

23-923
24-

ORIGINAL

IN THE
SUPREME COURT OF THE
UNITED STATES

PALANI KARUPAIYAN et al
---Petitioners

v.
ARNAUD VAISSIE et al
---- Respondents

On Petition for a Writ of Certiorari
to the United States Court of
Appeals for the Third Circuit
(Dkt(s) 23-1948 & 23-2946)

**PETITION FOR WRIT OF
CERTIORARI**

Palani Karupaiyan.
Pro se, Petitioner,
1326 W. William St.
Philadelphia, PA 19132
palanikay@gmail.com
212-470-2048(m)

FILED
FEB 13 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

RECEIVED
FEB 16 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

I. QUESTION PRESENTED

Petitioners prayed over 4 reliefs were as Writ of Mandamus or Prohibition or alternative so the questions were part of three test condition requirement of the Writs.

II. PARTIES TO THE PROCEEDING

PALANI KARUPAIYAN; P. P.; R. P. are petitioners

Respondents are

ARNAUD VAISSIE, Individually and in his official capacity as CEO of International SOS;

DESSI NIKALOVA, Individually and in her official capacity as director, product engineering of the international SOS;

ACCESS STAFFING LLC;

MIKE WEISTEIN, Individually and in is official capacity as principal, product engineering of Access Staffing LLC;

KAPITAL DATA CORP;

KUMAR MANGALA, individually and in their official capacity as founder and CEO of the Kapital Data Corp;

KARUPAIYAN CONSULTING INC;

GREGORY HARRIS, individually and in his official capacity as team leader, mobile applications of the international SOS;

INTERNATIONAL SOS (“ISOS”)

III. TABLE OF CONTENTS

I. Question Presented.....	i
II. Parties to the Proceeding.....	i
III. Table of Contents	ii
IV. Table of Authorities	iv
V. Petition for a Writ of Certiorari.	1
VI. Opinion(s)/orders/Judgment(s) BELOW (from Dist. Court and USCA3)	1
VII. Jurisdiction	2
VIII. Constitutional and Statutory Provisions Involved	3
IX. Statement of the Case.....	4
A) DIST. COURT OLD DOCKET	4
B) DIST COURT CURRENT PROCEEDING AND RULING	5
C) USCA3 PROCEEDING AND RULING.....	6
X. International SOS's Business.....	6
XI. ISOS's Purpose of outsource	6
XII. All Writs Act, 28 U.S.C. § 1651(a).....	6
XIII. Reliefs should be granted under Rule 8(a)(3) or Rule 54(c) or without Rule 12(b)'s requirement ...	7
XIV. Why USCA3 was not able to grant the Appellant's Writs/ Injunction(s) reliefs	7
XV. USSC's Writ against Lower Court (s)	8

XVI.	Pro se pleading standards	9
XVII.	USSC's Rule 20.1 and Rule 20.3.	9
XVIII.	Three test Conditions for grant the Writ (of Mandamus, prohibition or any alternative).....	10
XIX.	Reasons For Granting the Writ(s).....	11
1)	Order that the Lower federal Court (s) to vacate the order of dismissal granted for ISOS defendants ECF-34/App.11 and Access Defendants ECF-35/App.18.....	11
2)	Order that Lower Court to Vacate the order of dismissal for Kapital data Corp, Kumara Mangala, and Karupaiyan Consulting Inc. ECF-50/App.28	14
3)	Writ against International SOS that ISOS should not discriminate the US citizenship AND favor of foreign nationals against US citizen in employment or in application for employment.....	16
4)	Order that (i) International SOS should not outsource it's IT/BPO jobs. (ii) International SOS should not involve in Tax evasion and Money Laundering against United States and its Local govt(s).....	17
5)	Order that International SOS should deposit to US treasury the 3 times of Money International SOS took out of United States by Outsourcing and lock/jail the International SOS's CEO when International SOS fail to deposit the money within 3 months of this Court order. Equal amount of	

money ISOS send out for outsourcing, ISOS need to pay the plaintiff/ petitioner.....	19
6) Order that International SOS should pay the petitioner \$15 million dollars for [r]easonable money for time and effort of the [P]laintiff, pain and suffering and all expenses and costs of this action.	21
XX. Conclusion	22

