No. 22-902

IN THE

# Supreme Court of the United States

SARA GONZÁLEZ FLAVELL,

Petitioner,

- v.-

TRACY JANE MARSHALL AND REED GROUP LTD,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

## PETITION FOR WRIT OF CERTIORARI

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## QUESTIONS PRESENTED

Petitioner brought her action in D.C. Superior Court claiming relief against a third-party administrator and its nurse supervisor of a disability program of an international organization, the "World Bank", for $40,375, and punitive damages and for pain and suffering caused by their tortious acts during administration. Respondents removed claiming 'diversity jurisdiction'. On March 17, 2022 the District Court Ordered dismissal of Petitioner's complaint and denied Petitioner's motion to remand, ostensibly basing its decision on erroneous factual findings (without evidence) and through the misapplication of numerous properly stated rules of law. On April 4, 2022 Petitioner appealed the non-final order. Whereupon on April 12, 2022 the District Court ordered the case closed. In December 2022 the Court of Appeals issued final judgment upholding the March Order. The Court of Appeals did not remand and denied Petitioner's requested leave to amend. These courts by combined exclusionary conduct ending Petitioner's state action.

Whether the two federal courts may in this manner and by issuing these rulings deprive a litigant of the right to pursue their state action in state court, the Court of Appeals having so far departed from the accepted and usual course of judicial proceedings, and sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power. Whether they exceeded their power in refusing to follow precedent and apply the law, and so as to deny any rights exist against contractors engaged by International Organizations, thereby extending immunity not granted to such parties by Congress. And whether the Constitution and this Court's decisions can be construed to authorize such broad determination outside judicial federal boundaries.

## PARTIES TO THE PROCEEDINGS

All parties appear in the caption of the case on the cover page[1].

## RELATED PROCEEDINGS

There are no related proceedings.

The district court, App.B, stated as controlling this action its decision in the unrelated action: *Sara González Flavell v. Collier and Reed Group,*: 20-cv-00959-DLF, 2021 WL 3856615, (D.D.C. Aug. 30, 2021). These Respondents did not move to join the actions and could not.

[1] The district court, without respect for this Petitioner's heritage, culture, or dignity, disregarded her correct and correctly-composed, paternal-maternal surname as filed and on Complaint, unilaterally truncating/distorting this, despite Petitioner's filings and protest.

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## PETITION FOR WRIT OF CERTIORARI

Petitioner, Sara González Flavell, respectfully petitions for a writ of certiorari to review the final judgement of the U.S. Court of Appeals for the District of Columbia Circuit in this case.

## OPINIONS AND ORDERS BELOW

The decision of the Appeals Court, App.A., is unreported. The orders of the District Court granting motion-to-dismiss and denying motion-to-remand, App.B., and closing the case App.C., are unreported.

## JURISDICTION

The Court of Appeals' decision was entered December 16, 2022. Jurisdiction of this Court is invoked under §1254(1) and Supreme Court Rule 13(3).

## STATUTORY PROVISIONS INVOLVED

The pertinent provisions of the D.C. Code and of U.S.C. 28 §1332(a), §1441, and §1446; are reproduced in App.E.

## STATEMENT OF THE CASE

*Factual History*

In 1988 Petitioner was recruited by the World Bank, an international organization ("IO"), operating in the District of Columbia. From 2012 onwards Petitioner suffered physical and emotional abuse at the hands of Petitioner's manager, a Vice-President in the World

Bank's highest senior management ranks. In 2014 she requested an Ethics Unit harassment investigation. The abuse predictably increased, unchecked. The Ombudsman office and HR advised Petitioner remove herself from the abusive traumatizing situation on disability leave while investigation took place. Reed Group, was the disability plan administrator administering the World Bank's non-ERISA-governed program. Petitioner applied on Reed Group's forms including medically substantiating claims statements, and Reed Group accepted her into the program as of June 2, 2015. On July 1, 2015 Petitioner, at home on disability, received a redundancy notice by courier. Petitioner appealed the redundancy notice to the IO's tribunal. In 2016 her Ethics complaint was substantiated.

In March 2017 Petitioner, sufficiently recovered, provided Reed Group's standard return-to-work-form, signed by her treating physician. It was at this point that Defendant Marshall communicated to Petitioner that her RTW Form could not be accepted, Marshall indicating in March 2017 Petitioner would require Independent Medical Exam for long-term disability, and may never return to work. The Respondents refused to release her from the disability program. In April, in an effort to return to her position which was under threat, Petitioner underwent at her own expense further medical evaluation and provided Fitness for Duty Report and confirmatory evaluations. Respondents continued irrational non-medical-evidence-based refusal, advising World Bank that Petitioner remained in the program and must remain on disability pay (70% salary). Petitioner appealed to the IO and its WBAT.

World Bank refused Petitioner's return to the office, its legal department advising her attorney and its Tribunal that it could not take such decision, writing that disability administration was wholly-controlled and the

sole prerogative of Reed Group, which made all disability determinations, including medical review, under the program, and for the benefit of participants. Reed Group with full determination powers was the sole entity that could determine her return. In late May WBAT ruled on Petitioner's redundancy appeal, in her favor, finding her redundancy and its notification unlawful. Only in June did Reed Group, without further medical information, act on her March medical return-to-work-form, releasing Petitioner from the program as of June 7, not back-dated, despite no disability or claims since March. Petitioner was/is out-of-pocket the 30% ($12,000) salary lost due to unlawful arbitrary detention in the disability program And $25,000 legal fees attempting to return-to-work and gain disability program release. In December 2017 World Bank terminated Petitioner's career, stating it was enforcing its unlawful redundancy.

*Procedural History*

On April 5, 2021, Petitioner commenced her action in D.C. Superior Court against Marshall the Colorado-based nurse case supervisor/medical practitioner of Petitioner's disability case, and Reed Group. The Complaint claims negligence medical malpractice (including false imprisonment, violation of privacy of medical files distributed to non-medical colleagues, and falsification of medical documents), and IIED, in contravention of D.C. common law, and Marshall failing to meet DC healthcare professionals license requirements. Petitioner claims damages in a known sum: medical: $3,375; Legal: $25,000; Specific Financial Loss: 30% of salary from March to June, 2017 when detained on 70% disability not medically-substantiated ($12,000); and unspecified amounts for pain and suffering and punitive damages.

