-- Redacted for Publication --

Case Docket No. 23-5680

IN THE

SUPREME COURT OF THE UNITED STATES

DANIEL ALLEN VILLA ("Pro Se")

"Petitioner"

v.

COMMISSIONER OF THE

INTERNAL REVENUE SERVICE (IRS) ("et al")

"Respondent"

ON PETITION FOR WRIT OF CERTIORARI TO THE

"UNITED STATES COURT OF APPEALS FOR THE D.C. CIRCUIT"

PETITION FOR REHEARING

Daniel Allen Villa

"Petitioner" ("Pro Se")

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-- Cover --

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"Petition for Rehearing" (P.R.)

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JUDICIAL NOTICE

Petitioner respectfully reiterates and asks of This Court to take further judicial notice of the fact that Petitioner is "Pro Se" without counsel, is not schooled in the law and legal procedures, and is not licensed to practice law. Therefore, Petitioners pleadings must be read and construed liberally and in "toto" to determine whether they "set out allegations sufficient to survive dismissal. See; *Haines v. Kerner, 404 US at 520 (1980); Birl v. Estelle,* 660 F.2d 592 (1981); See also: *Brown v Whole Foods Mkt Grp., Inc., 789 F.3d 146, 151, (D.C. Cir. 2015) (reversing the district court because it failed to consider allegations found in a pro se plaintiff's opposition to a motion to dismiss).*

PREAMBLE

Pursuant to Sup. Ct. R. 44.2, Petitioner Daniel Allen Villa ("Petitioner," "P", or "Mr. Villa") respectfully petition this Court for an order (1) Granting rehearing, (2) Vacating the Court's 11/06/2023, order denying certiorari, (3) redisposing of this case by granting the petition for writ of certiorari, vacating and reaffirming the D.C. Circuit's orders and guidance proffered, sua sponte, by the D.C. Circuit overruling both Cooper and Lacey, at 22 F.4th 1014 (D.C. Cir. 2022), (See; Li v. CIR, 22 F.4th 1014 (D.C. Cir. 2022)), and (4) either maintaining full supervisory power over this case or remanding it down to the D.C. Circuit for further consideration supervised by SCOTUS with periodic status reports, in light of cases such as United States v. Lee, 106 US 196,220 [1882], for purposes of exercising supervisory power to determine whether judicial review is available for all final determinations,

including those made under §§ 7623(b) and/or (a). Wherein, equally ensuring the properly required judicial review is afforded with uniformity in apprehensions and administration of Federal and Administrative Tax Laws patently applied equally in protection of all Whistleblower Award "Petitioner's" and other U.S. Citizen's fundamental inclusive of Due Process, Appeal, and Property Rights as they relate to Property Owners "just compensation" thereto when the power of the government takes said Private Property for Public Use. (See; U.S. Constitution 5th AND 14th Amendment, Administrative Procedure Act ("A.P.A"), Section 406 of the Tax Relief and Health Care Act of 2006 ("TRHCA"))

"P" submits that, in close-proximity and historical practice prior to the denial of "P's" Petition, This Court has granted petitions for writ of certiorari raising the same issues as that raised at the core of "P's" petition for writ of certiorari collectively, diversly, and densely held in statutory classification as an instant issue. (See; United States v. Lee, 106 US 196,220 [1882]; See also e.g.; "Chevron Doctrine" influential among pursuits in e.g. Loper Bright Enterprises v Raimondo (Docket No. 22-451), Relentless Inc. v. Department of Commerce (S.CT. 22-1219), and Murray v. UBS Securities (Docket No. 22-660 - Date Argued: 10/10/23). Petitioner also recognizes that this Court has denied petitions for certiorari raising the same issues but rather falling under a narrower scope of statutory classification with respect to Whistleblower Award determinations, including those made under §§ 7623(b) and/or 7623(a). (See; Li v. CIR, 22 F.4th 1014 (D.C. Cir. 2022). Albeit Mandy Mobley Li unfortunately didn't preserve the petition for writ of certiorari by

filing a timely Petition for Rehearing. Wherefore, the Petitioner seeks judicial review on all or at least most grounds stated among the Questions Presented "1-15" and substance contained within the Petition for Writ of Certiorari as is required under Section 704 of the Administrative Procedure Act.

