Exh. 1

No. _____

In The

Supreme Court of the United States

[redacted]

Petitioner,

v.

Virginia Board Of Medicine

Respondent.

On Petition For A Writ Of Certiorari

To The United States Court Of Appeals

For The Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

Pro Se, [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

QUESTION PRESENTED

A) Petitioner, [redacted] with Decades of Practice Experience, [redacted] Under Seal court [redacted] to [redacted] his [redacted] in Sealed hearing [redacted]) pursuant to Sealed [redacted] nvestigative [redacted] that is still current and active today , [redacted] and successfully passed all required certification medical licensing exams in 2017, successfully completing all required Reentry medical Practice 2017-2019, successfully completing required Continuous Medical Education Credits , [redacted] his [redacted] ublic hearing [redacted] declining to consider [redacted] , denying all proofs of medical Competency and violating his constitutional rights putting him in position to obstruct justice ,violate the laws and criminal proceedings in state proceedings that otherwise allows to conduct [redacted] . Petitioner seeking justice, filed suit pursuant to 42 U.S.C. § 1983 to redress this irrevocable harm. Creating an acknowledged and irreconcilable split with the United States Court of Appeals for the 4th Circuit, and also splitting with the Ninth & Second Circuit, both of which have held that federal courts should not abstain from hearing constitutional challenges seeking Justice , Fairness in Due process, freedom of Harm and at least the minimum of being fairly heard in a state proceeding [redacted] without obstruction of justice , [redacted] protection filings, and fairness in reviewing his application without prejudice . The Seventh Circuit held that federal courts should abstain from some constitutional rights hearing such as First Amendment claims of this type pursuant to Younger v. Harris, 401 U.S. 37 (1971) and its progeny. The Seventh Circuit's decision was grounded not in any clearly defined category of Younger cases in which this Honorable Court has stated abstention is appropriate, but rather in general principles of "equity, comity, and federalism." *The question presented is thus: Whether Younger and its progeny permit federal courts to abstain, on the basis of general principles of comity and federalism, from hearing Constitutional Amendment challenges that seek Justice, Fair Due Process against biased ,unjust ,unfair, & unconstitutional state agency proceeding?*

B) *IS IT POSSIBLE TO A US CITIZEN TO PRESERVE HIS CONSTITUTIONAL GRANTED RIGHT?*

The prior [redacted] of handling Plaintiff [redacted] Hearings ,not only once but twice. is more than enough evidence of why Plaintiff is seeking [redacted] of his constitutional granted rights ,Fifth amendment protection,& Fair due process : The Board is asking a Federal court to simply dismiss Plaintiff claims just because [redacted] will have his fair chance and will be given all the opportunity to be heard and then if he does not like it then he can go to the same state courts to be heard :" well let us assume that plaintiff is going again [redacted] board then let us examine this future alleged anticipated fair hearing that the board will allow Plaintiff to have and to see if that will give even any chance of a successful due process hearing" :

1. First :As The Honorable Judge [redacted] had stated in his [redacted] order status of the [redacted] to the government ,in both civil & criminal prosecution [redacted] (**UNDER SEAL**)([redacted].

2.Second : As Plaintiff will have the burden on him to show his eligibility to [redacted].

3.Third : As this means that the Plaintiff has to {" Under Oath in a state agency public hearing"} to expose Federal court order sealed filings [redacted] that Granted him [redacted]

4. Fourth : As, This means that plaintiff will be in violation of both Federal and state laws in terms of obstruction of justice [redacted] in current active federal investigations [redacted], not only [redacted] but interfering these ongoing investigations [redacted] abor[redacted] division In The[redacted] & others

Regardless how much plaintiff will try showing eligibility in any futu[redacted] hearing in a closed hearing as permitted under VA statue {" Virginia statue rules VA Code 2.2-3711 "Closed Meeting authorized for certain purposes that include'[redacted] and when th[redacted] f the[redacted] would be [redacted]. The Board simply will insist on conducting an open public hearing where when asked as twice happened again in [redacted] hearing and [redacted] earings :(Board Hearing Exhibit 16) where in public a Board Member insisted asking Plaintiff :

"[redacted] when the plea deal [redacted]?" or " do you have [redacted] or a [redacted], or did Honorable [redacted] sked [redacted]....." violating the Board's own investigator interview with The[redacted] [redacted] Honorable [redacted] how did the [redacted] vas [redacted] in [redacted] sealed hearing. Then again the board not seeing the whole facts Plaintiff is trying to show will simply base in error that plaintiff[redacted] nd not to be[redacted] what competency exams SPEX or peer medical professional assessments or recommendations CPEP.

As A matter of fact The counsel for the defendant is stating again now in here motion to dismiss most recent filing dated [redacted] even after The [redacted] order that discloses the [redacted] "page 9 ,line 5 [redacted] claimed that h[redacted] administrative hearing in violation of the [redacted] based on [redacted]. whereas clearly the facts had shown the opposite th[redacted] [redacted], [redacted]:

So here is the Challenging question raised in this claim :

HOW CAN THE BOARD or it's counsel THAT IS NOT ALLOWING [redacted] hearing to occur , is to come now to judge [redacted] if it [redacted] or not without [redacted] knowing what This Plaintiff [redacted], not forgetting [redacted] occur to Plaintiff's [redacted] his [redacted] [redacted] don't matter, [redacted] public hearing?

PARTIES AND RULE 29.6 STATEMENT

Petitioner, Is a United States Citizen without any incorporation .

Respondent, Is a State agency under the Department Of Health Profession , sued in It's official capacity pursuant to 42 U.S.C. § 1983.

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Fifth Amendment Of The United States Constitution

28 U.S.C. § 1254(1) **42 U.S.C. § 1983**

PETITION FOR WRIT OF CERTIORARI

Federal courts bear responsibility to resolve cases and controversies over which they have jurisdiction and should abstain from hearing such cases only in the narrowest of circumstances. Thus, when a federal court decides to abstain on the basis of this Court's decision in Younger v. Harris, 401 U.S. 37 (1971), it may do so only pursuant to three limited exceptions, which preclude federal intrusion into (1)

ongoing state criminal proceedings; (2) certain civil enforcement proceedings; and (3) pending civil proceedings involving certain orders uniquely in furtherance of a state court's ability to perform its judicial functions. See Sprint Commc'ns, Inc. v. Jacobs, 571 U.S. 69, 78 (2013). Comity, and a respect for the concurrent role of state courts in our constitutional system, is the chief rationale for these narrow exceptions, but is not itself an independent reason to abstain. The decision below—which holds that federal courts should abstain from hearing constitutional claims brought against state agency proceeding that denied Petitioner A Fair Due process proceeding ,jeopardizing justice ,endangering Petitioner life , exposing sealed court filings and ongoing federal and state investigations & turns this Court's abstention jurisprudence on its head. It calls on federal courts to abstain from hearing claims that could be brought in state court, regardless of whether any of the three narrow Younger exceptions to federal jurisdiction apply, and notwithstanding that any delay in reviewing the constitutional claim at issue eviscerates the very right the claim seeks to vindicate. Each additional day that the petitioner rights is being harmed and left unprotected press more risk complaints of endangerment to his life and of obstruction to sealed filing ongoing investigations.

Moreover any delay necessarily undermines the constitutional Fair Due process , interest Of Justice in play. The decision below is wrong, and acknowledges that it creates a square split of authority with the Ninth Circuit. It also splits with the Second Circuit. A split of authority over a question of federal jurisdiction merits this Court's prompt review. The fact that the underlying merits of this claim implicate an important constitutional interest only magnifies the importance of resolving this question now.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Fourth Circuit is reproduced at Pet.App. A

The order of the U.S. District Court for the [redacted] is reproduced at Pet.App B

JURISDICTION

The Court of Appeals entered judgment on [redacted] O[redacted]earing was denied , Petitioner filed [redacted] This Honorable Court has jurisdiction pursuant to 28 U.S.C. § 1254(1).

STATUTORY PROVISIONS INVOLVED

Fifth Amendment Of The United States Constitution

28 U.S.C. § 1254(1)

42 U.S.C. § 1983

STATEMENT OF THE CASE

Background History:

Plaintiff , [redacted] and [redacted] . & Academic Teaching Medicine [redacted], awarded The American Board Of Internal Medicine [redacted] blown the whistle of [redacted] and [redacted] violations In [redacted] against his Employer sponsoring him for Green card visa in exchange for serving in medically underserved areas in The Appalachian region of West Virginia State [redacted] Exhibit 9, then , The sponsor retaliated alleging unprofessional conduct by plaintiff causing Medical license suspension in the WV state for 2 months [redacted] Exhibit 10 ,which automatically in state by state endorsement reaction led eventually to medical license suspension in OHIO & VA states in [redacted] ,Exhibit 11 ,terminating plaintiff's job with the medical group practice in central Virginia in [redacted] leaving plaintiff no other but to open his own medical solo practice in Northern Virginia area [redacted] building a Solo practice In Hospitals and outpatient clinic tel[redacted] ,with lack of knowledge or staff that can be afforded of how to keep the administrative business aspect of the Practice going & not paying enough attention to proper billing administrative insurance claims , all led to faults and mistakes in billing coding that went to Insurance audit By BCBS (Blue Cross Blue Shield in 2003) with advice of counsel to plea of guilty in [redacted] ,Exhibit 12, [redacted]

[redacted] Plaintiff [redacted]

Virginia Board Hearing:

Upon reinstatement hearing with the Virginia Medical Board after Passing the Medical Licensing Examination again in April,2017 (SPEX) Exhibit 14 from The Federation Of State Medical Licensing Boards and The Practice assessment reviews (CPEP ,Exhibit 15) by Medical Peers April,2017 ,

Awkwardly and with no prior notice , The Medical Board insisted in a public reinstatement medical [redacted] (Board Hearing Record Exhibit 16)and upon plaintiff's refusal [redacted] and [redacted] preserving [redacted] The Defendant [redacted] alleging in error and harmful bias against any due process rights ,that [redacted]

i. Plaintiff medical license is [redacted] throwing away the federal [redacted]

ii. Alleging The Plaintiff pass mark in the medical licensing exam was not high enough , without stating what mark is needed to proof competency ,nor allowing to retake to test again.

iii. That the practice peer assessment (CPEP) was not good enough yet, Though The CPEP recommended Medical Practice Reentry Plan. Exhibit 15.