On May 24, 2021, Respondents' removed the case, App.D., under §1441 based on §1332 "Diversity of Citizenship; Amount in Controversy" App.E. On June 1, 2021 Respondents' moved to dismiss. On June 21, 2021 Petitioner filed motion to remand. On June 25, 2021 she filed her opposition to the motion to dismiss. Including a separate specific request for leave to amend her Complaint. On July 6, 2021 Respondents' filed Opposition to remand. On July 13, 2021 Plaintiff filed her "Reply Brief", stamped 'received' yet nevertheless omitted from the docket. Never considered by the court.

On March 17, 2022 the court issued its Order, App.B., granted Respondents' motion-to-dismiss under 12(b)(6) based on legal issues, inter alia, determining no fiduciary duty of care existed, without regard to the relationship between the parties, without allowing evidence as to this or any other matter. Granting dismissal based on a complaint in another action (in which also no evidence had been adduced), not the Complaint here. And without granting Petitioner's request for leave to amend. In clear error. Contrary to this Court's determination in *Foman v. Davis*, 371. U.S. 178 S.Ct. (1962). Next denying remand. Ignoring that the Removal Notice fails to include any brief statement as to the amount-in-controversy being in excess of $75,000 (so not meeting the requirement to state grounds under §1332(a)), instead judicially determining the amount and so granting itself jurisdiction.

In the face of the clear error of the district court's order, the Petitioner, on April 4, 2022, filed notice of appeal. Whereupon, by Minute Order of April 12, 2022 the district court, now divested of authority, and which should have awaited outcome of the appeal, dismissed and closed Petitioner's case App.C. Doing so before Petitioner filed her Appeal Brief, which was to have raised the collateral order doctrine, and an intended

separate Motion moving the appellate court for leave to file simultaneously concurrent Amended Complaint in the district court while her appeal was heard.

On December 16, 2022, the Appeals Court issued judgment, per curium, App.A. and did not remand, despite the need to do so given the minute order's issuance, by failing to act allowing the District Court's order to so effectively put the Petitioner out of court.

*Summary of Argument*

This case squarely presents important issues of statutory interpretation and application, judicial discretion and authority, that, as the decision below emphasized, gives a district court greater power than that granted by Congressional statute. Worryingly for state courts, despite lack of a 'short plain statement' of §1332(a) grounds, the court decided the statutory removability of the state claim based on another complaint not before it. Finding the amount of damages under this Complaint, must be pre-determined by that other action, and so not the product of design in this action. Congress requires diversity jurisdiction arise only if the action meets the statutes pre-conditions precisely because important and sensitive matters are implicated: comity, the powers of State courts to hear cases properly before them, and a litigants right to choose forum, electing to file for less than $75,000 and so be master of their own suits. The statute requires absolute adherence. In this manner Congress sought to curtail federal courts considering matters which do not merit the use of their resources, conserve state courts autonomy, and to guard against the influence of any one judge's predilections, ensuring greater public confidence and more accurate judicial decision-making. Denial of remand was without authority. The Appeals Court failed to address the very jurisdictional issue Petitioner had raised to it, lack of

subject-matter jurisdiction, and authority, for the district court's Order and for its own review of that non-final Order.

The granting of motion-to-dismiss was without jurisdiction but in any event also erred as to questions of law. Allowing the judge to determine that in her singular view, another action controlled, so this Complaint before her failed to state a claim under FRCP 12(b)(6). On her reasoning a different (only non-fiduciary) duty-of-care arises when an IO engages independent administrator, rather than the duty-of-care being determined on the facts of, and documents underlying, the case. Proceeding instead on no evidence, in contravention of procedural requirements, and this Court's precedents and with the holdings of the D.C., and all other Circuits. The court committed clear error in not considering facts properly before it and stated in the Complaint, which was not accepted as true, as well as Petitioner's filings as to the nature of the contract and agreement between her and the Respondents. The Complaint provides sufficient facts from which the allegations might be plausible; meeting pleading requirements. The court should have looked no further. As this Court has repeatedly recognized, fact-intensive questions should not be resolved at the motion-to-dismiss stage. This basis for granting dismissal cannot stand.

The Appellate Court failed to review to the correct standard "de novo". Instead stating Petitioner had not proved the district court 'had erred'. Also affirming the denial of leave to amend, and failing to remand, and to state the case not closed, in the face of clear judicial abuse and error. Its final judgment in effect giving weight to the unlawful Minute Order, upholding the closure as a practical matter, depriving Petitioner of the ability to make further filings. Which she is unable to do: the district court informs her the case is closed, as does DC

Superior Court. Both filing offices stating she cannot even file motion to vacate as the case states 'closed'. So putting Petitioner effectively action out of court, baselessly. Her action terminated by these federal courts despite lacking jurisdiction to act in the matter at all.

A related but independent important question of first impression is whether an appeals court can fail to correct abuse properly before it. It could not avoid knowing the Minute Order amounts to a refusal to adjudicate and denies Petitioner her Constitutional due process rights, and her procedurally protected right to bring her state law action. And to a meaningful opportunity to be heard when litigating, *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982). It was necessary for the appellate court to determine the Minute Order, at very least in excess of prescribed authority. It failed to do so.

The question for this Court is whether a court of appeals can ignore such obligation in performing its appellate duties.

This Court's resolution will determine whether this case proceeds in D.C. Superior Court, where it belongs, or has been forever 'closed' a pragmatic denial of her constitutional and State right to bring her action.

The case also presents another equally important jurisdictional matter for review, whether a district court may continue to issue orders administering a case after notice of appeal places the matter properly in the appellate court. The district court's continued administration despite appeal, condoned by lack of correction, will stand, if not reversed, for the proposition that two courts may simultaneously control one case through exercising parallel jurisdiction. Creating havoc and disarray in both federal and State cases and courts alike. Resolution of this question by this Court is a matter of great practical importance.

Additionally, the case is in clear error in refusing Petitioner's request to amend, made before the March Order yet not there addressed. Rule 15 governs, stating a party may amend with leave and courts "should freely give leave when justice so requires." Denial without any apparent justifying reason was an abuse of discretion. Yet the appellate court denied Petitioner's appeal of that abuse, contrary to this Court's determination in *Foman* (supra). This Court should clarify the law and supply remedy.