GROUNDS FOR REHEARING

This Petition, coupled with a grant vacating and reaffirming the D.C. Circuit's orders and guidance proffered, sua sponte, by the D.C. Circuit overruling both Cooper and Lacey, at 22 F.4th 1014 (D.C. Cir. 2022), will pose the best vehicle for review of the unquestionably "important" questions presented by the "P's" Petition for Writ of Certiorari. Petitions for rehearing of an order denying certiorari are generally granted in two instances (1) if a "P" can demonstrate "intervening circumstances of a substantial or controlling effect"; or (2) if a "P" raises "other substantial grounds not previously presented" Sup. Ct. R. 44.2. The "P's" cases unique circumstances currently fall within both categories collectively.

As grounds for this petition for rehearing, Petitioner states the following:

A.) RESOLVING CIRCUIT SPLITS

Rule 44.2 authorizes a petition for rehearing based on "intervening circumstances of a substantial or controlling effect." "P's" Petition explained wholesomely why this Court's review was warranted in the first instance, namely, the existence of a clear circuit split on the important questions

the D.C. Circuit's orders and guidance manifested, sua sponte, by the D.C. Circuit issued ordering overruling of both Cooper and Lacey, at 22 F.4th 1014 (D.C. Cir. 2022) (See; Lacey, 153 T.C. at 163 n.19 (emphasis in original) (citing in accompanying text Cooper, 135 T.C. 70); see also id. at 150 n.5 (citing Cooper, 135 T.C. at 75–76))

In the opinion referenced herein, See; "Li v. CIR, 22 F.4th 1014 (D.C. Cir. 2022)", the District of Columbia Circuit transferred itself from the plain language group of courts to the narrower approach camp. The majority opinion concluded that the Tax Court lacked jurisdiction to hear appeals from threshold rejections of whistleblower award requests. But, in doing so, the D.C. Circuit overturned twelve-year-old precedent that neither party requested of the court. The text of the "TRHCA" does not support this narrower interpretation of 26 USC § 7623. To the contrary, this recent version frustrates the command that courts set aside agency action that is an abuse of discretion. Wherefore, if left unremedied would without doubt continue causing irreparable harm and unjustifiable restrictions among the required impartial judicial review, due process, and property rights of "P's" cases and other "P's" whistleblower cases alike currently being affected while attempting to appealed across Judicial Circuits (e.g.: Supreme Court, U.S. Court of Appeals D.C. and Federal Circuits, and U.S. Tax Court) such as exampled below... "LISSACK v. CIR; Tindall v. United States; McCrory v. CIR; KATAKIS v. CIR; Raffaelli v. CIR,; Shands v. CIR ; WHISTLEBLOWER v. CIR; BERENBLATT v. CIR ; FELIX LUU v. CIR ; and Lewis v. CIR"

SCOTUS frequently agrees to hear cases in order to resolve circuit splits by creating a unified interpretation of the law which is then binding on all lower courts. For example, in "Omnicare, Inc. v. Laborers District Council Industry Pension Fund," the Sixth Circuit Court of Appeal allowed a claim of securities fraud under Section 11 of the Securities Act of 1933 based on allegations of an objectively wrong opinion in a registration statement; conversely, the Second, Third, and Ninth Circuits had previously required an allegation that the statement was subjectively false—that is, the author of the statement held an opinion different from the one expressed. Justice Kagan, joined by Justices Kennedy, Ginsburg, Breyer, Alito, Sotomayor and the Chief Justice, held that a statement of opinion in a registration statement does not constitute an "untrue statement of . . . fact" for Section 11 purposes just because it ultimately proves to be false. The Court explained that the Sixth Circuit's contrary holding impermissibly conflated facts and opinions. This ruling was in line with the conclusion previously reached by the other circuits: for Section 11 liability to attach to an untrue statement or opinion, the person giving the opinion in the registration statement must not sincerely hold that opinion. With the circuit split resolved, all federal courts will now apply the same pleading standard to these kinds of claims.

