

AUG 21 2023

OFFICE OF THE CLERK

No. 23-6269

IN THE  
SUPREME COURT OF THE UNITED STATES

Neighborhood Empowerment And Transformation, Inc. et al,  
yavonne andrea hand — PETITIONER

(Your Name)  
and U.S. Consulate General Dubai, UAE - Defendant-  
Intervenor, et al. vs.

President of the United States — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For The Fifth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

yavonne andrea hand

(Your Name)

Federal Medical Center, Carswell

(Address)

Ft. Worth, Texas 76127

(City, State, Zip Code)

817-782-4000

(Phone Number)

**ORIGINAL**

**QUESTION(S) PRESENTED**

IN AN ACTION IN WHICH THE SOLE CLAIM TO BE TRIED IS A CLAIM UNDER THE DECLARATORY JUDGMENT ACT RESULTING TO VIOLATION OF ETHICS AND CRIMINAL CONDUCT WITHIN PUBLIC OFFICIALS, IS THERE A RIGHT TO A FAIR ADMINISTRATIVE HEARING ?

## LIST OF PARTIES

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

[x] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: <sup>District Judge Keith Ellison</sup> Deputy Assistant Attorney General Daniel Kahn; U.S. Attorney General; President of the United States; Unknown Grand Jury, and Unknown Grand Jury Foreperson sitting in the Southern Houston District of Texas; Magistrate Judge Michael Nachmanoff in the Eastern Virginia District Court Alexandria Division; Assistant United States Attorney Anthony Aminoff, with the Department of Justice, Narcotics & Dangerous Drugs Section, in the Eastern Virginia District; Chief Judge Kimberly Moore in the Unit

### **RELATED CASES**

Opinion of Judicial Conference Committee to Review Circuit Conduct and Disability Orders Committee On Judicial COnduct and Disability of the Judicial Conference of the United States. [NO NUMBER IN ORIGINAL] Decided April 28, 2006

Carolyn Jewel, Et Al., Plaintiff, v. National Security Agency, ET AL., BARACK OBAMA, ET AL., Defendants. United States District Court For the Northern District of California. No. C08-04373 JSW, No. C07-00693 JSW. Decided July 23, 2013.

HON. JOHN H. McBRYDE, Plaintiff, v. COMMITTEE TO REVIEW CIRCUIT COUNCIL CONDUCT AND DISABILITY ORDERS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES, HON. WILLIAM J. BAUER, THE JUDICIAL COUNCIL

## LIST OF PARTIES

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RELATED CASES

OF THE FIFTH JUDICIAL CIRCUIT, HON. HENRY A. POLITZ, Defendants,  
and THE UNITED STATES OF AMERICA, Intervenor-Defendant. UNITED  
STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA. Civil Action  
No. 98-2457(CKK). Decided December 30, 1999.

## LIST OF PARTIES

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[  All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: District Judge Alfred Bennett in the

Southern Houston District Court of Texas; Magistrate Judges: Dena Hanovice Palermo, Peter Bray, Frances H. Stacy, Sam S. Sheldon, Andrew M. Edison, Christina A. Bryan, Yvonne Y. Ho in the Southern Houston District Court of Texas; United States Department of Justice, Fraud Division trial attorney Andrew Tamayo; DOJ Justine Woodard; DOJ, Fraud Division Jeremy Raymond Sanders, in Washington D.C.

## RELATED CASES

Yellow Bus Lines, Inc., Appellant v. Driver, Chauffeurs & Helpers Local Union 639, et al., James F. Woodward v. Michael Dipalermo, et al. Maria Triggs, Secretary/Treasurer, Yellow Bus Lines, et al Appellants. United States Court of Appeals for the District of Columbia Circuit. Nos. 86-5135, 86-5136

STEVEN L. NORRIS, Plaintiff-Appellant, v. COMMISSIONER OF SOCIAL SECURITY, Defendant-Appellee. UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT. 12a0151n.06 No. 11-5424. Decided February 7, 2012.

James v. Aquavella and Salmon Harvey, partners, doing business as Glen Oaks Nursing Home, and Arista Development Corporation, Plaintiffs, v. Elliot L. Richardson, Secretary of Health, Education and

LIST OF PARTIES

RELATED CASES

and Welfare, the United States of America, and Aetna Life and Casualty Company, Defendants-Appellees. United States Court of Appeals for the Second Circuit. No. 188, Docket No. 34247. Decided January 25, 1971.

American Medical Hospice Care, LLC, D/B/A American Medical Hospice & Palliative Care, Plaintiff v. Alex M. Azar II, Secretary United States Department of Health and Human Services, Defendant United States District Court for the Western District of Texas, San Antonio Division. No. 5:20-CV-757 DAE. Decided December 9, 2020.

In Re: Melvin M. Marin; Melvin M. Marin, Appellant v. William K. Suter, Clerk United States Supreme Court, et al. -Appellees United States Court of Appeals For the District of Columbia Circuit. Nos. 91-8016, 91-5120. Decided March 3, 1992.

United States of America, Plaintiff-Appellee v. TIMOTHY NICHOLAS PETERSON, DARRYL RAY HOOD, STEPHEN ALLEN FALK, AND PAUL JULES GOUDEAU, Defendants-Appellants. United States Court of Appeals for the Ninth Circuit. Nos. 85-5167, 85-5168, 85-5173, 85-5174 Decided March 9, 1987.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

[  ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[  ] reported at \_\_\_\_\_; or,  
[  ] has been designated for publication but is not yet reported; or,  
[  ] is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is Please see attached

[  ] reported at \_\_\_\_\_; or,  
[  ] has been designated for publication but is not yet reported; or,  
[  ] is unpublished.

[  ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

[  ] reported at \_\_\_\_\_; or,  
[  ] has been designated for publication but is not yet reported; or,  
[  ] is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

[  ] reported at \_\_\_\_\_; or,  
[  ] has been designated for publication but is not yet reported; or,  
[  ] is unpublished.

IN THE  
SUPREME COURT OF THE UNITED STATES  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

[X] For cases from federal courts:

The opinion of the United States district court appears at Appendix NA to the petition and is

\*\*\* There is no opinion from the district court because on February 2023, the Court of Appeals for the Fifth Circuit directed Petitioner NEAT, Inc. (owner and corporate officer yavonne hand) to prepare and file a pro se Appellate Brief in opposition to the "Petition for Review" Federal Circuit "by the Circuit Executive" Judicial Council, known as "active judges" order that was issued on December 22, 2022.

## JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 14, 2023.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

[] An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_. A copy of that decision appears at Appendix \_\_\_\_\_.

[] A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

[] An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## **CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED**

The following constitutional provisions and statutes are involved in this case

United States Constitution, First Amendment

Guarantees the freedom of speech, religion, press, assembly, and petition.

United States Constitution, Fourth Amendment

Prohibiting unreasonable searches and seizures and the issuance of warrants without probable cause.

United States Constitution, Ninth and Tenth Amendment

Authorize Healthcare Provider Petitioner to sue for removal of federal judges for alleged failure to maintain "good behavior" as required by U.S. Const. art III, § 1, Cl. 2, as Congressional Impeachment was sole means of removal of U.S. Const. art. III judges because Petitioner NEAT Inc., has statutory means of alleging judicial misconduct under 28 U.S.C.S. § 351.

Declaratory Judgment Act, 28 U.S.C.S. §§ 2201(a)

A federal or state law permitting parties to bring an action to determination their legal rights and positions regarding a controversy not yet ripe for adjudication, as when an insurance company seeks a determination of coverage before deciding whether to cover a claim. 28 U.S.C.S. § 2201-2202.

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The powers granted by the Constitution to the Federal Government are subtracted from the totality of sovereignty originally in the states and the people, where invasion of rights are reserved by the Ninth and Tenth Amendment Rights.

## STATEMENT OF THE CASE

### Nongovernmental Corporation's/Corporate Disclosure As Required By Rule 29.6

The corporate disclosure statement identifying the parent corporations and listing any publicly held company that owns 10% or more of the corporation's stock, was filed earlier in this case (22-20505), with the Court of Appeals for the Fifth Circuit. No amendments to the statement are made, but there will be material changes in the identity of the parent corporation (Neighborhood Empowerment and Transformation, Inc.) soon, and such publicly held companies that own 10% or more of the corporation's stock, in the form of Conservatorship, will be made the current statement.

NEAT Inc. is asking this Court to appoint counsel as soon as possible, so such counsel promptly inform the Clerk by letter and include, within the letter, such amendment needed to make the statement current.

NEAT Inc.'s current attorney (James Stafford) refuses to help with such matters, including not preparing Ms. Hand's Brief for the Merits Appeal that was prepared by her, by force, on April 2023. See App. E. Also see 29 U.S.C.S. § 106.

STATEMENT OF THE CASE

Rule 14(b)(iii): A LIST OF ALL PROCEEDINGS IN STATE AND FEDERAL TRIAL AND APPELLATE COURTS, INCLUDING PROCEEDINGS IN THIS COURT:

- Grand Jury Proceedings on financial institution and non-financial institution employees disclosing NEAT, Inc., and yavonne hand's personal and business financial records without notice to customer 3413(h)(6)(i). 12 U.S.C. § 3409. Also see *In re GRAND JURY SUB-POENA FOR THE EASTERN DISTRICT OF PENNSYLVANIA*. Grand Jury No. 83 473. December 21, 1983. Docket number and case caption for the proceeding: 2019R19479 (Reference number: D071919000335).

Grand Jury is sitting in the Southern Houston District Court of Texas since 2019.

- Court proceeding via video conference on case: 1:20-mj-00348-MSN in the Eastern Virginia District Court Alexandria Division, in regarding indictment 4:20-CR-446, by Magistrate Judge Michael Nachmanoff. NEAT Inc. corporate officer was arrested (Fed. Crim. R. P. 32) on December 8, 2020 of healthcare fraud, money laundering and wire fraud allegations with Medicare Proceeds, in violation of the Federal Rule of Criminal Procedure 5(f) and the Due Process Protections Act, Pub. L. No 116-182, 134 Stat. 894 (Oct. 21, 2020) to confirm the Government's disclosure obligation under *Brady v. Maryland*, 373 U.S. 83, 83 S. Ct. 1194, 10 L. Ed. 2d 215 (1963). On testimony (by Special Agent Marion Eppright) known

## STATEMENT OF THE CASE

to prosecution to be perjured as denial of due process 2 L ed 2d 1575, 3 L ed 2d 1991. The rule stated in the original annotation- that the due process of law which is protected from state and fed - eral infringement by the fourteenth and Fifth Amendments, respect - ively, is denied by conviction of crime following a trial in per - jured testimony on a material point was knowing used against the accused, at least where it appears that the accused suffered pre - judice by virtue of the use of such testimony, finds support, ex - press or implied, in each of the cases discussed herein. Thus, the United States Supreme Court (this Court) has said that the pro - hibition of the knowing use of false testimony to obtain on convi - ction is "implicit in any concept of ordered liberty." Napue v. Illinois (1959) 360 US 264, 3 L ed 2d 1217, 79 S Ct 1173.

An Administrative detention, a form of segregated housing was issued by Magistrate Judge Nachmanoff, which removed NEAT, Inc. corporate officer yavonne hand from the general population, on the basis of being a flight risk in their (government employees) eyes and not because such district and employees of the Eastern Virginia District felt that Ms. hand posed a threat to life, property, self or the public, in violation of holdover status (28 C

## STATEMENT OF THE CASE

FR 541.22). Ms. hand lives in Dubai (UAE) with her twins for 9 months before traveling to the United States on a business trip. Ms. hand was arrested at IAD Washington Dulles Airport on December 8, 2020 by Customs. Liability stands in this matter especially, due to government employees wrongful act and negligence of not allowing Ms. hand to contact her young twin children's nanny in Dubai after she was arrested that she had been arrested at Washington Dulles International Airport while transferring to another plane. Ms. hand was forced to leave her cell phone, laptop, purse, passport, carry on luggage, her corporation documents, her glasses, her coat at the airport. The Federal Tort Claims Act, 28 U.S.C.S. §§ 1346, 2671. See UNITED STATES of AMERICA, Appellant, v. Ira R. URE and Edna B. Ure, husband and wife, and Clarence Robert and Afton W. Roberts, husband and wife, doing business under the name and style of Owyhee Farms, Appellee. United States of America, Appellant, v. Fine SHEEP COMPANY, a corporation, Appellee. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT Nos. 14127, 14128. September 12, 1955.

