No. _____

In the

Supreme Court of the United States

LAURA LYNN HAMMETT,

Petitioner,

v.

PORTFOLIO RECOVERY ASSOCIATES, LLC, a limited liability company, et al.,

Respondents.

On Petition for Writ of Certiorari to the

United States Court of Appeals for the

Eighth Circuit

PETITION FOR WRIT OF CERTIORARI

LAURA LYNN HAMMETT
16 Gold Lake Club Road
Conway, Arkansas 72032
(760) 966-6000
Bohemian_books@yahoo.com
Petitioner In Pro Persona

QUESTIONS PRESENTED:

Whether the Eighth Circuit Court of Appeals violated the appellant's due process rights under *U.S. Const. amend. XIV* by affirming each of the district court's orders—particularly those requiring de novo review—without addressing clearly erroneous findings of fact and apparent errors of law, thereby necessitating Supreme Court guidance on the revision or abolition of its local rule allowing such summary affirmance.

This petition also presents three cert-worthy subsidiary questions that remain unanswered:

Whether denying access to electronic filing for pro se litigants constitutes discrimination against the majority property class, in violation of due process and the *United Nations' Declaration of Human Rights Article Two*. The courts held that non-attorneys may not file electronically.

Whether, consistent with *Skidmore* and the recent *Loper* decision, individuals have the right to raise a genuine dispute of material fact by citing factual records compiled through Civil Investigative Demands by government agencies. The courts ruled that CFPB findings against the defendant were irrelevant.

Whether a court must apply a negative inference for spoliation of evidence to preserve fairness and due process when a party, or its predecessor in interest, destroys or alters evidence it knew would plausibly be needed for future litigation. The implication of spoliation was left unaddressed.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

CORPORATE DISCLOSURE STATEMENT

Petitioner is an individual and therefore has no parent corporations, and no shareholders.

STATEMENT OF RELATED PROCEEDINGS

There are no proceedings directly related to this case within the meaning of Rule 14.1(b)(iii).

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Filed March 23, 2023

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The Federalist No. 78, at 525 (A. Hamilton): page 24

The Structure and Practices of the Debt Buying Industry, Federal Trade Commission (2013); available at https://www.ftc.gov/sites/default/files/ documents/reports/ structure-and-practices-debt-buying-industry/ debtbuyingreport.pdf. : page 26

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States court of appeals for the Eighth Circuit and denial of rehearing en banc appear at Appendix A to the petition and are unpublished.

The opinion of the United States district court for the Eastern District of Arkansas appears at Appendix D to the petition, the opinion on reconsideration appears at Appendix E, the interlocutory and post judgment orders challenged are indexed, with Text Entry Only orders by a docket printout as per instruction of the clerk and all are unpublished.

JURISDICTION

The Eighth Circuit issued its opinion on June 5, 2024. A timely motion for rehearing en banc was filed on June 18, 2024, under Federal Rules of Appellate Procedure 35(c) and 40(a)(1). The Eighth Circuit denied rehearing en banc on July 9, 2024.

This Court has jurisdiction under 28 U.S.C. §1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED
28 U.S.C. § 1291 (App-I at 1)

28 U.S.C. § 1254(1) (App-I at 1)

United States Constitutional Amendment XIV, Section 1 (App-I at 2)

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12 U.S.C. § 5562(b) - Hearings and Adjudicative Proceedings (App-I at 6)

12 U.S.C. § 5562(c) - Civil Investigative Demands (App-I at 7)

26 CFR § 1.6050P-1 Information reporting for discharges of indebtedness by certain entities (App-I at 7)

Section I.B of the CM/ECF Administrative Policies and Procedures Manual for Civil Filings: "Pro se parties shall not be permitted to file electronically."

In the United States District Court for the Eastern District of Arkansas, In the Matter of the Implementation of Case Management/Electronic Case Filing (CM/ECF), **Amended General Order 53** (App-I at 8)

L.R. 5.1 adopted and effective December 1, 2018, **amended November 5, 2020** (App-I at 9)

15 U.S.C. §1692 et seq. FDCPA (App-I at 10)

STATEMENT OF THE CASE

A. Jurisdiction in the Court of First Instance

The district court had original jurisdiction under 28 U.S.C. § 1332 because this is a civil action between a citizen of Arkansas and a Delaware Limited Liability Company with its principal place of business in Virginia, and the amount in controversy exceeds $75,000, exclusive of interest and costs. The court also had jurisdiction under 28 U.S.C. § 1331 due to federal questions arising under 15 U.S.C. § 1692 et seq. Supplemental jurisdiction over state claims was provided by 28 U.S.C. § 1367.

B. Why Review by the Supreme Court is Necessary

The Eighth Circuit affirmed the district court in a single paragraph, stating there was 'no basis for reversal' and deferring to the lower court's analysis of Hammett's claims and costs. It then denied both motions to settle the record and unseal the evidence, undermining the transparency that is the cornerstone of justice.

This Court has acknowledged the risk of appellate courts 'gloss[ing] over complexities in the evidence' by relying on clearly erroneous factual findings, as in *Murthy v. Missouri*, 603 U.S. ___ (2024).

Intermediary appellate courts throughout the country too often fail to provide adequate oversight to the lower courts, as they failed to do for Hammett in this and three other civil actions since 2020. These appellate courts give undue deference to

lower court decisions, even where, as here, the standard of review is required to be de novo. "When *de novo* review is compelled, no form of appellate deference is acceptable." *Regina College v. Russell* (89-1629), 499 U.S. 225 (1991)

The motivation for this failure cannot excuse the denial of fundamental due process. It is unacceptable, whether the cause is to save costs for an overburdened system, a party preference, or to protect the image of colleagues.

Even the district court recognized that the appeal was not without merit, stating it was "not frivolous". (App- F at 5, f.n. 27). At a minimum, the appellant was entitled to a reasoned opinion from the Eighth Circuit, explaining its disagreement with the well-reasoned arguments presented in the appellant's briefs.

Although the Eighth Circuit did not explicitly cite Local Rule 47B (App-I at 5) when summarily affirming the district court's decision in this case, its actions are consistent with a troubling pattern of the court using this rule to deny meaningful review—especially in cases involving pro se litigants. Rule 47B allows the court to affirm without issuing an opinion when the judgment below involves no clear factual errors or errors of law. However, this rule should not be used to sidestep a thorough de novo review, particularly in cases such as this, which raise multiple serious issues of fact and law that were overlooked or misinterpreted by the district court.

