No. _____

In the
Supreme Court of the United States

AMOS N. JONES,
Petitioner,
v.

CATHOLIC UNIVERSITY OF AMERICA,
Respondent.

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

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PETITION FOR WRIT OF CERTIORARI

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September 1, 2023

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QUESTION PRESENTED

Did the District of Columbia Court of Appeals err in its failure to apply its very own intervening and controlling authority as per the Full Faith and Credit, Equal Protection, Procedural Due Process, and/or Substantive Due Process Clauses of the U.S. Constitution when it (1) consumed more than four years to hear argument on and to determine whether seven paragraphs of Petitioner's 75-page Amended Complaint failed to state a claim for tortious interference with contractual relations with regard to the legal meaning of "intentionality," (2) meanwhile decided and published different cases indicating, based on its published precedents, that Petitioner's Complaint had fully satisfied the pleading standard, (3) nevertheless dismissed Petitioner's case after Petitioner brought said intervening authority to the Court's attention, as if no intervening, published, binding, and re-affirming-of-past-precedential authority had taken effect, and finally (4) opted not to publish its contrary opinion against Petitioner that stands to this day at odds with its own precedents and obligations under the doctrine of horizontal *stare decisis*?

LIST OF PARTIES TO THE PROCEEDING

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

STATEMENT OF RELATED CASES

Amos N. Jones v. Campbell University, et al, No. 22-1128 (hereafter "*Campbell University et al*"), pending here at the Supreme Court of the United States since May 23, 2023, on a Petition for a Writ of Certiorari to the U.S. Court of Appeals for the Fourth Circuit.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully petitions for a writ of certiorari to review the judgment of the District of Columbia Court of Appeals.

OPINIONS BELOW

The Memorandum Opinion and Judgment in the District of Columbia Court of Appeals (Feb. 23, 2023) is unpublished and is reprinted in the Appendix at Pett. App. 1. The Order Denying Rehearing in the District of Columbia Court of Appeals (April 7, 2023) is unpublished and is reprinted in the Appendix at Pett. App. 19. The Order (1) Granting Defendant the Catholic University of America's Motion to Dismiss, or in the Alternative, Motion for Summary Judgment and (2) Denying Plaintiff's Cross-Motion for Summary Judgment in the Superior Court of the District of Columbia Civil Division (April 30, 2019) is unpublished and is reprinted in the Appendix at Pett. App. 7.

JURISDICTION

The District of Columbia Court of Appeals issued its opinion on Feb. 23, 2023. Petitioner's timely petition for panel and en banc rehearing was denied on April 7, 2023. On June 28, 2023, The Chief Justice granted an application to extend the deadline for the petition to September 4, 2023. The jurisdiction of this Court is properly invoked pursuant to 28 U.S.C. § 1257.

STATUTORY PROVISIONS INVOLVED

None.

STATEMENT OF THE CASE

Procedural and Factual Background

This case is listed as the one "related case" in the now-pending Petition for a Writ of Certiorari in *Amos N. Jones v. Campbell University*, et al, No. 22-1128 (hereafter "*Campbell University et al*"). These two interrelated cases were severed by a June 2018 opinion of the U.S. District Court for the District of Columbia, which ordered ten counts against four other defendants to be transferred into the Eastern District of North Carolina while the one count here (i.e., tortious interference with contractual relations, against Respondent Catholic University of America) was remanded as its own standalone case to the D.C. Superior Court, where all counts against all defendants had originated in a nearly 100-page initial Complaint filed in December 2017 by predecessor Lead Counsel Arinderjit Dhali.

Petitioner timely appealed the District Court's severance to the U.S. Court of Appeals for the District of Columbia Circuit in Fall 2018, arguing that the two cases belonged re-joined, as they had been originally filed in the D.C. Superior Court in December 2017. However, the D.C. Superior Court – to which the one-count claim against Respondent had been remanded – twice denied Petitioner's motions to stay this case, in spite of the pendency of its severance actively on appeal before the D.C. Circuit,

and immediately dismissed this case for failure to state a claim for tortious interference with contractual relations. Petitioner appealed the trial court's dismissal to the D.C. Court of Appeals, which rendered its decision approximately four years later, on Feb. 23, 2023. *See Appendix.* The D.C. Court of Appeals denied Petitioner's Petition for Rehearing En Banc on April 7, 2023. *See id.*

