

IN THE SUPREME COURT OF THE UNITED STATES

No. 17-6375

Donchev et. al. v. DeSimone et.al.

CERTIFICATION OF GOOD FAITH FILING

by FATH DONCHEVA AS REQUIRED BY RULE 44 of:

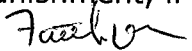
PETITIONERS request for REHEARING  
of the Jan. 8, 2018 GENERAL DENIAL  
of the Petition for an Extraordinary WRIT OF CERTIORARI  
and Request for GVR grant , vacate and remand,  
in accordance with intervening 2017 US Supreme Court Law  
established in Docket 15-1500 that substantially affects this case

This certification and Petition for Rehearing briefly and distinctly states the grounds for Rehearing for a Writ and grounds supporting that the Writ requested and (GVR) Grant, Vacate and Remand must be granted in accordance with law established by the US Supreme Court in 2017 and that effects this case an requires GVR. The substantial ground include to be consistent with Public Policy, the law, the constitution, plaintiffs rights and the to be consistent with the law established in the 2017 intervening in the US Supreme Court case Lewis v. Clark Docket 15-1500, established controlling law and substantially affects this case. In Lewis the US Supreme Court established law that immunity to suit of one entity cannot be shared by a separate entity, sued in his individual capacity, who is not entitled to immunity, to allow immunity to be extended where it is not allowed violates Public Policy, the law and established law.

The grounds for this Petition for Rehearing the Writ and GVR as allowed in rule 44 are limited to the intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented; as written in our Petition for Rehearing and supported by the appendixes A-B-C and D submitted with it. The appendixes include the 2017 Established US Supreme Court law, and the facts of this case, showing that the law established in 2017 must be applied to this case.

This petition is submitted in accordance with rule 44 and direction from the US Supreme Court Clerk, M. Blalock. As instructed the Petition is corrected. The supporting attachments are each identified as Appendixes as instructed. The Petition for rehearing is submitted in accordance with Rule 33.2(b) which allows 15 pages. Our Petition is 13 pages total, the first two of those 13 pages are a concise brief statement distinctly stating ground of why Rehearing and GVR must be granted in light of the 2017 Established case law in US Supreme Court Docket 15-1500 that effects this case and requires that it must be applied to this case, and require GVR in this case also.

I certify, that all statements made by me here-in are true and that I may be subject to punishment, if they are intentionally are untrue.

 2-7-18  
Faith Doncheva

( Pro-se as Executrix for all four plaintiffs and as Individual) In Forma Pauperis  
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### QUESTION 1

Whether or not a court can allow an immunity to suit of one entity (a corporate employer who was not the defendant) to be shared by a separate entity not entitled to immunity who was the defendant sued in his individual capacity as homeowner (who as homeowner individually had statutory duties in a Construction Permit Homeowner Certification for safety on his property that he breached) after a jury trial and after the jury found the homeowner individually had duties and was negligent ?

( See WC 34:15-40 pg 11, Lyons v Barrett (1982) Pg 12, Lewis v. Clarke (2017) Pg. 14)

In a 2017 intervening US Supreme Court established law Docket 15-1500 the US Supreme Court established law that is controlling and substantially affects this case, establishing law that immunity of one entity cannot be shared by a separate entity, who is sued for damages caused by negligence in his individual capacity.

### QUESTION 2

Whether or not on Oct. 14, 2015 trial court assignment judge can find plaintiffs motions or reconsideration request seeking justice are frivolous without complying with NJSA 15-59 (Pg11) and court rules and after the 2011 jury unanimously determined all genuine issues of fact in plaintiffs favor and after the trial court judge on May 15, 2015 granted leave to appeal in the interest of justice, after he again determined plaintiffs have not done anything in had faith, that plaintiffs have a good cause, a right to seek justice and to a jury trial on all claims and to the unanimous 2011 jury verdict and judgment against the homeowner that the trial judge again found is supported by evidence, the Construction Permit Homeowner Certification, admissions of the homeowner and legitimate inferences therefrom?

### QUESTION 3

Whether or not the court applied the laws and court rules that the laws state must be applied to defendant and his counsels frivolous, criminal, unbecoming actions, and contempt of court, when the evidence and records show they pursued frivolous defenses for years that they admitted in 2006 were unsupported, that violate court rules NJCR 1:4-8 , WC Law 34:15-57.2, NJSA 15-59 and standards of the court by the unbecoming criminal behavior of misrepresenting the status of an employee and material facts and continuing for years frivolous defenses that they knew and admitted in 2006 were not supported, for no other reason but to obstruct justice and cause delay, harm and contempt of court?

### QUESTION 4

Whether or not any of plaintiffs claims against the homeowner can be involuntarily dismiss or summary judgment granted to the homeowner after the jury determined in 2011 that he was negligent and the trial judge found there is evidence and legitimate inferences therefrom that could and did lead to a judgment in plaintiffs favor and found the 2011 jury verdict is supported?

