Sharon V. Galloway,	) Maryland Court of Appeals
Petitioner Pro Se	) Petition docket No.: 383
vs.	)
J. Edward Martin et al.,	) September Term 2011
Respondent	)

PETITION FOR WRIT OF ERROR CORAM NOBIS

As guaranteed by the Maryland Constitution, Article 24 of the Declaration of Rights, the Petitioner respectfully requests for leave to file Writ of Error Coram Nobis in The Maryland Court of Appeals to remedy the fraud perpetuated upon the Petitioner, fraud upon the courts, judicial error and indiscretion, and error by the clerk's office. The Petitioner asks the Maryland Court of Appeals to exercise its inherent equitable power to set aside its prior ruling and the erroneous ruling of the Court of Special Appeals, and allow the justice and due process as guaranteed by the Maryland Constitution Declaration of Rights Article 5, and the 5th and 14th amendments of the United States Constitution to the Petitioner. (1) *Frank Conaway, et al. v. Gitanjali Deane, et al., No. 44, Sept. Term 2007.*

As the Supreme Court of the United States observed in *United States v. Morgan,345 U.S. 502, 507-08 (1954)*, the writ of coram nobis is available at common law to correct errors of fact. It is allowed without limitation of time for facts that affect the "validity and regularity" of the judgment, and is used in both civil and criminal cases.

Maryland courts have express authority under the Maryland Rules. *Riffin v Circuit Court for Baltimore County et al* citing to; *Cf. In re. Petition for Writ of Prohibition, 312 Md. 280, 302 n.13 (1988).* (2) *Phillip Morris Inc. et al v the Honorable Edward J. Angeletti 2000.* A Maryland court has all the powers of the common law unless altered by statute. *See; Article 5 of the Maryland Declaration of Rights.* As this Court's decision making has been subverted by fraud, judicial error and clerical error as demonstrated by the record, there is no reason why the Court would refuse to grant this petition for writ of error coram nobis to accord the petitioners relief. (3) (Md rule 2-535) This Court has the inherent equitable power to set aside fraudulently begotten judgments and restore the petitioner to the position she would have enjoyed in the absence of fraud and error, and the Petitioner has advanced a substantial and good faith basis for invoking this Court's jurisdiction.

The Petitioner submitted a Motion for Reconsideration, a Writ of Mandamus with Declaratory Complaint, and a Motion for Summary Judgment that the Court of Appeals has summarily ignored, denying only the Motion for Reconsideration. For these reasons, the Petitioner now must rely upon this Petition for Writ of Error Coram Nobis.

INTRODUCTION :

All of the Petitioners appellate filings begin with the respondents trial court motion for summary judgment, the Petitioner pro se motion for reconsideration and all appellate filings regarding her physician who is also Petitioners medical expert. This is the only dispute as there has been no challenge to Petitioners injury ,other treating doctors, or Petitioners experts

The ONLY challenge by the respondent is to the same doctor/medical expert that the respondent relied upon in the underlying case for causation, damages, and medical expenses; et al.

The respondent, J. Edward Martin Esquire represented the Petitioner, Sharon V. Galloway in the underlying legal malpractice case that is titled "Galloway v Goodman", and was case No. 03-C-00-001438 in the Balto. County Circuit Court. It is fact that the respondent lost that case due to not naming experts and refusal to respond to discovery (E 171) and not answering the defendant Goodman's Motion for Summary Judgment. In a hearing before the Hon. Judge Cahill in the Baltimore County Circuit Court, on April 2, 2001, the court allowed the respondents oral request to dismiss without prejudice, and file the complaint again. It was recorded on the transcript during the April 2, 2001 hearing before Judge Cahill that the respondent admitted to negligence, and the judge told him he is negligent. It was recorded on the transcript of that April 2, 2001 hearing that the respondent J. Edward Martin Esquire stated to the record that he is using the medical expert, Grace Ziem, M.D. Dr. P.H. as the medical expert who will testify in the "Galloway v Goodman" case as to causation, medical expenses, future medical expenses, and lost wages.

The second case number is 03-C-02-001545 and is titled "Galloway v Goodman", and it was filed February 12, 2002, the respondent Martin *naming the same medical expert as before.*

Regarding the toxic injury of the Petitioner; It is known by mechanics reports that the propane furnace was malfunctioning, it is known by mechanic reports that the propane furnace had a cracked heat exchanger; it is known by mechanic reports that the propane furnace was full of soot that clogged the furnace so it could not vent and this furnace needed to be replaced as stated in the mechanics reports, but the landlord chose to repair it instead, forcing the mechanics to modify the

parts that were available, as this furnace was too old to find the appropriate parts. It is known by mechanic reports that the propane furnace had faulty switches, and that it literally emptied an entire 100# bottle of propane into the Petitioners apartment. It is known by mechanic, applicator and reports from Baltimore County that the well water was extremely infected with E. coli type bacteria, and it is known that that water also had"rainbow sheen" on all water that was standing, such as a cat dish. The carbon monoxide exposure, and the infected well water that resulted in the extraordinary illness of the Petitioner are fact. These facts have never been in dispute at any stage, and are supported by emergency room reports, doctor reports, testing, letters from the Petitioner to the landlord, by deposition of the furnace mechanic and by Plaintiff/Petitioners expert engineer deposition.

All support the foundation for a prima facie case regarding the Petitioners toxic injury to carbon monoxide, propane gas and infected well water. There were two applications of "Dursban" that was initially investigated by Roger Weinberg of Birrane Chartered, but this was eventually ignored by all lawyers. The respondent completely failed in his second bite at the apple, and forced the Petitioner into a settlement with threats of harm, manhandling, and sexual harassment, and then took more than half of that settlement resulting in not even enough money for the Petitioner to pay her medical bills. The respondent never did any investigation of the toxic exposures, choosing instead to state without foundation or investigation that the Petitioner had been exposed to petroleum products due to the possible existence of old underground storage tanks for gasoline on the property where the Petitioner had resided. The Petitioners legal expert, Phillip Feldman Esquire, in his affidavit states the negligence of the respondent *copy paste from E 185-185 below*:

GALLOWAY	*	IN THE
Plaintiffs	*	CIRCUIT COURT
v	*	FOR
MARTIN, et al	*	BALTIMORE COUNTY
Defendants	*	Case No.

AFFAIDAVIT OF PHILLIP FELDMAN, ESQ.

1. I am over 18 years of age and competent to testify in this matter.

2. I hold a juris doctorate degree and I am licensed to practice law in the State of California and a member of good standing at the Bar. I have practiced law for over 40 years, with a primary focus in personal injury civil litigation representing Plaintiffs.

3. I have served as a legal expert in ~~hundreds of~~ many cases across the country and have litigated many toxic tort cases in my 40 years at the Bar.

4. I have reviewed the pleadings and material provided to me in the matter of Galloway v Goodman and I have reviewed the pertinent case law in the State of Maryland regarding standard of care for attorneys practicing in the area of legal malpractice and toxic tort litigation. The Standard of Care, accordingly to Maryland Case law, would have required Mr. Martin to investigate all possible claims Ms. Galloway had against all prior counsel. In this matter, the standard of care for attorney similarly situated, with similar education, training and experience, would have required Mr. Martin to make a reasonable investigation into the carbon monoxide claim, the petroleum claim and the Dursban claim. The Standard of Care in Maryland would have required Mr. Martin to secure ~~experts in the field of~~ technical consultants engineering, geology, hydrogeology

and toxicology, to either prove or rule out, Carbon Monoxide poisoning, petroleum contamination in the well water, and/or what effect, if any, the ~~Dursban that was applied~~ Toxic Contamination in the apartment had on Ms. Martin. Specifically, interviewing Barry Dubit, who was deposed on September 2, 2008, who testified that performed tests on the furnace in question which showed a crack in the heat exchanger and that the furnace was emitting carbon monoxide into the unit of 35 ppm and into the apartment, after the furnace being on for ten minute and a level of 3 or 4 ppm before turning of the furnace. Mr. Martin made no attempt to contact this witness before trial.

5. It is my opinion, based on my education, training and experience, and my review of all of the case material provided to me, Maryland Case Law regarding the Standard of Care for Attorneys in the State of Maryland, ~~jury verdict reporters for~~ of Baltimore County and the entire State for legal malpractice and toxic tort awards, that Edward Martin, Esq., breached the standard of care owed to Plaintiff by:

a. Failing to investigate the claim of petroleum well contamination before filing suit;
~~b. Failing to have the well water and ground water tested before naming experts;~~
c. Failing to have the well water and ground water tested before permitting experts to be deposed;
d. Failing to investigate the claim of Carbon Monoxide exposure before filing suit;
e. Failing to designate experts with respect to the claim of Carbon Monoxide exposure;
f. Failing to consider what effect, if any, Dursban had on Plaintiff;
~~g. Failing to include Dursban as a separate legal malpractice count against Goodman;~~
h. Causing the initial complaint to be dismissed because of lack of discovery;
i. Permitting a duplicate complaint to be filed, with the same allegations and the same experts, which performed no investigation;
j. Permitting experts to be named who performed no tests to determine whether or not ~~petroleum had contaminated the drinking water;~~ existed

(1073-001 / DD0011.DOC)

k. Permitting experts to be named who had no experience in Carbon Monoxide claims;

~~l. Permitting experts to be named who had no experience in Dursban cases;~~

m. And other breaches to be testified to at trial.

6. As a direct proximate and foreseeable result, the Plaintiff was forced to accept a Settlement, of $40,,000 which was unreasonable, given her damages FAR exceeded $4/5,000 ~~$1,000,000 dollars~~. My review of Maryland Case law reveals that the non-economic cap on pain and suffering to be $350,000 dollars, that Maryland recognizes lost wages as an element of damages, in this case $300,000 and Maryland recognizes medical expenses, which are estimated at over $400,000 as an element of damages.

I HEREBY DECLARE AND AFFIRM UNDER THE PENALITIES OF PERJURY THE FOREGOING IS TRUE AND CORRECT TO BEST OF MY KNOWLEDGE AND BELIEF.

9/3/08

Phillip Feldman, Esq.

The valid, reported and recorded by mechanic exposures to carbon monoxide, propane gas, and infected well water were never investigated by the respondent J. Edward Martin Esquire. Considering he has all of this information in his Bates numbered files, with contact information and medical reports that unequivocally support these exposures and resulting illness, this is bright line negligence.

The Petitioner has included a copy of the pro se Third Amended and the Petitioners represented by legal counsel Fourth Amended Complaint for better timeline purposes. *See DVD list of attachments*

The Petitioner filed suit against J. Edward Martin Esq, J. Edward Martin Esq."Chartered" and Lawrence Melfa Esquire in May of 2006. Melfa was later dropped from the suit, with the stipulation that Melfa testify as a fact witness for the Plaintiff – the Petitioner here.

The Petitioner was self represented until 2008, when A. Donald C. Discepolo Esquire entered his appearance on behalf of the Plaintiff/Petitioner.

It is a fact, as outlined in the Petitioners Brief for Appellant, that extensive discovery and hearings were conducted over many months directed at the Plaintiff pro se and the Plaintiffs long term treating physician and Medical Expert, Grace Ziem M.D. Dr. P.H., beginning in August 2006. As stated in the Brief for Appellant from Statement of the Case page 3;

From Appellants brief p. 2, 3 ;

The first Motion for Summary Judgment regarding the "preclusion" of Dr. Grace Ziem and all of Appellees experts is dated Dec. 31,2007 (0072000 to 0077000). A response was filed by the Appellant (0077001) A hearing on February 20, 2008 resulted in the Order of the Court stating that Appellees Motions for Summary Judgment were denied, the Appellees motions to preclude testimony of Dr. Grace Ziem are denied, and Appellee Martin must respond to Appellants Discovery. (0080000)

Numerous Motions For Summary Judgments ensued, again including the "preclusion" of Appellants medical expert, (0089000, 0092000, to 103000) (E 160 -166) (Plaintiffs opposition E 167 – E 209) and Appellees motions were denied September 17, 2008 (0107000) (Trans E 52-69, Order E 210) The Appellee Martin filed another Motion for Summary Judgment to Exclude the Testimony of Dr. Grace Ziem "Due to Failure to Meet the Frye-Reed Standard or that of Maryland Rule 5-702," on March 6, 2009 (0110000) On March 13, 2009, the Appellee then filed a series of seven "Motions In Limine" that again, included another Motion to Preclude the Testimony of Dr Grace Ziem, only now upon the eve of trial, the Appellees Motion speciously alleges; "Because Dr. Ziems Opinion Based Upon Medical and Scientific Information and Knowledge Unknown At The Time Of The Underlying Case"w/ memorandum and exhibits. (0111000)(E 211) Appellants counsel answered with the legally prevailing opposition. (0111001)(E226 – 313) The Appellee had waited to file in March 2009, eight months after the scheduled deadline. (admitted knowledge E-161) A hearing was held April 2, 2009, even though the deadline for dispositive motions was August 2008. (E 71- 73)

The respondent, relied on concealed documents for his MSJ that he refused to provide as per discovery requests from the pro se Petitioner and later refused discovery to Petitioners attorney, and even refused as Order from the trial court to provide discovery. *See attach. P. 10, 11*

The Petitioners appeal is based upon the admitted negligence of J. Edward Martin Esquire before a trial court judge, and the fact that the respondent named the same expert he is now deceitfully disputing.

The Petitioners appeal is also based upon the fact, that the respondent with premeditated purpose and a deliberate and malicious intent, filed his latest Motion for Summary Judgment not only using the documents he refused to turn over regarding numerous discovery requests, but that

he used the exact same argument that the defendant Goodman used in the underlying case wherein he lost – twice – and admitted he was negligent and refused all discovery requests.

The Petitioner does not have the defendant Goodmans pleadings, as the respondent ignored the Petitioners and her attorneys requests, and he also ignored the Order of the court to turn over these documents. This seems to be his "M.O.", and the court supported and condoned this illegal behavior by the respondent and his legal team.

However, from the courts docket of the underlying "Galloway v Goodman cases, one can see the exact same argument that forced the respondent Martin into abject failure, *twice*, and this is the exact same argument he used as the defendant in the "Galloway v Martin" case, they are the same.

