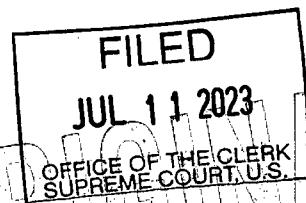


23-5126

No. _____



In the Supreme Court of the United States

FARKHAN MAHMOOD SHAH,
Petitioner.

v.

AMERICAN AIRLINES, INC., ASSOCIATION OF PROFESSIONAL FLIGHT
ATTENDANTS, KEITH REISEN, and JOHN DOES 1-5, being fictitious names for
persons unknown,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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Petitioner *pro se*

QUESTIONS PRESENTED

1. Whether the United States Court of Appeals for the Third Circuit erred by explicitly relying on American Airlines' misrepresentation of the terms of the governing collective bargaining agreement to affirm dismissal on summary judgment, where American Airlines knowingly omitted from its brief a controlling arbitration award that directly contradicted American Airlines' representation of how attendance records are determined and where Plaintiff Farkhan Shah identified the problem (and cited the controlling award) in his reply brief to the Third Circuit in response to American Airlines' misrepresentation of the agreement?
2. Whether the Third Circuit improperly affirmed the District Court's assertion of jurisdiction upon American Airlines' motion for removal where at least one named defendant, Keith Reisen, is a citizen of the same state as Plaintiff Shah (New Jersey), thus defeating the "complete diversity" required?
3. Whether the Third Circuit erred when it affirmed a District Court determination that the plaintiff could not assert claims under the New Jersey Law Against Discrimination by concluding that Plaintiff Shah

did not work in New Jersey despite extensive record evidence that Plaintiff Shah most frequently performed his duties out of the airport in Newark, New Jersey and regardless of whether American Airlines considered the airport at Newark, New Jersey to be a co-terminal to its “New York” operations?

4. Whether American Airlines unjustly punished 21-year veteran flight attendant Plaintiff Shah, as a Muslim of Pakistani national origin, for enduring the discrimination that he indisputably suffered repeatedly and for years following the terrorist attacks of September 11, 2001, by terminating him under false pretenses, and thereby violated the New Jersey Law Against Discrimination?
5. Whether American Airlines impermissibly violated Plaintiff Shah’s right to practice his religion and/or to speak freely under the First Amendment to the U.S. Constitution, or retaliated against him for exercising such rights, when it repeatedly refused to protect him and, ultimately, terminated his employment under false pretenses?

TABLE OF CONTENTS

Questions Presented	i
Table of Contents	iii
Table of Authorities	iv
Petition for a Writ of Certiorari	1
Opinion Below	1
Jurisdiction	1
Constitutional Provisions Involved	1
Statutory Provisions Involved	2
Statement of the Case	3
Reasons for Granting the Petition	17
Conclusion	22
Appendix	24

TABLE OF AUTHORITIES

Cases	
<i>Erie Railroad Co. v. Tompkins</i> , 304 U.S. 64 (1938)	19
<i>Evans v. Walter Indus., Inc.</i> , 449 F.3d 1159, 1163 (11th Cir. 2006).....	20
<i>McDonnell Douglas Corp. v. Green</i> , 411 U.S. 792, 802-03 (1973).....	14
<i>Tourtellotte v. Eli Lilly & Co.</i> , 636 F. App'x 831, 841-42 (3d Cir. 2016)	14
<i>Viscik v. Fowler Equip. Co.</i> , 173 N.J. 1 (2002).....	14
Constitutional Provisions	
U.S. Const. First Amendment.....	ii, 1, 3
U.S. Const. Fourteenth Amendment.....	2
Statutes	
28 U.S.C. § 1254.....	1
28 U.S.C. § 1254(1)	1
28 U.S.C. § 1332(a)	19, 20
New Jersey Revised Statutes § 10:5-12	2, 24
Other Authorities	
APFA vs. American Airlines, Presidential Grievance No. SS-186-2018-APFA-7 (2018).....	i, 6, 7, 15, 17
. E. Donald Elliot, <i>The “Complete Diversity” Requirement for Federal Jurisdiction: Time to Correct this 210-Year-Old Error</i> , WASHINGTON LEGAL FOUNDATION LEGAL OPINION LETTER, Vol. 26, No. 19 (July 28, 2017)	20
Jonah Engel Bromwich <i>N.A.A.C.P. Advisory on American Airlines Warns Black Travelers to Steer Clear</i> , NEW YORK TIMES (Oct. 25, 2017)	10
Moheeb H. Murrey, Rule Interpleader: A Developing Federal Circuit Split on Diversity?, Hour Media (undated)	20

PETITION FOR A WRIT OF CERTIORARI

Farkhan Shah petitions for a writ of certiorari to review the United States Court of Appeals for the Third Circuit's judgment below.

