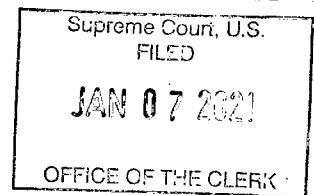


20-6882
No. _____

ORIGINAL



IN THE
SUPREME COURT OF THE UNITED STATES

BO ZOU — PETITIONER
(Your Name)

vs.

LINDE ENGINEERING NORTH AMERICA, INC. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

BO ZOU
(Your Name)

4920 S Yorktown Avenue, #122
(Address)

Tulsa, OK 74105
(City, State, Zip Code)

713-835-8655
(Phone Number)

QUESTION(S) PRESENTED

- 1. How did the United States Court of Appeals for the Tenth Circuit make its decision on injunctive reliefs in conflict with not only the U.S. Supreme Court's decision, but also the decisions of the United States Court of Appeals for the Ninth Circuit?**

- 2. May Respondent and Respondent counsels' guilt and crime, contempt be covered and protected in violation of U.S. laws and Statutes?**

- 3. Did the local rules of the District Court supersede U.S. laws and Statutes?**

LIST OF PARTIES

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

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Bo Zou v. Linde Engineering North America, Inc., No. 19-cv-554, U.S. District Court for the Northern District of Oklahoma. Preliminary Injunctions entered Sept. 21, 2020.

Bo Zou v. Linde Engineering North America, Inc., No. 20-5099, U.S. Court of Appeals for the Tenth Circuit. Denial entered December 31, 2020.

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APPENDIX B: Order of U.S. Court of Appeals for the Tenth Circuit denying Panel Rehearing and Rehearing En Banc filed December 31, 2020.

APPENDIX C: Opinion and Order by Magistrate Judge of U.S. District Court for the Northern District of Oklahoma issuing preliminary injunctions to protect guilt, crime and contempt, etc. filed September 21, 2020.

APPENDIX D: Order by District Judge of U.S. District Court for the Northern District of Oklahoma denying Petitioner's objections to both injunctions and protection of guilt, crime and contempt, etc. filed December 14, 2020.

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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

[X] For cases from **federal courts:**

The opinion of the United States court of appeals appears at Appendix A, B to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix C, D to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[X] is unpublished.

[] For cases from **state courts:**

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[] reported at _____; or,
[] has been designated for publication but is not yet reported; or,
[] is unpublished.

JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was December 2, 2020.

[] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: December 31, 2020, and a copy of the order denying rehearing appears at Appendix B.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

18 U.S. Code § 1621 (2) provides:

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;
is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

28 U.S. Code § 1746 provides:

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

28 U.S. Code § 636 (e)(4) provides:

(4) CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—

In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may

exercise the civil contempt authority of the district court. This paragraph shall not be construed to limit the authority of a magistrate judge to order sanctions under any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

28 U.S. Code § 636 (b)(1)(A) provides:

- (1) Notwithstanding any provision of law to the contrary—
 - (A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law.

8 U.S. Code § 1324c provides:

(a) **ACTIVITIES PROHIBITED**

It is unlawful for any person or entity knowingly—

- (1) to forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of this chapter or to obtain a benefit under this chapter,
- (2) to use, attempt to use, possess, obtain, accept, or receive or to provide any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this chapter or to obtain a benefit under this chapter,
- (3) to use or attempt to use or to provide or attempt to provide any document lawfully issued to or with respect to a person other than the possessor (including a deceased individual) for the purpose of satisfying a requirement of this chapter or obtaining a benefit under this chapter,
- (4) to accept or receive or to provide any document lawfully issued to or with respect to a person other than the possessor (including a deceased individual) for the purpose of

complying with section 1324a(b) of this title or obtaining a benefit under this chapter, or

.....
(d) ENFORCEMENT

.....
(3). CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY

With respect to a violation of subsection (a), the order under this subsection shall require the person or entity to cease and desist from such violations and to pay a civil penalty in an amount of —

- (A) not less than \$250 and not more than \$2,000 for each document that is the subject of a violation under subsection (a), or
- (B) in the case of a person or entity previously subject to an order under this paragraph, not less than \$2,000 and not more than \$5,000 for each document that is the subject of a violation under subsection (a).