This fact alone shows the respondent had actual knowledge, refused to turn over this knowledge, and then sat on this knowledge until he knew the Petitioner had spent thousands of dollars on her experts. This was his and his legal team's plan. From E. 476 – 487 Copy-paste:

03-C-00-001438 Date: 12/22/09 Time: 11:37 Page: 5

Num/Seq	Description	Filed	Entered	Party	Jdg	Ruling	Closed	User ID
0021000	*Motion in Limine precluding testimony from expert witnesses on issues relating to multiple chemical sensitivity; necessity of medical treatment; and causation of plantiffs alleged medical problems w/exhibit	03/28/01	03/29/01	DEF001	TBA		05/26/04	MRS PA
0022000	Open Court Proceeding April 2, 2001 Hon. Robert E. Cahill, Sr. Hearing had in re: Motions. Defendant's Motions (pap#13000)- Denied, (pap#16000)- Denied without prejudice, (pap#17000)- Reserved, (pap#18000)- Denied,(pap#19000)- Denied without prejudice, (pap#20000)- Reserved, (pap#21000)- Reserved. Plaintff's Oral Motion to dismiss without prejudice- Reserved. Case continued until Friday 4/9/2001.	04/02/01	04/02/01	000	REC		05/26/04	KD PA
0023000	Motion for Voluntary Dismissal WITHOUT PREJUDICE	04/04/01	04/05/01	PLT001	TBA		05/26/04	DR PA

After all, the respondent did threaten the Petitioner, among other threats, telling her he would "bury" her if she sued him. And this is how he and the courts allowed this to happen.

SUMMARY

The Brief of the Appellant, the Appellants Reply brief and Record Extract cover in detail, the most flagrant violations of Maryland Rules and violations of judicial, ethical rules and values by the defendant/appellee/respondent, J. Edward Martin Esquire and an obvious disregard of United States Constitution guarantees of due process, Maryland State Constitutional guarantees of due process, Maryland law, precedent, and decisions/rule by the courts. These indiscretions based

upon fraud, deception and judicial autocracy, as declared in the Brief and Reply Brief of the Appellant/Petitioner were never denied - or answered – by the respondent, and the Court of Special Appeals lack of discretion towards these documented facts is prejudicial to the administration of justice, against Maryland law and case citation, and are in absolute error resulting in a total disregard of due process to the Petitioner. From; *Woodsen v Saldana Md. Court of Special Appeals No. 1150 Sept. Term 2000* ...(quote) "This abrupt termination and finding denied Woodson her right to procedural due process under the *Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights."*

The Brief of the Appellant requested judicial notice, which was (not surprisingly) ignored.

The collateral consequences of this lack of discretion by the courts, judicial autocracy, judicial error and the in your face fraud by the respondent J. Edward Martin, Esquire, are far reaching and will affect all clients who are the victims of immoral unethical lawyers and their large corporate law firm insurance lawyers, and is a complete judicial disregard of procedure and precedent.

Accordingly, as the Maryland Court of Appeals has exclusive jurisdiction over all attorney misconduct of any kind, it is imperative that this writ be granted. Against all Maryland rule, precedent, and common sense, the respondent J. Edward Martin Esquire prevailed at Summary Judgment in the circuit court due to a dispute over the exact same medical expert that the respondent J. Edward Martin employed in the underlying case that is titled, "Galloway v Goodman" that he stated to the record in front of a trial court judge would testify as to "causation, medical expenses and damages". This fraud by the respondent who relied upon judicial errors and indiscretion of all the courts are fundamental to the validity of the judgment. (E. 75)

The denial of equal protection under the law, and the denial of due process to the Petitioner is clearly a product of bias and prejudice - though *Griffin v. Breckenridge, 403 U.S. 88 (1971)*, provides a remedy for the conspiracy for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws or of equal privileges and immunities under the law. The courts have denied the Petitioner her right to be heard in their fanaticism to cover for their own. The public knows this, the Petitioner knows this.

As outlined by the docket it is obvious that the respondent J. Edward Martin, waited until eight months past the deadline for filing dispositive motions in a maneuver that was malicious, premeditated, and deliberate, as the motions filed by J. Edward Martin Esquire are based upon the

Discovery requests by the pro se litigant and later by her lawyer, that were concealed, refused and ignored while the respondent waited for the deadline for Discovery to pass. (E. 115 line 20)

This is a premeditated and calculated action by the respondent and his legal counsel, and is a question for the jury to deliberate. (E. 71-75 ; the trial court questions the timing of filing) (E.186,187 - letter from Petitioners counsel stating that the respondent has not responded to Discovery)

It is also on the record and in transcript from the underlying "Galloway v Goodman" case that the respondent admitted to negligence, by again...not responding to discovery requests, not naming experts, E-205 From transcript: The Hon. Judge Cahill speaking *"I am not willing to sign an order of dismissal without prejudice that would allow him to go shop experts again. Hes' made a commitment in this case. He has said it to the record. He has said that he is negligent".*

It is legally imperative that the Maryland Court of Appeals review the fraud of the respondent, judicial indiscretion and error, procedural error and error of the clerk regarding the Petitioners writ of mandamus and motion for summary judgment to maintain integrity and so the public's right to rely on some semblance of justice - as guaranteed by the Maryland Constitution, and the U.S. Constitution can be restored.

The record reflects that the respondent J. Edward Martin, and the courts have shown contempt for Maryland law, the Maryland Rules, Maryland Code, the MLRPC, Maryland precedent, and the courts have condoned these actions by refusing the Petitioner at every single level, under no color of rule, law, or reason.

PROCEDURAL HISTORY:RE; THE UNDERLYING CASE "GALLOWAY V GOODMAN"

It is fact in the underlying *Galloway v Goodman* case that the respondent J. Edward Martin Esquire acting as the Petitioners lawyer;

1- in the underlying "Galloway v Goodman" case, the respondent J. Edward Martin, relied upon the exact same medical expert and the exact same medical experts opinion regarding causation, opinion, and clinical notes that he now disputes. (E. 149-150 from transcript of the **May 20, 2009** hearing: Petitioners attorney Don Discepolo Esq. is speaking to the circuit court (copy-paste below)

Petitioners attorney Don Discepolo Esq. speaking before the Court in May 2009

Galloway had. Now, it's interesting that we're here on a Summary Judgment Motion for damages because this case, your Honor, the sole crux of the malpractice was that Mr. Martin didn't pursue the liability aspect of the carbon monoxide exposure and your Honor can see from the file and the prior pleadings here, that we've established liability, a prime facie case, and there is an issue with respect to this furnace malfunctioning and producing carbon monoxide. We have an eyewitness, a fact witness, and we have an engineering expert. Now, the Court will remember that the Court didn't allow me to add any additional medical experts.

We were stuck with Dr. Zeim. Dr. Zeim was the physician that was designed by J. Edward Martin in the case below.

JUDGE COX: But it is what puts you where you are. You were allowed to designate and to do some other things in other areas and you shored up holes that had previously been there when Ms. Galloway was representing herself. But she designated a medical expert and I didn't allow, nor do I think she actually ever requested, that she had asked to rethink that. She designated who Mr. Martin had designated

***notice**; last line the court states "she designated who Mr. Martin designated"*

2- In the underlying case "Galloway v Goodman" the respondent testified at the defendant Goodmans 2001 Motion for Summary Judgment hearing before the Hon. Judge Cahill that the exact same medical expert he is now disputing will testify at the underlying "Galloway v Goodman " trial as to causation damages, future medical expenses and lost wages. (**testimony: E 192, E 198, E199, E 207**) (**E 229, 237-239**) On E. 198, from the underlying case, the **transcript before the Hon. Robert E. Cahill Sr. on April 2, 2001**, the respondent Martin clearly identifies the same

medical causation witness that he now illegally disputes . from E 198

Respondent J. Edward Martin Esquire testifying before the Hon. Judge Cahill in the underlying "Galloway v Goodman" case : E. 198 on April 2, 2001

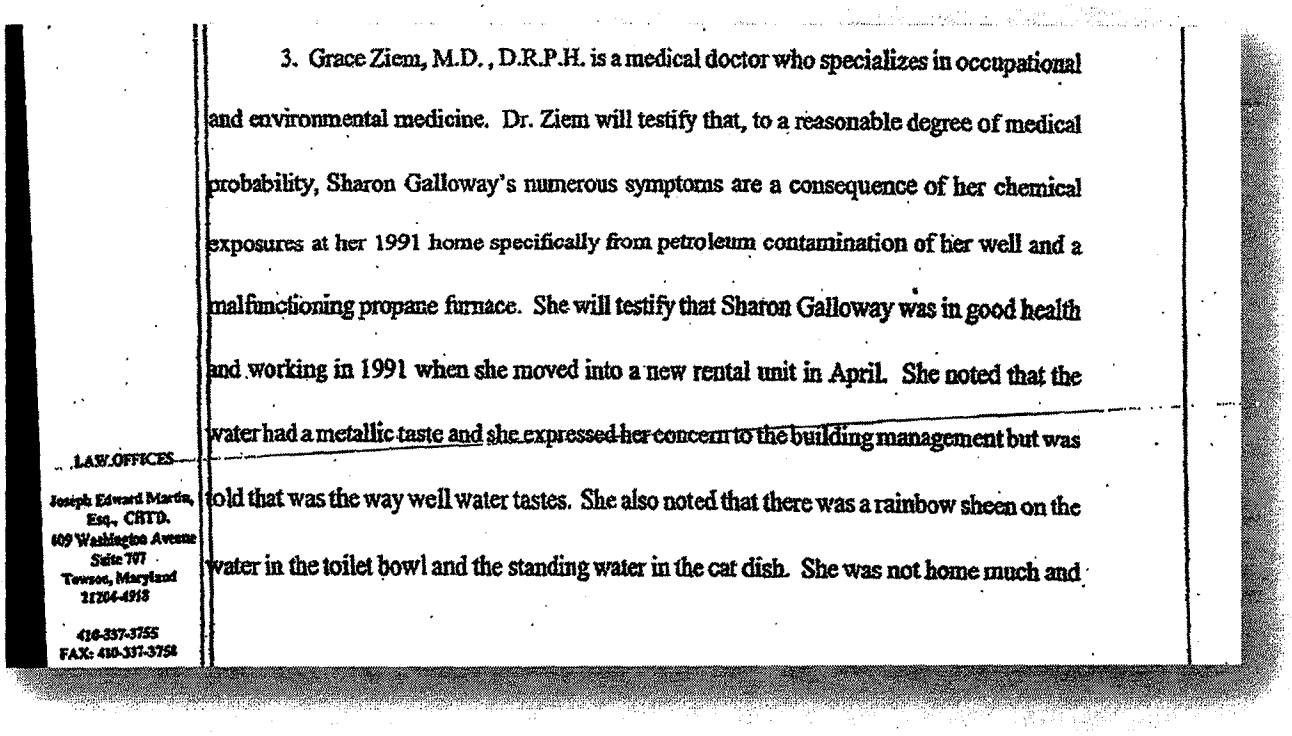
THE COURT: Necessity of medical treatment, and causation, simple causation of Plaintiff's alleged medical problems.

Now, this morning Mr. Martin states that he has a causation witness -- namely Dr. Zeim, is that right?

MR. MARTIN: Yes, sir.

3 - In the underlying case "Galloway v Goodman" it is fact, that after this April 2, 2001 "warning notice" by summary judgment hearing regarding the Plaintiffs medical expert, the respondent J. Edward Martin Esquire was allowed by the court to re-file the Plaintiff Galloway's Complaint. But, he again *negligently used the exact same verbiage that was just disputed* in the defendant Goodman's summary judgment hearing in all answers to the defendant Goodman's pleadings – the respondent J. Edward Martin Esquire did not change the disputed words, or file new answers, or request a new medical expert, and by these actions, completely failed in his fiduciary duty to his client, the Petitioner here, and again, the respondent is a failure and is spitefully negligent, because he knew he had lost again due to his own sloth, mistakes, and failure. This is fact - that even after the Defendant Goodman's Motion For Summary Judgment, and during his entire representation of the Petitioner, extending from *the 2001 dismissal without prejudice of Petitioners case that was due to the failure of respondent J. Edward Martin Esquire to procure experts*, and *refusal to provide Discovery* , and **admission of negligence**, on to the second Complaint filed by the respondent J. Edward Martin Esquire in 2002. *"This deception by the Appellee is not only transparent, but outrageous, unethical, and must be estopped." (Appellants brief p. 8-9)*

5- From the "Plaintiffs Designation of Expert Witnesses" on page 5 (E-298) respondent J. Edward Martin Esquire of behalf of the Plaintiff (the Petitioner here) clearly designates the medical expert he now disputes to testify regarding the Petitioners toxic exposures. (copy paste)



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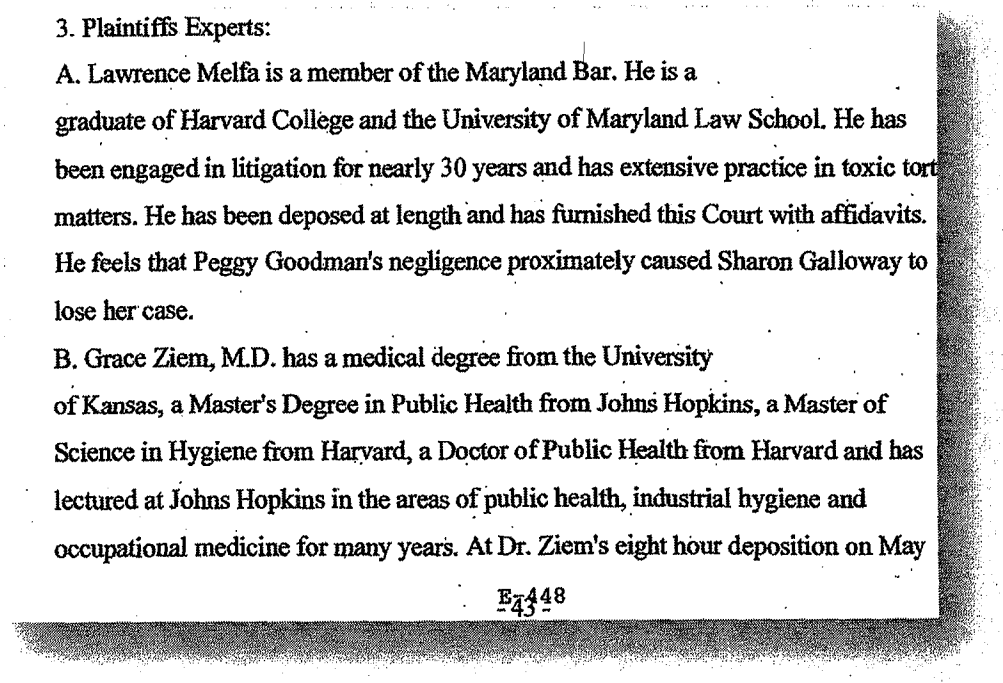
3. Grace Ziem, M.D., D.R.P.H. is a medical doctor who specializes in occupational and environmental medicine. Dr. Ziem will testify that, to a reasonable degree of medical probability, Sharon Galloway's numerous symptoms are a consequence of her chemical exposures at her 1991 home specifically from petroleum contamination of her well and a malfunctioning propane furnace. She will testify that Sharon Galloway was in good health and working in 1991 when she moved into a new rental unit in April. She noted that the water had a metallic taste and she expressed her concern to the building management but was told that was the way well water tastes. She also noted that there was a rainbow sheen on the water in the toilet bowl and the standing water in the cat dish. She was not home much and

And in "The Plaintiffs Settlement Conference Memorandum, the respondent J. Edward Martin Esquire again names the disputed medical expert as an expert and one who will testify:

(copy paste E.448)



3. Plaintiffs Experts:

A. Lawrence Melfa is a member of the Maryland Bar. He is a graduate of Harvard College and the University of Maryland Law School. He has been engaged in litigation for nearly 30 years and has extensive practice in toxic tort matters. He has been deposed at length and has furnished this Court with affidavits. He feels that Peggy Goodman's negligence proximately caused Sharon Galloway to lose her case.

