

21-7790
No:

IN THE
Supreme Court of the United States

"In re Gina Russomanno,"

Petitioner

~against~

Sunovion Pharmaceuticals, Inc., and IQVIA Inc.

Respondent(s)

On Petition for Extraordinary Writ
to the United States District Court for the Third
Circuit District of New Jersey

**PETITION FOR EXTRAORDINARY WRIT OF
MANDAMUS**

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SUPREME COURT, U.S.
ORIGINAL

QUESTIONS FOR REVIEW

1. **Whether**, the Supreme Court will compel Chief Judge Freda L. Wolfson, U.S.D.J for the Third Circuit to perform the ministerial action she refused, but was required by law to do upon a Rule 12(b)(6) Dismissal (writs of mandamus), for Russomanno-I, [Case No. 3:19-05945]; **Wherein**, arising *new and discrete evidence claims*; and **Whereby**, followed the incorrect dismissal for subsequent, *separate cause of action*, Russomanno-II, [Case No. 3:20-cv-12336], by incorrect res judicata (as result).

2. **Whether**, the Supreme Court will *require* the lower district court to immediately *hold a hearing to provide (mandatory) curative remedy* for [Russomanno I], and thereby, follow to overturn ORDER by the same district court which incorrectly dismissed subsequent, *separate cause of action* [Russomanno-II], by *res judicata*.

LIST OF PARTIES

- *Chief Freda L. Wolfson*, U.S.D.J (3rd Cir.), Respondent
- *Gina Russomanno*, Petitioner
- *Sunovion Pharmaceuticals, Inc.*, Respondent
- *IQVIA Inc.*, Respondent
- *Dan Dugan, Jenna Yackish, Trevor Voltz, Erik Weeden, and Sunovion Pharmaceuticals Inc.*,
Respondants

RELATED CASES:

- *Gina Russomanno v. Sunovion Pharmaceuticals, and IQVIA Inc.*: Case # 3:19-cv-05945, United States District Court NJ
- *Gina Russomanno v. Dan Dugan, Jenna Yackish, Trevor Voltz, Erik Weeden, and Sunovion Pharmaceuticals Inc.*: Case # 3:20-cv-12336, United States District Court NJ
- Case # 21-2004, United States Court of Appeals 3rdCir [*Russomanno II*]; No. 3:20-cv-12336.

- Case # 21-787 United States Supreme Court,
Certiorari/ Rehearing; [Russomanno II; No. 3:20-cv-
12336.

CORPORATE DISCLOSURE, RULE 29.6

Gina Russomanno, is a personal entity with no corporation
or LLC established under name or control.

iii.

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OPINIONS BELOW

1. The opinion and order for the US District Court for the Third Circuit for Russomanno I appears at Appendix 1-24 to the Petition and is reported at Case No. 3:19-cv-05945 [Dkt. 61, 62]. Judgement entered May 18, 2020.
2. The opinion and order for the US District Court for the Third Circuit for Russomanno II appears at Appendix 25-37 to the Petition and is reported at Case No. 3:20-cv-12336 [Dkt. 49, 50]. Judgement entered May 4, 2021.
3. The opinion and order for the US Court of Appeals for formal appeal is at Appendix 38-48 herein, and is reported at Case 21-2004 [Dkt 26 and 27]. Judgement Sept. 8, 2021.
4. The opinion and order for the US Court of Appeals for rehearing en banc is at Appendix 49-52 herein, and is reported at Case 21-2004 [Dkt 29 and 30]. Judgement Oct. 15, 2021.

JURISDICTION STATEMENT

The jurisdiction of this Court is invoked under 28

U.S.C. § 1254(1). The Court has jurisdiction to review the decision of the District Court of New Jersey for the Third Circuit. The District Court dismissed first action *Russomanno I* on May 18, 2020 and subsequent action *Russomanno II* on May 4, 2021. The US Court of Appeals for the Third Circuit denied En banc rehearing on Oct. 15, 2021, Case No. 21-2004. US Supreme Court denied Rehearing, Case No. 21-787 on April 18, 2022. This Extraordinary Petition for Writ of Mandamus is timely.