Oklahoma Statute title 21, § 1572 provides:

Every person who, with intent to defraud, falsely alters, destroys, corrupts or falsifies:

- 1. Any record of any will, codicil, conveyance or other instrument, the record of which is, by law, evidence; or,
- 2. Any record of any judgment in a court of record, or any enrollment of any decree of a court of equity; or,
- 3. The return of any officer, court or tribunal to any process of any court, is guilty of forgery in the second degree.

Oklahoma Statute title 21, § 1624 provides:

The total or partial erasure or obliteration of any instrument or writing, with intent to defraud, by which any pecuniary obligation, or any right, interest or claim to property is or is intended to be created, increased, discharged, diminished or in any manner affected, is forgery in the same degree as the false alteration of any part of such instrument or writing.

STATEMENT OF THE CASE AND FACTS

Petition for panel rehearing and rehearing En Banc was timely filed in Petitioner's case.

The United States Court of Appeals for the Tenth Circuit denied Petitioner's petition for panel rehearing without any cause and rehearing En Banc pursuant to Fed. R. App. P. 40 and 35(f). The final decision was entered on December 31, 2020. *See APPENDIX B.* The jurisdiction of this Court is invoked under 28 U.S. Code § 1254 (1) for the denial of the Tenth Circuit.

Plaintiff/Petitioner filed Petitioner's complaints against Defendant/Respondent's discrimination against Petitioner's race and age on October 18, 2019.

In discovery phase, Petitioner requested Respondent to produce documents, respond to interrogatories and answer requests for admissions.

In *Plaintiff's Motion to Compel Production of Documents for Fourth Set of Requests for Documents, and Motion for Sanctions* (District Court Case: Dkt. No. 86) filed on July 31, 2020, Plaintiff provided factual evidence for the District Court that Defendant and Defendant's counsels committed guilt and crime in perjury and falsifying documents in answering Plaintiff's first and second sets of interrogatories. *See* Dkt. No. 86.

(1). In answering Plaintiff's **First** set of Requests of Interrogatories No. 8, Defendant stated that "*Kenny Sharp and Dustin Duncan are both tenured Piping Engineers with design experience,*". *See* Dkt. 86, EXHIBIT "9", Pg. 7 (emphasis added).

(2). In answering Plaintiff's **Second** set of interrogatories No. 20, Defendant stated that "*There is not a position titled as 'tenured' Piping Engineer. Piping Engineers Kenny Sharp and Dustin Duncan began working at Linde before than Plaintiff, making them senior in tenure and status to Plaintiff at the time of the reduction-in-force. ...*" *See* Dkt. No. 86,

EXHIBIT “10”, Pg. 4 (emphasis added).

(3). However, in answering Plaintiff’s **Third** set of interrogatories No. 23, Defendant stated that *“Dustin Duncan was hired as a PDS Designer I on or about April 11, 2011. He was promoted to Piping Designer II on or about April 1, 2013. On or about January 4, 2016, he was promoted to Piping Design Engineer. Kenny Sharp was hired as a Piping Designer on or about June 23, 2014. He was promoted to Piping Design Engineer on or about August 27, 2018.”* See Dkt. No. 86, EXHIBIT “3” Pg. 4 (emphasis added). From Defendant’s answers in Plaintiff’s **Third** set of interrogatories, both Dustin Duncan and Kenny Sharp’s job titles are piping design engineer only. **NOT** “piping engineer”.

(4). In the documents *“Linde [Zou] 001071–Linde [Zou] 001076”* provided by Defendant (Dkt. No. 86, EXHIBIT “11”), this Court can see both Dustin Duncan and Kenny Sharp’s job titles are piping design engineer only, too, **NOT** “piping engineer”.

