No. 22-334

In the Supreme Court of the United States

ALICE GUAN,

Petitioner,

v.

GARY BELL; SERGEY KATSENELENBOGEN; JEN KIM; JAMES C. CLARK, as an individual and in his capacity as the Judge for Alexandria Circuit Court the 18th Judicial Circuit of Virginia; DONALD W. LEMONS, as an individual, and as the Chief Justice for the Supreme Court of Virginia; S. BERNARD GOODWYN, as an individual, and as the Justice for the Supreme Court of Virginia; WILLIAM C. MIMS, as an individual, and as the Justice for the Supreme Court of Virginia; CLEO E. POWELL, as an individual, and as the Justice for the Supreme Court of Virginia; STEPHEN R. MCCULLOUGH, as an individual, and as the Justice for the Supreme Court of Virginia; CHARLES S. RUSSELL, as an individual, and as the Senior Justice for the Supreme Court of Virginia; LAWRENCE L. KOONTZ, JR., as an individual, and as the Senior Justice of the Supreme Court of Virginia; LEROY F. MILLETTE, JR., as an individual, and as the Senior Justice for the Supreme Court of Virginia; THE ALEXANDRIA CIRCUIT COURT, the 18th Judicial Circuit of Virginia; THE SUPREME COURT OF VIRGINIA,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

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September 26, 2022

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QUESTIONS PRESENTED

Alice alleged bribery, 42 U.S.C. § 1983 violation of her constitutional rights and replaced "vacate state court order" with "seeking prospective relief".

Chief Judge Liam O'Grady astonishingly established a claim of his own (App.3a-14a) re-litigating corporate ownership, seek to vacate state court order, and there are no Constitutional or federal protected rights involved. Judge O'Grady proceeded to dismiss his own self-established claim with prejudice based on lack of jurisdiction and failure to state a claim, then he mooted all of Alice's claims.

Alice appealed. O'Grady court docketed the notice of appeal without including the court order that was attached to the notice of appeal. Fourth Circuit denied the motion to correct such incorrectly docketed Notice of Appeal, it affirmed District Court' decision without offering any discussion on merit.

The Questions Presented Are:

1. Whether Fourth Circuit affirming district court's decision based on altered Notice of Appeal without performing any review on the merit of the appeal violates the equal protection and due process Clauses of the Fourteenth Amendment and the right to petition the Government for a redress of grievances Clause of the First Amendment.

If Fourth Circuit did not affirm based on the reason of the court caused faulty Notice of Appeal, then:

2. Whether Fourth Circuit mooting all of Alice's claims after it dismissed its own self-established claim with prejudice to prevent Alice's claims from residing under the same specific legal case 1:21-cv-00752 and whether the Fourth Circuit did not consider much less

to construe much less to liberally construe Alice's filings violates the equal protection and due process Clauses of the Fourteenth Amendment and the right to petition the Government for a redress of grievances Clause of the First Amendment.

Even for the Fourth Circuit's self-established claim on its face:

3. Whether dismissing such self-established claim without having Jury trial the issue of financial contributions and the disputed facts violate the Seventh Amendment's right to Jury trial.

4. Whether *Rooker-Feldman* Doctrine is applied correctly, and if so, whether this court should overrule *Exxon* and *Lance* and *Colorado* and *Skinner* and *Johnson*.

5. Whether judicial immunity and sovereign immunity bar this Fourth Circuit's self-created claim.

6. Fourth Circuit's self-established claim stated there is no issue of Constitutional or Federal protected rights, Fourth Circuit determined that its self-created claim failed to state a claim due to: "§ 1983 authorizes a federal cause of action against "any person" . . . under color of state law", "a state "is not a person within the meaning of § 1983."" thus neither court defendants "are "persons" under this statute", and "a suit against a state official in his or her official capacity is not a suit against the official but rather is a suit against the official's state office", thus there exists a failure to state a claim against all defendants. If this is so, whether this Court should abolish 42 U.S.C. § 1983 because "§ 1983 does not apply to states" and does not apply to "persons acting under the color of state law because they are the states."

PARTIES TO THE PROCEEDINGS

Petitioner

Petitioner Alice Guan is a Nuclear and Systems Engineer and a Scientist. She created and founded AdSTM in 1996 (App.64) and she built AdSTM into a $16M/year company with more than 160 employees doing consulting work for the Government Agencies of DOD, DOE, NRC, NASA, and DOT.

Respondents

Respondents are GARY BELL; SERGEY KATSENELENBOGEN; JEN KIM, as individuals.

Respondents also are JAMES C. CLARK, as an individual and in his capacity as the Judge for Alexandria Circuit Court the 18th Judicial Circuit of Virginia; DONALD W. LEMONS, as an individual, and as the Chief Justice for the Supreme Court of Virginia; S. BERNARD GOODWYN, as an individual, and as the Justice for the Supreme Court of Virginia; WILLIAM C. MIMS, as an individual, and as the Justice for the Supreme Court of Virginia; CLEO E. POWELL, as an individual, and as the Justice for the Supreme Court of Virginia; STEPHEN R. MCCULLOUGH, as an individual, and as the Justice for the Supreme Court of Virginia; CHARLES S. RUSSELL, as an individual, and as the Senior Justice for the Supreme Court of Virginia; LAWRENCE L. KOONTZ, JR., as an individual, and as the Senior Justice of the Supreme Court of Virginia; LEROY F. MILLETTE, JR., as an individual, and as the Senior Justice for the Supreme Court of Virginia; THE ALEXANDRIA CIRCUIT COURT, the 18th Judicial Circuit of Virginia; THE SUPREME COURT OF VIRGINIA.

LIST OF PROCEEDINGS

United States Court of Appeals for the Fourth Circuit

No. 21-2397

ALICE GUAN, *Plaintiff-Appellant, v.* GARY BELL; SERGEY KATSENELENBOGEN; JEN KIM, as individuals; JAMES C. CLARK, as an individual and in his capacity as the Judge for Alexandria Circuit Court the 18th Judicial Circuit of Virginia; DONALD W. LEMONS, as an individual, and as the Chief Justice for the Supreme Court of Virginia; S. BERNARD GOODWYN, as an individual, and as the Justice for the Supreme Court of Virginia; WILLIAM C. MIMS, as an individual, and as the Justice for the Supreme Court of Virginia; CLEO E. POWELL, as an individual, and as the Justice for the Supreme Court of Virginia; STEPHEN R. MCCULLOUGH, as an individual, and as the Justice for the Supreme Court of Virginia; CHARLES S. RUSSELL, as an individual, and as the Senior Justice for the Supreme Court of Virginia; LAWRENCE L. KOONTZ, JR., as an individual, and as the Senior Justice of the Supreme Court of Virginia; LEROY F. MILLETTE, JR., as an individual, and as the Senior Justice for the Supreme Court of Virginia; THE ALEXANDRIA CIRCUIT COURT, the 18th Judicial Circuit of Virginia; THE SUPREME COURT OF VIRGINIA. *Defendants-Appellees.*

Date of Final Opinion: May 26, 2022

Date of Rehearing Denial: June 28, 2022

United States District Court for the Eastern District of Virginia, Alexandria Division