During 2020, 2021, 2022, and 2023 Ms. hand was unlawfully transferred to a designated institution, absence a lawful "conviction but not yet sentenced" holdover status. Holdover 28 CFR 541.22. No staff filled out a Administrative Detention order ("AD 0"), as Ms. hand (inmate for 2 years and 9 months now) is not tracked, being placed in such segregated housing for non-punitive

## STATEMENT OF THE CASE

purposes.

- On April 6, 2021, Southern Houston District Court of Texas arraignment part 1 and part 2, scheduled pretrial conference for June 23, 2021, scheduled trial for June 28, 2021, and canceled pretrial conference, canceled trial twice (for June 28, 2021 and for November 1, 2021) on grand jury indictment proceedings, that took place almost three years ago, back on June 2019. No grand jury was present in the Southern Houston District from April 6, 2021 - October 2022. There were a lot of grand jury selection proceedings scheduled, that were not followed through with. Docket case number(s): 4:20-CR-446, 4:20-CR-446-1.

### Appellte Proceedings

- On June 21, 2021, NEAT, Inc.'s Motion to dismiss Current Counsel and appoint New Counsel, Motion to dismiss Indictment-case 4:20-CR-446, and 4:20-CR-446 was on the Southern Houston District Court Docket to be heard. Presiding District Judge Keith Ellison sitting in the Southern Houston District refused to hear motions to dismiss Indictment-cases, but he heard NEAT, Inc.'s Motion to dismiss Current Counsel, and Appoint New Counsel. Current Counsel at the time Cort Akers made a false statement in court on June 21, 2021, that Ms. hand wanted to represent herself pro se.

- On the first week of July 2021, NEAT Inc. filed a Motion for leave to file the original application for a writ of habeas cor-

## STATEMENT OF THE CASE

pus application, on direct appeal to the Court of Criminal Appeal of Texas, which such habeas corpus application was presented to the Court of Criminal Appeals of Texas on July 28, 2021. On September 8, 2021, appellant's original application for a habeas corpus was denied without a written order. In violation of 28 U.S.C. S. § 2243. In violation of state remedies that were exhausted.

Federal habeas corpus petitioners are required to exhaust the available state law remedies. *Deters v. Collins*, 985 F. 2d 789, 795 (5th Cir. 1993). In order to exhaust state law remedies, Texas prisoners must fairly present their claims to the highest state court, the Texas Court of Criminal Appeals, 44.45, through a petition for discretionary review and/or a state application for writ of habeas corpus. *Tex. R. App. P.* 68; *Tex. Code Crim. Proc. ann.* art. 11.07, et seq." It is not enough that all the facts necessary to support the federal claim were before the state courts or that a somewhat similar state-law claim was made." *Ex Parte Wilder*, 27 F. 3d 255, 259-260 (5th Cir. 2001) (quoting *Anderson v. Harless*, 459 U.S. 4, 6, 103 S. Ct. 276, 74 L. Ed. 2d 3 (1982)). Rather, the petitioner must have presented the highest state court with the same claim, the same factual basis for the claim, and the same legal theory in order to meet the exhaustion requirement. See *KEVIN TERRELL TATUM, Petitioner, v. WILLIAM STEPHENS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS*

## STATEMENT OF THE CASE

DIVISION, Respondent. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, HOUSTON DIVISION. CIVIL ACTION NO. H-14-1735. Decided September 5, 2017. Docket number and case number: Tr. Ct. No. 4:20-CR-446 WR. 92, 957-01. Name of Court: The Court of Criminal Appeals of Texas on direct appeal. Tex. Code Crim. Proc. art. 1107, and 1108. Ruling: The Court of Criminal Appeals of Texas denied habeas corpus original application without a written order on September 7, 2021.

- On September 10, 2021 Petitioner submitted a writ of certiorari to this Court (United States Supreme Court) for review of the Court of Criminal Appeals of Texas postcard, denying NEAT Inc.'s habeas corpus application. Case number: Hand v. Ellison et al. This Court was unable to file Petitioner's writ of certiorari due to the lower courts (CCA, nor The Southern Houston District of Texas, or The Eastern Virginia District Court) issuing an opinion.

- On September 15, 2021 Petitioner filed a motion for a Declaratory and Injunctive Relief in the Southern Houston District Court. Such motion was filed with the court, but motion was never heard by three judges, or any judge in the Southern Houston District.

Date filed: September 22, 2021.

- On September 2022, Petitioner filed a writ of certiorari with the Supreme Court of the United States. The Court of Criminal Appeals of Texas refused to issue an opinion.

## STATEMENT OF THE CASE

- On September 12, 2022 NEAT Inc. mistakenly submitted a "notice of appeal" with the United States Court of Appeals for the Federal Circuit against the following courts: The Eastern District of Virginia Alexandria Division, The Southern Houston District of Texas and The Court of Criminal Appeals of Texas. Federal Circuit Clerk Peter R. Marksteiner filed such "notice of appeals" with the above courts on September 12, 2022. Federal Rule of Appellate Procedure 4(d), not 4(c)(1) as DOJ Appellate Counsel Jeremy Raymond Sanders made a false statement on his legal document (motion to dismiss Appeal). See App. F. Ruling: None of the courts named above, or U.S. Appellate attorneys responded to Appellant's filed "notice of appeal". See MICHAEL OWEN BRANNAN, Petitioner, v. United States of America, Respondent. UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT. No. 93-80162. Filed May 20, 1993. On October 2022 NEAT Inc. Petitioner filed such copies of "notice of appeal" to this Court.

- On August 2022, Petitioner filed Judicial Misconduct Complaint with the Court of Appeals for the Federal Circuit. Complaint Nos: FC-22-90038, FC-22-90039, FC-22-90040, FC-22-90041, FC-22-90042, FC-22-90043, FC-22-90044, FC-22-90045, FC-22-90046. Ruling: Chief Judge Kimberly A. Moore issued an order dismissing complaint, but informing Complainant there is a right to petition for review of such order, pursuant to Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Such Petition for review was filed in the Court of Appeals for the Federal Circuit on November 2022. Active judges pretending to be Judicial Council affirm Chief Judge Moore's dismissal on December 22, 2022. Case number: 22-20505.