[redacted]

&

the [redacted] of Board's errors to the States courts was unsuccessful simply because the Medical Board did petition the courts not to include any outside board [redacted] hearing evidence of Plaintiff's [redacted] citing then that the [redacted]

Plaintiff Struggle against The Defendant's abuse of due process violations, and harmful bias :

2017-2020: Attempting to overcome the Board bias and hurdles of due process violations and harmful bias , Plaintiff's went through all efforts to proof to The Board his eligibility :

1- Reinstated as a Medicare Provider ,2019 By The Government Department Of Health & Human Services. Exhibit 18

2-Reinstated as a Medical Provider with all Federally Funded Health Insurance Programs. Exh 19

3- Successful completion or Practice reentry Educational CPEP plan. Exh 15

4- Retake SPEX exam If The Board allows to show any better Pass Mark the Board deems. Exh 20

5-More than a six Hundred Certified Medical Educational continuance Hours, conferences, seminars and live medical courses in medical university courses ,including Ethics, billing, office practice management, patient communications....etc. Exh 21

6: [redacted]: Plaintiff is Medically professionally competent to Practice [redacted]

Denied again as Defendant's violations repeated itself:

In [redacted], The Board [redacted] of [redacted] again with the same scenario [redacted] and questioning how can plaintiff [redacted] refusing to grant any [redacted] ring to hear Plaintiff's [redacted] nd the matter of [redacted] medical license [redacted] lose by a federal Judge in a [redacted] refusing to grant any chance to retake SPEX exam again , but still allege in the Board finding that his SPEX pass mark is not enough, also ignoring all the other competency standards passed (CPEP) and completed that support reinstatement .

In Short Summary:

The Boards Bias and unfair due process rights violations left Plaintiff no other choice but seeking Federal relief from this unfair unjust unconditional due process violations that has no remedy in any state court even If Plaintiff goes through that cycle again and again in 2020 ,see **Gibson v. Berryhill, 411 U.S. 564 (1973),"** but to drag for another 2 to 3 years to end up again where he started with the defendant not allowing [redacted] , not to hear [redacted] with defendant petitioning the state courts on appeal to not to allow any [redacted] out of Defendant's public hearings , from being available to be admitted as evidence by the Plaintiff in appeal to be heard in any state court as already proven in over and over in the last three years , when the Board simply petition the courts not include [redacted] hat was not permitted in a Public State Medical Board of the [redacted]

[redacted] or any [redacted] in [redacted], leading eventually again to state courts denying Plaintiff's constitutional rights and a fair unbiased due process.

see ,**Schmidt v. Lessard, 414 U.S. 473 (1974)** , In **Hicks v. Miranda**, 422 U.S. 332 (1975), "The District Court erred in reaching the merits of the case despite appellants' insistence that it be dismissed under *Younger v. Harris* and *Samuels v. Mackell.* Pp. 422 U. S. 348-352"," This Court has jurisdiction over the appeal under 28 U.S.C. § 1253, and the injunction, as well as the declaratory judgment, is properly before the Court. Pp. 422 U. S. 342-348. seen also in Salem Inn Inc. V. Frank .364 .F. Supp. 478 (E.D.N.Y.1973) ,Doran v. Salem Inn. Inc. 422 U.S. 922 (1975)

Federal Relief Respectfully sought is the only Path left for Justice to Plaintiff:

Plaintiff filed this Federal Complaint with request for relief to remove this due process violation and allow a fair unbiased hearing to happen where he can relay without fear on his life or any fair of criminal prosecution in [redacted] of [redacted] Obstruction of Justice issues revealing [redacted]

{ The "sole determination as to factual issues is whether substantial evidence exists in the agency record to support the agency's decision," *Kenley*, 6 Va. App. at 242, 369 S.E.2d at 7. "'[S]substantial evidence' refers to such relevant evidence as a reasonable mind *might* accept as adequate to support a conclusion. Under this standard . . . the court may reject the agency's findings of fact only if, considering the record as a whole, a reasonable mind would *necessarily* come to a different conclusion." *Aegis Waste Solutions* v. *Concerned Taxpayers*, 261 Va. 395, 404, 544 S.E.2d 660, 665 (2001) (quoting *Virginia Real Estate Comm'n* v. *Bias*, 226 Va. 264, 269, 308 S.E.2d 123, 125 (1983) ("*Bias*")) (emphasis in original). }

if "the legal issues require a determination by the reviewing court whether an agency has . . . accorded constitutional rights, failed to comply with statutory authority, or failed to observe required procedures. less deference is required and the reviewing courts should not abdicate their judicial function and merely rubber-stamp an agency determination." App. 231, 243, 369 S.E.2d 1, 7-8 (1988) (emphasis added Johnston-Willis, Ltd. v. Kenley, 6 Va.).

District Court Errors [redacted] (Not Considering The Whole Complaint record or Plaintiff responses prior to dismissing his case) :

see The Rule 12(b)(6) test has been revised in recent years. In Conley v. Gibson, 355 U.S. 41 (1957), the Supreme Court stated the interplay between Rule 8 (pleading) and Rule 12(b)(6) as follows: "[T]he accepted rule [is] that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." 355 U.S. at 45-46. In Bell Atlantic Corporation v. Twombly, 55 U.S. 544 (2007), the Court noted questions raised regarding the "no set of facts" test and clarified that "once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint," id. at 563. It continued: "Conley, then, described the breadth of opportunity to prove what an adequate complaint claims, not the minimum standard of adequate pleading to govern a complaint's survival." Id. In Ashcroft v. Iqbal, 556 U.S. 662 (2009), the Court further elaborated on the test, including this statement: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face.'" Id. at 1949 (citation omitted). Where a complaint is inadequate, leave to amend the complaint is common. See, e.g., Butt v. United Brotherhood of Carpenters & Joiners of America, No. 09–4285, 2010 WL 2080034 (E.D. Pa. May 19, 2010).

The Court Must Consider the Complaint in Its Entirety when Evaluating a Motion to Dismiss for Failure to State a Claim. "courts must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss." Dunn v. Castro, 621 F.3d 1196, 1205 n.6 (quoting Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007)); Magulta v. Samples, 375 F.3d 1269, 1274-75 (11th Cir. 2004) (when reviewing a motion to dismiss for failure to state a claim, courts should read the complaint in its entirety); 5 Wright & Miller, Federal Practice and Procedure § 1286 (3d ed. 2004); 5B Wright & Miller, Federal Practice and Procedure § 1357 (3d ed. 2004).

Consideration of the Complaint as a whole demonstrates that it meets the requirements established

under the Federal Rules. "[A] complaint must contain sufficient factual matter . . . to 'state a claim for relief that is plausible on its face.'" Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)). This standard is met where "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 129 S.Ct. at 1949 (citing Twombly, 550 U.S. at 556). Here, the Complaint presents a detailed recitation of Plaintiffs' assertions that more than satisfies the pleading requirements. A review of the entire Complaint demonstrates that the Complaint in no way relies upon mere legal conclusions but contains a detailed factual account of Defendants' illegal practices which establish their liability for the violations. Shaun McCutcheon et al., Plaintiffs v. Federal Election Commission, Civ. No. 1:12-cv-01034-JEB-JRB-RLW

Without Granting a single hearing to be heard ,Plaintiff Federal case was dismissed with prejudice after the District Court Judge in error :

- Issue of Federalism and comity (Huffman v. Pursue, Ltd., 420 U.S. 592 (1975)).
- The Court can't certify a similar federal district court of any sealed waiver of permanent surrender clause.
- That The Defendant's motion to dismiss citing Rooker- Feldman case do support plaintiff's case dismissal , even before reviewing Plaintiff's response .

[redacted]

[redacted] currently [redacted]

and to [redacted]

2. [redacted] lines .NY,VA,MD,DC,DE,NJ [redacted]

3. [redacted] to cooperate in any federal law violations against

[redacted], making a maintenance [redacted]

[redacted] critical and [redacted] in [redacted] of Justice.

Statement Of The Facts

1. [redacted]

2. [redacted]

3. [redacted], August 2,1990 , [redacted] Resistance [redacted] [redacted] fter [redacted] He Deported [redacted] Bord [redacted] was [redacted] with The Blessing only From God and the kindness of the US Embassy [redacted] He was allowed [redacted]

4.Plaintiff was accepted as a [redacted] in [redacted] Affiliated Cornell Medical Center, NYU , Internal Residency American Board Specialty [redacted] Program

5. For Stay in The US [redacted] The only waiver [redacted] was to serve in The Appalachian underserved medical shortage area , West Virginia state ,sponsored through his employer for Immigrant Visa (Green Card).

6. The Sponsor violating the immigration J1-Visa program employed and contracted [redacted] in Private owned Hospitals and clinics in The State of Kentucky, illegally.

7. Although Threaten to be retaliated against , Plaintiff informed as a Whistle Blower to The Inspector General , M[redacted] in [redacted] of the Employer Scheme abusing Physicians who are Foreign Medical Gradates in need of The Green Card. (Exhibit 9).

8. Plaintiff's Punishment from The Employer was alleging lies To The WV Board Of Medicine of improper medical conduct toward two female cousins medical assistance alleging Plaintiff

unprofessionally exam in Employer clinic network, leading to 2 Months medical License Suspension [redacted] (Exhibit 10).

9. Plaintiff explained all his facts and informed The Medical Board Of Virginia ,of the allegations and , was exonerated in [redacted] of no wrong doing. (Exh 24).

Plaintiff continued his efforts to find a suitable employer sponsor that will not jeopardize medical Practice patient safety . Exhibit 25.

10. [redacted], OHIO state medical Board suspends plaintiff medical license for 6 months citing an error in application disclosure June [redacted] when WV Board Formal suspense investigation was issued [redacted] Exhibit 11.

11. In June 1998 , VA medical board administratively suspends Plaintiff's License due to Ohio Suspension, reorder reinstatement hearing Aug,1998 , Plaintiff awarded reinstatement after review again of all facts including KY medical Board informal grievance 1995 ,in which plaintiff was found at no fault, VA Medical Board reprimanded Plaintiff due to no such disclosure of KY employment history. Exhibit 26A.

12. Plaintiff two months wait for reinstatement ,June-Aug 1998 cost him his Group Practice Job in Central Virginia.

13. Forced to start in Northern Virginia a whole new Solo Practice in1999 ,that needed to start from scratch without a single experience in any office management or administrative handling of billing nor able to afford hiring such needed office managers.

14. attempting to take care of patients and handling of the business aspect of the solo office practice , eventually failed to comply with standards of billing insurance various codes of patient encounters , [redacted] with Blue cross Blue shield audit and Medicare as secondary insurance ,all finally to end up upon counsel advise to the 2004 health claims over coding insurance violation and [redacted]

15. VA Medical Board declined to accept the surrender in [redacted] and issues a suspension due to the felony conviction ,with a hearing reinstatement option [redacted]

16. In 2006, [redacted]

17. upon Substantial [redacted]

18. Upon Defendant's continued due process blockage and unjust hearing practices [redacted]

19 [redacted] **Plaintiff filed respectfully this appeal in The US Court Of appeals for the Fourth Circuit** [redacted]

STATEMENTS OF ISSUES PRESENTED FOR REVIEW

1. Weather The District Court denied Plaintiff Due process in its procedural errors in processing Plaintiff's motions to [redacted] that had been deemed warranted critical for sound judgment in it's review of the merits of the case especially , [redacted] Federal Order By The Honorable District [redacted] whic [redacted] or [redacted]

2. Weather The District Court error in applying Huffman v. Pursue, Ltd 420 U.S (1975) as basis for dismissal ,where actually The Supreme Court Opinion Pre-Huffman and post Huffman points to the Opposite of Federalism or Comity issue ?