(5). On October 18, 2019, Plaintiff also provided the factual evidence for the District Court to show both Dustin Duncan and Kenny Sharp’s job titles are only *Piping Design Engineers*. Both of them are 36 year old. The factual evidence shows only Plaintiff’s job title is piping engineer at Defendant. *See* Dkt. No. 146, EXHIBIT “1”, or Dkt. No. 1, Pgs. 24, 25.

(6). In answering Plaintiff’s **first** set of requests for **admissions**, Defendant also admitted both Dustin Duncan and Kenny Sharp were piping design engineers, and they only reported to Eli McDaniel, **NOT** to the engineering manager Gerald (Jerry) Gump. *See* Dkt. No. 30, EXHIBIT “3”, Pg. 6, Admission Nos. 2, 3.

(7). In answering Plaintiff’s **third** set of requests for **admissions**, Defendant denied both Dustin Duncan and Kenny Sharp were piping engineers until the end of August, 2020. *See* Dkt.

No. 146, **EXHIBIT “4”**, Pg. 5, Admission No. 18.

(8). Defendant also admitted Plaintiff’s job title is piping engineer. *See* Dkt. No. 30, **EXHIBIT “3”**, Pg. 6, Admission No. 1.

Plaintiff is unique piping engineer at Defendant. Piping engineer is Plaintiff’s job title. Defendant and Defendant’s counsels falsified fake job titles “Piping Engineer” for both Dustin Duncan and Kenny Sharp to try to demonstrate both Dustin Duncan and Kenny Sharp were *“senior in tenure and status to Plaintiff at the time of the reduction-in-force”*. But, Defendant and Defendant counsels’ falsification failed and committed perjury. So, Defendant and Defendant’s counsels are guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both pursuant to **18 U.S. Code § 1621 (2)** because Defendant signed under penalty of perjury under **28 U.S. Code § 1746**. *See* Dkt. No. 30, **EXHIBIT “4”**; Dkt. No. 60, **EXHIBIT “4”**; Dkt. No. 86, **EXHIBIT “5”**, or Dkt. No. 125, **EXHIBITS “2”, “3”**.

Moreover, Defendant and Defendant’s counsels committed crime in falsifying documents.

(1). In *Linde [Zou] 001071–Linde [Zou] 001073*, Defendant falsified some contents and data, intentionally deleted Dustin Duncan’s position between January 1, 2020 and June, 2020. *See* Dkt. No. 86, **EXHIBIT “11”**.

(2). In *Linde [Zou] 001075*, Kenny Sharp’s job position is intentionally deleted in the period between January 1, 2020 and May 6, 2020. *See* Dkt. No. 86, **EXHIBIT “11”**. Defendant and Defendant’s counsels must be severely punished in falsifying documents pursuant to **8 U.S. Code § 1324c**, Oklahoma Statue title 21, § 1572 and Oklahoma Statue title 21, § 1624.

However, magistrate judge Jodi F. Jayne intentionally overlooked, ignored and never

considered the facts and factual evidence, which demonstrate Defendant and Defendant counsels' perjury and falsified document. Magistrate judge never mentioned or discussed Defendant and Defendant counsels' perjury and falsified document in her rulings. *See APPENDIX C, Pg. a8.* By contrast, magistrate judge ruled on Plaintiff's motion for sanctions (Dkt. No. 86) as frivolous motion without any cause and a hearing to cover and protect Defendant and Defendant counsels' guilt and crime. *See APPENDIX C, Pg. a12.*

On August 6, 2020, Plaintiff filed *Plaintiff's motion for contempt* (Dkt. No. 89) for Defendant's violation of the Court orders and refusal to produce the documents, **RFP 2, 3, 4, 6, 7, 21, 26**, ordered twice by magistrate judge Jodi F. Jayne herself. *See* Dkt. No. 37, Pgs. 3, 5, 6; Dkt. No. 70, Pg. 3. It's in contempt of the Court for Defendant to refuse to abide by the Court's order to produce the documents.