Unless a circuit repudiates its past decision to come in line with other circuits, only the Supreme Court can bring uniformity to a body of law when circuits split. In the Sup. Ct.'s Rule 10, the presence of a circuit split is one of the only factors explicitly mentioned as a consideration in granting writs of certiorari.

Postured to the same intervening circumstances of a substantial or controlling effect with similar requisite as that historically granted for petition for rehearing is, Sup. Ct. R. 11's, and the review of a case pending in a U.S. court of appeals, before judgment is entered in that court, granted only upon a showing that the case is of such imperative public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court. (See 28 USC § 2101(e).) Clearly viewable is the heavy consideration to which the Supreme Court accords inter-circuit conflict in cases it does decide to hear. Consistent with Rule (10) (11), the Supreme Court is far more likely to review cases that implicate a conflict in the lower courts than those that do not (Tanenhaus et al. 1963, Ulmer, S. Sidney. 1984, Caldeira and Wright 1988, Caldeira, Wright and Zorn 1999, Perry 1991).

B.) PETITIONER'S CASE[S] CONSOLIDATION

On 10/02/2023, this Court issued the order rendering "P's" Motion for leave to file a petition for a writ of certiorari under seal with redacted copies for the public record Granted, and thereto officially filed as the original docketing date 04/21/2023. Collectively consolidating both cases for merits review pending acceptance to be argued on Petition for Writ of Cert IFP. Subsequently on 10/10/2023, in attempts to control the one's docket on file the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued an order on its own motion directing both of "P's" captioned whipsaw postured cases be consolidated (See; Villa v. CIR - D.C Circuit -Docket (Lead) 23-1087 and 23-1088).

Both Courts actions of "consolidation" collectively present significantly unique intervening circumstances of a substantial or controlling effect upending the Status Quo of the U.S. Tax Courts Decisions previously based on whipsaw postured cases involving initial and separately filed supplemental administrative files intended to perfect "P's" Claims. Furthermore, this shift in paradigm teeters in favor of supporting "P's" arguments proffered per Q1 of "P's" Questions Presented of which surrounds "Judicial Discretion" dissolving among Whipsaw Postured Case Consolidation in presence of Direct Evidence, and therefore echos the call for the "Impartial Judicial Review" unafforded regarding "P's" cases on appeal as is required by acts of congress such as the "Administrative Procedures Act and TRHCA."

C.) CONFLICT OF INTEREST; DISCLOSURE REQUIRED

Prior to the D.C. Circuit Courts attempting to administer control over the Cir. Courts docket the presiding Justices failed to provide the appropriate and required "remittal of disqualification" neither has the D.C Circuit requested a signed "waiver of conflict" from either party or counsel. In practice, The American Bar Association House of Delegates approved an amended Code of Judicial Conduct (Code) at its Feb. 2007 midyear meeting (Model Code of Judicial Conduct: Canon 2) resembling that of Code of Conduct for U.S. Judges Canon 3(C)(1). Each state's highest court now may consider whether to modify its existing code and to adopt some or all of the most recent changes for its code, which forms the core of ethical standards for federal and state appellate and trial judges. Based on noncompliance

with Code provisions, a judge is subject to discipline and may even be removed from office for ethical lapses.

One of the most important areas of the Code relates to whether a judge should be disqualified from presiding over a case based on an impermissible conflict of interest. The presiding Justices (D.C. Cir. No. 23-1087) nevertheless should have disclosed the organizational connection to avoid later questions about judicial credibility, such as whether the judge's personal or political motives influenced the decision on the merits. Especially under circumstances applicable, for example, per Code of Conduct for U.S. Judges Canon 3C(1)(a) "the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;" or Canon 3C(1)(d) e.g.: "the judge or the judge's spouse, or a person related to either within the third degree of relationship, or the spouse of such a person is: (i) a party to the proceeding, or an officer, director, or trustee of a party; or (iii) known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or..." "Nothing provides stronger evidence to the parties of [judicial] impartiality than open disclosure" (See; Merck & Co. v. Superior Court, 2005, at n. 5) (See also: Ch. 4: § 410 Mandatory Conflict Screening - §410.20 Definitions - (a) "Conflict of interest" or "conflict" refers to an interest that disqualifies a judge as provided in Canon 3C(1) of the Code of Conduct for United States Judges) (See also: 28 U.S.C. § 455(a) and (b).)

