22-5850

No. ____

IN THE
SUPREME COURT OF THE UNITED STATES

LIJO PANGHAT, M.D.,

Petitioner,

V.

DEPT. OF VETERANS AFFAIRS

&

UNIVERSITY OF MARYLAND,
BALTIMORE

Respondents.

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

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the illegal denial of 'Due Process' to Petitioner and the harm being persistently inflicted upon him, violates the rights promised by the U.S. Constitution's Amendment V and Amendment XIV by his former government employers, by State and Federal organizations, or even by the Courts, if not, does this not violate the 'Rule of Law'? Pages 12 to 16 herein, ECF 63,Page 9,¶ 36 (iv) ECF 63,Page 9, ¶ 36 (iv).

Is the Fourth Circuit in conflict with the Supreme Court that has held that courts of appeal are required to "consider any change, either in fact or in law, which has supervened" since the disputed decision was issued, pursuant to *Patterson v. Ala.* and *Watts, Watts & Co. v. Unione Austriaca Di Navigazione*, when Circuit Court denies new and decisive evidence? Pages 28 to 29 herein, ECF63,Page16. USCA4 Appeal: 22-1772 Doc:33, Page 2. Pet. App. 3 and Pet. App. 4.

Whether the highest Court finds it in the Public Interest to punish an innocent person? Specifically, when Respondents' documents prove that there was no 'Due Cause' (no Complaint against Petitioner, when UM's Title IX Coordinator also records there was no Complaint, even the so-called victim's sworn EEOC Charge does not even mention Petitioner, and now when VA BREF also asserts there was no Complaint), is it not proper for the Court to rule that there was not even a Complaint and rectify this prolonged and grave injustice? Page 31 and Pet. App. 6, Page 3 herein. ECF26,Page5,¶13,ECF26.5, ECF5,Page37,¶133,ECF16.7,Page2,ECF63-7

Whether the Supreme Court finds it in the 'national interest' to needlessly punish a vulnerable foreigner from a friendly country and a time-tested ally of the United States when it is obvious

that it is because of Petitioner's nationality, that Respondents can continue to needlessly inflict harm on him persistently that is ongoing and egregious, as stated by him from the onset of his Complaint? It is a widely known fact that India treats American citizens in its country very well, what about 'reciprocity'? Pages 32, 33, 34 and Pet. App. 6, Page 3 herein. ECF5-13,Page8,¶48.

Whether it is in the interest of U.S. 'national security' when a person who submits evidence to the "Office of Accountability & Whistleblower Protection (OAWP) of a Federal agency in Washington D.C." is retaliated against? Also, would this be in 'Public Interest' when it becomes widely known how a person who voluntarily submitted evidence is treated, then forget foreigners, would even American citizens be hesitant to come forward to do so? Pages 32, 33, 34 herein and Pet. App. 6, Page 3 attached herewith [USCA4 Appeal: 22-1772 Doc: 36], USCA4 Appeal: 22-1772 Doc: 33, Pages 30, 31, ECF20-2, Pages 3, 4, ¶¶19, 20, 21. 22, 24, 38, 39 and ECF5-12., ECF 63.1. USCA4 Appeal: 22-1772, Doc: 16, Pg: 36.

Whether both the Decisions of the Circuit Court are in conflict with Title VII of the Civil Rights Act of 1964 when its orders clearly perpetuate ongoing harm despite the rules of Respondents as well as the law require that termination on account of sexual harassment must be done only after the involvement of Title IX Coordinator, why are laws being broken when it comes to a vulnerable brown-skinned Indian national? And where the statement of the State University's "custodian of Title IX records" directly contradicts its own University Title IX Coordinator, when Respondent is funded by taxpayers, making its position untenable? Pages 3, 4, 5, 27, 28 herein and Pet. Apps. 1, 2, 3 and 4. USCA4 Appeal: 22-1772 Doc: 33, Pages 6, 8, 16, 22, 32, 33, 37.

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Pet. App. 2: The latest Order from the aforementioned Circuit Court after three different Judges and new Case No. were assigned [Case No. 22-1772].
The Circuit Court itself assigned a New Case Number, which was memorialized by the Clerk of the Circuit Court herself, and three different new judges were assigned.
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Pet. App. 4: The earlier Mandate from the aforesaid Circuit Court given by the previous three Judges in this Case [Case No. 20-1496]
Pet. App. 5: Report to Chief Justice that has neither been placed on Record [Docket] nor has there been any response, let alone acknowledgment. Therefore, Petitioner thinks this sensitive document has not even been placed before the Chief Justice.
[In the interest of keeping the size of this Petition short, the Affidavit and Attachment 2 of this Pet. App. 5 have not been included herein. Additionally, Attachment 1 of Pet. App. 5 has been given as Pet. App. 6 in this Petition.]
Pet. App. 6: This is part of the Evidence that went illegally missing, which was submitted in Petitioner's first Application to the Chief Justice, filed on July 07, 2023.
Pet. App. 7: Application received by the Supreme Court on September 08, 2023, but was not placed on Record (Docket).
[In the interest of keeping the size of this Petition short, the Exhibits and Affidavit of this Pet. App. 7 have not been included herein.]
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TABLE OF AUTHORITIES

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PETITION FOR A *WRIT OF CERTIORARI*

Petitioner Dr. Panghat respectfully petitions for a *Writ of Certiorari* to review the judgments of the United States Court of Appeals for the Fourth Circuit.

DECISIONS BELOW

The two decisions of the United States Court of Appeals for the Fourth Circuit are unpublished and are reproduced at Pet. App. 1 and Pet. App. 3 herein.

JURISDICTION

The Fourth Circuit entered judgment on January 19, 2023. See Pet. App. 1. On July 12, 2023, Chief Justice Roberts granted the Petitioner's request to extend the time to file this Petition for a *Writ of Certiorari* until September 22, 2023. This Court's jurisdiction is invoked under 28 U.S.C. § 1254.

PARTIES TO THE PROCEEDING

All parties to the proceeding are named in the caption.

STATEMENT OF THE CASE

I. INTRODUCTION

Petitioner was employed on an employment contract as a Post-Doctoral Fellow with Respondent. UM (hereinafter "UM"), as well as a WOC employee, with Respondent. VA (hereinafter "VA"). Petitioner had complained to his supervisors, Drs. Brajesh Lal (who is also an employee of VA)

and Braganza, against Dr. Preeti Rebecca John, who is a senior employee of VA, that she was sexually harassing him. Unfortunately for Petitioner, Dr. Lal reportedly shares an "extremely close relationship" with the person he had complained against. After complaining to supervisors, matters only got worse. ECF1-3Page5¶16,ECF5.13¶¶5-12. ECF63-1,Page 2,¶¶ 14 to 15. These statements are supported by a sworn affidavit of Petitioner but Record does not show any sworn statement of either Dr. John or Dr. Lal denying this, nor show that this charge of Petitioner was investigated. ECF5Pages1-2¶¶1-5,ECF5-13Pages2-3¶7-11,ECF5¶¶15-18.

II. RETALIATION FOR OPPOSING SEXUAL HARASSMENT

Some of these instances are:

(i) After Petitioner, complained against sexual harassment, he was ordered to move to a "dirty and an unhygienic office". ECF5.13Page4¶¶21-23,ECF5.14Page1¶¶2-7.

(ii) UM deliberately blocked Petitioner from joining a confirmed job at Johns Hopkins. ECF16.7,ECF16.8

III. SUPERVISORS WITH POOR CREDIBILITY WHO DID NOT KEEP THEIR WORD EVEN WHEN THE LAW REQUIRED THEM TO DO SO, THEN MADE BASELESS ALLEGATIONS OF SEXUAL HARASSMENT AGAINST PETITIONER

Even though there was no complaint against Petitioner, there was no investigation whatsoever that found him guilty, either in VA or at UM, yet he was summarily terminated. ECF5,Page5¶18,ECF39Page9¶XII,ECF5.13Page4¶¶19-20.

Even the Attorney General of Maryland, Mr. Brian Frosh 'respectfully submitted', "The charge stated nothing about Dr. Panghat". Emphasis added. ECF5.12,ECF26Page13¶54

IV. RETALIATION FOR BEING A WHISTLEBLOWER

Petitioner had provided evidence to a Federal agency where he named Dr. Lal and the so-called 'victim'. It was only after this that the so-called 'victim' complained to the Court, even though the

Statute of Limitations was well over. This person did not complain against Petitioner in her earlier sworn EEOC Charge (ECF5.12), nor does the Baltimore Sun mention Petitioner in the article with her interview. ECF20Pages5-6¶¶20-22,ECF20-2Pages3-4¶¶16-22.