No. 1:21-cv-00752

ALICE GUAN, *Plaintiff*, *v.* GARY BELL; SERGEY KATSENELENBOGEN; JEN KIM, as individuals; JAMES C. CLARK, as an individual and in his capacity as the Judge for Alexandria Circuit Court the 18th Judicial Circuit of Virginia; DONALD W. LEMONS, as an individual, and as the Chief Justice for the Supreme Court of Virginia; S. BERNARD GOODWYN, as an individual, and as the Justice for the Supreme Court of Virginia; WILLIAM C. MIMS, as an individual, and as the Justice for the Supreme Court of Virginia; CLEO E. POWELL, as an individual, and as the Justice for the Supreme Court of Virginia; D. ARTHUR KELSEY, as an individual, and as the Justice for the Supreme Court of Virginia; STEPHEN R. MCCULLOUGH, as an individual, and as the Justice for the Supreme Court of Virginia; TERESA M. CHAFIN, as an individual, and as the Justice for the Supreme Court of Virginia; CHARLES S. RUSSELL, as an individual, and as the Senior Justice for the Supreme Court of Virginia; LAWRENCE L. KOONTZ, JR., as an individual, and as the Senior Justice of the Supreme Court of Virginia; LEROY F. MILLETTE, JR., as an individual, and as the Senior Justice for the Supreme Court of Virginia; THE ALEXANDRIA CIRCUIT COURT, the 18th Judicial Circuit of Virginia; THE SUPREME COURT OF VIRGINIA. *Defendants.*

Date of Final Order: November 30, 2021

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JURISDICTION

The Fourth Circuit entered decision to deny petition for rehearing and rehearing En Banc on June 28, 2022. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS INVOLVED

U.S. Const. amend. I

> The First Amendment to the United States Constitution provides, in relevant part: "Congress shall make no law respecting an establishment of religion, or prohibiting . . . the right of the people . . . to petition the Government for a redress of grievances." U.S. Const. amend. I.

U.S. Const. amend. VII

> The Seventh Amendment to the United States Constitution provides, in relevant part: "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any court of the United States, than according to the rules of the common law." U.S. Const. amend VII.

U.S. Const. amend. XIV

> The Fourteenth Amendment to the United States Constitution provides, in relevant part: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. . . . ." U.S. Const. amend. XIV.

INTRODUCTION

The Fourth Circuit below in an astonishing move ruled to affirm due to District Court intentionally made the properly filed notice of appeal faulty which was an error Fourth Circuit Intentionally refused to correct.

Even if Fourth Circuit did not affirm based on the district court's intentional conduct to make the properly filed notice of appeal faulty, Fourth Circuit took a position that court can self-establish a claim

so it can dismiss that self-established claim with prejudice then moot all claims filed by the litigant in that legal case.

Fourth Circuit further held that, even within the court's own self-established claim, not only government and its officials (Judge and Justices and courts) can take financial contributions in return to make rulings that advance the interest of a party in a case they preside over when that party is the financial contributors or is supported by the financial contributors, and such, as well as the process of how the rulings were made do not need to be trialed by Jury, and that the conducts of those government and its officials and the financial contributors are protected by immunity, and *Rooker-Feldman* Doctrine can be applied, to rid its jurisdiction on the claim it self-established.

Shockingly, even within the court's own self-established claim, Fourth Circuit further held that 42 U.S.C. § 1983 only applies to persons acting under the color of the state law thus it does not apply to the state itself, claims against officials in their official capacity is claim against their state office, therefore there is failure to state a claim (the claim Fourth Circuit self-established) against the state (the 2 courts) or the officials (the judges and the justices).

Lower court knew its ruling will set very negative precedence, thus it ordered that its own ruling cannot be used as a precedence within its own Circuit.

Alice Guan (Yue Guan) has a PhD degree in nuclear engineering and served as the Chairwoman for the American Nuclear Society in the DMV region. Before she founded AdSTM 26 years ago, she performed

consulting work for DOD, DOE, and NRC. She also served as a lecturer and an adjunct professor at the National Defense University (NDU) in Washington, DC, and the George Washington University. She founded AdSTM, a government consulting company, and built AdSTM into a $16M/year company employing about 160 people. As the President and CEO of AdSTM, she hired her then husband Bing Ran, she also hired Gary Bell and Sergey Katsenelenbogen. Alice and Bing Ran divorced in 2007. Alice delegated management function to Bing Ran. He recommended to hire Jen Kim to manage accounting and finance, Alice Approved.

In 2018, after Bing Ran resigned all positions from AdSTM, Alice Guan began to carry out the management functions she used to delegate to Bing Ran, per the terms of an Amendment they signed.

In 2019, Protorae Law Firm used AdSTM as a plaintiff to file a suit against Alice Guan to deprive Alice Guan's management and control of AdSTM (App. 36a, case 1664). Bing Ran also filed a petition against Alice Guan (App.36a, case 3662). Both lawsuits also demanded Alice Guan return $2.3M which is Alice's company profit over several years that she already paid personal tax on per the AdSTM issued K-1. (App.39, 40a). Even though Alice Guan was conducting herself completely in accordance with the terms of the Amendment, Judge Clark and Justices violated Alice's constitutionally protected rights of freedom to speech, movement and association and rights to her property. They not only took AdSTM management and control from Alice, they ordered to remove $2.3M from Alice's personal bank accounts and took the value of 2% of Alice's stock, prohibited Alice speak with anyone in AdSTM or associated with anyone in AdSTM, prohib-

ited Alice physically be at AdSTM space, "until further order of the court". (App.46a, 47a).

Later Alice learned in Protorae office that Gary Bell, Sergey Katsenelenbogen, Jen Kim, Bign Ran, Protorae Law Firm and others used bribery and corruption to get Clark and Justices to rule (App. 41a) to deprive Alice's Constitutional and federal rights so Gary Bell, Sergey Katsenelenbogen, Jen Kim can control and manage AdSTM, and the bribery money was the $2.3M, and this bribery was not their first rodeo. (App.46a, 47a).

Alice filed a case in federal district court and demanded jury trial. Judge Rosie Alston presided over the case. Alice filed an extensive record of disputed facts and her affidavit (App.35a). She also timely filed her final responses (Dkt.78, 79) to the Motions to Dismiss. (App.35a). She filed a motion for leave and attached her 39-page 2nd Amended Complaint and Replaced "vacate state order" relief with seeking prospective injunctive relief.

Alice alleged bribery, 42 U.S.C. § 1983 violation of her constitutional rights of freedom of speech, movement, association and rights to her property, and she wanted to litigate the fraud and corruption conduct committed by the defendants who all acted under the color of state law. (App.50a). Alice sough prospective injunctive relief and monetary damages.

Eighty-two days later, Chief Judge O'Grady signed an order (App.3a-14a) in which he confined the money transactions to Judge and Justices to be financial contribution only, he established that no constitutional or federal protected rights were alleged, the scope is relitigating corporate ownership and seek to vacate

the state court order only. The order lacks mentioning anything of Alice's final response to motions to dismiss (Dkt.78, 79) or the disputed facts lists and affidavits filed by Alice (App.35a) or the 2nd Amended Complaint (App.38a). He first dismissed the claim he self-established (App.103a-104a) himself with prejudice based on lack of jurisdiction and failure to state a claim, then he mooted all of the claims filed by Alice. (App.14a).