Meanwhile, over the same years, *Campbell University et al* proceeded as transferred to the Eastern District of North Carolina and, amid the developments set out in the Appendix to the petition for a writ of certiorari in that case, Petitioner voluntarily dismissed that case without prejudice in July 2021. In the two actions, Petitioner has employed twelve (12) counsel of record, intermittently working collaboratively, all but four of whom continue in various capacities prepared to re-appear for Petitioner on Remand. (Two of the four attorneys no longer involved changed law firms.) The vexatious protracting of litigation from defendants and the inferior courts has drained years and resources – especially time – across law firms and courts, including Petitioner's own practice based in downtown Washington, D.C.

Petitioner is a member of the District of Columbia Bar and had been a unanimously promoted Associate Professor of Law teaching contracts and ethics at Baptist-related Campbell University Norman Adrian Wiggins School of Law in Raleigh, N.C. from Fall 2011 through Spring 2017. Petitioner received his B.A. *cum laude* in political science from Emory University, where he was a National Merit Scholar, a

Harry S. Truman Scholar, a Robert W. Woodruff Scholar, and a 2000 recipient of Emory's Burt and Betty Shear Family Prize "for the student most likely to make a uniquely positive impact on her or his universe." He later earned a Master of Science in Journalism from Columbia University in 2003 and a Juris Doctor from Harvard Law School in 2006. After law school, Petitioner, who had published three law review articles across the country while a Harvard Law student and Executive Editor of two journals there, spent a year as a Fulbright Postgraduate Scholar in Australia in the Centre for Comparative Constitutional Studies at the University of Melbourne, recommended by the late John H. Mansfield of the Harvard faculty, who wrote in the nomination that Petitioner "would be a great teacher."

Petitioner then spent three years excelling as an associate in international trade and commercial litigation in Bryan Cave Leighton Paisner LLP's Washington, D.C., office before joining the legal academy in Fall 2010, when he accepted recruitment to serve as a Visiting Assistant Professor of Constitutional Law at North Carolina Central University School of Law for one year, during which he contacted Campbell University Law School's Recruitment Committee to express his interest in a tenure track position at that school. Campbell hired him as an Assistant Professor of Law by a unanimous faculty vote in Fall 2010 to start in Fall 2011.

Petitioner's Campbell courses routinely faced overloaded enrollment. His History of the Black American Lawyer course became the most popular

elective at a school with only a 3% African American student body—70 of his 78 students were White. In addition to his teaching, Jones amassed an impressive record of publications and lectures. After his first four years, Campbell promoted Jones to Associate Professor of Law based on another unanimous vote, this time of the tenured faculty, and confirmation by the university's Board of Trustees in Fall 2015. When legal disputes arose among Petitioner, Campbell University, and Respondent Catholic University of America in Spring 2017, Petitioner hired highly rated counsel who brought his claims and represented him until the defeats at the United States Court of Appeals for the Fourth Circuit (in *Campbell University et al*) and the D.C. Court of Appeals (in the instant case).

Because of the procedurally predictable pathways in advanced cases and an urgent need for economy and efficiency, Petitioner, from the point of the filings of his petitions for rehearing in both cases in both jurisdictions into the present, has appeared *pro se*, having been admitted to the Bar of the Supreme Court of the United States in 2012.

Respondent Catholic University of America was sued after the Dean of its law school, to whom Petitioner had applied for a teaching position after having interviewed with that faculty seven years earlier for a Constitutional Law permanent appointment – without permission and in violation of published law-school recruitment protocols published an in effect within the Association of American Law Schools in which Petitioner is a paid member school – contacted Petitioner's then-current supervisor and