Petitioner **submitted evidence to the Office of Accountability and Whistleblower Protection** (OAWP), a Federal Agency in Washington D.C. to assist them with some very serious issues and faced retaliation. ECF 63, Pages 16 and 17.

V. THERE WAS NO 'DUE CAUSE' FOR PETITIONER'S UNLAWFUL TERMINATION

The sworn statement of Petitioner on the Record documents that he had complained against sexual harassment for which he faced severe retaliation. See Sections I and II above.

A. No Complaint to Petitioner

Baseless allegations were made against him even though a sworn statement records the so-called 'victim' "never" objected to him. ECF5.13¶¶12-20. Record does not reflect a sworn statement from any person refuting Petitioner's above sworn averments.

B. No Complaint in UM

In fact, there was no Complaint either in VA or UM. UM's Title IX Coordinator specifically states there was no Complaint in UM and documents, "Pursuant to Policy, Complainant had the option to resolve the complaint through her employer, [VA] BREF, or through UMB. Here, Complainant chose the former." (Emphasis added).

C. No Complaint in VA

However, the position of VA is documented in the Record in an official letter, received in response to Petitioner's letter addressed to the Chief of Staff and Director of VA, "University of Maryland's actions regarding your employment relationship with that institution was done outside of VA and without participation by VA." (Emphasis added).

ECF26Page5¶13, ECF26.5

D. No Complaint in the Sworn Statement of So-called 'Victim'

In fact, the sworn statement submitted to EEOC by the so-called 'victim' does not even mention Petitioner's name, although she records Dr. Lal "retaliating" and also documents others. (ECF5.12)

VI. THE 'DUE PROCESS' THAT HAS TO BE LAWFULLY AND COMPULSORILY FOLLOWED FOR A TERMINATION WAS ILLEGALLY DENIED TO PETITIONER

A. UM's Policies and Procedures not Complied with

UM's policy is clear and well-established that specifically records, "Scholar Fellows are to be provided with a minimum of 60 calendar days' written notice when an appointment is to be terminated." (Emphasis added). ECF5.6

(i) Petitioner was not provided with a "minimum of 60 calendar days' " or even a single day's notice. As stated on the Record, the termination was done summarily and with immediate effect.

(ii) Petitioner was not given any "written notice" or even oral notice, not even a termination letter or an investigation report, declaring he was guilty.

B. VA's Policies and Procedures not followed

It is important to note that Petitioner was a WOC employee at VA. ECF26Page4¶9. "A WOC is a federal employee for all purposes with the exception of salary and benefits." (Emphasis added). (ECF26.3) Yet, the elaborate legal requirements of VA (ECF54.3) were not followed in terminating Petitioner.

ECF26Page4¶9,ECF26Page8¶32,ECF26Page12¶47(v),ECF5Pages26-27¶¶94-100.

C. Mandatory Rules of UM that Needed to be Legally Followed were Violated

UM has specifically documented its well-established rule that states, "No employee is authorized to investigate or resolve complaints of sexual misconduct without the involvement of the Title IX Coordinator". Emphasis added. ECF5Page35,IX,¶127.

VII. PETITIONER TREATED ADVERSELY AND DIFFERENTLY

The so-called 'victim' specifically named Drs. Lal, Crawford, and Toursavadkohi in her sworn Charge submitted to EEOC. (ECF5.12). Petitioner was not named in this sworn statement. Petitioner's Affidavit records "but **none of them were terminated from their jobs**" Emphasis in original. Only Petitioner, who is a brown-skinned Indian national, was terminated, and Crawford, who the so-called 'victim' named as the perpetrator and was also recorded around 28 times in a Baltimore Sun article, "yet he was allowed to complete his contract (unlike Plaintiff [Petitioner])" Emphasis added. ECF20-2,Page3,¶15,¶20

VIII. DOCUMENTARY EVIDENCE, IN THIS CASE, QUOTING UM'S OWN SUBMISSION TO THE COURT RECORDS IT IS BLOCKING PETITIONER'S TRANSFER ILLEGALLY AND FRAUDULENTLY AND IT DECEIVED THE COURT

Petitioner's affidavit specifically records that, "After I submitted undeniable documentary proof of illegal actions by the Appellee [Respondent UM] to the Title IX Coordinator ... my transfer to Johns Hopkins Medical Institutions was deliberately and persistently blocked." ECF5.14Pages1-2¶2-¶9,¶12-¶15,ECF20-2Page4¶¶25-28.

UM falsely informed the Court that Petitioner's Visa was in terminated status. Irrefutable evidence from Johns Hopkins stating Petitioner's "record has been transferred to JHMI in the SEVIS system" proves UM's claim untenable. Emphasis added. ECF20-2,Page5,¶¶30-34

IX. FABRICATION OF EVIDENCE

The same Respondent UM, represented by the same Attorney General of Maryland, stated in the same Court that it "terminated Dr. Panghat's fellowship in **January 2016**. Exh. A: Lal Decl. ¶ 20.", citing a sworn affidavit of its employee. Emphasis added. A document dated the next month purporting "60 days' notice" is an obvious fabrication.

ECF26,Page14,¶56,ECF20-2,Page4¶23.

PROCEDURAL HISTORY AND RECENT BACKGROUND OF CASE

X. REPEATED INSTANCES OF LACK OF 'DUE PROCESS' AT THE DISTRICT COURT

A. Petitioner was **not served** Respondents' responses filed in United States District Court for the District of Maryland (hereinafter District Court), violating the 'Due Process' laws by Respondent repeatedly. Respondents violated 'Due Process' Laws repeatedly. Despite apprising the District Court of these, it accepted such invalid filings.

B. Sealing of documents done without any notification to or consent of Petitioner, hence ***Ex parte*** **communication** between Judge and Respondents only. ECF55.

XI. NEWLY DISCOVERED PERTINENT AND COMPELLING EVIDENCE HAD NOT EVEN BEEN SEEN THEN BY CIRCUIT COURT

On January 19, 2021, Petitioner had filed in the United States Court of Appeals for the Fourth Circuit (hereinafter Circuit Court) a 'Motion for Leave to Submit Newly Discovered Pertinent and Compelling Evidence', along with an Affidavit, stating that a Government agency had sent him certain crucial "documents only after the Decisions and Orders of the lower Court had been issued". Emphasis in original. (Affidavit of the Motion filed in Circuit Court on January 19, 2021). In that same Affidavit Petitioner states, "certain in my belief that false evidence has been submitted by Appellee [Respondent] UM ... that **fabricated evidence** has been submitted by Appellee [Respondent] UM to State and Federal organizations. [Petitioner] is of the firm opinion that these documents are material to this Case." Emphasis added. See the aforesaid Motion filed on January 19, 2021. Page1¶¶1-8.

This Motion was denied by the Circuit Court in its Decision and Order dated February 25, 2021. See Pet. App. 3.

On 03/29/2021 Petitionerppellant filed a 'Motion to Submit Newly Discovered Pertinent and Compelling Evidence' under Fed.R.Civ.P.60 in the District Court. ECF63,Page2,¶¶4-5. This Motion was denied by the District Court even though it was not opposed by VA.

While the above-mentioned Motion was under consideration both the Officer of the Court (Court Staff) and Officer of the Court (UM's attorney) resorted to several fraudulent and unlawful actions and thereafter Petitioner had to file another Fed.R.Civ.P.60(b) Motion titled, "Motion for Relief from the Latest Decision and Order of the Lower Court Obtained Fraudulently and Deceitfully". ECF77.

XII. IT IS UNPRECEDENTED THAT THE ORDER OF THE LOWER COURT ON THE NEW EVIDENCE MOTION WAS ISSUED ABOUT 2 MONTHS AFTER THE FINAL MANDATE HAD BEEN ISSUED BY CIRCUIT COURT

On 05/03/2021 the Circuit Court filed its final Order and its Mandate was filed on 05/11/2021. ECF71-72.

On 07/08/2021 Judge Hollander's Memorandum and Order denying the aforesaid Motion was filed **58 days after the Mandate was filed by Circuit Court** (ECF75-76), which was entered on 07/09/2021. See Pet. App. 4 herein.