Alice appealed. O'Grady court tried to derail the appeal by denying the $505 appeal filing fee has been paid and by not docketing the order on appeal that was attached to the Notice of Appeal.

Alice filed motions to correct the Notice of Appeal that was docketed incorrectly by the District Court, but Fourth Circuit denied this motion.

Fourth Circuit ruled to affirm district court's decision.

Fourth Circuit did not need to deny a legitimate motion to correct the incorrectly docketed Notice of Appeal with the motion aimed to ensure records are accurate and to ensure appeal that was initiated properly is recorded that way on the docket. Fourth Circuit should have corrected that record then move on with reviewing the merit of the appeal, or to state the way Notice of Appeal was docketed would not affect how it reviews the merit of the appeal. But it did not do so. Instead, the Fourth Circuit denied the motion which is to seal a properly and correctly filed Notice of Appeal into fault. Then Fourth Circuit likely used the reason that the Notice of Appeal is faulty to affirm District Court's decision.

If Fourth Circuit did not affirm based on the reason that the Notice of Appeal on the docket was

made faulty, Fourth Circuit held a position that it can self-established a claim for the legal case then dismiss that self-established claim, then it can moot the claims Alice filed so it does not have to deal with Alice's claims in that same legal case.

When Fourth Circuit was making decisions to dismiss the claim it self-established, a). it did not bother to read Alice's final responses to the motions to dismiss, b). it did not bother to read the disputed fact lists and affidavits Alice Guan filed into the records to document all the facts contained in the motions to dismiss that are disputed, c). it also did not bother to read Alice's 2nd Amended Complaint that was "attached" to the Motion for Leave to file. Fourth Circuit did not want to read those documents on records because its self-established claim is independent from and is irrelevant to the claims Alice filed.

Fourth Circuit self-established a claim which states there is no Constitutional or federal protected rights involved, money transactions from Gary Bell and Jen Kim and Sergey Katsenelenbogen to the Judge and Justices and the courts are financial contributions, the claim it established is to re-litigate corporate ownership and to seek to vacate state court order.

Within the claim that was self-established by the lower court, according to the lower court: *Rooker-Feldman* Doctrine is applicable; judicial immunity and sovereign immunity bar this Fourth Circuit self-created claim; its self-created claim failed to state a claim because § 1983 does not apply to states and persons acting under the color of state law are the states.

Fourth Circuit obviously was very concerned about how it ruled, it stated that its ruling cannot be used as a precedent in its circuit, thus it is advising all courts in the Fourth Circuit to not do what it just did to Alice, for obvious reasons:

Lower court's ruling is shocking and unprecedented. Its decision empowers the government to intentionally create a faulty notice of appeal to bypass the merit reviewing process. Its decision empowers the government to self-establish a claim so it can first dismiss that self-established claim then moot the claims litigant filed from that legal case. Its decisions undermine our core understandings of the First Amendment, the Seventh Amendment, and the Fourteenth Amendment.

If Fourth Circuit's decision is correct, then this court should overrule *Exxon* and *Lance* and *Colorado* and *Skinner* and *Johnson*.

If Fourth Circuit's decision is correct, then this court should abolish 42 U.S. Code Section 1983.

Alice only seeks prospective relief for the restoration of her property and her rights that are protected by the Constitutions. She does not seek to vacate the orders of the state court. But in so far, Fourth Circuit has tried every which way attempting to stop Alice from seeking her rights.

This Court's review is urgently needed to reaffirm that government CANNOT go against the well-established laws and the constitutions to deprive a litigant's claim from being addressed in the legal case filed, or to deprive the review of an appeal on its merit, or to dismiss a claim (even if that claim is self-established by the government itself) by violating the

Constitutions and by going head-on with other Circuit and with this Court. The petition should be granted, and Alice will engage an attorney to do the oral argument in front of this Court.

STATEMENT OF THE CASE

A. Alice Guan and AdSTM and Alice Guan's Constitutional Rights Were Violated

Alice Guan's former name is Yue Guan. She founded AdSTM in 1996 (App.31a) and established its annual revenue to $16M doing consulting work for DOD, DOE, NRC, NASA and DOT.

When Alice served as the 100% stock owner and as AdSTM's President and CEO, she hired her then husband Bing Ran in 2001 as an office assistant, and soon later, she hired Gary Bell as the manager for DOD work and Sergey Katsenelenbogen as the manager for NRC work. (App.36a). Alice and Bing Ran separated in 2006 with a separation agreement ("PSA") dated Dec 15 2006. Alice filed for divorce in 2007 in case CL07003662, and they divorced a month later through a simple divorce proceeding that costed only about $375 as fees and the Decree of Divorce incorporated the PSA. Divorce case stayed dormant for 7 years with no activities. (App.35a, App.38a).

On October 15, 2008 Alice and Bing Ran notarized an Amendment which states Alice has total control and authority in AdSTM, she delegates management functions to Bing Ran while Bing Ran needs to seek approval from Alice on any company decisions,

stockownership has no effect in AdSTM control or management. (App.38a).

Bing Ran proposed to hire Jen Kim to manage the accounting and the finance of AdSTM. He sought Alice's approval of such hiring, per the Amendment. Alice approved such hiring. (App.36a).

In 2014, upon reviewing records that were shielded from her for years, Alice discovered she was underpaid in AdSTM, she was owed several millions of dollars per the PSA, but the money owed to Alice would be a much smaller amount per the Amendment. Alice filed petition in the divorce case. Judge Clark incorporated the Amendment into the Decree of Divorce retroactively and assessed damages to Alice based on the Amendment, not the PSA, to reduce the money owed from several millions of dollars to about $500K after he permitted Bing Ran keep more than $3M Bing Ran said he borrowed from AdSTM as loans even though there were no promissory notes. Then, Judge Clark ruled Alice breached the Amendment to prevent Alice control AdSTM. On appeal, Virginia Court of Appeal ruled Alice did not breach the Amendment. (App.39a).

Bing Ran resigned in 2018, supported by a letter written by a D.C. Attorney Mark Zaid to the US government (App.40a). Alice Guan took over the management function that she used to delegate to Bing Ran. (App.40a). Alice became the only member of the Board, the only officer, and the only person that can manage and control AdSTM. (App.40a).

After Alice started to manage AdSTM, she discovered that Bing Ran took all of his AdSTM profit plus some of Alice's. By early 2019, the $2.3M profit

stored in AdSTM investment account were all of Alice's after-tax company profit, Alice could have taken it out and in the event AdSTM needs money after obtaining new contract to support immediate payroll for the employees, she can lend her money back to AdSTM, but she did not do so. Instead, she took them out as loans with detailed promissory notes and pay back installment terms. Her first several pay back installment were deposited into AdSTM bank accounts and part of which were used to expand more AdSTM offices and hiring more staffs. Alice already returned at least $120K to AdSTM accounts per the schedule on the promissory notes. She also categorized $850K as profit distribution made to her and converted $850K of the at least $3M that Bing Ran borrowed fund into profit distribution made to him, per the Amendment that equal profit distribution must be made to each of them at any time. (App.41a).