3. Weather The District Court error in finding that defendant's motion support such dismissal ,especially prior even to review Plaintiff's response to Defendant's dismissal motion?

Summary Of The Argument

1. Appeal on Issues of District court Procedural errors:

The District Court cited that the a [redacted] of the [redacted]

However when Plaintiff filed a [redacted], The District Court Honorable Judge [redacted] that motion to be [redacted]

and cited in the case dismissal order that his court will not certify another district federal court finding or ruling , when actually Plaintiff never asked to certify any other court ruling , but all what was intended is to comply with the District Court Honorable Judg[redacted]inding and ruling that that [redacted]

[redacted]

2. Appeal On The Merits:

District court applied in error the US Supreme Court ruling in Huffman v. Pursue, Ltd., 420 U.S. 592 (1975) ,citing federalism and comity matter as the standard to dismiss Plaintiff's claims ,when in Fact all the Supreme Court case decisions pre Huffman and Post Huffman points to the application of the following when deciding the merits or jurisdictional basis to hear a federal claim under Section 1983 of Title 42 of the United States Code, or the 5th amendment claims as summarized below:

i) IS THERE ANY CURRENT PENDING STATE COURT PROCEEDING?

In Steffel v. Thompson, 415 U.S. 452 (1974) "Federal declaratory relief is not precluded when a prosecution based upon an assertedly unconstitutional state statute has been threatened, but is not pending, even if a showing of bad faith Page 415 U. S. 453 enforcement or other special circumstances has not been made. Pp. 415 U. S. 460-473. (a) When no state criminal proceeding is pending at the time the federal complaint is filed, considerations of equity, comity, and federalism on which *Younger v. Harris* and *Samuels v. Mackell* both *supra,* were based, have little vitality: federal intervention does not result in duplicative legal proceedings or disruption of the state criminal justice system; nor can federal intervention, in that circumstance, be interpreted as reflecting negatively upon the state courts' ability to enforce constitutional principles. Pp. 415 U. S. 460-462

ii) IS THERE ANY AVAILABLE FAIR STATE COURT PROCEEDING FOR RELIEF?

In Gibson v. Berryhill, 411 U.S. 564 (1973)," The anti-injunction statute did not bar the District Court from issuing the injunction, since appellees brought suit under the Civil Rights Act, 42 U.S.C. § 1983. Pp. 411 U. S. 572-575.2. Nor did the rule of *Younger v. Harris,* 401 U. S. 37, or principles of comity

require the District Court to dismiss appellees' suit in view of the pending Board proceeding, since the appellees Page 411 U. S. 565 alleged and the District Court concluded that the Board's bias rendered it incompetent to adjudicate the issues. Pp. 411 U. S. 575-577

The court concluded that it was not barred from acting by the federal anti-injunction statute, since only administrative proceedings were involved, and that exhaustion of administrative remedies was not mandated where the administrative process was biased in that the Board, by its litigation in the state courts, had prejudged the case against appellees "

iii)What is the Timing of The State Court Criminal Filing? If Any?

In **Hicks v. Miranda**, 422 U.S. 332 (1975), "The District Court erred in reaching the merits of the case despite appellants' insistence that it be dismissed under *Younger v. Harris* and *Samuels v. Mackell.* Pp. 422 U. S. 348-352"," This Court has jurisdiction over the appeal under 28 U.S.C. § 1253, and the injunction, as well as the declaratory judgment, is properly before the Court. Pp. 422 U. S. 342-348."

seen also in Salem Inn Inc. V. Frank .364 .F. Supp. 478 (E.D.N.Y.1973) ,Doran v. Salem Inn. Inc. 422 U.S. 922 (1975)

iv.) Importance of The State court Proceeding? In The Sake Of Justice ?

Weighing any harm or threat to the state courts proceedings, if any, against constitutional violation of due process and threat to the Federal Plaintiff:

In **Schmidt v. Lessard, 414 U.S. 473 (1974)** "In October and November, 1971, appellee Alberta Lessard was subjected to a period of involuntary commitment under the Wisconsin State Mental Health Act, Wis. Stat. § 51.001 *et seq.* While in confinement, she filed this suit in the United States District Court for the Eastern District of Wisconsin, on behalf of herself and all other persons 18 years of age or older who were being held involuntarily pursuant to the Wisconsin involuntary commitment laws, alleging that the statutory scheme was violative of the Due Process Clause of the Fourteenth Amendment. Jurisdiction was predicated on 28 U.S.C. § 1343(3) and 42 U.S.C. § 1983. Since both declaratory Page 414 U. S. 474".

Clearly , The Supreme Court ruling in Huffman does not apply to this case as Plaintiff never had any current state civil or criminal proceeding , nor is there any fair chance of relief in any state proceeding if to happen with the Board's Bias ,all is requested mainly is to have a fair due process shot in an

administrative proceeding , requesting protection of his constitutional due process rights under The US Federal Laws and The 5th amendment.

Moreover as claimed in ERROR by the Defendant's dismissal motion request supported by the district court ,where in Fact , true analysis of facts clearly shows that The Rooker-Feldman Doctorine does not apply :" Mistakenly ,The counsel is arguing now that plaintiff claim should be dismissed simply because he can appeal the Board decision to a state court ", arguing a complete misunderstanding if the Rooker-Feldman doctorin even applies as shown below :

1. The Rooker-Feldman doctrine derives its name from two U.S. Supreme Court cases, Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923) and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983).

The Rooker-Feldman doctrine deprives federal district and bankruptcy courts of jurisdiction over suits that are essentially appeals from state court judgments. The policy is based on the idea that a litigant should not be able to challenge state court orders in federal court as a means of relitigating matters that already have been considered and decided. The Rooker-Feldman doctrine applies when four requirements are met: (1) the federal plaintiff lost in state court, (2) the plaintiff complains of injuries caused by the state court judgment, (3) that judgment issued before the federal suit was filed, and (4) the plaintiff invites the district court to review and reject the state court judgment.

Plaintiffs supported claim with set of facts and evidence that included [redacted] the defendants own 'procedural hearing records [redacted] witness testimony, interviews, staff inner communications and actions in the matter of Plaintiff [redacted] hearing process . Plaintiff has sought relief against defendants injury to him that is viable ,recurring and happening now or in any future [redacted] earing again through a series of actions and decisions stripping plaintiff of his fair constitutional granted due process ,disallowing plaintiff 's already decided [redacted] Honorable Federal [redacted] n The [redacted] of permission to [redacted] disallowing plaintiff repeated attempts t[redacted]

defendants in [redacted] well as out of state and discriminating harmfully against plaintiff all success of showing professional competency ,passing medical licensing Exams e.g. SPEX and peer review life medical assessment panels (CPEP) ,as well as discriminating against the fact that the Federal government had already reinstated plaintiff as a Medicare provider and in all federally funded health insurance programs . Plaintiffs' claims survives Rooker-Feldman matter and comply with the jurisdictional test pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure for multiple reasons as shown below:

Legal Standard Of Review

A motion to dismiss a complaint for lack of subject matter jurisdiction pursuant to Fed. .Civ.P 12(b)(1) "addresses whether [the plaintiff] has a right to be in the district court at all and whether the court has the power to hear and dispose of [the plaintiff's] claim." *Holloway vPagan River Dockside Seafood, Inc.*, 669 F.3d 448, 452 (4th Cir. 2012). A court should grant such a motion "only if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law." *Evans v. B.F. Perkins Co., a Div. of Standex Int'l Corp.*, 166 F.3d 642, 647 (4th Cir. 1999) (internal quotation marks omitted).Rule 12(b)(6) provides that parties may assert by motion a defense based on "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). The Rule 12(b)(6) test has been revised in recent years. In Conley v. Gibson, 355 U.S. 41 (1957), the Supreme Court stated the interplay between Rule 8 (pleading) and Rule 12(b)(6) as follows: "[T]he accepted rule [is] that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." 355 U.S. at 45-46. In Bell Atlantic Corporation v. Twombly, 55 U.S. 544 (2007), the Court noted questions raised regarding the "no set of facts" test and clarified that "once a claim has been stated adequately, it may be supported by showing any set of facts

consistent with the allegations in the complaint," id. at 563. It continued: "Conley, then, described the breadth of opportunity to prove what an adequate complaint claims, not the minimum standard of adequate pleading to govern a complaint's survival." Id. In Ashcroft Opposition to Motion to Dismiss 1 Case 1:12-cv-01034-JEB-JRB-RLW Document 23 Filed 09/04/12 Page 1 of 8 v. Iqbal, 556 U.S. 662 (2009), the Court further elaborated on the test, including this statement: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face."' Id. at 1949 (citation omitted). Where a complaint is inadequate, leave to amend the complaint is common. See, e.g., Butt v. United Brotherhood of Carpenters & Joiners of America, No. 09–4285, 2010 WL 2080034 (E.D. Pa. May 19, 2010) .A court considering either type of motion assumes that the facts alleged in the complaint are true and views the complaint in the light most favorable to the plaintiff. *Id.*; *see also Adams v.Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982)(court considering a motion to dismiss "contending that a complaint simply fails to allege facts upon which subject matter jurisdiction can be based" affords the plaintiff "the same procedural protection as the plaintiff would receive under a Rule 12(b)(6)consideration")

Federal Jurisdiction Sought perused under:

A) Fifth Amendment Of The United States Constitution : "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

B) (42 U.S.C. § 1983) "Every person who, under color of any statute, ordinance, regulation, custom, or

usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.(R.S. § 1979; Pub. L. 96–170, § 1, Dec. 29, 1979, 93 Stat. 1284; Pub. L. 104–317, title III, § 309(c), Oct. 19, 1996, 110 Stat. 3853.)".

"Section 1983 Litigation" refers to lawsuits brought under Section 1983 (Civil action for deprivation of rights) of Title 42 of the United States Code (42 U.S.C. § 1983). Section 1983 provides an individual the right to Section 1983 does not provide civil rights; it is a means to enforce civil rights that already exist.sue state government employees and others acting "under color of state law" for civil rights violations.

Under Patsy v. Board of Regents of Florida, 457 U. S. 496, which held that plaintiffs need not exhaust state administrative remedies before instituting § 1983 suits in federal court, is not inapplicable to this state court suit on the theory, asserted by the Wisconsin Supreme Court, that:

States retain the authority to prescribe the rules and procedures governing suits in their courts. That authority does not extend so far as to permit States to place conditions on the vindication of a federal right. Congress meant to provide individuals immediate access to the federal courts, and did not contemplate that those who sought to vindicate their federal rights in state courts could be required to seek redress in the first instance from the very state officials whose hostility to those rights precipitated their injuries. There is no merit to respondents' contention that the exhaustion requirement imposed by the Wisconsin statute is essentially *de minimis*, .