The determination, wrong on so many footings, raises a paramount critical concern. The judgments are so controversial and incorrect, as to question the basis for such determinations. It is impossible, with so many clear errors in the lower courts' rulings, to avoid the conclusion that the identity of the party contracting the Respondents played a part in the courts' decisions. These federal courts believed this justified flouting all conventions and its own boundaries. Which rulings, without transparency, also determined a different (non-fiduciary) duty-of-care arises when an IO engages independent administrators, irrespectively, rather than determining the legal issue on the facts and documents underlying the case. The D.C. federal courts routinely having ruled in favor of international organizations (this Court having to correct both lower courts in *Jam v. IFC*, 586 U.S. 139 S.Ct. 759 (2019) the Jam ruling setting forth a new rubric in order to allow actions in the United States in keeping with the times and foreign state immunity exceptions. Regrettably lower courts still seem disinclined to follow this Court's lead for impartiality and a ruling is sought to clarify the matter.

Administrators engaged by IOs must be no less accountable for their actions than others irrespective of IO functional immunity, which Congress has extended under the IOIA solely to IO's (not their agents or third-

party-contractors). Otherwise U.S. administrators of IO plans, otherwise bound by US law, will be outside the control of any law and participants will be at their mercy, without independent or external appeal to enforce rights against wrong-doing by IO's contractors.

Certiorari is sought because of the failure to respect Congress's limits, reflected in statute, both as to diversity jurisdiction and IOIA immunity, which an IO cannot extend through contract.

And for clear error.

And to correct the mockery with which the lower federal courts rulings here treat time-honored practice, precedent and procedure established by this Court, and disregard their statutory judicial duty as to appellate review, their acts demeaning the judicial system. Straying so far outside their Constitutional function and perverting justice as to call for an exercise of this Court's supervisory power under Supreme Court Rule 10.

For all these reasons the appellate judgment affirming warrants this Court's review.

## REASONS FOR GRANTING THE PETITION

This case presents compelling reasons for certiorari.

First, the decision creates new law and splits with other Circuits. It means that different appeals courts will continue to operate differently in different jurisdictions and even federal jurisdiction itself will depend on which circuit an action is brought in. Creating new circuit division on recurring questions (below) that only this Court can resolve.

Second, the questions are important. Including to secure and maintain the uniformity of judicial decisions, and to uphold jurisdictional limits set by Congress which

should not be circumvented by judicial re-interpretation of statute in a manner not intended. If unchecked it will thwart the expressed will of Congress concerning diversity jurisdiction and IO immunity restriction, and allow the judiciary to take legislation into their hands.

Third, the final judgment below is incorrect. The Appeals Court compounded the District Court's errors by applying the wrong standard, and refusing to review the very removal notice under appeal, such abuse of its statutory purpose cannot be upheld. For the very purpose of perverting justice, it has ignored blatantly previous Supreme Court rulings, and its own, requiring this Court's correction.

Fourth, if certiorari is not granted then the Petitioner has had her right to bring her action put out of any court, obstructing justice, denying her 'due process' and civil rights. The appellate court's ruling in these circumstances is a biased attempt to withhold a wholly state case from state court. There are stark comity issues raised. This Court must restore jurisdictional boundaries on federal courts.

Fifth, this case is an ideal vehicle to resolve the questions raised and provide definitive guidance on the interpretation and application of the laws involved throughout the United States and resolve clear conflicts of law, and courts.

Sixth, this proceeding sets dangerous precedent, with both lower courts determining each had simultaneous parallel jurisdiction that could be concurrently exercised, and over a state case. Any relief that Petitioner could seek is directly limited by the unlawful Minute Order, App.C., and the appellate court's omission to correct and remand. So 'de facto' agreeing to closure "effectively putting the litigants out of court". Despite her attempts, no court now accepts Petitioner's filings in this on-going action. Certiorari is warranted. On

this point certiorari is necessary to correct the Appeals Court's failure to check the lower court's unlawful act, and for this clear indisputable legal error.

Seventh, the case presents an important matter of first impression concerning the right to bring state suits against third-party contractors engaged by international organizations who should not be held to a different standard of application of common law principles. It cannot pass unnoticed that the identity of the IO engaging the contractor Reed Group was taken into account. It has this IO's thumbmarks all over it. The rulings opaquely, but in reality, determine contractors engaged by IO's can hide behind a cloak of immunity not Congressionally granted. To retain immunity over administration of its plan an IO must administer this itself. The policy behind IO immunity cannot be applicable or extended to third-party contractors, who should operate in accordance with prevailing state law, laws that govern them irrespective of whom contracts their services (See *DynCorp.* below). Individuals must have rights against external U.S. administrators of IO plans that those individuals either pay into, or receive as part of their emoluments. Certiorari is necessary to protect the right to equal treatment by federal courts and equal application, free from interference by those who believe they may operate outside all laws. And non-party influence over a case.

Any other such expansion of IO functional immunity status would require statute. And in any event is not in keeping with our times, IO immunity itself being now under question in sovereign jurisdictions, including here. The determination provides convenient opportunity for this Court to provide much-needed clarity on the law including as to the limits of IO functional immunity under the IOIA, which must not be misapplied in this manner.

Of paramount reason is that, at heart, this case raises questions of judicial independence and judicial duty which this court must issue writ of certiorari to uphold. The U.S. judiciary must operate free from external influence, here it clearly did not. The judgment is a fine example of the judiciary at its worst, caving to executive pressure, issuing politically-based and politically-biased ruling, ignoring legal principles. In short, an example of all the U.S. justice system has been accused of in recent years.

For these reasons this court should issue Certiorari.

**1. *Appeal of a Non-Final Order, Jurisdictional Statement Requirement***

Federal appellate courts are confined to that limited jurisdiction expressly conferred by Congress. § 1291 grants them jurisdiction over appeals of "final decisions of the district courts" which resolve all the issues in a case, dispose of all claims and parties, and leave nothing for the court except to enforce the judgment. This Court stating the finality rule is a fundamental aspect of the federal appellate system, *Caitlin v. United States* 324 U.S. 229 (1945)(noting the rule promotes efficient judicial administration and preserves the independence of the initial forum). See *United States v. Hargrove*, 625 F.3d 170 (4th Cir. 2010), "if we lack jurisdiction over the appeal, then we may not reach the merits of the case." Similarly, *In re Grand Jury Proceedings*, 616 F.3d 1172 (10th Cir. 2010), (the appeals court could not address the merits of an appeal dismissed for lack of jurisdiction, even though the district court had issued detailed opinion). The rare exception being created by this Court's precedent under the collateral order doctrine.

