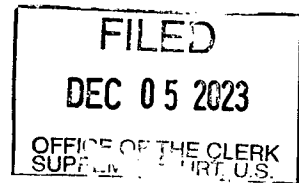


No. 23-6783

ORIGINAL



\_\_\_\_\_  
IN THE

SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

Kevin F Jackson — PETITIONER  
(Your Name)

vs.

Applied Materials Inc, Keith Dupen — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Ninth Circuit Court of Appeals

\_\_\_\_\_  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Kevin F Jackson  
(Your Name)

1815 Brookside Ave NW  
(Address)

Salem OR 97304  
(City, State, Zip Code)

541-484-0167  
(Phone Number)

## **QUESTION(S) PRESENTED**

In Jackson vs Applied Materials, Wherein the 9th Circuit Court of Appeals has decided an important question of Federal Law that has not been, but should be, settled by this Court, or has decided that conflicts with relevant decisions of this Court.

Question: Is a United States citizen considered to have received due process of law in a court ordered mandatory arbitration hearing if the Pro Se plaintiff is denied a court reporter by both JAMS Arbitration Firm and the United States District Court Northern District California San Jose in violation of Plaintiff's Fifth and Fourteenth Amendment Rights when appointing a court reporter to a needy litigant was mandated by the California Supreme Court (Jameson vs Desta)?

## LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ 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:

## RELATED CASES

Jackson vs Applied Materials Inc., Keith Dupen

Jameson vs Desta

Dogan v. Comanche Hills Apartments, Inc.

## TABLE OF AUTHORITIES CITED

### CASES

### PAGE NUMBER

Jackson vs Applied Materials Inc., Keith Dupen

Jameson vs Desta

Dogan v. Comanche Hills Apartments, Inc.

### STATUTES AND RULES

28 U.S.C. § 1257

28 U.S. C. § 753

28 U.S.C. § 2072

### OTHER

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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 \_\_\_\_\_ 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

☐ 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.

## JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was November 13, 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).

Mr. Jackson's appeal on the arbitration ruling and attorney fees were affirmed

while respondent's motion to strike was denied via mandate on November 13, 2023.

Mr. Jackson invokes this Court's jurisdiction under 28 U.S.C. § 1254 having timely

filed this petition for a writ of certiorari within ninety days of the Ninth Circuit Court of Appeals judgement.

☐ 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**

### **United States Constitution, Amendment V**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be put twice in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

### **United States Constitution, Amendment XIV**

All persons born or naturalized in the United States, and in subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



## **VII. Statement of the Case**

### **1. The JAMS Arbitration Process**

Petitioner was the only African American in the Metal Deposition Products Service Business Unit. Petitioner was being written up and forced to remain in this department as if Petitioner was an indentured slave being claimed as property. Petitioner sought the assistance of Human Resources and upper management through several meetings to request a move to a different department on multiple occasions and was ignored. Keith Dupen led a manipulative, retaliatory, discriminatory, gaslighting, constructive discharge campaign that led to Petitioner filing a Title VII racial discrimination claim with the EEOC. Petitioner was retaliated against several times for reporting these issues with Human Resources. By way of an unconstitutional separation agreement, Petitioner was forced in to mandatory arbitration by order of the District Court. During the arbitration process, Petitioner was denied a court reporter for purposes of recording verbatim and to depose deponents

for the appeals process by both Judge Mark Pierce (JAMS Arbitration) and Judge Virginia K. DeMarchi (District Court Northern District of California San Jose). An error in an appellate ruling by the Ninth Circuit has taken place.

Petitioner is claiming a violation of his Fifth and Fourteenth Amendment Rights to due process of law during the arbitration process. In the district court's opinion, it states, "For example, Mr. Jackson continues to press the argument that the arbitrator should have reached the merits of his claim instead of finding that they were barred by the release that he signed upon separation." Petitioner did clearly state the reason for overturning the arbitration ruling and attorney fees to the district court and to the appellate court in his opening brief. "Petitioner was denied a court reporter to properly present his case." The arbitrator did not make any ruling on the merit.

Petitioner was the only person deposed and or questioned from both parties of the lawsuit. All of these accusations are included in Petitioner's submission to the Ninth Circuit and in Petitioner's Objection to Summary Judgement submitted to JAMS arbitration firm and the Ninth Circuit. Respondents filed a motion to strike all of Petitioner's submissions to the Ninth Circuit and it was denied. (Jackson vs Applied Materials)

Petitioner's inability to depose any witnesses during this strenuous process was a direct reflection of the denials by the arbitrator himself and the district court judge who made it mandatory Petitioner attend the arbitration hearing. What other opinion/judgement can be inferred and/or reviewed by either of the upper courts if there are no transcripts and the only person deposed is the person bringing the lawsuit? With that said, the arbitration process itself was unconstitutional and should be reviewed by this Court.

Under the Federal Rules of Evidence, Rule 103, a party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party...

Petitioner's Fifth and Fourteenth Amendment Rights guaranteeing due process of law have certainly been violated.