Petitioner addressed ten serious legal issues on appeal, also exposing the district court's significant factual misstatements. Several of the issues were raised by the District court in his order on motion for reconsideration. (App-E) The Court's

appearance of bias due to his connection with PRA and distaste for the CFPB was not raised until appeal, so the Eighth Circuit had no prior opinion to affirm.

Justice Samuel Bernard Goodwyn, Chief Justice of the Supreme Court of Virginia, put it perfectly.

> "I feel like that transparency makes just a big difference in people's perception of fairness…I always wanted to explain to people exactly what I had done and if they wanted to appeal it, that's how I'm going to get better, right? If it comes up to the Supreme Court and they told me I made a mistake, I know not to do it next time.
>
> "Whereas I understand some circuit court judges felt like you never explain why you do what you do because that's how you get reversed. Why? Why would you be afraid of being reversed?
>
> "I never understood that. Aren't you more concerned about getting it right? And if you can't articulate why you're doing it, I always felt like you shouldn't do it.
>
> "[laughs] You're not ready to decide the case if you can't explain why you're deciding it." The Art of Appellate Advocacy, Williams & Mary Law School, https://www.youtube.com/watch?v=6InzU3szzUY @ 1:49:00

This petition may be treated either as a writ of mandate to compel the Circuit Court to address non-frivolous arguments or as a standard writ of certiorari. If treated as the latter, the Supreme Court would answer the principal question, along with their choice of subsidiary questions fairly included under Supreme Court Rule 14.1(a) and presented herein.

C. Facts Material to the Questions Presented

Alleged creditors sometimes make mistakes. Here, it is undisputed that the data for Laura Lynn's account was merged with that of Laura Lyman. A letter dated March 18, 2021, sent to an address associated with "LAURA LYNN," stated: “Dear LAURA LYMAN, Portfolio Recovery Associates, LLC (‘PRA, LLC’) has concluded its investigation of your dispute and is closing your account.” The account number differed from Laura Lynn's, and the stated balance was $0.00 instead of the $2,297.63 that PRA claimed was owed by Laura Lynn.

After the petitioner requested a correction, PRA sent another letter addressed to "LAURA J LYNN," indicating that the account had been closed, but omitting mention of the investigation. The petitioner sought a letter that mirrored the previous one regarding Laura Lyman, which PRA eventually provided. The existence of these letters is accepted as undisputed fact in the Consolidated Order (App-D at 20, 21), with neither party challenging this determination.

This raises a reasonable inference that PRA engaged in fraudulent practices, attempting to mislead the petitioner into believing the balance on Laura Lynn's account was zero, possibly hoping the petitioner would dismiss the case without appropriate compensation that might deter similar misconduct.

A 2023 CFPB Complaint claimed that "for some disputed debts, PRA did not possess or review [Old Account Level Documentation] reflecting the consumer’s name and claimed amount at the time of the dispute," yet resolved disputes in its favor, renewing collections on unsubstantiated debts (App-L at 6, ¶25). This

illustrates the precarious position Hammett would have faced had she dismissed the suit without a fair settlement—PRA likely would have resumed collection efforts.

When PRA's scheme failed, they claimed to have "waived" or "canceled" the alleged debt "in light of the ongoing litigation" (App-D at 20). However, PRA never issued an IRS cancellation of debt form 1099-C, which is required for any debt over $600 that is canceled unless the debt collector agrees there was a legitimate dispute (26 CFR § 1.6050P-1(a)(1) and (b)(2)(i)(G)).(App-I at 7)

As to PRA's claim it "waived" the debt, the court wrote, "Ms. Hammett denies this but fails to offer any evidence to raise a genuine dispute of material fact on whether PRA, LLC waived the debt." (App-D at 20, f.n. 196.)

Hammett informed the court that PRA can legally declare the balance as zero without a 1099-C only if it acknowledges the debt was fraudulent, which aligns with the Internal Revenue Code and the scripted policy their representatives tell alleged debtors that is under seal. (App-cc)

According to IRS instructions on cancellation of debt:"!CAUTION: Do not file Form 1099-C when fraudulent debt is canceled due to identity theft. Form 1099-C is for cancellations of debts incurred by the debtor." Assuming PRA was not violating the tax code, they determined the debt was canceled due to identity theft.

PRA must file a 1099-C if they discharge Hammett's debt of at least $600 during a calendar year. A discharge of indebtedness is deemed to have occurred if there is a cancellation or extinguishment of debt (C), or a decision by the creditor to

discontinue collection (G). PRA claimed both C and G were true, yet chose not to issue a 1099-C to Hammett.

For tax purposes, canceled debt typically creates taxable income equal to the debt's face value minus any amount paid to satisfy it. The burden is on the taxpayer to prove any applicable exemption (*Patacsil v. Commissioner of Internal Revenue*, T.C. Memo. 2023-8 (2023) citing 26 U.S.C.A. § 61(a)(12)). Merely zeroing a debt on PRA's books does not extinguish it; otherwise, Capital One could not sell that debt to PRA after writing it off.

As Hammett claimed in her motion for partial summary judgment, agreeing to the balance being zero without issuing a 1099-C made the fact that the debt was not incurred by the plaintiff indisputable. The court should have at least given the fact an inference in Hammett's favor. Neither court explained why they let PRA bypass clear internal revenue code.

By claiming the "waiver" of debt was in light of litigation, PRA admitted that after seven years of calling Hammett and sending letters that stated the debt was $2,297.63, that Hammett filing litigation is what caused PRA to call the debt zero.

The correction was made without a settlement agreement. "In light of the ongoing litigation" does not mean "we gave up something we were entitled to."

The court's determination that the debt was waived, with not even an inference favoring the non-moving party, was clearly error.

The Court's numerous misstatements of Hammett's evidence, along with supporting details, was thoroughly presented to the appellate court. If certiorari is

granted, a more comprehensive elaboration on the factual errors with citations to the record will be presented. Borrowing from the appellant's brief:

The Court truncated a sentence from Hammett's Affidavit, "I am a consumer in respect to any debt incurred by me on a credit card issued by Capital One Bank (USA) in or about 2001, as I used any credit card to purchase household items, food and other consumer items." The sentence meant Hammett was a consumer according to the FDCPA. The Court's misquotation meant Hammett agreed she had owed the debt. "I am a consumer in respect to any debt incurred by me on a credit card issued by Capital One Bank (USA) in or about 2001." (App-D at 71.)