This was an appeal of an interlocutory order. As made clear by the April 12, 2022 Minute Order, App.C,

issued sua sponte, closing the case, evidencing that court believed its March 17, 2022 order was not final, because the Petitioner could file for leave to amend, albeit also evidencing that court's erroneous belief that the appellate court did not control despite the April 4 2022 notice lodging appeal. The Appeals Court noted the non-finality referring to the Minute Order. It needed to review its jurisdiction before getting to the stage of the merits and final judgment. Because, according to the District Court's administrative action of April 12, 2022 Order, a district court, not the appellate court, has authority. Due to the significant doubt thereby caused as to "finality", and jurisdiction, the appeals court needed to provide clarification. Yet either failed to consider its jurisdiction (limited by the finality rule) or, sua sponte, determined the collateral order doctrine applies to the March Order, because it proceeded to give judgment. Its failure to not only establish, but also state, jurisdiction to review the non-final order, and on what basis it so determined, therefore leaves its judgment in doubt and uncertainty, and without assistance to the Petitioner.

Several appellate courts have made clear that in cases of doubt jurisdiction must be stated. See *United States v. Rodgers*, 101 F.3d 247 (7th Cir. 1996), "an appellate court must always satisfy itself that it has jurisdiction to hear an appeal before proceeding to the merits of the case, even when the parties do not raise the jurisdictional issue" noting failure can result in needless cost. See *United States v. U.S. Currency*, 863 F.3d 1286 (9th Cir. 2017) (same).

The D.C. Circuit has established a pattern of stating jurisdictional basis when it reviews a non-final order. See *United States v. Microsoft Corp.*, 253 F.3d 34 (2001) (stating jurisdiction to review non-final order denying stay, in detail explaining the collateral order doctrine applied): *In re Sealed Case*, 890 F.2d 451 (1989)

(stating jurisdiction under the collateral order doctrine to review non-final order conclusively determining right not to disclose): *Comcast Corp. v. FCC*, 579 F.3d (2009) (non-final order stated reviewable, jurisdiction under the Hobbs Act). Illustrating that the D.C. Circuit has always practiced stating the origin of its jurisdiction relying on various legal doctrines, when reviewing non-final orders (even if it states to the contrary). Here it did not; splitting from its precedent. Also breaking with D.C. Circuit's own precedent for this other reason. See for example *Schanberg v. Dept. of State*, 782 F.2d 731 (1986) (appeal of dismissal of complaint without prejudice dismissed as premature as not a final order, remanding for further proceedings (also *Rollins Environmental Services v. EPA*, 937 F. 2d 649 (D.C.Cir. 1991)(same).

Additionally, in this instance the non-final order denying remand involved a separate important issue, which Petitioner specifically raised, that the court lacked subject-matter-jurisdiction (effectively unreviewable at the end of the case). Despite her so raising, the Appeals Court refused to address jurisdiction specifically the issue raised for review.

The appeals court in these circumstances did not state jurisdiction/why it was reviewing the non-final order, incorrectly, instead issuing 'per curium' judgment on merits. A question for this Court is whether a court of appeals can so act in performing its appellate duties.

This Court has not yet resolved whether jurisdiction must be pronounced in cases raising doubt, where a case, if reviewed, is due to the narrow collateral order doctrine. This case presents an opportunity to resolve this and provide guidance on whether to state, and how to apply, the doctrine when jurisdiction is not raised by the parties.

**2. *The Appeals Court Ignored the Need to Review to 'De Novo' Legal Standard***

The appellate court allowing the appeal without stating from where it derived its authority, reviewed the record, which had no, let alone substantial, evidence, no scheduling orders or evidentiary hearing having taken place. It stated only that the Petitioner had failed to show the court's determinations were made in error.

Both the decision to grant motion-to-dismiss and the decision to deny remand were "questions of law" and therefore if reviewable, then review must be "de novo," not being decisions on "questions of fact" "reviewable for clear error," *Pierce v. Underwood*, 487 U.S. 552 (1988).

*A. Denial of Remand*

Denial of remand was raised as a jurisdictional question and one of law as to removal jurisdiction even arising. Which, being a question of law, required it to review the matter 'de novo' (see *Carey Canada, Inc. v. Columbia Casualty Co.*, 940 F.2d 1548 (D.C.Cir. 1991), ("Jurisdictional questions are questions of law, reviewed de novo."). Instead relying on the district court's faulty logic as to diversity jurisdiction, based on its non-evidence-based conclusion as to facts in an unrelated case, notwithstanding this notice of removal does not state the amount-in-controversy exceeds $75,000. Or any amount. App.D. A statutory requirement without which removal jurisdiction cannot arise to move on to consider the 'amount-in-controversy'. On reviewing an issue de novo, an appellate court must give no weight to the trial court's conclusions, being charged with correcting legal errors and developing the law; any other standard would subordinate the appellate courts to the district courts.

Petitioner requested the Appeals Court to remand her case to D.C. Superior Court for failure to

meet or state the ground of jurisdictional amount in excess, as required by statute, App.E, so a matter of doubt. Requiring remand. On appeal, whether the district court acted within its jurisdictional authority, and correctly, in determining the adequacy of the removal notice was required to be reviewed 'de novo'. The appellate court's judgment, App.A, failed to review as required, and the removal notice at all, despite having the issue squarely before it. Instead stating only, to different standard, that the Petitioner had not proven the district court had erred ("clear error standard"). See *Husain v. Olympic Airways*, 316 F.3d 829, (9th Cir. 2002). No evidence was considered by either court. Nor was the Complaint treated as controlling. Another complaint was. Not addressed on appeal. The appeals court applied the wrong standard so rendering its own judgment biased and/or lacking, compounding the abuse. The decision conflicts with decisions of the D.C. and all Circuits, on the question of whether on appeal of denial of remand an appellate court review the matter fully 'de novo'.

As the Removal Notice is deficient as to stating grounds, the lower court's decision not to remand is irreconcilable with this Court's decisions and at odds with all precedent. This required 'de novo' review, if it accepts jurisdiction. Certiorari is necessary to correct the Appeals Court's error as to legal standard. Its error creates uncertainty in a matter which frequently arises. This Court's review is further warranted to resolve this new conflict in authority.