> "Whoever attentively considers the different departments of power must perceive, that, in a government in which they are

> separated from each other, the judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the Constitution." –Alexander Hamilton

In Federalist #78, Hamilton argued that the legislative branch was powerful because it "commands the purse," meaning that it taxes and spends. He also wrote that the legislative passes laws whereby it "prescribes the rules by which the duties and rights of every citizen are to be regulated." The executive branch enforces law, which Hamilton metaphorically describes as "hold[ing] the sword of the community." The judicial branch, on the other hand, was to be less feared because it "has no influence over either the sword or the purse," but merely has judgment. The U.S.A. strives to be a country governed by the rule of law, and this goal, ultimately, requires an arbiter who can review legal decisions as objectively as is humanly possible. As this arbiter, the Supreme Court serves two purposes: (1st) is to serve as the final court of appeal for lower courts—there is no appeal if someone loses in the Supreme Court, and (2nd) function is to exercise judicial review, which refers to examining the actions of Congress, the executive branch, and the states to determine whether or not they are constitutional. While the supremacy clause implies that the Supreme Court can strike down state actions, the Constitution never explicitly stated whether congressional and executive branch actions could be ruled unconstitutional as well. This matter was settled by "Marbury v. Madison (1803)," wherein for the first time, the Supreme Court voided a congressional law. Marbury v. Madison (1803) is an important case that you should know because of

its role in establishing judicial review. The Supreme Court's power stems from the way our legal system is structured, and even though the Supreme Court decides relatively few cases per year, those decisions carry weight due to the principle of **stare decisis**, which literally means "to stand by that which is decided." Courts, particularly those lower than the Supreme Court, must make decisions that are consistent with past decisions on similar cases. This issue raises "other substantial grounds not previously presented" (Sup. Ct. R. 44.2) in that denying "P's" Petition for Writ IFP filed under (Sup. Ct. R. 11) sets the legal precedent whereby enabling the lower D.C. Circuit Courts to deliberate the case[s] under a clearly perceivable conflict of interest having questioned the impartiality, constitutionality, and ethical backing of the 3rd party colleague Justice[s] within the D.C. Circuit where a personal and/or political interest is shared. [A] 3rd party Colleague[s] responsible for the D.C. Circuit's orders and guidance manifested, sua sponte, by the D.C. Circuit issued unlawfully ordering the voiding of, in part, Acts of Congress (e.g. (A.P.A) and TRHCA), and overruling of 12-year-old precedent among both Cooper and Lacey, at 22 F.4th 1014 (D.C. Cir. 2022), without this cases Parties or Counsel being provided appropriate disclosures or signed waivers.

This shift in paradigm and legal precedent in effect would essentially transfer the legislative branches power of whom "commands the purse," meaning that it taxes, spends, and legislatively passes laws, and the executive branches power of whom enforces law, which Hamilton metaphorically describes as "hold[ing] the sword of the community," and essentially placing such control over checks and

balances under the Judicial Branches sole control. Whereas history, the U.S. Constitution, and neither legal precedent or practice has ever proffered or afforded the judicial branch in support of this type of transfer of power Branch of Power whom "has no influence over either the sword or the purse," but merely has judgment. Simply the setting of legal precedent enabling the D.C. Circuits to indulge in such conflict of interest allowing the separate branch of power and precedent over authority towards becoming the arbiters of their own misdeeds and mischief. Resulting in indefinitely altering our government's system of checks and balances whenever a Courts Circuits Justice[s] judicial actions come under strict scrutiny as to their uniformity in Constitutionality, Code of Conduct, and/or Ethics would substantially frustrate the commands set aside for the Agency's and/or SCOTUS. Which in turn would therefore blindly enable the uprooting of the legal precedent established and held in "Marbury v. Madison (1803)," wherein for the first time, the **Supreme Court** voided a congressional law as allowed per the U.S. Constitution.