OPINION BELOW

The United States Court of Appeals for the Third Circuit's April 14, 2023 opinion is unpublished and included in the appendix at A001. The United States District Court for the District of New Jersey's opinion in this case is unpublished and included in the appendix at A010.

JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 1254(1) for writ of certiorari in a civil case after rendition of a judgement or decree of a court of appeal. The United States Court of Appeals for the Third Circuit issued an opinion and judgment on April 14, 2023.

CONSTITUTIONAL PROVISIONS INVOLVED

First Amendment:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the

press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

Fourteenth Amendment:

"No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATUTORY PROVISIONS INVOLVED

New Jersey Revised Statutes § 10:5-12

The full text of this provision appears in the Appendix at A029.

STATEMENT OF THE CASE

I.

Plaintiff Farkhan Shah, a Muslim and U.S. citizen of Pakistani national origin, began working as a flight attendant for American Airlines (AA) in 1999. Following the terrorist attacks of September 11, 2001, he began to experience severe hostility and discrimination from passengers, fellow employees, and supervisors at AA. When it was necessary for Shah to exercise his First Amendment rights to unpopular speech, he did so while maintaining all of the decorum appropriate to his position.

For example, when taunted for his faith and its supposed connection to the terrorist organization ISIS, Shah responded by stating, “ISIS hijacked Islam. We, as Muslims, don’t even believe that ISIS is Muslim based on their actions,” and continued by explaining that Islam prohibits killing any innocent person and, as in many faiths, Islam teaches that suicide will prevent a person from entering Heaven.

As another example, when Shah was taunted with insults and slurs (such as calling him a “raghead” or “Osama”), Shah would frequently quote the Bible (verses such as Matthew 26:39) and explain the strong links between Christian beliefs (especially those of the Catholic Church) and Muslim beliefs. Along with explaining that both religions are waiting for the return of Christ, he would note (for example) the similarity between the habit worn by Catholic nuns and the head

coverings worn by Muslims. For some of his tormenters, the discussion proved educational. But, for many, it simply added fuel to the fires of discrimination.

Regardless, Shah continued to perform his duties and consistently rose through the ranks as an AA flight attendant for most of his 21 years in the position. The record on point is clear and consistent, without contest: Shah kept his cool through the almost unimaginable difficulty of serving as a Muslim flight attendant of Pakistani national origin in the aftermath of 9/11.

Unfortunately, AA did not respect Shah any more than those who taunted him. At various times, AA was responsible for triggering both Federal Bureau of Investigation (FBI) and Transportation Security Administration (TSA) investigations of Shah in the years following 9/11.¹ Shah, for example, was prevented from parking with other flight attendants, stripped of his flight attendant clearance for security at airports at various times (forcing him to undergo unreasonable searches to report to work), and saw his 20-year-service pin (which had entitled him to lifetime travel benefits) confiscated, simply because of his religion and national origin.

Despite these major delays and disadvantages, Shah continued to appear as

¹ AA's New York Corporate Security department appeared with FBI agents at Shah's Edison, New Jersey home without a warrant while Shah was based in Miami, Florida. The AA referral twice that led to FBI threats because Shah travelled to Pakistan.

scheduled and perform his duties as a flight attendant. In fact, it is notable, even striking, that AA found no basis for terminating – or even disciplining – Shah as he endured the exceptional hardships over the years. Even AA-initiated investigations by the FBI and TSA provided nothing to justify terminating Shah, nor did they deter him from defending his rights as an American citizen.