*B. Granting of Motion to Dismiss*

The Court of Appeals for the District of Columbia Circuit has stated it reviews a motion-to-dismiss a complaint 'de novo' if it reviews at all under the collateral order doctrine (a matter never argued or established). See

*Abbas v. Foreign Policy Group,* 783 F.3d 1328 (D.C.Cir. 2015) (review of decision to grant a motion-to-dismiss is de novo without deference to legal conclusions reached by the district court. See *Performance Contracting, Inc. v. Dynalectric.*, 883 F.3d 1163 (D.C.Cir. 2018),(same). Again, the appellate court failed to apply the correct legal standard for review, independently, without giving deference to the lower court's ruling, only stating again that the Petitioner had not proven the district court erred when deciding a legal issue (the duty-of-care owed participants by the disability administrator administering and making all decision under the IO's program).

As this Court stated in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) the standard of review of an order dismissing a complaint for failure to state a cause of action raises a question of law and is reviewed de novo, and the reviewing court must independently determine the issue, accepting all factual allegations in the complaint as true and drawing all reasonable inferences in favor of the plaintiff.

This appeals court, breaking strong continuous judicial precedent, did not review correctly or accept her Complaint allegations as true. And Petitioner's choice of forum was ignored: "Ordinarily, the plaintiff is entitled to select the forum in which he wishes to proceed." *Araya v. JP Morgan Chase Bank*, 775 F.3d 409, (D.C.Cir. 2014).

It violated federal appellate courts statutory purpose/obligation, by failing to establish the correct standard of review, and knowingly refusing to consider to that correct 'de novo' legal standard these issues raised to it. This failure also renders the judgment biased. This bias in turn denies Petitioner's right to a neutral, detached, decision-maker, a minimum due process protection. The court's reasoning is faulty, and its review deficient. The question for this Court is whether a federal appeals court can ignore such obligation to apply

the correct standard of review in performing its appellate duties.

### 3. *Failure to Stay Within Diversity Jurisdiction Statutory Parameters*

Plaintiffs are "masters of their complaints" and may control the scope of litigation by deciding in which forum their claims will be litigated. *Standard Fire Ins. Co. v. Knowles*, 568 U.S. 588, (2013). Courts historically defer to a plaintiff's choice of forum, including the choice between state and federal courts, "unless the balance is strongly in favor of the defendant." *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, (1947); *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, (1981) (same). Federal courts have also recognized a general preference, under U.S. system of federalism, for cases that present questions only of state law to be heard in state court. Cf. *United Mine Workers of Am. v. Gibbs*, 383 U.S. 715 (1966) ("Needless decisions of state law should be avoided."); also *Merrill Lynch, Pierce, Fenner & Smith, Inc. v. Manning,* 136 S. Ct. 1562 (2016) ("[A] suit belongs in state court when the complaint asserts purely state-law causes of action that do not require binding legal determinations of rights and liabilities under [federal law]." Removal provides a narrow exception to these principles, and statutes authorizing removal are thus construed narrowly. *Shamrock Oil Corp. v. Sheets*, 313 U.S. 100, (1941) ("Due regard for the rightful independence of states. . . requires that [federal courts] scrupulously confine their own jurisdiction to the precise limits which the statute has defined.") Defendants may override a plaintiff's choice of forum only in certain limited circumstances.

The 1789 Judiciary Act authorized removal in 'diversity' cases and has since been expanded and

Congress has since amended so that the current statutory provisions apply, App.E.

§1441 allows a defendant to remove "any civil action brought in a State court of which the district courts... have original jurisdiction." Under §1332 diversity jurisdiction arises when two preconditions are present and met: the parties are of diverse citizenship and the amount-in-controversy is stated as exceeding $75,000. No such ground was met, the notice containing no such statement. App.D. Removal jurisdiction cannot stem from a notice that fails to meet the two requirements of §1332(a). Going on to consider (speculation), the 'amount-in-controversy' under §1446(c)(2)(B) was never authorized.

As a threshold matter, the district court had no jurisdiction under the removal statutes requirements, nevertheless it issued its order. App.B. It refused to perform its non-discretionary duty to determine whether requirements were met based on the wording of the statute. *Sprint Communications, Inc. v. Jacobs*, 571 U.S. 69, ("[C]ourts are obliged to decide cases within the scope of federal jurisdiction" assigned to them). Here the Respondents failed to assert any amount-in-controversy, App.D., their wording fell short of statutory requirement to do so, being one of the two essential grounds necessary to effect removal. Required under §1446(c)(2)(A), before the ability under §1446(c)(2)(B) allows moving to the situation where a "district court finds, by the preponderance of the evidence, that the amount-in-controversy exceeds the amount specified in section §1332(a)". Instead the Removal Notice states:

> "As there is no legal certainty that the claim is really for less than the jurisdictional amount, the claim satisfies the amount in controversy". App.D.

Deliberately conflating statutory requirement. This is not a short plain statement of the amount asserted and that it exceeds $75,000, necessary for removal. The Appeals Court, affirming, relied on *Dart Cherokee Basin Operating Co. v Owens*, 574 U.S. 81 (2014), which instead states a notice must "at minimum plausibly allege, even if it does not provide detailed proof of, the amount in controversy.....there must be some basis for the statement that is plausible." Here no amount was alleged, and certainly not plausibly. As this Court stated again in *BP P.L.C. v. Mayor and City Council of Baltimore* 593 US_ (2021) (S.Ct.). "To remove a case, a defendant must comply with §1446. Essentially, that statute requires the defendant to provide affected parties and courts with a notice stating its grounds for removal". The Respondents' notice simply does not do so, App.D, Its negative 'short plain statement' is insufficient; it only attempts to shift the burden to the Petitioner to disprove, without first making plausible statement of amount/and or its discernible calculation method. Otherwise removal of state cases would run rampant. Whenever unspecified amounts for pain and suffering and punitive damages (too speculative to be 'plausible') are included in a complaint. The lack of statement of this essential ground was a fatal defect. §1441 subject-matter jurisdiction could not be established without meeting the requirements under which removal/diversity jurisdiction could arise. The lower court, upheld by the appeals court, ignored strict statutory requirement, to ensure the two limbs of §1332 are met, prior to proceeding to consider the issue of 'amount-in-controversy' under the case. It ignored that if a removal notice is deficient it must remand without further review of any other issue. In doing so it re-wrote Respondents' removal notice for them, straying far from any federal boundaries.

