

**No: 21-787**

---

**IN THE**  
***Supreme Court of the United States***

---

***Gina Russomanno,***

**Petitioner**

**~against~**

***Dan Dugan, Jenna Yackish, Trevor Voltz, Erik  
Weeden, and Sunovion Pharmaceuticals, Inc.***

**Respondent(s)**

---

**On Petition for Writ of Certiorari  
to the United States Court of Appeals for the Third  
Circuit**

---

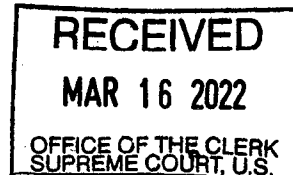
**PETITION FOR REHEARING**

---

**Gina Russomanno  
*Pro Se Petitioner*  
95 Ward Avenue  
Rumson, NJ 07760**

**732-841-4647  
Grusso777@comcast.net**

---



## QUESTIONS FOR REVIEW

1. Whether, an *intervening decision* of the Supreme Court has **enunciated fundamental change in judicial administration** from well-established, **precedent law**.

Whereby, curative remedy or amendment, upon Rule 12(b)(6) dismissal, and new and discrete arising evidence, is **no longer a matter of practice in right to proceed for claim(s) due process**.

Wherein, Supreme Court, upholding Lower Court action to **withhold curative remedy**, thereto, **'void'** *new-arising evidence*, (*subsequent claim(s)*), is fundamental change for *proper precedent*.

2. Whether, Supreme Court *intended to pronounce fundamental change* **beseached upon Lower Court prejudice**.

i.

## **LIST OF PARTIES AND RELATED CASES**

- *Gina Russomanno v. Dan Dugan, Jenna Yackish, Trevor Voltz, Erik Weeden, and Sunovion Pharmaceuticals Inc., Case No. 21-2004, United States Court of Appeals for the Third Circuit. Judgement entered Oct. 15, 2021.*
- *Gina Russomanno v. Dan Dugan, Jenna Yackish, Trevor Voltz, Erik Weeden, and Sunovion Pharmaceuticals Inc., Case No 3:20-cv-12336, United States District Court of New Jersey. Judgement entered May 4, 2021. (Origin: MON-L- 002421-20).*
- *Gina Russomanno v. Sunovion Pharmaceuticals, and IQVIA Inc. Case No 3:19-cv-05945, United States District Court of New Jersey. Judgement entered May 18, 2020. (Origin: MON-L- 00017619).*

### **CORPORATE DISCLOSURE, RULE 29.6**

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

## **JURISDICTION**

Supreme Court *denied* Certiorari March 7, 2022.

A timely petition for rehearing was *entered* on the following date: March 14, 2022.

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

## **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.

## TABLE OF CONTENTS

QUESTIONS FOR REVIEW.....	i.
LIST OF PARTIES, RELATED CASES, CORPORATE DISCLOSURE: Rule 29.6.....	ii.
JURISDICTION AND STATUTORY PROVISIONS.....	iii.
STATEMENT OF REHEARING.....	1
ARGUMENT.....	5
I.    Improper <i>Uniform</i> -Dismissal [ <i>R.I</i> ]; Court Withheld Curative Remedy, Conflicting Standard Precedent, thereto Void New-Arisng Claims.....	5
II.   [ <i>RUSSOMANNO-I</i> ]: Mutual-Party Attempts to Avoid <i>Simultaneous</i> Ruling Per (2) Separate Motions.....	7
III.  [ <i>RUSSOMANNO-I</i> ]: New Determinative Evidence, Testimony in Discrimination Claim.....	10
IV.   [ <i>RUSSOMANNO-II</i> ]: Not Same-Claim; Not Same Cause of Action.....	15
V.    [ <i>RUSSOMANNO-II</i> ]: ‘Essential Similarity’, Same- Claim Incorrect.....	18
VI.   Same-parties, Incorrect per Incorrect Same-Claim; Also per NJLAD aid and Abet.....	21
VII.  Right to Proceed.....	22
CONCLUSION.....	23
CERTIFICATION.....	25
CERTIFICATE OF COMPLIANCE.....	-
NOTIFICATION OF SERVICE Rule 29.4.....	-