D.) STRICT SCRUTINY TEST; THE CHEVRON DEFERENCE;

The US Judge[s] acts in unlawful legislation from the bench commanded via order, at Li v. CIR 22 F.4th 1014 (D.C. Cir. 2022), fall substantially unworthy of passing the well-known "strict scrutiny test." Strict scrutiny is a form of judicial review that courts use to determine the constitutionality of certain laws. Strict scrutiny is the highest standard of review which a court will use to evaluate the constitutionality of governmental discrimination. Strict scrutiny will often be

invoked in an equal protection claim. For a court to apply strict scrutiny, the legislature must either have passed a law that infringes upon a fundamental right or involves a suspect classification. The application of strict scrutiny, however, extends beyond issues of equal protection, for example: To pass the strict scrutiny test, a law must be narrowly tailored to serve a compelling government interest. The opinion issued by the, Li v. CIR (D.C Cir. 2022), inflicted irreparable prejudicial delay infringing on the fundamental appeals, due process, and property rights "P's" and all other previous Whistleblower Award Petitioners resulting in the establishment of an additional Circuit Conflict of "other substantial grounds not previously presented" (Sup. Ct. R. 44.2) involving intervening circumstances of a substantial ... effect" requiring SCOTUS review.

Stare decisis and the separation of powers are indispensable elements of the American system of government. Before overruling precedent, the Court often requires that a party first request the overruling: See; Barr v. Am. Ass'n of Pol. Consultants, Inc., 140 S. Ct. 2335, 2347 n.5 (2020). An agency decision to reject a claim, prior to reaching a decision not to institute enforcement proceedings, is not an action committed to agency discretion and is not immune from judicial review where Congress has provided the Court with "law to apply." (See; "C.f. Dep't of Com. v. New York, 139 S. Ct. 2551, 2567-69 (2019); See also: United States v. Alvarez, 567 U.S. 709 (2012)")

One of the most important principles in administrative law, the "Chevron deference" was coined after a landmark case, "Chevron U.S.A., Inc. v. Natural

Resources Defense Council, Inc., 468 U.S. 837 (1984)." The Chevron deference is referring to the doctrine of judicial deference given to administrative actions. In Chevron, the Supreme Court set forth a legal test as to when the court should defer to the agency's answer or interpretation, holding that such judicial deference is appropriate where the agency's answer was not unreasonable, so long as Congress had not spoken directly to the precise issue at question. Among Acts of Congress (e.g. (A.P.A) and TRHCA) whereby Congress had spoken directly to the issues at question, by act of congress signed by POTUS proffered exclusive Jurisdiction of the required Judicial Review on Appeal onto the U.S. Tax Court regarding Whistleblower Award Determinations falling under 26 USC §§ 7623(a) or (b) when judicial review is conducted of an agency whistleblower's negative award determination. The scope of the "Chevron deference" doctrine is that when a legislative delegation to an administrative agency on a particular issue or question is not explicit but rather implicit, a court may not substitute its own interpretation of the statute for a reasonable interpretation made by the administrative agency. The Chevron deference requires that the administrative interpretation in question was issued by the agency charged with administering that statute. Also, the implicit delegation of authority to an administrative agency to interpret a statute does not extend to the agency's interpretation of its own jurisdiction under that statute. Wherefore, with the D.C. Circuit's efforts attempt in becoming the Agency in charge of administering the statutes regarding their own jurisdiction would hold majorly contradictive and frustrate the command "The Chevron deference"

historical sets aside regarding the "the agency's," and in this case the judicial branch's implicit delegation of authority to an administrative agency to interpret a statute. In efforts to illegally establish legal binding definitions previously amended, accepted, and practiced by the original Agency's or Congress administering the statutes otherwise (e.g.: Internal Revenue Service, Securities and Exchange Commission (SEC), 26 USC § 7623(b), 26 CFR § 301.7623). The irrational and unlawful order issued, at 22 F.4th 1014 (D.C. Cir. 2022), calls into question the legal precedent laying the foundational support of The Chevron deference creating a legal paradox among the doctrines upheld legal precedent as a review test standard essentially crippling the legal test as to when the court should defer to the agency's answer or interpretation, holding that such judicial deference is appropriate where the agency's answer was not unreasonable, so long as Congress had not spoken directly to the precise issue at question. Furthermore, this type of shift in paradigm led by efforts to void acts of congress in part would upend our nation's checks and balances on the established "separation of powers," and stands postured farthest from being narrowly tailored to serve a compelling government interest.