The authority of the removal statute controls. Removal jurisdiction is statutory, and must be clearly intended by Congress. *Franchise Tax Board v. Construction Laborers Vacation Trust*, 463 U.S. 103 S. Ct. - also *Shamrock* (supra). As this Court has explained, "even the most formidable" arguments cannot "overcome" a clear statutory directive. *Kloeckner v. Solis*, 568 U.S. 41, (2012). And has stated "[S]tatutory procedures for removal are to be strictly construed out of respect for state sovereignty". *Syngenta Crop Protection, Inc. v. Henson*, 537 U. S. 28, (2002); *Maracich v. Spears*, 570 U. S. 48 (2013)(same).

For this reason, and clear doubt on the face, Petitioner's Brief specifically appealed/asked the Appeals Court to review the Removal Notice. To examine whether a 'short plain statement' was sufficiently included. To prevent injustice. The Appeals Court, accepting jurisdiction over the interlocutory appeal issued 'per curium' final judgment that the District Court did not err in looking outside the removal notice. It refused, or failed, to address the very issue Petitioner had raised to it, namely the lack of authority and unlawfulness of the March Order, which, on this basis, the appellate court should have reviewed for jurisdictional basis. It's final judgment amounts to a ruling that threshold statutory jurisdictional requirements are not necessary for diversity jurisdiction to arise. In this it oversteps the mark and its limits, and takes on for itself the powers of Congress, to legislate.

"Despite a federal trial court's threshold denial of a motion-to-remand, if, at the end of the day and case, a jurisdictional defect remains uncured, the judgment must be vacated. See FRCP 12(h)(3) ("Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court

shall dismiss the action."); *Finn* 341" *Caterpillar Inc. v. Lewis*, 519 US 61, 117 S. Ct. (1996).

Neither court directly addressed whether jurisdiction can arise without a 'short plain statement' alleging a plausible amount-in-controversy at all. In error. This Court must grant certiorari so the Appeals Court can do so now.

Certiorari is required since the decision creates a wrongful extension of federal jurisdiction by judicial interpretation. *American Fire & Casualty Co. v. Finn*, 341 U.S. 6 (1951). The decision presents stark comity issues. This Court must restore diversity jurisdictional boundaries on lower federal courts and allow states to retain state law actions. Otherwise §1332(a) will operate differently in different jurisdictions, and some cases removed will proceed in federal court without legal authority under the Statute.

### 4. *Ignoring Statutory Requirements, both Courts Proceeded Without Authority to Determine the Amount-in-Controversy in Erroneous Manner*

Even if the defect of failing to comply with strict statutory prescription, being to ensure the two limbs of §1332(a) are met (that the notice state the parties are diverse and state the amount exceeds $75,000)was one that could be cured by subsequent evidence, no evidence was provided. Moreover the Complaint alone controls. (See *Flynn v. Dist. of Columbia*, 2019 WL 1030827 (D.D.C 2019)). This Petitioner's Complaint seeks specific damages for $40,375, and asserts non-specific categories (pain and suffering; punitive). The District Court for District of Columbia has previously determined the amount-in-controversy for diversity jurisdiction based on calculations on the value of the contract disputed (See e.g. *Rigaud v. Washington Hilton Worldwide*, 937 F. Supp.

2d 90 (2013); *Pirelli Armstrong Tire Corp. Retiree Med. Benefits Trust v. Wal-Mart.*, 711 F. Supp. 2d 70 (2010)):or on the damages sought (See *Chacon v. Babcock & Wilcox Co.*, 722 F.2d 227 (1983) and *Deltak, LLC v. Advanced Acoustic Concepts, LLC*, 936 F. Supp. 2d 135 (2013) (same))."The party supporting removal bears the burden of establishing the Court's jurisdiction." *McMullen v. Synchrony Bank*, 82 F. Supp. 3d 133, (D.D.C. 2015).

Respondents provided no calculations or evidence, and under FRCP 12(d) Petitioner had a right to present evidence, which was denied. This Court's precedent requires both parties produce evidence when the amount-in-controversy is in dispute, nevertheless district court took determination into its own hands. Instead of following these cases, the court broke with its own precedent. Determining the amount-in-controversy itself, basing this on damages claimed under a different complaint *Flavell v. Collier*, (supra) for a different amount, and for other causes of action. It erred in looking at the wrong complaint. And speculatively.

The district court's far-fetched application is at odds with decades of controlling precedent. See *Sloan v. Soul Circus, Inc.*, WL 9272838 CA.-No.:15-01389-RC (D.D.C. 2015). Speculative unsupported claims about statutory damages fail to establish by a preponderance of the evidence. Citing *Wexler v. United Air Lines*, 496 F. Supp. 2d 150 (D.D.C. 2007) ("[J]urisdiction cannot be based on probabilities, surmise or guesswork" and being "based on pure conjecture" and speculation is therefore "inadequate to support an assertion of diversity jurisdiction." *Breakman v. AOL*, 545 F. Supp. 2d 96, (D.D.C. 2008) The type of guesswork the district court undertook is exactly what courts have ruled against. Moreover such speculation could not but give rise to substantial doubt. See *Zuckman v. Monster Beverage Corp.*, 958 F. Supp. 2d 293, (D.D.C. 2013) "[T]he court must resolve any

ambiguities concerning the propriety of removal in favor of remand.") .

Moreover, the district court's opinion, stated not erroneous on appeal, is reasoning both unlawful and illogical and obstructs justice. Expanding federal jurisdiction because of an action that was not, and could not be, before it. This novel reason for making dispositive orders is an obstruction of justice. And one of first impression. Creating a new legal right for parties to move-to-dismiss an action simply because a Petitioner has brought a different action against a different defendant. This asserted judicial expansion of the method by which to determine diversity jurisdiction stands alone without legislative authorization. This issue of first impression causes confusion and uncertainty for all, in federal and state courts alike. Undermining a key safeguard for litigants. For this reason too certiorari should be granted.

### 5. *Review of Dismissal Under the Collateral Order Doctrine*

The district court decided to grant dismissal, before considering remand or establishing jurisdiction. Next, on April 12, 2022 stating (without authority, but indicative) that the dismissal without prejudice did not prevent Petitioner from refiling her claim. Therefore in its view its March Order was not final, but interlocutory. Or at least its finality was cast in doubt. Although both courts well knew from the pleadings she would be time-barred from commencing new action. The filing of a notice of appeal, including an interlocutory appeal, is an event conferring jurisdiction on the court of appeals and divesting the district court of its control, *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56 S. Ct.

(1982). Which cannot assert jurisdiction simultaneously. The appeals court refused to follow this Court's precedent. It needed to decide whether it was reviewing final order or non-final order under the collateral order doctrine before proceeding.