In View Of Unfairness and blockage of Justice in due process of Plaintiff [redacted] in

the Virginia state Medical Board that left Plaintiff no other choice but to seek justice and fairness in this Honorable Federal Court especially that Plaintiff has put over three years all his time / efforts/and resources to medical Board but with no chance of a single fair due process without jeopardizing his liberty, livelihood or his constitutional or civil rights.

The United States Supreme Court **held that a local government is a "person" that can be sued under** Section 1983 **of Title 42 of the United States Code:** civil action for deprivation of rights.[1] The Court, however, required that a §1983 claim against a municipal entity be based on the implementation or execution of a "a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that party's officers".[10] Additionally, the Court held that municipal entities "may be sued for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's official decision making channels"

(b) In 1871, when Congress enacted what is now § 1983, it was generally understood that a municipality was to be treated as a natural person subject to suit for a wide range of tortuous activity, but this understanding did not extend to the award of punitive damages at common law. Indeed, common law courts consistently and expressly declined to award punitive damages against municipalities. Nothing in the legislative history suggests that, in enacting § 1 of the Civil Rights Act of 1871, Congress intended to abolish the doctrine of municipal immunity from punitive damages. If anything, the relevant history suggests the opposite. Pp. 453 U. S. 259-266.

Defendant has filed a Motion to Dismiss ("Motion") based on Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) . Plaintiffs oppose the Motion for the following reasons, showing the defendant misunderstanding of Rooker-Feldman Doctorine and how it does not apply to the Plaintiff's claims as detailed below:

Argument

First : 12(b)(1) Matter : Subject Matter Jurisdiction :

Plaintiffs' claims are inherently entangled with (and predicated upon) under the **Fifth Amendment: U.S. Constitution** and Section 1983 **of Title 42 of** the United States Code as shown below:

Although the party invoking the jurisdiction of the Court bears the burden of establishing standing, "[a]t the pleading stage, general factual allegations of injury resulting from the defendant's conduct may suffice." Id. at 561. Nothing in Plaintiffs' claims is abstract, and only this Court can remedy the deprivation of Plaintiffs' rights. Doe v. County of Centre, PA, 242 F.3d 437,453 (3d. Cir. 2001) ("allegation, while disputed by the county, does not constitute an 'abstract disagreement[]' incapable of judicial resolution") (citing Abbott Laboratories v. Gardner, 387 U.S. 136, 148 (1967); U. S. ex rel. Ricketts v. Lightcap, 567 F.2d 1226, 1233 (3d. 11 Case 1:12-cv-02522-RMB-AMD Document 39 Filed 03/04/13 Page 12 of 31 Page ID: 477 Cir. 1977).

Plaintiff pleads a federal claim of ongoing violations of the plaintiff rights protected under the constitution and the united states laws and has presented Facts & ,not mere allegations, that is supported by Documents (Evidence Summery List) including the defendant's own board hearing records , investigator reports/interviews and staff communications that gives rise to Federally recognized Rip claims that is under the scope of Our Constitution and the laws of the United States

A) The United States Supreme Court held that a local government is a "person" that can be sued under Section 1983 of Title 42 of the United States Code , and the United States Constitution.

B) Fifth Amendment claims in this matter specifically invoke their federally-recognized rights. Any state administrative process, which Defendants suggest should take the place of this Court, would not only be inadequate to address Plaintiffs' federal claims, but it would also be tainted with Defendants' ongoing unconstitutional actions.

Second : Plaintiff's Claims Are Ripe For Adjudication:

Despite what Defendants may wish for this Court to believe, Plaintiffs' claims do not hinge on any contingencies and are ripe for adjudication. Defendants' suggestion to the contrary underscores their

disregard for the important rights that Plaintiffs seek to pursue in this matter. Those rights, for the Plaintiffs, literally could mean the difference between life and death. In cases where a plaintiff seeks injunctive or declaratory relief only, standing will not lie if "adjudication ... rests upon 'contingent future events that may not occur as anticipated or indeed may not occur at all.' "Rodgers-Durgin v. De La Vina, 199 F.3d 1037, 1044 (9th Cir.1999) (quoting Texas v. United States, 523 U.S. 296 (1998)). Indeed, in "ADA cases, courts have held that a plaintiff lacks standing to seek injunctive relief unless he alleges facts giving rise to an inference that he will suffer future discrimination by the defendant." Shotz v. Cates, 256 F.3d 1077, 1081 (11th Cir.2001) (citations omitted); see also Armstrong World Indus., Inc. v. Adams, 961 F.2d 405, 422 (3d Cir.1992) (discussing how courts should dismiss action on ripeness grounds when a complaint seeking declaratory relief rests on the contingency that some future act will occur). As discussed below, Plaintiffs in this case have properly alleged facts giving rise to an inference that they will suffer future discrimination, thus, they have presented a ripe claim and have proper standing to do so.

Some courts have rejected similar attempts by parties to render a case un ripe. See Malama Makua v. Rumsfeld, 136 F.Supp.2d 1155, 1161 (D.Haw.2001) ("Ripeness is an element of jurisdiction and is measured at the time an action is instituted; ripeness is not a moving target affected by a defendant's action."). See also Travelers Ins. Co. v. Obusek, 72 F.3d 1148, 1154 (3d Cir.1995) ("[R]ipeness requires that the threat of future harm must remain 'real and immediate' throughout the course of the litigation.") (quoting Salvation Army v. Dep't of Cmty. Affairs, 919 F.2d 183, 192 (3d Cir.1990)). In this case, Plaintiffs have suffered adverse consequences of Defendants' policies and procedures.

The allegations in Plaintiffs' Amended Complaint meet the requirements of the Federal Rules of Civil Procedure Including:

Third:12(b)(6) Claim for Relief:

Claim for Relief stated and sought not only is a matter of Fair due process and justice that the plaintiff is seeking but it is a matter [redacted] blower of cases that induce[redacted]

"Relief Sought : Plaintiff ,through a Hearing, humbly prays that the Honorable Court award him the

following relief:

- Enforcement of Plaintiff civil and constitutional rights in a Fair Due process in his livelihood skilled [redacted] Board hearing [redacted]

- SPEX exam to be allowed to be retaken to show competency if competency is still an issue .

- Allow plaintiff to complete his CPEP practice reentry plan as required under the supervision of the Medical Director."

Plaintiff has already suffered enough violations proven by facts that harmed him and further future harmful injury awaiting to happen unfortunately is deemed to happen and not contingent upon any third party other than The Defendants own procedures that has proven harmful , biased, discriminatory and unlawful as Facts already shown per Plaintiff filings on record:

Rule 12(b)(6) provides that parties may assert by motion a defense based on "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). The Rule 12(b)(6) test has been revised in recent years. In Conley v. Gibson, 355 U.S. 41 (1957), the Supreme Court stated the interplay between Rule 8 (pleading) and Rule 12(b)(6) as follows: "The accepted rule is that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." 355 U.S. at 45-46. In Bell Atlantic Corporation v. Twombly, 55 U.S. 544 (2007), the Court noted questions raised regarding the "no set of facts" test and clarified that "once a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint," id. at 563. It continued: "Conley, then, described the breadth of opportunity to prove what an adequate complaint claims, not the minimum standard of adequate pleading to govern a complaint's survival." Id. In Ashcroft v. Iqbal, 556 U.S. 662 (2009), the Court further elaborated on the test, including this statement: "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is

plausible on its face.'" Id. at 1949 (citation omitted). Where a complaint is inadequate, leave to amend the complaint is common. See, e.g., Butt v. United Brotherhood of Carpenters & Joiners of America, No. 09-4285, 2010 WL 2080034 (E.D. Pa. May 19, 2010).

The Court Must Consider the Complaint in Its Entirety when Evaluating a Motion to Dismiss for Failure to State a Claim. "courts must consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motions to dismiss." Dunn v. Castro, 621 F.3d 1196, 1205 n.6 (quoting Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308, 322 (2007)); Magulta v. Samples, 375 F.3d 1269, 1274-75 (11th Cir. 2004) (when reviewing a motion to dismiss for failure to state a claim, courts should read the complaint in its entirety); 5 Wright & Miller, Federal Practice and Procedure § 1286 (3d ed. 2004); 5B Wright & Miller, Federal Practice and Procedure § 1357 (3d ed. 2004).

Consideration of the Complaint as a whole demonstrates that it meets the requirements established under the Federal Rules. "A complaint must contain sufficient factual matter . . . to 'state a claim for relief that is plausible on its face.'" Ashcroft v. Iqbal, 129 S.Ct. 1937, 1949 (2009) (quoting Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 570 (2007)). This standard is met where "the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 129 S.Ct. at 1949 (citing Twombly, 550 U.S. at 556). Here, the Complaint presents a detailed recitation of Plaintiffs' assertions that more than satisfies the pleading requirements. A review of the entire Complaint demonstrates that the Complaint in no way relies upon mere legal conclusions but contains a detailed factual account of Defendants' illegal practices which establish their liability for the violations. Shaun McCutcheon et al., Plaintiffs v. Federal Election Commission, Civ. No. 1:12-cv-01034-JEB-JRB-RLW

The prior Board history of handling Plaintiff [redacted] not only once but twice, is more than enough evidence of why Plaintiff is seeking protection of his constitutional granted rights ,Fifth amendment protection,& Fair due process

The Board is asking This Honorable court to simply dismiss Plaintiff claims just because [redacted]ill

have his fair chance and will be given all the opportunity to be heard and then if he does not like it then he can go to the same state courts to be heard : [redacted] time to go in front of the board then let us examine this future alleged anticipated fair hearing that the board will allow Plaintiff to have and to see if that will give even any chance of successfully due process hearing :

1. As The Honorable Judge [redacted] especially [redacted] well as out of state w[redacted] ,and not obstructing justice nor viola[redacted]der hearings [redacted] during which Federal Honorable Co[redacted]. but regardless how much plaintiff will needed to show all that in his future [redacted]hearing in a[redacted] as[redacted]" Virginia statue rules VA Code 2.2-3711 "Closed Meeting authorized for certain purposes that include[redacted], The Board simply will insist on conducting[redacted] [redacted]wher[redacted] " how can you[redacted] [redacted]o[redacted] or [redacted], or did Honorable Judge[redacted] [redacted]....." or even try to point to the Board's own investigator interview with The[redacted] [redacted] he will be again unable to completely show the[redacted] [redacted]o[redacted] [redacted] and protecting his Fifth amendment constitutional right.

Then again the board not seeing the whole facts that Plaintiff is trying to show , will simply base in

error that plaintiff is to [redacted] and not to be licensed again no matter what competency exams SPEX or peer medical professional assessments or recommendations CPEP.