XIII. PETITIONER'S FILING IS TIMELY AND THEREAFTER CIRCUIT COURT ITSELF ASSIGNED A NEW CASE NUMBER, WHICH WAS MEMORIALIZED BY THE CLERK OF COURT HERSELF AND THREE DIFFERENT NEW JUDGES WERE ASSIGNED

On 07/08/2022, within a year Petitioner filed another Motion under Fed.R.Civ.P.60(b)3&4 titled "Motion for Relief from the Latest Decision and Order of the Lower Court **Obtained Fraudulently and Deceitfully**". Emphasis added. However, regarding this Motion exposing fraud Hon. Connor, Clerk Fourth Circuit, wrote an official communication to the Clerk of the lower Court, dated 07/18/2022, stating, "The enclosed document was received by this court on July 8, 2022, and is construed as a **notice of appeal**." Emphasis added. ECF77-1,ECF77.
The earlier Circuit Court Case No. was 20-1496 and the new Case No. assigned is 22-1772.
In the Argument, it is elaborated why Petitioner's submission is timely. See Pages 17 and 20 herein.

XIV. DISTRICT COURT HAD REPEATEDLY DESTROYED THE EVIDENCE THAT PETITIONER HAD SUBMITTED, AND THEREAFTER HIS MOTION WAS DENIED
ECF81, ECF81-1,ECF81-2.

XV. FINALLY PETITIONER HAD TO APPROACH THE CHIEF JUDGE AND CLERK OF THE DISTRICT COURT IN WRITING FOR HIS SUBMISSIONS TO BE PLACED ON RECORD AND IT WAS FILED MORE THAN ONE YEAR AND FOUR MONTHS LATER WHEN THE CASE WAS ALREADY DISMISSED
ECF81,ECF81-1,ECF81-2

XVI. EVIDENCE WAS REPEATEDLY DESTROYED BY THE DISTRICT COURT AND WHEN PETITIONER DISCOVERED THIS HE HAD TO RESUBMIT THIS SAME CRUCIAL EVIDENCE TO COURT ALL OVER AGAIN BUT BY THEN THE DECISION HAD BEEN GIVEN WITHOUT CONSIDERING THIS EVIDENCE

On 09/08/2022, Petitioner filed a letter to the Chief Judge, District Court informing him about certain sensitive and vital issues. ECF81.

On the very same day, the Chief Judge replied to Petitioner, providing him with important and helpful information. ECF82.

In addition, the next day (09/09/2022), Hon. Judge Hollander also wrote a letter to Petitioner, wherein she specifically admits that "I have **no record in my file** that I received that letter [submitted by Petitioner on 05/05/2021]." Emphasis added.

ECF83. Despite this, she filed her Memorandum and Order without getting to consider Petitioner's crucial evidence. ECF75,ECF76,ECF81-1.

However, Petitioner got to read these above-mentioned two letters sent via regular mail **only after** he had already filed his Opening Brief on 09/12/2022.

USCA4,Appeal:22-1772,Doc:16.

XVII. APPELLANT WAS COMPELLED TO FILE ANOTHER MOTION UNDER FED.R.APP.P.60(b) BECAUSE THE COURT STAFF OF DISTRICT COURT DESTROYED HIS EVIDENCE

On 01/19/2023 the Circuit Court states, "Lijo Panghat seeks to appeal the district court's order denying his Fed. R. Civ. P. 60(b) motion." USCA4,Appeal:22-1772,Doc:26,Pg:2. However, it's

important to note that what Petitioner filed is actually a Motion under Fed.R.Civ.P.60(b)3&4. ECF77,Pages11-15.

XVIII. RAMPANT TAMPERING OF EVIDENCE IN THE SUPREME COURT

1. Petitioner had submitted a formal document to the United States Supreme Court, filed on July 07, 2023. He subsequently examined this document recorded on the official website of the Supreme Court where he discovered several illegal actions that proved his submission had been **extensively tampered with.**

2. In brief, in the scan of his aforementioned document on this Court website, he found the following observations:

(a) "Exhibit B that was **removed unlawfully** from my Application filed on July 07, 2023" and this was reported verbatim to the Chief Justice. Emphasis added. See Pet. App. 5, Page 9 herein. Similarly, he was informed therein: "Exhibit D that was **removed unlawfully** from my Application filed on July 07, 2023" Emphasis added. Refer to Pet. App. 5, Page 9. Furthermore, yet another instance of unlawful action is that "Exhibit C **has been switched.**" Emphasis added. For documentary proof refer to Pet. App. 5, Page 2, ¶ 5.

(b) Another unlawful action that the Chief Justice was informed about was that "I am convinced that my original Application has been **switched in its entirety**" Emphasis in original. Refer to Pet. App. 5, Page 5, ¶ 19.

Petitioner promptly made an official report to the Honorable Chief Judge of the Supreme Court of the United States that "**crucial documents have illegally gone missing** and evidence **has even been unlawfully switched**" from his Application filed on July 07, 2023. In addition, Petitioner informed this highest-ranking officer of the U.S. Federal judiciary that he "strongly

believes that my [his] **entire submission has been illegally changed**". Emphasis in original. The reasons for this are given in Pet. App. 5, Page 2, ¶ 5.

A missing document that was part of the above Application is so pertinent and pivotal that it is now **being submitted for the third time in this Court alone**. It is this document that is placed at Pet. App. 6 of this Petition. It had been earlier submitted as "Exhibit B" of the Application to Chief Justice that went missing as explained above. Later in the Report to the Chief Justice, it was included as "Attachment 1", and this entire Report went missing. Therefore, this was submitted again. [However, another attachment of this Report (Exhibit D) that also went missing has not been included in this Petition to reduce the size of this Petition.]

XIX. AN URGENT AND VITAL REPORT TO THE CHIEF JUSTICE THAT WAS SUBMITTED IN THE HIGHEST COURT HAS GONE ENTIRELY MISSING

As explained above, Petitioner had filed a formal Report to the Chief Justice reporting the above-mentioned wrongdoings that required prompt action. This was delivered to the U.S. Supreme Court on August 28, 2023, as confirmed to Petitioner by a U.S. Federal Agency. However, it is missing from the docket and thus has **not been placed on Record** even after such a long period of time has elapsed. Petitioner strongly believes that this Report has been **unlawfully destroyed by an officer/ officers of the Court**, considering the several instances of illegal destruction of evidence in multiple Courts earlier.

Petitioner has no confirmation to date whether the Chief Justice has even got to know about this above-referred submission of his because he has **not received any communication** whatsoever regarding this matter.

It is to be noted that it is this aforementioned vital report that has **gone entirely missing from the Supreme Court**. This document is so relevant and decisive that it has again been submitted

as part of this Petition in Pet. App. 5. It is unfortunate that Petitioner is having to submit the same document yet again.

XX. FACING MULTIPLE EMERGENCIES PETITIONER HAD FILED AN APPLICATION FOR FURTHER EXTENSION AND IT WAS NEITHER DOCKETED NOR WAS THE DECISION GIVEN BY THE JUSTICE ASSIGNED BUT INSTEAD DISPOSED OFF AND RETURNED BY AN ASSISTANT CLERK

Petitioner had submitted in this Application yet another set of crucial and urgent documents that recorded emergencies being faced by him, like **potential eviction** on the basis of another Court Case. Even this vital document was not placed on the Docket. Thus this document is again submitted herewith as Pet. App. 7. [However, in the interest of keeping the size of this Petition short, the Exhibits and Affidavit of this Pet. App. 7 have not been included herein.]

In this submission, Petitioner, who is representing himself all alone, had fervently requested more time where he specifically gave compelling reasons like stating "**FURTHER DETERIORATION OF HEALTH**" among others. See Pet. App. 7, Page 5.

Additionally, he had also given vital details of **serious continuing wrongdoings that he was being subjected to in the U.S. Supreme Court.**

Furthermore, Petitioner had addressed this Application for the attention of the Chief Justice specifically, yet it was from an Assistant Clerk from the Clerk's office that he got a reply after a gap of seven days after it was received by this Court. Additionally, in this letter, there is no mention that Petitioner's submission and **all** its copies were being returned to him in full.

It is but obvious that by placing this important document and other relevant evidence on the Court records, these serious irregularities, especially within the Supreme Court, **would get exposed.** This letter from Assistant Clerk has been enclosed as Pet. App. 8.