## STATEMENT OF THE CASE

Petitioner Neighborhood Empowerment And Transformation, Inc. ("NEAT, Inc.") respectfully petitions this Court for a writ of certiorari to review the order of the Court of Appeals for the Federal Circuit, informing petitioner her right to file a petition for review of such order, pursuant to Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, as long as such petition for review was received by the "circuit executive" within 42 days of the date of such order (November 7, 2022). App.

B, page 2.

Petitioner also petition this Court to review the order of the Court of Appeals for the Fifth Circuit granting a motion to dismiss Petitioner's appeal, in spite of such Fifth Circuit judges (King, Jones, and Smith), who never sat by designation in the Federal Circuit Court, being involved in a "Petition for review" to the "circuit executive" on November 2022.

The Federal Circuit Court decisions in this case (IN RE COM- PLAINT Nos. FC-22-90038, FC-22-90039, FC-22-90040, FC-22-90041, FC-22-90042, FC-22-90043, FC-22-90044, FC-22-90045, FC-22-90046) bifurcating an informal Special Committee's Composition (28 U.S.C.S. § 353), involving Fifth Circuit judges, because Chief Judge Kimberly A. Moore failed to enter an order under [ 28 U.S.C.S. § 352(b)], on November 7, 2022, and that such Chief judge (Moore)

STATEMENT OF THE CASE CONTINUED

failed to appoint herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in Petitioner's complaint; (2) certify the complaint and any documents pertaining thereto each member of such committee; and (3) provide written notice to the complainant-Petitioner and the judge(s) whose conduct is the subject of the complaint of the action taken under this subsection [28 U.S.C.S. § 353], have been reported to the Judicial Conference Committee in the Administrative Office of the United States Courts, but are not directly relevant to the question presented.

NEAT Inc. seeks review of 2 orders of the Court of Appeals for the Federal Circuit (Chief judge Moore's order was issued on November 7, 2022, and unnamed active judges sitting in the "circuit executive", the Federal Circuit order was issued on December 22, 2022). The order issued by Chief Judge Moore, on a right to petition for review, directed the Judicial Council of the Federal Circuit to review Chief Judge Moore's order. By rules to announce publicly under 28 U.S.C.S. § 358, such Judicial Council may refer such petition for review filed under Rule 18 to a panel of no fewer than five members of the council, at least two of whom must be district judges, outside of the subject judge's designation.

STATEMENT OF THE CASE CONTINUED

The order issued by unnamed active judges sitting in the "circuit executive", and Circuit judge King, Jones, and Smith in the Fifth Circuit, intervened and fraudulently appeared as Judicial Council in the Federal Circuit, resulting to Federal Circuit Clerk Peter R. Marksteiner electronically signing, and issuing what was supposed to be an order by Federal Circuit Judicial Council and Special Committee. Such order was issued on December 22, 2022, on misconduct and unethical behavior because:

(1) Chief Judge Moore failed to appoint a special committee to investigate a charge against magistrate judge(s) [Hon. Michael S. Nachmanoff, in the Eastern Virginia District Court; Hon. Dena Hanovice Palermo, Hon. Peter Bray, Hon. Frances H. Stacy, Hon. Sam S. Sheldon, Hon. Andrew M. Edison, Hon. Christina A. Bryon, Hon. Yvonne Y. Ho, in the Southern Houston District of Texas; District Judge(s) [Hon. Keith Ellison, and Hon. Alfred Bennett] in the Southern Houston District; unknown judges in the Judicial Council of the Fifth Circuit; and unknown judges in the Judicial Conference pertaining to 18 U.S.C.S. § 3006A; and Director of the Administrative Office of the United States Court, pertaining to §3006A. 28 U.S.C.S. 372 (c)(5). 28 U.S.C.S. § 372(c)(4).

STATEMENT OF THE CASE CONTINUED

(2) No investigation, as extensive as it considers necessary, was conducted by a special committee. 28 U.S.C.S. § 372(c)(5). No comprehensive written report thereon was expeditiously filed with a judicial council of the Federal Circuit by a special committee, in which, if Federal Circuit judicial council decides to act on the special committee report regarding judicial misconduct the Judicial Conduct and Disability Act of 1980, 28 U.S.C.S. § 372, directs that the judicial council shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit, including, but not limited to, any of the following actions:

(iv) ordering that, on a temporary basis for a time certain, no further cases be assigned any judge or magistrate whose conduct is the subject of complaint (FC-22-90038, FC-22-90039, FC-22-9003 FC-22-90040, FC-22-90041, FC-22-90042, FC-22-90043, FC-22-90044, FC-22-90045, FC-22-90046); (vi) censuring or reprimanding such judge or magistrate by means of public announcement. 28 U.S.C.S. § 372(c)(6)(B)(iv)(vi).

(3) On January 2023, Federal Circuit Clerk Peter R. Marksteiner disclosed complaint records to Fifth Circuit judge(s) King, Jones Smith, Fifth Circuit Clerk Lyle W. Cayce, Fifth Circuit Deputy Clerk Donna L. Mendez, Fifth Circuit Deputy Clerk Rebecca L. Leto ,

STATEMENT OF THE CASE CONTINUED

Assistant United States Attorney Carmen Castillo Mitchell in the Fifth Circuit; Department of Justice, Fraud Section Appellate Counsel Jeremy Raymond Sanders, Mahogane Denea Reed, in Washington D.C.; Southern Houston District Court of Texas, Office of Clerk Nathan Ochsner, and court-appointed defense attorney James Stafford in Houston Texas. 28 U.S.C.S. § 372(c)(14), which renders confidential all papers, documents, and records of proceedings related to investigations conducted under such subsection. These materials shall not be disclosed by any person in any proceeding unless such disclosure is authorized in writing by the judge who is subject of the complaint and by the chief judge of the Federal Circuit (Moore), the Chief Justice or the chairman of the standing committee. 28 U.S.C.S. § 372(c)(14)(C).

NEAT, Inc. petitioned the Judicial Conference, in Washinton D.C., on January 2023 because such complainant was aggrieved by the action of such active unnamed/unknown judges in the Federal Circuit, replacing a judicial council in the Federal Circuit, on November 29, 2022-December 22, 2022, in regard to petition for review. 28 U.S.C.S. § 372(c)(10). Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Such Judicial Conference never responded to NEAT, Inc.'s petition. 28 U.S.C.S. § 372(c)(10). This court should understand that such order, that was issued on December 22, 2022, did not

STATEMENT OF THE CASE CONTINUED

include an appropriate ballot (22-20505), by Federal Circuit Clerk Marksteiner (Rule 18(c)(2)(F), and nonetheless, on such fake judicial council order, it failed to show an order issued together with memoranda incorporated by reference in such order and separate concurring, or dissenting statements (Rule 19(d).