B. Grace Ziem, M.D. has a medical degree from the University of Kansas, a Master's Degree in Public Health from Johns Hopkins, a Master of Science in Hygiene from Harvard, a Doctor of Public Health from Harvard and has lectured at Johns Hopkins in the areas of public health, industrial hygiene and occupational medicine for many years. At Dr. Ziem's eight hour deposition on May

E-43-448

Cont. below:

15, 2003 she stated that Sharon Galloway had toxic encephalopathy, reactive airway dysfunction and autoimmune disease. All of these were proximately caused by the now banned pesticide commercially sold as Duraspan and by a malfunctioning furnace at the original defendant's premises wherein Sharon Galloway resided as a tenant. Dr. Ziem estimated, at her deposition, that it would cost $1,000,000.00 for all the remedial measures needed by Sharon Galloway who had been poisoned by industrial toxins.

From E.449- the respondent J. Edward Martin Esquire utilized the medical expert he now disputes as the expert to state to damages:

H. Plaintiff's Damages.

4. Grace Ziem, M.D. estimates that it will cost more than $1,000,000.00 for the Plaintiff to receive the following future medical needs:

A. Periodic evaluation of neurological status, upper and lower respiratory conditions, immune function, liver detoxification function, thyroid status, adrenal status and gastrointestinal status.

B. Oxygen therapy.

C. Nutritional supplements.

D. Specific ELISA lab testing.

E. Hyperbarric oxygen treatments.

F. Cognitive rehabilitation therapy.

G. Neurosensitization.

5. One Million Dollars is the same amount for which Peggy Goodman brought suit against Edward Birrane and Roger Weinberg.

JOSEPH EDWARD MARTIN ESQ., CHTD.

Below: E-99, 100, Petitioners attorney, Don Discepolo Esq. re; "Galloway v Martin"

Transcript of the April 2, 2009 hearing (see attachments 24-25)

THE COURT: That's not the question unfortunately. The question is did she have a provable case with competent representation then and based upon medicine then known and available.

MR. DISCEPOLO: If I would have represented her, I would have handled --

THE COURT: The question is -- well, nevermind. Nevermind.

MR. DISCEPOLO: You understand, your Honor, and I don't want to belabor this point. This is the expert that the defendant selected in the case below. That is the only expert that Miss Galloway had when she filed this case pro se. This was the expert he was planning to go to trial with.

THE COURT: But that's not the issue.

MR. DISCEPOLO: The issue for the first part of that argument is that there's an admission by the defendant.

He used this doctor. So if this doctor is struck, it's a further admission that he didn't do his job.

THE COURT: Yeah, but the problem is to prove -- there was a way to prove it. And I know she was pro se, you got in late, you only had an expert on certain things. I understand all that. We are where we are.

MR. DISCEPOLO: Dr. Penny was around in 1996. You know, the weirdness in this case if they had called Dr. Penny when the defendant was representing her -- there are e-mails to confirm it -- they could have gotten an expert into the case to prove everything that the defense is trying to disprove now.

THE COURT: Which is available to me through what right now?

MR. DISCEPOLO: I'm sorry?

THE COURT: Is your reliance on a book I have never seen? I don't think it's referenced in anything I have read.

MR. DISCEPOLO: Yes, your Honor, because Dr. Ziem never cited this book. She cited an article in this book. Dr. Penny is an expert that I used in other CO cases. He is the national expert on carbon monoxide. The reason I'm sure these opinions were known in 1996, the plaintiff went and found this expert on her own, left the defendant know about it, this would have been the guy that would have been

5- The respondent J. Edward Martin Esquire failed in his very expensive testing for petroleum products that he identified as an exposure BEFORE he investigated anything, and the Petitioner as per interrogatory has identified the environmental engineer as one who will testify how and why respondent Martin failed in that respect.

6- The attorney who respondent J. Edward Martin identified as the "controlling law firm" E-181, Lawrence Melfa, Esquire, is also a named fact witness who will testify on the Petitioners behalf regarding the failure and negligence of the respondent J. Edward Martin Esquire.

PROCEDURAL HISTORY :

In the Circuit Court for Baltimore County, the Galloway v Martin case, it is fact;

1- It is fact that the circuit court did not use discretion when allowing a second motion for Summary judgment regarding the Petitioners medical expert under Md Rule 5-702 particularly when the trial court in opinion states that the Petitioners medical expert meets the threshold of an expert. (E. 329)

Copy paste E. 328 – 329 (below)

> Maryland Rule 5-702 codifies the Court's responsibility in determining the admissibility of expert testimony. As stated:
>
> > Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that it will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine (1) whether the witness is qualified as an expert by knowledge, skill, experience, training or education, (2) the appropriateness of the expert testimony on the particular subject, and (3) whether a sufficient factual basis exists to support the expert testimony.
>
> The initial determination is whether Dr. Ziem qualifies as an expert. Clearly, as a consequence of education, training, and experience, Dr. Ziem meets this threshold.

2 – the trial court abused its discretion in granting summary judgment when the respondent has no medical expert to testify on his behalf, and has no argument or opinion to dispute the findings of Petitioners expert (E. 577, 579, 582,583, 584, 587,588, 593, 603, 619)

Copy-paste below; *from deposition of Respondents medical expert Dr. Howard Weiner wherein he admits to not being provided the foundation or information regarding the medical testing, or exposures of any of the toxic elements that are validated,present in the (then) Plaintiffs (the Petitioner here) apartment. Dr. Weiner did not perform an IME, or request one.*

It is a fact as stated to the record in this deposition, that ***Dr. Weiner, an allergist, was only hired to dispute the opinion of the respondent Martin in the underlying "Galloway v Goodman" case.***

Dr. Howard Weiner

(Plaintiff's Exhibit No. 4 was marked for identification.)

BY MR. DISCEPOLO:

Q. Doctor, I'm showing you what's been marked for identification as Plaintiff's Exhibit Number 4, Plaintiff's Designation of Expert Witnesses. I'll represent to you that that is, the individual that you're testifying here for today, Mr. Martin, that was his designation of expert witnesses in the underlying case, which is the subject of this malpractice case.

If you could, please turn to the designation that Mr. Martin previously filed with respect to Dr. Ziem's testimony in the underlying case.

A. Would you help me with that, please?

Q. I sure would.

A. Thank you.

Q. Now, what I'd like you to do for the record is read in what the individual you're testifying here for now, Mr. Martin, previously disclosed to a court of law with respect to Dr. Ziem's opinions. Can you read that into the record, please?

A. Yes. Number 3, Grace Ziem, M.D., D.R.P.H., which I assume means Doctor of Public Health, is a medical doctor who specializes in occupational and environmental medicine. Dr. Ziem will testify that, to

a reasonable degree of medical probability, Sharon Galloway's numerous symptoms are a consequence of her chemical exposures at her 1991 home specifically from petroleum contamination of her well and a malfunctioning propane furnace. She will testify that Sharon Galloway was in good health and working in 1991 when she moved into a new rental unit in April. She noted that the water had a metallic taste and she expressed her concern to the building management, but was told that that was the way well water tastes.

She also noted that there was a rainbow sheen on the water in the toilet bowl and the standing water in the cat dish. She was not home much and she worked -- was working full-time but became unemployed in August 1991 and was suddenly at home full-time. She started drinking a lot of the well water because of the hot weather and became -- and became --

Q. I think there's a (sic) there.

A. Yeah, developing vomiting, "cobalt blue" diarrhea, fever and fainting spells, i.e., that is seizures. On an almost daily basis, Ms. Galloway suffers with weakness in a body part, lightheadedness, dizziness, tremor or shaking, muscle twitching, confusion, inability to concentrate, memory problems, slurred words, difficulty finding words, low energy,

dizziness when standing up after sitting, visual changes, ringing in ears, reduced cold tolerance, swollen glands, muscle discomfort, spasm, joint discomfort, swelling of ankles, reduced bladder control, insomnia, frequent jerking in sleep, fingertips turning white or blue, significantly reduced sex drive, reflux of stomach acid, bloating, gas and abdominal discomfort.

These reactions now occur with a variety of chemical exposures which would not cause noticeable symptoms in the average healthy individual, but due to the original chemical injury in 1991, are now aggravating (but not causal) factors in her illness. The original petro chemical overexposure induced permanent damage to the brain, nervous system and the liver resulting in impaired function and permanent sensitization.

She would also testify as to the reasonableness and costs of future medical treatment and re-medication and modification of Ms. Galloway's environment in order to mitigate her exposure to harmful substances and in order to mitigate her damages.

THE VIDEOGRAPHER: Excuse me, I need to change the tape. Off the record. The time is 2:13.

(Interruption in the proceedings.)

THE VIDEOGRAPHER: We are back on the record.

The time is 2:15.

BY MR. DISCEPOLO:

Q. Doctor, you've had an opportunity to read Plaintiff's Exhibit Number 4 with respect to the expert designation for Grace Ziem?

A. Yes.

Q. And now, do you understand that that was the expert designation that was filed in this case by individual you're offering testimony for here today, Mr. Martin?

A. Yes.

Q. So do you understand that Mr. Martin filed that paper with the Court stating that Dr. Ziem would be testifying as to all those opinions and conclusions?

A. Yes.

Q. And you understand now, sir, that you're being hired as an expert by Mr. Martin to offer opinions that completely contradict that expert designation?

MR. ALTHAUSER: Objection. He's hired by Mr. Martin's counsel.

THE WITNESS: Yes.

the science. I'm here to give information. I feel it's a privilege to participate in our legal system and have good science and case law. And I otherwise don't feel subjectively or emotionally about anything else.

BY MR. DISCEPOLO:

Q. So is it a fair statement to say then, sir, that you're being paid to offer an opinion to contradict Dr. Ziem?

MR. ALTHAUSER: Objection.

THE WITNESS: Yes.

BY MR. DISCEPOLO:

Q. Thank you. Now, Doctor, have you been provided with any of the records with respect to maintenance or repair of the furnace in question in the fall of 1991?

A. No.

Q. Have you been provided with the maintenance record of November 14, 1991 regarding the furnace at Ms. Galloway's home which states that the furnace was cleaned that date?

A. No.

Q. Were you provided with the November 15, 1991 record from Sagamore Heating with respect to the furnace at Ms. Galloway's home which the technician found that the furnace in question had a defective gas valve and

blower?

A. No.

Q. Were you provided with a November 18th record from Sagamore heating for Ms. Galloway's apartment which states there was a faulty limit switch and that the furnace in question was unsafe?

A. No. I have references to these things in Dr. Ziem's accounts, but not those reports.

Q. Have you been provided the November 19, 1991 record from Sagamore Heating which references Ms. Galloway's furnace in her apartment which states there's a crack in the heat exchanger of the furnace and the furnace needs to be replaced?

A. No.

Q. Now, Doctor, had you been provided with that information, would that have helped you out with your empirical deduction and your differential diagnosis of whether or not Ms. Galloway suffered from carbon monoxide poisoning?

A. Yes.

Q. It would have helped you, wouldn't it?

A. Yes.

Q. And that would have been a factual basis to determine that there might have been some carbon monoxide present in her apartment, isn't it?

A. Correct. It would have been a prerequisite. It would have been a basis on which there could have been increased carbon monoxide exposure.

Q. Did you read Mr. Dubit's deposition?

A. No.

Q. You were not provided a copy of Mr. Dubit's deposition before your testimony here today?

A. I'm, actually, I'm told that I was. But I don't -- I don't ever recall seeing the deposition.

Q. Well, if I were to tell you that Mr. Dubit testified under oath in this matter in deposition before trial, that he took a carbon monoxide reading of the furnace in question in November of 1991 and registered 35 parts per million in the air handler portion of the furnace. Would that surprise you, Doctor?

A. Well, no, it wouldn't surprise me. It would be information. I don't know what the normal amount of carbon monoxide in the air handling system should be. But, so that's just factual. And if I had that information, I would be calling my HVAC friends and one and getting a context for that.

Q. But you weren't provided that information by Mr. Althauser or anyone in his firm?

A. No.

Q. And --

It is a fact, that the respondent, J. Edward Martins unqualified medical expert was hired to dispute the opinion of the medical expert that the respondent J. Edward Martin Esquire named and submitted to the court as his opinion in the underlying case where he was acting as the Petitioners lawyer. It is fact that Dr. Weiner testified that he was not provided with the important and critical information with which to form any kind of opinion. The respondent therefore, does not have a medical expert to dispute the Petitioners primary doctor, neurologist, neuropsychologist report and testing, ER reports, or expert physician.

3- The respondent J. Edward Martin Esquire relied upon concealed documents, the documents he refused to submit as per Discovery requests to create his motion for summary judgment.

4- The trial court abused its discretion by not allowing the Petitioners medical expert to testify at summary judgment, and refused Petitioners medicals experts clarifying affidavit that clearly explains the changes in medical terminology that is part of the summary judgment dispute now.

5 – The Courts Decision to grant Summary Judgment, and dismiss Appellants case presents an unjustified and extreme departure from existing precedent and Maryland law, is against the Maryland Constitutions guarantee to a trial, is against the Petitioners right to be heard, and violates the United States Constitutions 5th, and 14th amendments to due process by a complete and total denial of all of the facts of this case – even though the trial court forwarded the Petitioners complaint to the Attorney Grievance Commission, it did not follow through on its duty to protect and preserve the rights of victims of abuse, fraud, manipulation, and threats.