IV. TABLE OF AUTHORITIES

Cases

<u>Bankers Life & Casualty Co. v. Holland</u> , 346 US 379 - Supreme Court 1953	8, 10
<u>Beasley v. Howard</u> , 14 F. 4th 226 - Court of Appeals, 3rd Circuit 2021	13
<u>Bontkowski v. Smith</u> , 305 F. 3d 757 - USCA, 7th Cir. 2002	7
<u>Boyadjian v. Cigna Companies</u> , 973 F. Supp. 500 - Dist. Court, D. New Jersey 1997	21
<u>Boyer v. CLEARFIELD COUNTY INDU. DEVELO. AUTHORITY</u> , Dist. Court, WD Penn 2021	7
<u>Carter</u> , 780 F.2d	21
<u>Cheney v. United States Dist. Court for DC</u> , 542 US 367 - Supreme Court 2004	10
<u>Crooker v. United States Dep't of Justice</u> , 632 F.2d 916, 921 (1st Cir.1980).....	21
<u>Cunningham</u> , 664 F.2d	21
<u>De Beers Consolidated Minesv. United States</u> , 325 U. S. 212, 217 (1945)	8

<u>De Beers Consolidated Minesv. United States</u> , 325 U.S. 212, 217 (1945).....	10
<u>DeBold</u> , 735	21
<u>eBay Inc v. Merceexchange llc</u> , 547.US.388,S.Ct 2006	11
<u>English v. MISYS INTERNATIONAL BANKING SYSTEMS, INC.</u> , Dist. Court, D. NJ 2005.....	17
<u>Erickson v. Pardus</u> , 551 US 89 – Sup. Ct 2007.....	9
<u>Espinoza v. Farah Mfg. Co.</u> , 414 U.S. 86, 88 (1973)	17
<u>Estelle</u> , 429 U.S., at 106, 97 S.Ct. 285.....	9
<u>Ex parte Peru</u> , 318 U.S. 578, 585, 63 S.Ct. 793, 87 L.Ed. 1014 (1943).....	9
<u>Hines v. D'Artois</u> , 531 F. 2d 726, 732, and n. 10 (CA5 1976)	8, 9
<u>Hobby Lobby Stores, Inc. v. Sebelius</u> , 568 US 1401 - Supreme Court 2012	2, 10
<u>Hohn v. United States</u> , 524 US 236 - Supreme Court 1998	2
<u>Holt Civic Club v. City of Tuscaloosa</u> , 439 U.S. 60, 65-66, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978).....	7
<u>In re US</u> , 139 S. Ct. 452.....	10
<u>Jackson v. Dow Chem. Co.</u> , 902 F. Supp. 2d 658, 668-69 (E.D. Pa. 2012).....	5
<u>Moses H. Cone Memorial Hospital v. Mercury Constr. Corp.</u> , 460 US 1 - Supreme Court 1983	8, 9
<u>Novak v. World Bank</u> , 20 Fair Empl.Prac.Cas. (BNA) 1166, 1167 (D.D.C. 1979).....	17
<u>Novak v. World Bank</u> , No. 79-0641, 1979 U.S. Dist. LEXIS 11742 (D.D.C. June 13, 1979).....	16
<u>Nwani v. Molly</u> , 2018	5

<u>Pa. Bureau of Correction v. US Marshals Service,</u> 474 US 34 - Sup Ct 1985	6
<u>Papera v. Pa. Quarried Bluestone Co.</u> , 948 F.3d 607, 610-11 (3d Cir. 2020)	12
<u>Papera v. Pa. Quarried Bluestone Co.</u> , 948 F.3d 607, 611 (3d Cir. 2020)	14
<u>Poulis v. State Farm Fire and Casualty Co.</u> , 747 F.2d 863 (3d Cir. 1984)	4
<u>re US</u> , 139 S. Ct. 452	9
<u>Roche v. Evaporated Milk Assn.</u> , 319 U. S. 21, 26 (1943)	8
<u>Rosado v. Wyman</u> , 397 U. S. 397, 403, n. 3 (1970) ...	2
<u>Semtek Int'l Inc. v. Lockheed Martin Corp.</u> , 531 US 497 - Supreme Court 2001	13, 15
<u>Sullivan v. Little Hunting Park, Inc.</u> , 396 US 229 - Supreme Court 1969	15, 18
Statutes	
28 U. S. C. § 1254(1).....	2
28 U. S. C. § 1651.....	2, 8
28 U.S.C. § 1651(a).....	6
28 U.S.C. § 1915(d).....	15
<u>28 USC§ 1651(a)</u>	10
42 U.S.C. § 1981.....	3
42 US Code § 1988	3
8 CFR 214.2(h)	20
8 U.S.C. § 1182(a)(5)(A)	20
<u>All Writs Act</u>	2, 7
Pennsylvania Human Relations Act (PHRA)	3