CONSTITUTIONAL AND STATUTORY PROVISIONS:

This case involves the following constitutional and statutory provisions:

Title VII: 42 U.S.C. § 2000e, 2000e-2; **ADEA:** 29 U.S.C § 621; **Equal Pay Act:** 29 U.S.C § 621; **NJLAD and NJ Diane B. Allen Equal Pay:** *N.J.S.A. § 10:5-12(a), N.J.S.A. § 10:5-12(e), N.J.S.A. § 10:5-12(t), N.J. Rev. Stat. § 10:5-13.*

STATEMENT OF THE CASE

The Supreme Court is being called upon for

Extraordinary Writ of Mandamus authorized by U.S.C.
1651(a) in aid of the Court's appellate jurisdiction, by
Supreme Court Rule 20. 1 that "the writ will be in aid of the
Court's appellate jurisdiction, that exceptional circumstances
warrant the exercise of the Court's discretionary powers,
and that adequate relief cannot be obtained in any other form
or from any other court. Wherein, adequate correction to
required ministerial action and law of duty by the Judge
Official (in this case, Chief Freda L. Wolfson, U.S.D.J. for
the 3rd Circuit) aids appellate jurisdiction and expected
Judicial law conformity.

[*Russomanno II*], U.S. Supreme Court Case No. 21-
787 was denied Writ of Cetiorari on March 7, 2022, and
Rehearing on April 18, 2022 in timely reply to U.S. Court of
Appeals appeal denial Sept. 8, 2021 and en banc denial Oct.

15, 2021. The District Court of NJ dismissed [*Russomanno I*] on May 18, 2020 and [*Russomanno II*] on May 4, 2021.

The Supreme Court is herein being petitioned to **compel** Chief Judge **Freda L. Wolfson, U.S.D.J.**, for the Third Circuit, to perform the ministerial act she refused, but was thereby required to do upon a Rule 12(b)(6) Dismissal (writs of mandamus) for case [*Russomanno I*]. Chief Judge Freda L. Wolfson was required by law to “must provide curative remedy,” via amendment, or timely leave to reinstate action for *new-arising evidence* claims that *surfaced*. Whereby, Petitioner *testified to new-arising evidence* in Petitioner, Plaintiffs ‘Amended Opposition to Motion to Dismiss’ *Russomanno-I*, [Case No. 3:19-cv-05945], [Dkt. 46].

By *refusing to perform this ministerial act*, Chief Judge Freda L. Wolfson followed to incorrectly dismiss secondary, and completely separate cause of action, and *subsequent claim *Russomanno-II*, [Case No. 3:20-cv-12336].*

Further, Chief Judge Freda L. Wolfson refused this *ministerial action* so to in prejudicious, imperatively preempt and fastidiously and inconspicuously cover to dispose of the 'new-arising claims' from Russomanno-I.

Chief Judge Freda L. Wolfson has now been served with a copy of this petition for writ of mandamus along with Defendant Respondents: Sunovion Pharmaceuticals, Inc. and IQVIA Inc., [Russomanno I]; and additionally served, Defendant Respondents: Dan Dugan, Jenna Yackish, Trevor Volz, Erik Weeden, and Sunovion Pharmaceuticals, Inc.; [Russomanno II].

Petitioner requests the U.S. Supreme Court to *require* Chief Judge Freda L. Wolfson to fix this 'miscarriage of justice' that 'cannot be fixed in any other way'.

Chief Judge Freda L. Wolfson of the New Jersey District Court for the Third Circuit is 'required by law' to '*perform the duty*' to 'provide curative remedy' upon a **Rule 12(b)(6) Dismissal** which provides *right to proceed* for *due process* upon *circumstances* such as 'new-arising discrete

evidence.’ Despite this law of duty, Chief Judge Freda L. Wolfson, refused and failed to perform this required ministerial action. Thereby, Chief Judge Freda L. Wolfson then later follows to incorrectly dismiss the subsequent claim, and completely separate cause of action, [Russomanno-II], [Case No. 3:20-cv-12336], brought by new-arising evidence from that prior case [Russomanno I].