PROCEDURAL HISTORY – APPELLATE LEVEL

The Petitioner pro se filed notice of appeal on June 23, 2009. The Petitioner filed the "Brief of the Appellant" on March 31, 2010. The respondent filed his reply brief on April 29, 2010. The Petitioner filed a Reply May 14, 2010. The unreported Opinion and mandate of the Court of Special Appeals is dated August 11, 2011 that denied the Petitioners appeal. The Petitioner then filed a Motion for reconsideration on August 23, 2011, and the respondents illegally answered September,8, 2011. September 15, 2011 Appellant filed the "Opposition to Appellees Prohibited and Non Compliant of Maryland Rule Opposition to Motion for Reconsideration". Reconsideration was denied October 4, 2011.

The Petitioner had only responded to the denial with a Motion for Reconsideration to the Court of Special Appeals primarily to answer the questions the opinion addressed, but regrettably,

the Motion for Reconsideration was not reviewed. If the motion for reconsideration had been reviewed by the panel of judges as per Maryland Rule 8-602 , 8-605, and Maryland Constitution Article IV § 14 and the MD Code, Courts Article § 1-403, (minimum of three judges) the Petitioner feels sure the Appellants Motion for Reconsideration would have been granted, and the case remanded for further consideration by the trial court, and MSJ by the Petitioner.

The Petitioner through her attorney submitted a Writ of Certiorari to the Maryland Court of Appeals on October 19, 2011. The Respondent J. Edward Martin did not submit an answer.

The writ of Certiorari was based upon the erroneous unreported opinion and illogical mandate of the Court of Special Appeals that denied the pro se Appellants appeal and Motion for Reconsideration on October 4, 2011.

MOTION FOR RECONSIDERATION, WRIT OF MANDAMUS AND MOTION FOR SUMMARY JUDGMENT

After denial of Certiorari on December 19, 2011, and in response to the order from the Court of Appeals, the Petitioner pro se filed a Motion for Reconsideration pro se to the Court of Appeals that *on its face* mentioned a "writ of mandamus" seeking declaratory judgment, and a "motion for summary judgment."(attached DVD) The pro se motion for reconsideration was denied February 9, 2012, and the motion for summary judgment and the writ of mandamus were not included in that order. According to Md. State Government Code Ann. § 10-221, an agency's final decision or order adverse to a party in adjudication proceeding must be in writing or stated in the record.

The final decision must include findings of fact, conclusions of law and the order. The Court of Appeals mailed only an unsigned order stating "denied".

Even though the facts show that the writ of mandamus and the motion for summary judgment are independent of the motion for reconsideration, (letter to the clerk attached) only the motion for reconsideration was denied by Order of this Court, and the writ of mandamus and the motion for summary judgment are not only not listed on the docket, but were summarily ignored. This is a violation of the Maryland Rules, Maryland Code, and all Constitutional law, it is prejudicial, and denies due process that is guaranteed to the Petitioner.

If there had been a question or an error regarding the pro se pleadings, The Maryland Court of Appeals by judicial notice to all parties, should have given notice, or given notice of hearing, or an order to remedy. If this is a clerical error then due process is absolutely justifiable to the

Petitioner. *Maryland Code of Judicial Conduct Rule 2.2 Impartiality and Fairness: [4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard.*

Pleadings in this case have been filed by the Petitioner pro se, and pro se pleadings are not to be held to the same high standards of practicing attorneys; *Haines v Kerner 92, sect 594, Power 914 F2d, 1459, Hulsey v Ownes 63, F3d 354, Hall v Bellman 935 F2d 1106.*

The Judicial branch of Maryland State government acts to preserve, protect, and extend the privileges and obligations provided to the citizens of Maryland by the State Constitution. A denial by a computer generated unsigned order citing to no rule or opinion is not sufficient to maintain the Maryland Court of Appeals state obligations especially with regard to attorney misconduct and crimes, and by the Court of Appeals refusal to review these crimes in this very regard, completely denies the due process of the Petitioner pro se, Sharon V. Galloway by refusing to address the extensive, far reaching and significant factual history of this particular case.

According to *Md. State Government Code Ann. § 10-221*, an agency's final decision or order adverse to a party in adjudication proceeding must be in writing or stated in the record. The final decision must include findings of fact, conclusions of law and the order. Parties and his/her attorney must be notified about the decision or order either personally or by mail. This was not done.

The Respondent and the courts cannot deny the content of the Petitioners writ of mandamus, or motion for summary judgment (all are attachments here on DVD, unless or until otherwise designated by the court) as the Petitioners allegations are true, supported by affidavit, and, procedural law is intended to safeguard those vested rights in life, liberty, and property that are guaranteed by the U.S. Constitution Article III,§2 *; standing exists as long as there is "injury in fact" and is traceable to the defendant, and the injury would be redressed by a favorable decision" Lujan v Defenders of Wildlife: «Though some of its elements express merely prudential considerations that are part of judicial self-government, the core component of standing is an essential and unchanging part of the case-or-controversy requirement of Article III." See, e.g., Allen v. Wright, 468 U.S. 737, 751 (1984).*

As the respondent has vociferously fought and used enormous amounts of paper in order to deflect the facts through fraud, inconsistency, and the sheer volume of all that paper, this Court must demand a response from the respondent, J. Edward Martin Esquire, and inquire why there is

no response to the facts listed above that are on the record.

The respondent has never denied or responded to the Petitioners complaints

The main issue here and now is the fact that the courts have censored and denied the Petitioners Constitutional right to be heard through the fraud of the respondent, judicial error and indescretion, and clerical error regarding the Petitioners Writ of Mandamus and Petitioners Motion for Summary Judgment, and this presents a very important and far reaching and essential reason to grant this petition for writ of error coram nobis.

WHY CORAM NOBIS IS APPROPRIATE

A petition for Writ of Error Coram Nobis is a proper vehicle for relief

The Court of Special Appeals unreported opinion does not address the significant issues contained within the Appellants brief, and these issues are far reaching, important, Maryland and U.S. Constitutional issues that deprived the Petitioner of a fair hearing and deprived the Petitioner of a fair trial due to the deception and fraud of the respondent, and the courts indiscretion and autocracy.

The Common Law Writ of Error Coram Nobis Remains Available as a Civil Procedure. Coram nobis relief has been deemed appropriate to set aside a judgment obtained by fraud, coercion, or duress. See; *Bernard v. State, 193 Md. 1, 4, 65 A.2d 297 (1949) (citing Hawks v. State, 162 Md. 30, 157 A. 900; Keane v. State, 164 Md. 685, 166 A. 410).*

Petition for All Writs Relief relies on a state constitutional provision similar to the federal *All Writs Act, 28 U.S.C. §1651,* and relying in part on the court's inherent power to control its docket, to protect its jurisdiction, judgments and the integrity of the court, and the orderly and expeditious administration of justice. The federal *All Writs Act* provides: "The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law."

As there are unaddressed facts that affect the validity and reliability of the entire court proceedings in this case, beginning with the error and indiscretion of the circuit court, and to remedy these errors the Petitioner must now rely upon the writ of error coram nobis. The manifest error present in all the proceedings at issue here are errors that are obvious and incontrovertible, and that warrant reversal on appeal or in the alternative, to grant the writ of mandamus and the Motion for Summary Judgment as they are true, and are not denied by the respondent.

The writ of error coram nobis is perfectly suited to the challenges of this far-reaching and

complex case, where the record shows that this Court's decision-making was subverted by fraud,(3,4) and judicial error (5) and that there is no reason why the Court cannot and should not employ the writ to accord the Petitioners relief. See *Stern & Gressman, supra, at 581-82* (noting that *Marbury v. Madison* preserves right to pursue relief by extraordinary writ in the Supreme Court so long as the Court is called upon to act in an appellate capacity) *Brady v Maryland* (1963), 373 U.S. 83, 10 L.Ed. 2d 215, 83 S. Ct. 1194. (denied a fair trial); *Madison, supra; Bernard, supra; Hawks v. State, 162 Md. 30, 157 A. 900 (1932)*

"The purpose of the writ of error coram nobis, a common-law writ recognized in this State, is to bring before the court a judgment previously rendered by it for the purpose of modification on account of some error of fact which affected the validity and regularity of the proceedings, and which was not brought into issue at the trial of the case" *Jones v. State, 114 Md. App. 471, 475, 691 A.2d 229, (quoting Bernard, 193 Md. at 3-4).*

The Petitioner has been denied a trial, and censored by the courts.

Petitioners Writ of Mandamus and Motion for Summary Judgment

As the Petitioners writ of mandamus and the Petitioners motion for summary judgment are not included on the docket, or addressed within in the unsigned order that only denied the motion for reconsideration under no color of rule or law, the Petitioner accordingly wonders;

- Even if it were the Clerk's province to make some sort of threshold assessment of jurisdiction this Petition for writ of error coram nobis passes muster. For the Clerk's Office, at the filing stage, to deny through clerical error or hostility toward pro se litigants, the petitioner an opportunity to come before the Court on the far reaching and serious issues her Petition presents would be the ultimate injustice.

As addressed in the Brief for the Appellant, judicial estoppel is absolutely necessary to show the harm and prejudice that was caused by these errors and causally inflicted upon the Petitioner by the respondent and the court(s) : Judicial estoppel, is that which prohibits litigants from taking advantage of inconsistent positions in different cases to the detriment of opposing parties, thereby creating the perception that either the first or the second court was *mislead, has long been recognized in the Maryland courts. See *Stone v. Stone, 230 Md. 248, 253 (1962); Eagan v. Calhoun, 347 Md. 72, 87-88 (1997); Gordon v. Posner, 2002 Md. App. LEXIS 18, *35 (2002); Roane v. Washington County Hosp., 137 Md. App. 582, 592,cert. denied, 364 Md. 463 (2001); United Book Press, Inc. v. Maryland Composition Co., Inc., 141 Md. App. 460, 469 (2001).*

*Mislead – to misinform, to deceive, to delude, in other words – fraud.

From: *Semtek International v Lockheed Martin Corporation et Case No. 183023/CC3762*

"that judicial acceptance of an inconsistent position in a later proceeding would create the perception that either the first or the second court was misled; and the party seeking to assert an inconsistent position would derive an unfair advantage or impose an unfair detriment on the opposing party if not stopped". 121 S. Ct. at 1815 (citations omitted). In the Fourth Circuit, the determinative factor appears to be whether the party who is alleged to be estopped intentionally misled the court to gain unfair advantage." Tenneco Chems., Inc., v. William T. Burnette & Co., Inc., 691 F.2d 658, 665 (4th Cir. 1982); John S. Clark Co. v. Faggert & Frieden, P.C., 65 F.3d 26 (4th Cir. 1995); Lowery v. Stovall, et al., 92 F.3d 219, 225 (4th Cir. 1996).

All of these issues are of the type contemplated by the Maryland Court of Appeals, as the court of appeals has exclusive jurisdiction over all legal malpractice cases and (the recorded) misconduct by attorneys. .2:210 Judicial Regulation : The Court of Appeals of Maryland ("Court of Appeals") is charged with responsibility for promulgating rules applicable to the admission, conduct and discipline of lawyers in Maryland. *Alan F. Post Chartered v. Bregman, 349 Md. 142 (1998); Attorney General v. Waldron, 289 Md. 683 (1981). This judicial power is implied or inherent from the Maryland Constitution. See Alan F. Post, 349 Md. at 163; Waldron, 289 Md. at 691.* The legislature aids the judiciary in this regulatory function, but the courts retain the fundamental authority and responsibility to set the rules for lawyers. Id. See also *Comment, Discipline of Attorneys in Maryland, 35 Md. L. Rev. 236 (1975),* and, for examples of legislative involvement, see *Md. Code Ann., Bus. Occ. & Prof. ? 10-301 et seq. (1995) (officially designated under ? 10-701 as "The Maryland Lawyers Act").*

Under Canon 3B(3) of the Maryland Code of Judicial Conduct, a Maryland judge "should take or initiate appropriate corrective measures" against an attorney (or judge) for unprofessional conduct. *Maryland Rule 16-813.* The comment to *Canon 3B(3)* indicates that the "[c]orrective measures may include a private reprimand or reporting misconduct to the disciplinary body or a bar association counseling program." In using the term "corrective measures," it was the Rules Committee's intention to give judges greater latitude to respond to attorney misconduct than the directive to take "disciplinary measures" found in the ABA counterpart. See *MD Rule 6-813, Canon 3B* and compare *ABA Model Code of Judicial Conduct, Canon 3B(3).* The *Maryland Code of Conduct for Judicial Appointees* contains a provision that parallels the *Maryland Code of Judicial Conduct in this respect. MD Rule 6- 814, Canon 3B(3).*

SUMMARY

1- The Court of Appeals of Maryland did not review or address the Writ of Mandamus and Motion for Summary Judgment that was filed along with the Petitioners Motion for Reconsideration as separate motions. *Md. State Government Code Ann. § 10-222 Md. State Government Code Ann. § 10-221,* an agency's final decision or order adverse to a party in adjudication proceeding must be in writing or stated in the record. The final decision must include

findings of fact, conclusions of law and the order. Parties and his/her attorney must be notified about the decision or order either personally or by mail.

2- The Court of Appeals of Maryland did not mention or address in any manner the writ of mandamus and/or the Motion for Summary judgment in the denial. The denial ONLY addressed the motion for reconsideration, and that was the initializing motion, but as stated on page nine of the Motion for Reconsideration "The Petitioner is attaching a complaint for [sic]declatory judgment and other relief by writ of mandamus because the court has ignored its own previous decisions regarding attorney misconduct and the Court of Appeals of Maryland has exclusive jurisdiction over these exact matters."

3- The ONLY issue the Petitioner pro se can find is that there is no independent order for the writ of mandamus.

4- There is a separate certificate of service accompanying the writ of mandamus.

5- The Motion for Reconsideration supported the Petitioners right to writ of mandamus. The writ of mandamus is a separate action as clearly stated by the Maryland rules, as well as the Motion for Summary judgment which IS accompanied by an order, and a certificate of service, but was disregarded too.

6- Petitioner feels that errors by the clerk are what created this issue with the Writ of Mandamus and the Motion for Summary Judgment.