## **TABLE OF AUTHORITIES**

### **Cases:**

<i>Ashcroft v. Iqbal</i> , 556 U.S. 662, 678 (2009).....	24
<i>Athlone: (United States v. Athlone Indus., Inc)</i> .....	21, 23
<i>Bennun v. Rutgers State Univ.</i> , 941 F.2d 154, 163 (3d Cir. 1991).....	3, 6, 16, 19, 20, 23
<i>Blystone v. Horn</i> , 664 F.3d 397, 415 (3d Cir. 2011).....	2, 5, 6, 10, 23
<i>Cieszkowska v. Gray Line New York</i> .....	23
<i>Elkadrawy</i> , 584 F.3d at 174.....	2, 5, 6, 9, 20, 23
<i>Failla v. City of Passaic</i> .....	23
<i>Gambocz v. Yelenciscs</i> , 468 F. 2d 837, 841, (3d Cir. 1972).....	23
<i>Harding v. Duquesne Light Co.</i> (1995).....	23
<i>Kozyra v. Allen</i> , 973 F. 2d 1110, 1112 (3d Cir. 1992).....	3, 6, 16, 19, 20, 23
<i>Lubrizol Corp. v. Exxon Corp.</i> , 929 F. 2D (3 <sup>rd</sup> Cir. 1991).....	21, 23
<i>L-Tec Electronics Corp. v. Cougar Elec. Org., Inc</i> 198 F.3d 85, 88 (2 <sup>nd</sup> Cir. 1999).....	2, 5, 6, 9, 23
<i>Mullarkey</i> , 536 F.3d 225, (3d Cir. 2018).....	2, 5, 6, 10, 23
<i>Phillips v. Cnty. of Allegheny</i> , 515 F.3d 224, 234, 245 (3d Cir.).....	2, 5, 6, 9, 22, 23, 24

<i>Sheridan v. NGK Metals Corp.</i> , 609 F. 3d 239, 260 (3d Cir. 2010).....	21, 23
<i>Sonnier v. State Farm Mutual Auto. Ins. Co.</i> , 509 <i>F.3d 673, 675 (5th Cir. 2007)</i> .....	24
<i>Tarr v. Ciasulli</i> , 181 N.J. 70, 83084 (2004).....	23
<i>Twombly</i> , 550 U.S. at 555); (127 S.Ct. at 1965).....	24
 <b>Federal Rules of Civil Procedure:</b>	
<i>Fed. Rule Civ. Proc. 12(b)(6)</i> .....	1, 2, 6, 22
 <b>New Jersey Statutes:</b>	
<i>N.J.S.A. §10:5-12 [NJLAD]</i> .....	4, 21

## STATEMENT OF REHEARING

The Supreme Court has denied Petitioners Writ of Certiorari, *enunciating fundamental change* in judicial administration. The disposition of [*Russomanno-II*], *pronounces a core change in standards*; **Whereby**, *well-established precedent law*, (in its *infinite-citations*), to providing *curative remedy or amendment*, upon a Rule 12(b)(6) dismissal, and upon new and discrete arising evidence is *repudiated*. The Supreme Court, *justified Lower Court decision*: to *withhold curative remedy* thereto '**void**' *new-arising, (subsequent claim(s))*.

Whereas, *The United States Supreme Court*, *enunciates fundamental change beseeched upon Lower Courts prejudice*.

*Rehearing* is required in *declaration* to Set *fundamental change*, or to Reset *standards* for precedent.



