus., Inc. v. Gish, 286 S.W.3d 306, 310 (Tex. 2009))).

In a legal malpractice suit, the plaintiff must generally produce expert testimony to rebut a motion for summary judgment challenging the

element of proximate cause. Swaim, 530 S.W.3d at 679. Proximate cause includes cause in fact, which is tested in part by the but-for test: would the harm alleged have occurred absent the attorney's alleged breach? Id. at 678–79. "This is a suit-within-a-suit inquiry—the actual result with the alleged misconduct or omission is compared to a hypothetical result the plaintiff claims would have occurred absent the misconduct or omission." Id. at 679. Whether the attorney's alleged negligence caused the plaintiff's alleged damages thus involves matters beyond jurors' common understanding since most jurors are not lawyers. Rogers v. Zanetti, 518 S.W.3d 504, 510 (Tex. 2017). As a result, expert testimony is generally required to prove causation in legal malpractice suit. Id.; see also Elizondo v. Krist, 415 S.W.3d 259,
270 (Tex. 2013) (in legal malpractice action based on allegedly inadequate settlement, proof of damages requires expert testimony because establishing damages requires knowledge beyond that of most laypersons); Saulsberry v. Ross, 485 S.W.3d 35, 45 (Tex. App.—Houston [14th Dist.] 2015, pet. denied) (holding expert testimony was required to prove settlement negotiations were proximate cause of damages to former client); Walker v. Morgan, No. 09-08-00362-CV, 2009 WL 3763779, at *5 (Tex. App.—Beaumont Nov. 12, 2009, no pet.) (mem. op.) (affirming no-evidence summary judgment of malpractice claim based on early settlement of lawsuit when

client failed to produce expert testimony that he would have obtained greater recovery but for his attorney's conduct). And, as Wendy concedes in her brief, this case is no exception.

Because Wendy failed to designate an expert witness or produce expert testimony in response to Zucker's no-evidence motion, she failed to raise a genuine issue of material fact as to the element of causation.(1)

Conclusion

We affirm.

Gordon Goodman Justice

Panel consists of Justices Goodman, Landau, and Hightower.

……

1 We note that Wendy's live petition, in addition to claims for legal malpractice, asserted related claims for assault, fraud, conspiracy, and "forgery." Like her malpractice claims, each of these claims required expert testimony on the element

APPENDIX B
Motion for Rehearing
Filed 12/07/2020

In The Court of Appeals
For The
First District of Texas
No. 01-19-00321

Wendy Meigs,
Plaintiff-Appellant-Petitioner,
v.
Todd Zucker and Bohreer & Zucker, LLC
Defendants-Appellees-Respondents.

On Appeal from the 13rd District Court
Harris County, Texas
Trial Court Case No. 2017-73029
Honorable Judy McFarland

After returning the brief to adjust for compliance, the Court Clerk failed to allow "copying the envelope" as required per guidelines, forcing the eFile system to reassign a number and giving the appearance of not filing. Although removed from the docket for correction, without the clerk allowing the copying of the envelope, the date and time cannot be retained. Clerk allowed multiple correction submissions thereafter before dismissing the motion of 3/25/2021 for keeping the timely file hidden. .
Note: this Motion was resubmitted according to the requests by the court clerk

APPENDIX C
Motion to Reinstate
Filed 04/21/2021

In The Court of Appeals
For The
First District of Texas
No. 01-19-00321

Wendy Meigs,
Plaintiff-Appellant-Petitioner,
v.
Todd Zucker and Bohreer & Zucker, LLC
Defendants-Appellees-Respondents.

On Appeal from the 13rd District Court
Harris County, Texas
Trial Court Case No. 2017-73029
Honorable Judy McFarland

Various inconsistencies in regards to the handling of the docketing of motions noted including intentional withholding, date errors in appearance of document on docket. And addressed the earlier letter to the court regarding the fact that the 12.07.20 filing was timely with proof of submission and proof of this clerk rejecting for correction. The court clerk failed to correct the errors of eFile manipulation indicating apparent collusion to assist in the dismissing of the case in bias for Respondent.