Pursuant to **28 U.S. Code § 636 (e)(4)**, magistrate judge does NOT have any civil contempt authority unless both parties consent to magistrate judge. In this case, both parties never consent to magistrate judge. However, magistrate judge knew that she does not have any civil contempt authority, but, **willfully and blatantly violated 28 U.S. Code § 636 (e)(4)** to rule on *Plaintiff's motion for contempt* (Dkt. No. 89) as frivolous motion without any cause to **cover and protect Defendant and Defendant counsels' contempt.** *See APPENDIX C, Pg. a12.*

Furthermore, magistrate judge blatantly violated **28 U.S. Code § 636 (b)(1)(A)** to issue preliminary injunctions to prohibit Petitioner from following:

- (1). **Prohibiting Plaintiff from filing any further motions for sanctions or for contempt** in relation to any of Defendant's current discovery responses.
- (2). **Prohibiting Plaintiff from issuing any further written discovery requests to**

Defendant, absent leave of Court.

(3). Limiting both parties' deposition to four (4) fact witnesses.

See APPENDIX C, Pgs. a12, a13, a14. Magistrate judge issued the preliminary injunctions to protect Respondent's guilt, crime and contempt.

On December 14, 2020, District Judge John F. Heil finally ruled on Petitioner's motions (Dkt. Nos. 111, 114) appealed to him on September 25 & October 2, 2020, respectively.

Petitioner objected to magistrate judge's rulings and order, which are clearly contrary to law, in Petitioner's two motions. Like magistrate judge, District Judge never mentioned and discussed Plaintiff's motion for sanction (Dkt. No. 86) involving in Defendant and Defendant counsels' guilt and crime in perjury and falsifying documents. But, District Judge supported magistrate judge's ruling on Petitioner's motion for sanction (Dkt. No. 86) as frivolous motion. District Judge's ruling is without base in law and facts and contrary to law, either. *See APPENDIX D.*

Further, District Judge doesn't think that magistrate judge violated 28 U.S. Code § 636 (e)(4) to rule on *Plaintiff's motion for contempt* (Dkt. No. 89) based on Local Rule *LCvR 37.2(a)*. *See APPENDIX D*, Pg. a20. District Judge's ruling is based on his cause that Local Rules of the District Court supersede U.S. laws and Statutes. However, the Rules of Procedure of the District Court provide: "(1) The rules of procedure in any proceeding in this Court shall be as prescribed by the laws of the United States, the rules of the Supreme Court of the United States, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, any applicable rules of the United States Court of Appeals for the Tenth Circuit, and these local rules." Local Rule *LCvR1.2(a)*. It's common sense that U.S. laws and statutes supersede any

local rules. So, Local Rule *LCvR 37.2(a)* is inapplicable to *Plaintiff's motion for contempt*. Magistrate judge violated 28 U.S. Code§636 (e)(4) and 636 (b)(1)(A) in excising civil contempt authority to rule on *Plaintiff's motion for contempt* (Dkt. No. 89) and issue injunctive reliefs to prohibit Plaintiff from filing any further motions for contempt to protect Respondent in contempt of the Court.

But, District judge supported Magistrate judge's ruling. District judge's ruling is clearly contrary to law, either. District judge's ruling also involves in whether Local Rules supersede U.S. laws and Statutes. **The U.S. Supreme Court need to make the decision for the issue.**

Moreover, Petitioner appealed to the U.S. circuit Court of the Tenth Circuit of Appeals timely. However, the panel in the Tenth Circuit **erred** in citing case *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 279 (1988) to consider magistrate judge's preliminary injunctions only as the conduct or progress of litigation and dismiss Petitioner's appeal. *See APPENDIX A.* Also, the order issued by the Tenth Circuit is signed by the Clerk of Court, not signed by a judge. The Tenth Circuit never published and posted the dismissal order online even though the order of the Tenth Circuit is in conflict with the decisions of not only the U.S. Supreme Court but also the Ninth Circuit.