*First, the uniform-dismissal per [Russomanno-I], (referred, [R.I]), together with the prior-pending Remand Reconsideration and after-entered Motion to Dismiss, (wherein, dismiss motion surfaced new-arising 'determinative' discrimination), cannot, by standard precedent, completely foreclose, and thereto void plaintiff's right to proceed (by due-process) for new and discrete evidence claims; (brought subsequent [R.II]).*

*Whereby, the District Court was immediately informed of new evidence for (discrimination) when presented in Plaintiffs Opposition to Dismiss, [Dkt.46], [R.I]; Whereby, conflicting standard precedent, the District Court withheld all curative remedy for amendment, (by Rule 12(b)(6) dismissal), [Phillips, 515 F.3d at 245]; and timely leave to reinstate action. Relevant, standard precedent establishes that when new and discrete evidence information arises from a prior case it provisions right to proceed; [Elkadrawy]; [L-Tec Corp]; [Mullarky]; [Blystone]. See:*

[Writ/Pet., p.2-4, 11, 18, 24, 29, 37]. *See*: [[Dkt.46], [pgID,857]].

Second, the two cases are *wholly separate* and not *the same cause of action*. The cases do not duplicate any statutes (either federal or state) for discrimination, thus *cannot be justified* ‘same-claim’ or additional claim. The ‘*nucleus of allegations*’ in each suit are *substantially different*, and the ‘*subject of allegations*’ are *mutually exclusive*. *See*: **[Bennun]**; **[Kozyra]**; [Pet.,p.26].

Third, precedent in ‘*essential-similarity*’ is relevant to “*express assertions*” to ‘material fact,’ and not ‘*assumptions*,’ ‘*absent any elaboration*,’ (*descriptions* used by the Lower Courts when *referencing* ‘plaintiff’ testimony’). Precedent governs that “merits” of a case are adjudicated by ‘*determinative*’ claim. ‘*Essential-similarity*’ is *immediately moot* by *incorrect* same-claim. Court **withheld curative remedy**, [R.I], thereto **void** *new-arising evidence*, (*subsequent claim(s)*), [R.II]. *See*: [Writ/Pet.,7-10].

Fourth, 'same-parties' cannot extend from *incorrect* 'same-claim.' *Res judicata* decision *conflicts with relevant, standard precedent*, and *right to proceed upon new evidence information*. 'Same-parties' is *incorrect* and *immediately moot*. 'Same-parties' is further *incorrect* under NJLAD which provisions for aid and abet. *See*: [WritPet., 30-32].

Last, 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).

Court action to withhold curative remedy per [R.I], was in only purpose to '*inconspicuously*' and '*fastidiously*'

dispose plaintiff's case, to *imperatively preempt*, and *thereto*, **void** *new-arising evidence*, (*subsequent claim(s)*); (by [R.II]).

## **ARGUMENT**

### **I. Improper Uniform-Dismissal [R.I]; Court Withheld Curative Remedy, Conflicting Standard Precedent, thereto Void New-Arising Claims:**

1. Res Judicata is *incorrect per [R.II]*. 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, **court withheld curative remedy** thereto **void** *new-arising evidence*, [R.I]; Res judicata *cannot bar subsequent claim*, [*Russomanno-II*]. See: [**Phillips**, 515 F.3d at 245], (*explaining that “a district court must provide curative remedy”*); [**L-Tec Corp.**, 198 F.3d 85, 88 (2<sup>nd</sup> 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 (3<sup>rd</sup> Cir. 2011)], (*explaining, (standard) precedent to*

“correct” or “present newly discovered evidence”); (even by *reconsideration*); [*Bennun*, 941 F.2d 154, 163 (3<sup>rd</sup> Cir. 1991)]; [*Kozyra*, 973 F.2d 1110, 1112 (3<sup>rd</sup> 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**]. *See Writ*: [p.14-16].

The District Court issued uniform-dismissal, [*R.I*], wherein, *conflicting standard precedent*, withheld curative remedy for *new-evidence*, upon Rule 12(b)(6) dismissal; (and *other relevant precedent*) thereto *incorrectly void* subsequent *claim(s)*. *See*: [*Phillips*]; [*Elkadrawy*]; [*L-Tec Corp.*]; [*Mullarkey*], [*Blystone*].