Weeks later, NEAT Inc., received a letter from the Court of Appeals for the Fifth Circuit falsely stating that the Fifth Circuit Judges were sitting by designation in the Federal Circuit and affirmed dismissal of Chief Judge Moore's order on December 22, 2022, along with Federal Circuit active judges. Fifth Circuit judges also, falsely stated that such Appellate Courts issued a Briefing Schedule Notice, along with an order affirming Circuit Judge's order dismissing NEAT Inc., Complaint on December 22, 2022. But because Petitioner was falsely hospitalized to FMC Carswell, Fort Worth, Texas from Joe Corley Processing Center, in Conroe, Texas on November 22, 2022, Petitioner did not receive such Briefing Schedule Notice. A Reissued Briefing Schedule was issued to Petitioner at FMC Carswell, in January 2023, directing NEAT Inc., to prepare and file an appellate brief on the merits, in regard to the elements or grounds of severe interference among the Federal Circuit Judges and among Fifth Circuit Judges.

STATEMENT OF THE CASE CONTINUED

Such appellate brief was also to include the substantive considerations to be taken into account in deciding cases: 2019R19479 (Reference number: D071919000335), Grand Jury proceedings on financial institution and non-financial institution witnesses disclosing NEAT, Inc., and yavonne hand's personal and business financial records without NOTICE to NEAT, Inc., nor to yavonne hand in the Southern Houston District of Texas; 1:20-mj-00348-MSN in the Eastern Virginia District Court Alexandria Division, in which NEAT Inc.'s corporate officer was convicted (Fed. R. Crim. P32) on a Southern Houston Texas Grand Jury indictment; 4:20-CR-446 in Southern Houston District Court of Texas; Tr. Ct. No. 4:20-CR-446 WR-92,957-01 in the Court of Criminal Appeals of Texas; Judicial Misconduct Complaint Nos. FC-22-90038, FC-22-90039, FC-22-90040, FC-22-90041, FC-22-90042, FC-22-90043, FC-22-90044, FC-22-90045, FC-22-90046 in the Court of Appeals for the Federal Circuit; 22-20505 "Petition for Review" in the Court of Appeals for the Federal Circuit - Circuit Executive, pursuant to 28 U.S.C.S. § 2241, and 28 U.S.C.S. § 2255.

This Court has jurisdiction under "THE DOCTRINE OF PRIMARY ADMINISTRATIVE JURISDICTION AS DEFINED AND APPLIED BY THE SUPREME COURT - 38 L. Ed 2d 796, to review the Court of Appeals' decision by writ of certiorari. The Court of Appeals had jurisdiction to issue the writ of mandamus under the All Writs Act, 28 U.S.C.S. § 1651.

## STATEMENT OF THE CASE CONTINUED

The term "appeal" as it is used with regard to the jurisdiction of the Supreme Court of the United States, denotes the right of a litigant to invoke the obligatory jurisdiction of the court, that is, if a case is a proper one for appeal the Court must hear it. On the other hand, certiorari, the more common method of seeking Supreme Court review, invokes the Court's discretionary or permissive jurisdiction.

This Court also has jurisdiction under Rule 17 of the Supreme Court of the United States, in which this Rule applies only to an action invoking the Court's original jurisdiction under Article III of the Constitution of the United States. This Court shall have original but not exclusive jurisdiction of (1) all actions on proceedings to which Dubai (UAE) Prime Minister, and U.S. Consulate General Dubai UAE of foreign states are parties in this writ of certiorari. 28 U.S.C. § 1251(b)(1)(3).

The case underlying this petition is an action to prosecute NEAT Inc.'s owner and corporate officer of Healthcare Fraud (18 U.S.C.S. § 1347), money laundering (18 U.S.C. § 1957), and wire fraud from proceeds of Medicare funds. This petition, however, involves no issues of The Southern Houston District, The Eastern Virginia District, Federal Circuit, and Fifth Circuit having no jurisdiction over such subject matter, involving healthcare prov-

STATEMENT OF THE CASE CONTINUED

ider (NEAT Inc.), in exhaustion of administrative agency/appeal remedies. Rather, the issue presented in this petition relates strictly to the interpretation of the administrative agency (U.S. Railroad Retirement Board), under the Administrative Procedure Act ("APA"). Such RRB agency is found to be "arbitrary, capricious and abuse of discretion in accordance with the law, as defined in 42 U.S.C.S. § 902(8). 42 U.S.C.S. § 1395 et seq. See Melody Marie

STATEMENT OF THE CASE CONTINUED

Dixon, plaintiff, v. Kilolo Kijakazi, Acting Commissioner of Social Security, Defendant. United States District Court For The Eastern District Of North Carolina, Eastern Division. No. 4:21-CV-00033-M. Decided February 1, 2022.

As Circuit Judges King, Smith, Jones, and Chief Judge Moore explained below:

Chief Moore in the Federal Circuit- Ordinayily, a complaint against a judge "must be filed with the circuit clerk in the jurisdiction in which the sunject judge holds office." Here, because the identified judges "hold[] office" in the jurisdiction of the Fourth Circuit (for the Eastern District of Virginia judge) and Fifth Circuit (for the Southern District of Texas judges), the complaints were filed in the wrong court and hence must be dismissed.

Circuit (Fifth) Judges King, Smith, Jones- The appellee moved to dimiss the appeal on grounds of, inter alia, and jurisdiction

This case forced in the wrong jurisdiction, by the appellees.

In the underlying action, Respondent Special Agent RRB, OIG Eppright alleged NEAT Inc. committed healthcare/medicare fraud, causing an overpayment from CMS, money laundering and wire fraud from the proceeds of Medicare. SA Eppright, and The Department of Justice, Fraud Section demand a grand jury proceeding back on June

## STATEMENT OF THE CASE CONTINUED

2019, in which grand jury subpoena's (12 U.S.C.S § 3413(i)), shall have authority to order a financial institution on which a grand jury subpoena for customer records has been served, not to notify the customer of the existence of the subpoena or information that has been furnished to the grand jury, under the circumstances and for the period specified and pursuant to the procedures established in section 1109 of the Right to Financial Privacy of 1978 (12 U.S.C. § 3409).