It was not until Shah had received the approval of the U.S. Equal Employment Opportunity Commission to file suit, and did so, that, in 2020, AA found a pretext to eliminate Shah – now a high seniority flight attendant with over 20 years of dedicated service – from his employment with the airline. That pretext, as explained below, began with an inability to deliver his new uniform to his home address, and ended with a clearly intentional decision by AA to misrepresent (to both the District and Circuit Courts) both the facts of Shah’s actual employment location (Newark, New Jersey, which AA described as “New York”) and a settled interpretation the collective bargaining agreement (CBA) applicable to Shah’s employment.

Few cases evince so clear a discriminatory intent to terminate an employee who has endured such hostile and unfair treatment from such a large corporation as this. AA’s long-term hostility to its employee, apparently because of his ability to endure mistreatment by passengers and co-workers while still demanding recognition of his rights from AA, form the crux of this case and highlight its

national significance.

Below, this petition for writ of certiorari delves further into the facts of this truly unfortunate case, revealing several other issues warranting this Court's attention.

II.

According to Defendant AA, Shah was fired, despite approximately 21 years on the job performing all necessary duties, because he was not in the geographic region of Philadelphia on several occasions when he was "on call" to potentially serve as a flight attendant on flights out of Philadelphia. However, to make this claim, AA failed to disclose to – and, in fact, hid from – the Third Circuit an arbitration award clarifying the meaning of the governing CBA. Viewed in the appropriate light, therefore, the result below – affirming AA's specious rationale for firing a 21-year veteran after he endured years of discriminatory treatment – not only approves of a pretext for the termination, but also provides a green light to airlines (and, presumably, other unionized industries) to misrepresent the governing agreement in court where it suits their interests against an employee who has suffered systematic discrimination.

Specifically, AA was a party to an arbitration between itself and the APFA

in which Section 12.H of the CBA between them was contested.² Section 12.H provides for situation in which the airline may utilize reserve flight attendants. When on reserve, a flight attendant is paid for being on reserve and is required to report within two hours from the time of being notified by Crew Schedule. Because Shah has achieved a high level of seniority, he was never actually called to report by the time period in question.

The arbitration award referenced above decided the issue whether flight attendants are required to report within two (or, in some cases, three) hours of “positive contact” by the airline (meaning actual conversation between the flight attendant and the airline), or within that amount of time after receiving a voice message. The arbitration panel concluded that, as contended by the AFPA, that section requires “positive contact” between the airline and the flight attendant before its clock begins running, based primarily on unrefuted evidence of past practice and because it was unrefuted that the airline did not provide any details as to the time or flight upon which the attendant was needed until such “positive contact” was made. Voice mails provided no useable information beyond a request to return the call. Accordingly, the arbitration panel concluded, and in so concluding cemented as binding an interpretation of the CBA that requires, that

² The arbitration award is APFA vs. American Airlines, Presidential Grievance No. SS-186-2018-APFA-7 (2018), publicly available at: <https://clearbrief.com/view/2KCH4TWI0?citeId=QLSMV7I>.

AA must obtain “positive contact” with a flight attendant before it may consider the flight attendant to have violated his or her attendance duties.

In the present case, the entire basis upon which AA rests its termination of Shah involves situations during which Shah was on reserve but, apparently because of his seniority, never received “positive contact” – a reality that was predictable to Shah and anyone else who had achieved his level of seniority.³ Shah’s geographic location during his reserve time was of no apparent moment or concern to AA as late as October 2019, when Shah received recognition for 20 years of good standing from AA CEO Doug Parker.

Months later, however, once AA had begun scouring Shah’s travel and other records to manufacture a reason that it could terminate him, geography became a focal point. AA knowingly ignored a binding interpretation of its CBA with AFPA (including Shah) to terminate him on the pretext of his geographic location. Beyond that, AA knowingly misrepresented the meaning of the CBA to both the District Court for the District of New Jersey and the United States Court of Appeal for the Third Circuit.