Petitioner filed the Petition for Panel Rehearing and Rehearing En Banc to the Tenth Circuit timely on December 11, 2020. *See* Case No. 20-5099: Document 10793027. Finally, the Tenth Circuit denied Petitioner's petition for rehearing without any cause on December 31, 2020. *See APPENDIX B.*

REASONS FOR GRANTING THE PETITION

Petitioner's petition for Writ of Certiorari should be granted by the U.S. Supreme Court and the reasons are as follows:

(a) The Panel in the Tenth Circuit **erred** in citing case *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 279 (1988) to consider magistrate judge's preliminary injunctions only as the conduct or progress of litigation. In *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 279 (1988), a district court order denying a motion to stay or dismiss an action when a similar suit is pending in state court is not immediately appealable under 28 U.S. Code § 1291 or 1292 (a)(1). The situation in *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271, 279 (1988) is entirely different from that of Petitioner's case. In this case, it's magistrate judge to willfully and blatantly violate 28 U.S. Code § 636(b)(1)(A) to issue preliminary injunctions to prohibit Petitioner from following:

(1). **Prohibiting Plaintiff from filing any further motions for sanctions or for contempt in relation to any of Defendant's current discovery responses.**

(2). **Prohibiting Plaintiff from issuing any further written discovery requests to Defendant, absent leave of Court.**

(3). **Limiting both parties' deposition to four (4) fact witnesses.**

(b) An injunction is a court order requiring a person to do or cease doing a specific action. Once the court makes its decision, the parties must abide by the ruling. Magistrate judge ordered Petitioner to cease filing any further motions for contempt or for sanctions, prohibit Petitioner from issuing any further written discovery requests to Respondent, etc. Magistrate judge's order is a direction from the quote to do or not to do something. Magistrate

judge's order has practical effect as injunctions do based on the essential attributes of an injunction: (1) directed to a party, (2) enforceable by contempt, and (3) grant or deny part or all of the ultimate relief sought in the litigation. *See Orange County v. Hongkong & Shanghai Banking Corp.*, 52 F.3d 821, 825 (9th Cir. 1995).

On the other hand, an order need not be labeled "injunction" to be covered by 28 U.S. Code § 1292(a)(1). Review is authorized under 28 U.S. Code § 1292(a)(1) "[w]hen an order, although not expressly denying or granting an injunction, has the practical effect of doing so." *See Tri-State Generation & Transmission Ass'n, Inc. v. Shoshone River Power, Inc.*, 874 F.2d 1346, 1351 (10th Cir. 1989).

Moreover, an order that does not expressly grant or deny an injunction may nevertheless be appealable under 28 U.S. Code § 1292(a)(1) if it: (1) has the practical effect of granting or denying an injunction; (2) could cause serious or irreparable harm; and (3) can only be "effectually challenged" by immediate appeal. *See Carson v. American Brands, Inc.*, 450 U.S. 79, 84 (1981); *Buckingham v. Gannon* (In re Touch America Holdings, Inc. ERISA Litig.), 563 F.3d 903, 906 (9th Cir. 2009), *Negrete v. Allianz Life Ins. Co. of North America*, 523 F.3d 1091, 1097 (9th Cir. 2008). Magistrate judge's order effectively precludes Petitioner from proceedings in discovery and further other actions, and has serious and irreparable consequences to harm Petitioner in discovery and trial.

The serious and irreparable consequences include that Respondent may arbitrarily continue falsifying documents and evidence and presenting falsified evidence to the district court, being in contempt of the Court, and refusing to produce any documents, etc. But, Petitioner cannot file any motions for sanctions or for contempt for Respondent's any further

guilt and crime, contempt or other misconducts.

Further, Petitioner is prohibited from issuing any further written discovery requests to Respondent, absent leave of Court, and is limited to depose only four (4) fact witnesses. Respondent would not and might refuse to produce any further documents. At the same time, Petitioner would not get any further evidence from Respondent or little evidence from limited fact witnesses. It's severely irreparable consequences to harm Petitioner, and very difficult for Petitioner to get further evidence to allege Respondent's discrimination against Petitioner's race and age. Magistrate judge's prohibition order would change the direction of this lawsuit. There is a substantial likelihood that the Respondent will eventually prevail on the merits with the help of Magistrate judge's prohibition order.