## SUMMARY OF ARGUMENT

The Federal and Fifth Circuit held in this case that a health care provider owner and corporate official has a First, Fourth, Ninth, Tenth Amendment right to "adequate relief" outside equitable channels where the only claim to be tried is one seeking a declaratory and injunctive relief, releasing Petitioner/owner/corporate official of NEAT Inc. yavonne hand. This ruling in no way hinged upon the Federal and Fifth Circuit's special expertise in substantive requirement that administrative remedies prescribed by the Commissioner's regulations be exhausted.

Rather, the Federal and Fifth Circuits' decisions rests entirely upon its outright rejection of this Court's decisions interpreting the First, Fourth, Ninth, Tenth Amendment, and the Declaratory Judgment Act.

## REASONS FOR GRANTING THE PETITION

### I

THE QUESTION PRESENTED IS ONE OF  
EXTRAORDINARY NATIONAL IMPORTANCE THAT THE  
lower courts will not further analyze

This Court has repeatedly recognized the importance to the public at large of resolving questions of federal or state laws permitting parties to bring an action to determine their legal rights and position regarding healthcare provider controversies not yet ripe for adjudication, as when the Department of Health and Human Services, Centers for Medicare and Medicaid Services (an insurance company) seek a determination of coverage before deciding whether to cover a claim.

Unlike the issue of encroachment for judicial review of adverse administrative determinations of provider reimbursement claims under Title XVIII of the Social Security Act, which directly affects only the litigants themselves, a case of actual controversy within its jurisdiction, as determined by the administering authority, any court of the United States, upon filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought, shall have the force

REASONS FOR GRANTING THE PETITION

and effect of a final judgment or decree and shall be reviewable as such, affects the public at large. 28 U.S.C.S. § 2201. 5 U.S.C.S. § 701 et seq. See PACIFIC COAST MEDICAL ENTERPRISES, a California Corporation, Plaintiff, v. Joseph A. Califano, Secretary of the United States Department of Health, Education and Welfare, Blue Cross of Southern California, a California Corporation, and Blue Cross Association, an Illinois Corporation, Defendants United States District Court For The Central District of California No. CV75-1769-WMB. Decided May 18, 1977.

As Fifth Circuit Judges King, Jones, and Smith noted in their concurrence in this case, the Fifth Circuit itself has recognized that "adequate relief, among other things, for healthcare providers, including NEAT Inc., is available outside equitable channels which is primarily of a public concern.

Because the Fifth Circuit has exclusive jurisdiction over appeals from all of the district courts, in regard to The Mandamus and Venue Act (Mandamus Act), 28 U.S.C.S. § 1361, its decision will require constitutional right to due process notice and hearing when alleged overpayments of Medicare/Medicaid benefits are recouped is not precluded by 42 U.S.C.S. § 405(h) which controls judicial actions to recover benefits, which is all healthcare provider's due process (42 U.S.C.S. § 1395 et seq) nationwide. As

## REASONS FOR GRANTING THE PETITION

this case demonstrates, the Court of Appeals will mandate "adequate relief, among other things, for healthcare providers is outside equitable channels, even within circuits having controlling precedent to the contrary. See App. B, C, and D. (the following dismissing Fifth and Federal Circuit precedents); ( a Federal Circuit Clerk affirming dismissal of Chief Judge Moore's order, instead of a Judicial Council; granting Appellee's motion to dismiss Petitioner's Appeal; dismissing Petitioner's on time opposition/response to Appellee's Motion to Dismiss Appellant's appeal. (see Federal Rule of Appellate Procedure 27. Note to Subdivision (a)(3)(A). Fed. R. App. P.26(a)(2) has been amended to provide that in computing any period of time, a litigant should exclude intermediate Saturdays, Sundays, and legal holidays when the period is less than 11 days, unless stated in calendar days. "This change in the method of computing deadlines means that 10-day deadlines (such as that in Subdivision (a)(3)(A) have been lengthened as practical matter); dismissing Petitioner's filing such "notice of appeal" after the court announced a decision or order- but before the entry of the judgment or order. Fed. R. App. P. 4(a)(2). Fed. R. App. P1(a)(1)(b). Fed. R. App. P. 2. See attached App . This case therefore presents 'a matter of special importance to the entire Nation! (Petitioner filed a response to Appellee's motion to dismiss Appellant's appeal and Petitioner filed a "Notice of appeal after Fifth Circuit's judgment, in the Court of Appeals for the Fifth Circuit).

## REASONS FOR GRANTING THE PETITION

Now more than ever this Court should take the opportunity to address the right to due process notice of suspension, stating that Secretary, United States Department of Health and Human Services believed NEAT, Inc. has misrepresented services billed to their clients (42 C.F.R. § 405.372(a)(4)); an opportunity for NEAT Inc. to submit a Rebuttal Statement as to why Centers for Medicare and Medicaid Services ("CMS") should end suspension - holding of payments (42 C.F.R. § 405.373(a)(2), 405.374; an initial overpayment determination demand letter after CMS determined that there

REASONS FOR GRANTING THE PETITION

has been an over payment; an opportunity for a multi-step administrative appeals process for NEAT, Inc. to follow if it is dissatisfied with the initial overpayment determination. 42 C.F.R § 405.904(a)(2); and a de novo review and hearing before an Administrative Law Judge ("ALJ") (42 U.S.C. § 1395ff(d)); 42 C.F.R. §§ 405.1002(a)(2), 405.1006(b); and a review and decision by the Medicare Appeals Council ("MAC"), which is considered a final decision of the Secretary (42 U.S.C. § 1395ff(b)); 42 C.F.R. § 405.1102.

Historically, "the overwhelming tendency" was to try health care providers without such healthcare providers exhausting all their administrative remedies. 42 U.S.C. § 1395ff(b)(1)(A). See UNITED STATES OF AMERICA, Plaintiff-Appellee v. MOHAMMAD KHAN, Defendant-Appellant. UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT. No. 15-20293 Summary Calendar. Decided March 9, 2016. See UNITED STATES OF AMERICA v. ARETHA JOHNSON. UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, Houston Division. CRIMINAL ACTION H-14-171S-3. Decided January 7, 2015.