dean, J. Rich Leonard, and e-mailed Petitioner's application materials to Campbell University. Campbell University had for five weeks been under federal investigation by the U.S. Equal Employment Opportunity Commission for civil rights violations after Petitioner had reported the North Carolina school's long record of race discrimination in employment and refusal to hire and tenure African-American professors while promoting a roster of inferior, failing Caucasian professors who had failed year after year to meet minimum productivity requirements instead. Prior to Respondent's unauthorized disclosure, Petitioner had remained in good standing with a flawless work history, even after having blown the whistle on the racially segregationist Campbell University, where Petitioner for years toiled and thrived as the only African-American professor; however, within minutes of obtaining the unauthorized disclosure from the dean at Respondent Catholic University of America in February 2017, Campbell University dismissed Petitioner from its employ, effective May 2017, as Campbell Law Dean Rich Leonard wrote a letter denying him the terminal year, citing his EEOC complaint, and ending his career. The school subsequently denied a March 2017 internal contractual appeal of that violation of his contract for "lack of jurisdiction," cementing the abrogation of his terminal year in a retaliatory violation that caused the American Association of University Professors in September 2017 to rebuke and demand payment of Petitioner. Later, in April 2017 and on medical leave, Petitioner learned from the EEOC file that Campbell University's counsel – the racially disgraced Black-

voter-suppression lawyer Thomas Farr – had obtained the Catholic application materials from Respondent and turned them over to the EEOC to try to justify the termination. Farr would later, in September 2020, withdraw his client Campbell University from his client's $250,000 settlement reached with Respondent and effective tear up his client's agreement because Petitioner refused to violate legal-ethics rules by agreeing to make him and his law firms parties to the release in their client's settlement, and Petitioner filed a brief and all of the documentation showing those illegal breaches by opposing counsel to the E.D.N.C. federal court in October 2020 at Dkt. No. 127 in that proceeding.

Meanwhile, despite continual efforts for employment as a permanent professor while working through the courts to achieve justice, Petitioner never attained a permanent academic appointment in the intervening years. Petitioner sued Catholic University of America for tortious interference with contractual relations for its having caused the breach of the pre-tenure contract that had entitled Petitioner to one final year of employment with Campbell University, 2017-18, and contributing significantly to an abrupt break in service that has damaged Petitioner's prospective economic gain. See generally First Amended Complaint (Mar. 26, 2018).

The D.C. Court of Appeals has upheld the dismissal of the tortious interference count against Respondent Catholic University of America, holding that Respondent's intentionality was not established under D.C. law – that Respondent, for Petitioner to state a claim, was required to have *intended to harm*

(and to have foreseen such harm to) Petitioner rather than having been required only to have *intended to commit the disclosure* that resulted in the harm. On the basis of that purported deficiency of only one of the four elements of tortious interference, the D.C. Court of Appeals affirmed the dismissal. In so doing, the Court vitiated its own binding precedents including its express adoption of the applicable rule and element from the Restatement of Torts (Second), as expounded over the course of the four years the court consumed to determine whether seven paragraphs of Petitioner's complaint had pleaded this simple tort. The D.C. Court of Appeals covered its abrogation of full faith and credit (horizontal *stare decisis*, *see infra*) by relegating all opinions to unpublished status.

Certiorari is merited here for reasons set out *infra*. The District of Columbia Court of Appeals erred in its failure to apply its very own intervening and controlling authority as per the Full Faith and Credit, Equal Protection, Procedural Due Process, and/or Substantive Due Process Clauses of the U.S. Constitution when it (1) consumed more than four years to hear argument on and to determine whether seven paragraphs of Petitioner's 75-page Amended Complaint failed to state a claim for tortious interference with contractual relations, (2) meanwhile decided a different case, from an unrelated appellant in a distinct matter, the D.C. Court of Appeals rule from which, on the very same point of law (i.e., the element of "intentionality") indicating that Petitioner's Complaint had fully satisfied the pleading standard, resolving the issue

elsewhere, (3) nevertheless dismissed Petitioner's case after Petitioner brought said intervening authority to the Court's attention, as if no intervening, published, and binding authority had taken effect, in an opinion running only four pages that applied an old, undefined standard contradicting its own newly and carefully published rule of law, and (4) opted not to publish its contrary opinion against Petitioner that stands to this day at odds with its own recent precedent adopting the Restatement of Torts (Second), concealing its one-off about-face detrimental to Petitioner and perpetuating a shadow rule of law for some appellants (but not other appellants) in the District of Columbia.

The Fifth Amendment, U.S CONST. amend. V, the Fourteenth Amendment, U.S CONST. amend. XIV, and the full faith and credit clause, U.S CONST. art. IV, require reversal of the lower courts in this action.