During the June 14, 2023 hearing, the Court admitted to making this misquotation. Then added, "if [correcting] it does anything, it hurts her". (App-E at 4:3 to 5:4)

The Court called truncating a sentence a "drafting error". (App-E at 4:6)

The Court also said, "Hammett admits that she made purchases on the Capital One account. [Affidavit] (Doc. 39) ¶ 3." (App-D at 72.)

The paragraph cited alleged Hammett's credit cards were all used for consumer goods, not business. Hammett said she "DENIES that she opened an account ending in -6049" under penalty of perjury. See Counterstatement of Undisputed Facts (R. Doc. 198, at 2.)

The Court took another Hammett phrase out of context, truncating to fit his narrative. "Ms. Hammett concedes that she 'probably' opened a Capital One account in 2001." (App-D at 71)

Hammett said, “I have no evidence of it anywhere. I've looked through every piece of paper that I have and I've looked through all my e-mails. There's not a single one from Capital One.” (R. Doc. 164, at 80:7 – 11); “[opening an account] might have even been earlier than [2001], but, you know, around then, probably more like 1998.” (deposition, R. Doc. 164, at 81:20 – 22,); “I don't deny having a Capital One account, but don't twist that into being this account.” (id., at 82:6 – 7); “And my son’s ex-wife, [Liz Lynn], had a Capital One statement sent to the [Garnett] address and I asked him about it and he said, oh, just throw it out.” (id. at 82:11 – 17.) Hammett said, “no matter how many times PRA says that I agree that there was that particular debt, I never have.” (R. Doc. 167-1, at 42:23-24.) “Hammett said she probably had a Capital One account opened about 2001 but did not state her Capital One account had an account number ending in -6049 in Dkt. No. 37 ¶ 19 nor Dkt. No. 39 ¶ 2.” (R. Doc. 198, at 2.)

The court’s error is material because the Consolidated Order is based on the “fact” that Hammett “admitted” she owed the Debt.

Furthermore, Hammett’s complaint concentrated on the other violations of the FDCPA, outrage, invasion of privacy and the proposed amended complaint contended that waking an insomniac with adhesive capsulitis was physical harm.

PRA made a clumsy attempt to minimize the number of phone calls they made to numbers associated with the disputed account.

PRA refused to tell Hammett the name and contact information for its telephone service provider until after discovery closed and they were in a hearing on summary

judgment. The call log and contact records generated by PRA were withheld until after Hammett disclosed her own records, allowing for PRA to scrub its records of the calls Hammett claimed she received before she started keeping her own written log. PRA's logs are inconsistent with each other, inconsistent with the calling pattern that appears to be created by an algorithm and inconsistent with calling patterns seen on other consumer's records. These records were allowed to be filed under seal. (App-aa and bb)

Please read the confidential instructions to representatives found in App-dd. Read note #7. Look through the call log, App-aa. PRA claims to have dialed numbers associated with Hammett 412 times. Hammett claims there are many calls missing from the PRA generated log. PRA claims 31 contacts, not including dead air and voicemail. The call log ends February 18, 2021. Now look at App-bb under seal. There are five contacts noted up to and including February 18, 2021. PRA produced about 45 call recordings. These documents are inconsistent.

PRA and the debt originator spoliated evidence. The companies know documentation will be required for all collections, but they destroy it anyhow. Common practice between these two companies is that the sale of debt is made with no guarantee of accuracy. There was no purchase agreement produced, which should raise a reasonable inference that PRA knew the data might be inaccurate.

There is a plausible case of illegal tax fraud arising from this conduct. If credit card companies are selling phantom debt to PRA, and PRA knowingly purchases

worthless data (with some legitimate debt interspersed to maintain appearances), both parties could be engaging in tax evasion.

For instance, Capital One claimed the unsubstantiated Laura Lynn debt of $2,297.63. PRA likely purchased the data for $229.76, assuming a common rate of 10 cents on the dollar. Capital One then wrote off $2,067.87 as a loss ($2,297.63 minus $229.76). With a corporate tax rate of 21%, Capital One paid $434.25 less in taxes because of the illegitimate debt write-off.

PRA, unable to collect any money from Hammett, wrote off its $229.76 expenditure, reducing its taxable income by $48.25. The People of the United States, through the IRS, lost a combined $482.50 in tax revenue from these two transactions. If repeated across thousands of accounts, this scheme could cost taxpayers millions. Meanwhile, PRA's business model is sustained by collecting on some of the data, more than offsetting its minimal investment. This setup relies on exploiting a loophole while pretending ignorance of the fact that destroyed records would reveal the disputed debts were never valid.

This scheme only applies to debts that were created by a data entry error, like making one account zero when the credit should have gone to another, and only when the creditor knows from OALD there was not a third-party fraud.

This suspicion wasn't raised in the lower court but is included here for its national significance. Deference to CFPB fact-finding would reduce taxpayer costs in a potential IRS investigation of this scheme.

D. Primary Question: Whether De Novo Review Requires More?

When de novo review is required, the appellate court cannot merely assert the lower court's correctness. It must engage with the merits when genuine disputes are raised. The court's cursory affirmation failed to address Hammett's list of errors made in the Consolidated Order and the Order on Reconsideration.

The Eighth Circuit might have contemplated the possibility of abuse of Local Rule 47B, causing them to include safeguards 1 to 4. But there is no review by right of circuit court decisions. Certiorari is granted in perhaps 1% of the petitions. To have a pro se petition granted is an anomaly. There is no way to know if the appellate court looked for district court findings of fact that are clearly erroneous and errors of law.

While Rule 47B allows for affirmance without an opinion, it does not negate the court's duty to meaningfully engage with the arguments raised on appeal. The appellate court's use of this rule to summarily affirm a judgment without addressing my substantive legal challenges—including misstatements of evidence and procedural errors by the district court—deprived me of a proper de novo review. The appellate court's summary disposition in reliance on Rule 47B undermines the essential purpose of appellate review: to ensure that errors made by lower courts are corrected and that justice is served.

One critical issue—judicial bias—was raised for the first time on appeal and falls within the established exceptions for introducing new arguments. This bias claim stems from the judge's prior role as counsel to Walmart, which issued Walmart-

branded credit cards through Capital One, the company that sold debt to PRA. This potential conflict of interest raises significant concerns, particularly given the judge's previous critical writings about the CFPB, the agency regulating debt collectors. Since these issues were not addressed in the lower court, the district judge could not respond to them. Consequently, adopting the district court's opinion verbatim does not address the appearance of bias and belies the fact that there was any review at all.