Then, Protorae Law Firm used AdSTM as a Plaintiff sued Alice Guan in a new state case CL19001664. Bing Ran filed a petition in the divorce case CL07003662. Both cases want Alice out of AdSTM's management and control and demanded Alice return $2.3M (at this time, Bing Ran has not returned his more than $3M loans back to AdSTM). (App.41a).

Judge Clark and Justices presided over these two state cases and they violated Alice's rights of freedom of speech, freedom of movement and freedom of association, and her rights to her properties, those rights are Constitutionally protected rights under the First, the Seventh, and the Fourteenth Amendments.

In case CL19001664, Alice Guan filed a counter-claim. The case was stayed. There was no final judgement. (App.80a).

In case CL07003662, Judge and Justices entered orders and conditioned their rulings' effectiveness until further order of the that court, Alice filed petition for writ of certiorari on August 21, 2021.

Judge Rosie Alston, while he was serving the judge for Virginia Court of Appeal, wrote: Judge James C. Clark's ruling resulted in Alice's "personal, pecuniary, or property rights" in AdSTM be "adversely affected" (App.42a).

B. 2019 Discovery of Past Bribery to Judge James C. Clark and Ongoing Bribery to Judge Clark and Justices

In December 2019, a bribery scheme was discovered in Protorae Law Firm Office space: Bing Ran in the past had bribed Judge Clark, Bing Ran, Gary Bell, Jen Kim, Sergey Katsenelenbogen and Protorae Law Firm members were using Alice's personal property of $2.3M (that Defendant James C. Clark helped to remove from Alice) to profit themselves and to compensate Defendant James C. Clark and Justices. (App.33a).

This discovery in connection to the violation of Alice Guan's constitutional rights constitute a new 42 U.S.C. § 1983 claim.

C. Proceedings Below

1. Alice Initiated Case 1:21-cv-00752 and Demanded Jury Trial.

In June 2021, Alice Guan sued 3 private Individuals: Gary Bell, Jen Kim and SERGEY KATSENELENBOGEN, and sued Judge and Justices in their individual capacity and in their official capacity, and sued 2 courts.

Judge Alston presided over the case.

The Federal Case Runs Concurrent with state case CL19001664 because that state case was stayed and there was no final judgement.

The Federal Case Runs Concurrent with the state divorce case CL07003662 because divorce case is always open and available for modifications to the Decree of Divorce. Also, at the time when the federal case was filed, the Petition for Writ of Certiorari of the state court order was still pending.

All defendants in the federal case are not a party and are not in privity with a party in the state cases 1664 or 3662. (App.49a).

2. Alice filed her 1st Amended Complaint (Dkt.17) as of right and Moved the Court for Leave to File Her 2nd Amended Complaint to Replace "vacate state court order" with "seeking prospective relief".

Alice filed her amended motion (Dkt.87) for leave to file a 39-page 2nd Amended Complaint and attached the proposed 39-page 2nd Amended Complaint and Alice also filed memorandum in support of amended

motion for leave – Alice Replaced "vacate state order" relief with seeking prospective injunctive relief.

Legitimate Defects Identified in Motions to Dismiss the 1st Amended Complaint Have Been Cured in the 39-page 2nd Amended Complaint. Motion for leave to file the 2nd Amended Complaint was filed timely, soon after final responses to motions to dismiss were filed. Discovery has not started.

Judge and Justices and 2 courts did not oppose this motion for leave to file.

In Alice's claim, Alice stated:

> "This case is not to review any of the order in case 3662 phase 4 or in case 1664. None of those orders are provided in this 39-page 2nd Amended Complaint and none were provided in any allegation section in the earlier version of the 1st Amended Complaint or the original complaint", "here in federal court, Alice is not seeking to take an appeal of an unfavorable state court decision to this court," "this instant case is Not to litigate ownership".
>
> "here in this case in this court, I am litigating 42 U.S. Code § 1983 and 18 U.S. Code § 242 created cause of action for the deprivation of my rights, privileges, and immunity secured by the constitution and federal laws."
>
> "I seek prospective relief from the Official Role Defendants and the Court Defendants as permitted by 42 U.S. Code § 1983 and 18 U.S. Code § 242. I seek Declaration Judge-

ment as permitted by 42 U.S. Code § 1983 and 18 U.S. Code § 242. I seek damages as permitted by 42 U.S. Code § 1983 and 18 U.S. Code § 242 from all defendants except the Official Role Defendants and the Court Defendants. I seek damages for civil conspiracy and business conspiracy. I seek damages from abuse of process and other cause of actions."

3. Alice Timely Filed Her Final Responses (Dkt.78, 79) to Motions to Dismiss the 1st Amended Complaint and Stated She Is Not Re-litigating State Case Issues and Not Seeking for a Review of State Court Orders and She Will File 2nd Amended Complaint to Cure Any Defect.

Alice filed motions for time extension to file her final responses. District court granted Alice's such motions on August 30, 2021, on the same day, Alice timely filed her final responses (Dkt.78, 79) to motions to dismiss the 1st Amended Complaint and stated that she will correct any deficiencies in her upcoming 2nd Amended Complaint and she stated that:

> "I am not seeking to litigate ownership issue in this case in this court. I am not seeking to relitigate any state case issues in this case in this court. I am not seeking this court for a review of state court orders"
>
> "In this case in federal court, I am seeking to litigate conspiracy, corruption and other wrongdoings and seeking relief from and damages caused by those conducts and by

Section 1983 and 242 cause of actions"

"I will file 2nd Amended Complaint and a motion for leave to file such to perfect the case"

4. Alice Disagreed with Many Facts Stated by Defendants' Motions to Dismiss Yet Judge O'Grady Used the Facts Presented by Defendants.

Alice's Responses in Opposition to Motion to Dismiss Identified All of Defendants' Fact that She Disagree with, by indicating the specific texts that she disagrees with.

Alice also Provided Affidavit Under Oath of Her Version of the Facts.

In writing his order, Judge Liam O'Grady relied on Defendants' facts.

5. Chief Judge Liam O'Grady Signed an Order and Presented a Judge Self-Established Claim and Did Not Even Mention Alice Guan's Final Responses to Motion to Dismiss or Disputed Facts or the 2nd Amended Complaint.

An Order was entered on November 30, 2021, signed by Judge O'Grady. The order established a claim such that the bribery money transaction was financial contribution only, there is no constitutional protected rights or federally protected rights been sought, the claim is to re-litigate corporate ownership, the relief is to vacate state court order.

Judge O'Grady dismissed with prejudice the claim he self-established, then he mooted all of Alice's claims.

In assessing the sufficiency of the claim Judge O'Grady self-established, Judge O'Grady stated "Mindful that Plaintiff is proceeding pro se, this Court liberally construes her filings. *Jackson v. Lightsey*, 775 F.3d 170, 177 (4th Cir. 2014))". Judge O'Grady portrayed that he has interpreted Alice's filings without undue emphasis on strict compliance with all procedural requirements and technicalities and that he did so with a view to bringing about a resolution that is just and fair. That is deceptive, because in his order, Judge O'Grady did not even mention a word about Alice's final responses to motions to dismiss, did not mention a word about significant portion of the facts introduced by defendants are disputed, and did not mention a word about Alice's 2nd Amended Complaint; even for Alice's 1st Amended Complaint he intended to dismiss, he picked and chose certain phrases and ignored all the rest.