ARGUMENT

I. The D.C. Court of Appeals violated fundamental law as expounded by the Supreme Court's enduring post-Civil War jurisprudence under the Full Faith and Credit, Equal Protection, Procedural Due Process, and/or Substantive Due Process Clauses of the U.S. Constitution.

The Equal Protection Clause of the U.S. Constitution provides that "No State shall […] deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. And

yet, the Feb. 3, 2023, unpublished Memorandum Opinion and Judgment by the Honorable Associate Judges Easterly and McLeese and Senior Judge Ruiz (hereafter the "Per Curiam Opinion") comprised just four pages but nevertheless overturned the binding the precedents of this Court on the "intent" element of pleading tortious interference in the District of Columbia, precedents expressly anchored in the classic Restatement of Torts, Second, which the D.C. Superior Court has adopted fully in defining tortious interference, including the permissive "intent" element. In this case filed in December 2017, the Court evaded the 2017 controlling opinion of the D.C. Court of Appeals in *Whitt v. Am. Prop. Constr.*, P.C., 157 A.3d 196, 202-03 (D.C. 2017), and reverted – only for this one case, to the detriment of only Petitioner, and after four years of delay by the D.C. Court of Appeals – to the ambiguity of the unclear, amorphous, and clarified decision from 31 years ago in *Cooke v. Griffiths-Garcia Corp.*, 612 A.2d 1251, 1256 (D.C. 1992). Per Curiam Opinion at 1. In so doing, the panel has imposed on Petitioner a for-him-only rule of law in employment cases in D.C., a turn against which Petitioner cautioned in briefing and at oral argument, where, as Appellant, he carefully set out both *Whitt* and *Rosenthal v. Sonnenschein Nath & Rosenthal*, 985 A.2d 443 (D.C. 2009) – another controlling precedent ignored by the panel. The Per Curiam Opinion thereby upheld the bizarrely punitive dismissal with prejudice of the District Court.

The outdated legal reasoning and farcical result rise to the level justifying rehearing, and reversal of

the District Court, consistent with settled precedent and the prudent application of it to the facts at bar. The case was argued on September 23, 2020, and decided February 23, 2023. The appeal was commenced back in 2018, with briefing over the years since.

During this long period of time to decide an exceedingly narrow issue from a lawsuit filed in 2017, intervening and supervening authority emerged, and only Appellant-affirming decisions on tortious interference's "intent" element appear to have been produced by the D.C. Court of Appeals. Cf., *William Loveland Coll. v. Distance Educ. Accreditation Comm'n*, 347 F. Supp. 3d 1, 19-20 (D.D.C. 2018) (holding that "[...] a plaintiff may recover economic damages in tort if it can demonstrate a 'special relationship' with the defendant. *Whitt v. Am. Prop. Constr.*, P.C., 157 A.3d 196, 205 (D.C. 2017) (finding a special relationship between construction company and business where the construction permit contained express terms protecting the business from effects of construction, and the construction project was long-term so the harm was not isolated or unexpected); *see also Aguilar v. RP MRP Wash. Harbor, LLC*, 98 A.3d 979, at 985–86. Where a 'special relationship' exists, the defendant owes an independent duty of care to the plaintiff, and it is proper to hold the defendant liable for a breach of that duty. *Whitt*, 157 A.3d at 205. ' "[W]hether the plaintiff's interests are entitled to legal protection against the defendant's conduct' "is a question of law for [the court] to decide.' *Id.* at 205, quoting *Aguilar*, 98 A.3d at 982.") [emphasis added].

These new and controlling authorities were brought to the attention of the Court of Appeals in Petitioner's Rule 28(k) Letter filed on Sept. 28, 2020, just days after oral argument. Such notice to the D.C. Court of Appeals followed an extremely clarifying question-and-answer between Judge McLeese and Petitioner, who, though represented before the Court of Appeals by three counsel of record in three firms, argued the case there:

JUDGE McLEESE: Can I make sure I understand that, because maybe there are, you know, I know that there are some questions that were raised about the American Association of Law Schools and what their understandings are, and what people should or shouldn't be doing. But just generally, if, you know, someone who works at Place A applies to Place B, and the person, a person at Place B knows a person at Place A and says, "By the way, one of your employees – I thought you'd be interested that – one of your employees is applying for a position with me." That doesn't necessarily seem nefarious or mean that that contact is intended to, or should be foreseen, to have the result that Person A, having learned that, will breach its contractual arrangements with Employee A. So, I'm just wondering, whether you disagree, and you think that just the mere fact of that communication is so nefarious that it should support plausible inferences of kind of a culpable mental state by the Dean of Catholic, or whether you think there are other facts that point in that direction her, or both.