The district court had erred in closing the case, not corrected by the appellate court. The District Court had also erred in granting dismissal because it determined as a matter of law that the duty of care was not fiduciary, despite documentation to the contrary and applicable DC common law principles articulated in caselaw that such determination is made on a case-by-case basis, taking into account the specific circumstances, the evidence of such circumstances/facts, and the applicable law. The district court failed to consider any contract (the disability program) or agreement at all, despite one being entered into between the parties on Reed Group's forms. As explained in *Firestone Tire Rubber Co v. Bruch*, 489 US 101 S.Ct. 948 the law of trusts determines fiduciary relationship. Evidence of the trustee fiduciary duty was required and would have shown that the plan-administrator had here a duty to act in the best interests of plan participants, and to exercise reasonable care, skill, and caution in administering the plan, including an obligation to administer claims, and act on Reed Group's standard medical forms fairly and in prudent manner. In addition the court made IIED factual determinations, without evidence. Frivolously.

In the circumstances the Appeals Court final judgment, App.A., was wrong if it determined the order reviewable under the "collateral order doctrine", which it does not state but needed to in the uncertainty created, yet to uphold, without reviewing evidence, ruling as to an issue of law and on the merits. Refusing remand, so closing the case although the collateral order, if it

determined the order under this doctrine, had been 'non-final'.

### 6. *Certiorari Necessary For Appeal Court's Due Process Violation and Manifest Other Errors*

*A. Leave To Amend*

In her June 25, 2021 Brief the Petitioner specifically requested leave to amend her original Complaint if Respondents' motion-to-dismiss be granted, relying on this Court's ruling in *Foman v. Davis*, (supra) that such leave should be freely given. And *Firestone v. Firestone*, (supra) ("it is an abuse of discretion to deny leave to amend [without giving] sufficient reason." concluding the court's given reasons insufficient). The DC Circuit has consistently followed the ruling, see e.g. *Harris v. D.C. Water & Sewer Auth.*, 791 F. Supp. 2d 68 ( 2011) also *Caribbean Broadcasting System & Korngold v. Cable & Wireless*, 148 F.3d 1080 (1998) and that leave should be freely given when justice requires under Rule 15(a). Which both courts fail to address.

The district court's failure to address Petitioner's request, amounted to a denial of leave to amend. See *In re Turner*, 807 F.3d 470 (D.C.Cir. 2015), held: that the lower court's failure to address pro se plaintiff's request to amend in its order dismissing the complaint constituted a denial of the request to amend. See also *Brown* (infra). Instead, it's Order granting dismissal makes no statement as to any possibility of amendment, despite her request. Petitioner had asked for leave and justice and precedent required she be allowed to file amended complaint. Indeed the March Order should have addressed the matter regardless of request.

Again, on appeal, the Petitioner asked the Appeals Court to overturn the denial of leave to amend, and/or itself grant leave. Her Brief stating:

> "If this Court does not remand or allows the motion-to-dismiss, the Plaintiff-Appellant moves this Court for leave to amend."

The DC Circuit has always upheld this Court's ruling that a pro se plaintiff must be given leave to amend before any court grants a motion-to-dismiss. See also *Ciralsky, v. CIA*, 355 F.3d 661 (2004) and *United States v. Wallace & Tiernan*, 336 U.S. 793 S.Ct.

> "That the dismissal was without prejudice to filing another suit does not make the cause unappealable, for denial of relief and dismissal of the case ended this suit as far as the District Court was concerned it thereby ended his case. Although it is true that he may be able to re-file, that does not change the fact that the case is at an end. See *Rinieri v. News Syndicate Co.*, 385 F.2d 818, (2d Cir. 1967) ("Although a dismissal without prejudice permits a new action (assuming the statute of limitations has not run) the order of dismissal, nevertheless, is a final order from which an appeal lies.")".

In failing to allow Petitioner leave to amend the District Court erred.

It also ignored Petitioner's duly filed 'Reply' which still was never entered on the docket. All her filings were required to be considered.

In reviewing the abuse and failing to correct, the Appeals Court erred. In refusing her direct request addressed to that Appeals Court for leave, it also erred. It has stated a pro se plaintiff should always be given opportunity to amend before motion-to-dismiss is granted. See *Brown v. WholeFoods Market*, 789 F.3d 146 (D.C.Cir. 2015) (Pro se plaintiff's action dismissed for

failure-to-state-a-claim, D.C. Circuit reversed, remanding, holding error in failing to give opportunity to amend before granting motion-to-dismiss. Noting this rule applies even when a plaintiff has already had opportunity to amend "in such cases, the district court should generally advise the plaintiff of the substantive legal standards applicable to his claims and provide him with a final opportunity to amend the complaint before dismissing the action." See *Lindsey v. U.S.* 448 F. Supp. 2d 37 (D.D.C. 2006)(same), stating 'four factors' in favor of permitting amending, explaining also the court "should have read all of [plaintiffs] filings together before dismissing [the] case." Here the court did the reverse.

See *Wada v. U.S. Secret Serv.*, 525 F. Supp.2d 1 (D.D.C. 2007) "courts consider all pro se pleadings to clarify precise claims asserted, and should have considered plaintiff's reply to motion-to-dismiss and granted leave-to-amend". Also *Moore v. Agency for International Development*, 994 F.2d 874 (D.C.Cir. 1993): 'Because Moore is a pro se plaintiff, we remand to allow him to amend his complaint' (Affirmed, *Shekoyan v. Sibley*, 217 F. Supp.2d 59 (D.D.C. 2002)).

Petitioner so argued in her Appeal Brief. Yet leave to amend was denied, despite Petitioner being in *Ciralsky's* same situation. Like *Ciralsky*, this Petitioner would be time-barred if the district court decision was upheld since the acts complained of spanned March to June 2017 (Petitioner first having to exhaust non-independent internal appeal process).

Instead of correctly holding pro se Petitioner's complaint to a less stringent standard (*Amiri v. Hilton Hotel*, 360 F.Supp.2d 38 (D.D.C. 2003);*Gray v. Poole*, 275 F.3d 1113 (D.C.Cir. 2002)), the lower court required her to meet the highest standard, proving facts/legal issues in her Complaint pre-discovery, and denying even a chance

to amend to meet this onerous unorthodox standard. "Litigants are entitled to discovery before being put to their proof." *Bennett v. Schmidt*, 153 F.3d 516, (7th Cir.1998).