**II. [RUSSOMANNO-I]: Mutual-Party Attempts to Avoid Simultaneous Ruling Per (2) Separate Motions.**

1. [Dkt.34], (10/16/19): *Plaintiff Letter*, request for Extension of Time per Remand Reconsideration (prior-pending); and ‘mutual-party agreement’ to adjourn the Motion to Dismiss date, \*until 14 days after decision for Remand Reconsideration; (Defendants prior-request to (initial) Remand, was (granted), [Dkt.16]. *See: Pl. Letter*, [Dkt.34]; [Dkt.17], \*[pgID,715-717].
2. [Dkt.41], (10/24/19): *Plaintiff Letter*, *Second Request*, *Re: [Dkt.34], Extension of Time. Letter states: \**“Currently, the status of the case is between the courts, therefore, a simultaneous, same-day ruling, would seem rather unjust in terms of the likelihood for one to overshadow the other and possibly altering decision outcome.” \*[pgID,831].

\*Letter, [Dkt.41], alerts the Court to decision ‘impartiality’ when holding *simultaneous ruling*, for two, separate-subject motions. Importantly, letter requests, ‘mutual-party agreement’ for *adjournment* to Motion to

Dismiss, *\*until 14 days after the Remand*

Reconsideration has been decided. See: [Dkt.17]; [Dkt.34];  
**\*[pgID,717]\*.**

*Both parties were seeking intended judicial fairness to individual Motions. On several occasions, parties each requested different dates for separate decisions. See: [Dkt.17]; [[Dkts.[34]; [41]; [43]].*

3. [Dkt.42], (10/25/19): Text **ORDER** (8-days *delayed*);  
“Re: [41]; [34]- (Plaintiffs (2) Letter Requests for Extension of time, and ‘Mutual-party agreement’ to adjourn Motion to Dismiss, *\*until 14 days after remand reconsideration*.  
Text **ORDER** states, “Defendants shall file their Reply to Plaintiff’s Opposition to the dismissal Motion on or before *November 12, 2019*,” “**The pending motions on the docket of this case will be decided in due course.**”  
(Thus, motion to dismiss, becomes 14 days after reconsideration).

4. [Dkt.43], (10/28/19): Plaintiff Letter, (in clarification),  
Re: Text **ORDER** [Dkt.42], *Plaintiff stated*: “Therefore, the  
request as **all parties agreed-upon** was in purpose so the  
court would have sufficient opportunity to **review the**  
**Remand Reconsideration to completion** (decision) in  
the potential event that this case could be remanded to state  
court and thereby, the Motions to Dismiss in this court  
would be unwarranted and unnecessary. Additionally, the  
Motions to Dismiss might overshadow or alter the decision  
ruling of the remand reconsideration.” \*[pgID,834].

5. \*Despite Plaintiff's (3) Letters to Chambers  
[[Dkts.],[34],[41],[43]], regarding potential conflict by  
'same Motion date' for two-separate motions, \*Ultimately, (in  
deliberate prejudice), the District Court still rendered  
uniform-dismissal, for two vastly-different motions;  
**WHEREBY**, *Conflicting (standard) precedent*, Court  
withheld curative remedy, thereto **void** 'new-evidence,  
(subsequent claim(s)), (arising **during** the pending Remand  
Reconsideration). See: [Phillips]; [Elkadrawy]; [L-Tec Corp.]



[Mullarkey], [Blystone]. *See*: [appellant brief, 1-24]; [appeal opinion, 1-9]; [Writ Pet. 1-40].

**III. [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];

Defendant statement *distinctly* stated “*new*” management, and indicated the rule was applied to the (*new*) “**team**.” Furthermore, plaintiff testified, “no one, but the plaintiff was ever terminated.” ... (in *unilateral* design). *See*: [Dkt.46], [R.1], \*[pgID,843]. *See*: [#4, below].

3. [Dkt.33-1], \*[pgID,508], [R.1]: In Defendants Motion to Dismiss, [Russomanno-1], Defendants erroneously claim the following false statements were ‘*plaintiff-quoted*’ at (Pl. Compl., ¶ 13; ¶ 17):

“Initially, Plaintiff reported to Regional Business Manager, Jeffrey Aromando. (See Compl., ¶ 17). However, in or around the

summer 2018, Plaintiff was placed in a new sales territory with different management, and thereafter reported to Ms. Yackish. (Id.).”