As A matter of fact The counsel for the defendant is stating again now in here motion to dismiss dated [redacted] even after [redacted] Honorable Judge [redacted] der that discloses the Plaintiff [redacted] arly ,"page 9 ,line 5 " [redacted] claimed that he was entitled to [redacted] hearing in violation of the [redacted] ased on vague claims o[redacted] hereas clearly the facts had shown the opposite tha[redacted] s [redacted] case since [redacted] ongoing ,led to [redacted], and [redacted]

So Here is the Challenging question raised in this claim :

HOW CAN THE BOARD THAT IS NOT ALLOWING [redacted] hearing to occur , is to come now to judge [redacted] f it [redacted] or not without even knowing what This Plaintiff is [redacted] the harm to occur to [redacted] In [redacted] nce his [redacted] n a [redacted]

The Vicious Cycle of Injury to Plaintiff By Defendant that Plaintiff is seeking relief from can only be relieved by this Honorable court:

The Defendant unconstitutionally disallowed [redacted] [redacted] role that the plaintiff is extending to c[redacted] ading to [redacted] y [redacted] ut stil[redacted] n[redacted] a[redacted] [redacted] tha[redacted] [redacted] it lead to the [redacted] he Counsel for the Defendant , Esq. Mrs. Barrett who represented the defendants in Plaintiff appeal to state court ,simply requested in early stage court hearing in [redacted] o disallow any evidence from consideration or to be allowed that was not in the original board Hearing in [redacted] ading the state courts to not seeing crucial evidence o[redacted] estimony to be presented in courts ,

stripping plaintiff from his fair due process under the US Laws ," leading to the fatal court error that the honorable state court of the [redacted] ruled that 'few emails on record don't support what the plaintiff [redacted] " , again in error leading the court to believe again that [redacted] hearing was not justified, nor considering the facts behind the plaintiff [redacted] Ruling in error that the [redacted] { The "sole determination as to factual issues is whether substantial evidence exists in the agency record to support the agency's decision." *Kenley, 6* Va. App. at 242, 369 S.E.2d at 7. "'[S]substantial evidence' refers to such relevant evidence as a reasonable mind *might* accept as adequate to support a conclusion. Under this standard . . . the court may reject the agency's findings of fact only if, considering the record as a whole, a reasonable mind would *necessarily* come to a different conclusion." *Aegis Waste Solutions* v. *Concerned Taxpayers,* 261 Va. 395, 404, 544 S.E.2d 660, 665 (2001) (quoting *Virginia Real Estate Comm'n* v. *Bias,* 226 Va. 264, 269, 308 S.E.2d 123, 125 (1983) ("*Bias*")) (emphasis in original). }

if "the legal issues require a determination by the reviewing court whether an agency has . . . accorded constitutional rights, failed to comply with statutory authority, or failed to observe required procedures, less deference is required and the reviewing courts should not abdicate their judicial function and merely rubber-stamp an agency determination." App. 231, 243, 369 S.E.2d 1, 7-8 (1988) (emphasis added Johnston-Willis, Ltd. v. Kenley, 6 Va.).

What will the Board lose if Plaintiff was offere[redacted] o hear th[redacted] or allow [redacted] o retake SPEX again , or complete his CPEP educational Plan That the Board was claiming [redacted] did not successfully complete.

so what is the point of even trying to go to [redacted] hearing when the Other party can't see Facts straight , and [redacted]

wa[redacted]

Moreover ,Then The Board who is refusing even to allow Plaintiff just to retake medical licensing exam SPEX exam again to rebut the allegation that His SPEX exam Pass mark was not enough for the Board,

which without the relief sought in plaintiff claim stated is crucial if he to have a fair chance of reinstatement application process , as the Board stated in it 2017 as well as 2019 that The SPEX exam Pass Mark was not convincing enough for reinstatement ,Plaintiff does not know what is the even benefit of attempting to go another hearing in front of the Board without being allowed to retake the SPEX again if it is the contingency condition that the Board is insisting to have a higher Pass Mark. Exhibit 20

Similarly ,On The same token , as the Medical Director of the CPEP had pointed out in 2018 to the Board that Plaintiff , has successfully completed all requirements set in his educational plan, and is at the stage where a limited license is needed to complete the Educational plan , but the Board ruled the other way that Plaintiff simply did not complete the CPEP plan successfully , So without the relief sought to allow plaintiff to have a limited license to fully complete the CPEP plan that has been an issue brought up twice already in [redacted] and then in [redacted] Board hearings .

Not Forgetting The Board not weighing Facts that favors Reinstatement :

-Full Government Medicare Reinstatement 2018 of [redacted] as A medical Provider.

-Full Government of personnel reinstatement Of [redacted] as a Health Insurance Government programs Medical provider, 2018

[redacted] Hearing Judge [redacted] ruling in [redacted] tha [redacted] is medically professionally competent.

Clearly ,as shown from the prior Boards history dealings with [redacted] since 2017 and again in 2019 gives a grim future on any hearing to occur [redacted] sought if Plaintiff to have a fair due process or any chance for a reinstatement.

Fourth: The Rooker-Feldman Doctorine does not apply :

Moreover ,The counsel is arguing now that plaintiff claim should be dismissed simply because he can appeal the Board decision to a state court arguing a complete misunderstanding if the Rooker-Feldman ' doctorin even applies as shown below :

> The Rooker-Feldman doctrine derives its name from two U.S. Supreme Court cases, Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923) and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983).

The Rooker-Feldman doctrine deprives federal district and bankruptcy courts of jurisdiction over suits that are essentially appeals from state court judgments. The policy is based on the idea that a litigant should not be able to challenge state court orders in federal court as a means of relitigating matters that already have been considered and decided. The Rooker-Feldman doctrine applies when four requirements are met: (1) the federal plaintiff lost in state court, (2) the plaintiff complains of injuries caused by the state court judgment, (3) that judgment issued before the federal suit was filed, and (4) the plaintiff invites the district court to review and reject the state court judgment.

TEST OF THE SOURCE OF PLAINTIFF'S INJURY :

Plaintiff is pleading a federal constitutional claim with a violation of US laws against the defendant seeking relief from **injury that originated** by the defendant actions that can be reviewed under the laws of the United states of America that is generally adjudicated and reviewed in The Federal Court :

In *Evans v. Cordray* (6th Cir., Case No. 09-3998) (PDF), the Sixth Circuit attempted to clarify the scope of the *Rooker-Feldman* doctrine when it reversed a district court's decision to dismiss a claim regarding the constitutionality of Ohio's "vexatious litigator" statute pursuant to *Rooker-Feldman*: Sixth Circuit Attempts to Clarify the Rooker-Feldman Doctrine as It Reverses A District Court's Ruling Regarding the Constitutionality of Ohio's "Vexatious Litigator" Statute

In an opinion written by Judge Griffin, the Sixth Circuit began by explaining that the *Rooker-Feldman* does not bar a district court from exercising subject matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. Rather, it applies only to the "narrow ground" of "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." As the Sixth Circuit explained, in determining whether *Rooker-Feldman* bars a claim, courts must look to the source of the injury that the plaintiff alleges in the federal complaint. If the source of the plaintiff's injury is the state court judgment itself, then the *Rooker-Feldman* doctrine bars the federal claim. On the other hand, if there is some other source of injury, such as a third party's actions, then the plaintiff asserts an independent claim.

2) Third Circuit Confirms Limits of the Rooker-Feldman Doctrine:

> In re Philadelphia Entertainment & Dev. Partners, 17-1954, 2018 WL 358216 (3d Cir. Jan. 11. 2018). Depending on the context, reference to PEDP may refer to either the Third Circuit opinion or the debtor-entity itself. On January 11, 2018, the Third **Circuit issued a decision in** re Philadelphia Entertainment & Development Partners[1] that limited the reach of the Rooker-Feldman doctrine as a defense to bankruptcy avoidance actions. The court's reasoning, however, has implications that go well beyond the particular facts of the case and may limit the use of the Rooker-Feldman doctrine as a threshold defense in federal court litigation more broadly, whether in bankruptcy cases or otherwise.

The Rooker-Feldman doctrine deprives federal district and bankruptcy courts of jurisdiction over suits that are essentially appeals from state court judgments. The policy is based on the idea that a litigant should not be able to challenge state court orders in federal court as a means of relitigating matters that already have been considered and decided. The Rooker-Feldman doctrine applies when four requirements are met: (1) the federal plaintiff lost in state court, (2) the plaintiff complains of injuries caused by the state court judgment, (3) that judgment issued before the federal suit was filed, and (4) the plaintiff invites the district court to review and reject the state court judgment.'As Asserted after a careful reading of the Various Supreme Court precedents support that it is designed primarily to thwart collateral attacks on the state court judgment in lower federal courts only when a federal plaintiff alleges the state court is the source of plaintiff's injury, as when this occurs the federal suit becomes in general a collateral attack seeking to undo what the [state] court did, citing supported in Kamilewicz v.Bank of Boston Corp. 100 F3d 1348 (7th Cir1996),the pivotal inquiry is "whether the federal plaintiff seeks to set aside a state court judgment or whether he is in presenting an independent claim against a third party ,person or entity.

Skinner v. Switzer ,562 U.S. 521 (2011) Holding that Rooker–Feldman did not bar prisoner's § 1983 claim challenging constitutionality of state post-conviction DNA testing procedures because he was not challengingan adverse state decision

PJ v. Wagner 603 F.3d 1182 (10th Cir. 2010) :In Wagner, the Tenth Circuit laid out the following test for invoking Rooker-Feldman: Would the federal claims be identical had there been no adverse state court judgment? If so, the claims are extricable from any state court orders and Rooker-Feldman is not applicable. If not, Rooker-Feldman bars jurisdiction over those claims.

Davis v. Bayless 70 F.3d 367 (5th Cir. 1995) ..Stating that Rooker-Feldman does not "bar an action in federal court when that same action would be allowed in the state court of the rendering state"

The defendants' argument that dismissal must be affirmed on the basis of Rooker- Feldman is also erroneous.). However, our Circuit has not allowed the Rooker- Feldman doctrine to bar an action in federal court when that same action would be allowed in the state court of the rendering state. Gauthier v. Continental Diving Serv. Inc., 831 F.2d 559, 561 (5th Cir. 1987) (interpreting Rooker- Feldman in a manner consistent with the requirements of the full faith and credit requirement).

Babb v. Capital source, Inc. 588 Fed. Appx. 66 (2d Cir. 2015) Noting that Rooker-Feldman does not bar well-pleaded federal claims seeking damages for fraud, although the doctrine otherwise limits federal court review of state court rulings

On de novo review of the district court's application of Rooker-Feldman, see Hoblock v. Albany County. Bd. of Elections, 422 F.3d 77, 83 (2d Cir. 2005), we identify error in light of our most recent controlling precedent, see Vossbrinck v. Accredited Home Lenders, Inc., --- F.3d ----, No. 12-3647-cv, 2014 WL 6863669 (2d Cir. Dec. 8, 2014). Vossbrinck makes clear that plaintiffs' suit is not barred by Rooker-Feldman because the SAC seeks damages for injuries suffered as a result of defendants' alleged fraud and does not attempt to reverse or undo a state court judgment. See id. at *3. We therefore reverse the district court's holding that it lacked jurisdiction.