The U.S. Supreme Court may issue a writ of mandamus to force the lower district court to perform this, its official duty.

The requirements for a writ of mandamus are that the **petitioner must have a clear legal right** to: 1. Have the lower judge perform this specific act or duty; 2. The lower tribunal judge **must have a clear legal, ministerial duty** to perform this action; and 3. The petitioner must have no other adequate legal remedy.

Further, when the lower tribunal has no discretion in freedom to choose not to do this action of (providing curative remedy upon Rule 12(b)(6) Dismissal), the act is

'ministerial'. The law requires it to be done, without any
discretion of choice by the Judge Official.

Dismissal on Rule 12(b)(6) **requires** court to provide
curative remedy, and was this issue was never briefed during
or pending dismissal of this case or the subsequent case,
[*Russomanno II*]; thereby, warranting extraordinary merit
and mandamus relief.

The subsequent case, *Russomanno-II*, was *thereby*,
incorrectly barred by *res judicata* which *therein*, is
extraordinary and cannot be *righteously justified* when
curative remedy was withheld for [*Russomanno I*].

The Supreme Court should *immediately issue writ of*
mandamus to require the lower district court to hold a
hearing within 30 days to provide curative remedy for
[*Russomanno I*], and thereby, overturn ORDER for
[*Russomanno II*], which incorrectly dismissed subsequent,
'separate cause of action', [*Russomanno-II*], by incorrect res

judicata; both cases dismissed by *same* Chief Judge Freda L. Wolfson, and *District Court of N.J.*

Pending case [*Russomanno I*], **both** mutual parties requested “adjournment until 14 days after pending *remand reconsideration was decided*,” whereby, *requesting the court to render a hold* on the *motion to dismiss* decision. [Dkts. 16, 17, 34, 41, 42, 43] [*Russomanno I*]; *See*: PgIDs: [715-717, 831, 834].

Nonetheless, Chief Judge Freda L. Wolfson still issued *uniform decision, without* “providing curative remedy;” whereby, *performing a bold and blatant, “miscarriage of justice.”* That “miscarriage of justice” thereby, *incorrectly and unjustly* affected *subsequent, ‘separate cause of action’* by *incorrect ‘res judicata’ dismissal*, **which simply cannot be fixed in any other way** and cannot be permitted to stand. Such is *extraordinary* and *mandamus correction* properly aids appellate jurisdiction.

REASONS FOR GRANTING WRIT

I. **Improper Uniform-Dismissal [R.I]; Court Refused Ministerial Action and Law of Duty to Provide Curative Remedy on a Rule 12(b)(6) Dismissal, thereto Void New-Arising Claims:**

1. The uniform-dismissal for [*Russomanno-I*], together with the prior-pending remand reconsideration, and after-entered motion to dismiss, (wherein, dismiss motion surfaced new-determinative evidence), and (wherein, Chief Judge Freda L. Wolfson refused ministerial action and deliberately withheld curative remedy thereto void new-arising evidence, in [*Russomanno-I*]; Res judicata cannot bar subsequent (cause of action) claim, [*Russomanno-II*]). Thus, per [*Russomanno-II*], res judicata is thereby, incorrect. See: [*Phillips*, 515 F.3d at 245], (*explaining* that “*a district court must provide curative remedy*”); [*L-Tec Corp.*, 198 F.3d 85, 88 (2nd Cir. 1999)]; [*Mullarkey*, 536 F. 3d at 225]; [*Elkadrawy*, 584 F. 3d at 174], (*explaining* that allegations of “*several new and discrete discriminatory events*” did prevent application of res judicata); [*Blystone*, 664 F.3d. 397, 415 (3rd Cir. 2011)], (*explaining, (standard) precedent to*

“correct” or “present newly discovered evidence”); (even by *reconsideration*); [*Bennun*, 941 F.2d 154, 163 (3rd Cir. 1991)]; [*Kozyra*, 973 F.2d 1110, 1112 (3rd Cir. 1992)], (explaining, relevant, precedent; (‘separate cause’, subsequent *claim prevails*)... (new evidence, right to proceed).