The Americans with Disabilities Act.....	3
The Genetic Information Nondiscrimination Act	3
<i>Title VII</i>	3

Other Authorities

<u>UNIVERSITY OF LOUISVILLE LAW REVIEW</u>	
<u>[Vol. 52:265]</u>	15

Rules

Fed. R. Civ. P. 4(c)(3)	15
<i>Federal Rule of Civil Procedure 4</i>	14
<i>Rule 12(b)(6)</i>	7
Rule 41(b).....	13
<i>Rule 8(a)(3)</i>	7
<i>S.Ct. Rule 20.1</i>	9
<i>S.Ct. Rule 20.3</i>	9

V. PETITION FOR A WRIT OF CERTIORARI.

Petitioner respectfully prays that a Writ of Certiorari to review the opinion/ judgment/ orders of USCA3's (docket 23-1948 & 23-2946) and US Dist. Court for Eastern Dist. of Pennsylvania (Dist. docket 22-cv-3083) below.

**VI. OPINION(S)/ORDERS/JUDGMENT(S) BELOW
(FROM DIST. COURT AND USCA3)**

1. USCA3's consolidated Opinion for Appeal and Petition for Writ of Mandamus 02/7/2024. App.1.
2. USCA3's Judgment for Appeal 02/07/2024. App.7
3. USCA3's Order denied for Petition for Writ of Mandamus, 02/07/2024. App.9.
**Hon. JORDAN, PHIPPS, and NYGAARD,
Circuit Judges.**
4. Dist. Court order dismissal of amended complaint for International SOS defendants. Jan 31 2023. Ecf-34 (App.10)
5. Dist. Court order dismissal of amended complaint for Access Staffing defendants. Jan 31 2023. Ecf-35 (App.17)
6. Dist. Court Order Dismissing FAC for Kapital Data and Karupaiyan Consulting. May 9 2023. App.28.

Hon. NITZA I. QUIÑONES ALEJANDRO USDJ

VII. JURISDICTION

In Hohn v. United States, 524 US 236 - Supreme Court 1998@ 258 ("Rosado v. Wyman, 397 U. S. 397, 403, n. 3 (1970) (a Court always has jurisdiction to determine its jurisdiction)).

Hohn @264 ("We can issue a common-law writ of certiorari under the All Writs Act, 28 U. S. C. § 1651.)

Hobby Lobby Stores, Inc. v. Sebelius, 568 US 1401 - Supreme Court 2012@ 643

The only source of authority for this Court to issue an injunction is the All Writs Act, 28 U.S.C. § 1651(a) and

Following a final judgment, they [Petitioner] may, if necessary, file a petition for a writ of certiorari in this Court.

USCA3 opinioned and enter judgment and order on Feb 7 2024. **App.1 to 9.**

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

VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

All Writs Act, 28 U.S.C. § 1651(a)

Title VII,

The Americans with Disabilities Act;

(iii) The Genetic Information Nondiscrimination Act;
and

(iv) The Age Discrimination in Employment Act

42 U.S.C. § 1981

42 US Code § 1988 - Proceedings in vindication of
civil rights

Pennsylvania Human Relations Act (PHRA),

26 U.S. Code § 7201. Attempt to evade or defeat
tax, 26 U.S.C. § 7203 and § 7206(1)

18 USC § 371 - Conspiracy to commit offense or to
defraud United States, 18 U.S.C. § 1956, money
laundering law.

Copyright Act of 1976, 17 U. S. C. §§ 101(2) and
201(a)

8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b
visa).

8 U.S. Code § 1188

The Immigration and Nationality Act (INA) Section -
101(a)(15)(H)(i)(b).