E.) CODE OF ETHICS; THE SUPREME COURT ETHICS ACT

SCOTUS is under heavy scrutiny by The Judiciary Committee regarding the Code of Ethics. "P's" case calls for discipline and disqualification of the lower appeal courts for impermissible conduct and ethics violations. Therefore, "P's" Case presents other substantial grounds not previously presented posing as the best vehicle of National Significance a "Landmark Case" for review of these

unquestionably "important" intervening circumstances of a substantial or controlling effect's as to creating circuit splits and conflicts as well as other substantial grounds not previously presented but contended herein. Like The American Bar Association adoptions similar as to the Code of Conduct for U.S. Judges Canon 3C(1), or Judiciary Policies on Ethics (Code of Conduct for U.S. Judges). SCOTUS upon the review of "P's" Petition[s] can, for example, dually adopt a similar Code of Ethics allowing themselves and each state's highest court to consider whether to modify its existing code and to adopt some or all of the most recent changes for its code, which forms the core of ethical standards for federal and state appellate and trial judges. Thereto, satisfying the circuit conflict in display of SCOTUS's power to adopt and deploy such Code of Conduct Ethically and Equally.

CONCLUSION

In the interests of efficiency, impartiality, and judicial economy, for the foregoing reasons, "P" prays that this Court orders (1) Granting rehearing of the order denying "P's" Petition for Writ IFP, (2) Vacating the Court's, 11/06/2023, order denying certiorari, and (3) grant the petition for writ of certiorari, vacating and reaffirming the D.C. Circuit's orders and guidance proffered, sua sponte, in light of the D.C. Circuit overruling both Cooper and Lacey, at 22 F.4th 1014 (D.C. Cir. 2022) to determine whether judicial review is available for all final determinations, including those made under §§ 7623(b) and/or 7623(a), and (4) either maintaining full supervisory power over this case or remanding it down to the lower courts for further consideration supervised by SCOTUS with periodic status reports.

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SIGNATURE PAGE

Respectfully submitted,

Date: 11, 13 ,2023 Signature: _____,

[REDACTED VERSION FOR PUBLIC PUBLISHING]

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INTERNAL REVENUE SERVICE (IRS) ("et al")

"Respondent"

CERTIFICATE OF COUNSEL

(of a party unrepresented by counsel)

I, Daniel Allen Villa – Petitioner (Pro Se)-, as Pro Se Petitioner, hereby certify that this petition for rehearing is presented in good faith and not for delay and is restricted to the grounds specified in Rule 44.2.

Executed on 11, 13 , 2023 (Signature) 

-- Redacted for Publication --

Case Docket No. 23-5680

IN THE

SUPREME COURT OF THE UNITED STATES

DANIEL ALLEN VILLA ("Pro Se")

"Petitioner"

v.

COMMISSIONER OF THE

INTERNAL REVENUE SERVICE (IRS) ("et al")

"Respondent"

CERTIFICATE OF COMPLIANCE

1. Type-Volume: This "Response to a Motion" complies with the page limits of Sup. Ct. R. 44.2 and FRAP 32(a)(5) because, excluding the parts of the document exempted by FRAP 32(f), this document contains: 15 PAGES and 25,529 Words.

2. Typeface and Type Style: This document complies with the typeface requirements of Sup. Ct. R. 44.2, 33.2, and 34, and FRAP 32(a)(5) FRAP 32(a)(6).

Respectfully Submitted, Executed on 11, 13, 2023

(Signature) _____ (Daniel Allen Villa)