The District Court waited until its order on costs to address Hammett's argument that the denial of leave to file electronically violated the 14th Amendment. Even then, the court's reasoning was dismissive: "The Constitution does not require electronic filing—which is a good thing since electronic filing wasn't possible for the first 200-plus years of federal court operations." This statement reflects a misunderstanding of how constitutional principles adapt to evolving technologies. By this logic, one could question the constitutionality of numerous modern practices, from electronic communication to access to specific medical procedures, simply because they did not exist when the Constitution was drafted. This reasoning risks unduly narrowing constitutional protections, conflicting with precedent regarding technological advancements and due process rights. (See App- C at 1, App- F at 4)

Additionally, the District Court overlooked Hammett's argument regarding the inconsistency of two separate records produced by PRA, both relating to the disputed debt, which indicated spoliation. (See App- aa and bb under seal, which

show discrepancies in the number of recorded phone calls, including a duplicated PRANet report designed to distract from the discrepancies between the two files.)

The court also neglected to consider that PRA's failure to produce critical documents further supported claims of spoliation. These missing documents included the alleged credit card agreement, a list of debts referenced in the bill of sale, the sales agreement itself, and older account-level documents showing how, where, and by whom the credit card was used. Hammett asked for these documents by request for production and through the Disputes Department. Hammett contended that these omissions warranted a negative inference against PRA. Neither District nor Circuit Court mentioned spoliation.

As detailed earlier, the District Court acknowledged misquoting a sentence from Hammett that defined her as a consumer under 15 U.S.C. §1692a(3 and 5). There is a slight implication to the altered sentence that Hammett admitted to incurring the debt. Taking this sentence out of context and altering it calls the Court's neutrality into question. Although the court claimed that the actual quote "hurt" Hammett, it did not elaborate on how this was the case (App- E at 4:3 to 5:4). Hammett provided the detailed analysis of both the correct quotation and the misquoted sentence in her opening brief; however, the Eighth Circuit failed to address this issue.

The District Court shifted the blame to Hammett – "She chose to bring this lawsuit and to pursue it vigorously." (App-F at 4) After multiplying Hammett's cost of litigation by denying her use of the tools available to her opposition, he finally

shifted the oppositions costs to Hammett as well. (App-F) The Eighth Circuit failed to offer a viable alternative to make the calls stop.

The defendant acknowledged—and the Court agreed—that the balance on the disputed account had been set to zero "in light of the ongoing litigation" (App-D at 20), confirming that litigation was necessary to stop the harassing collection efforts. Despite this, the Court appeared to question Hammett's Article III standing (App-E at 7-9), overlooking the economic harm incurred to stop the calls. The Court then taxed Hammett $8,356.18 for the defendant's costs, more than her annual income. This presents a tangible risk of harm, only relieved by bankruptcy or being granted certiorari (*TransUnion*, 594 U.S. at 435; *Spokeo*, 578 U.S. at 341).

Ironically, Hammett had no debt when PRA called her but now must use expensive credit due to litigation costs depleting her savings.

Regarding de novo review, the District Court noted, "I'm not basing my ruling on that, but, obviously, that doesn't matter because the Eighth Circuit has an independent obligation to – to look at jurisdictional issues here anyway." (App-E at 10:1-4). We can presume the Eighth Circuit found standing, as they would have mentioned otherwise. (*Hekel v. Hunter Warfield, Inc.*, 8th Cir., No. 23-3091, (Oct. 4, 2024)). (Dismissal affirmed on lack of Article III Standing as other grounds.)

The Court's position in this case, as in every other FDCPA case it has presided over, that no unlawful collection activity can occur if there is an actual debt, is incorrect. The Eighth Circuit failed to explain the connection between the false claim that Hammett agreed she owed the debt and PRA's justification for

repeatedly calling her. The FDCPA does not say "the debt collector shall not make annoying phone calls, unless the person they call repeatedly owes a debt."

Hammett's experience with multiple appeals underscores a broader issue: the recurring failure of appellate courts to provide independent, reasoned opinions when engaging in de novo review. This pattern suggests a troubling reticence among appellate courts to critically examine the decisions of lower courts, undermining the core principle of de novo review.

In *Hammett v. Weaver, et al.*, 8th Cir. Case No. 21-3640, the Eighth Circuit denied Hammett's appeal before entering a briefing schedule. The Judgment had two sentences. "This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed."

This was more than the mandatory minimum, "AFFIRMED. See 8th Cir. R. 47A(a)" (App-I at 4) Still, it is emblematic of a systemic failure to perform meaningful de novo review, instead rubber-stamping lower court decisions without due consideration. The district court order failed to recognize conduct while taking an administrative action, like transcribing a hearing, as an exception to judicial immunity that applied in this 42 U.S.C. 1983 case. Hammett was making one more attempt to have the recordings of hearings in *Pietrczak* played in open court, so the public could compare them to the fictionalized transcript. Due to physical and emotional strain, Hammett was unable to request a rehearing or petition the U.S. Supreme Court, leaving this egregious example of appellate inaction unchallenged.

Hammett only learned of Eighth Circuit Local Rule 47A, the companion to 47B, while preparing this petition. "See 8th Cir. R. 47A(a) [or 47B]" should be required on the relatively verbose two sentence dismissals, also.

On October 2, 2024, just days before the deadline to file the present petition, the Arkansas Court of Appeals dismissed another appeal brought by Hammett, *Rural Revival Living Trust and Laura Lynn Hammett v. Michael Pietrczak*, Ark. Ct. App. No. CV-22-435. Despite no responsive brief being filed, the court dismissed the appeal based on a claimed lack of jurisdiction, asserting that there was no final appealable order as of "April 7, 2022". However, a final appealable order had been filed on April 14, 2022. This raises another serious question about whether the court critically evaluated the record before dismissing the case. Hammett will work diligently to ensure the judgment is properly reviewed. Unfortunately, securing the rigorous scrutiny required by law will depend on discretionary review, as it is evident that appellate courts may not engage in thorough examination without such intervention.

In *Hammett v. Sherman, et al.*, No. 22-56003 (9th Cir.), the Ninth Circuit is currently reviewing whether the six-year-old case should be dismissed without prejudice for lack of jurisdiction due to incomplete diversity. It is frustrating that both district and circuit court took six years to notice the well settled precedent of *Carden v. Arkoma Assocs.*, 494 U.S. 185 (1990) applies. Justice delayed is justice denied.