Petitioner wants to place on Record that there have been some unforeseen multiple emergencies he had to face. In the very recent past, he had to prepare an urgent and sensitive report for

submitting to the Chief Justice of the instant Court. Petitioner had to also attend a Court Hearing in another Case recently where again he is representing himself in Court (See Pet. App. 7). In addition to these pressing commitments, Petitioner is suffering from deteriorating health for a prolonged time. Because of these reasons, it has just not been possible for him to prepare this Petition of *Writ of Certiorari* to the level of his satisfaction and these recent inimical circumstances have adversely **harmed his preparation of this Petition.**

REASONS FOR GRANTING THE PETITION

A. PETITIONER DENIED CONSTITUTIONAL RIGHTS OF 'DUE PROCESS' OF LAW (FIFTH AND FOURTEENTH AMENDMENT) THAT WERE REPEATEDLY VIOLATED BY OFFICERS OF THE FEDERAL COURTS AT SUCCESSIVE LEVELS

Officers of the Court resorted to illegal actions, and these are explained in Sections I to IX below:

I. EVIDENCE SUBMITTED TO COURT FOR JUDGE DESTROYED BY THE OFFICER OF THE COURT

Failure of Clerk's Office at District Court to file and place on Record Petitioner's formal letter submitting crucial evidence addressed to Hon. Judge Hollander (05/05/2021) despite Petitioner having personally submitted it to Courthouse as per instructions of Court staff during office hours duly Court-stamped. ECF81-1.ECF81.

II. OFFICER OF THE COURT DESTROYED EVIDENCE SUBMITTED FOR THE COURT CLERK

Clerk's staff failed to file a letter to Chief Clerk (05/05/2021) containing vital proof, even though Petitioner personally got it Court-stamped. ECF81-2,ECF81. This **evidence was also destroyed** and not placed on Record by Court staff. ECF81-2,Page2,¶11.

III. OFFICER OF THE COURT FAILED TO SERVE PETITIONER, JUDGE WAS INFORMED, YET UM'S RESPONSE WAS WRONGFULLY TAKEN INTO COURT RECORDS BY CLERK STAFF

Officer of the Court has admitted that she filed their 'Opposition' (ECF66) without first serving to Petitioner. Specifically, she states her submission "**was filed** [past tense] with the court today ... A hard copy **will** [future tense] also be sent by mail." Emphasis added. ECF81-1,Page2,¶¶12-13.

Consequently, Petitioner formally informed both the presiding Judge and Clerk of Court in writing, yet these **Officers of the Court failed to set it right**. ECF81-1,ECF81-2.

Even **invalid submissions** of Respondents were accepted and their evidence was not destroyed, betraying **deliberate differential treatment**.

IV. AN OFFICER OF THE COURT RESORTED TO REPREHENSIBLE MISREPRESENTATION UNDER THE SEAL OF THE A.G. OF MARYLAND TO A JUDGE AND *PRO SE* PETITIONER, NOT TRAINED IN LAW AND BOTH WERE MISLED

No less than Asst. Attorney General of Maryland (UM's Counsel), an **Officer of the Court**, to somehow justify her wrongdoing, has recorded a patently false and **fabricated statement**, "**nothing** in Fed. R. Civ. P. 5 **requires a party to serve** a pleading **before filing** it with the Court." Emphasis added. This fabricated evidence **fraudulently misled the Court** and the Judge rewarded Respondents. ECF70,¶¶14-15.ECF81-1.

It is a well-established fact that when an Officer of the Court is found to have **fraudulently presented facts** to *impair the court's impartial performance of its legal task*, the act is **not subject to a statute of limitation**. See *Kenner v. C.I.R.*, 387 F.2d 689, 691 (7th Cir. 1968) and *Herring v. United States*, 424 F.3d 384, 386-87 (3d Cir.2005), Title 18 of the United States Code, 18 U.S. Code § 371 clearly establishes Conspiracy to commit offense or to defraud Courts of United States. Emphasis added.

V. AN OFFICER OF THE COURT, THE JUDGE, DESPITE BEING FORMALLY INFORMED, DELIBERATELY FAILED TO CORRECT AND SET RIGHT THE WRONGDOINGS OF UM

Petitioner filed a written submission to Judge Hollander giving evidence to prove further deliberate lack of due process. ECF68. Despite this, she did not rule that the invalid document of UM be struck off the Record. Ironically, she **even rewarded** the adversary by denying pivotal new evidence, submitted through a Motion by Petitioner, that proves not only **unlawful false statements** by UM to State and Federal Agencies, but also the **criminal fabrication of evidence**, from being placed on the Record. ECF63.ECF76.

Dangerous precedents are being set by **Officers of the Court** by not setting aside invalid documents.

VI. OFFICER OF THE COURT, JUDGE HERSELF, EARLIER BLOCKED NUMEROUS INVALID DOCUMENTS OF VA FROM BEING REMOVED AND THUS ACCEPTED INVALID DOCUMENTS, ESTABLISHING A PATTERN

Petitioner filed with the Court Clerk that Respondent VA's invalid submissions (filed late and repeatedly not served) must be "struck off the Record." (ECF44-1). However, Judge Hollander wrongfully denied this and **illegally removed it** (except for Page 1) even though it had **already been filed** in Court. Even the **Affidavit** and the **Appendix** were removed. Documents were **sealed** without Petitioner's involvement. ECF55.ECF44.ECF44-1,¶3.ECF40.1,¶4.ECF40,Page2,¶¶8-9.ECF47,Page3,¶¶10-18.ECF47-1,Page2,¶8.ECF51,Pages2-3¶8.ECF51-1.

Judge records: "Case was closed 12/27/2019". However, the Case was **not** "closed" at that time because even on a later date (02/13/2020) Petitioner filed a Motion for Recusal. Yet, this **misrepresentation** by the Officer of Court is signed and dated 01/02/2020. ECF44.ECF44-1.ECF52-2.ECF47,Page3.ECF, 47-1,Page2,¶8.ECF51-1.

VII. REPEATED DESTRUCTION OF PETITIONER'S EVIDENCE AND VIOLATION OF DUE PROCESS BY OFFICERS OF THE COURT IS FRAUD ON THE COURT AND CONSEQUENTLY, THIS RENDERS THE DECISION VOID

Petitioner filed a **formal complaint to the Chief Judge** of District Court on 09/08/2022 raising concerns about his aforementioned missing documents. It was only after Petitioner had to again include this evidence as exhibits were these documents finally placed on Record on 09/08/2022. It is condemnable that it was done **more than a year and four months after it was deposited** in Court. ECF81.ECF81-1.ECF81-2.

VIII. LACK OF DUE PROCESS AND ABUSE OF *PRO SE* RIGHTS IN CIRCUIT COURT WHEN AN OFFICER OF THE COURT WHO IS NOT A JUDGE DISMISSES TWO MOTIONS AND THE CASE ITSELF, MISLEADS PETITIONER, EVEN WHEN THE CLERK CLEARLY STATED OTHERWISE

Petitioner had filed two Motions in the Court of Appeals, one regarding a void judgment of District Court (Fed.R.Civ.P.60(b)4). Thereafter, a letter from a Deputy Clerk of Circuit Clerk (Tony Webb,"804-916-2702"), stated, "**no further action** will be taken in this matter **by this court**. A petition for writ of certiorari **may be filed** in the Office of the Clerk, **Supreme Court** of the United States". Emphasis added. USCA4,Appeal:20-1496,Doc:41,Filed:07/15/2022.

This official communication from Circuit Court misled Petitioner. However, the aforementioned statement is subsequently entirely **contradicted** and **corrected** by a document from his senior, the Clerk herself, where she asserts Petitioner's submission is construed as a 'Notice of Appeal' and this Case is indeed still proceeding in Circuit Court, **not** Supreme Court. ECF77-1,Filed07/18/22.

Thereafter, the Clerk's office of the Circuit Court informed Petitioner that his "Informal opening brief due: 8/12/2022". USCA4,Appeal:**22-1772**,Doc:3,Filed:07/19/2022.

Hence, the above-quoted false statement of Deputy Clerk that "no further action will be taken in this matter by this court" is serious 'Due Process' violation of Petitioner's inalienable rights.

IX. 'DUE PROCESS' THAT IS PROMISED BY THE UNITED STATES CONSTITUTION HAS BEEN REPEATEDLY VIOLATED AND IS BEING DENIED TO PETITIONER EVEN IN THE HIGHEST COURT

It has been explained in detail in the Statement of the Case above that **all the three (3)** submissions of Petitioner to the Supreme Court have been **seriously compromised.** Specifically, two (2) of his submissions are completely **missing from the Record** and have not been docketed and the third document has been **extensively tampered** with (like specific exhibits were **entirely removed and destroyed** and one exhibit was **switched.**)

The details of these grave wrongdoings are given in Petitioner's Report to the Chief Justice, which **also went missing** in Supreme Court and is now again attached herein as Pet. App. 5. Petitioner is certain in his mind that the Hon. Chief Justice has not got to see this original Report because, as the **Chief Administrative Officer for the Federal Courts**, he would definitely not stand for such flagrant violations of 'due process' and lawlessness in the lower courts and even in his own Court. Thus, it is extremely unfortunate to observe these repeated and egregious **violations of 'due process'** even in the highest Court of the land, which goes against what is promised by the U.S. Constitution.