7- As this court has made the determination for *City of Annapolis v Edgar A. Bowen Jr., et al.No. 2462 Md. Court of Special Appeals Sept. term 2005* that stated: "Although appellees styled their action as a "Complaint for Declaratory and Injunctive Relief and Retroactive and Prospective Increases in Annuity Payments," **it was in substance an action for a writ of mandamus**." *See Murrell v. Mayor & City Council of Baltimore, 376 Md. 170 (2003).* (emphasis Petitioner)

There is no reason the court should deny the Petitioners writ of mandamus and motion for summary judgment if leniency was granted toward that party, it is deserved here as well. For this court to pick and choose would be discriminatory. The Court failed to enter a written declaration of the rights of the parties, as required by Maryland law. *Bowen, 173 Md.App. at 534, 920 A.2d at 61: Md. 427, 436, 644 A.2d 34, 38 (1994). To do otherwise, we have held is error. See Ashton,*

> *339 Md. at 87, 660 A.2d at 455, and cases cited therein. In Allstate Ins. Co. v. State Farm Mut. Auto. Ins. Co., 363 Md. 106, 117 n.1, 767 A .2d 831, 837 n.1 (20 01)* [W]hen a declaratory judgment action is brought and the controversy is appropriate for resolution by declaratory judgment, the court must enter a declaratory judgment and that judgment,

defining the rights and obligations of the parties or the status of the thing in controversy, must be in writing. It is not permissible for the court to issue an oral declaration. The text of **the judgment must be in writing.**
The requirement that the court enter its declaration in writing is for the purpose of giving the parties and the public fair notice of what the court has determined. (Internal citations omitted) (second emphasis added). Accord Salamon v. Progressive Classic Ins. Co., 379 Md. 301, 307 -08 n.7, 841 A.2d 858, 862-63 n.7 (2004); Jackson v. *Millstone, 369 Md. 575 , 593, 801 A.2d 1 034, 1045 (200 2).*

8 – For all the reasons as stated above regarding the attorney misconduct, admitted to the record negligence and fraud, (and criminal actions) and for all of the reasons stated in the Third and Fourth Amended Complaints, the Declaratory complaint and the writ of mandamus must be granted to afford the Petitioner legal relief as per Maryland law, code, stare decisis, and due process because the Maryland Court of Appeals:

> "have the inherent power, through the writ of mandamus, by injunction, or otherwise, **to correct abuses of discretion and arbitrary, illegal, capricious or unreasonable acts [of an administrative agency]."** *Heaps v. Cobb, 185 Md. 372, 379 (1945)(quoting Hecht v. Crook, 184 Md. 271, 280 (1945)).* Its origins can be "trace[d] ... to **our duty to ensure that neither the Legislature nor the Executive branch of State government deprives the Judiciary of the ability to correct decisions premised on unreasonable findings of fact or flawed conclusions of law."** *Harvey, 389 Md. at 280.*
> *From; Edgar A. Bowen, et al. v. City of Annapolis No. 34, September Term, 2007;* **DECLARATORY JUDGMENT - REQUIREMENTS**: In actions for declaratory relief and judgment, where the controversy is appropriate for resolution by declaratory judgment, the Circuit Court must enter a written order declaring the rights of the parties. Ancillary relief may be included within the written order. Failure to enter such a judgment will result in remand of the case for the entry of an appropriate declaration; however, the Court, in its discretion, may first review the merits of the controversy. (7)

9- An extraordinary writ is necessary to provide the Petitioner due process under the guarantee of the United States Constitution and the Maryland State Constitution. (1)

10- The law has evolved so that a writ may be issued by this Court to vacate an order of a lower tribunal that constitutes an "abuse of discretion." *Adoption/Guardianship No. 3598, 347 Md. 295, 312, 701 A.2d 110, 118-19 (1997)* (internal quotations and alterations omitted).

11- Title 8's lack of an express provision for this Court to issue a writ of mandamus, does not negate the Court of Appeals of Maryland's mandamus authority and is beyond debate. **The writ of mandamus is an original action, not an appeal.** See *Goodwich, 343 Md. at 145, 680 A.2d at 1047.* Hence, Title 8's governance of appellate procedure is simply not applicable. This Court's authority under common law to issue writ of mandamus; *Keene Corp. v. Levin, 330 Md. 287, 623 A.2d 662 (1993)*

12 – The Petition for writ of error coram nobis address the courts disregard of the writ of mandamus and the motion for summary judgment, but as this pro se Petitioner is not trained in law, and has no legal recourse or assistance, the Petitioner must now rely upon the writ of error coram nobis as the appropriate measure to set aside a judgment obtained by fraud, mistake, irregularity and premeditated deceit by the respondent, and judicial and clerical error.

13- a copy of this writ of error coram nobis is being sent to the :The Deputy Attorney General who oversees the Office of Courts and Judicial Affairs, Public Finance, and five divisions: Civil Litigation; Contract Litigation; Educational Affairs; Health Occupations Prosecution and Litigation; and Opinions, Advice, and Legislation.The Deputy Attorney General also oversees assistant attorneys general assigned to certain State government agencies.

THE RELIEF REQUESTED

1- a grant of the Petition for writ of error coram nobis

2- the courts review and grant of the Petitioners Motion for Summary Judgment and Complaint for Declaratory relief, and the Writ of Mandamus.

3 – The Petitioner requests this court to demand a detailed response from the respondent that specifically address the fact that the respondent admitted his negligence in the underlying case "Galloway v Goodman, the respondent did not answer Discovery requests in the underlying case or this case, the respondent relied upon and named the exact same medical expert to state to causation, loss of wages, and medical expenses, that he now fraudulently disputes, and whatever the court feels necessary to provide the due process to the Petitioner, and in order to correct the manifest error of all of the courts and the fraud of this respondent, J. Edward Martin Esquire.

4- The respondent J. Edward Martin Esquires' only response to the Brief of the Appellant was a multi pronged attack that utilized the same verbiage as the defendant in the underlying case "Galloway v Goodman". Interestingly, the respondent defended that expert, and then in the case "Galloway v Martin as proved through the deposition testimony of his unqualified expert, only

hired that expert to dispute his own opinion in the underlying "Galloway v Goodman case.

5- The Petitioner requests a hearing so that the respondent can explain to the record his deception and his premeditated delay past the deadline for filing dispositive motions to use undisclosed discovery requests for his motion for summary judgment that are uniquely based on the very same argument of the defendant Goodman in the underlying case, where the respondent failed miserably due to his own lack of preparation, lack of naming experts, refusing discovery, and all the same premediatated actions that he took in the case here; "Galloway v Martin."

6 - The Petitioner respectfully requests a hearing on the improperly ignored writ of mandamus, Motion for Summary Judgment, and the writ of error coram nobis will be the primary vehicle for that hearing.

7- This Court has been Constitutionally deficient and prejudicial; Rompilla v.Beard, 545 U.S . 374, 125 S . Ct. 2456, 162 L. Ed.2d 360 (2005) by not adhering to its own previous decisions, and relying upon an illegal Order.

8 – There is more than enough on the record for this court to grant this petition for writ of error coran nobis. *State of Maryland v. George Matthews, No. 135, September Term 2009.* criminal case that ultimately ended up in civil court: In Maryland it is well-settled that, "in applying statutes, other enactments, pleadings, or legal principles, 'courts must ordinarily look beyond labels . . .**and make determinations based on . . . substance**.'" In re: Nicole B., 410 Md. 33, 65, 976 A.2d 1039, 1058 (2009),quoting *Piven v. Comcast Corp., 397 Md. 278, 290, 916 A.2d 984, 991 (2007).*

9 – **The Maryland Court of Appeals by Md. Rule 10-104 must issue a Show Cause Order** to the respondent J. Edward Martin to force the respondent to answer to the facts presented.

WHEREFORE

The Petitioner Sharon V. Galloway requests this Writ of Error Coram Nobis to be granted

The Petitioner requests a hearing on this Petition for writ of error coram nobis.

Sharon V. Galloway, Petitioner Pro Se

Attachments listed below

Footnotes and pertinent law:

(1) 5th and 14 Amendments U.S. Constitution, Maryland Constitution Declaration of Rights From; *Frank Conaway, et al. v. Gitanjali Deane, et al., No. 44, Sept. Term 2007*
Article 24 of the Maryland Declaration of Rights states "[t]hat no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his p eers, or by the Law of the la nd." The Equal Protection Clause of the Fourteenth Amendment of the United States Constitution provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." Although Article 24 does not contain an express equal protection clause, this Court has held that the same concept of equal treatment is embodied in the due process requirement of Article 24 of the Declaration of Rig hts. Frankel v. Board of Regents, 361 Md. 298, 312-13, 761 A.2d 324, 332 (2000) (quoting Renko v. McLean, 346 Md. 464, 482, 697 A.2d 4 68, 477 (1997)). United States Supreme Court cases applying the E qual Protec tion Clause of the Fourteenth Amendment are binding on this Court when applying that clause and are persuasive when we undertake to interpret and apply Article 24 of the Declaration of Rights. Id. at 313, 761 A.2d at 332. We reiterate that each provision is independent, however, and a violation of one is not necessarily a violation of the o ther. See, e.g., Dua v. Comcast, 370 Md. 604, 621, 805 A.2d 1061, 1071 (2002). It is well accepted that this Court may apply a more stringent standard of review as a matter of state law under Maryland's equivalent to the Equal Protection Clause. See Minnesota v. Clover Leaf Creamery Company, 449 U.S. 456, 461-63 n.6, 101 S. Ct. 715, 722 -23 n.6, 66 L. Ed. 2d 659 (1981).

(2) PHILIP MORRIS INCORPORATED, et al. v. The Honorable Edward J. ANGELETTI. 2000
Though the writ of mandamus traditionally has served an extremely limited role, this Court has noted the expanded role of the writ in appellate supervisory review:
"Some commentators have said that under what they view as the traditional approach, writs appropriately issue 'only to control actions beyond the jurisdiction of an inferior court, or to compel action that the court lacked power to withhold.' But, according to Wright, in recent times the use of the extraordinary writ has 'broadened to include use of the writs to correct clear abuse of discretion, and more recently . to satisfy other peculiar needs for interlocutory review.' " In re Petition for Writ of Prohibition, 312 Md. 280, 306-07, 539 A.2d 664, 676-77 (1988) (citations omitted) (alteration in original).
Thus, the law has evolved so that a writ may be issued by this Court to vacate an order of a lower tribunal that constitutes an "abuse of discretion." In the context of appeal, we have defined an abuse of discretion as an instance "where no reasonable person would take the view adopted by the trial court, or when the court acts without reference to any guiding rules or principles. An abuse of discretion may also be found where the ruling under consideration is clearly against the logic and effect of facts and inferences before the court, or when the ruling is violative of fact and logic." In re Adoption/Guardianship No. 3598, 347 Md. 295, 312, 701 A.2d 110, 118-19 (1997) (internal quotations and alterations omitted). First, that Title 8's lack of an express provision for this Court to issue a writ of mandamus does not negate our mandamus authority is beyond debate. As noted above, the writ of mandamus is an original action, not an appeal. See Goodwich, 343 Md. at 145, 680 A.2d at 1047. Hence, Title 8's governance of appellate procedure is simply not applicable. Moreover, the extraordinary writ of mandamus in

this State originated under the common law and has several times been recognized to remain a common law prerogative of this Court, even in cases subsequent to 1988. See Doering v. Fader, 316 Md. 351, 558 A.2d 733 (1989) (confirming this Court's authority under common law to issue writ of mandamus yet ultimately determining writ unnecessary in that case); Keene Corp. v. Levin, 330 Md. 287, 623 A.2d 662 (1993) (acknowledging this Court's common law power to issue writ of mandamus but ruling such issuance improper under circumstances therein). Even were Title 8 applicable, there exists a generally accepted principle in construing statutes and court rules that the legislative, or quasi-legislative, derogation of the common law must be made expressly clear. See, e.g., Robinson v. State, 353 Md. 683, 693, 728 A.2d 698, 702 (1999); Lutz v. State, 167 Md. 12, 15, 172 A. 354, 356 (1934).

(3) Subsection (b) and (d) of Maryland Rule 2-535 authorizes a judgment to be revised only in case of fraud, mistake, irregularity or clerical errors. Moreover, our cases have rigorously emphasized the finality of judgments. See generally *Penn Cent. Co. v. Buffalo Spring & Equipment Co., 260 Md. 576, 273 A.2d 97 (1971) 317 Md. at 387-88* (emphasis supplied).

(4) *Galloway v Goodman*: a legal malpractice case wherein Ms. Goodman represented the Petitioner, but she never answered the pleadings, didn't even open her mail that contained the pleadings, Goodman therefore failed miserably at MSJ, and lost the case due only to her negligence. J. Edward Martin was one of two lawyers who represented the Plaintiff/Petitioner in that case. The primary lawyer in the *Galloway v Goodman* lawsuit, Lawrence Melfa Esquire, is listed as the legal expert in the underlying case "Galloway v Goodman" and is a listed fact witness for the Petitioner and was prepared to testify on the Plaintiff/Petitioners behalf in the case "Galloway v Martin"

(5) In order to **set aside an enrolled judgment due to "fraud,"** extrinsic fraud must be alleged and proven and not fraud, which is merely "intrinsic to the trial itself." *Hresko v. Hresko, 83 Md. App. 228, 231 (1990)* "Fraud is extrinsic when it actually prevents an adversarial trial. *Schwartz, supra, 272 Md. at 308, 322 A.2d 544 Section 6-408 of the Courts & Judicial Proceedings Article of the Maryland Code (1973, 2002 Repl. Vol.)* provides: Revisory power of court over judgment. For a period of 30 days after the entry of a judgment, or thereafter pursuant to motion filed within that period, the court has revisory power and control over the judgment. After the expiration of that period the court has revisory power and control over the judgment only in case of fraud, mistake, irregularity, or failure of an employee of the court or of the clerk's office to perform a duty required by statue or rule.

6) Rule 1.2. PROMOTING CONFIDENCE IN THE JUDICIARY (a) A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.

Rule 2.2. IMPARTIALITY AND FAIRNESS

[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard.

a) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(b) A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity,

disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation. A judge shall require lawyers in proceedings before the court, court staff, court officials, and others subject to the judge's direction and control to refrain from similar conduct.