E. Subsidiary Questions

Electronic filing: Equal justice under the law is a principle extolled by all. Yet, disparities persist, especially when it comes to access to resources in litigation. The wealthy litigants can afford experienced attorneys, while the rest must often represent themselves or rely on overburdened public defenders. This imbalance becomes particularly stark in civil litigation, where self-representation is frequently the only option for the common person.

The District Court exacerbated this inequality by denying Hammett access to electronic filing, falsely claiming no discretion to allow her to use the system.(App-C at 1)

As appellant explained to the Eighth Circuit in her opening brief at pgs. 74 to 77:

The Court abused his discretion to deny electronic filing; the rule the Court relied on is unconstitutional and was superseded.

There are two local rules controlling access to electronic filing, L.R. 5.1 and Section I.B of the CM/ECF Administrative Policies and Procedures Manual for Civil Filings.[Citing by footnotehttps://www.are.uscourts.gov/sites/are/files/cvmanual.pdf] "'The district court has considerable discretion in applying its local rules.' *Buffets, Inc. v. Leischow*, 732 F.3d 889, 895 (8th Cir. 2013)." *R.A.D. Services*, 60 F.4th 408 (2023)

But the rules themselves must be examined for Constitutionality. That standard is strict scrutiny. Denial of electronic filing creates burdens on pro se litigants that are not imposed on the class of moneyed elites who can afford attorneys.

The Court applied the wrong standard for Constitutionality.

There is a well settled, fundamental right to equal protection. (*14th Amendment of the United States Constitution*, R. Doc. 8, at 1 [Memorandum in Support of Plaintiff Laura Lynn Hammett's Motion for Leave to File Electronically.]) The Court errantly concluded that rational basis scrutiny applies. (Doc. 263-0, at 4. [App-F at 4]) "Unfortunately, most citizens are in the class of people who cannot afford to hire an attorney. Plaintiff is a member of this class." (R. Doc. 8, at 2.) The court reasoned attornies (sic) are "officers of the court and members of the bar and pro se parties [] are not". (Parenthesis omitted. R. Doc. 263-0, at 4.[App-F]) Arguendo, attorneys are presumed honest and competent, the same presumption should apply to non-attorneys. The Court needs an objective test for non-attorneys to challenge the label of 'incompetent and dishonest' linked to their economic class.

PRA's attorneys demonstrated incompetence and dishonesty by improperly filing Hammett's "CONFIDENTIAL" credit report on PACER (R. Doc. 56-2, at 30–48). Despite requests for correction, PRA failed to do so as of November 9, 2023. Additionally, PRA filed its SUMF three days after its MSJ, only after Hammett pointed out the error. PRA entered its MSJ reply as a "response" (R. Doc. 107).

"While safeguards to the electronic filing system are understandable, Plaintiff is experienced with the system, has a PACER account in good standing and is willing

to adhere to all the rules equally with the Defendants' counsel. (See Affidavit of Laura Lynn Hammett ("Aff.") ¶¶ 1 to 7)" (R. Doc. 8, at 2 referring to R. Doc. 9)[R.Doc. 9 is included in its entirety as App-J]

The Court abused its discretion by refusing to exercise it.

"Local Rule 5.1 prohibits self-represented litigants such as the Plaintiff from using the electronic filing system unless first obtaining a court order." [Citing R. Doc. 8, at 2, Memorandum in Support of Plaintiff Laura Lynn Hammett's Motion for Leave to File Electronically.]

The Court reasoned in full, sua sponte, "[the administrative policy] prohibits pro se parties from participating in electronic filing." (R. Doc. 18, at 1.[App-C at 1]) General Order 53 [Citing by footnote to https://www.are.uscourts.gov/sites/are/files/general-ordes/GO53.pdf], adopting the CM/ECF Administrative Policies and Procedures Manuals, was enacted December 1, 2018. L.R. 5.1 was adopted and effective December 1, 2018 also, but was amended November 5, 2020, superseding G.O. 53. [Citing by footnote to https://www.are.uscourts.gov/sites/are/files/local_rules/5.1.pdf, App-I at 8]

The error was material.

Denial of electronic filing caused Hammett significant harm: ambush in hearings, health risks, financial strain, and unfair filing deadlines.

"I did not receive the order [R. Doc. 140] that you -- it sounds like you made an order that [PRA] received yesterday, but because I was denied the access to eFlex, I don't hear about things timely." (R. Doc. 167-1, at 84:10.) The Court gave Hammett

a couple minutes to read the order if she wanted to, but in the courtroom, there was no opportunity to research for understanding.

The TEO issued November 3, 2023 (R. Doc. 287) notification to Hammett was postmarked November 6, 2023. Though causing no material damage this highlights the potential for harm.

Hashimoto's Disease made travel to the clerk's office difficult and exposed the immune compromised 60-year-old to COVID and other viruses.

Assets Hammett initially budgeted to take depositions and serve subpoenas had to be redirected to the additional filing costs. "It's really almost a hundred dollars for every document that I file because of the mileage, the copying, parking, everything." (R. Doc. 167-1, at 23)

The Court ordered both parties to file due on the same day. For example, Order, R. Doc 260, entered August 15, 2023 was postmarked August 16, 2023. The Order set a schedule for notice of intent to file a redaction request for August 22, 2023 and redaction requests for September 5, 2023. PRA had seven days to file the first document and Hammett had no more than five days, assuming the mail arrived in one day. This violated FRCP 6(d).

Most relevant to this petition, while the Eighth Circuit allows pro se litigants to use electronic filing, it upheld the District Court's denial without explanation. This ruling reflects a fundamental misunderstanding of how access to modern legal tools, like electronic filing, is essential to ensuring fairness for self-represented litigants, particularly after the devastation of the pandemic.

Deference to Agency Fact Finding: Had Hammett made any payments to PRA before July 17, 2014, she would have qualified as a "Restitution Eligible Consumer" under the 2015 Consent Order. (App-K at 4, 5). Her complaint detailed conduct prohibited by section VI, ¶116a of the 2015 Consent Order (App-K at 28, 29).

In fact, the 2023 CFPB Complaint that led to a stipulated judgment mirrored Hammett's complaint from two years earlier, though the CFPB documented these violations as affecting tens of thousands of consumers. (App-L at 2, ¶4).