The upshot of AA’s misrepresentation is its manifest indifference to the necessity for integrity before the federal courts so long as it could find some

³ Shah stated during deposition that he used his travel benefits during “reserve” times regularly since 1999 and had never encountered a problem or concern prior to his termination 21 years later.

excuse for terminating an employee who it regarded as a troublemaker due to his efforts to defend his rights in the face of blatant discrimination, as recognized by the EEOC, on the basis of his religion and national origin. The entire case, as reflected by the Third Circuit's opinion, rests on this misrepresentation by AA. Without it, Shah's termination was plainly improper, as AA knew it was. Therefore, AA's reliance on this basis for termination constitutes a pretext of the most extreme nature – one that covers up plain discriminatory intent solely through misrepresentation of a CBA to which the employer is bound.

III.

Shah's efforts to report and seek redress for discrimination based on his religion and national origin over much of his 21-year employment could not be clearer. This is the second lawsuit he has filed on that basis, his complaint to the EEOC resulted in permission to file suit, and the record documents numerous other efforts, both formal and informal, that Shah took to seek redress. In fact, it is difficult to imagine what more an employee in Shah's shoes could have done to utilize the law to protect himself from the onslaught he faced solely as a result of his religious beliefs and apparent national origin.

Moreover, AA's problematic history of a hostile work environment and eliminating those who sought to combat it is equally clear on this record, including the reality that AA had more discrimination complaints against it than any other

airline during the relevant period. Conditions were sufficiently hostile for passengers on AA that the NAACP issued a travel advisory on to warn potential passengers of the discrimination they were likely to fact on AA. *See e.g.* Jonah Engel Bromwich *N.A.A.C.P. Advisory on American Airlines Warns Black Travelers to Steer Clear*, NEW YORK TIMES (Oct. 25, 2017).

Among these and other points that AA has continued to ignore in its responses during this litigation is the reality that of the individuals most responsible for Shah's termination – Human Resources Business Partner Dan Cleverly, Human Resources Wendy Bonderowicz, Corporate Security Fred Rhonda and Flight Service Manager Cameron Byrd – two (Cleverly and Byrd) had been subject to a prior complaint for exactly the type of discrimination that Shah faced.

Shah's early complaints addressed matters such as AA management in New York contacting Linda Forte of the Port Authority of Newark, New Jersey more than three times to urge surveillance on Shah and deactivate his parking privileges for no known reasons other than his religion and national origin. In addition, Shah complained that Rhonda and other AA managers requested, without cause, that the FBI place a code on the PAXLST and CUSRES system of the U.S. Customs Enforcement & Border Patrol messaging exchange system (producing a plethora of complicated and wholly unnecessary issues for Shah, a U.S. citizen, with TSA

Immigrations and Customs Enforcement, and the Department of Homeland Security) due to his professed religious beliefs and national origin. Such unnecessary and unwarranted insults and injuries to Shah were just the tip of AA's retaliatory iceberg, however.

Shah continued complaining about discrimination and related problems at AA, including complaints related to AA's failure to promote Shah in 2019. These complaints were made to Cleverly, among others, and ultimately resulted in Shah being transferred to a group under Byrd's supervision. On January 3, 2020, Shah met with Byrd and complained openly about discrimination, corruption, and bribery within AA.

AA had assigned Cleverly to "investigate" Shah's discrimination claims beginning in 2016, but they were never seriously investigated. Cleverly, joined by Byrd in 2019, persisted in handling Shah's ongoing complaints of a hostile work environment and discrimination until, with the present suit pending, AA found a pretext for terminating Shah.

III.

The pretext for terminating Shah began when he was maintaining a vigil beside his dying mother in Philadelphia. For that reason, he was not at home in Edison, New Jersey, to receive delivery of a new flight attendant uniform. Delivery attempts purportedly occurred several times between January 17, 2020 and

February 5, 2020, but Shah was never informed about the issue until no further attempts would be made.

Purportedly on the basis that the carrier had been unable to deliver the uniform to Shah, AA officials (including Cleverly and Byrd) dug into Shah's personal travel records, seeking information about when Shah used his flight attendant privileges for personal travel. With this "investigation," AA's officials developed their supposed reason for termination – Shah had been located away from his base at times when he was listed as (and paid to be) "on reserve."

Despite terminating Shah for being elsewhere when he was "on reserve," AA had never made "positive contact" with Shah, as required by the CBA for AA to count the matter against Shah's attendance record, on any occasion for which he was terminated. Further, even Shah's supervisor at AA stated in deposition that reserve assignments are popular with flight attendants "because they can stay home and get paid," and observed that "they don't even have to show up at the airport."