APPENDIX D
Order Denying Motion for New Trial -Dismissal Filed 04/17/2019

In The 133rd District Court
Harris County, Texas
Trial Court Case No. 2017-73029

Honorable Judge Judy McFarland

Wendy Meigs,
Plaintiff-Appellant-Petitioner,
v.
Todd Zucker and Bohreer & Zucker, LLC
Defendants-Appellees-Respondents.

Case dismissed by granting the Respondent's "amended" version of summary judgment; although, the "amended" summary judgment could not be found by Petitioner and eventually by temporary lawyer, Cheryl Jahani, typical leniency was not granted by McFarland.

APPENDIX E

Petition for Review
Denied 10/29/2021 by Mail

In the Supreme Court of Texas
Case no. 21-0545

In The Court of Appeals
For The
First District of Texas
No. 01-19-00321

Wendy Meigs,
Plaintiff-Appellant-Petitioner,
v.
Todd Zucker and Bohreer & Zucker, LLC
Defendants-Appellees-Respondents.

On Appeal from the 13rd District Court
Harris County, Texas
Trial Court Case No. 2017-73029
Honorable Judy McFarland

MAILED NOTICE OF DISMISSAL
RE: Case No. 21-0545 DATE: 10/29/2021
COA #: 01-19-00321-CV TC#: 2017-73029
STYLE: MEIGS v. ZUCKER

Today the Supreme Court of Texas denied the petition for review in the above-referenced case.

APPENDIX F

Basis for Timely Petition for Writ of Certiorari
Motion for Rehearing
Denied 12/17/2021 by Mail

In the Supreme Court of Texas
Case no. 21-0545

In The Court of Appeals
For The
First District of Texas
No. 01-19-00321

_____

Wendy Meigs,
Plaintiff-Appellant-Petitioner,
v.
Todd Zucker and Bohreer & Zucker, LLC
Defendants-Appellees-Respondents.

_____

On Appeal from the 13rd District Court
Harris County, Texas
Trial Court Case No. 2017-73029
Honorable Judy McFarland

MAILED NOTICE OF DISMISSAL:

RE: Case No. 21-0545 DATE: 12/17/2021
COA #: 01-19-00321-CV TC#: 2017-73029
STYLE: MEIGS v. ZUCKER

Today the Supreme Court of Texas denied the motion for rehearing of the above-referenced petition for review.

CERTIFICATE OF COMPLIANCE

No. _____

Wendy Marie Meigs,
Petitioner

v.

Todd Zucker and Bohreer & Zucker, LLC.,
Respondents

As required by Supreme Court Rule 33.1(h), I certify that the Petition for Writ of Certiorari contains 2982 words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 15th, 2021.

/s/ Wendy Meigs
Pro-se
3131 Blackcastle Dr.
Houston, Texas 77068
281-798-0780

CERTIFICATE OF SERVICE

No. _____

Wendy Marie Meigs,
Petitioner
v.
Todd Zucker and Bohreer & Zucker, LLC.
Respondents

I, Wendy Meigs, do swear or declare that on this date, March 15th, 2021, as required by Supreme Court Rule 29, I served three copies of the enclosed Petition for a Writ of Certiorari on the party's counsel, by depositing an envelope containing the above documents in the United States mail properly addressed to counsel and with first-class postage prepaid for delivery within 3 calendar days.

The name and address of those served are as follows:

Cynthia Louise Freeman
Counsel for
Todd Zucker and
Bohreer & Zucker, LLC
2727 Allen Parkway, Ste 500
Houston, Texas 77019-2115
713.650.6600
713.650.1720 Fax
cfreeman@schlawyers.com

Sam Houston
Attorney on Record for
Todd Zucker and
Bohreer & Zucker, LLC
2727 Allen Parkway,
Suite 500
Houston, Texas 77019
713.650.6600
713.650.1720 Fax
shouston@schlawyers.com

I declare under penalty of perjury that the foregoing is true and correct.
Executed on March 15th, 2021.

/s/ Wendy Meigs
Pro-se
3131 Blackcastle Dr.
Houston, Texas 77068
281-798-0780