Rule 2.6. ENSURING THE RIGHT TO BE HEARD

(a) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. [1] The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

[2] **Increasingly, judges have before them self-represented litigants whose lack of knowledge about the law and about judicial procedures and requirements may inhibit their ability to be heard effectively. A judge's obligation under Rule 2.2 to remain fair and impartial does not preclude the judge from making reasonable accommodations to protect a self-represented litigant's right to be heard,** so long as those accommodations do not give the self-represented litigant an unfair advantage. This Rule does not require a judge to make any particular accommodation. (emphasis Petitioner)

Rule 2.15. RESPONDING TO JUDICIAL AND LAWYER MISCONDUCT

(a) A judge shall take or initiate appropriate corrective measures with respect to the unprofessional conduct of another judge or a lawyer. (b) If other corrective measures are not appropriate or, if attempted, were not successful, a judge shall inform the Commission on Judicial Disabilities of facts known to that judge that raise a substantial question as to another judge's fitness for office. (c) If other corrective measures are not appropriate or, if attempted, were not successful, a judge shall inform the Attorney Grievance Commission of facts known to the judge that raise a substantial question as to a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. (d) Acts of a judge required or permitted by paragraphs (a), (b), and (c) of this Rule shall be absolutely privileged.

[1] Permitting a judge to take "corrective" measures gives the judge a wide range of options to deal with unprofessional conduct. Appropriate corrective measures may include direct communication with the judge or lawyer who is believed to have committed the violation or other direct action if available. There may be instances of professional misconduct that would warrant a private admonition or referral to a bar association counseling service.

Maryland Rule 16-757 (c) provides:

"(c) Findings and Conclusions. The judge shall prepare and file or dictate into the record a statement of the judge's findings of fact, including findings as to any evidence regarding remedial action, and conclusions of law. If dictated into the record, the statement shall be promptly transcribed. Unless the time is extended by the Court of Appeals, the written or transcribed statement shall be filed with the clerk responsible for the record no later than 45 days after the conclusion of th e hearing. The clerk shall mail a copy of the statement to each party."

7- Md. State Government Code Ann. § 10-222

(a) (1) Except as provided in subsection (b) of this section, a party who is aggrieved by the final decision in a contested case is entitled to judicial review of the decision as provided in this section.

(2) An agency, including an agency that has delegated a contested case to the Office, is entitled to judicial review of a decision as provided in this section if the agency was a party before the agency or the Office.

(b) Where the presiding officer has final decision-making authority, a person in a contested case who is aggrieved by an interlocutory order is entitled to judicial review if:

(1) the party would qualify under this section for judicial review of any related final decision;

(2) the interlocutory order:

(i) determines rights and liabilities; and

(ii) has immediate legal consequences; and

(3) postponement of judicial review would result in irreparable harm.

(c) Unless otherwise required by statute, a petition for judicial review shall be filed with the circuit court for the county where any party resides or has a principal place of business.

(d) (1) The court may permit any other interested person to intervene in a proceeding under this section.

(2) If the agency has delegated to the Office the authority to issue the final administrative decision pursuant to § 10-205(a)(3) of this subtitle, and there are 2 or more other parties with adverse interests remaining in the case, the agency may decline to participate in the judicial review. An agency that declines to participate shall inform the court in its initial response.

(e) (1) The filing of a petition for judicial review does not automatically stay the enforcement of the final decision.

(2) Except as otherwise provided by law, the final decision maker may grant or the reviewing court may order a stay of the enforcement of the final decision on terms that the final decision maker or court considers proper.

(f) (1) Judicial review of disputed issues of fact shall be confined to the record for judicial review supplemented by additional evidence taken pursuant to this section.

(2) The court may order the presiding officer to take additional evidence on terms that the court considers proper if:

(i) before the hearing date in court, a party applies for leave to offer additional evidence; and

(ii) the court is satisfied that:

1. the evidence is material; and

2. there were good reasons for the failure to offer the evidence in the proceeding before the presiding officer.

(3) On the basis of the additional evidence, the final decision maker may modify the findings and decision.

(4) The final decision maker shall file with the reviewing court, as part of the record:

(i) the additional evidence; and

(ii) any modifications of the findings or decision.

(g) (1) The court shall conduct a proceeding under this section without a jury.

(2) A party may offer testimony on alleged irregularities in procedure before the presiding officer that do not appear on the record.

(3) On request, the court shall:

(i) hear oral argument; and

(ii) receive written briefs.

(h) In a proceeding under this section, the court may:

(1) remand the case for further proceedings;

(2) affirm the final decision; or

(3) reverse or modify the decision if any substantial right of the petitioner may have been prejudiced because a finding, conclusion, or decision:
(i) is unconstitutional;
(ii) exceeds the statutory authority or jurisdiction of the final decision maker;
(iii) results from an unlawful procedure;
(iv) is affected by any other error of law;
(v) is unsupported by competent, material, and substantial evidence in light of the entire record as submitted; or
(vi) is arbitrary or capricious.

LIST OF PAPER ATTACHMENTS:

1) Order of the Court of Appeals of Maryland denying Certiorari
2) Order of the Court of Appeals of Maryland denying only the motion for reconsideration, *not mentioning the complaint for declaratory relief, or the writ for mandamus.*
3) April 2, 2009 transcript – Petitioner attorney A. Donald C. Discepolo Esquire stating that the respondent proposed the exact same opinions that he disputes now.
4) April 2, 2009 transcript – Petitioner attorney A. Donald C. Discepolo Esquire stating the defendant refused discovery
5) ***Numbers 5 thru 9** April 2, 2009 transcript – trial court judge is "baffled by the timing" of the defendants motions (eight month past deadline for dispositive motions) Petitioners attorney re; medical expert

10 - 11) May 8, 2008 letter to respondents from Petitioners attorney stating they the respondent refused discovery. 11) May 8, 2008 letter to respondents from Petitioners attorney stating they the respondent refused discovery PAGE TWO

12) **pages 12 thru 16** – transcript before the Hon. Judge Cahill in the underlying case "Galloway v Goodman"

p. 12 – respondent is negligent
p. 13 – respondent refused to name experts or answer discovery
Respondent names the medical expert he now disputes as the the "physician who will come forward as to causation"
p.14 – respondent again, names the medical expert he now disputes as the physician who will testify to causation
p 15 – respondent J. Edward Martin testifies as to Petitioners toxic exposures and injury
p 16- respondent Martin again identifies the disputed medical expert

17) pages 17 thru 20 - Defendant – from E. 226 – 240 (Plaintiffs combined Opposition to Motions in Limine filed by the Defendant)respondent offers no medical expert to challenge

20) pages 20 thru 23 – respondents settlement conference memorandum – names the

disputed expert as one who wil testify re; causation, medical costs, and damages.

24) **pages 24 thru 25** – Petitioners attorney Discepolo states to the court (and he is correct) That if the Plaintiffs expert (Petitioner here) is struck, that's another admission Of negligence by the respondent J. Edward Martin, Esquire

26) Letter to COA clerk re: Mot. Reconsideration, Mot. Summ. Judgment, Complaint for Declaratory relief and Writ of Mandamus

DVD attachments:

Brief of the Appellant, Appellees Reply Brief, Appellants reply to Appellee
COSA denial and memorandum and mandate
Appellants Motion for Reconsideration
Petitioner (by her attorney) Writ of Certiorari
COA one page unsigned denial
Petitioners Motion for Reconsideration
Petitioners Declaratory Complaint and writ for Mandamus
Petitioners Motion for Summary Judgment
COA one page denial of Motion for Reconsideration only
Third Amended Complaint
Fourth Amended Complaint

Sharon V. Galloway,	)	Maryland Court of Appeals
Petitioner Pro Se	)	Petition docket No.: 383
vs.	)	
J. Edward Martin et al.,	)	September Term 2011
Respondent	)	

CERTIFICATE OF SERVICE

I hereby certify that on this the 28 day of Feb 2012, a copy of the PETITIONERS WRIT OF ERROR CORAM NOBIS were mailed to

Thomas J. Althauser Esq
Eric Rigatuso Esq.
Eccleston and Wolf,
Baltimore Washington Law Center,
7240 Parkway Drive, 4th Floor
Hanover, Maryland 21076
By First Class United States Mail

Katherine Winfree, *Chief Deputy Attorney General*
John B. Howard, Jr., *Deputy Attorney General*
Carl O. Snowden, *Director Civil Rights Division*
St. Paul Plaza, 200 St. Paul Place,
Baltimore, MD 21202

Sharon V. Galloway
Petitioner Pro Se
5634 Mt. Gilead Road
Reisterstown, MD 21136
410-833-5588

Sharon V. Galloway,	)	Maryland Court of Appeals
Petitioner Pro Se	)	Petition docket No.: 383
vs.	)	
J. Edward Martin et al.,	)	September Term 2011
Respondent	)	

ORDER

It is HEREBY ORDERED that on this the _____ day of _____ 2012, the Petitioners Writ of Error Coran Nobis is GRANTED.

COURT OF APPEALS OF MARYLAND

Signature of Judges:

_____

_____

_____

SHARON GALLOWAY	*	**IN THE**
	*	**COURT OF APPEALS**
	*	**OF MARYLAND**
v.		
	*	**Petition Docket No. 383 September Term, 2011**
J. EDWARD MARTIN, et al.	*	**(No. 1093, Sept. Term, 2009 Court of Special Appeals)**

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals filed in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell

Chief Judge

DATE: December 19, 2011

1

SHARON GALLOWAY	*	**IN THE**
	*	**COURT OF APPEALS**
	*	**OF MARYLAND**
v.		
	*	**Petition Docket No. 383 September Term, 2011**
J. EDWARD MARTIN, et al.	*	**(No. 1093, Sept. Term, 2009, Court of Special Appeals)**

ORDER

The Court having considered the motion for reconsideration filed in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the motion for reconsideration be, and it is hereby, denied.

/s/ Robert M. Bell

Chief Judge

DATE: February 9, 2012

(1)

Again, it seems to me, your Honor, that the best way to handle this -- again it's just by way of observation, your Honor, doing these types of cases and the complexity of this case, seems to me the best way to handle them would be go forward with the trial, hold the motions sub curia and rule on them at trial. I see you shaking your head. Your Honor, I am just trying to figure out as a practical matter as an advocate for my client.

Secondly, your Honor, we are ready to go. This woman has been waiting for trial for 18 years. She's got it next week. And the defendant knew all this information. Dr. Ziem has been deposed three times, your Honor.

THE COURT: Dr. Ziem was deposed years before last August. There was some additional information from last August.

MR. DISCEPOLO: Counsel said he wasn't the brightest bulb on the street. He's been --

THE COURT: I don't need the --

MR. DISCEPOLO: Your Honor, I don't get it, because the defendant here was well aware of the opinions well before this issue. He proposed these opinions. He signed with the designation of expert with regard to these opinions. He answered interrogatories with respect to these opinions. He signed pretrial statements with respect to all these opinions. There is nothing new here, your Honor,

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connection with their treatment. The idea of the reasonableness of her fee is an opinion necessarily made in connection with litigation for that. You have to be designated as an expert and go through the proper channels for an expert disclosure. That wasn't done.

THE COURT: But do you have a copy of Dr. Ziem's own bills?

MR. RIGATUSO: We have copies of some of Dr. Ziem's bills, yes. I don't know if we have all of them because I don't know what the universe is. With regard to -- as an additional matter we also did not receive any supplemental answers to interrogatories on this issue either. Other than that, that is all. Thank you.

MR. DISCEPOLO: I forgot one point. There was -- I was just looking for it here, I thought I brought it with me. There is a report prepared by Dr. Ziem -- it's dated September 2, 2008 -- where she spelled out all of the amounts. It was included in a CD that I burned, almost 10,000 documents. Again, I wasn't -- I asked the defendants what do you want, they said discovery is closed.

What I did I had all my documents burned to a CD and Bates stamped, almost 10,000 pages. Just for the Court's education, I do not have that document here with me but I just recalled that document was scanned and sent to the defendants. If the Court wishes, I can call my office and

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THE COURT: Are we ready in the Galloway motions? This is the matter of Galloway versus Martin, C-06-005419. If I can get counsel to identify themselves and their clients on the record.

MR. DISCEPOLO: Don Discepolo on behalf of plaintiff.

MR. ALTHAUSER: Tom Althauser along with Eric Rigatuso on behalf of J. Edward Martin, Esquire.

THE COURT: We are here this morning, I asked that this be set in because I got a series of motions filed, most of them on the 10th of this month, so that the responses were due Monday this week. We are set to start a two-week jury trial next week. While counsel has motions in limine, most of those appear to be potentially dispositive motions.

Before I get to the merits of this, I am a little baffled or troubled by the timing, and I am not sure from the defense perspective what you perceive the outcome to be with some of your motions. You don't have time to file a summary judgment motion. And are we going to trial next week? You know, we had a substantive deadline for dispositive motions in August to avoid precisely this.

MR. ALTHAUSER: Your Honor, I apologize that if this is consideration of a motion for summary judgment. I do recognize the import of the motions. But this is obviously a matter that involves an untold number of documents.

5

THE COURT: I grant you that. I mean, I understand this is complicated but this is precisely my concern, and to be a little blunt, frustrating. I got stacks of paper which was ripe for me to consider Tuesday. You are asking me to find that Dr. Grace Ziem, who is their critical witness, can't testify. On its face, that is not at all a frivolous motion and I am not saying which way I am leaning on it. But we are sitting here with a hundred jurors coming in Monday morning and plaintiff's counsel has undoubtedly committed significant money for experts who are lined up for next week.

And I am looking at motions that I think are meritorious potentially and not straightforward, and it's not something that I am prepared to rule on as I am sitting here this morning. I asked yesterday for transcripts. I got them promptly but I got 400 pages worth of transcript testimony that I would want to read, digest and think about very carefully before I get to the merits of this.

I understand --

MR. ALTHAUSER: I can do nothing more than apologize.

THE COURT: It's not just me, it's them.

MR. ALTHAUSER: Well, your Honor, I'm sorry but there are too many apologies due over my way, so I'm sorry on that.

(6 cont.

THE COURT: On that one, as counsel though, whatever you think about the merits, we all live in a real world which is why I set a substantive notions deadline so people don't show up in court with experts lined up. I am looking at the possibility of this case being in a posture where I can potentially rule that they can't put on experts next week, and are we going to go forward with trial because I don't have time for judgment motions just to put on evidence to direct a verdict. I don't understand why we are where we are.

MR. ALTHAUSER: Well, your Honor, I'm sorry. I can't say any more than I apologize about the timing. It troubles you --

THE COURT: It would trouble anyone. It should trouble you.

MR. ALTHAUSER: Your Honor, I certainly wish that we were not here, but the --

THE COURT: Counsel, I am going to ask you, I understand you think I committed error before. You all made that abundantly clear. I don't mean that. I need on your end why we are where we are.

MR. ALTHAUSER: We are here because, first of all, her deposition, meaning Grace Ziem, wasn't even completed until the end of August.

THE COURT: August 29th. This is April 2nd.

Part.