Rooker- Feldman Doctorine limitations

i) Was The State court litigating an already federally decided issue (Relitigation Exception). Supreme Court decision in ChiK Kam Choo v. Exxon Mobile 486 U.S 140 (1988). We observed in Exxon that the Rooker – Feldman doctrine had been

construed by some federal courts "to extend far beyond the contours the Rooker and Feldman cases." Id., at 283, 125 S.Ct. 1517. Emphasizing "the narrow ground" occupied by the doctrine, id., at 284, 125 S.Ct. 1517, we clarified in Exxon that Rooker – Feldman "is confined to cases of the kind from which the doctrine acquired its name: cases brought by state-court losers ... inviting district court review and rejection of [the state court's] judgments." .Given the Fact That Plaintiff matter has already been decided already in a Federal Cour[redacted]" Honorable Judge[redacted]s quoted Plaintiff can[redacted].....", Then it would be unconstitutional for the defendant to litigate that this a state court jurisdictional matter or that this case should be dismissed by applying in error a doctorine that actually does not apply from the beginning reviewing the originality of the Federal order[redacted], rendering any state decision out of jurisdiction in this matter and limiting any application of the Rooker -Feldman doctorine to a state court that even did not have the jurisdiction to review ,or adjudicate an already decided federal matter[redacted]

Many Courts have Supported above as decided in : (Region Mank of La v. Rivet 224 F3d 483,488 (5th Cir.2000) Citing also in Paul Mercury Ins. Co. v. Williamson 224 F3d 425,448 (5th Cir. 2000) as deciding" that it was designed to permit a Federal Court to prevent state litigation of an issue that previously was presented to any decided by federal court", also shown in ,MLE Realty Association v. Handler ,192 F3d 259,261-262(2nd Cir)1999 quoting "the Litigation Exception is narrower than the doctorine of resjudicate") , also as decided in Moralo Group Inc. v. Matagorda Ventures Inc. No 98 civ.6223 (LMM),2000 WL 1154317,at *I (S.D.N.Y. Aug,14,2000) quoting that "an essential prerequisite for applying for the relitigation exception is that the claims or issues which the federal injunction insulate from litigation in state proceeding actually have been decided by the federal court". also cited in Blue Cross v. SmithKline Beecham Clinical Labs.,Inc.108 F.supp.2nd 130,135-136 (D. Conn. 2000).

ii) Is there an extent to succeed had their be no state court wrongdoing : Honorable

Justice Marshall explanation in the Pennzoil Co v. Texaco 481 U.S 1,25(1987) :" A Federal claim was inextricably intertwined when it could succeed only to the extent that the state court wrongly decided the issue before it or federal relief can only be predicated upon a conviction that the state court was wrong".

In re Sun Valley Foods Co. 801 F.2d 186 (6th Cir. 1986) In Sun Valley Foods, the Sixth Circuit ruled that there could be an exception to the Rooker-Feldman jurisdictional bar where "the state court judgment is alleged to have been procured through fraud, deception, accident, or mistake."

The Court Of Appeals' Decision.

Pet.App.1–24. The Fourth Circuit held that it was required to "[a]dher[e] to the principles of equity, comity, and federalism," and concluded as a matter of law that The Court acknowledged that "[t]his action falls within the terms of 42 U.S.C. § 1983," and that "Instead, the Fourth Circuit grounded its rationale for abstaining in "a deeper principle of comity," namely, "the assumption that state courts are co-equal to the federal courts and are fully capable of respecting and protecting Petitioner's Amendment rights." as if Petitioner could have adjudicated its federal constitutional claims in state court, the Court held, the principles underlying Younger and its progeny required it to do so. The chief legal authorities on which the Fourth Circuit relied to require abstention in this context were "the principles of equity, comity, and federalism." . The primary case that led the Court to this result was not a decision of this Court, but rather other court ("Initial adjudication of this dispute in the federal court would run contrary to the considerations of equity, comity, and federalism). The Fourth Circuit's decision also conflicts with a decision from the Second Circuit. The Second Circuit has held that courts should not abstain from cases that raise First Amendment right of access claims. See Hartford Courant Co. v. Pellegrino, 380 F.3d 83 (2d Cir. 2004) ("Hartford Courant").

REASONS FOR GRANTING THE PETITION

The decision below acknowledges and creates a circuit split on a question of exceptional importance regarding whether certain constitutional claims may be heard in federal court. The Fourth Circuit's decision broke with decisions of the Second and Ninth Circuits by holding that federal courts should abstain from hearing Federal Amendment claims against obstruction of Justice, [redacted] that is needed to protect Fair Due process and rights to apply for his livelihood [redacted]

The decision to abstain in this context is wrong and—because it closes the federal courthouse doors to important constitutional claims—merits immediate review. The Seventh Circuit acknowledged, in part, the clean split of authority its decision created. On facts "nearly identical" to those presented below, the Ninth Circuit reached precisely the opposite conclusion on the question whether federal courts should abstain from hearing constitutional amendment claims of this type. See Pet.App.22 (acknowledging the split with Courthouse News Serv. v. Planet, 750 F.3d 776 (9th Cir. 2014)). In both the Seventh Circuit and Ninth Circuit cases, CNS sought to continue timely access to newly-filed civil complaints, but faced

resistance from local court clerks who did not want to provide that access. In both cases, CNS filed suit seeking declaratory and injunctive relief under the First Amendment. In both cases, the appellate court evaluated whether Younger and its progeny required federal courts to abstain from hearing CNS's claims on the basis that injunctive relief would be too intrusive. Now, such claims may be brought in the Ninth Circuit but not in the Seventh Circuit. The split runs even deeper. When the Ninth Circuit decided in Planet that federal courts need not abstain from claims of this type, it expressly "join[ed] the Second Circuit in reaching this conclusion." See Planet, 750 F.3d at 787 (citing Hartford Courant Co. v. Pellegrino, 380 F.3d 83, 100 (2d Cir. 2004)). The Fourth Circuit's decision thus puts it against decisions from two other courts of appeals. Without a doubt, the question whether federal courthouse doors are closed to Amendment claims of this type is exceptionally important. This Honorable Court has repeatedly emphasized the virtually unflagging obligation of federal courts to hear and decide cases when they have jurisdiction to do so. Exercising that jurisdiction is nowhere more important than in deciding the scope and breadth of fundamental Amendment rights. The decision below wrongly evinces a crabbed view of the scope of federal jurisdiction and closes those courthouse doors to important constitutional claims. The basis of the Fourth Circuit's decision was a standard less deference to "comity" and "respect" for the ability of state courts to hear claims of this type even when no such state court case is pending. But exercising federal jurisdiction is an obligation, not a choice. Worse still, this standard less rationale could be read to preclude the adjudication in federal court of other important constitutional interests. If Amendment claims cannot be adjudicated in federal court simply because they touch on state court interests and they could be brought in state court, then nothing stops federal courts in the Fourth Circuit from refusing to hear other important cases over which federal courts unquestionably have jurisdiction—cases raising Fourth Amendment challenges to the actions of state judicial security officers, cases alleging employment discrimination in state court hiring practices, establishment clause challenges to displays at state courthouses, and cases raising other important interests that touch on the state courts.

I. The Courts of Appeals Are Divided Over Whether Federal Courts Should Abstain From Hearing Constitutional Amendment Claims Of This Type.

The decision below creates a split of authority with prior decisions from the Ninth and Second Circuits. Before the decision below, every court of appeals to address the question had held that federal courts should not abstain from hearing constitutional challenges seeking access to public court documents. The Seventh Circuit's decision cannot be reconciled with these other cases.

A. The Decision Below Conflicts With Decisions From The Second And Ninth Circuits.

1. **As the Seventh Circuit acknowledged**, its decision created a square split of authority with the Ninth Circuit. See Pet.App.22, 23 n.6. Given the overlap in parties, facts, and legal issues, there is no way to reconcile the split the decision below creates. In Planet, CNS filed suit for declaratory and injunctive relief against the Clerk of Ventura County Superior Court, who was "withholding complaints until after they had been fully processed" and, as a result, made "review of new civil complaints less timely and more difficult." 750 F.3d at 781. As a result of the clerk's withholding of new complaints, when they

were finally available to the press they were significantly less newsworthy. The District Court granted the clerk's motion to dismiss the case on the basis of O'Shea and Pullman abstention. See id. at 782 (citing Railroad Comm'n v. Pullman Co., 312 U.S. 496 (1941)). But the Ninth Circuit reversed, squarely rebutting the abstention holding reached by the trial court there. The Planet decision noted that "Pullman abstention is an extraordinary and narrow exception to the duty of a district court to adjudicate a controversy." Id. at 783 (internal quotation marks omitted). And while it exists to ensure "the rightful independence of the state governments and for the smooth working of the federal judiciary," it "is generally inappropriate when First Amendment rights are at stake." Id. at 784 (citation omitted). Given the significance of the First Amendment rights at stake, the court in Planet held that Pullman abstention was inappropriate. Id. at 786–87. The Ninth Circuit then carefully walked through other prior abstention cases to conclude abstention was not warranted. In particular, with respect to O'Shea, the court concluded that O'Shea stands for the "general proposition that [courts] should be very reluctant to grant relief that would entail heavy federal interference in such sensitive state activities as administration of the judicial system." Id. at 789–90 (internal quotation marks omitted). In other words, "O'Shea compels abstention where the plaintiff seeks an 'ongoing federal audit' of the state judiciary, whether in criminal proceedings or in other respects." Id. at 790 (citation omitted). Abstention was not warranted, the court in Planet held, because "[a]n injunction requiring the Ventura County Superior Court to provide same-day access to filed unlimited civil complaints poses little risk of an 'ongoing federal audit' or 'a major continuing intrusion of the equitable power of the federal courts into the daily conduct of state . . . proceedings.' " Id. at 792 (quoting O'Shea v. Littleton, 414 U.S. 488, 500, 502 (1974)). That was so because an injunction would amount to a "bright-line finding" and not "ongoing monitoring of the substance of state proceedings." Id. at 791. The federal courts could "provide the requested relief " without an "intensive, context-specific legal inquiry." 15 Id. Moreover, the state court clerk "has available a variety of simple measures to comply with an injunction granting CNS all or part of the relief requested[.]" Id. And, as a matter of fact, when an injunction was issued on remand after the Planet decision, the clerk there adopted simple measures that consistently provided timely access without raising the specter of excessive interference in the state judiciary. Planet stands for the proposition that federal courts should not abstain from hearing constitutional challenges seeking to adjudicate questions about access to state court records. Thus, the Planet court held, these cases can and should be heard in federal court, and federal courts may issue injunctive relief to further those meritorious claims without micro-managing state court administrative procedures. There is no way to square the Ninth Circuit's holding in Planet with the Seventh Circuit's decision below. The decision below relies on the "general principles upon which all of the abstention doctrines are based" to conclude that "[t]he level of intrusion CNS seeks from the federal court into the state court's operations is simply too high, at least before the state courts have had a chance to consider the constitutional issue." Pet.App.21. The rationale for the Seventh Circuit's decision was that "it was not appropriate for the federal courts, in the face of these principles of equity, comity, and federalism, to undertake the requested supervision of state court operations." Pet.App.20. 16 The Ninth Circuit reached the opposite conclusion in the face of a nearly identical request for injunctive relief. In Planet, the plaintiff sought "an injunction prohibiting Planet from continuing his policies resulting in delayed access to new unlimited jurisdiction civil complaints" and denying "timely access to new civil unlimited jurisdiction complaints on the same day they are filed, except as deemed permissible following the appropriate case-by-case adjudication." See Planet, 750 F.3d at 782 (internal quotation marks omitted). That language maps directly onto the relief requested (and granted) in this case, which required the Clerk here "to implement a system that will provide access to newly e-filed civil complaints contemporaneously with their receipt by her office." See Pet.App.43. **In short—faced with the same legal question, the same parties, and the same requested relief—the Seventh Circuit held that federal courts**

should abstain from exercising jurisdiction to hear constitutional challenges to a state's decision to withhold public court filings. In precisely the same context, the Ninth Circuit previously came to the opposite conclusion.