PETITIONER: Thank you, your honor. ***I*** think that it is an actionable event for a person in receipt of

a job application to unauthorizedly communicate with the supervisor of the person making application; but ***the D.C. Court of Appeals – in* Whitt – *believes it even more so***, because the question of malice, and intention to harm, is reserved to the question of damages assessment. That's also consistent with *Douglas Rosenthal v. Sonnenschein, Nath & Rosenthal*, the 2009 case on jury instructions on tortious interference in terms of the malice part. So, that's why it's a **tort** and not a **crime**. The Appellees may have had *no* ill will. They probably had no knowledge that the recipient of this confidential application material was actively engaged in a total violation of contract and civil rights statutes, we argue, at the time. That's why the law is supposed to provide a remedy for such a tort – an, an ***"accident,"*** as we say – so when *Whitt* is analyzed, as that case of first impression, binding on this court, that, unfortunately, nobody briefed – it was a 2019 case…

"Amos Jones v. Catholic University of America Oral Argument at D.C. Court of Appeals, Sept. 19, 2020," oral argument video recording at 08:45 to 11:11, available at https://www.youtube.com/watch?v=mAmDlJ_1n8U (last visited Sept. 1, 2023) [emphases in original oral inflections including scare-quote gestures]. *See also* Appellant's Sept. 20, 2020, Rule 28(k) Letter filed in the D.C. Court of Appeals post-argument (clarifying: "*DC2NY, Inc. v. Acad. Bus, LLC*, Civil Action No.: 18-2127 (RC), at *15 (D.D.C. Aug. 12, 2019), was cited in Appellant's oral argument at 2:35:40 for its treatment of *Whitt v. Am. Prop. Constr. Co.*, 157 A.3d

196 (D.C. 2017); however, Appellant's quoting of *DC2NY*'s quoting of *Whitt* misattributed (to Whitt) the DC2NY Court's direct quotes that Appellant read from the underlying case to which the *DC2NY, Inc.* opinion actually was citing: *NCRIC, Inc. v. Columbia Hosp. for Women Med. Ctr., Inc.*, 957 A.2d 890, 901 (D.C. 2008). It is the *NCRIC* case, not *Whitt* and never briefed, that the U.S District Court for the District of Columbia has quoted for the proposition that '[i]n D.C., […] "[i]nstead of the plaintiff bearing the burden of proving that the defendant's conduct was wrongful, it is the defendant who bears the burden of proving that it was not." Id. at 901 (D.C. 2008) (settling the issue of who "bears the burden of proving that the defendant's conduct was wrongful" in D.C. under Section 766 of the Restatement of Torts, Second): "Wrongful conduct is not an element of a prima facie case of tortious interference under District of Columbia law. Rather, the burden was on NCRIC to establish that its intentional interference was legally justified or privileged." Id. at 893.' ").

However, the D.C. Court of Appeals subjected Petitioner to different rules of law violating all these binding precedents clearly elucidated and brought to its attention, imposing a restrictive rule hidden under the dark cover of non-publication. In circumscribing its own precedents and operating to the detriment of a citizen, the D.C. Court of Appeals effected a deprivation of Appellant's Fifth and Fourteenth constitutional rights to procedural due process, substantive due process, and equal protection of the laws. *See* U.S. Const. Amend. V; U.S. Const. Amd. XIV. *Cf. Accardi v. Shaughnessy*,

347 U.S. 260 (1954) (establishing principle that regulations validly prescribed by a government actor are binding upon that actor as well as the citizen, and that this principle holds even when the action under review is discretionary in nature). *Accord Service v. Dulles*, 354 U.S. 363, 372 (1957) (summarizing that rule in those terms).