*\*Continuing:* “Plaintiff’s new management implemented a policy that ‘team’ members who did not reach 100% of their sales goals for more than 8 consecutive quarters would be placed on a performance improvement plan. (See Compl., ¶ 13).”

Plaintiff never made those statements, and the indicated information is \*NOT found at (Pl. Compl., ¶ 13, or ¶17). *See:* [Dkt.1], \*[pgID,22, 26], [R.I].

4. [Dkt.1], \*[pgID,22], [R.I]: (Pl. Compl. at ¶ 13)), Plaintiff actually stated: “Management reasoned to plaintiff that anyone over 8 consecutive quarters without having reached a goal of precisely 100% would be placed on PIP. [Dkt. 1], \*[pgID 22], Item #13], [R.I].

Plaintiff expected 'all' (Leadership) Management applied the policy to "anyone" (all *salesforce members*).

5. Plaintiff points out (regular) Defendant practice, in falsely misquoting (plaintiff) testimony, to erroneously conflate (actual) Merits of the Case, (practice, also done by Lower Court).

Court example is found [Appeals opinion, p.7]; The appeals court quotes, "Furthermore, Russomanno 'expressly asserted' in the first lawsuit that the 8-quarter policy had been applied in a discriminatory manner (Suppl. Appx. 151)." [Writ/Pet., p10-14].

Defendants (Suppl. Appx. 151), Appeals Court, references, one single statement (Court defined 'assumption', 'absent any elaboration'). [Writ/Pet., p.10-14].

6. The lower courts dismissed [R.II] relying on single statement (below), per [Russomanno-I], as reason discrimination could have been brought commencing [R.I]:

See: [Dkt.1], \*[pgID,22], (Pl. Compl., ¶ 13), (final sentence); Plaintiff asserts: "It has been observed and noted

that other representatives have been treated differently based on age, sex, or race, and, in the past, have been omitted from this supposed 8-consecutive quarter rule; unlike plaintiff.” (*Pl. Compl.* ¶ 13).

Contrarily, Court then goes on to define (said) statement as assumption, absent any elaboration; definitions which cannot demonstrate known prior knowledge or ‘essential’ fact in ‘determinative’ claim. *See*: [Writ/Pet., 10-26; p. 12-13].

7. Furthermore, Plaintiff ‘did elaborate’ on these perceptions, (*later, in the same complaint, [R.I]*), where other representatives, *in the past, were not subject* to this **standard** policy:

See: [Dkt.1], (*Pl. Compl.*), \*[**pgID26**], [*R.-I*];

“Previously, the representative there,” (in Philadelphia, PA)  
“Theresa Murtaugh, (a majorly successful experienced rep with 8 Presidents Club awards at another company) could not reach goal in 2-years (and ultimately left Sunovion of her

own accord).” *See: Reference to (Pl Compl. ¶ 13), \***[pgID,22]***;  
[Writ/Pet. p.21].

8. [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.**”*

IV. **[RUSSOMANNO-III]: 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*. *See:* [Writ Pet. 6-16, 17-24]; [Bennun]; [Kozyra].

3. [Russomanno-I], *Plaintiff Complaint*, [Dkt.1], \*[pgID,12-31], *asserts retaliation*, (not discrimination); bias sales calculations; PIP termination; and *many sales representatives terminated; resulting from sales misreporting by IQVIA, Inc. partnership*.

4. 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.

5. 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]. (IQVIA Restatements).

Plaintiff's Complaint [Russomanno-I], asserted 'essential' material fact in retaliation, and never asserted discrimination, or any 'determinative' discrimination enacted against just the plaintiff. Plaintiff was unaware, (as concealed), policy change was in unilateral design, and never implemented to the nationwide salesforce (upon the surrounding (nationwide) IQVIA Rx Restatements, [Exhibit-A], [Dkt.46-1]; [R.I], \*[pgID,859-863]).

