Hereby, we PETITION this U.S. SUPREME COURT to reconsider their DENIAL of our WRIT OF CERTIORARI. Per Rule 44 (2) of the SCOTUS rules, *"… grounds shall be limited to intervening circumstances of a substantial or controlling effect…"*

Therefore, we submit two MOTIONS in support of this PETITION FOR REHEARING.

Nothing could be more "*substantial [or] controlling*" than fraud, that is extrinsic, beyond the control of any litigants. But even more devious, is fraud that is a "*corruption of the judicial machinery itself*" in which *officers-of-the-court* commit a *fraud-upon-the-court*.

This has worked its way through the courts of Tennessee since 2012, the Nashville District Court, the 6th Circuit Court of Appeals, and is now in danger of infiltrating SCOTUS.

The APPENDIX submitted with our PETITION FOR WRIT OF CERTIORARI contained the Opinions of State and Lower Federal Courts, a.k.a. the Court **RECORD**. However, mysteriously missing were the "*FACTS surrounding Reliant's alleged-mistake*". Until these FACTS are openly *addressed* and *acknowledged*, and "*legally considered*", the multiple "*types of fraud*" continue unabated. Due Process has been Breached, and JUSTICE has been perverted now at the Federal level. Fortunately, the Statute of Limitations never expires.

PETITION TO REHEAR
WRIT OF CERTIORARI
USCA6 No. 22-5656

The Due Process Clause of the FIFTH and FOURTEENTH AMENDMENTS of the U.S. CONSTITUTION state that **no person** shall be ***"deprived of life, liberty, or property without due process of law…"***

Yet, that is exactly what has occurred in the State of Tennessee and now in the U.S. Federal District and Circuit Courts. Due Process is not [*or should not be*] conditioned on whether or not you are currently or formerly a U.S. President, nor about your red or blue political Party status, nor on your financial condition, or any other connections to the "*in-crowd*".

Due Process has been best defined by one word... "***fairness***" … in concert with the Rule of Law.

- Is it "***fair***" for courts to intentionally *leave-out* or withhold, i.e. "*pretermit*" relevant and material facts given by one Party ONLY [Petitioners]?
- Is it "***fair***" for State and Federal Judges to omit SWORN TRIAL TESTIMONY given by FDIC Bank officers, from every Court RECORD of Opinions, Orders, and Rulings, that exposes their fraud, and the intentional emotional and financial injury to Bushes?
- Is it "***fair***" for the Federal District and 6th Circuit Court to ignore PETITIONER/Bushes' MOTIONS FOR SUMMARY JUDGMENT and JUDICIAL NOTICE on ***three*** separate occasions, not even once openly considering the SWORN TESTIMONIAL FACTS given by FDIC Bank officers that prove their fraud?
- Is it "***fair***" for a Federal District Court, in determining whether or not they have factual "*jurisdiction*" and which requires "*conflicting evidence*..." to then leave out Bushes' "*conflicting-evidence*" contained within Bushes' MOTION FOR SUMMARY JUDGMENT in the same manner as occurred in the State courts; thereby omitting again this SWORN TRIAL TESTIMONY by FDIC Bank officers?

- Is it "***fair***" for the 6th Circuit Court of Appeals to leave-out "*quotations*" of SWORN TRIAL TESTIMONY, contained in Petitioners JUDICIAL NOTICE with Undisputed "FACTS" and then with a broad brushstroke conclude, that they are no more than "*baseless allegations*..."?
- Is it "***fair***" for judges to undermine the very fabric of justice, in a "***malicious and corrupt manner***"? Or,
- Is the CONSTITUTION's "***fairness***" or **Due Process** no longer required or guaranteed to protect Citizens when judges with sovereign immunity have acted in a "***malicious and corrupt manner***..."?
- IF the "***fairness***" of Due Process is *knowingly* and *intentionally* violated against citizens... does not that constitute a willful Breach of Due Process... or a "*corruption of the judicial machinery itself*" ... hence a ***fraud-upon-the-court***?
- Lastly, WHY would this be occurring? WHY would judges leave-out relevant and material facts? WHY

MOTION FOR JUDICIAL NOTICE

In the APPENDIX submitted with our PETITION FOR WRIT OF CERTIORARI, beginning on page 94, is **PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE** of the "***FACTS surrounding Reliant's alleged-mistake***". This will be the **4th** attempt by Petitioners, simply to have SWORN TRIAL TESTIMONY by FDIC Reliant Bank officers *acknowledged*, *addressed*, and *legally-considered*, and thereby entered into the Federal Court RECORD.