The District Judge, much like the current majority on the Supreme Court, may take issue with *Chevron* deference. The Framers of the Constitution "envisioned that the final 'interpretation of the laws' would be 'the proper and peculiar province of the courts.' *The Federalist No. 78*, at 525 (A. Hamilton)" (*Loper Bright Enterprises, et al. v. Raimondo, 603 U. S. ____ (2024)* at 7) However, the District Court went even further in this case, not only dismissing legal deference but also disregarding agency fact-finding altogether. Hammett argued that the 2015 Consent Order and subsequent findings should at least create an inference about facts in her favor. The facts collected through the CFPB's Civil Investigative Demand (CID) and analyzed by the agency should support a genuine dispute of material fact regarding PRA's contested collection practices, directly contradicting PRA's defense. Hammett asked for the findings to be used for fact, not law.

It is not only the common citizen who is pro se who benefits from turning to agency fact finding. Here are excerpts from the *Brief of Amicus Curiae Attorney*

General of the State of Missouri in *Portfolio Recovery Associates, LLC v Mejia*, 2016 WL 4771199 (Mo.App. W.D.) (Appellate Brief), Missouri Court of Appeals, Western District, in which Mejia filed an FDCPA counterclaim and was awarded an $82,000,000 jury verdict. The case settled after PRA's appeal was briefed.

"Decisions from this Court regarding debt collection practices … even though in the context of a private action, are likely to affect the scope of relief that may be obtained by the Attorney General in his efforts to address abusive debt collection practices when enforcing the MMPA."

As in *Mejia*, which compares itself to *Lewellen v. Franklin*, 441 S.W.3d 136,146 (Mo. 2014) quoting from *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 419, 123 S.Ct. 1513, 155 L.Ed.2d 585 (2003), "the consumer below was a 'financially vulnerable' person and had reasons to be concerned that she was [receiving collection calls from a debt collector]." Rather than Portfolio actually investigating Old Account Level Documentation in the collection file and setting the balance to zero (as it did after litigation was filed), it doggedly pursued the consumer. Contrary to the self-generated records produced by PRA, their pattern of calling in this case and others shows that once their algorithm targets a consumer who is likely to pay her debts, PRA calls every couple days until the consumer pays them for peace or files a civil suit. There is a reasonable inference that PRA made more collection calls to Hammett over seven years than it admitted to.

"One prevailing characteristic of these massive collection operations that has triggered such concern is the lack of detailed information these debt buyers

typically possess about the debts they seek to collect. See *The Structure and Practices of the Debt Buying Industry, Federal Trade Commission* (2013); available at https://www.ftc.gov/sites/default/files/ documents/reports/ structure-and-practices-debt-buying-industry/ debtbuyingreport.pdf."

"Ironically, the first written appellate opinion reflecting an MMPA enforcement action brought by the Attorney General in the field of debt collection arose from the Attorney Generals enforcement action to address specific debt collection practices by the Appellant, Portfolio Recovery Associates, Inc. seven years ago. In 2009, the Attorney General sued Portfolio based on the large number of consumer complaints that had been received from Missourians who were being subjected to Portfolio's allegedly abusive debt collection practices. The allegations in that case described a number of unfair or deceptive practices, among which were allegations that Portfolio was attempting to collect debts that consumers did not actually owe. Specifically, the Attorney General's Petition for Permanent Injunctions, Restitution, Civil Penalties and Other Court Orders included the following allegations: 9. Unfair and deceptive acts and practices used and employed by the Defendants, include, but were not limited to the following: b) Attempting to collect debts from the wrong alleged debtor, and refusing to stop collection efforts when the consumer denies owing on the account; 1) Filing lawsuits against consumers without documentation to support the case; *State of Missouri ex rel Koster v. Portfolio Recovery Associates, Inc.*, St. Louis City Circuit Court Case No. 0922-CC08789 (Filed August 18, 2009)."

"The fact that the reach of the MMPA to debt collection practices was in dispute during part of this case's history did not, however, mean Portfolio was unaware of very significant problems with its collection practices or that the level of 'state interest' in addressing alleged collection abuses was any less. As was reflected in trial testimony and exhibits, more than 7 dozen complaints were received by the Attorney General from Missouri consumers claiming that Portfolio was trying to collect debts they did not owe, each of which were sent on to Portfolio for a response." Regardless of the statutory provisions involved, the facts in all the cases are eerily similar. In contrast to the *Loper* decision, the court is not better situated to interpret facts as it is to interpret law.

The CFPB "Consent Order addressed the paucity of account-level documentation of the underlying debts that Portfolio sought to collect and the alleged failure of Portfolio to actually investigate or obtain the necessary underlying documentation when receiving oral disputes from consumers regarding debts or before initiating any collection litigation. Importantly, the Consent Order required Portfolio to change its practices to ensure that collection litigation was not initiated until sufficient verifying documentation was actually in hand. The CFPB's findings noted that '[Portfolio Recovery Associates] did not alter its collection practices when collecting on [p]ortfolios that it knew or should have known contained unreliable information. Consumers receiving collection attempts from [Portfolio Recovery Associates] had no way of knowing that [Portfolio Recovery Associates] had reason to suspect the accuracy of the information.'" (App-K at 10)

"A significant number of consumer complaints about a particular practice is a strong indicator of a pattern or practice by a company and is considered by Attorney General in determining whether to pursue a legal action in its enforcement of the MMPA. The presence of such complaints to the Attorney General's office (and other law enforcement offices) has also been relied upon in a number of cases to demonstrate that a business has been notified of or is aware of a problem in connection with a consumer's claim for the imposition of punitive damages in consumer deception cases. *Lewellen v. Franklin*, 441 S.W.3d at 146 ('Evidence was also presented showing that hundreds of complaints from other customers of National or Mr. Franklin's other dealership have been filed with either the Kansas or Missouri attorney general with regard to deceptive promotional programs and advertisements.'); *Overbey v. Chad Franklin National Auto Sales North, LLC*, 361 S.W.3d 364, 372 (Mo. 2012) ('Further, the jury's finding that Mr. Franklin had personal knowledge of the fraudulent promises made to the Overbeys was supported by the testimony of four other persons who claimed they similarly were defrauded by National, as well as evidence that the Missouri attorney general received at least 35 complaints of analogous conduct in regard to the payment-for-life membership plan and similar payment plans and is seeking a civil injunction. This was not isolated conduct of a single errant salesperson.'); *Heckadon v. CFS Enterprises, Inc.*, (400 S.W.3d 372, 383 Mo. App., W.D. 2013)('Evidence was also presented at trial showing that over 400 consumers have filed complaints against

Appellants with either the Kansas or Missouri attorney general with regard to Appellants' promotional program and advertisements.')