2. Plaintiff filed a ‘jurisdiction remand reconsideration’, on 10/3/2019, [Dkt. 30], [*Russomanno-I*]; then after-learned of new-evidence (by Defendant testimony) when Defendants after-entered motion to dismiss on 10/11/2019, [Dkt.33]. Plaintiff addressed new evidence as determinative ‘**discrimination**’ in her Amended, Opposition to Dismiss, filed 11/4/2019, [Dkt.46], *[PgID. 843].

3. New Jersey District, Chief Judge Freda L. Wolfson issued uniform-dismissal, [*Russomanno-I*]; wherein, refusing ministerial action which she was required by law to do, and further, conflicting standard precedent, (and *other relevant precedent*), Chief Judge Wolfson withheld curative remedy for *new-evidence*, upon Rule 12(b)(6) dismissal;

thereto, *incorrectly void* subsequent claim(s) in a **bold** and **blatant, miscarriage of justice.** See: [Phillips]; [Elkadrawy]; [L-Tec Corp.]; [Mullarkey], [Blystone].

II. [RUSSOMANNO-I]: New Determinative Evidence, Testimony in Discrimination Claim:

1. [Dkt.46], (11/4/19), *[pgID,843], Plaintiffs Amended, Opposition to Dismiss, asserts new, determinative' discrimination:

"In the Motion to Dismiss, Sunovion goes on to state that, **new management** (Ms. Yackish) **implemented a new policy** that **team members** who did not reach 100% to goal in 8 consecutive quarters would be placed on a PIP." *(Referencing: [Dkt.33], [pgID,508], (See: *Pl. Compl.*, ¶ 13)). *[Dkt.1], [pgID,22].

"Further, Sunovion now states this process "only" applied to members of a "single" approx. 8- person team and *not* "all members of the *Nationwide Neurology Sales Team*," thus, further creating unfair exercise of discretion **(and discrimination)** toward only "select" representatives employed by Sunovion, or more specifically "just the plaintiff." **Plaintiff is well aware that no others on that sales team were placed on a PIP for that time period, or ever terminated.**
*[pgID,843], [Dkt.46]; Referencing: [Dkt.33-1], *[pgID,508].

2. [Dkt.46], *[pgID,844]: Plaintiff Opposition to Dismiss, continues, (Opposition, ¶ 8): "However, now in Sunovion's Motion to Dismiss, they define that this "*newly designed PIP (policy) rule*" was only applied to one singular sales team, and in exception to the entire national sales force." [Dkt.46], *[PgID,843-845]; Referencing: [Dkt.33-1], *[pgID,508]; [Dkt.46], *[pgID,849], [R.I]: Plaintiff's opposition to dismiss expressly asserts new-arising evidence (from Defendants Motion to Dismiss) is **discrimination**:

"Now, as told in Sunovion Motion to Dismiss, this supposed "new rule" only applied to a "single team," Ms. Yackish's team. (and only terminated the plaintiff). These actions on the part of Sunovion demonstrate active interference with Plaintiffs employment and performance measures in an unfair exercise of discretion, and also discrimination."

III. [RUSSOMANNO-II]: **Not Same-Claim; Not Same Cause of Action:**

1. [Dkt.33-1], *[pgID,506], Def. motion to dismiss, [R.I]: "In her Complaint, Ms. Russomanno asserts one claim

against Sunovion – “wrongful termination, without real just cause, by Covenant of Good Faith (and fair dealing) Exception”. 1 (See Exhibit 1, Complaint).2”

*Also, [Dkt.33-1], *[pgID,510], Def. motion to dismiss, [R.I]: “Her complaint alleges a single cause of action – “wrongful termination, without real just cause, by Covenant of Good Faith (and fair dealing) Exception...” (Compl., at p. 2).”*

2. [Russomanno-I], [Russomanno-II] are not connected in legal theory or transaction. The cases are brought by *separate cause of action. See: (Defendant testimony, indicated above).*

[Russomanno-I] is “solely” an employment breach of contract claim in *cause of action* “*wrongful termination*, by covenant of good faith (and fair dealing) exception.