## CONCISE LETTER SUMMARY WHY REHEARING a Writ and GVR must be granted

(attached pages 2-13 with more detail and laws)

On Jan. 8, 2018 our Petition for a Writ to the Lower Courts was denied in a General Denial, (App. A-36) when it should not have been because the question of law that we requested to be determined by the US Supreme Court affects Public Policy, all Workers and Citizens and all Corporations in the United States and all Employers or employees, including the United States and each State itself. The Lower courts opinions or orders cannot be allowed to stand, they violate law and would allow construction to be done unlawfully without proper permits and not in accordance with law, then not allow damages for injury and death to be recovered caused by the unlawful negligent acts. The Question we asked the court to decide pertains to whether or not immunity to suit of a corporation can be shared by entities sued in their individual capacity as homeowners. The trial Court in this case found the homeowner is not immune to suit, and defendants counsel admitted in 2006 and at the 2011 jury trial that the homeowner is not the employer and does not share immunity to suit of the corporate employer and withdrew that defense at the jury trial. None the less, in a 2011 appeal defendants counsel falsely represented to the Appellate Court, that the Defendant was plaintiffs employer and therefore immune to suit under Worker Comp Law. The 2012 Appellate wrote an opinion writing that the defendant was plaintiffs employer, thus reversed a purported 2006 Sum. Jud. stating the employer was immune to suit. That was after a 2011 jury trial that found the homeowner negligent. The 2012 Appellate court wrote the opinion as though plaintiffs corporate employer and the homeowner are one and they are not. They are separate entities. The homeowner individually had duties as homeowner that he breached. He unlawfully commenced re-shingling his detached garage roof at his home without a permit update for that work, without complying with applicable laws that he certified to the Authorities he as homeowner would comply with, in a Construction Permit Homeowner Certification in Lieu of Oath. He negligently hired and failed to sufficiently warn the plaintiff of the hazard he as homeowner knew existed when he instructed the employee of DND Inc. who he knew was not a roofer to go on his roof to strip shingles. The homeowner admitted he himself knew his roof had been leaking for months and would not be safe to walk on, yet instructed plaintiff to strip shingles. Within hours it collapsed and he fell through sustaining injuries that led to infection, sepsis and his death. The homeowner commenced re-shingling unlawfully, if he had complied with the applicable laws, that require a permit for the work in writing prior to commencing, require determination of integrity prior to commencing and require no employee be allowed to walk on a roof that will not support his weight, it would have prevented the roof collapse, Metodi's injuries and death, and damages to him and his family. After the 2012 opinion was written for plaintiffs EMPLOYER, writing that "that defendant" was improperly denied summary judgment, plaintiffs returned to the trial court to have the court re-enter a clarified judgment against the homeowner to show it is specifically against the homeowner and to order a date for a jury trial on damages after death, BUT the trial judge thought that the 2012 opinion meant he had to grant Sum. Jud. to the defendant in this case, who is a separate entity. He granted leave to appeal, stating it is not what he did, but what the 2012 Appellate Court did, but he did not comply with the law, or standards that even that 2012 opinion had written **MUST BE COMPLIED WITH** by the trial and appellate courts. Plaintiffs then filed an appeal in 2015 REGARDING THE CORRECT DEFENDANT THE HOMEOWNER; but in 2017 the Appellate Court AGAIN wrote an opinion writing that *the defendant was plaintiffs employer*, and that they had already determined in 2012 *that the employer was immune to suit*, therefore, affirmed the improper 2015 orders or the trial court. Plaintiffs then appealed to the NJ Supreme Court, and they denied to review the case. That led to this Petition to the US Supreme Court for a Writ that must be granted. see NJ Supreme Court Lyons Case law (App.A-13) Page 1

While plaintiffs Petitioners appeal in the State Court, and Petition for a Writ from the United States were pending being heard, the US Supreme Court established Law in Docket 15-1500 (App. A-4) on this same question of immunity, and that 2017 established law affects this case. Based on the law established in Docket 15-1500 "Lewis" case law, GVR MUST be granted in this case also as it was in "Lewis". The Corporate Employer and the Homeowner are separate entities that did not have the same duties, and it was the homeowner who was sued for his own individual negligence. As in "Lewis", the employee of the tribe was sued individually for his own negligence and could not obtain immunity to suit of the tribe, the tribe was not the entity sued. That defendant in Lewis, as this defendant in this case was sued in as an individual. In this case further the jury ALREADY determined that the HOMEOWNER WAS INDIVIDUALLY negligent. Thus the court CANNOT grant Sum. Jud. or immunity to suit to the homeowner in this case, and must enter the verdict and judgment made by the 2011 jury for damages up to death, that they already determined, and must order a date for the jury to determine damages after death, that all four plaintiffs are entitled to under 41 UCS 1983.

