

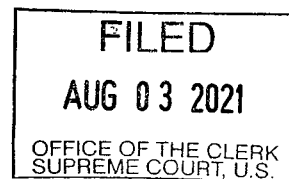
08/03/21
MD

No. 21-205

IN THE
SUPREME COURT OF THE UNITED STATES

Rimini — PETITIONER
(Your Name)

vs.
Dep't of Labor — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

U.S. Court of Appeals for the Second Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Thomas Rimini
(Your Name)

P.O. Box 391
(Address)

Winchester, MA 01890
(City, State, Zip Code)

617) 485-5100
(Phone Number)

Questions Presented

1. Should an unopposed default judgement be granted because the Department of Labor (“DOL”) did not submit the full administrative record to the court as required by FRAP 17 and the Administrative Procedure Act, or comply with local rules on the requirement, including while this matter is administratively active before the DOL and proceeding as 2021-SOX-00020, irretrievably prejudicing this matter and thwarting a full and fair review?
2. May a Circuit Court declare as res judicata a matter currently proceeding before the Supreme Court and the Department of Labor?
3. Did the Circuit Court lack subject matter jurisdiction to rule while an earlier-filed Sarbanes-Oxley matter with identical causes of action is not administratively exhausted before the Department of Labor?

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

Supreme Court : 20-1658

Department of Labor : 2021-SOX-00020

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
<u>Limini v. JPMorgan</u>	2021-SOX-00020
<u>Daly v. Citigroup Inc.</u>	939 F.3d 495, cert. denied 140 S.Ct. 1117
<u>Wong v. CKX</u>	890 F.Supp. 2d 411
<u>Sharkey v. JPMorgan</u>	805 F.Supp. 2d 45
<u>Borkman v. Per-Se</u>	456 F.Supp. 2d 1282
<u>Sylvester v. Paracet</u>	ARB No. 07-123
<u>Stallard</u>	ARB
<u>Alliance Bernstein v. Schachtman</u>	

STATUTES AND RULES

Federal Rules of Appellate Procedure
 Sarbanes-Oxley Act
 Administrative Procedures Act

OTHER

→ Cases Continued:

Davis v. Master, 713 F.2d 907
Jenkins v. EPA 2018 WL 2927663 (ARB 2018)
Limini v. Dep't Labor No. 20-1658 (S.Ct.)

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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

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix 3 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 United States district 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.

☐ 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

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was 5/13/2021.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 6/1/2021, and a copy of the order denying rehearing appears at Appendix C.

☐ 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

Due Process

Statement of the Case

I worked in the Office of the General Counsel at JPMorgan Chase & Co. ("JPMC"), underlying defendant here. My job included regulatory compliance in employee surveillance requiring reports internally and to government regulators, including to the Securities & Exchange Commission (SEC), which results in this Sarbanes-Oxley (SOX) action now.

There is a separate Supreme Court matter proceeding before this Court as No. 20-1658.

I. The Department of Labor's failure to comply with FRAP 17 and the Administrative Procedure Act among other due process issues have unduly prejudiced this matter.

II. Yet the Second Circuit, without the whole administrative record submitted by DOL and no explanation given to the court or Plaintiff as requested, ruled that this matter is res judicata, complicating this matter further and making it impossible for me to secure counsel.

III. I recently tried to secure counsel in this matter and estimated costs for review of the record in this matter before a contingency agreement would become effective were estimated to be \$150,000.00 because of the procedural posture of this case.

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The cost for representation in this matter is prohibitive and completely unreasonable for a core issue as simple as this:


Did JPMorgan backlist me and fail to follow its employment policies?

The answer is yes simply looking at documents JPMC provided 3 months after discovery cut-off and full briefing was complete. The ARB ordered reconsideration. The ALJ refused. And now we have had over 5 years of unnecessary litigation.

IV. This matter is currently proceeding before the DOL as 2021-SOX-00020. Appendix A.

V. The Complaint made within statute of limitations was in a cue for review for 4 years at DOL among other matters.¹

¹ I requested appeal when I received an OSHA dismissal letter only pursuant to a Freedom of Information Act request in 2018 or 2019. I did not otherwise receive any OSHA correspondence. As the DOL Chief OALJ Judge mentioned in his order, the dismissal was sent to the wrong address. Furthermore, I was told by OSHA Director Chris Carlin, with whom JPMC attorneys were allowed extensive discussions by email about various complaints, to only contact Teri Wigger for any case information or questions. I did not have the same access to OSHA representatives that JPMC counsel had throughout. I was told to wait for notices.



VI. Federal courts are deprived of subject matter jurisdiction in SOX matters until administrative remedies are exhausted. Daly v. Citigroup Inc., 939 F.3d 415, 427-428 (2d Cir. 2019); cert. denied, 140 S. Ct. 1117, 206 L. Ed. 2d 185 (2020). See also, Wong v. CKX 890 F. Supp. 2d 411 (SDNY); Sharkey v. J.P. Morgan Chase & Co., 805 F.Supp.2d 45, 53 (S.D.N.Y.2011); Bozeman v. Per-Se Technologies, Inc. 456 F. Supp. 2d 1282.

VII. However, there is a motion to dismiss pending now before another DOL ALJ (it has since been moved from the DOL Chief ALJ in DC to Boston) in 2021-SOX-00020 based on the litigation ahead of it. See, Sylvester v. Parexel International LLC, ARB No. 07-123 en banc; Stallard ARB (SOX actions are generally not suitable for motions to dismissal because they follow AIR 21 requirements.)

VIII. I filed a motion to compel arbitration at FINRA to have all of these matters involving JPMC before one forum for a resolution. See, Alliance Bernstein v. Schaffran 2d Cir. JPMC has opposed my motion.

Reasons for Granting the Petition

Because DOL did not abide by FRAP 17 and for other due process reasons, I believe this Court should enter default judgement in my favor. DOL's non-compliance with FRAP 17 and other due process issues have unduly prejudiced this matter. See, Davis v. Musler, 713 F.2d 907, 915 (2d Cir.1983). See also, Jenkins v. EPA 2018 WL 2927663 (ARB 2018).

The procedural posture of this matter has become unnecessarily convoluted and courts below have made decisions without the full administrative record of this matter resulting in severe prejudice here.

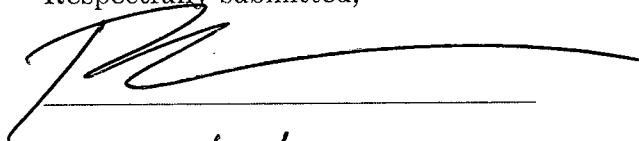
The court also ruled without jurisdiction. The matter is administratively active before DOL and there is no exhaustion. Daly v. Citigroup at 427-428.

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CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a series of loops and a long horizontal stroke extending to the right.

Date: 8/3/2021