It is of utmost importance to note that **Officers of the Court resorting to illegal actions** (as explained in **Sections I to IX** above) demonstrate **fraud on the Court.**

B. THE DECISION BELOW IS IN CONFLICT WITH THE U.S. SUPREME COURT WHERE THE COURT OF APPEALS ERRED IN DECLARING IT WOULD NOT ALLOW EVEN THE DISTRICT COURT TO AUTHENTICATE NEW EVIDENCE THEREBY UNLAWFULLY DENYING THE BENEFIT OF COMPELLING NEW EVIDENCE TO PETITIONER

I. FRAUD ON THE COURT MAKES THE DECISION VOID

Only after Petitioner exposed this deliberate error of the Officer of the Court [Assistant A.G., Maryland (UM's attorney)], did she make an allegation that implied Petitioner also did not serve

a formal submission. However, Petitioner proved the Officer of the Court wrong by providing **concrete evidence** of a U.S. Federal organization, U.S.P.S. that he did indeed correctly serve his submission. ECF81-1,Pages1-2,¶¶6-9.

It is unacceptable that the District Court **failed to file** Petitioner's evidence, which was also **destroyed.**

These numerous unlawful actions by **officers of the Court** explained above are undeniable instances of **fraud on the Court**, and it is well-established that committing fraud on the Court renders Decision **void**. It is unequivocal that a void judgment is **timely**.

Specifically, the Courts have ruled:

It is publicly and freely accessible and well-established in law that:

> When an officer of the court is found to have fraudulently presented facts to impair the court's impartial performance of its legal task, the act (known as fraud upon the court) is not subject to a statute of limitation: "This concept that the inherent power of federal courts to vacate a fraudulently obtained judgment—even years after the judgment was entered—has **long been recognized by the Supreme Court.**" *Baxter v. Bressman*, No.16-3244 874 F.3d 142. Emphasis added.

From the foregoing it is seen that the Decision of Circuit Court is in conflict with that of Supreme Court. See Pet. App. 1.

II. THE JUDGE GAVE HER FINAL DECISION WITHOUT EVEN BEING AWARE OF PETITIONER'S SUBMISSION

Petitioner submitted pivotal evidence (ECF81-1), including proof of serving documents to UM, yet the Judge specifically admits "I have **no record in my file** that I received that letter [submitted by Petitioner (05/05/2021)]." Emphasis added. She issued her final Decision **without even being aware** of this and denied his Motion for Submitting **Newly Discovered Evidence** (ECF63), seriously violating Petitioner's constitutionally assured **due process rights**. ECF83.ECF75.ECF76.ECF81-1.ECF81.USCA4,Appeal:22-1772,Doc:16,Pages33-

C. THE COURT SHOULD GRANT THE PETITION TO ENSURE THAT THERE IS UNIFORMITY OF LAW HOWEVER THE POSITION HELD CORRECTLY BY OTHER CIRCUITS IS IN CONFLICT WITH THE FOURTH CIRCUIT

I. FURTHER LACK OF DUE PROCESS BY DISTRICT COURT MAKES ITS JUDGMENT VOID

Tenth Circuit states:

> [When] "motion is based on a **void judgement** under rule 60(b)(4), the **district court has no discretion**, the **judgement** is either **void** or it is not." Emphasis added. In *Wilmer v. Board of County Comm'r*s, 69 F.3d 406, 409 (10th Cir. 1995).

It is well-established:

> The **Ninth** Circuit's approach is also instructive: "We **review *de novo***. . . . a district court's ruling upon a Rule 60(b)(4) motion to set aside a judgment as void, because the question of the validity of a judgement is a legal one." *Export Group v. Reef Industries*, Inc., 54 F.3d 1466,1469 (9th Cir. 1995)." *Carter v. Fenner*, 136 F.3d 1000, 1005 (5th Cir. 1998). Emphasis added.

II. THIS CASE SHOULD RIGHTFULLY HAVE BEEN DECIDED BY THE CIRCUIT COURT BECAUSE FRAUD ON THE COURT AND VOID JUDGMENT REQUIRE IT, WHERE THE OFFICER OF THE COURT, SPECIFICALLY DISTRICT COURT STAFF, THEMSELVES COMMITTED UNLAWFUL ACTIONS HARMING PETITIONER

Since it is well-established that there is fraud on the Court **committed by Officers of the Court of District Court** and the Decision is clearly void, the Circuit Court could well have ruled on the Motion because a **void** judgment can be seen **at any time** by the Court. Alternatively, if the Fed.R.Civ.P.60(b)3 Motion had to be ruled by District Court, the Circuit Court should not have issued the Notice of Appeal preemptively and prematurely.

III. VOID JUDGMENTS HAVE "NO SET TIME LIMIT"

There have been repeated and deliberate **fraud on the Court** and **due process** violations in District Court as outlined above, **thereby making its Decision void.** In *Carter v. Fenner* 136 F.3d 1000 (5th Cir. 1998) the Court has explained that "'[t]here is no time limit on an attack on a judgment as void.", [Ref: *Orner v. Shalala*, 30 F.3d 1307, 1310 (**10th Cir.** 1994)], stating:

> Motions brought pursuant to Rule 60(b)(4), however, constitute **such exceptional circumstances as to relieve litigants from the normal standards of timeliness** associated with the rule. ... we have held that motions brought pursuant to subsection (4) of the rule have **no set time limit**. This court has explained that "'[t]here is no time limit on an attack on a judgment as **void**. Emphasis added. USCA4,Appeal:22-1772,Doc:25,Pages13-14.

IV. PETITIONER WAS COMPELLED TO FILE YET ANOTHER FED.R.CIV.P.60(b) MOTION BECAUSE THE COURT STAFF OF DISTRICT COURT DESTROYED HIS EVIDENCE

On 01/19/2023 the Circuit Court states, "Lijo Panghat seeks to **appeal** the district court's order denying his Fed. R. Civ. P. 60(b) motion." Emphasis added. USCA4,Appeal:22-1772,Doc:26,Pg:2. However, it is important to note that what Petitioner filed is actually a **Motion** under Fed.R.Civ.P. **60(b)** 3 & **4**. ECF77,Pages 11-15.

V. EVEN THE COURTS AT SUCCESSIVE LEVELS, AMONG OTHER STATE AND FEDERAL ORGANIZATIONS, HAVE THEMSELVES REPEATEDLY COMMITTED UNLAWFUL DENIAL OF PETITIONER'S CONSTITUTIONALLY GUARANTEED 'DUE PROCESS' RIGHTS

It is unjustified for the Circuit Court to issue a Per Curarium (ECF62-1,Page 2), unanimously stating they "deny Panghat's motion for leave to submit newly discovered evidence". What is inexcusable is that Honorable Judges at Circuit Court found it correct to rule **without even seeing** this new and pivotal evidence, even though it "**lack[s] the means** to **authenticate** documents". *Lowry*.USCA4,Appeal:20-1496,Doc:34,Pages:6,7,15. Emphasis added. See Pet. App. 3 and Pet. App. 4.

VI. ANOTHER INSTANCE OF FAILURE OF DISTRICT COURT DENYING 'DUE PROCESS' TO PETITIONER

District Court filed Petitioner's Reply to UM's Response to his Motion **several days late** even though Petitioner personally submitted to Courthouse on 03/26/2021, as per instructions of Court staff during office hours after Court-stamping it. ECF81-2,Page1,¶2.

VII. FALSE STATEMENT BY THREE CIRCUIT COURT JUDGES

The Circuit Court has made a false statement, specifically stating, "Panghat filed the notice of appeal on **July 18**, 2022." Emphasis added. This is because the Notice of Appeal was **not** filed on 07/**18**/2022. Whereas, it was actually filed on 07/**08**/2022 and this has been declared by Circuit Court itself that clearly and correctly records that it was indeed filed on "**[RECEIVED]** JUL 08 2022". ECF77.ECF77-1. Hence, the filing was **timely** and the Decision is erroneous.

In any event, even if the Circuit Court wrongfully insists that Petitioner's submission was only on 07/18/2022, it is **still timely**.

Furthermore, the only Case law cited is inapposite because the instant **void** Case entails **fraud on the Court** and extensive and numerous 'due process' violations.