The Undisputed Facts, page 117, are *"201 (a) adjudicative fact(s)… (b) not subject to reasonable dispute" [and] (c) The court: (2)* ***must take judicial notice if a party requests it*** *and the court is supplied with the necessary information… (d)* ***at any stage*** *of the proceeding."* However, that has NOT been honored.

FDIC Reliant Bank's officers gave sworn testimony during the 2014 Trial, that the Loan NOTE and Third Party Security Agreement which they had prepared in 2007 for the Bushes as a *non-recourse* Loan, and had presented as "*true and correct*" to the Chancery Court in a SWORN AFFIDAVIT *twice* in 2013 to begin the Deficiency Judgment proceedings... was now a

* "***mistake***..." and the NOTE was no longer "***non-recourse***"
* The "***Bank's mistake...***"
* "***NOT*** *the Bushes' mistake*..."
* Which Bank officers had "*discovered in 2010... or 3-4 years earlier*..."
* But "*never told the Bushes*" while knowing the injury it would cause if they ever defaulted... and
* The Sr. V.P. then testified that upon discovery, he "***made it a point to ensure the Bushes did not renew the third party agreement***..." by his "***silence***" and intentional concealment of the "***mistake****",* and… by *alteration* of Renewal documents... thus
* FDIC Reliant Bank and their officers committed *fraud*... YET,

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This SWORN TESTIMONY HAS NEVER BEEN ENTERED INTO THE COURT RECORD...

Therefore, Petitioners herein, now AGAIN, formally MOVE for **JUDICIAL NOTICE**, using the same REQUEST FOR JUDICIAL NOTICE contained in the **APPENDIX** [*page 94*] of our WRIT OF CERTIORARI.

RULE 60 (d)(3) MOTION for *"FRAUD UPON THE COURT"*

When *fraud-upon-the-court* occurs, it is not the "*court*" that committed the fraud, but rather an *officer-of-the-court…* who in some way, *intentionally* deceived or "*corrupted the judicial machinery itself*". [1]

This is vastly different from a "Harmless Error. [2]

Instead, **Federal RULE 60 (d)(3)** states,
"OTHER POWERS TO GRANT RELIEF. This rule does not limit a court's power to: (3) set aside a judgment for fraud on the court."

The official duty of any *officer-of-the-court*, is or should be, to assure that Due Process, or "***fairness***"... in concert with the Rule of Law... is upheld. Judges are human, that is, they can make a "*mistake*" or inadvertently distort or *leave-out* facts. But when the relevant and material FACTS of one-party ONLY are consistently and repeatedly omitted, or "*pretermitted", a p*attern becomes crystal clear of intentional dereliction of official duty. This is especially true when these FACTS

[1] Petitioners gave multiple and adequate reference to statutes and case law in our PETITION FOR WRIT OF CERTIORARI. We will not repeat those herein.

[2] "**Rule 61. Harmless Error**: *Unless justice requires otherwise, no error in admitting or excluding evidence—or any other error by the court or a party—is ground for granting a new trial, for setting aside a verdict, or for vacating, modifying, or otherwise disturbing a judgment or order. At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party's substantial rights."*

are presented time and time again in Motions, Briefs, Petitions and Oral Arguments, over *12-years*.

Petitioners have never argued that Defendant State Judges, or now the Federal Judges of the District or Circuit Courts are evil, but rather that they have contributed to a "*deceit*" of the Court they were entrusted to serve. Perhaps they were on a defensive power-trip, or attempting to protect their peers, or worse yet, have been paid-off. Regardless of the reason, they have intentionally, either consciously or sub-consciously perverted Due Process and JUSTICE, and in so doing, caused *12-years* of injury to Bushes.

Whether or not the actions of these court officers' subjects them personally to damages, or whether they are "*sovereignly immune*" does not take away from the FACT that Petitioner/Bushes' Due Process was violated, and injuries were sustained... and... a remedy for those injuries is available per State and Federal Rule 60's.

When a final OPINION from State Appellate Court states, "***Bushes were not entitled to relief regardless of the type of fraud alleged..."*** it becomes apparent that that officer is either ignorant of the law, or simply doesn't care.

The Undisputed FACTS of this case [*within the APPENDIX of the WRIT*], makes it abundantly clear that relevant and material FACTS were omitted, i.e. "*pretermitted".* This was even admitted too by Defendant Stafford in his final OPINION, stating ***"All other issues not specifically addressed have been pretermitted"***. He then doubled-down with "***Pretermitting issues is a long-standing practice in Tennessee courts"***.