In 2017 Docket 15-1500 the Supreme Court of the United States established law that Immunity to Suit of one entity, cannot be shared by an entity not entitled to immunity, who is sued as an individual for damages caused by the entities own individual negligence. That Law established in that case Docket 15-1500 is controlling in this case, it substantially affects this case and Granted the Writ and GVR, vacated the lower courts and remanded, for the same reasons we requested a Writ from the Supreme Court of the United States in our case. Thus to be consistent with the law and with the 2017 intervening case law established in the US Supreme Court Docket 15-1500 and to protect rights plaintiffs rights in this case, as well as the rights of every person and corporation or entity in the United States, this request for Rehearing must be granted and the Writ and GVR that we the Plaintiffs/Petitioners request must be granted. The court cannot allow case law to be established that allows homeowners to commence construction unlawfully, then try to gain immunity to suit that they are not entitled to.

I have attached with this page 1 & 2 concise letter additional pages 3 thru 13 and Appendix A with laws and case laws included, explaining in more detail this case and why Rehearing, the Writ and GVR should and must be granted. In addition with permission, there are appendix B, C & D with Amicus Curiae Briefs for the United States, from William & Mary College of Law and from 44 Corporate and Criminal Law Professors supporting that Rehearing, the Writ and GVR must be granted in this case as it was granted in 2017 in Docket 15-1500. The homeowner and the Corporate employer ARE SEPARATE ENTITIES. All four Plaintiff have rights to recover damages under 42USC 1983 from the homeowner Dennis who the jury already determined was negligent. If the homeowner Dennis had complied with the applicable laws enacted through the Constitution, Congress and the US Supreme Court itself, that were enacted to prevent hazards in construction and to protect the Safety, Health and Welfare of all people and employees, the roof would not have collapsed, plaintiff would not have fallen through or been injured or died. The Construction Permit and Homeowner Certification (App. A- 11, 12, 13, 14) showed it was Dennis the homeowner duty to comply with the laws and control the work at his home. The trial judge found the permit is what created a Genuine Issue of Fact and what led the jury to find the homeowner negligent. As Lewis said immunity cannot be shared and the NJ Lyons v. Barrett Supreme Court SAID Courts must protect workers and all peoples rights because it is consistent with the law.

Respectfully Submitted,

*Faith on 2-7-18*

Faith Doncheva

Page 2

**Petitioner request Rehearing, for a Writ to be Granted & (GVR) pursuant to R 44 & 10 the facts, law & the 2017 intervening controlling law established in Docket 15-1500.**

In 2017 while plaintiffs petition was pending, the US Supreme Court established law in docket 15-1500 "LEWIS" (App-A2) that is controlling law substantially affecting this case, it is intervening law & requires Rehearing, a Writ & GVR be granted in this case also. In "LEWIS" a Writ and GVR were granted regarding the same question in our petition. "LEWIS" established law "that immunity to suit of one entity cannot be shared by a separate entity not entitled to immunity".

The appeal plaintiff/petitioners filed in 2015, was decided by lower courts contrary to law. In 2017 plaintiffs appealed post jury trial orders in our claims against homeowners individually. The 2012 appeal Def. Counsel frivolously filed was regarding a subject matter for Plaintiffs corporate employer DND Inc or DND's President in that capacity, but they were not defendants; there were no trial court orders regarding those entities, to be reversed in the 2012 appellate opinion regarding those entities. The homeowner had duties that he breached that were not duties of the corporation or of the corporations president. The trial judge wrote in his June 1, 2011 decision, (App-A21-22) there were Genuine Issues; that there was no contract or any Construction Permit assigning responsibility to DND Inc. or DND's President, that the permit assigned all duties to the homeowner, that he signed he voluntarily acknowledged he assumed in the "Construction Permit Homeowner Certification in Lieu of Oath". (App-A11-14) The appellate court cannot state a homeowner can share immunity to suit of the plaintiffs corporate employer, as the US Supreme Court said in "LEWIS" & the NJ Supreme Lyons Court also said "immunity of one entity can't be shared by a different entity", "the homeowner and the corporate employer are separate entities", thus rehearing GVR and a Writ must be granted in this case directed to the lower courts to comply with established law, as was granted in LEWIS in 2017.

( See WC Law 34:15-40, 34:15-69, 34:15-57 App.-A1, & "Lyons v Barrett" App-A2, Lewis App-A4)

**JURISTITION**

Rehearing of petitioners Jan. 8, 2018 denial (App.A 36) is provided in R.10 & 44(2), 42USC1983 WCLaw34:15-40, the Constitution, & in the US Supreme Court intervening Law established in 2017 in "LEWIS, Docket 15-1500 that is controlling in this case. In LEWIS a Writ and GVR were granted. The "LEWIS" case established law "immunity is an important substantial question & cannot be shared by a separate entity not entitled to immunity". "LEWIS" substantially affects this case and is grounds in R.44 supporting rehearing & that GVR must be granted in this case also, because the homeowner defendant in this case cannot share immunity of the separate entity, plaintiffs corporate employer. ( App.-A1, WCL34:15-40). Amicus Briefs of United States, of William & Mary College of Law and of Corporate and Criminal Page 3



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