6. Alice Filed Notice of Appeal and Attached Judge O'Grady's Order to the Notice of Appeal and Paid $505 Appeal Fee but O'Grady Court Did Not Include the Order in the Docketed Notice of Appeal.

Alice attached the order to the Notice of Appeal and she also stated in the Notice of Appeal that: "appeal of order as in Doc 114 (attached)." (App.108a).

7. O'Grady Court Withheld the Paid Appeal Fee.

Fourth Circuit marked the appeal fee was not paid and set a deadline for Alice pay the appeal fee. Alice moved the court to apply the $505 fees she paid to the district court to this appeal and provided the receipt of that payment. Alice moved the court again to ensure fee is marked as paid on the docket. Court mooted notices to pay. (App.111a, documents 2 and 5, App.112a documents 6, 8, 9).

8. Alice Filed Motion Seeking Fourth Circuit Correct the Incorrectly Docketed Notice of Appeal but Fourth Circuit Deferred the Ruling Even Though the Motion Is Such a Clear and Simple Motion.

Alice moved the lower court to correct the Notice of Appeal that was incorrectly docketed in the district court when the district court removed the order on appeal that was attached to the notice of appeal. (App.113a, document 10, App.108a also shows the order was "attached" to the notice of appeal). Fourth Circuit deferred the decision (App.113a, document 13) on the motion, until after all the briefs were filed.

9. Fourth Circuit Denied the Motion to Correct the Incorrectly Docketed Notice of Appeal and Affirmed District Court's Ruling and Stated Its Such Decisions Are Not to Be Used as a Precedent.

Fourth Circuit directed Alice to file an informal brief. (App.111a, document 3). Alice filed a formal

brief (App.17a-107a) within a motion (App.114a, document 14) to grant additional words.

Fourth Circuit granted (App.116a, document 28) Alice's "Motion To Grant Additional Words and Accept the Attached Brief", a motion (App.17a-20a) that stated the need of additional words is because Chief Judge Liam O'Grady in his final order on appeal has omission of facts, has commission of errors in facts, did not consider the final responses Alice filed in opposition to the motions to dismiss, did not consider Alice's Amended Motion for leave to file her 39-page 2nd Amended Complaint, the 39-page 2nd amended complaint itself, or the memorandum in supporting of the amended motion at all.

Before Fourth Circuit made ruling to affirm the district court's decision, it denied the Motion to Correct the Notice of Appeal. (App.116a, document 28).

10. Alice Filed a Petition for Rehearing and Rehearing En Banc but Fourth Circuit Denied the Petition.

Fourth Circuit denied Alice's Petition for Rehearing and Petition En Banc. (App.15a).

11. Alice Is a Pro Se and Will Engage Attorney for Oral Argument In Front of SCOTUS.

Alice is a pro se and she understands the Only Legal Limitation to a Pro Se Is that the Pro Se Is Prohibited to Argue in Front of the SCOTUS thus Alice Will Engage Lawyer to Argue if SCOTUS Grants this Writ of Certiorari

REASONS FOR GRANTING THE PETITION

Fourth Circuit took an unprecedented and very unusual move to refuse correcting a court intentionally caused error in docketing the Notice of Appeal and used that court-made error to avoid a review on merits. Fourth Circuit self-created a claim that it deemed worthy for it to dismiss with prejudice so it thought it would have created a springboard for it to moot all of Alice's claim from that particular legal case number. Fourth Circuit, in a deceptive language on the one hand claiming it "liberally construe her (Alice's) filings" but at the same time of that writing has refused to read Alice's multiple important docketed documents. Fourth Circuit's such conduct and the decision has violated Alice's Due Process and Equal Protection Rights Provided by the Fourteen Amendments and Alice's Right to Petition the Government for a Redress of Grievances Provided by the First Amendment.

Even for Fourth Circuit's own self-established claim, fourth circuit avoided to trial by Jury on its "financial contribution" part of the money transfer to the judge and justices and avoided to trial by jury the large amount of disputed facts. Fourth Circuit's such decision and conduct has infringed upon the Jury Trial Clause of the Seventh Amendment.

Finally, but very importantly, Fourth Circuit's decision to rid its jurisdiction on the claims it itself established by applying *Rooker-Feldman* Doctrine and by employing immunity, its decision to cause a failure to state a claim of its own self-created claim,

all run head on against not only the precedents from other circuits, but sadly in direct contradiction with this Court's precedent.

For these reasons, this Court should grant review on all questions presented.

I. EVEN THOUGH FOURTH CIRCUIT'S SELF-ESTABLISHED CLAIM DOES NOT REPRESENT ALICE'S CLAIM THE FOURTH CIRCUIT'S DECISION TO DISMISS ITS OWN DEFINED CLAIM STILL EXPANDED THE SCOPE OF APPLICATION OF *ROOKER-FELDMAN* DOCTRINE TO A POINT TO RUN AFOUL WITH ALL OF SCOTUS' PRECEDENTS.

Fourth Circuit formulated its own claim that it intended to be barred "against all defendants" by applying *Rooker-Feldman* Doctrine: relitigating corporate ownership (which is a Declaratory state order) to vacate state order. It did not state its claim is "specifically to review the state court judgment." Fourth Circuit did admit that there are two state cases, parties in case CL07003662 are Alice and Bing Ran, CL19001664 is a case between AdSTM and Alice. It did not claim any of the defendants in the federal case is a party or is in privity with a party in the state cases.

Case CL19001664 was stayed at the time when the federal case was filed. Thus, both state case and the federal case at best are concurrent and parallel. Case CL07003662 is a divorce case in which its final judgement is the Decree of Divorce, and the case is open so that the Decree can be modified. "Relitigating corporate ownership to vacate state order" does not lead to any modifications to the Decree of Divorce and does not implicate the merits of the decree of divorce.

In addition, order entered specifically stated that such order is only in effect "until further order of the court." Thus, case CL07003662 and the federal case are concurrent and parallel.

A. The Fourth Circuit's Decision Contradicts Directly with How Fifth and Sixth and Nineth and Eleventh and Astonishingly Fourth (Itself as well as the same VA Eastern district court) Circuits and How SCOTUS Assess the Applicability of *Rooker-Feldman* Doctrine.