[Russomanno-II] is “solely” *anti-discrimination* claims in *unilateral policy change; [Bennun]; [Kozyra]*, (separate cause).

3. The two *Russomanno* cases are *wholly separate* and not the same cause of action. The cases do not duplicate any statutes (either federal or state) for discrimination, [*Russomanno II*] arose from new-arising discrete evidence in [*Russomanno I*]; thus [*Russomanno II*] *cannot* follow *justified* 'same-claim' or additional claim. The '*nucleus of allegations*' in each suit were *substantially different*, and the '*subject of allegations*' were *mutually exclusive*. *See*: [***Bennun***]; [***Kozyra***], (*separate cause*).

4. Chief Judge Freda L. Wolfson refused ministerial action and law of duty when she *unjustly withheld curative remedy* for [*Russomanno I*]. Thereby, Chief Judge Wolfson *incorrectly* caused the *incorrect dismissal* of *subsequent, (separate cause of action)*, [*Russomanno II*] by *incorrect res judicata*. Thus, such actions must be overturned by *providing proper duty to provision for*

curative remedy; compelled by Mandamus, to be now
Granted for [*Russomanno I*]; therein, *overturning*
[*Russomanno II*] dismissal.

5. *Notably, SUNOVION BLAMED IQVIA, INC. in*
INJURIOUS, BUSINESS DISPARAGEMENT AND
DEFAMATION.

Plaintiff is *now (100%) assured, IQVIA never skewed*
any sales results. Rather, Sunovion needed *excuse* for
analytic errors and deception sales reporting.

Such is *imperative to note*, as IQVIA Inc. has
opportunity herein writ of mandamus Reply, to speak the
truth (as was already indicated to plaintiff at the time of
[*Russomanno I*], by IQVIA counsel, (specific attorney name
respectfully withheld, herein), that to “counsel’s
knowledge,” there wasn’t any “misreporting of any
sales reports” as was told by Sunovion IQVIA Rx
Restatements documents. *See: #6 next.*

6. *Nevertheless*, Sunovion Division Management held
Teleconference and *delivered IQVIA Rx Restatements to the*

entire salesforce. See: “Opposition Dismiss; [EXHIBIT-A],
[Dkt.46-1], *[pgID,859-863]. (IQIVA Restatements).”

****Petitioner herein calls IQIVA Inc. to action in Dutiful Justice “set truth” in their writ of mandamus reply.**

7. *These Extraordinary ministerial refusal actions of the Judge Official, Chief Freda L. Wolfson require the power of the U.S. Supreme Court to set proper correction in judicial administration, wherein, aiding appellate jurisdiction, and granting extraordinary writ of mandamus to correct this miscarriage of justice.*

8. *Finally, observing details of the Dockets for both cases [Russomanno-I], [Russomanno-II], it glares mention: Wherein, numerous incongruent hurdles set upon plaintiff; blatant Court overlook to plaintiff request; repetitive plaintiff testimony; constant plaintiff reiteration; endless plaintiff letters to chambers for pertinent focus attention; vague, erroneous, and delayed Text Orders; Clerk-separated and disheveled docket entries and dates; and more..., any*

reasonable person would conclude it extremely founded that
Court prejudice surrounded Plaintiffs case(s).

LOWER COURT JURISDICTION STATEMENT

The District Court has original jurisdiction pursuant to 28 U.S.C. § 1331, under Title VII, ADEA and Equal Pay Act claims, and supplemental jurisdiction for State claims, NJLAD, under 28 U.S.C. § 1337(a).