20 C.F.R. § 656.17(e) (Labor Certification)

20 C.F.R. §655.101(b)(1) (Temp employment for
foreigner)

IX. STATEMENT OF THE CASE

a) DIST. COURT OLD DOCKET

This case was previously docket with Dist. Court of Eastern Pennsylvania. Docket#19-cv-2259, Docket entry 46 as below.

46	<p>ORDERED THAT PLAINTIFF'S AMENDED COMPLAINT IS DISMISSED WITHOUT PREJUDICE. IT IS FURTHER ORDERED THAT WITHIN 30 DAYS PLAINTIFF SHALL FILE A SECOND AMENDED COMPLAINT. DEFENDANTS MOTIONS TO DISMISS, PLAINTIFF'S MOTION FOR ACCEPTING ADDITIONAL EVIDENCE AND ADDITIONAL SIX MOTIONS, AND FOR ADDITIONAL TIME ARE ALL DENIED AS MOOT. THE CLERK OF COURT IS DIRECTED TO CORRECT PLAINTIFF'S NAME ON THE DOCKET. ETC.. SIGNED BY HONORABLE PETRESE B. TUCKER ON 5/6/2020.5/6/2020 ENTERED AND COPIES E-MAILED. NOT MAILED TO PRO SE.(sg,) (Emailed to litigant on 06/16/2020 per chambers) Modified on 6/16/2020 (nd,). (Entered: 05/06/2020)</p>
----	---

Clearly the above docket entry stated Hon Judge TUCKER signed on May 6 2020 to amend the complaint within 30 days which was not emailed to pro se plaintiff until Jun 16 2020.

This Old docket, Dist Court dismissed under Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984).

b) DIST COURT CURRENT PROCEEDING AND
RULING

On Aug 1 2022, Plaintiff filed employment related complaint against the respondents US Dist. Court of Eastern PA under Title VII, Pennsylvania Human Relations Act (PHRA), and copyright and so on and timely served the complaint to all defendants.

On Nov 3 2022 Dist. Court granted the forma pauperis and ordered the plaintiff to serve the complaint and summon. **ECF-17. App.23.**

On Jan 31 2023, District Court dismissed the 1st amended complaint for International SOS (ISOS) and Access Staffing on the basis of *Res Judicata*. **App.10 and App.17.**

In dismissal of complaint, Dist. Court ruled that

Plaintiff contends that the judgment in the Prior Action was not "on the merits" because it was premised on pleading deficiencies under Rules 8 and 10 and on his failure to comply with Court Orders under Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984),

Plaintiff is correct as to the bases of the prior dismissal, he is incorrect as to the preclusive effect of such dismissals.

Though not squarely determined by the Third Circuit, district courts in this Circuit have held that dismissal of a plaintiff's claims with prejudice for failure to comply with federal court orders operates as an adjudication on the merits for preclusion purposes. See, e.g., Jackson v. Dow Chem. Co., 902 F. Supp. 2d 658, 668-69 (E.D. Pa. 2012); Nwani v. Molly, 2018

Timely Petitioner filed Notice of appeal and Notice of Petition for Writ of Mandamus, Prohibition or Alternative. ECF-44, 51.

c) USCA3 PROCEEDING AND RULING

On Feb 7 2024, USCA3 delivered consolidated opinion and entered Judgment/order. App.1-9.

In opinion, USCA3 affirm the dist. Court ruling (res judicata) and deny the petition for writ of mandamus.

X. INTERNATIONAL SOS'S BUSINESS

Defendant International SOS ("ISOS") is the world's largest medical and travel security services firm, which count nearly two-thirds of the Fortune Global 500 companies as clients. ISOS employed 10,000+ employees and 2 billion dollars revenue in USA which major revenue market of international SOS. ISOS home country is Britain/ Singapore.

XI. ISOS'S PURPOSE OF OUTSOURCE

The purpose of International SOS's outsourcing is to evade the Dept of Labor's Labor certification fee (which is perjury crime), Immigration fee, payroll tax to US and Local Govts, tax liabilities, properties tax to the Local Govts in US. Secretly, untraceably transfer the money out of US in the name of outsource into India and these tax evaded money is benefitted by International SOS's corporate officer who decided the outsourcing.