Fourth Circuit's decision conflict directly with the Fourth, Fifth and Sixth and Nineth and Eleventh Circuits' and SCOTUS's precedents, all of which have held that *Rooker-Feldman* Doctrine is not applicable if the state court case has not reached final judgement, or there exists a parallel litigation in state and federal court on the same matter, or there exists a situation in concurrent jurisdiction context, or in divorce case when the specific matter (here, the corporate ownership, as Fourth Circuit itself-defined and established) in federal court does not modify the Decree of Divorce in the state case or does not implicate the merits of the decree of divorce, or when defendants in the federal case is not a party and is not in privity with a party in the state case, or the federal action is not filed specifically to review the state court judgment, *see*:

- *Lozman v. City of Riviera Beach, Fla.*, 713 F.3d 1066 (11th Cir. *2013*)
- *In re Worldpoint Interactive, Inc.*, No. ADV 03-90015, 2005 WL 6960239, at *5 (B.A.P. 9th Cir. June 28, 2005)"

- *Penn Gen. Cas. Co. v. Commonwealth of Pennsylvania ex rel. Schnader*, 294 U.S. 189, 55 S.Ct. 386, 79 L.Ed. 850 (1935)
- *Catz v. Chalker*, 142 F.3d 279 (6th Cir. 1998), *opinion amended on denial of reh'g*, 243 F.3d 234 (6th Cir. 2001)
- *Willner v. Frey*, United States District Court, E.D. Virginia, Alexandria *Division*. March 15, 2006421 F.Supp.2d 9132006 WL 680997
- *Thana*, 827 F.3d at 320.
- *Hulsey v. Cisa*, 947 F.3d 246, *251* (4th Cir. 2020)
- *In re Erlewine*, 349 F.3d 205 (5th Cir. 2003)
- *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976).
- *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 125 S.Ct. 1517, 161 L.Ed.2d 454 (2005).
- *Lance v. Dennis*, 546 U.S. 459, 126 S.Ct. 1198, 163 L.Ed.2d 1059 (2006).
- *Skinner v. Switzer*, 562 U.S. 521, 532, 131 S.Ct. 1289, 179 L.Ed.2d 233 (2011).
- *Johnson v. De Grandy*, 512 U.S. 997, 114 S.Ct. 2647, 129 L.Ed.2d 775 (1994)

B. If the Fourth Circuit Correctly Applied *Rooker-Feldman* Doctrine Then This Court Should Overrule *Exxon* and *Lance* and *Colorado* and *Skinner* and *Johnson*.

The Fourth Circuit's ruling runs head-to-head against this Court's federal jurisdiction precedents. The Analysis employed by the Fourth Circuit conflict bluntly with this Court's decisions.

Examples:

This Court stated: "Federal courts have a "virtually unflagging obligation . . . to exercise the jurisdiction given them." *Colorado River Water Conservation Dist. v. United States*, 424 U.S. 800, 817, 96 S.Ct. 1236, 47 L.Ed.2d 483 (1976). In the state-federal concurrent jurisdiction context, "the pendency of an action in [a] state court" generally is considered "no bar to proceedings concerning the same matter in the Federal court having jurisdiction." *Id.* at 817, 96 S.Ct. 1236 (citation omitted)."

Furthermore: "This Court consistently permitted federal jurisdiction when there exists a parallel state litigation. *Rooker-Feldman* doctrine and the Supreme Court's appellate jurisdiction over state court judgments does not stop district court from exercising subject matter jurisdiction simply because party attempts to litigate in federal court a matter previously litigated in state court. *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 125 S.Ct. 1517, 161 L.Ed.2d 454 (2005). When there is parallel state and federal litigation, *Rooker-Feldman* doctrine is not triggered simply by entry of judgment in state court while federal action is pending. *Id.*"

The Fourth Circuit did the opposite, barring its own self-established claim "against all defendants" "under *Rooker-Feldman* Doctrine" insulting what this Court has ruled and contrary to other circuits' federal jurisdiction precedents, when the fourth Circuit had the full knowledge that state case and federal case are parallel and none of the defendants in federal case are any party or are in privity with a party in the state cases.

Fourth Circuit's decision and this Court's precedents are mutually exclusive. The Fourth Circuit's conclusion that *Rooker-Feldman* Doctrine applies goes directly against this Court's precedents. If the Fourth Circuit Correctly Applied *Rooker-Feldman* Doctrine, then This Court Should Overrule *Exxon* and *Lance* and *Colorado* and *Skinner* and *Johnson*.

II. INSANE DECISIONS FROM THE FOURTH CIRCUIT IS THAT IT FIRST CATEGORIZES 42 U.S.C. § 1983 DOES NOT APPLY TO STATE THEN CATEGORIZES CLAIM AGAINST OFFICIALS IS CLAIMS AGAINST THE STATE THUS THERE IS A FAILURE TO STATE THE VERY CLAIM THAT THE FOURTH CIRCUIT SELF-ESTABLISHED – IF THIS IS CORRECT THEN THIS COURT SHOULD ABOLISH 42 U.S. CODE SECTION 1983.

Fourth Circuit's self-established claim does not contain any violation of constitutional or federal statutes. Fourth Circuit further held that "§ 1983" is "against 'any person'" but "a state 'is not a person within the meaning of § 1983.'", "Therefore, neither the Circuit Court of Alexandria nor the Virginia Supreme Court are 'persons' under this statute." It also uses "a suit against a state official in his or her official capacity is not a suit against the official but

rather is a suit against the official's state office" and the state office is already proven not subject to "§ 1983". Therefore, Fourth Circuit ruled its self-established claim failed to state a claim against all defendants, including the courts and the officials. This insane, circular, contradicting, and absurd logic of Fourth Circuit, if is correct, then this Court should abolish 42 U.S.C. § 1983 because based on Fourth Circuit's decision, there is absolutely no one ever can be held liable under 42 U.S. Code Section 1983: state is not liable, officials acting under the color of state law is the state office so they are also not liable.

III. EVEN THOUGH FOURTH CIRCUIT'S SELF-ESTABLISHED CLAIM DOES NOT REPRESENT ALICE'S CLAIM THE FOURTH CIRCUIT'S DECISION TO USE SOVEREIGN IMMUNITY AND JUDICIAL IMMUNITY TO RID ITS JURISDICTION NOT ONLY CONTRADICT WITH THE PRECEDENTS OF OTHER CIRCUITS AND SCOTUS BUT ALSO IN ITSELF CREATED AN ACTION THAT IS SUBJECT TO 42 U.S.C. § 1983.

Even though Fourth Circuit's self-established claims states it does not contain any issues of constitutional or federal statutes, instead it claims it contains only financial contribution made to the Judge and Justices, Fourth Circuit however did not deny that officers obtaining financial contribution to in turn provide rulings to benefit the payor does involve constitution and federal questions, *i.e.*, such actions can be a violation of federal law even when the money transaction is financial contribution only. For that reason, fourth Circuit's decision to rid its jurisdiction on the claim it self-established based on immunity contradict with the 2nd Circuit in such that:

> "It is more consistent with traditional principles of restraint to reach the merits when the constitutional right in question does not exist than when it does. 42 U.S.C.A. § 1983. *Horne v. Coughlin*, 191 F.3d 244 (2d Cir. 1999)."
>
> "Courts generally prefer some prolongation of uncertainty over unnecessary, hasty resolution of constitutional questions. *Horne v. Coughlin*, 191 F.3d 244 (2d Cir. 1999)"

Fourth Circuit's decision to rid its jurisdiction based on immunity also runs against the *Ex parte Young* exception, which states: "The Ex parte Young exception to a State's sovereign immunity rests on the premise that when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes. U.S. Const. amend. XI." *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 131 S.Ct. 1632, 179 L.Ed.2d 675 (2011).