2. The Ninth Circuit's Planet decision expressly rested on a prior decision of the Second Circuit:

This also has addressed this question. In Planet, the Ninth Circuit acknowledged that its decision aligned with Hartford Courant, 380 F.3d at 100. See Planet, 750 F.3d at 787 ("We join the Second Circuit in reaching this conclusion."). 17 In Hartford Courant, the Second Circuit was asked "to decide whether the public and press have a qualified First Amendment right to inspect docket sheets and, if so, the appropriate remedy for its violation by state courts." Hartford Courant, 380 F.3d at 85. There, Connecticut state court clerks routinely sealed entire docket sheets, pursuant to a policy outlined by the Civil Court manager, that resulted in thousands of cases being sealed. Id. at 87. The Hartford Courant, a local newspaper, filed suit pursuant to, inter alia, 42 U.S.C. § 1983, seeking injunctive relief and claiming that a policy which resulted in the widespread sealing of court documents violated the press's First Amendment right to access judicial proceedings and documents. Id. at 85, 89. As described by the Second Circuit, "the gravamen of the federal plaintiffs' complaint" was a challenge to "the procedures set forth in the [Civil Court manager's policy memo] or the unauthorized actions of the court administrators" in sealing otherwise public court docket sheets. Id. at 101. In response, the defendants—the Chief Court Administrator and the Chief Justice of the Connecticut Supreme Court in their administrative capacities—moved to dismiss by claiming that the federal court should abstain under, inter alia, Pullman and Burford v. Sun Oil Co., 319 U.S. 315 (1943). Id. at 100–02. After the District Court granted the motion to dismiss, the Second Circuit reversed. The Second Circuit held that there was no reason to abstain from adjudicating the constitutional question. See id. at 86 ("[A]fter reviewing the abstention doctrines that the defendants have raised, we hold that none applies in this case."). In so holding, the Second Circuit rejected the argument that a challenge to the Connecticut courts' procedures for sealing court documents affected "a central sovereign function" over which state courts had "an inherent power." See Br. of Defs.-Appellees, No. 03-9141, 2004 WL 5822413, at *39 (2d Cir. Feb. 24, 2004). Indeed, the appellees in Hartford Courant expressly argued that the sealing procedures "pose state and federal constitutional issues that Connecticut courts ought first to have the opportunity to review." Id. at *33. The Second Circuit disagreed. Hartford Courant therefore squarely conflicts with the Seventh Circuit's decision below that the underlying "temporal access dispute with a state court clerk should be heard first in the state courts." Pet.App.23. This conflict is rendered even more stark by the motivation for the decision of each court. The Seventh Circuit's decision, grounded in "comity," was motivated by a special concern that federal courts not interfere with state court clerks' oversight of their own procedures for public access to court filings. See Pet.App.21–22 ("Illinois courts are best positioned to interpret their own orders, which are at the center of this case, and to craft an informed and proper balance between the state courts' legitimate institutional needs and the public's and the media's substantial First Amendment interest in timely access to court filings."). By contrast, the Second Circuit held that "the weight of the First Amendment issues involved counsels against abstaining." Hartford Courant, 380 F.3d at 100. There is no way to reconcile these competing decisions. Nor can the decision below be distinguished on the basis that the filing procedures at issue are in a time of transition (from paper to electronic filing), which was another reason offered by the Seventh Circuit to abstain. See Pet.App.22 ("It is particularly appropriate for the federal courts to step back in the first instance as the state courts continue to transition to electronic filing and, like many courts around the country, are working through the associated implementation challenges and resource limitations. The

claims here are not suitable for resolution in federal court at this time."). The suggestion that the move from paper to electronic filing counsels in favor of abstention is wrong for two reasons. First, the notion that a policy challenged as unconstitutional is in flux is not a recognized basis for abstention. Here, the transition from paper to electronic filing is a simple shift in the form a document is delivered, not a substantive change in the filing that should affect the First Amendment rights that attach to it. Second, this rationale, such as it is, highlights a further conflict with the Second Circuit. That is because the clerk's policy memo at the heart of the Hartford Courant case was itself no longer the operative document governing the sealing of court records when that case was adjudicated. Rather, a new policy had subsequently been enacted that made court documents available on a timely basis (but did not apply retroactively). See Hartford Courant, 380 F.3d at 87. Thus, the policy at issue in that case, like the underlying policy here, was in flux and facing a time of transition. **Yet the Second Circuit, unlike the Seventh Circuit, declined to abstain from hearing challenges to the court-sealing policy on the basis that the state should take a first crack at evaluating the new change.**

II. The Decision Below Is Wrong.

The Fourth Circuit's decision is wrong in at least two respects. First, it runs directly counter to this Court's clear direction that Younger abstention applies only in limited and clearly defined circumstances. Second, the decision below upends the presumption that federal courts adjudicate claims over which they have jurisdiction.

A. The Decision Below Expands The Circumstances In Which A Federal Court Should Abstain Beyond The Narrow Exceptions This Court Has Articulated.

This Court has carved out narrow categories of cases in which federal courts have jurisdiction to review claims brought before them but should nonetheless abstain from hearing such cases. The doctrine of abstention "is an extraordinary and narrow exception" to the general obligation of federal courts to "adjudicate . . . controvers[ies] properly before [them]." County of Allegheny v. Frank Mashuda Co., 360 U.S. 185, 21 188–89 (1959) (FRANKFURTER, J., concurring). Abstention is therefore justified "only in the exceptional circumstances where the order to the parties to repair to the state court would clearly serve an important countervailing interest." Id.; see also Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 813 (1976) ("Abstention from the exercise of federal jurisdiction is the exception, not the rule."). Younger abstention, which traces its roots to Younger v. Harris, 401 U.S. 37 (1971), forbids federal courts from enjoining pending state criminal proceedings. Since its inception, federal courts have struggled to understand the scope of Younger's applicability. That confusion is nowhere more obvious than in the decision below. But recently, this Court has made clear that Younger abstention is "confined" to "three exceptional circumstances." See Sprint Commc'ns, Inc. v. Jacobs, 571 U.S. 69, 78 (2013). Federal courts may abstain under Younger only to prevent them from enjoining: (1) "ongoing state criminal prosecutions;" (2) "certain civil enforcement proceedings;" and (3) "pending civil proceedings involving certain orders uniquely in furtherance of the state courts' ability to perform their judicial functions." Id. (internal quotation marks and alteration omitted). In Sprint, the Court made clear that these narrow exceptions constituted the entire universe of Younger. See id. ("We have not applied Younger outside these three 'exceptional' categories, and today hold, in accord with NOPSI, that they

define Younger's scope."); see also New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 369–70 (1989) ("NOPSI") ("While [the Court has] expanded Younger beyond criminal proceedings, and even beyond proceedings in courts, [it has] never extended it to proceedings that are not 'judicial in nature.' "). The Court has also applied Younger abstention to preclude courts from hearing cases where there is no concurrent pending state court proceeding, in order to prevent federal courts from engaging in an "ongoing federal audit of state [court] proceedings which would indirectly accomplish the kind of interference that Younger v. Harris . . . and related cases sought to prevent." O'Shea, 414 U.S. at 500 (federal courts should abstain from enjoining future conduct); Rizzo v. Goode, 423 U.S. 362, 380 (1976) (broadly applying Younger principles to limit federal court review of local executive branch actions). Although O'Shea and Rizzo are based on Younger—and the decision below plainly contemplates they are direct extensions of Younger—the Court has not had occasion to make clear that the limits of Younger, as expressed in Sprint, also apply to O'Shea and Rizzo. This case makes clear why the Court should do so now. Assuming O'Shea and Rizzo are limited by the scope of Younger (on which they rely), then the only argument for abstention in this case would be that the contemplated injunction involves "certain orders uniquely in furtherance of the state courts' ability to perform their judicial functions." Sprint Commc'ns, 571 U.S. at 78 (internal quotation marks omitted). No such problem exists here: the contemplated injunction would apply to an established policy and enjoining that policy would involve simple compliance with a simple, one-time injunction, not an "ongoing federal audit of state criminal proceedings." O'Shea, 414 U.S. at 500. The terms of the District Court's order make this clear, because the order requires simply that the Clerk craft a new, constitutionally compliant policy that ensures timely access to new complaints, while leaving the details related to compliance up to the Clerk herself. Rather than requiring the Clerk to make one precise change or another, the order allows the Clerk broad authority to craft a compliant policy. See Pet.App.43 ("Brown is given thirty days . . . to implement a system that will provide access[.]"). If Younger itself is narrowly limited, then the cases expanding its scope should likewise be so confined. Either O'Shea and Rizzo are extensions of Younger—as the decision below believed them to be—or they are not. If they are extensions of Younger, then the limitations of Younger that this Court has carefully staked out apply. If they are not extensions of Younger, and instead fall into some other, nebulous line of cases about the scope of federal courts' equity power to issue injunctive relief against state actors, then that too is patently unclear to lower federal courts and that question merits this Court's intervention. Further—and however these cases are described—the decision below does not grapple seriously with why the issuance of an injunction here would lead to the result the opinion fears, unnecessary interference with state courts. The decision below also ignores that the District Court held no such interference would occur, and that the Clerk herself put forth no evidence or argument at all—aside from the same barebones assertion on which the Seventh Circuit relied—why an injunction would cause excessive interference. The decision thus guts the careful line-drawing this Court has done to delineate the narrow scope of abstention's reach. "[I]t was never a doctrine of equity that a federal court should exercise its judicial discretion to dismiss a suit merely because a State court could entertain it." Colorado River, 424 U.S. at 813–14 (quoting Alabama Pub. Serv. Comm'n v. Southern Ry. Co., 341 U.S. 341, 361 (1951)). **Yet that is precisely what the Fourth Circuit did here: abstaining from resolving an important constitutional question not on**

the basis of any clear mandate from this Court to abstain, but rather on broad and standard less equitable principles.