These are revealing and damaging admissions, contrary to every precept of "***fairness***" or Due Process, nor do they in any way uphold the Rule of Law.

This pattern, began in Tennessee State Courts, was the very reason this matter was brought to the Nashville Federal District Court in Fall of 2021. Bushes filed our MOTION FOR SUMMARY JUDGMENT with MEMORANDUM OF LAW and UNDISPUTED FACTS. FDIC Reliant Bank officers responded through counsel. It was then deliberately ignored by the Magistrate Judge who recommended DISMISSAL WITH PREJUDICE. The District Judge then determined that jurisdiction must first be established, that it was "*factual*", and that the "*conflicting evidence... must be considered...*" Yet, he then proceeded to omit, any and all mention or reference to Petitioners' Undisputed FACTS contained within the MOTION FOR SUMMARY JUDGMENT. Only the facts contained within the court RECORD were referenced in his DISMISSAL W/O PREJUDICE. Therefore, the District Court NEVER "*HEARD... or RECORDED*" Petitioners' FACTS. The Court ONLY "***knows***" what its officers "*tell*" it.

The pattern then proceeded to the 6th Circuit Court of Appeals in Cincinnati, whereupon a MOTION FOR JUDICIAL NOTICE was filed with the Undisputed FACTS. These FACTS were AGAIN ignored, *left-out*, "*pretermitted",* brushed-aside, NEVER mentioned or acknowledged, NEVER "*legally considered*". To this day, the 6th Circuit "Court" does not "*know*" or have ANY KNOWLEDGE concerning Petitioners' FACTS. The officers "***know***" ... but NOT the Court. To the Court, they are no more than "***baseless allegations***".

The **APPENDIX** filed with this SUPREME COURT in Petitioners" WRIT OF CERTIORARI contains the Undisputed FACTS with SWORN TRIAL TESTIMONY... yet, these FACTS are NOWHERE to be found in either the State or Federal Court RECORD. Petitioners have been robbed of their Due Process. The Rule of Law has been violated. The Honorable Federal District and Circuit Courts have now been deceived.

WHY...? **HOW** can SWORN TRIAL TESTIMONY, given by FDIC Bank officers, be no more than "*baseless allegations"*?

WHY would "*conflicting evidence"* be required, then omitted or "*pretermitted"* from the District Court's analysis, to determine a "*factual"* basis for jurisdiction?

And **WHY** would this SWORN TRIAL TESTIMONY be *left-out* again in lower Federal Courts, when that was the sole basis for removal from State Court?

Therefore, Petitioners do hereby file this **Federal Rule 60 MOTION** for "***FRAUD-UPON-THE-COURT***" that has infiltrated and deceived Federal Courts. Since there is no Statute of Limitations or other time limit for filing, and since this U.S. SUPREME COURT is empowered and obligated to oversee and ensure CONSTITUTIONAL DUE PROCESS and "***fairness***" to all U.S. Citizens, and since these are new grounds upon which a PETITION FOR REHEARING is justified, and since failure to REHEAR would result in rewarding those officers who deserve no reward regardless of ANY immunity available, and since FDIC Banks should "*prepare their documents accurately... and immediately notify and fulfill their Duty to Disclose to those who*

would be injured by any mistake discovered... and should NOT conceal or alter their FDIC Renewal documents for 3-4 years, and… when substantial injury would result..."

We therefore PETITION this U.S. SUPREME COURT for a REHEARING.

CONCLUSION

In a recent article by Jon Dougherty, entitled, "**Trump Lawyer Habba: '100 Percent Sure SCOTUS Will Overturn Colorado Ballot Rulings**', Alina Habba stated,

> ***"And there is no question in my mind. Due Process exists for a reason. There has to be some America left. There just has to be. And this was a very, very, I mean such a ridiculous decision that I'm not even concerned that the Supreme Court will make the right decision here."***

Some would argue, "*But that is for the President of the United Staes... Of course, SCOTUS will hear..."*

But to them, I would reply, ***"No... that is NOT the deciding issue. The issue is Due Process, or "fairness" in concert with the Rule of Law. Without Due Process, this country is just a banana republic."***

Therefore, Petitioner Bushes prayerfully request a REHEARING to restore Due Process by this High Court, or a Court of its choosing, a Ruling on the MOTION FOR JUDICIAL NOTICE with STATEMENT OF UNDISPUTED FACTS, and relief from *12-years* of injury per RULE 60 for "*FRAUD-UPON-THE-COURT*".

Respectfully and prayerfully submitted,

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"Truth will ultimately prevail where there [are] pains taken to bring it to light."
George Washington