VIII. EVERY ONE OF THE THREE JUDGES HAS PATENTLY MADE A FALSE STATEMENT REGARDING THE DATE OF FILING THAT IS FUNDAMENTAL TO THE VALIDITY AND TIMELINESS ASPECT OF THE CASE AND IT WAS WRONGLY DISMISSED

Judges who presided over this Case in Circuit Court failed to examine this crucial document because it's highly unlikely that **all three** of them happened to get the date wrong. This is unacceptable, especially because the main reason for dismissing the Case allegedly was *timeliness*.

However, even the Clerk of the Circuit Court got it right and also informed the Clerk of District Court. ECF77-1.

The Clerk of Circuit Court, quoting Fed.R.App.P.4(d), correctly stated:

> If a notice of appeal in either a civil or a criminal case is mistakenly filed in the court of appeals, the clerk of that court **must note on the notice the date** when it was received and send it to the district clerk. The notice is then considered filed in the district court **on the date so noted**. Emphasis added. ECF77-1

Additionally, the Clerk of Circuit Court specifically noted in the same document, "In accordance with Rule 4(d) of the Federal Rules of Appellate Procedure, the document has been **date stamped** and is being forwarded to your court for **appropriate disposition**." Emphasis added.

Petitioner filed the Motion under both Fed.R.Civ.P.60(b)3 and 60(b)4. It is indisputable that this Motion was filed in a timely manner (within a year for 60(b)3), and it could have been filed even after that for 60(b)4.

It is apparent from the above-cited clear directions of Clerk of Circuit Court to Clerk of District Court that it is "being forwarded to your court for appropriate **disposition**", which clearly has not been done by District Court. Emphasis added. The Circuit Court's preemptive action of issuing a Notice of Appeal even before Petitioner's Fed.R.Civ.P.60(b) Motion was ruled on by the District Court, the Circuit Court has effectively blocked it from duly completing its designated action. It is to be noted that had the District Court given a proper decision on this Motion, an Appeal to the Circuit Court may not have even been necessary.

D. ERRONEOUS DECISION IS WITHOUT ANY FAIR OR SUBSTANTIAL SUPPORT UNDER THE LAW

I. DISTRICT COURT'S DECISION IS ERRONEOUS WHERE JUDGE HOLLANDER STATES THAT THE MOTION FOR NEW EVIDENCE WAS DENIED BECAUSE OF *RES JUDICATA*

In the earlier Case, State Courts were not even aware of following vital documents and their Decisions were given erroneously without necessary evidence:

- In so-called victim's **sworn Charge** to a Federal agency several physicians' names are recorded but Petitioner was **never even mentioned**. ECF5-12 has never been available in State Courts. ECF16-1,Page6,2nd¶.ECF16-7.ECF20-2,¶¶15-18.ECF16-11,Page5,¶¶2-4.USCA4 Appeal: 22-1772,Doc:16,Pg:27.
- Petitioner's affidavit records **new evidence** regarding alleged sexual harassment of so-called 'victim' in Baltimore Sun where Dr. Crawford is mentioned 28 times, however Petitioner "is not mentioned even once in this article too". ECF20-2,¶15,¶20.ECF63,Pages15-16.

- Petitioner's affidavit regarding new evidence states, "Attorney General of Maryland, Mr. Brian Frosh has 'respectfully submitted' that, "The Charge stated **nothing** about Dr. Panghat." Emphasis added. ECF20-2,Page2,¶19.
- New evidence specifically records Executive Director VA BREF stated, "I also do not have **any** knowledge of an "internal complaint" alleging sexual harassment." Emphasis added. ECF63-7. This establishes UM's statements to State and Federal bodies are false, based on untenable and fabricated evidence.

Thus, the Decision that states the previous State Court Case had the "same nucleus of operative facts, resulted in a final judgment" is patently erroneous and yet being upheld. ECF75,Page4. Additionally, the **parties were different**, so were the **cause of action** and also **jurisdiction**. VA was **never a party** in the earlier defamation Case. Moreover, Judge Hollander contradicts her own earlier legal ruling. USCA4,Appeal:22-1772,Doc:16,Pages21-25.

***RES JUDICATA* DOES NOT APPLY IN THIS CASE**

VA, a Federal agency, could not be sued in the State Court and itself removed the Case to the Federal Court because of jurisdiction. The State Court does not have jurisdiction over VA. Further, it is important to note that VA was **not even a party to the Defamation Case** in the State Court.

In this regard, it is well-established that:

> By definition, *res judicata* bars only those grounds for recovery which could have been asserted in the prior litigation. *McClain v. Apodaca*, 793 F.2d at 1033. If a claim could not have been asserted in prior litigation, no interests are served by precluding that claim in later litigation. Another way of stating the same principle is that a claim is not barred by *res judicata* if the forum in which the first action was brought lacked subject matter jurisdiction to adjudicate that claim. See Restatement (Second) of Judgments § 26(1)(c); Cullen v. Margiotta, 811 F.2d 698, 732 (2d Cir.), cert. denied,483 U.S. 1021, 107 S.Ct. 3266, 97 L.Ed.2d 764 (1987). Emphasis added. *Clark v. Bear Stearns Co.*, Inc., 966 F.2d 1318, 1321 (9th Cir. 1992)

NOT A SINGLE ELEMENT OF RES JUDICATA IS MET

New evidence has indubitably shown that the Executive Director of VA BREF, Dr. Johnson had stated in his email dated October 17, 2016, that there was **no Complaint in VA BREF**. ECF63-7. Record further shows this crucial letter has been sent to certain senior officials of UM. This proves that UM knew all along, as early as October 2016, that there was no Complaint in VA BREF. Therefore, UM cannot feign ignorance and claim that there was a complaint.

In fact, even the so-called victim had been sent a copy. Record documents UM and VA have both allotted their official emails to Dr. Johnson. ECF 63-7.

Yet, UM unlawfully and deliberately made false statements to both State Courts (2017) and Federal Courts (2019) that the so-called victim 'complained to VA BREF'. See Petitioner's Opening Brief (USCA4 Appeal: 22-1772 Doc: 16), Pages: 27 to 28.

Ref: *Brady v. Maryland* - 373 U.S. 83, 83 S. Ct. 1194 (1963). The Supreme Court of the United States held that **suppression of evidence** favorable to an accused.....violated the Due Process Clause, **U.S. Const. amend. XIV**. Emphasis added.

Likewise, Federal Courts have been deviously misled by UM withholding crucial evidence and even unlawfully framing false statements.

In a similar manner, State Courts were not given crucial evidence like this pivotal letter of Executive Director, VA BREF, which was deviously suppressed and misused.

Further, the State Courts did not get other compelling evidence, like sworn EEOC Charge of so-called victim that never mentioned Petitioner's name even once. ECF5.12.

Despite Petitioner repeatedly requesting MCCR for this vital evidence, it did not provide this to him until such time that the Discrimination Case in the lower Court was dismissed. ECF63

Record shows both MCCR as well as EEOC consider this a Discrimination Case.

The entire Record of the Defamation Complaint is given in ECF16-3 to ECF16-10 and it does not have crucial and pivotal evidence like ECF63-7 among others.

Thus, evidently, the following elements of *Res Judicata* are not met, "the prior suit must have ended with a **judgment on the merits**;". Emphasis added.

Further, for the reasons above, another element that is not met is "the plaintiff must have had a **full and fair opportunity** to litigate the claim in the prior suit." Emphasis added.

Additionally, the element of "the parties must be identical or in privity" is not met because **VA was not even a party** to the Defamation Case.

The element of "the suit must be based on the same cause of action" is not met because the Case in the State Court was one of **Defamation alone**. Whereas the instant Case pertains to Racial Discrimination, Sexual Harassment, and Retaliation for opposing these, among others.

In fact, Record also proves that MCCR as well as EEOC state that this is a Discrimination Case. Further, MCCR did not release crucial evidence in this Case.

In this regard it is well established:

> Elements of Res Judicata
> We have characterized the elements of a res judicata defense as follows:
> Res judicata requires the satisfaction of four elements: (1) the prior suit must have ended with a judgment **on the merits**; (2) the **parties must be identical** or in privity; (3) the suit must be based on the **same cause of action**; and (4) the plaintiff must have had a **full and fair opportunity** to litigate the claim in the prior suit. Id. at 1257 (citing *Murdock v. Ute Indian Tribe of Uintah Ouray Reservation,* 975 F.2d 683, 686 (10th Cir. 1992)); but cf. Yapp v. Excel Corp., 186 F.3d 1222, 1227 n. 4 (10th Cir. 1999) (stating that "full and fair opportunity to litigate" is not actually an element of res judicata, but rather "an exception to the application of claim preclusion when the [first] three referenced requirements are otherwise present" (citing *Kremer v. Chemical Constr.* Corp., 456 U.S. 461, 481 n. 22, (1982)). Emphasis added.
> *Plotner v. AT&T Corporation,* 224 F.3d 1161, 1168 (10th Cir. 2000)

In order to prove *res judicata*, it is evident that **all four elements must be met** and in the

instant Case **not even a single** one is met.