Moreover, AA *reinstated* well over 50 flight attendants more junior than Shah that it had terminated for the reasons that the Third Circuit held sufficient to terminate Shah. Those reinstated flight attendants, previously terminated on the same grounds as Shah, were neither Muslim nor Pakistani. AA has offered no rationale for the differential treatment, and discrimination on the basis of religion and/or national origin remains the most apparent, logical, and simplest explanation

for Shah's termination without reinstatement – unless, of course, it was retaliation for Shah's complaints about discriminatory treatment. Either is illegal and warrants rectification.

To provide but one more example, another senior flight attendant, Luis Candeleria, actually did have “positive contact” with AA and *still* failed to show up for his flight assignment, but AA found reason to reinstate him after termination on exactly the basis for which Shah was terminated. If the difference was not about religion or national origin, it must have been about retaliation. Shah complained and sought protection of his rights in a manner that AA found inconvenient.

None of the instances cited by AA as the reason for Shah's termination, in other words, was sufficient to even qualify as an attendance violation of any type under the CBA, yet AA has continually asserted that these instances – in which no violation by Shah can be demonstrated – were the basis of his termination in 2020.

Shah's ability to fight back against the false pretenses of his termination were weakened by other circumstances in his life. Along with his mother's failing health, Shah was consistently faced with the challenges of single parenthood of three minor children during this period. To the extent he was able, Shah took some time for his own wedding while his mother was still able to attend.

The impact of AA's persistent discriminatory attacks on Shah became apparent in his health. A diabetic, Shah repeatedly suffered dangerous blood sugar

and other readings, and poured what money he had into treatment. As the sole breadwinner raising three children, the impact of doing so – and of simultaneously attempting to defend his rights despite AA’s discrimination – was financially devastating. Moreover, AA’s ability to trigger investigations by entities such as the FBI (all of which produced no damaging information and cleared Shah of any alleged wrongdoing) was terrifying, leaving him to feel unsafe in the country he had called home since early childhood.

IV.

Shah initiated this suit in New Jersey state court, with counsel, in 2017, alleging discrimination under the New Jersey Law Against Discrimination, including retaliation, among other claims. The New Jersey Revised Statutes § 10:5-12 provides state law protection similar to Title VII of the Civil Rights Act. The approach to resolving the asserted claims is identical, under New Jersey law, to that described in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802-03 (1973). See *Viscik v. Fowler Equip. Co.*, 173 N.J. 1 (2002); see also *Tourtellotte v. Eli Lilly & Co.*, 636 F. App’x 831, 841-42 (3d Cir. 2016).

The case was removed to the United States District Court for the District of New Jersey upon AA’s motion on the grounds of diversity jurisdiction. Thereafter, AA alleged that Shah was not employed in New Jersey, despite their own evidence

in the case demonstrating that, even when he was technically based in other cities, Shah's actual work as a flight attendant was performed out of Newark, New Jersey approximately 50 percent of the time.

V.

During the proceedings in District Court, problems developed between Shah and his counsel, whom Shah has alleged was essentially burying evidence that he had provided to support his claims. Nonetheless, the District Court granted AA's motion for summary judgment in an August 4, 2022 opinion. Thereafter, Shah filed an appeal to the United States Court Circuit Court for the Third Circuit, determined to proceed *pro se*. After filing his initial brief and reviewing AA's response brief, Shah discovered the existence of a relevant arbitration award, which he then referenced in his reply brief to the Third Circuit.⁴

The Third Circuit affirmed the District Court's grant of summary judgment, emphasizing AA's purported basis for terminating Shah – his supposed attendance

⁴ Shah recognizes that his ability to uncover materials buried by AA during discovery was limited, as was his knowledge of the procedural avenues for remedying such obfuscation. Shah only learned of the relevant arbitration award when drafting his reply brief in the Third Circuit. However, should the Court grant this petition, Shah attests that he will either obtain experienced counsel for oral argument or forego oral argument so that the Court may decide the matter on the briefs to ensure that his own inexperience in the law does not negatively affect this Court's proceedings.

violations – and explicitly noting that it would not consider matters that were not raised in the opening brief. However, in Shah’s view, many of the crucial matters to understanding and properly deciding this case were, in fact, referenced in his initial Third Circuit brief, even if somewhat inartfully. That is, a careful review of the record to determine the truth of Shah’s claims would necessarily substantiate them. Nothing in the record, for example, can substantiate AA’s assertion that Shah’s termination was proper under the CBA, nor can any review of the record deny the extensive evidence of discrimination that supports Shah’s claims under the NJLAD.