B. The Decision Below Turns On Its Head The Presumption That Courts Must Exercise Jurisdiction When They Have It.

Chief Justice Marshall famously articulated the presumption that federal courts hear cases over which they otherwise have jurisdiction in Cohens v. Virginia, stating that federal courts "have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given." 19 U.S. 264, 404 (1821). To do otherwise, the Court held, "would be treason to the constitution. Questions may occur which we would gladly avoid; but we cannot avoid them." Id. Since then, this Court has reiterated that, where jurisdiction lies, "a federal court's 'obligation' to hear and decide a case is 'virtually unflagging.' " Sprint Commc'ns, 571 U.S. at 77 (quoting Colorado River, 424 U.S. at 817). The exceptions to this general rule, as explained above, are "extraordinary and narrow." Colorado River, 424 U.S. at 813 (quoting County of Allegheny, 360 U.S. at 188–89). Thus, "abstention from the exercise of federal jurisdiction is the exception, not the rule." Id. The rationale the Fourth Circuit applied to justify abstention in this case could apply to any challenge to state court action. The implication of the decision below is that abstention is warranted when questions are uncomfortable and interference with state court operations is possible, regardless of whether excessive interference would actually result from the entry of an injunction. Rather than presuming the federal courts remain open to hear constitutional challenges—even those raising questions the court might "gladly avoid"—the decision below jumps to the conclusion that the court should not hear a case that could instead be litigated in state court. The decision below evinces no concern for the obligation of federal courts to hear those cases that they can, and instead voices a compulsive hesitancy to wade into a constitutional controversy simply because it involves a sister state court. The Fouth Circuit's rationale relies heavily—almost exclusively—on the "abstention principles" of "equity, comity, and federalism," see Pet.App.20, but wholly ignores that these principles operate only to serve "narrow exceptions," see supra at 19–23, and do so within the overarching presumption that federal constitutional claims should be litigated in federal court whenever possible. The Fourth Circuit's logic simply cannot be squared with the Court's abstention cases. It is not enough that a complaint filed in federal court implicates "federalism and comity" concerns: All § 1983 actions challenging the conduct of state officials, by their very nature, do. See, e.g., Allen v. McCurry, 449 U.S. 90, 101 (1980) (Section 1983 ensures that "the federal courts could step in where the state courts were unable or unwilling to protect federal rights."); McNeese v. Board of Educ. for Cmty. Unit Sch. Dist. 187, Cahokia, Ill., 373 U.S. 668, 672 (1963) (It would "defeat [the] purposes" of 42 U.S.C. § 1983 "if [the Court] held that assertion of a federal claim in a federal court must await an attempt to vindicate the same claim in a state court."). Nor is it dispositive that the official alleged to have violated the First Amendment works in the state judiciary. See, e.g., Glassroth v. Roy Moore, 229 F. Supp. 2d 1290, 1293 (M.D. Ala. 2002) ("Based on the evidence presented during a week-long trial and for the reasons that follow, this court holds that the evidence is overwhelming and the law is clear that the Chief Justice [of the Alabama Supreme Court] violated the Establishment Clause."). The decision below, by contrast, would broadly require abstention whenever a federal constitutional challenge touches a

state court judicial function. "Such a broad abstention requirement would make a mockery of the rule that only exceptional circumstances justify a federal court's refusal to decide a case in deference to the States." NOPSI, 491 U.S. at 368. Worse still, such an approach would close the federal courthouse doors to the litigants who may most need a neutral federal forum: those seeking to challenge the practices and procedures of state courts.

III. The Question Presented Is Important And Should Be Decided In This Case.

The question presented in this case is important and merits the Court's immediate review. The split is clear, the issue important, and the question unlikely to be resolved through further percolation.

1. First, the question presented is important because it goes to the heart of the federal courts' power to hear and decide cases. Whether constitutional and federal Amendment claims against state agency can and should be heard in federal court—and whether injunctive relief is available to remedy alleged constitutional harms— is extraordinarily important. When the Courts of Appeals split on a question touching questions of federal jurisdiction, only this Honorable Court can resolve the conflict. Whether and when federal claims may be brought in federal court is a question of the highest order, and improperly preventing these claims from being adjudicated in federal court compounds the underlying harm the lawsuits seek to redress. Review of this question is important now because the split of authority that the decision below creates cannot be reconciled and so will not benefit from further development. The Fourth Circuit's erroneous decision below may well spread to other jurisdictions, further blurring the boundaries of abstention, which will harm, not help, this Court's eventual review of it. There is no way to reconcile the Fourth Circuit's decision with the prior decisions of the Ninth and Second Circuits. Federal courts are either open to hearing claims of this type, or they are not. The split may become deeper—as other courts of appeals weigh in to evaluate this question over time—but the issue is not likely to become clearer. Delaying review only ensures that the doors of the federal courts will remain open in some places, but shuttered in others. This question is ripe for review now and, given its importance, should be evaluated by this Court sooner rather than later. Indeed, the Seventh Circuit itself recognized the importance of this decision to other courts. The decision below transparently notes that "no doubt CNS would attempt to use a different decision in this case to force the hand of other state courts" to provide timely access to court filings. See Pet.App.44. The court opined that it "would likely lead to subsequent litigation in the federal courts" which, the Seventh Circuit claims, it "want[ed] to avoid." Id. But, of course, the inverse of this statement is also true: The Seventh Circuit's decision will "no doubt" be used by state court in some of the thousands of other jurisdictions around the country to limit press access to public filings. The only difference now is that those actions will be protected from any review by a neutral federal court under the cloak of the decision below. Worse still, the Seventh Circuit's rationale could be used as a basis for abstention in the context of other federal claims. There is nothing unique about the Seventh Circuit's rationale that limits it only to claims against state court clerks, or to First Amendment claims seeking access to state court documents. The principles of "equity, comity, and federalism" apply with equal force to federal suits that would seek to litigate Fourth

Amendment claims (e.g., against court security officers) or employment discrimination claims (e.g., against court administrative officers), or establishment clause claims (e.g., against state Supreme Court Justices) to take just three examples. The federal courthouse doors should not be closed to such suits. On the contrary, where state actors are alleged to violate federal constitutional rights or federal statutory privileges, federal courts should hear those claims.

2. Second, while the underlying merits of the federal Amendment claim are not at issue in this petition—because abstention does not rise or fall on the merits of the underlying claim—the fact that this case raises federal Amendment questions magnifies its importance. Although the Courts of Appeals may disagree on the scope of the Amendment right at issue, they agree that the right of the press to access public court documents is protected by the constitution. Planet, 750 F.3d at 785 ("The Supreme Court has repeatedly held that access to public proceedings and records is an indispensable predicate to free expression about the workings of government."); Hartford Courant, 380 F.3d at 91 ("[T]he public possess a qualified First Amendment right to inspect docket sheets, which provide an index to the records of judicial proceedings."); Pet.App.11 ("[T]he federal courts of appeals have widely agreed that the First Amendment right of access extends to civil proceedings and associated records and documents."). The appellate courts' concern in protecting the press's right to access public court documents flows directly from the decisions of this Court. See, e.g., Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 576 (1980) ("[T]he First Amendment guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time that Amendment was adopted."); Globe Newspaper Co. v. Superior Court for Cty. of Norfolk, 457 U.S. 596, 604 (1982) ("Underlying the First Amendment right of access to criminal trials is the common understanding that 'a major purpose of that Amendment was to protect the free discussion of governmental affairs[.]' ") (quoting Mills v. Alabama, 384 U.S. 214, 218 (1966)); Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597 (1978) ("[T]he courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents."). Federal courts can and should continue to adjudicate the scope and breadth of that right particularly where, as here, declining to exercise jurisdiction eviscerates the very constitutional right that CNS seeks to protect. CNS seeks to litigate its right to timely access to court documents. By abstaining from hearing these claims, federal courts ensure that CNS cannot exercise that right—and fulfill its duties as a member of the press to provide news coverage—in a timely way. When a First Amendment claim seeks access to information for purposes of reporting on newsworthy events in a timely way, denial of that access compounds the constitutional harm. For that reason, Justice Blackmun, granting a stay of a lower court order prohibiting the news media from reporting on a pending case, stated that "each passing day may constitute a separate and cognizable infringement of the First Amendment." Nebraska Press Ass'n v. Stuart, 423 U.S. 1327, 1329 (1975) (BLACKMUN, J., in chambers). When the full Court ultimately reviewed the merits of the First Amendment claim raised in Stuart, it underscored the point: "If it can be said that a threat of criminal or civil sanctions after publication 'chills' speech, prior restraint 'freezes' it at least for the time." Nebraska Press Ass'n v. Stuart, 427 U.S. 539, 559 (1976). The Ninth Circuit in Planet echoed this "concern that a delay in litigation will itself chill speech." Planet, 32 750 F.3d at 787. The Court noted that "even though it is not subject to prosecution, CNS will be unable to access judicial records and report on newsworthy proceedings during 'the delay that comes from abstention itself.' "

Planet, 750 F.3d at 788 (citation and alteration omitted). **Therefore protection of Constitutional rights including the rights of Fair Due Process, Right of not to obstruct Justice , liberty and freedom is of at least equal importance that demand immediate review to keep open federal courthouse doors to federal Amendment claims of this type.**

CONCLUSION

Respectfully ,Petitioner asks for The Honorable Court to grant this petition for certiorari'

As This is Petitioner Last and Only Hope For Justice.

Respectfully submitted,

[redacted]

REQUEST FOR ORAL ARGUMENT

Humbly, Plaintiff ,Pro Se , is requesting an oral Argument to argue his case in Person [redacted]

protecting [redacted]

CERTIFICATE OF COMPLIANCE

This is to certify that above appeal filing does comply with The Court Filing Rules :

Writ For Certificate of Certiorari pages are [redacted] pages out of Total pages [redacted] page that includes cover, contents, cases titling, , request for oral argument certificate of compliance, and certificate of Service

Certificate Of Service

Copy of above appeal has been mailed via Secured US mail carrier to DHP / Virginia Board Of Medicine counsel on record's address .

[redacted]

No. _____

_____

IN THE

SUPREME COURT OF THE UNITED STATES

_____

_____ — PETITIONER
(Your Name)

VS.

_____ — RESPONDENT(S)

PROOF OF SERVICE

I, [redacted], do swear or declare that on this date, [redacted], as required by Supreme Court Rule 29 I have served the enclosed MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS* and PETITION FOR A WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Virginia Board Of Medicine
[redacted] for Respondent
[redacted]

I declare under penalty of perjury that the foregoing is true and correct.

Executed on [redacted]

[redacted]
(Signature)