6. [Dkt.1], \*[pgID,23], (Pl Compl. ¶ 14) [R.I]:  
"...plaintiff's inquisitions for further investigation gave



Sunovion reason *to ‘punish’ plaintiff in a retaliation so to not reveal* in greater extent the salesforce-known, secretive, protected, corporate in-house political, dishonest policies that exist toward discrimination favoritisms, networks, and the like.” *See:* [Writ/Pet.,p.23].

7. [Dkt.1], \*[**pgID,20**], (*Pl Compl.* ¶ 10, cont’d), [*R.I.*],

Plaintiff Statement:

“It can be assumed that many more representatives across the divisions and nation were in fact terminated in this same way. Potentially, the Neurology division, a small force of approx. 131, was the *main division disguising their portion of employee cuts via PIP termination....*” [*Russomanno-I*], (Compl., p9), ¶10...cont’d]. *See:* [Writ/Pet.p.16].

Plaintiff’s above testimony provides the court ‘elaboration,’ and clearly indicates that plaintiff believed many other employees were subject to the same wrongful termination, and demonstrates that ‘determinative’ discrimination was prior-unknown.

V. [**RUSSOMANNO-III**]: ‘Essential Similarity’, Same-Claim Incorrect:

1. The District Court judged Plaintiffs Cases, “**not identical.**” *See:* [District Opinion, p.9, *R.-II*]; [Appeals Opinion, p.8]; [Writ/Pet.p.3, 7].

The District Court judged Plaintiffs ‘*theory of recovery*,’ **different.** *See:* [District opinion 10, [*R.II*]]; [Appeal Brief, p.12]; [Writ/Pet.p.6].

The Lower courts *conflict* ‘same set of facts’ with (*rightful*) ‘express assertions,’ *conflicting* ‘*essential similarity*.’ *See:* [Writ/Pet.p.8-10].

2. [*Russomanno-II*] *does not duplicate* any (federal or state) discrimination claim. The prior claim, [*R.I*], was *sole* claim employment wrongful termination by breach of contract. Subsequent claim, [*Russomanno-II*], is anti-discrimination claim upon new and discrete information, (arising from prior case), in discriminatory, unilateral policy change. *Essential-similarity*, ‘same-claim’ is *incorrect*.  
*\*See:* [Writ/Pet.p.8-9]; [*Bennun*]; [*Kozyra*]. (*separate cause*).

3. The District Court was made aware of *new-arising determinative* evidence *numerous* times *before dismissal*, [*Russomanno-I*]. *See*: [Writ/Pet.p.6]; [Appeal Brief, p6]; *Plaintiff Letters* [[Dkts.], [34], [41], [43]], [*R.I*].

Plaintiff also provided testimony to *new-evidence*, and *fraudulent concealment* (to *unilateral* policy change), in opposition to dismiss (also in appellant brief), [*Russomanno-II*]. *See*: [Writ/Pet.p.24-25].

4. The District Court, *conflicting relevant precedent*, *denies “own”* [*Bennun*], (quoting ‘own’ [*Kozyra*]); Whereby, ‘*entire controversy theory*’ is “*more preclusive*” than *res judicata*. Wherein, [*Bennun*], (second-action), *prevailed* to *proceed* because *the entire controversy doctrine* did not *foreclose* on *Constitutional and Civil rights* *when the first-action* related *solely* to the employment agreement; **WHEREBY**, [*Russomanno-II*] *righteously follows*. *Res judicata* is *insufficient* for barring claim. (*separate causes, subsequent claim prevails*). *See*: [Writ/Pet. p3, 25-26].

5. The District Court *incorrectly* cited [*Elkadrawy*] by res judicata, which was *first-suit discrimination* claim upon *second-suit discrimination* claim (*same-claim*). *See:* [Writ/Pet.p.18].

6. Lower Court's reasoning to '*essentially similar facts*' (among [*Russomanno*] cases), significantly *conflicts with precedent*. *See:* [Writ Pet. p.22]. Additionally, Courts decision by [*Sheridan*]; [*Athlone*]; and [*Lubrizol*] *conflicts in relevance* to the [*Russomanno*] cases. *See:* [Writ/Pet.p.1-5].