The very definition of depose refers to the act of questioning a deponent under oath, either a witness or a party to a lawsuit, at a deposition. Deposing occurs during the pre-trial discovery process. This process never occurred for Petitioner by choice of the arbitrator and the district court judge. 28 U.S. Code § 753 (b) states, "Each Session of the court and every other proceeding designated by rule or order of the court or by one of the judges shall be recorded verbatim by shorthand, mechanical means, electronic sound recording, or any other method, subject to regulations promulgated by the Judicial Conference and subject to the discretion and approval of the judge..."

## 2. Direct Appeal

In Jameson v Desta, (Id. at p. 599, 234 Cal. Rptr.3d 831, 420 P.3d 746 (Jameson)), a criminal case matter, the California Supreme Court held that “an official court reporter, or other valid means to create an official verbatim record for purposes of appeal, must generally be made available to in forma pauperis litigants upon request.” JAMS arbitration firm stated in their rules of arbitration that the hearing process will be “as if it were taking place in a court of law.” Which U.S. Court of Law would allow alleged unconstitutional separation agreements and unconscionable, discriminatory, retaliatory actions without allowing for those accused witnesses and participants to be deposed under oath? Recall that it is respondents who pay for the arbitration fees not the Petitioner. Respondents are reaping the benefits of that payment. Furthermore, 28 U.S. Code § 753 (b) states,” Proceedings to be recorded under this section include (3) such other proceedings as a judge or court may direct or as may be required by rule or order of court as may be requested by any party to the proceeding.” Respondent’s stated in the

district court attorney fee hearing that Jameson v Desta only covered criminal litigants.

In Dogan v Comanche Hills Apartments, Inc., (31 Cal. App 5<sup>th</sup> 566 (Cal. Ct. App. 2019), a civil case matter, another Pro Se litigant denied a court reporter, the appeals court concluded "On this record we cannot conclude that the absence of a court reporter's transcript was harmless...If the record here included a recorder's transcript we would review the court's reasoning in light of actual testimony to determine, under appropriate standard of review, whether the non-suit was properly granted.

In light of (Jameson), we cannot fairly conduct our review without a reporter's transcript." The court also concluded, "Because there is no way to now provide a reporter for a trial that has already occurred, we have no choice but to reverse and remand for a new trial at which an official court reporter will be furnished." Petitioner was seeking the exact same reasoning and judgement ruling from the Ninth Circuit Court of

Appeals. Transcripts aren't only good for reiterating what was said in a deposition, but also what was felt. The specific way a witness recounts a story can give insight into how he/she was feeling at the time. By reiterating how something was said, you can set the tone for the trial. Petitioner was denied any chance of witness recounts from respondent's clients. The list presented below reflects the individuals that were required and requested to be deposed and who participated in these discriminatory retaliatory acts or was a party to them. None of those listed were deposed. That by the way also includes one of the main respondents Petitioner is filing the lawsuit against, Keith Dupen. The EEOC determined that it was Mr. Dupen who ultimately is responsible for these despicable actions because he had the highest authority and is the only person who could allow it.

## **List of Witnesses for Deposition**

1. Keith Dupen, Managing Director Human Resources
2. Mike Riordan, Managing Director Metal Deposition Products Service  
Business Unit
3. Cissy Leung, General Manager VP of Metal Deposition Products  
Service Business Unit
4. Sheweta Hedwadkar, Human Resources Business Partner
5. Morty Frey, Metal Deposition Products Service Business Unit Product  
Line Manager Supervisor
6. Michael Simoni, Digital Forensics Analyst
7. Michael Biese, Metal Deposition Products Service Business Unit  
Product Line Manager Supervisor

Reference Jackson vs Applied Materials, JAMS Objection to Summary Disposition for the mandatory reasons each of these individuals should be deposed.



## **REASONS FOR GRANTING THE WRIT**

**A. To avoid erroneous deprivations to the right to a court reporter, this Court should clarify the “right to a court reporter” standard under Jackson that applies when needy forma pauperis Pro Se litigants request court reporters in arbitration hearings**

Six attorneys and two law firms are what respondents have used to suppress deleted audio recordings, altered documents, retaliation, discrimination, an unconstitutional separation agreement, a constructive discharge, gaslighting, and providing insufficient African American employment related data to name just a few of the unimaginable issues and concerns. This respondent is responsible for and should be held accountable for all of these actions. This accountability starts by ordering depositions under oath for those whom dare to commit such acts. This Court can help to ensure corporations, just like citizens, are held accountable by deposition upon request in an arbitration setting by a Pro Se litigant, as mandated by the California

Supreme Court (Jameson). Pro Se litigants should not be taken advantage of due to financial differences between the parties.

The Court has this authority under 28 U.S.C. § 2072 – Rules of procedure and evidence; power to prescribe. The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrate judges thereof) and courts of appeals.

## CONCLUSION

For the foregoing reasons, Mr. Jackson respectfully requests that this Court issue a writ of certiorari to review the judgment of the Ninth Circuit Court of Appeals.

Dated this 2<sup>nd</sup> day of December, 2023

Respectfully submitted,

*Kevin F Jackson*

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Pro Se Litigant

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