CONCLUSION:

Petitioner requests U.S. Supreme Court to Grant Extraordinary Writ of Mandamus to correct this manifest miscarriage of justice; Whereby, ministerial action, refused by Chief Judge Freda L. Wolfson by her inaction to provide curative remedy upon Rule 12(b)(6) Dismissal for case [Russomanno-I], thus, has no recourse for remedy; and Wherein, such action lead to the 'subsequent, incorrect res judicata dismissal' for 'separate cause of action,' [Russomanno-II], which therein, has no other remedy.

The Supreme Court should immediately issue writ of mandamus to require the lower district court to hold a hearing within 30 days to provide curative remedy for [*Russomanno I*], and thereby, Overtur**ORDER** which incorrectly dismissed subsequent, 'separate cause of action', [*Russomanno-II*], by incorrect res judicata; both dismissed by same Chief Judge Freda L. Wolfson, and *District Court of New Jersey*.

It is respectfully requested this petition for writ of mandamus should be **GRANTED**.

Last, Per Notable Mention, Petitioner was also recent party to a Class Action Lawsuit in which she was one of the first and initial parties to aid in the establishment of Class Action for Case No. [2:17-cv-00496-CCC-SCM]; Allen vs. PixarBio Corporation, et.al., (The Rosen Law Firm, P.A.).

That case was filed in the Third Circuit District of New Jersey, under Chief Judge, Freda L. Wolfson's jurisdiction. The case was resolved with payout settlement

(long after the Russomanno cases had already been in on-going process).

Not so ironically, Petitioner, Gina Russomanno has NOT been issued her share of settlement (even though friends of hers who entered that case at *the very same moment*, have received their settlements). Petitioner is being *extricated* by *Court failure to respond/answer*, to her letter requests for settlement demand, and also *extricated* by the case attorneys who Russomanno aided with informative information for that case, and who served as her sole source for *case inclusion and protection*. That firm claims petitioner *refused settlement monies* on a 'cents per dollar' investment. The settlement was actually '29 % of the investment dollars.'

The 3rd Circuit, District Court of NJ has refused to compel settlement payment to Russomanno, (despite numerous letters to the Court), and incredibly, despite, Per the Courts Case Ruling, a waiting period of 6 months *after the initial settlement payouts, will provide* for any other valid, 'surfacing settlement requests'). "Still," *more than 6*

months later, Russomanno has not received her settlement.

This *issue* is brought to light *herein*, as is *relative* to the “*extreme*” *prejudice* of the *New Jersey District Court* and the *Judge Official* toward *Russomanno*.

Similarly, these major law firms seem to hold *equal prejudice* or *extreme insult* by Russomanno’s *Pro Se position*; otherwise, *for political purposes*, they *choose to stay in line* with *the prejudice of the Court they serve*.

In the PixarBio case instance, there is definite *collaborative action* by both the Court and Counsel to *decidedly ignore* and *extricate Russomanno from settlement*.

Whereby, without Russomanno’s *case inclusion*, in the very *infantile case stages*, with her first-hand informative information, and the entry of ‘actual’ Pixarbio *share documents* and copy of *deposited personal check* into Pixarbio account, *that case* possibly would not have ever made the Class Action Establishment.

The Rosen Firm should be fighting to release *due payment* on Russomanno's behalf. Instead, they are disputing to also withhold against her. Remarkable to say the very least.

Clearly, Russomanno has shaken and upset the Legal World... but, that *upset* is misplaced. Such upset should be toward Company Employer, Sunovion Pharmaceuticals, Inc., who in an *audacity of arrogance*, has not only *disparaged a fellow pharmaceutical company*, (IQVIA, Inc.), with non-sensical *lies of defamation*, but who *knowingly acted* by *illegal actions* and should have put an *immediate end* to this case 3 years ago.

Finally, whether Truth and Justice prevail or Evil Injustice prevails, a *powerful* ripple effect will surely take its *karmic* due course for either its *good* or its *evil*.

IN GOD WE TRUST.

CERTIFICATION

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

Respectfully Submitted,

/s/ Gina Russomanno



Date: May 2, 2022

*Notary Public, State of New Jersey;
Commission: #50148307; expires 1/14/2026
Gina Russomanno*