Fourth Circuit's decision is even more on the opposite side of those precedents establish by other Circuits and SCOTUS because state court order clearly stated that the order on corporate ownership (which is what Fourth Circuit's self-established claim contains) is effective "until further order from this court" indicating that "prospective relief" has been designed to be implemented to remove the order regarding the corporate ownership at some point in time. This makes the *Ex parte Young* exception completely not only necessary but also practical.

Furthermore, considering case 1664 has been stayed, and case 3662 is an open case, "prospective

relief" is a intended method to correct any or any potential violations of federal law by the conduct of judge and justice taking "financial contribution" to benefit the payors.

Such "prospective relief" can only be provided by a trial by Jury, as demanded in the federal case. Thus, Fourth Circuit dismissing its own self-established claim by ridding the judication based on immunity is a violation of 42 U.S.C. § 1983 in itself through its refusing to provide constitutionally guaranteed due process and access to court proceedings (1st, 7th, and 14th Amendments), let alone such decisions of Fourth Circuit undermined the well-established precedents of other Circuit and SCOTUS.

Because the Corporate ownership and financial contribution ties to both Case 1664 and Case 3662 contain elements of "engaging future conduct" and "ongoing violation," Fourth Circuit's decision also runs directly against SCOTUS's precedents established by *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 131 S.Ct. 1632, 179 L.Ed.2d 675 (2011) in which "In determining whether the doctrine of *Ex parte Young* avoids an Eleventh Amendment bar to suit, a court need only conduct a straightforward inquiry into whether the complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective. U.S.C.A. Const. Amend. XI."

Such "ongoing violation" of law, the made-ready "prospective relief", and "future conduct" are contained Fourth Circuit' own self-established claims stating the existence of financial contribution and corporate ownership and they are directly provided by the state court itself in stating the order is effective until further order of that court. Given such clarity of the matters,

Fourth Circuit's decision also run afoul with Fourth Circuit in that:

> "Secretary of North Carolina Department of Health and Human Services (HHS) was properly named as defendant, in his official capacity, in Medicaid-eligible children's § 1983 action, asserting claims for prospective relief from which Secretary was not protected by Eleventh Amendment immunity, under *Ex parte Young* doctrine, based on HHS's allegedly ongoing violation of Due Process Clause and Medicaid Act, since Secretary was person responsible for assuring that HHS's decisions complied with federal law. U.S. Const., amend XI, U.S. Const., amend. XIV; Medicaid Act, §§ 1902(a)(3, 17), 1905(r)(5), 42 U.S.C.A. §§ 1396a(a)(3, 17), 1396d(r)(5); 42 U.S.C.A. § 1983." *D.T.M. ex rel. McCartney v. Cansler*, 382 F. App'x 334 (4th Cir. 2010).
>
> "Federal courts may grant prospective injunctive relief against state officials to prevent ongoing violations of federal law." *CSX Transp., Inc. v. Bd. of Pub. Works of State of W.Va.*, 138 F.3d 537 (4th Cir. 1998).

Furthermore, state officers acting in their official capacity are not entitled to Eleventh Amendment protection: "Claims of plaintiffs, against state, state agencies and education officials with respect to assertion that use of national teacher examinations for certification and pay purposes violated equal employment opportunities provisions of Civil Rights Act were not barred by the Eleventh Amendment. Civil Rights Act of 1964, § 701 et seq. as amended 42 U.S.C.A. § 2000e et seq.; U.S. Const., amend. XI."

United States v. State of S.C., 445 F. Supp. 1094 (D.S.C. 1977), *aff'd sub nom. Nat'l Educ. Ass'n v. South Carolina*, 434 U.S. 1026, 98 S.Ct. 756, 54 L.Ed.2d 775 (1978).

When Fourth Circuit itself established a claim of financial contribution linked with corporate ownership ruling then it rids itself the jurisdiction of its own defined claim also runs contrary with the following precedents:

> "The history of judicial immunity in the United States is fully consistent with the common-law experience. There never has been a rule of absolute judicial immunity from prospective relief, and there is no evidence that the absence of that immunity has had a chilling effect on judicial independence." *Pulliam v. Allen*, 466 U.S. 522, 104 S.Ct. 1970, 80 L.Ed.2d 565 (1984).
>
> "While there is a need for restraint by federal courts called upon to enjoin actions of state judicial officers, there is no support for a conclusion that Congress intended to limit the injunctive relief available under § 1983 in a way that would prevent federal injunctive relief against a state judge. Rather, Congress intended § 1983 to be an independent protection for federal rights, and there is nothing to suggest that Congress intended to expand the common-law doctrine of judicial immunity to insulate state judges completely from federal collateral review. Pp. 1978–1981." *Id*, at 522, 523.

> "Judicial immunity is not a bar to prospective injunctive relief against a judicial officer, such as petitioner, acting in her judicial capacity. Pp. 1974–1981 . . . . that judicial immunity did not extend to injunctive relief under § 1983." *Id*, at 522.

Finally, Fourth Circuit's decision protected the defendants, in contrary to this precedents that require Jury trial to assess damages caused by defendant's action even when that action only involve financial contribution and the related corporate ownership: Furthermore, Judge and Justices are personally liable for damages because our system of jurisprudence rests on the assumption that all individuals, whatever their position in government, are subject to federal law. *Butz v. Economou*, 438 U.S. 478, 98 S.Ct. 2894, 57 L.Ed.2d 895 (1978).

IV. FOURTH CIRCUIT'S DECISION INFRINGED ON ALICE'S DUE PROCESS AND EQUAL PROTECTION RIGHTS PROVIDED BY THE FOURTEEN AMENDMENTS AND ALICE'S RIGHT TO PETITION THE GOVERNMENT FOR A REDRESS OF GRIEVANCES PROVIDED BY THE FIRST AMENDMENT AND ON ALICE'S RIGHT TO JURY TRIAL PROVIDED BY THE SEVENTH AMENDMENT AND SUCH DECISION CONTRADICTED OTHER CIRCUIT'S AND THIS COURT'S PRECEDENTS.

Fourth Circuit violated Alice's rights provided to her by the First, Seventh, and Fourteenth Amendments when Fourth Circuit refused to review the appeal on merit, refused to have Alice's claim remain inside the specific federal case under case number 1:21-cv-00752, refuse to read Alice's filings, and deprive the jury

trial on issues that should be trialed by Jury. Fourth Circuit's conduct contradicted the precedents such as:

The First Amendment protects "the right of the people . . . to petition the Government for a redress of grievances." U.S. Const. amend. I. The Supreme Court has "recognized this right to petition as one of 'the most precious of the liberties safeguarded by the Bill of Rights,' and . . . explained that the right is implied by '[t]he very idea of a government, republican in form[.]' "*BE & K Constr. Co. v. NLRB*, 536 U.S. 516, 524–25, 122 S.Ct. 2390, 153 L.Ed.2d 499 (2002) (first alteration in original) (citation omitted) (first quoting *United Mine Workers of Am., Dist. 12 v. Ill. Bar Ass'n*, 389 U.S. 217, 222, 88 S.Ct. 353, 19 L.Ed.2d 426 (1967); and then quoting *United States v. Cruikshank*, 92 U.S. 542, 552, 23 L.Ed. 588 (1875)).