All federal appellate courts have adopted the horizontal *stare decisis* rule requiring that, unless overruled by an appellate court sitting *en banc*, an appellate court must follow its own binding, published precedent. *See* David C. Walker, Precedential Power Policies, *Law Library Journal*, Vol. 114, Issue 2, (2022), at 172-185 (exploring the development of *stare decisis* and the doctrinal divisions that exist in judicial approaches to precedent as binding authority). The D.C. Court of Appeals, with its presidentially appointed bench and extremely limited "home rule" as to the judicial branch of government in the jurisdiction, operates in this respect as a federal court. *See id.* at 175-80 (covering the D.C. rule under federal-law and not state-law treatment.) *Cf. Allegheny Def. Project v. Fed. Energy Regul. Comm'n*, 964 F.3d 1, 18 (D.C. Cir. 2020) ("We also may depart from circuit precedent when 'intervening development [s]' in the law-such as Supreme Court decisions-'ha[ve] removed or weakened the conceptual underpinnings from the prior decision[.]'). Moreover, "[s]tare decisis in the court of appeals is compelled by the Constitution or by statute," and "how the values of uniformity, institutional legitimacy, accuracy, reliance, and judicial economy are served by the practices of vertical and horizontal stare decisis" is self-evident. Henry J.

Dickman, *Conflicts of Precedent,* 106 Va. L. Rev. 1345 (2020), at 1345–46.

Nor should the D.C. Court of Appeals be afforded refuge in avoidance by diverting its transgression into non-publication; the constitutional infirmities in that connection are legion. *Compare* Danny J. Boggs & Brian P. Brooks, *Unpublished Opinions & the Nature of Precedent*, 4 GREEN BAG 2D 17, 18 (2000) ("While an unpublished opinion of a circuit panel resolves the particular dispute at issue, it is not exactly part of a circuit's case law because – at least under most local circuit rules – it may not be cited as precedent in later cases. The unpublished opinion is tolerated for reasons involving such pedestrian considerations as efficiency in judicial administration. Unpublished opinions are usually regarded as helpful by overburdened judges and as a minor issue by lawyers who occasionally discover that a perfectly analogous case cannot be cited as authority.") *and* William M. Richman and William L. Reynolds, Injustice on Appeal: The United States Court of Appeals in Crisis, Oxford Univ. Press (2012), in Ch. 6 ("The Constitution and Unpublished Opinions"), abstracted at https://doi.org/10.1093/acprof:oso/9780195342079.003.0006 (last visited Sept. 1, 2023). In other words, these authorities suggest, federal appellate courts are all too quick to impose self-executing violations of the equal protection clause, as the D.C. Court of Appeals has opted to do in the instant case of Petitioner, for "pragmatic concerns," *see id* at 72.

Here we have the D.C. Court of Appeals concealing its one-off about-face detrimental to

Petitioner and perpetuating a shadow rule of law for some appellants but not other appellants in the District of Columbia. Therefore, this case presents an opportunity for the Supreme Court finally to put a stop to such caprices by appellate panels. Likewise, this case embodies an ideal vehicle with ideal parties (a *pro se* lawyer-petitioner, law-school deans and professors, judges, a retired judge, and twelve counsel of record to Petitioner in two cases before four courts) at a moment of ethical reckoning in American history) to acknowledge and to correct the "two-tiered" justice system our courts of appeal have self-exposed.

II. The Supreme Court is established to reverse such interpositions and nullifications

Our Judicial Branch's official guidance adopts the high principle of equal justice under the law in published guidance available globally: "The Supreme Court plays a very important role in our constitutional system of government. First, as the highest court in the land, it is the court of last resort for those looking for justice. Second, due to its power of judicial review, it plays an essential role in ensuring that each branch of government recognizes the limits of its own power. Third, it protects civil rights and liberties by striking down laws that violate the Constitution. Finally, it sets appropriate limits on democratic government by ensuring that popular majorities cannot pass laws that harm and/or take undue advantage of unpopular minorities. In essence, it serves to ensure that the changing views of a majority do not undermine the

fundamental values common to all Americans, i.e., freedom of speech, freedom of religion, and due process of law." U.S. Courts, "About the Supreme Court: Judicial Review," at https://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/about (last visited Sept. 1, 2023).