Magistrate judge's order can be effectively challenged only by immediate appeal because if Petitioner awaited the final determination of this case, Petitioner would lose the chance in getting further evidence, and further lose all claimed reliefs and the lawsuit. *See Thompson v. Enomoto*, 815 F.2d 1323, 1326-27 (9th Cir.1987), *Carson v. American Brands, Inc.*, 450 U.S. 79, 84 (1981), *Baltimore Contractors, Inc. v. Bodinger*, 348 U.S. 176, 181 . Pp. 83-86.

So, magistrate judge's order to prohibit Petitioner from filing any further motions for sanctions or for contempt, and from issuing any further written discovery requests to Respondent, etc. is a preliminary injunction. The order has the essential attributes of an injunction and practical effect as injunctions do. It's clearly erroneous for the panel in the Tenth Circuit to consider magistrate judge's preliminary injunctions only as the conduct or progress of litigation. The decision of the panel in the Tenth Circuit is in conflict with the decisions of not only the U.S. Supreme Court, but also the Ninth Circuit. The decision of the

panel in the Tenth Circuit should be reversed by the U.S. Supreme Court.

Petitioner's petition also involves in some very important issues, which are exceptionally important to the public, (1) whether Respondent and Respondent counsels' guilt, crime and contempt may be protected knowingly in violation of U.S. laws and Statutes. (2) whether Local Rules may supersede U.S. laws and Statutes. (3) whether the decision of the Tenth Circuit in conflict with the decisions of not only the U.S. Supreme Court but also the Ninth Circuit may not be published, and only signed by the Clerk, not by a judge

It's exceptionally important for the public to know these issues whether to be solved by the U.S. Supreme Court.

The U.S. Supreme Court should grant Petitioner's petition to solve the conflict of injunctions between the Tenth Circuit and not only the Supreme Court, but also the Ninth Circuit. The U.S. Supreme Court should overrule the district court's preliminary injunctions, which are without any base in law and facts.

CONCLUSION

The United States Court of Appeals for the Tenth Circuit make its decision on injunctive reliefs in conflict with not only U.S. Supreme Court's decision in *Carson v. Am. Brands, Inc.*, 450 U.S. 79, 84 (1981), but also the decisions made by the United States Court of Appeals for the Ninth Circuit in *Buckingham v. Gannon* (In re Touch America Holdings, Inc. ERISA Litig.), 563 F.3d 903,906 (9th Cir. 2009); *Negrete v. Allianz Life Ins. Co. of North America*, 523 F.3d 1091, 1097 (9th Cir. 2008).

The Panel in the Tenth Circuit did not consider the essential attributes and the practical

effect of magistrate judge's order, and make a decision conflicting with the authoritative decisions of not only the U.S. Supreme Court but also the Ninth Circuit. Therefore, there is an overriding need for national uniformity.

The Supreme Court should overrule injunctions issued by the district court and reverse the decisions made by the Tenth Circuit to keep national uniformity.

Moreover, the U.S. Supreme Court should solve the issue that the district Court use Local Rules to supersede U.S. laws and Statutes. For example, the district court use Local Rule *LCvR 37.2(a)* (See APPENDIX D, Pg. a20) and General Order 05-09 (See APPENDIX C, Pg. a4, footnote: 1) to supersede 28 U.S. Code § 636 (e)(4) and grant magistrate judge to rule on *Plaintiff's motion for contempt* (Dkt. No 89).

Furthermore, the U.S. Supreme Court should solve the issue that Respondent and Respondent counsels' guilt, crime, and contempt are covered and protected in violation of U.S. laws and Statutes. It's exceptionally important for the public to know whether U.S. laws and Statutes should be abided by.

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: January 7, 2021