"[T]he right to petition extends to all departments of the Government[, and] [t]he right of access to the courts is . . . but one aspect of the right of petition." (citations omitted). *Cal. Motor Transp. Co. v. Trucking Unlimited*, 404 U.S. 508, 510, 92 S.Ct. 609, 30 L.Ed.2d 642 (1972).

The central features of due process are notice and an opportunity to be heard. U.S. Const. Amend. XIV. *Graham v. R.J. Reynolds Tobacco Co.*, 857 F.3d 1169 (11th Cir. 2017).

Right of trial by jury provided in Seventh Amendment extends beyond the common-law forms of action recognized at time of amendment's adoption and the amendment may well be construed to embrace all suits which are not of equity and admiralty jurisdiction, whatever might be the peculiar form which they may assume to settle legal rights. U.S. Const.,

amend. VII. *Curtis v. Loether*, 415 U.S. 189, 94 S.Ct. 1005, 39 L.Ed.2d 260 (1974)

Seventh Amendment right to jury trial includes more than common-law forms of action recognized in 1791 and extends to causes of action created by Congress. U.S.C.A. Const. Amend. VII. *Chauffeurs, Teamsters & Helpers, Loc. No. 391 v. Terry*, 494 U.S. 558, 110 S.Ct. 1339, 108 L.Ed.2d 519 (1990).

A. The Fourth Circuit Authorized to Bypass the Merit Review of an Appeal by Creating Fault in a Notice of Appeal that Was Filed Properly.

By doing so, Fourth Circuit deprived Alice's right to access the court for a review of her appeal on the merits, violated Alice's Due Process and Equal Protection Rights Provided by the Fourteen Amendments and Alice's Right to Petition the Government for a Redress of Grievances Provided by the First Amendment.

B. The Fourth Circuit Elected Not to Hear Alice's Claims Filed in the Particular Case 1:21-cv-00752 by Mooting Alice's Claim.

Whether or not Fourth Circuit has the legal rights or authority to self-establish its own claim that it wants to dismiss with prejudice, whether or not that attempted dismissal is successful or not (as stated in this petition, that dismissal was made in error and was made contrary to precedents set by Circuits and SCOTUS), however irrelevant the claim established by the court is from Alice's claims, Fourth Circuit should have let Alice's claim stayed within

case 1:21-cv-00752, instead of forcing her to file her claims in a new case.

Fourth Circuit mooting Alice's claims in case 1:21-cv-00752 has violated Alice's Due Process and Equal Protection Rights Provided by the Fourteenth Amendments and Alice's Right to Petition the Government for a Redress of Grievances Provided by the First Amendment, and it took away Alice's right to petition and to have access to the court under case 1:21-cv-00752.

C. The Fourth Circuit Did Not Consider Much Less to Construe Much Less Liberally Construe Alice's Filings.

Unlike what Fourth Circuit stated abut it "liberally construes her (Alice's) filings", Fourth Circuit has turned two blind eyes to Alice's final response to motions to dismiss, her lists of disputed facts, and her 2nd Amended counterclaim. Fourth Circuit's such conduct has violated Alice's Due Process and Equal Protection Rights Provided by the Fourteenth Amendments and Alice's Right to Petition the Government for a Redress of Grievances Provided by the First Amendment.

D. For Fourth Circuit's Own Self-Established Claim Fourth Circuit Bypassed Trial by Jury on Its Own Established "Financial Contribution" Matters and on Issues of Disputed Facts.

Well documented dispute of the facts has been in the docketed records.

This Court required that: "It is up to the jury, . . . , to determine whether a public official agreed to perform an "official act," . . . which makes it a crime for a public official to demand anything of value in return for being influenced in the performance of any official act, at the time of the alleged quid pro quo; the jury may consider a broad range of pertinent evidence, including the nature of the transaction, to answer that question." 18 U.S.C.A. § 201(a)(3), (b)(2) *McDonnell v. United States*, 136 S.Ct. 2355, 195 L.Ed.2d 639 (2016)

Even though Fourth Circuit limited bribery to financial contributions only, it prohibited the Jury trial on such financial contributions. Jury trial is required to find facts on the intent of the payor, whether the officials demanded the financial contributions, defendant intended for his payments to be tied to specific official acts or omissions, whether officials agreed explicitly or implicitly to perform or omit certain act, what have been the ongoing course of conduct involving the financial contribution. These are the same matters required to be tried in 18 U.S.C.A. § 201(b)(1)(A), (c)(1)(A). " *United States v. Jennings*, 160 F.3d 1006 (4th Cir. 1998); in 18 U.S.C.A. § 201." *United States v. Jefferson*, 674 F.3d 332 (4th Cir. 2012), as amended (Mar. 29, 2012), and in 18 U.S.C.A. § 201 (a)(3), (b)(2)." *McDonnell v. United States*, 136 S.Ct. 2355, 195 L.Ed.2d 639 (2016).

Fourth Circuit Bypassing Trial by Jury on Its Own Established "Financial Contribution" Matters and on Issues of Disputed Facts has violated the Jury Trial Clause of the Seventh Amendment.

V. REMARKABLY IMPORTANT ISSUES ARE RAISED IN THIS CASE.

Several questions are presented, and the related issues are raised in this case, as shown above, needing not to repeat them here again.

Some of the questions are basic, basic to a point that touches and embodies the very fundamental rights that are guaranteed by our Constitution. Some of the issues are also basic and are almost century old and the precedents can be said to have been set in stones. But, why Fourth Circuit violated those Constitutions and contradict those precedents?

It does so, because it knows it can, untouchable.

How often does this happen? How often does this happen to a case of a pro se? how often does this happen to a case with lawyers? One does not know unless one sits down and read cases by cases by cases and see the details of each of them and see where and how the case takes a turn, to wither, to grow more silent, to end, in a sometimes very toxic environment where judge and justices use their power to violate the laws but never gets caught.

They do not get caught because they are too powerful, holding too much authority over the wellbeing of every lawyer that goes in front them, holding too much influence over anyone who belongs to this very same club, the legal community club, exclusive, tightly knit, cooperative.

We do not know what we do not know, until we seek and find and learn, and become astonished and sickened by what we read.

But, we will all agree that:

Federal court cannot use its power and authority to administer any legal case by violating the Constitution, by knowingly contradict the clear and well-established laws, no matter how badly it wants to extinguish a legal case, or to steer a case in the direction it wishes to go. This case, through this petition, has shown an aspect of the face of the Fourth Circuit, what is displayed in front of the audience is sad, but it has happened. These issues need to be addressed, these questions need to be resolved, because by doing so, the integrity of the legal system, the integrity of the Constitution, and the wellbeing of everyone involved in any future cases, are better protected.

VI. GRANTING A WRIT OF CERTIORARI CREATES A PERFECT OPPORTUNITY TO RESOLVE THE QUESTIONS PRESENTED.

There is no other way.

CONCLUSION

Alice is brave enough to overcome most of the technical challenges, and overcome the overwhelmingly suppressive environment, to come to this Court to seek resolutions to these very important questions involving constitutional rights and involving significant laws. This Court should give this case a chance. Thus, this petition for a writ of certiorari should be granted.

Respectfully submitted,

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