MR. ALTHAUSER: I understand it's April but we certainly spent -- I certainly spent a significant amount of time on all these. I'm not the brightest bulb in the world. A lot of things I have to try to get clear in my mind. If you take a look at Dr. Grace Ziem's testimony, if you take a look at her reports --

THE COURT: I was reading last night until midnight. I was in here early this morning. So don't tell me to take a look; I have.

MR. ALTHAUSER: My point was these are not the modicum of clarity and of difficulty.

THE COURT: No, but it was August.

MR. ALTHAUSER: I'm sorry, your Honor. I don't know what to say other than it took me a tremendous amount of time and effort to prepare them and I believe that they were timely.

THE COURT: Do you want to say anything on timing?

MR. DISCEPOLO: Your Honor, respectfully for the record, the only thing I can say, I wouldn't have done what counsel did at that point in time. He's made -- Mr. Althauser, counsel opposite, is doing his job, as he does. He's made real good points, your Honor, about how I haven't adhered to anything and I haven't made one objection to anything. As a matter of fact, your Honor, I offered up Dr. Ziem just because they wanted to depose her.

(8 cont.

Again, it seems to me, your Honor, that the best way to handle this -- again it's just by way of observation, your Honor, doing these types of cases and the complexity of this case, seems to me the best way to handle them would be go forward with the trial, hold the motions sub curia and rule on them at trial. I see you shaking your head. Your Honor, I am just trying to figure out as a practical matter as an advocate for my client.

Secondly, your Honor, we are ready to go. This woman has been waiting for trial for 18 years. She's got it next week. And the defendant knew all this information. Dr. Ziem has been deposed three times, your Honor.

THE COURT: Dr. Ziem was deposed years before last August. There was some additional information from last August.

MR. DISCEPOLO: Counsel said he wasn't the brightest bulb on the street. He's been --

THE COURT: I don't need the --

MR. DISCEPOLO: Your Honor, I don't get it, because the defendant here was well aware of the opinions well before this issue. He proposed these opinions. He signed with the designation of expert with regard to these opinions. He answered interrogatories with respect to these opinions. He signed pretrial statements with respect to all these opinions. There is nothing new here, your Honor,

(9 cont

LAW OFFICES
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May 8, 2008

Thomas J. Althauser, Esquire
Eccleston & Wolf
729 E. Pratt Street – 7th Floor
Baltimore, MD 21204 - 4460

Re: Galloway v. Martin, *et al.*
Case No.: C-06-5419

Dear Mr. Althauser:

Please accept this correspondence as an informal supplement to Ms. Galloway's previous Answers to Interrogatories.

Please be advised that allegations of negligence were more specifically set out in the forthcoming complaint which I have filed today and the supplemental experts which have not been previously disclosed to you were designated in Plaintiff's Supplemental Designation of Experts. Please be advised that Plaintiff will call Phillip Feldman, Esq., a legal expert, and Donald Hoffman, PE, as an engineering expert. Mr. Hoffman will be relying on Mr. Barry F. Daubit as a fact/expert witness with respect to his involvement with the furnace in question.

I intend to call the following witnesses to trial: Sharon Galloway, her significant other; Dr. Grace Zien, a medical expert; William Stevens, a geological expert; as well as any witnesses previously propounded by Plaintiff for Answers to Interrogatories.

It is my understanding that Plaintiff has answered all of your discovery completely, if in fact that is not true, please the undersigned of whatever discovery is outstanding and I will provide the same in a timely manner.

It is also my understanding that you have not responded to discovery propounded by Plaintiff to you. Please advise the undersigned if, in fact, you have responded to discovery and request for production of documents. If you have not done so, please do so.

Please contact my office as soon as possible to schedule deposition dates for Mr. Feldman and Hoffman. I am sure you would like to inquire as to Mr. Daubit as well, and I would be more than happy to facilitate deposition dates for them as well.

EXHIBIT
10

Lastly, my understanding is that my client has already disclosed her economic damages in this matter by way of a report that was generated by her. Please advise the undersigned if you have received this report and you are aware of the same.

Should you have any questions or concerns please do not hesitate to contact me.

Very truly yours,

A. Donald C. Discepolo

ADCD/lb

limited if the case, I guess, is to be refiled.

THE COURT: Not necessarily. Those are things I'm saying you're at a disadvantage, and because Mr. Martin didn't prepare a written motion -- although it wouldn't have been a great deal different because this all took place in the last week. There are such things as agreeing to reopen the case, not refile it within a specified period of time. You can make that part of this Order. And that makes a lot more sense to me, because then you preserve all these things that I ruled upon in this one file, but that's something you have to think about, and I understand that -- or consider -- don't have to think about it.

MR. BRENNAN: Nothing in the Order is going to be by agreement or consent. If Your Honor wants to order that Mr. Martin can reopen over our objection --

THE COURT: You don't know what I'm saying. You haven't the slightest idea I'm going to grant this relief. Let me get over it. I'm going to grant their relief. I'm giving you your opportunity to make suggestions to me of under what circumstances. You don't want to do that, fine.

MR. BRENNAN: I do want to do it.

THE COURT: You don't want to preserve all of what's in this file by reopening it, rather than by starting over again because that would indicate you don't care about prejudice in time. That wouldn't be very wise, but go

ahead, do that. I'm trying to give you the opportunity, Mr. Brennan, realistically to sit down and say, okay, what's the best he will [illegible]?

[illegible] already said to you, and I said to him, I am not willing to sign an order of dismissal without prejudice that would permit him to go shop experts again. He's made a commitment in this case. He has said it on the record. He has said in effect he was negligent. So we're going to have lawsuit number four someday, maybe, I don't know, but I'm willing to work this out realistically.

You're not going to win everything, and neither is he. But that's why I'm saying to you, had he had a written motion, I guarantee [illegible] had a written response if he had to do it at 8:00 o'clock this morning, but if I have that in front of me, and I'm willing to give you some time -- the case is in front of me. We don't have jurors here. I can continue this matter for a couple days. I can bring you back, which I'm very willing to do.

Do you want to consider that? I'm going to take a couple minutes break and I'll be back out.

This is where I'm coming from, okay? You take your best shot at what you think is in the best interests of your clients, and you may want to discuss with him some of that, but I don't even care if you do that, I just want to do the right thing -- that's what I'm trying to do. I'll be

because it is clear what happened in this case. Two attorneys ignored it -- for all intents and purpose, ignored the claim -- the first of whom has never been sued, the second is the Birrane office. Ignored this case, and you can make whatever allegation you want to make as a Plaintiff's lawyer, but it's certainly not surprising anyone.

So as to that, I'm not impressed for additional discovery sanctions, and I think truly -- this is true -- I think the judges in this circuit have looked at their file and said "enough is enough. Put this case in a courtroom where it belongs, and try it, and see what the outcome will be."

If it's over, Mrs. Galloway has lost her case, but I'm not impressed with that. Similarly, I was prepared after I read the motion for summary judgement, because you knew that was outstanding, to deny that without prejudice of raising the issue of the inability of the Plaintiff to prove the second under -- or the first of the two underlying torts, toxic torts, because of no medical testimony or expert testimony. So you know that the second one, I would deny that without prejudice, and I will.

For the record, the motion for summary judgment is denied without prejudice [illegible] to make alternative defenses for factual defenses raised by the

motion itself. Particularly with respect to the toxic tort evidence and causal connection, which between the exposure and the condition, which -- and let me say, or let me ask as an aside.

I take it that the treating physicians, Mr. Martin, have not come forward in that regard as to causation, is that right?

MR. MARTIN: That's not correct, Your Honor. They have come forward -- Dr. Zeim.

THE COURT: Why wouldn't that satisfy then?

MR. MARTIN: Well, because to anticipate what my friend was saying, to be candid with the Court, I have not identified -- I did not designate her as an expert. I should have, but I didn't. I was focused on the negligence by Ms. Goodman, the dismal performance by Ms. Goodman, and not focusing on the underlying case within a case, to my discredit.

THE COURT: You make my feel like I've done something wrong, and I don't think I've done anything wrong yet. Perhaps I have.

Alright. You're saying to me that if that -- has she treated throughout?

MR. MARTIN: Yes, sir.

THE COURT: Ten years?

MR. MARTIN: At least. I think it started in '91.

MR. MARTIN: Yes, sir.

THE COURT: The last is -- of the pre-trial filings -- is a rather broad motion in limine, reaching everything else that hadn't been reached. It's entitled -- doesn't have a paper number yet because it was just received. These are courtesy copies I have, is that correct?

MR. BRENNAN: Yes, that's right. They are date stamped courtesy copies that were filed with the Clerk's office on the 28th.

THE COURT: On the 28th?

MR. BRENNAN: Yes.

THE COURT: There's a date in the schedule order. So they were filed on March 28th in the Clerk's office. I don't think the originals have made their way into the file, but this paper is entitled "Motion for an Order In Limine Precluding Testimony From Expert Witnesses on Issues Relating to Multiple Chemical Sensitivity." I take it, that's a medical opinion?

MR. BRENNAN: I'm sorry.

THE COURT: Is that a medical opinion -- multiple chemical sensitivity?

MR. BRENNAN: Yes. The Plaintiff alleges that she suffers from multiple chemical --

THE COURT: That's a medical thing, not a chemist.

MR. MARTIN: Yes.

MR. BRENNAN: Yes.

THE COURT: Necessity of medical treatment, and causation, simple causation of Plaintiff's alleged medical problems.

Now, this morning Mr. Martin states that he has a causation witness -- namely Dr. Zeim, is that right?

MR. MARTIN: Yes, sir.

THE COURT: But of course, that wouldn't preclude the defense from saying, well, it's too late because we really don't know what she's going to say about causation, and you have never furnished us with that information as required by the interrogatory. That would be a closer call.

My tendency would be at trial time to treat this somewhat like the medical examiner and say to the other parties, I'll give you the deposition here in trial, out of the presence of the jury, and let you go into it since it's pretty clear that she's been in this case because she thought Mrs. Galloway had a valid claim, medically speaking. I'll probably reserve on that causation question. That would go to necessity too, I guess if the causation was there. Necessity would come from Dr. Zeim, I would take it, is that right?

MR. MARTIN: Yes, Your Honor, I agree.

THE COURT: What about multiple chemical

sensitivity? Is that essential to a cause of action or --

MR. BRENNAN: The Plaintiff alleged that she suffered some multiple chemical sensitivity because of the exposure to these things.

THE COURT: It's an after the fact condition?

MR. MARTIN: Yes, and with --

MR. BRENNAN: Yes, and what she alleges -- she suffers from multiple chemical sensitivity, which is a complex -- involves virtual medical diagnosis, and there can be any number of causes for chemical sensitization, assuming that it's a valid diagnosis, and we believe we are entitled to disclosure and provision of the findings and opinions of the individuals the Plaintiff intended to call as an expert witness at trial on that issue.

THE COURT: Is that Dr. Zeim?

MR. MARTIN: That would be Dr. Zeim. It would also be Beverly Flick, the environmentalist.

THE COURT: Beverly Flick would say, what? Beverly Flick didn't give a medical opinion.

MR. MARTIN: She can't. Dr. Zeim would certainly be the person to give the medical opinion.

MR. BRENNAN: I don't know what Ms. Flick would say because she hadn't done the testing yet.

THE COURT: I would assume that.

MR. BRENNAN: She hadn't done the testing in the

soil. We don't know what she would say.

THE COURT: I understand.

MR. MARTIN: There's other medical evidence here that Sharon Galloway suffered from petroleum poisoning, and that's in the medical reports and Melfa says these are treatment records which don't require expertise. They stand on their own one way or the other, I would take it as the hypothesis for recent medical complaints, so therefore, Your Honor is exactly correct, of course. Therefore, it is a long stretch for Dr. Grace Zeim to say, given the fact that she lived in this house, given the fact that Sinclair Oil had gas station pumps there, and given the fact that the treating records show that one of the problems she has is with exposure to petroleum products that people don't usually eat or drink. It's not a big stretch for Dr. Zeim to say there's a causal connection here.

MR. BRENNAN: Your Honor, people are exposed to petroleum all the time.

THE COURT: There's nobody in the box.

MR. BRENNAN: I know. My point is this is a complex issue of causation. Medical diagnosis -- toxic tort cases usually involve more than one expert witness on medical and causation and enviromental issues.

THE COURT: I'm aware of that.

MR. BRENNAN: I don't think it's a stretch --

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Number Nine, and may I just put five names on the record here.

THE COURT: If they're in there, sure.

MR. MARTIN: Dr. Grace Zeim -- we talked about her a lot today. Dr. Allen Greenberg, Dr. Simon-Beltran, and then the records of Carroll County General Hospital and Greater Baltimore Medical Center, all of which are identified in Interrogatory Answer Number Nine, and also, Your Honor, we would like to be permitted to call as an expert, any experts that are designated by the Defendant because sometimes these experts are more helpful to one side than the other, and therefore, I think we need a little bit more time at the end of this in order to depose the Defendant's experts.

Mr. Brennan named some people 120 days from now -- we would like a little bit more time before the discovery cutoff to depose their experts.

MR. BRENNAN: It's 120 days from the date of refiling, whenever that may be -- assuming again that the case is refiled. The interrogatory, Number Nine, to which counsel refers is simply a interrogatory asking the Plaintiff to identify -- actually, I asked her -- one of the subjects of our motion for sanctions, which you didn't entirely reach -- but I asked her to identify all her continuing health care providers for the last 20 years, and

she identified about five. That's not an interrogatory addressing expert testimony at all.

Those individuals -- it's our position that a party just can't call all their treating health care providers as expert witnesses if they haven't identified them properly in response to discovery requests about expert witness testimony, Judge, so we made our proposal on that issue.

I don't have any great objection on the timing issue, extending the period -- I think the ultimate period I suggested was 150 days from refiling. I don't have any objection to extending that past that date, and to allow for further time for deposing experts we may designate.

THE COURT: I didn't make notes of all that you just said. It seems to me, Mr. Martin, that you have to put this -- you should put this request in writing.

MR. MARTIN: Yes, sir.

THE COURT: He can confirm the oral motion.

MR. MARTIN: Yes, sir. The proposed order which would limit our proof along the lines --

THE COURT: Whatever you propose, yes, in that.

MR. MARTIN: May I have two days?

THE COURT: Yes.

MR. MARTIN: Thank you.

THE COURT: And can you respond by Friday.

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the Defendants have omitted in their filing. Dr. Ziem's reports, from 1996 to the 2003 report, clearly state that Dursban was a factor in Plaintiff's injuries. Defendant was on notice of this during his representation of Plaintiff, it is no surprise to him as the above work orders were from his files.