Refer: *Warfield v. ICON Advisors*, Inc., No. 20-1690 (4th Cir. Feb. 24, 2022) overturned an Illegal termination without a cause even though he was an at-will worker.

Despite the fact that Petitioner was denied the opportunity of trial and the Case was summarily dismissed, he still was able to provide an ample amount of irrefutable documentary evidence to Court. This evidence undeniably proves sexual harassment against Petitioner, racial discrimination based on the color of the skin and national origin, retaliation for opposing sexual harassment, and retaliation for opposing racial discrimination, among numerous other unlawful actions of Respondents.

Even at present Respondents are inflicting egregious harm that is **continuously blocking his employment** because he is a vulnerable foreigner. Consequently, he is undergoing extreme financial hardships and his health is deteriorating. This needless and malicious harm is continuing for **more than seven (7) years** and is still ongoing. ECF 5.13, Pages8-9, ¶ 48, ECF 5.11.

II. MOTION NOT PRECLUDED BY SOVEREIGN IMMUNITY

Judge Hollander's assertion that this Case is "barred by state sovereign immunity" is erroneous. There are numerous reasons why she has erred. Both VA and UM do not have Sovereign Immunity when Case was voluntarily transferred by VA from State Court to Federal Court and UM agreed. ECF1.ECF1-5.ECF2.ECF10.

Additionally, UM is receiving hundreds of millions of dollars in Federal funds. USCA4,Appeal:22-1772,Doc:16,Pages17-21.

Numerous Appellate Courts have held that, as long as the State entity receives Federal funding, then the sovereign immunity for discrimination cases is not abrogated, but voluntarily waived. See *Doe v. State of Nebraska*, 345 F.3d 593, 597 (8th Cir. 2003) and

Thomas v. University of Houston (5th Circuit).

Further, UM's own actions belie it's claim of Sovereign Immunity even in matters of Discrimination, Retaliation, when Record shows it sent as many as four senior officials to attend MCCR's fact-finding conference where it illegally made deliberate false statements that misled this State agency. ECF37,Page3,¶¶14-19. ECF37-1,¶2.

Constitutionally-guaranteed 'due process' was denied by Respondents. (U.S. Constitution: Amendments V, XIV).

The United States **Supreme Court** in *Price v. United States* observed:

> "It is an axiom of our jurisprudence. The government is not liable to suit **unless it consents** thereto, and its liability in suit cannot be extended beyond the plain language of the statute authorizing it." See *Schillinger v. U. S.,* 155 U. S. 163, 166, 15 Sup. Ct. 86. Emphasis added.

VA itself filed "NOTICE OF REMOVAL" and transferred the present Case from the State Court to the Federal Court. ECF1,ECF1-5,ECF2, USCA4 Appeal: 22-1772, Doc: 23.

UM itself records "University hereby joins in, and consents to, the removal of this action to this Court on the same grounds as stated in the Department of Veterans Affairs' Notice of Removal". ECF10.

UM has not denied Petitioner's emphatic assertion that it gets Federal funds, with proof or a sworn statement.

Similarly, a State Agency, MCCR, has stated that this is a Discrimination Case. Hence, it **did not give Petitioner** crucial evidence when he requested earlier for another Case because that was a Defamation Case alone and only released that evidence in the instant Case because this is a Discrimination Case. ECF37-2 .

E. THE COURT SHOULD GRANT THIS PETITION IN ORDER TO PRESERVE THE SANCTITY AND INTEGRITY OF THE FEDERAL COURT THAT IS BEING BROUGHT INTO QUESTION

I. In summary:

RECORD DOCUMENTS THERE WAS NO COMPLAINT IN ANY INSTITUTION DESPITE RESPONDENTS' ALLEGATIONS TO THE CONTRARY (NO DUE CAUSE)

For details see: USCA4,Appeal:22-1772,Doc:16,Filed:09/12/2022,Pages11-13.

- No Complaint to Petitioner: ECF5.13,¶¶12-20.
- No Complaint in UM: ECF5,Page37,¶133.ECF16.7,Page2.
- No Complaint in VA: ECF26,Page5,¶13.ECF26.5.
- No Complaint in Affidavit of so-called 'victim': ECF20-2,Page3,¶15,¶20.
- No Complaint in VA BREF as proved by New Evidence: ECF63-7.

II. FURTHER, 'DUE PROCESS' NOT AFFORDED TO PETITIONER

- No 60-day notice before Termination: ECF5-6,ECF63,Page4,¶19.
- No written or even oral notice: ECF63,Page4,¶19,ECF5-6.
- No Title IX involvement before termination: ECF63,Page5,¶22.
- No investigation found Petitioner guilty: ECF39,Pages9-10.ECF63-7.

III. NUMEROUS MISREPRESENTATIONS BY RESPONDENTS ARE INFLICTING GRIEVOUS HARM BY MISLEADING COURTS

Repeated falsehoods by Respondents even to Courts establish their poor credibility, perpetuating injustice. These include, but are not limited to:

- UM's statem ent to State and Federal organizations that "UMB's requested amendment was **denied by the federal government**." is false. ECF63,Pages3-4,¶¶17-18.ECF5.8.
- Department of State's denial, revealed in new evidence, clearly exposes UM's falsehood: ECF63,Pages3-4,¶¶17-18.ECF5,Page31,¶115.ECF5.8.
- Respondents falsely claim 'Due Process' was afforded: ECF5-6,ECF63,Page4,¶19.ECF26-3.
- Seven different dates for same Termination: ECF5.9

• UM falsely stated Petitioner imparted "additional" training, whereas it's "mandatory": ECF5-10.ECF25-4.

IV. NEW EVIDENCE FURTHER PROVES UM HAS MADE FALSIFIED STATEMENTS AND FABRICATED EVIDENCE WAS SUBMITTED EVEN TO STATE AND FEDERAL ORGANIZATIONS

New evidence proves:

- **Fabricated Statements and Evidence** even by UM's Title IX.

  ECF63,Page3,¶15.ECF63-1,Page1,¶7.ECF63-7.

- **Statements fabricated** in Dr. Bartlett's letter. ECF26,Page14,¶56.

  ECF63,Page3,¶¶15,16.ECF63,Page6,¶25.ECF5.11.

F. THE DECISIONS BELOW WARRANT REVIEW FOR THE REASONS DETAILED SUBSEQUENTLY

I. NO DUE PROCESS AFFORDED IN THE CIRCUIT COURT

(a) Circuit Court has not Looked into 'Newly Discovered Pertinent and Compelling Evidence' before Ruling on this Case

Circuit Court did not afford Petitioner Due Process of law. The Journal of Appellate Practice and Process documents:

> The federal courts of appeals review district court orders and judgments on the basis of a 'closed record, which is limited to materials in the record when the district court made the decision under review.' This **limitation is "fundamental"** because **appellate courts "lack the means to authenticate documents"** and **must rely on the district court's designation** of submitted documents as part of the record. 2... Emphasis added. Volume 14, Issue 2, Article 7.1.See e.g. *Fassett v. Delta Kappa Epsilon*, 807 F.2d 1150, 1165 (3d Cir. 1986) 2. See Lowry v. Barnhart, 329 F.3d 1019, 1024 (9th Cir. 2003). ... The **Supreme Court has held that courts of appeal are required to "consider any change, either in fact** or in law, **which has supervened" since the disputed decision was issued**. *Patterson v. Ala.*, 294 U.S. 600, 607 (1935); *Watts, Watts & Co. v. Unione Austriaca Di Navigazione*, 248 U.S. 9, 21 (1918). Emphasis added.

The U.S. Court of Appeals has indubitably erred by ruling that the new evidence will not be

submitted by Petitioner. Additionally, the Circuit Court by not allowing compelling and pertinent new evidence that was discovered after the Decisions and Orders had been issued by the District Court and the Case was already under appeal, is not only in **conflict with what the Supreme Court has held**, but is also **contrary to the Decisions of other Appellate Courts**. Further, Fed.R.Civ.P 60(b) states, Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: ... (2) **newly discovered evidence** that, with reasonable diligence, **could not have been discovered in time** to move for a new trial under Rule 59(b); Emphasis added.