The Appeals Court erred in not finding abuse of discretion. That errant decision warrants this Court's review.

*B. Minute Order*

Once Petitioner lodged her appeal on April 4, 2022 the District Court was divested of issuing orders until the appellate court had ruled. See *Griggs* ( supra).The Order of April 12, 2022 did not convert the earlier 'without prejudice' Order into a final order, and is without authority, yet it purports to dispose of the case. Simply thwarting Petitioner's next logical step, to request leave to amend concurrently with her appeal.

The Appeals Court's final judgment should have addressed the matter. Yet, noting divestiture of the District Court's authority, it did not correct the April Order and return the case to district court, or remand to state court.

Without remand the action could not progress, despite Petitioner's right to amend (stated by the District Court). Its failing constitutes judicial abuse, 'de facto' ending all proceedings, failing to provide substantial justice. (*Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368 (1981).

The pragmatic consequence is that no court now accepts any filings from the Petitioner, including motion to re-open, stating the case is administratively closed. In federal court Petitioner can reopen only for new evidence or change in law. (*Sabir v. FBI*, 2019 WL 1818895 (D.D.C. 2019). The appellate court fundamentally erred in failing

to remand, so permitting this unprecedented Order to stand, thereby putting her out of all courts. The matter before it was jurisdictional. See *Board of Trustees Hotel and Restaurant Employees v. Madison Hotel* 97 F.3d 1497 (1996).

> "no jurisdictional issue should leave a litigant without a forum" noting in that case [statutory preclusion] "this....could leave appellants without any forum for their claims at all. Denial of any forum in which to bring this claim would almost surely violate appellants' statutory and constitutional due process rights. Neither Congress nor the Supreme Court can have intended any such result."

Yet this is the practical effect of the Appeals Court ignoring the illegality. A due process violation results when there is no court, state or federal, that is available to hear a plaintiff's claim.

See Chemerinksy, Federal Jurisdiction 172, 196-200 (2d ed.1994) (due process would be violated if federal jurisdiction were restricted in such manner as to prevent any court, state or federal, from hearing a claim). Without authority it issued such Order, nevertheless as a practical matter, de facto depriving her of due process and equal protection at law, contrary to her constitutional right. The FRAP require a case remain open throughout appeal, enshrining the principle of preserving status quo. Such abusive restriction on litigants, and their right to use the court system, cannot be allowed in this manner.

The Appeals Court had a judicial duty to pronounce on the matter in the interests of justice. In not rectifying case 'closure' when it knew the lower court acted without legal authority in issuing the Minute Order, the Appeals Court failed in its duty to prevent injustice,

denied Petitioner's right to a fair and speedy trial, and the right to access to civil courts for all litigants for determination of their actions by a duly empowered court with authority to hear their case, in conflict with constitutional principles safeguarded by this Court of the US Constitution, Amendment XIV. The Petitioner has a right to be provided an opportunity for her case to be heard,,even if simply to appeal after the merits, *Logan v. Zimmerman*, (supra).It acted contradictory to all federal courts jurisprudence and that of this Court.
Amounting, like that of the lower court, to a refusal to adjudicate. Such restriction on litigants, and their right to use the court system, cannot be allowed.

Further, the district court in issuing such Order stated it took into account that the Petitioner had lodged appeal, a matter of the Petitioner's litigation conduct, as reason to unlawfully close and deny her action progressing. But a party's litigation conduct cannot affect subject-matter jurisdiction, and procedural rules "do not create or withdraw federal jurisdiction," *Kontrick v. Ryan*, 540 U.S. 443 S.Ct. (2004) (quoting *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365 S.Ct. (1978)) "a court's subject-matter jurisdiction cannot be expanded to account for the parties' litigation conduct," From a fundamental principle that "[o]nly Congress may determine a lower federal court's subject-matter jurisdiction." Id. (citing U.S. Constitution.).

State law has given Petitioner a right to bring her chose in action in state courts. That the two courts' failure obstructed her from litigating in the court of her choice where her Complaint began, and any court, is sufficient consideration for granting certiorari review.

### 7. *Third-Party Contractors Have No Cloak of Immunity*

Policy requires that individuals must have rights in state courts against third-party contractors engaged by international organizations to administer their self-funded plans, bestowing decision-making control. A right that has not been taken away by Congress or the state courts themselves.

Determinations of whether a contractor engaged by an international organization may be sued has been established in several cases. See *Doe v. DynCorp,* (2005), D.C. Circuit awarding damages against a private military contractor hired by the United Nations to provide security services in Bosnia, finding *DynCorp* had a duty to provide a safe working environment and had failed to do so); see also *Doe v. Blackwater,* (2010): E.D. VA. And *In re Blackwater Security Consulting LLC,* 460 F.3d 576 (2006) (case against private military contractor hired by U.S government able to proceed). And *Francisco v. Aetna Life and World Bank MIP,* (ECF-No.14) No.2:18-cv-00010-EJF (D.Utah 2020).

Here the Respondents were held to a different standard of application of common law principles because of the identity of the engaging third-party IO. In the interests of justice certiorari must issue, otherwise the Petitioner has, through judicial pandering and wrong-doing, lost her civil right to bring her action due to an IO's behind scenes manipulation.

This court should not allow lower courts to make so many erroneous abusive determinations in one judgment in an action. Making rulings so contrary to statute, precedent and powers as to be extrajudicial and outside their authority. Evidencing that federal courts will bend to misapply U.S. law and break with their own boundaries, because of an IO's and the executive branch's coercion. So disrespectfully undermining the independence of the judiciary, making federal courts subject to external influence. Debasing the legal system

and reputation of this country which extends to that IO headquartering privileges.

The matter presents an important question of law and of first impression, to be resolved by this Court; many international organizations are headquartered in the United States. Certiorari is granted "in cases involving principles the settlement of which is of importance to the public as distinguished from that of the parties." *Labor Board v. Pittsburg Co.*, 340 U.S. 498 S. Ct. (1951). As here.

This case provides convenient vehicle to provide much needed clarity on this fast-developing area of law, including as to the limits of IO immunity (recently re-visited in *Rodriguez v. Pan American Health Org.*, 502 F. Supp. 3d 200 (D.D.C. 2020) and to confirm the limited functional immunity of International Organizations does not extend to their third-party contractors. An important question requiring this Court's resolution.

## CONCLUSION

For these reasons the Petitioner requests this Court issue a writ of certiorari.

Respectfully, ./s/. Sara González Flavell

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