Despite other jurisdictions embracing the acceptance of government agency fact finding as evidence that raises a genuine dispute of material fact in a debt collection practices case, the Eighth Circuit refused to correct or even discuss the District Court's dismissiveness. "I really don't think that [documentation from the Mejia case and the CFPB actions] is evidence of anything. It obviously doesn't paint PRA in a good light and it obviously suggests that -- that, in other instances at least, PRA has done some things wrong, but I don't believe that it really has any relevance at all to our case, at least it has not in my view been sufficiently explained how it directly bears on our case, and I'm -- I can't assume that this happened in our case because it happened in Mejia -- or I can't assume bad things happened in our case because bad things happened in Mejia potentially. Obviously, you know, there was a significant settlement in Mejia, but also just as obviously, in terms of the consent order, I understand that the defendants there did not -- or I should say, PRA there did not admit liability, for whatever that's worth. Just, quite frankly, I don't think it's very relevant to the issues here." (App-E at 11:5-20)

Spoliation of Evidence:

Original creditors and debt buyers alike know that documentation is required to prove a debt. A similar case to *Hammett* went a different way at the Court of Appeals of Virginia. "The Consumer Financial Protection Bureau has enjoined PRA

from collecting the type of debt Green has disputed without offering to provide Original Accounting Level Documentation. Filing lawsuits for unsubstantiated debt is also prohibited. *In the Matter of: Portfolio Recovery Assocs.*, LLC, CFPB No. 2015-CFPB-0023 (Sept. 9, 2015), https://files.consumerfinance.gov/f/201509_cfpb_consent-order-portfolio-recovery-associates-llc.pdf." (*Green v. Portfolio Recovery Associates*, LLCRecord, No. 0144-22-3, 2024)[1]

In *Hammett*, there was no contract between Hammett and Capital One produced, no transactional history on the account, no signature on any sales receipt, no reference to how the account was used or by whom.

Most jurisdictions treat spoliation as raising a negative inference against the party that destroyed or withheld evidence in litigation. Some are expanding the definition, rightly, to include evidence that a party knows is likely to be needed in litigation. That makes sense.

REASONS FOR GRANTING THE PETITION

The public's perception of the integrity of our courts is damaged by the apparent lack of oversight by the appellate courts.

PRA's practice of knowingly purchasing unsubstantiated debts and relying on abusive and misleading collection practices to pursue unverified claims harms

[1] PRA was represented by James Trefil of Troutman Pepper Hamilton Sanders LLP, lead counsel for PRA at the District Court in Hammett.

consumers. It also erodes trust in the judicial process when courts like the Eighth Circuit fail to allow such complaints to proceed to a jury trial. If PRA can routinely collect on debts without proper verification and courts deem it reasonable for PRA to continue harassing consumers until they 'identify,' then the courts are essentially forcing private citizens to ignore both common sense and CFPB guidance: Do not answer questions from strangers.

The opinions below slam the door to justice on common citizens by making the costs of litigation more burdensome than necessary; waste government resources; and condone the concealment of evidence by Big Business.

Allowing the order on summary judgment to stand enables the nation's second-largest debt collector, PRA, to continue pursuing debts from lists it knows are inaccurate, all without providing any documentation for the individual accounts it seeks to collect. The filing fees paid by PRA to initiate these suits—and by the consumers forced to file FDCPA claims to stop the relentless phone calls—do not cover the true costs of the courts, leaving taxpayers to subsidize the system. With PRA filing 3,000 collection lawsuits per week, it has become one of the country's most litigious entities.

A. The Due Process of De Novo Review When Due

The failure of appellate courts to provide meaningful de novo review implicates a fundamental due process violation under the 14th Amendment. This issue affects not only Hammett but countless litigants nationwide. Despite the courts' statutory

and constitutional obligation to review cases de novo, this standard is too often ignored, particularly in cases involving pro se litigants. The U.S. Supreme Court should grant certiorari for the following reasons:

1. National Significance of the Issue: The failure to conduct proper de novo review is not isolated to Hammett's case. It is a pervasive problem across the federal courts of appeal, as evidenced by the increasing number of cases dismissed or affirmed summarily, without sufficient explanation. This trend erodes public trust in the judiciary and denies litigants their constitutional right to a meaningful review on appeal.

2. Circuit Court Disparities: The failure to conduct de novo review, or the inconsistent application of this standard, varies significantly across different circuit courts.

In *Felkner v. Jackson*, the Ninth Circuit's cursory treatment of the facts was reversed, demonstrating the Court's concern with appellate courts that fail to perform their duties adequately. (*Felkner v. Jackson*, 562 U.S. 594, 131 S. Ct. 1305, 562 U.S. 0, 179 L. Ed. 2d 374 (2011))

Hammett's case, decided in the Eighth Circuit, presents an opportunity for this Court to clarify the obligation of appellate courts to engage in meaningful analysis—especially when reviewing summary judgments where no trial has occurred. A clear standard for de novo review is needed to ensure uniformity across circuits.

Eighth Circuit Rule 47B should be scrutinized. It may not be unconstitutional on its face, but it was unconstitutional as applied here.

Hammett did not learn about 47B until the day before this petition was due, a Sunday. A disadvantage to low income is that she can no longer afford her $800 per month Westlaw subscription and has to access Westlaw at a law library. Rest assured that if certiorari is granted, the subject of 47B will be well researched in the opening brief.

3. Pro Se Litigants Are Particularly Vulnerable: Hammett's case exemplifies the unique challenges faced by pro se litigants who, despite detailing significant errors in the lower courts, are often dismissed or ignored by appellate judges. The Court has historically shown concern for the fair treatment of pro se litigants, and this case presents an opportunity to reaffirm that all litigants—regardless of representation—are entitled to equal protection under the law. A ruling in favor of Hammett would reinforce the judiciary's duty to meaningfully engage with the arguments presented by pro se parties.

A cursory search revealed a similar petition for certiorari concerning summary dismissal in a prisoner's 42 U.S.C. § 1983 case, *Mousa v. Greve, Sup. Ct. Case No. 23-5529*. In her investigation, Hammett discovered Rules 47A and 47B while reviewing Eighth Circuit cases filed around the same time, including cases 23-3433 to 23-3437. Among these, one was dismissed by a represented appellant, another was argued and submitted, and three were pro se prisoner cases, with two dismissed under Rule 47A and one for being untimely.