It is an undeniable fact that *without even seeing* the newly discovered evidence one cannot determine whether or not it is pertinent and substantial. Without seeing this new evidence, the Circuit Court's erroneous Order **would prevent new evidence from being seen at all levels**, including the Supreme Court of the U.S. Consequent to this erroneous action of the Circuit Court, it is quite possible that crucial evidence that was given by a premier State agency, that may have undeniably and finally revealed the actual truth, is not available to any Court at different levels. This grave failure by the Circuit Court has irrefutably resulted in causing a grievous violation of the safeguards and due process rights afforded to every individual by the Fourteenth Amendment of the US Constitution's Equal Protection Clause.

This is a brazen and unconscionable violation of the 'due process rights' of Petitioner because he is a vulnerable foreign national. It would be evident to any neutral observer that he is *pro se* and is being blatantly and egregiously harmed as he is a brown-skinned Indian.

(b) The Decision Directly Conflicts with the Decisions of Other Circuits and the Supreme Court and Substantially Affects the Application of Equal Protection Jurisprudence

The decision of the Circuit Court stating, "We **deny** Panghat's **motion for leave to submit newly discovered evidence.**" (Emphasis added) is a **void judgment** for the following reasons:

(i) It is the District Court that is **authorized to authenticate new evidence**. As per Rule 60(b) "motion for relief from a judgment or order" is possible in the District Court.

(ii) Denying Petitioner his inalienable right to 'Due Process' to prove his innocence by the new evidence, is violation of the individual's **due process**, which involves violating constitutional protections.

(iii) Further, this is a clear violation of the **Due Process** Clause of the **Fourteenth and Fifth Amendments to the U.S. Constitution**, which concerns procedural **rights**, such as Petitioner's **right** to a fair trial or means to defend himself.

Circuit Court's denial of Due Process would mean that '**Due process** balances the power of law of the land and protects the individual person from it. When a government harms a person without following the exact course of the law, this constitutes a **due process** violation, which offends the rule of law.' Rule 62.1 motion, has been most often used in tandem with Rule 60(b) motions grounded in either fraud or newly discovered evidence. Hence, denying Petitioner his legitimate right to present new evidence in the District Court will be violative of the **Fourteenth and Fifth Amendments** of the U.S. Constitution.

The Supreme Court states that "If they act **beyond that authority**, and certainly in **contravention** of it, their judgments and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal". *Williamson v. Berry*, 49 U.S. 495(1850). Emphasis added.

G. THE COURT SHOULD GRANT THIS PETITION IN ORDER TO STOP THE ILLEGAL AND EGREGIOUS HARM BEING INFLICTED CONTINUOUSLY AND THAT IS ONGOING ON A VULNERABLE FOREIGNER WITHOUT DUE CAUSE AND EVEN WITHOUT DUE PROCESS

I. APPALLING HARM IS CONTINUING

UM is persistently blocking a vulnerable foreigner's employment for more than seven years, causing extreme financial hardship to the point that Petitioner's health is deteriorating (including nutritional deficiency diseases). USCA4Appeal:22-1772,Doc:6-2,Pg:1.

II. PETITIONER'S HUMAN RIGHTS BEING VIOLATED

Petitioner submitted in the Court of Appeals in a letter to the Chief Judge among others that "New Evidence and Developments Prove Unprecedented Harm where your **Federal Courts are still Denying me 'Due Process'** that is 'Rewarding' Illegal Actions, some I believe even Criminal in Nature and Allowing the **Continuous Blocking of Livelihood** of a **Vulnerable Foreigner**" Emphasis added. See accompanying Pet. App. 6, Page 1 herein. See the words of the subject.

III. PUBLIC INTEREST

Is it in the Public Interest that an innocent person (No Due Cause) is needlessly and continuously punished **for more than seven (7) years** to the point of **forcefully blocking his livelihood**, causing deterioration of health? Is it in public interest where even Courts of Law at different levels repeatedly fail to ensure equity and deliver justice, despite patent and abundant evidence being available? Especially when the United States is known for its 'Rule of law', where Petitioner has specifically recorded:

> This protracted injustice is being watched by people in different parts of the world who are greatly dismayed because they feel this is not representative of what the U.S. stands for. This is neither in **Public interest** nor in **National interest.**

See Pet. App. 6, Page 3 herein and USCA4 Appeal: 22-1772, Doc: 33, Pages 25 to 26.

IV. CIVIL RIGHTS OF PETITIONER VIOLATED

It is a fact that Petitioner is from a protected class. When compared to the other physicians, it is manifestly clear that he was subjected to differential treatment, and egregious harm was inflicted

upon him, where the institution's own legally required policies and procedures were brazenly violated. Refer to accompanying USCA4 Appeal: 22-1772, Doc: 33, Page 23, 1st and 2nd bullet and Page 24, 1st and 2nd bullet.

V. WHISTLEBLOWER

Petitioner had informed the Circuit Court that:

> "retaliation faced by a person who voluntarily submitted crucial evidence to the U.S. Government's "Office of Accountability and Whistleblower Protection", especially concerning the welfare and health of our esteemed Veterans. It would become amply clear to the concerned authorities that if this is the way people who voluntarily give evidence to the **Whistleblower** Department are treated, then forget foreigners, **even American citizens will be hesitant to come forward** to do so.**21**" Emphasis in original. See Pet. App. 6, Page 3, 6th Paragraph herein.

VI. INTERNATIONAL ISSUE

Petitioner has submitted in Court what he believes is the sheer **exploitation of a vulnerable foreigner** repeatedly:

> Is it in the **national interest** of U.S. when a person from a friendly country and a time-tested ally of the United States is deliberately harmed and the authorities at every level reward the offending parties? It is a widely known fact that India treats American citizens in its country very well. What about 'reciprocity'? See Pet. App. 6, Page 3 herein.

Furthermore, Petitioner has specifically stated in the Record that New evidence proves that his adversaries' allegations are clearly belied by "a document with the **letterhead of the U.S. "Bureau of Educational and Cultural Affairs"**. Emphasis added. [ECF 63-4 and ECF 63, Page 4, ¶18.]

The U.S. Government specifically records: "Lijo Panghat Home country India J-1 Visa: Research Scholar United States January 2015- **September 2016**". Emphasis added. [ECF 63-4]

The above-quoted position of the U.S. Government **correctly belies** the tenuous claim of Petitioner's adversaries. In addition, the written document of Johns Hopkins, states his "record

has been **transferred** to JHMI in the **SEVIS** system." Emphasis added. [ECF 16-8.] See accompanying Pet. App. 6, Page 3.

This statement of Johns Hopkins which is also on the Record, further corroborates the position made by the U.S. Government, as explained above. [ECF 63-4 and ECF 63, Page 4, ¶18.]

Petitioner is being blocked deliberately and unlawfully from joining confirmed employment, like at Johns Hopkins, is **retaliation** for **opposing sexual harassment** as well as **racial discrimination**. ECF 63, Page 6.

Additionally, this is sheer **exploitation** of the Petitioner for years who is a vulnerable foreigner. This is because, as a foreigner, he cannot attempt to even seek any other employment as his Visa document has been virtually destroyed by his adversary. The situation further deteriorated so much that even Petitioner's passport has become inoperative because the **Indian authorities are unable** to renew his Passport.

Why is an eminent country allowing an innocent man to continue to needlessly suffer egregious harm **without 'due cause'** and **without 'due process'**?

"Considering these unremitting wrongdoings at varied levels, it is indeed ironic to witness the ruination and mockery of the lofty ideals espoused by the two **Governments of U.S. and India** in relation to the J-1 Visa, on which I came to the U.S. ... I was issued a J-1 Visa, which is instituted by the U.S. Government that is meant "to **strengthen** relations between the **US and other countries**." Emphasis added. See Pet. App. 6, Page 2 herein.

VII. NATIONAL SECURITY

Petitioner had filed in Court that:

"After the horrendous 9/11 tragedy ... Is this not a grave vulnerability to your **National Security** that such false statements are made to State and Federal organizations regarding even the SEVIS status and the U.S. Government?**20**" Emphasis in original. See accompanying Pet. App. 6, Page 3, 5th Paragraph herein [USCA4 Appeal: 22-1772 Doc: 36], USCA4 Appeal: 22-1772 Doc: 33, Pages 30, 31, ECF20-2, Pages 3, 4, ¶¶19, 20, 21. 22, 24, 38, 39 and ECF5-12., ECF 63.1. USCA4 Appeal: 22-1772, Doc: 16, Pg: 36.

CONCLUSION

The Petitioner requests for all the above reasons that the Court grant the Petition for *Writ of Certiorari*.

Respectfully submitted,

L Panghat

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Date: September 21, 2023