Thus, Shah maintains that a fair review of the record, applying the standard applicable to his NJLAD claims (which is identical to Title VII of the U.S. Civil Rights Act), will demonstrate that his claims were well-founded and should not have been dismissed upon summary judgment. In assessing this case, Shah further maintains, this Court will recognize the opportunity to address several issues of pressing national importance worthy of the task.

For these reasons, Shah believes that this case provides an ideal vehicle for this Court to provide guidance to the lower courts in addressing a large number of cases related to labor law and discrimination. These and other reasons to grant certiorari are discussed below:

REASONS FOR GRANTING THE PETITION

I.

This case involves discriminatory actions by American Airlines, which employs over 120,000 people, against an employee enduring the unquestionable hostility he faced as a flight attendant following the terrorist attacks of September 11, 2001. AA's discriminatory actions and subsequent retaliatory termination against Plaintiff Farkhan Shah were effectively absolved by the Third Circuit's affirmation of a grant of summary judgment by the District of New Jersey for two reasons, both of which are plainly improper.

First, AA intentionally misrepresented the terms of the operative collective bargaining agreement (CBA) to the courts below, knowing full well that a binding arbitration award prohibited any form of employment action on the basis that it has consistently represented was the reason for its termination of Shah. Second, AA misrepresented the location and nature of Shah's employment by emphasizing its

designation of “New York” as Shah’s base without acknowledging that the majority of Shah’s work was performed out of Newark, New Jersey.⁵

If either misrepresentation were addressed effectively, the case would likely have reached a different outcome below. Thus, it can readily be asserted that the current posture of the case results exclusively from misrepresentation, by one of the nation’s largest employers in one of the nation’s most important industries, of matters plainly within its knowledge to both a District and Circuit Court of the United States.

Allowing this result to stand sends a clear message to similarly situated employers, large and small, that the road to avoiding liability to discrimination involves disguising and omitting damning details when communicating with the courts. AA will surely not be the only large employer to take note of the success found through its tactic of hiding the facts when facing a single employee whom it has illegally harmed.

At this stage, only this Court can correct the course that this case otherwise establishes for defeating justifiable discrimination claims. To decline the petition,

⁵ Even when Shah transferred to Philadelphia to escape discrimination, it continued to infect his work environment. Thus, AA claimed that Shah was not employed in New Jersey as a means to support the retaliatory action against him despite AA’s own exhibits demonstrating that Shah continued to work out of Newark, New Jersey approximately 50 percent of the time. Even when he was formally based in Miami, AA’s Cleverly admitted that Shah would generally bid to work out of Newark.

therefore, is to turn a blind eye to AA's years-long effort to simply eliminate an employee who was viewed as too much trouble because of the discriminatory actions directed at his religion and national origin. Such matters cut to the heart of this nation's principles and clearly warrant this Court's attention.

II.

The District Court's grant of summary judgment, and therefore the Third Circuit's affirmance thereof, represent a *sub silento* movement toward "minimal diversity" that contravenes the well-established requirement of complete diversity to support removal. *See Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938); 28 U.S.C. § 1332(a). Specifically, the District Court accepted the present case without one of the named parties, Keith Reisen, having been dismissed from the action. Upon information and belief, Defendant Keith Reisen was never dismissed from the case and his citizen is and has been co-extensive with his listed residence at 486 Weymouth Dr, Wyckoff, NJ 07481. Therefore, the District Court, affirmed by the Third Circuit, effectively ignored the complete diversity requirement established by this Court and, instead, embraced the so-called "minimal diversity" concept as a means of obtaining jurisdiction.