In light of this history, it is not surprising, as Circuit Judge King, Jones, and Smith noted, that this Court (Court of Appeals) has not addressed the role of district Courts in The Mandamus and Venue Act (Mandamus Act) within the camouflage text "among other things" in their concurring order. Federal Circuit

REASONS FOR GRANTING THE PETITION

Chief Judge Kimberly Moore, unknown Federal Circuit active Judges disguised as the Judicial Council, and the Judicial Conference Committee in the Administrative Offices of the United States Court followed suit in such camouflage, after Petitioner had no choice but to file a Judicial Misconduct Complaint against several judge sitting in the Fourth and Fifth Circuit Courts, and also Circuit Judges (unknown) in the Court of Criminal Appeals of Texas, on September 2022 for the following reasons:

A Complaint by this sovereign diplomat (of Dubai UAE) to enjoin judges, Department of Justice, U.S. Attorneys, and Special Agent Marion Eppright, Office Inspection General with the United State Railroad Retirement Board - a false government witness who testified against sovereign diplomat Yavonne Hand on December 11, 2020, in the Eastern Virginia District, from attempting to enforce grand jury indictments that was filed 180 days after Ms. Hand and her defendant children - Mia Nichole Williams and Jeremi Henry Williams were residing in Dubai UAE.

Such grand jury healthcare, money laundering, and wire fraud with Medicare proceeds allegations/charges requirement had a discriminatory effect because it barred NEAT Inc. International corporate officials diplomatic immunity privileges from arrest and from criminal prosecution. 22 U.S.C. § 254d. 22 U.S.C. § 254a. 22 U.S.C. § 254b. 22 U.S.C. § 254c. Ninth Amendment Right of the Constitution. Tenth Amendment Right of the Constitution.

REASONS FOR GRANTING THE PETITION

A healthcare Provider affording their due process right to exhaustion of agency (HHS) administrative / appeal remedies is a must Nationwide!!

Unless corrected by this Court, the Federal Circuit and the Fifth Circuit rulings will impose a significant burden on the resources of the federal judiciary by requiring Department of Justice (in the Fraud Section), absent the Secretary Department of Health and Human Services, healthcare fraud prosecutions, where they have never been required before. 42 U.S.C.S. § 1395 et seq. United States Judge Micaela Alvarez accurately stated, "Under the APA (The Administrative Procedure Act), a court lacks subject matter jurisdiction (add emphasis) to review an action of an administrative agency that is not a final agency action. See SAHARA HEALTH CARE INC., Plaintiff, vs. ALEX M. AZAR II, et al, defendant UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, MCALLEN DIVISION. CIVIL ACTION No. 7:18-CV-203. Decided November 1, 2018.

This burden will extend to false witness and identity theft within employees of the United States Railroad Retirement Board (ex. Special Agent Marion Eppright, Office Inspector General, assigned in Houston Texas Task Force), claiming to have initiated a investigation of healthcare fraud allegations within NEAT, Inc.'s facilities, claiming to have initiated an execution of a search

REASONS FOR GRANTING THE PETITION

warrant (Fed. Crim. R. P. 41(b), in absence of an affidavit/ Complaint from CMS-HHS-OIG, in violation of Fed. Crim. R. P. 41(d)(1 and in violation of Fed. Crim. R. P. 41(e)(2)(A), (f)(1)(B), and (C), because Petitioner was not present in clinic located in Houston, Texas, during the execution of the search and seizure, and Special Agent Marion Eppright never interviewed me, interrogated me, nor seen me in person, and he or any other agent prepared and verified an inventory of the property seized at the Houston Texas clinic on October 4, 2019, in the presence of NEAT Inc. owner/Corporate Officer. RRB Special Agent Eppright testified on a stand, in the Eastern Virginia District Court Alexandria Division, on December 11, 2020, that he interviewed NEAT Inc.'s employees and that he interviewed the owner (co-defendant Nikesha Dixon) of the Houston Texas clinic location . RRB Special Agent Eppright also testified that he and other investigators conduct an unauthorized interception and disclosure of wire, oral, or electronic communication. 18 U.S.C.S. § 2511(1)(a).

Because of the Federal Circuit and Fifth Circuit exclusive nationwide subject matter jurisdiction [The Mandamus and Venue Act], in regard to healthcare providers exhaustion of agency administrative/appeal remedies, and its refusal to direct the appellee's attorney, appoint appellant NEAT, Inc. an appellate attor

## REASONS FOR GRANTING THE PETITION

ney and, when appropriate, the parties-to participate in one- or more conferences to address any matter that may aid in disposing of the proceedings, including simplifying the issues and discussing settlement. Fed. App. R. P. 33, that was requested and filed in the Fifth Circuit after the court announced a decision or order-but before the entry of the judgment or order; this Court will not benefit from further discussion of the question presented by the Federal and Fifth Circuit. Therefore, there is no reason for this Court to refrain from definitely resolving the question presented now.

## II

### THE FEDERAL CIRCUITS' AND THE FIFTH CIRCUITS' DECISION CONFLICTS WITH MANY DECISIONS OF THIS COURT AND OTHER CIRCUITS

A. The Federal and Fifth Circuit Has Rejected Outright This Court's Basic Test For Determining The Scope of Ninth And Tenth Amendment Rights; The Scope of First and Fourth Amendment Rights

The First, Fourth, Ninth, and Tenth Amendment preserves the rights listed in the Constitution that must not be construed in a way that denies or disparages unlisted rights "at organic law", which are retained by the people. An action "at organic law" is

20.

## REASONS FOR GRANTING THE PETITION

one which would have been tried to a "consular court" proper by treaty and thier (U.S. Consulate General of Dubai, UAE) jurisdiction in regard to foreign country's citizens (yavonne hand, mia nichole williams, and jeremi henry williams), because such Petitioner has been stripped from her children, and stripped from her Dubai residence, and trafficked to jails and prisons in the U.S.

This Court has repeatedly instructed the lower courts that they must use a two-part test to determine whether an action is one at organic law. The lower courts "must examine both the nature of the action and the remedy sought" to determine whether the First, Fourth, Ninth and Tenth Amendment extends to a particular case. *Id.* (emphasis added). Congress-not private individuals has exclusive authority to enforce The Good Behavior Clause guarantee that Art. III judges shall enjoy life tenure, subject only to removal by impeachment "exists only if" on these two factors indicate that a party is entitled to the above amendments.