*Essential-similarity* is immediately moot by *incorrect* 'same-claim,' *incorrect* res judicata. *See:* [Writ/Pet.,p.26-30].

**VI. Same-parties, Incorrect per Incorrect Same-Claim; Also per NJLAD aid and Abet:**

1. Same-claim is *incorrect*; 'same-parties' is *incorrect*; immediately moot.

Same-parties is also *incorrect* per NJLAD, aid and abet provision. Plaintiff extensively elaborates NJLAD aid and abet in Amended Complaint [Dkt.33], [*R.II*]; Opposition

to Dismiss [[Dkts.42], [42-1]]; and [Dkt.43]. *See:*

[Writ/Pet.p.30-36].

**VII. Right to Proceed:**

1. [Dkt.46], [*Russomanno-I*], in **CONCLUSION**, Plaintiffs Amended Opposition to Dismiss: Plaintiff requested ability to **amend** complaint, following (standard) precedent per 12(b)(6) dismissal, [*Phillips*],[515 F.3d at 245]; (explaining, “a district court must provide curative amendment”). *See:* [Dkt.46], \*[pgID,857].

Plaintiff also requested Court to proceed with the Remand Reconsideration ruling decision, **first**. [Dkt.46], \*[pgID,857].

2. Last, it is incongruent District Court overlooked numerous requests (and final **sur-reply**; letter) \*[Dkt.48], [*R.II*], focusing Court’s attention away from uniform-decision.

Nevertheless, conflicting (standard) precedent, Court **withheld** curative remedy, thereto **void** new-arising

evidence, (subsequent claim(s)), to preemptively foreclose right to proceed. [Phillips]; [Elkadrawy]; [L-Tec Corp]; [Mullarky]; [Blystone].

### CONCLUSION

[Russomanno-II] was incorrectly barred by res judicata. The District Court, conflicting relevant (standard) precedent, incorrectly dismissed [Russomanno-I] in uniform-dismissal, 'withholding all curative remedy' thereto void new-arising evidence (subsequent claim(s)), (arising during pending remand reconsideration). [Phillips]; [Elkadrawy]; [L-Tec Corp]; [Mullarky]; [Blystone]; (curative remedy).

Court further conflicted relevance by 'own' [Bennun]; [Kozyra], (separate cause, subsequent claim prevails).

Court also conflicted precedent in [Harding v. Duquesne]; [Sheridan]; [Athlone]; [Lubrizol]; [Elkadrawy]; [L-Tec Corp.]; [Cieskowska]; [Gambocz]; [Tarr]; [Failla], for essential-similarity; (lacking) in relevance to [Russomanno].

The court also *conflicted* (*standard*) *precedent* for (plaintiff) 'assumption of trust'; [*Twombly*]; [*Ashcroft*]; [*Phillips*]; [*Sonnier*]. WHEREAS, Court *defines* plaintiff's *testimony* to *new-evidence* "**debatable.**" [appeals opinion,7], [Writ/Pet., 11]. *Therein*, Court *opinion* is *actually* unconfirmed, and *undecided*; requiring curative remedy, and right to proceed.

Supreme Court denied Certiorari, enunciating fundamental change in judicial administration away from standard precedent; *toward* withholding curative remedy thereto, void new-arising, (subsequent claim(s)).

Thereby, Rehearing requires Supreme Court Declaration to Set fundamental change or to Reset standard so to protect and maintain Proper precedence in Supreme Oath and righteous Duty of Law; and further guard against beseeching upon Lower Court prejudice.

For all foregoing reasons, Petitioner respectfully requests the Supreme Court to appropriately GRANT Petitioner Rehearing.

CERTIFICATION

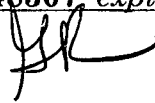
I certify under penalty of perjury that the foregoing Petition for Rehearing is true and correct, presented in good faith, and not for delay.

Respectfully Submitted,

/s/ Gina Russomanno  
*Pro Se Petitioner;*



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



Date: March 14, 2022

**Cc: PUBLIC INFORMATION OFFICE**  
**Supreme Court of the United States;**  
**pio@supremecourt.gov**