The conflict with this Court's precedent alone warrants certiorari, but there is more. The present case raises jurisdictional issues of national importance

because it would effect a landmark shift in jurisdictional analysis under 28 U.S.C. § 1332(a) *sub silento* by adopting the “minimal diversity” rule suggested by some scholars and, in very limited contexts, by some federal courts. *See e.g.* E. Donald Elliot, *The “Complete Diversity” Requirement for Federal Jurisdiction: Time to Correct this 210-Year-Old Error*, WASHINGTON LEGAL FOUNDATION LEGAL OPINION LETTER, Vol. 26, No. 19 (July 28, 2017); *Evans v. Walter Indus., Inc.*, 449 F.3d 1159, 1163 (11th Cir. 2006); *see also* Moheeb H. Murrey, Rule Interpleader: A Developing Federal Circuit Split on Diversity?, Hour Media (undated), available at:

https://mydigitalpublication.com/publication/?i=707939&article_id=4034736&view=articleBrowser (last accessed July 8, 2023).

The tremendous expansion of federal jurisdiction – and its implication for federal courts, state courts, and the people generally – that would accompany a change to the “minimal diversity” approach to diversity of citizenship need not be belabored, as the matter is surely well understood by this Court. What requires immediate attention is the apparent shift by the District of New Jersey, and perhaps the Third Circuit, in that direction without so much as a formal rationale.

Plainly, the monumental change wrought by a shift to “minimal diversity” reflects a change in precedent of such magnitude that, absent congressional action, this Court alone has the authority to bring it about. For that reason, the present

petition should be warranted for the Court to review the jurisdictional holdings below and, thereby, clarify (or re-clarify) the core standard for federal court jurisdiction where no federal question is involved.

III.

Finally, the present matter is of national importance because Plaintiff Farkhan Shah stands in the shoes of a great many other American citizens who suffer discrimination due to their religious beliefs, national origin, and protected speech. Here, a devout Muslim of Pakistani national origin has endured the common horrors that followed the exceptional horror of the September 11, 2001 terrorist attacks and, as this country's core constitutional values encourage, he spoke out while nonetheless continuing to perform the duties of his job for approximately 19 more years, continually rising in the seniority of his position and continually resisting the discriminatory efforts of a major corporation to sideline him. In this sense, Plaintiff Farkhan Shah is a hero who has proven himself to represent the best of American values in the aftermath of the one of the worst American tragedies. His story of resistance deserves this Court's attention, at least as much as AA's actions of deception, discrimination, and pretext warrant its condemnation.

There are two pathways to afford Plaintiff Shah his day in court, each of

which is laid out above. First, this Court can find that (1) the NJLAD applies because Shah worked in New Jersey and (2) AA's argument regarding attendance issues was pretextual. Second, this Court could resist the lower courts' apparent effort to rely on minimal diversity, such that the matter should be sent back to New Jersey state court. Either approach, or both approach combined, would ensure that Plaintiff Shah has the opportunity to present his case on the merits. Surely, such opportunity represents the least that Plaintiff Shah is entitled to given what he has endured. This Court alone now holds the power to ensure that opportunity.

CONCLUSION

This case involves one of the nation's major employers disguising its discriminatory treatment of a 21-year veteran on the basis of his religion and national origin. Equally disturbing, it also involves the District Court and the Third Circuit allowing such discriminatory treatment and retaliatory termination to succeed through misrepresentation of facts known to the employer.

By accepting certiorari of this case, the Court will have the opportunity to address any or all of the questions presented. These include the responsibility of a major employer to provide truthful information regarding an applicable collective bargaining agreement, the need to maintain complete diversity for jurisdictional purposes, the appropriate means of addressing misrepresentation regarding

employment and applicable law in cases involving airlines, and the accountability of airlines and other major industries for the support and protection of their employees against known threats of religious and national origin discrimination in the aftermath of landmark events such as the terrorist attacks of September 11, 2001.

These issues of national significance coincide with the immense importance of the case for the plaintiff, Farkhan Shah – a dedicated employee for 21 years, a father of three, and an individual whose story demonstrates the best American values. To decline the case, unfortunately, would be to allow American Airlines to simply discard Shah because he sought to protect his right to practice his religion and serve in a major American industry while many in the public demonized people with his national origin.

Dated: July 10, 2023

Respectfully submitted,



Farkhan Shah

Farkhan Shah