Yet today, our nation confronts a time of increasing scrutiny of the shortcomings among and even violations committed by federal courts across the country that go un-corrected and even grow privileged. *See, e.g.,* James V. Grimaldi, Coulter Jones, and Joe Palazzolo, "131 Federal Judges Broke the Law by Hearing Cases Where They Had a Financial Interest," Wall Street Journal, Sept. 28, 2021, available at https://www.wsj.com/articles/131-federal-judges-broke-the-law-by-hearing-cases-where-they-had-a-financial-interest-11632834421 (last visited Sept. 1, 2023). *See also* Cynthia Gray, *The Line Between Legal Error and Judicial Misconduct: Balancing Judicial Independence and Accountability*, Hofstra Law Review, Vol. 32: Iss. 4, Article 11 (2004), available at http://scholarlycommons.law.hofstra.edu/hlr/vol32/iss4/11 (last visited Sept. 1, 2023).

On the other side of the bench, there meanwhile appears to be a suspect selectivity that makes the last-resort endeavor a bastion of *un*equal justice under law – in access to a hearing to reverse obvious equal-protection violations rampant throughout all courts, where unpublished opinions dog the masses.

Cf. Joan Biskupic, Janet Roberts, and John Shiffman, *At America's court of last resort, a handful of lawyers now dominates the docket*, Reuters, Dec. 18, 2014, at https://www.reuters.com/investigates/special-report/scotus/ (last visited Sept. 1, 2023) (reporting: "The marble façade of the U.S. Supreme Court building proclaims a high ideal: 'Equal Justice Under Law.' But inside, an elite cadre of lawyers has emerged as first among equals, giving their clients a disproportionate chance to influence the law of the land. […] The lawyers are the most influential members of one of the most powerful specialties in America: the business of practicing before the Supreme Court. None of these lawyers is a household name. But many are familiar to the nine justices. That's because about half worked for justices past or present, and some socialize with them.").

Even the racial demography among who is welcome to have awful appellate opinions reviewed, and to argue critically important matters before the Supreme Court, has been scrutinized critically in recent months. *E.g.*, Theodoric Meyer and Tobi Raji, *Historically diverse Supreme Court hears disproportionately from White lawyers*/T*he court is grappling with several cases involving race, including two affirmative action cases set to be argued Monday*, Washington Post, Oct. 30, 2022, at https://www.washingtonpost.com/nation/2022/10/30/supreme-court-justices-diversity-lawyers/. That study reported: "Hispanic and Black lawyers were even more underrepresented when measured by the number of arguments they made. Hispanic lawyers

have made 2.3 percent of Supreme Court arguments since the 2017 term, and Black lawyers made only 1 percent." Moreover, "Hispanic and Black lawyers were even more underrepresented when measured by the number of arguments they made. Hispanic lawyers have made 2.3 percent of Supreme Court arguments since the 2017 term, and Black lawyers made only 1 percent." *Id*.

We must do better as a Bar. The legitimacy of the judiciary hangs in the balance, while the whole world watches worthy petitions fall into the dustbin of history, marked *cert denied*. The Supreme Court of the United States is therefore petitioned to review the D.C. Court of Appeals's errors in this case, including its serious omissions and non-publications that violate the Equal Protection, Due Process, and Full Faith and Credit Clauses of the U.S. Constitution. Supreme Court review is appropriate because (1) the Per Curiam Opinion is in conflict with the binding-precedent decisions of this Court, (2) the conflicts are not addressed in the four-page Per Curiam Opinion four years in the making, (3) material legal matters were overlooked in the decision – that is, the effect of the Per Curiam Opinion in permitting employers (to whom a job applicant in the District of Columbia confidentially applies) to violate professionally policed rules of conduct by unauthorizedly contacting the applicant's current employer and disseminating the application (which contains overtly unflattering assessments by the applicant of the applicant's employer) to the supervisor of the applicant via e-mail resulting in the immediate dismissal of the job applicant from his

current employment that was supposed to have lasted an additional fifteen (15) months into the future under an in-force written contract of which the applied-to employer was aware, and (4) the D.C. Court of Appeals wantonly ignored its own binding precedents in Petitioner's case only, and to Petitioner's considerable detriment.

CONCLUSION

The Per Curiam Opinion creates conflicts and questions of exceptional importance across appellate jurisdictions nationally by avoiding application of the court's own binding precedents and avoiding publication to eliminate challenges based on the doctrine of *stare decisis*, with its inherent due-process protections. The Supreme Court, therefore, is fervently petitioned for review.

Respectfully submitted,

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