Hammett possesses strong verbal skills, surpassing many pro se litigants, making her a compelling advocate for the rights of those navigating the legal system without representation. That being said, she would gratefully entertain offers of pro bono representation.

Widespread Impact Beyond this Case: A decision in this case would not only provide justice to Hammett but would also establish a precedent to ensure that appellate courts cannot sidestep their constitutional obligations by issuing perfunctory or unexplained decisions. This would have a wide-reaching effect on how future cases are reviewed, ensuring that all litigants receive the thorough and meaningful review that due process requires.

4. Protecting Judicial Integrity: Without intervention from the highest court, the pattern of inadequate appellate review will continue, undermining public confidence in the judiciary. The appellate courts must be held accountable for their obligation to engage with the factual and legal arguments of each case. The Court's intervention is necessary to maintain the integrity of the judicial system, particularly in an era where public trust in institutions is fragile.

B. The Constitutional Right to Use Electronic Filing

Requiring all jurisdictions to allow for pro se use of electronic filing will align courts that are split, as here, even within the same circuit.

This question addresses a critical access-to-justice issue. Denying electronic filing capabilities to individuals without legal representation disproportionately affects lower-income individuals and families, creating a system where only those who can afford representation can effectively participate in the legal process. The Supreme Court's intervention is necessary to clarify that access to the judicial system must be equitable and that all individuals, regardless of socioeconomic status, deserve the opportunity to pursue their legal rights.

C. Loper Should Not Overturn Deference to Agency Fact Finding:

1. Cost-Effective Discovery Alternative

- Reducing Financial Burden: Allowing litigants to introduce agency analyses from CIDs can significantly reduce the costs associated with traditional discovery processes. This is especially important for pro se litigants or individuals with limited resources who cannot afford extensive legal fees for their own discovery efforts.
- Access to Quality Information: Government agencies often possess comprehensive data and analyses that can provide valuable insights into the facts of a case. Utilizing this information can level the playing field, allowing individuals to present a stronger case without incurring excessive costs.

2. Facilitating Efficient Judicial Processes

- Streamlining Litigation: By permitting the introduction of agency analyses, courts can expedite the litigation process. This helps avoid protracted discovery

disputes and allows for a more efficient trial process, as both parties can rely on already compiled and vetted information.

- Encouraging Early Resolutions: Access to credible agency analyses may encourage early settlement discussions or resolution, as parties can better understand the facts at hand and assess the merits of their positions.

3. Promoting Fairness and Equity

- Equal Access to Information: If courts deny individuals the right to utilize agency records, it disproportionately disadvantages those without the means to conduct comprehensive discovery. Allowing access promotes fairness in the judicial process and ensures that all parties have equal opportunities to present their cases.
- Minimizing Information Asymmetry: Courts should strive to minimize information asymmetry between the parties, particularly when one side (Big Business) holds significant resources and data. Granting access to agency analyses helps address this imbalance.

4. Leveraging Government Expertise

    - Agencies compile and analyze data to serve the public interest. Allowing litigants to reference these analyses makes better use of government resources. We don't need bureaucrats spending limited resources on comprehensive studies, just to file them away.
    - Agencies have broad powers and experience gathering facts about companies in the industries they regulate. Here, the Dodd-Frank Wall Street Reform

and Consumer Protection Act made the CFPB's investigation infinitely easier than discovery for a pro se litigant, or even a represented litigant.

5. Clarifying Legal Standards for Agency Records

- Defining the Role of Agency Analyses: The Supreme Court can establish clear legal standards regarding the admissibility of agency analyses, ensuring that such evidence is recognized and appropriately weighed in litigation. This clarity can benefit both litigants and judges in future cases.
- Enhancing Predictability in Legal Proceedings: Clear guidelines on the use of agency records can enhance predictability in litigation, allowing parties to better prepare their cases based on established legal precedents.

6. Implications for Future Case Law

- Establishing Important Precedents: A ruling on this issue could set significant precedents regarding the role of agency analyses in civil litigation, shaping how lower courts handle similar cases in the future.
- Influencing Administrative Law: This case can impact broader discussions on administrative law, particularly regarding the balance between agency authority and individual rights in civil matters.

D. Spoliation Sanctions Should Extend When Litigation Anticipated

1. Ensuring Accountability for Pre-Litigation Conduct

Allowing negative inferences for evidence altered or destroyed before litigation is crucial because parties should be held accountable for

safeguarding relevant information as soon as litigation becomes reasonably foreseeable. Without this incentive, parties are emboldened to destroy or alter evidence to avoid liability, undermining fair adjudication.

2. Aligning with Established Precedents on Spoliation

   Courts have recognized negative inferences in spoliation cases once litigation is filed, but no clear standard exists for cases where destruction occurs before litigation commences but is anticipated. Establishing a uniform rule that extends the negative inference standard to pre-litigation situations would close this gap and prevent inconsistencies across lower courts. This consistency is critical for creating fair, nationwide standards.

3. Deterring Bad-Faith Practices Among Sophisticated Litigants

   Large corporations and financial institutions are often aware of potential claims before litigation, allowing them an opportunity to preemptively destroy harmful evidence. Granting negative inferences in these cases would create a strong deterrent against such practices, making it clear that early destruction of evidence is a risky strategy that will not be rewarded.

4. Promoting Judicial Efficiency by Minimizing Discovery Disputes

   In the absence of clear standards for pre-litigation spoliation, courts are frequently embroiled in extensive discovery disputes regarding altered or missing evidence. A uniform rule enabling negative inferences when anticipated litigation is foreseeable would minimize these disputes and streamline case management.

5. Protecting Pro Se and Economically Disadvantaged Litigants

   The lack of uniform rules for pre-litigation spoliation disproportionately impacts individuals who may not have resources to pursue extended discovery in search of secondary evidence. These litigants are particularly vulnerable when evidence is destroyed before they even have the opportunity to file a lawsuit. A clear rule would help level the playing field by preventing parties from avoiding liability by destroying or altering evidence before economically disadvantaged litigants can access the courts.

6. Impact on National Economy and Privacy Rights

   This case illustrates the systemic impact when aggregated across countless cases, that this conduct could amount to millions in taxpayer losses. This isn't an isolated incident but potentially a large-scale practice of unverified tax deductions, coupled with a drain on judicial resources and government sanctioned corporate violations of privacy.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for certiorari.

Respectfully submitted,

Laura Lynn Hammett
16 Gold Lake Club Road
Conway, Arkansas 72032
Petitioner in Pro Se

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