Dr. Ziem's Affidavit. That Court should note that, while Defendants are challenging Dr. Ziem in a Frye/Reed hearing, they have offered no medical expert to challenge 1) Dr. Ziem's factual basis or 2) that her diagnosis was improper at the time, nor improper now, pursuant to generally accepted medical principles. Dr. Ziem specializes in Occupational and Environmental Medicine and Toxicology [redacted] She has been practicing in this field of medicine for over 20 years and has seen thousands of patients suffering from the effects of toxic exposures. Dr. Ziem has been Plaintiff's treating physician since 1996. Plaintiff was assessed by Dr. Ziem with generally accepted neurologic and neurocognitive testing at that time and those findings were consistent with neurotxic exposure.

In addition to neurological testing, a detailed history was obtained and reviewed in which Plaintiff relayed to Dr. Ziem that the Plaintiff believed that she had been exposed to petroleum products in her water as well as carbon monoxide. Dr. Ziem reviewed Plaintiff's medical records from the fall of 1991, which were consistent with carbon monoxide exposure. Dr. Ziem also reviewed the report of Dr. Greenberg, a neurologist, who related Plaintiff's symptoms in 1992 to Plaintiff's exposure to toxins in 1991. A generally accepted diagnostic tool in the medically community to evaluate this type of injury is neuropsychological testing by a neuropsychologist. Plaintiff was seen by James McTamney, PhD., who performed this testing and determined that Plaintiff was in fact suffering from organic brain syndrome, which Dr. Ziem will casually relate to the carbon monoxide exposure, as toxic brain damage. At the time, Dr.

MOTION NO. 6 --MEDICAL TREATMENT COST

Knowledge of Defendant Prior to filing suit

Defendant represented Plaintiff for over a three year period of time. During that time, Defendant had actual knowledge of Plaintiffs future medical care. As in the other Motion's in Limine filed, it is incomprehensible how he can take an inconsistent position in this litigation, that a) those needs are now inappropriate and b) the same physician he selected as an expert, in not qualified to render opinions regarding past or future medical care.

Defendant has filed pleadings and signed Answers to Interrogatories specifically addressing Plaintiffs past and future medical care

It is a hard to imagine the credence of Defendant's argument that "Plaintiff refused to provide Information" which the Defendant already has. Defendant filed a Designation of Experts, attesting that Dr. Grace Ziem would testify as to the past medical expenses and future medical care(See Attached). Dr. Ziem is the same expert which the Plaintiff is using in this case. The same expert, the same testimony, Plaintiff is totally disabled and cannot work. Further, Defendant Martin signed answers to Interrogatories in the Goodman suit, averring that Dr. Ziem would be testifying as to medical expenses, past and future. Also, the pre-trial settlement statement Martin represented to the Court, the Dr. Ziem's testimony would be that Plaintiff's medical care "would exceed $1,000,000 Dollars." For Defendant, barring Plaintiff from introducing any evidence, to after he has already made statements in prior litigation concerning Dr. Ziem's testimony, in which the information is identical to the information she introduce at trial, to attempt now to limit that information, is patently unfair to Plaintiff.

Plaintiff has provided through deposition testimony and discovery
those amounts of past and future medical expenses

Dr. Ziem is a treating physician in the state of Maryland who can testify as to the fairness and reasonableness of medical expenses of Plaintiff past and future medical needs. Dr. Ziem has been designated and deposed three times, that she would attest to the same. As counsel for Defendant should know, an expert witness may express opinions based on hearsay as to future medical needs. 104 Md. App 506 (1995). Plaintiff even prepared a matrix of those medical expenses, offered at Dr. Ziem's deposition and sent said matrix to the Defendant(See Attached). An interesting note, when Defendant's medical expert was deposed, the undersigned asked him about the fairness and reasonableness of those expenses and he had no opinion(See Attached). Defendant knows this and realizes that their expert, if permitted to testify, cannot rebut the opinions of Dr. Ziem regarding the fairness and reasonableness of medical expenses in the State of Maryland. This is counsel's fatal mistake. Much like the lost wage argument, Dr. Ziem can testify, from 1991 to date, no economist is needed. Plaintiff can testify as to her lost wages from 1991 to date. No forensic calculation is needed and it is simply a matter of simple addition, the amount of medical treatment she should have received on a yearly basis and multiply that amount times the number of years to the date of trial. Plaintiff can then do a simple present value calculation on the stand of the amount of the those medical expenses. Further, Plaintiffs legal expert, discussed in his deposition, the future medical care that is an element of damages(See Pgs 68-74 Attached). Defendant's statement that this information is disingenuous.

303976V	Martin, J Edward	Attorney	Montgomery County Circuit Court	CIVIL OPEN	11/6/2003

Malpractice case he represents plaintiff, brennan represents the attorney

CAL0419279	Martin, J Edward	Attorney	Prince George's County Circuit Court	CIVIL CLOSED	10/04/2004 HARRIS VS AUMAN

He represented plaintiff, court dimissed case

SHARON V. GALLOWAY
v.
PEGGY H. GOODMAN, ESQUIRE

BALTIMORE COUNTY

Case No.: 03-C-02-001545
* * * * * * * * * * * *

PLAINTIFF'S SETTLEMENT CONFERENCE MEMORANDUM

Sharon V. Galloway, by her attorney J. Edward Martin, submits the following Pre-Trial Settlement Conference Memorandum:

I. Plaintiff's Allegations.

1. This is an attorney malpractice case in which Sharon Galloway sues Peggy Goodman for the following breaches of the applicable standard of care.

A. Ms. Goodman failed to prepare for the December 30, 1999 summary judgment hearing before Judge Fader and offered no reasons, at the hearing, why summary judgment should not be granted. This lawsuit was also for professional malpractice and was filed by Defendant Peggy Goodman on behalf of Plaintiff Sharon Galloway against Edward Birrane and Roger Weinberg.

B. When Roger Weinberg's counsel filed a Motion for Summary Judgment, Defendant Peggy Goodman did not file a written response to the Motion,

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failed to obtain affidavits responding to the Summary Judgment Motion, had no response to the allegation that she failed to identify expert witnesses as to attorneymalpractice and as to medical damages. In fact, Plaintiff has evidence that Peggy Goodman did not even bother to open the envelopes in which the written Summary Judgment Motion was enclosed.

C. When Edward Birrane's counsel filed a Motion for Summary Judgment, Defendant Peggy Goodman did not file a written response to the Motion, failed to obtain affidavits responding to the Summary Judgment Motion, had no response to the allegation that she failed to identify expert witnesses as to attorney malpractice and as to medical damages. In fact, Plaintiff has evidence that Peggy Goodman did not even bother to open the envelopes in which the written Summary Judgment Motion was enclosed.

D. Peggy Goodman did not reply to the pre-trial discovery request received from the attorneys for Birrane and Weinberg.

E. Peggy Goodman failed to retain expert witnesses on the issues of liability, causation and damages and therefore did not identify any expert witnesses to counsel for the defendants.

F. Peggy Goodman advised Plaintiff Sharon Galloway that her "case against Birrane was worth a $1,000,000.00" and she therefore filed suit for a Million Dollars without ever having analyzed her basis for such an allegation of damages

G. Ms. Goodman incompetently drafted a Complaint which alleges that Birrane and Weinberg had failed to sue Robert Bernard. Ms. Goodman should have known, as Robert Bernard, the landlord of Sharon Galloway. Ms. Goodman should have known, and would have known had she reasonably inquired, that Robert Bernard had filed for bankruptcy protection before Ms. Galloway's lawsuit against Reisterstown had been fired by Mr. Birrane's office. Ms. Goodman also failed to identify the correct landlord. Actually, Robert Bernard was a member of a limited liability company or partnership entitled Jake Associates and it was landowner on the lease.

H. Ms. Goodman failed to advise her client that she should have sued Mr. Weinberg for his failure to investigate the source of the petroleum

contamination in the well water, the identity of the petroleum companies that installed underground storage tanks, the identity of the company that had installed a now banned pesticide on the property and the manufacturer of said pesticide.

I. Ms. Goodman failed to advise her client that she should have sued Mr. Birrane for his failure to investigate the source of the petroleum contamination in the well water, the identity of the petroleum companies that installed underground storage tanks, the identity of the company that had installed a now banned pesticide on the property and the manufacturer of said pesticide.

J. In failing to advise Sharon Galloway that she should sue Mr. Birrane for having failed to tell Ms. Galloway that she had a cause of action againstJoseph Glass, Esquire, the lawyer who represented her originally.

K. Ms. Goodman was negligent in failing to handle the settlement of the claim against Reisterstown Federal. She agreed to accept $30,000.00, on behalf of her client, based upon the assertions, made by counsel for the defendant bank, that she had a "slammed dunk case against Ed Birrane".

2. The Defendant has not denied the negligence of Peggy Goodman but insist that Sharon Galloway would have lost her case anyway whether or not Peggy Goodman was negligent. Defendant contends that Sharon Galloway's claim for damages is limited to $100,000.00 since she allegedly told her attorney, several years ago, that she would accept this amount in settlement.

3. Plaintiffs Experts:

A. Lawrence Melfa is a member of the Maryland Bar. He is a graduate of Harvard College and the University of Maryland Law School. He has been engaged in litigation for nearly 30 years and has extensive practice in toxic tort matters. He has been deposed at length and has furnished this Court with affidavits. He feels that Peggy Goodman's negligence proximately caused Sharon Galloway to lose her case.

B. Grace Ziem, M.D. has a medical degree from the University of Kansas, a Master's Degree in Public Health from Johns Hopkins, a Master of Science in Hygiene from Harvard, a Doctor of Public Health from Harvard and has lectured at Johns Hopkins in the areas of public health, industrial hygiene and occupational medicine for many years. At Dr. Ziem's eight hour deposition on May

15, 2003 she stated that Sharon Galloway had toxic encephalopathy, reactive airway dysfunction and autoimmune disease. All of these were proximately caused by the now banned pesticide commercially sold as Duraspan and by a malfunctioning furnace at the original defendant's premises wherein Sharon Galloway resided as a tenant. Dr. Ziem estimated, at her deposition, that it would cost $1,000,000.00 for all the remedial measures needed by Sharon Galloway who had been poisoned by industrial toxins.

C. Diadema Simon-Beltrand, M.D. has been licensed in Maryland for more than 40 years. She has filed an affidavit in this litigation stating that although Sharon Galloway had a number of pre-existing conditions, it is Dr. Simon-Beltrand's opinion, to a reasonable degree of medical certainty, that Ms. Galloway's pre-existing symptoms were aggregated or worsened by her exposure to the toxins at the subject real property in Baltimore County.

H. Plaintiff's Damages.

4. Grace Ziem, M.D. estimates that it will cost more than $1,000,000.00 for the Plaintiff to receive the following future medical needs:

A. Periodic evaluation of neurological status, upper and lower respiratory conditions, immune function, liver detoxification function, thyroid status, adrenal status and gastrointestinal status.

B. Oxygen therapy.

C. Nutritional supplements.

D. Specific ELISA lab testing.

E. Hyperbarric oxygen treatments.

F. Cognitive rehabilitation therapy.

G. Neurosensitization.

5. One Million Dollars is the same amount for which Peggy Goodman brought suit against Edward Birrane and Roger Weinberg.

JOSEPH EDWARD MARTIN ESQ., CHTD.

Frye-Reed at that time saying multiple chemical sensitivity is bunk, it's not scientific. And the thing I am struggling with is if you were using 2003 or 2009 science and medicine and diagnosing her back then and doing it right, maybe you could make that causal link. But that's not -- I mean, that's not this case.

MR. DISCEPOLO: Your Honor, the question is does she still have a chemical injury today and did she have it then.

THE COURT: That's not the question unfortunately. The question is did she have a provable case with competent representation then and based upon medicine then known and available.

MR. DISCEPOLO: If I would have represented her, I would have handled --

THE COURT: The question is -- well, nevermind. Nevermind.

MR. DISCEPOLO: You understand, your Honor, and I don't want to belabor this point. This is the expert that the defendant selected in the case below. That is the only expert that Miss Galloway had when she filed this case pro se. This was the expert he was planning to go to trial with.

THE COURT: But that's not the issue.

MR. DISCEPOLO: The issue for the first part of that argument is that there's an admission by the defendant.

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He used this doctor. So if this doctor is struck, it's a further admission that he didn't do his job.

THE COURT: Yeah, but the problem is to prove -- there was a way to prove it. And I know she was pro se, you got in late, you only had an expert on certain things. I understand all that. We are where we are.

MR. DISCEPOLO: Dr. Penny was around in 1996. You know, the weirdness in this case if they had called Dr. Penny when the defendant was representing her -- there are e-mails to confirm it -- they could have gotten an expert into the case to prove everything that the defense is trying to disprove now.

THE COURT: Which is available to me through what right now?

MR. DISCEPOLO: I'm sorry?

THE COURT: Is your reliance on a book I have never seen? I don't think it's referenced in anything I have read.

MR. DISCEPOLO: Yes, your Honor, because Dr. Ziem never cited this book. She cited an article in this book. Dr. Penny is an expert that I used in other CO cases. He is the national expert on carbon monoxide. The reason I'm sure these opinions were known in 1996, the plaintiff went and found this expert on her own, left the defendant know about it, this would have been the guy that would have been

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January 03, 2012

Bessie M. Decker, Clerk
Robert C. Murphy Courts of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401

Re; Galloway v Martin et al
September Term 2011 Petition Docket No. 383
No. 1093 September Term 2009 Court of Special Appeals

Dear Ms. Decker

In accordance with MD Rule 8-605 (2) Reconsideration, the Petitioner is filing one original and seven copies of the PETITIONERS MOTION FOR RECONSIDERATION by MD RULE 8-605, REQUEST FOR REMAND WITH SUPPORTIVE MEMORANDUM OF LAW AND REQUEST FOR A HEARING ON THESE ISSUES WITH DECLATORY COMPLAINT AND PETITION FOR MANDAMUS AND RELEVANT ATTACHMENTS

Due to the undisputed content of the aforementioned motions, I have included PETITIONERS MOTION FOR SUMMARY JUDGMENT WITH MEMORANDUM OF LAW AMD AFFIDAVIT OF PETITIONER

I have included an extra copy of this cover letter in an envelope that is self addressed and stamped that I am asking for you to date stamp and return.

Thank you for your time and attention to this matter.

Sincerely

Sharon V. Galloway
Petitioner pro se
410-833-5588
svgalloway@gmail.com