The Federal and Fifth Circuit has now repudiated this Court's First, Fourth, Ninth, and Tenth Amendment test. According to the Federal and Fifth Circuit, if a particular action entails either the adjudication of legal rights, or, alternatively, the implementation of legal remedies, the district court must honor the interpretation of administrative agency, under the APA. (emphasis add) Thus contrary to the Court's precedents, the Federal and Fifth

## REASONS FOR GRANTING THE PETITION

Circuit has held that there is no need not to look to both factor and no balancing is required.

Consistent with its newly formulated test, the Federal and Fifth Circuit disregarded the nature of the relief sought by NEAT Inc., even though this Court has repeatedly emphasized that the relief requested is the primary factor to be considered in the First, Fourth, Ninth, and Tenth Amendment analysis.

As Federal Circuit Chief Judge Moore explained in her order, "[T]hese is a right to file a petition for review of this order, pursuant to Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings."

The Judicial Council panel was supposed to recognize the two part test (remedy) announced repeatedly but changes the "and" to "or". By completely disregarding any analysis of the remedy sought in this case, the Judicial Council panel (Federal Circuit) is accomplishing in this case what the Court specifically rejected in [unauthorized interception of wire or oral conversations (18 U.S.C. S. § 2510), and no Executive Agreement governing access by a foreign government to data subject to 18 U.S.C.S. §§ 2510 et seq] was put in place, where such shall be considered to satisfy the requirements of section 18 U.S.C.S. § 2523, if the U.S. Attorney General, with the concurrence of the Secretary of State, determination to Congress, including a written certification and explanation to unauthorized interception of wire and oral conversa-

REASONS FOR GRANTING THE PETITION

tions, in regard to NEAT Inc. business owner/corporation while living in Dubai(UAE) and her children (Jeremi and Mia). Such unauthorized interception of wire and oral conversations went on for nine months by the Federal Agents and by SA Eppright.

This Court should grant certiorari to review the Federal and Fifth Circuits' outright refusal to follow this Court's basic First, Fourth, Ninth, and Tenth Amendment test.

B. The Federal And Fifth Circuit's Decision Is In Direct Conflict With This Court's Precedents Holding That Actions To Set Aside Indictments And Other Government Grants Are Equitable Actions

The relief sought by NEAT Inc. and its corporate officials, in this case is a declaration that such corporation's due process right to exhaustion of administrative agency (HHS-CMS) appeals and remedies were violated, such unauthorized interception of wire and oral conversations were conducted by unknown Federal Agents. No Executive Agreement governing access by a foreign government to data subject to 18 U.S.C.S. §§ 2510 et seq] was put in place.

The first of these decisions was Coe v. Saul 19 Civ. 10993 (PED)(2020, in which this Court explained in great detail that Section 405(g) contains two separate elements - a jurisdictional element that claims be presented to the agency, and a requirement that administrative remedies prescribed by the Commissioner's regulations be exhausted. Smith, 139 S. Ct. at 1773. That history

## REASONS FOR GRANTING THE PETITION

showed to this Court that the traditional actions to set aside (reversed and remanded) healthcare matter's due process in the United States were actions in equity.

This Court revisited the subject in Seila Law LLC v. Consumer Financial Protection Bureau, and again concluded leadership by Director removable only for inefficiency, neglect, or malfeasance violated separation of powers as neither exception to the President unrestricted removal power applied.

The Federal and Fifth Circuit rejected precedent and history.

### III

#### THE FEDERAL AND FIFTH CIRCUIT'S DECISION IS IN CONFLICT WITH THIS COURT'S DECLARATORY JUDGMENT JURISPRUDENCE

A. This Court's precedents Establish That Declaratory Relief Is Essentially Equitable

Since the enactment of the Declaratory Judgment Act, 28 U.S.C § 2201-2202, this Court has explained on many occasions that declaratory relief is a discretionary, equitable remedy. As this Court explained in Great Lakes Dredge & Dock Co. v. Huffman, 319 U.S. 293, 300 (1943), declaratory relief is "essentially an equitable cause of action" and "is analogous to the equity jurisdiction in suits quia timet or for a decree quieting title." Indeed,

## REASONS FOR GRANTING THE PETITION

even before the passage of the Declaratory Judgment Act, this Court, per Justice Brandeis, explained that declaratory relief "would ... come under a familiar head of equity jurisdiction." *Willing v. Chicago Auditorium Ass'n*, 277 U.S. 274, 289 (1928).

The Federal and Fifth Circuit rejected outright these Supreme Court precedents as well. According to the Federal and Fifth Circuit, these cases do not "stand for the proposition that declaratory judgment actions are always, or even usually, equitable for First Fourth, Ninth, and Tenth Amendment purposes. In the Federal Circuit's view, this Court's declaratory Judgment jurisprudence is not discretionary nature of the decision to grant declaratory relief in a particular equitable cause of action rather than the First, Fourth Ninth, and Tenth Amendment.

The Federal and Fifth Circuit was led astray by its misunderstanding of this Court's holding in *Beacon Thetres, Inc. v. Westover*, 359 U.S. 500 (1959). In this Court held that a legal claim for damages must be tried before any bench trial or a claim for declaratory relief, like any other equitable claim, cannot be used to resolve the merits of a legal claim for declaratory relief.

REASONS FOR GRANTING THE PETITION

IV

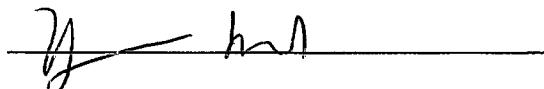
In *Smith*, this Court reserved judgment on whether the First, Fourth, Ninth, and Tenth Amendment right to a jurisdiction element that claims be presented to the agency, and a requirement that administrative remedies prescribed by the Commissioner's regulation be exhausted.

In conclusion, the Federal and Fifth Circuit has pronounced a rule of pressing national importance. Its ruling, requiring that "adequate relief", among other things, for healthcare providers, including NEAT Inc., is available outside equitable channels which is directing conflicts with the precedents of this Court and the Circuit courts.

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Smith".

Date: 8/21/2023