XII. ALL WRITS ACT, 28 U.S.C. § 1651(A)

In Pa. Bureau of Correction v. US Marshals Service,
474 US 34 - Sup Ct 1985 @43

"The All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute".

XIII. RELIEFS SHOULD BE GRANTED UNDER RULE

8(A)(3) OR RULE 54(C) OR WITHOUT RULE 12(B)'S REQUIREMENT

In Bontkowski v. Smith, 305 F. 3d 757 - USCA, 7th Cir. 2002@762 "can be interpreted as a request for the imposition of such a trust, a form of equitable relief and thus a cousin to an injunction. Rule 54(c), which provides that a prevailing party may obtain any relief to which he's entitled even if he "has not demanded such relief in [his] pleadings." See Holt Civic Club v. City of Tuscaloosa, 439 U.S. 60, 65-66, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978);

In Boyer v. CLEARFIELD COUNTY INDU. DEVEL. AUTHORITY, Dist. Court , WD Penn 2021

"Thus a prayer for an accounting, like a request for injunctive relief, is not a cause of action or a claim upon which relief can be granted. Rather, it is a request for another form of equitable relief, i.e., a "demand for judgment for the relief the pleader seeks" under Rule 8(a)(3) of the Federal Rules of Civil Procedure. D****As such, it too is not the proper subject of a Rule 12(b)(6) motion. D****Global Arena, LLC, 2016 WL 7156396, at *2; see also Bontkowskiv. Smith, 305 F.3d 757, 762 (7th Cir. 2002).

XIV. WHY USCA3 WAS NOT ABLE TO GRANT THE APPELLANT'S WRITS/ INJUNCTION(S) RELIEFS

In the Dist. Court this petitioner filed i) Notice of appeal and ii) Notice of Petition for Writ of Mandamus, Prohibition or alternative. As per the Moses footnote [6], USCA3 shall not able to grant the

injunctive reliefs along with the appeal (USCA3's docketed 23-1948)

In Moses H. Cone Memorial Hospital v. Mercury Constr. Corp., 460 US 1 - Supreme Court 1983 @footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976).

XV. USSC'S WRIT AGAINST LOWER COURT (S)

Bankers Life & Casualty Co. v. Holland, 346 US 379 - Supreme Court 1953@383

As was pointed out in Roche v. Evaporated Milk Assn., 319 U. S. 21, 26 (1943), the "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal Courts has been to confine an inferior Court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so."

Bankers @383 there is clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in De Beers Consolidated Minesv. United States, 325 U. S. 212, 217 (1945).

XVI. PRO SE PLEADING STANDARDS

Erickson v. Pardus, 551 US 89 – Sup. Ct. 2007
@ 2200

A document filed pro se is "to be liberally construed," Estelle, 429 U.S., at 106, 97 S.Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.

XVII. USSC'S RULE 20.1 AND RULE 20.3.

In *re US*, 139 S. Ct. 452 - Supreme Court 2018 @
453

S.Ct. Rule 20.1 (Petitioners seeking extra-ordinary writ must show "that adequate relief cannot be obtained in any other form or from any other Court" (emphasis added));

S.Ct. Rule 20.3 (mandamus petition must "set out with particularity why the relief sought is not available in any other Court "); see also *Ex parte Peru*, 318 U.S. 578, 585, 63 S.Ct. 793, 87 L.Ed. 1014 (1943) (mandamus petition "ordinarily must be made to the intermediate appellate Court").

USSC ruled in *Moses* 460 US 1 - Supreme Court 1983
@footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976)

The above Substitute the Test-1 of 3 tests requirement of grating the Writs in the US Supreme Court.

XVIII. THREE TEST CONDITIONS FOR GRANT THE WRIT (OF MANDAMUS, PROHIBITION OR ANY ALTERNATIVE)

Test-1: No other adequate means [exist] to attain the relief [the party] desires (In re US, 139 S. Ct. 452)

Or it (injunction) is necessary or appropriate in aid of our jurisdiction (28 USC§ 1651(a))

Or "the party seeking issuance of the writ must have no other adequate means to attain the relief [it] desires";

Test-2: the party's 'right to [relief] issuance of the writ is clear and indisputable (In re US, 139 S. Ct. 452)

Or Bankers Life & Casualty Co. v. Holland, 346 US 379 – Sup.Ct 1953

clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in De Beers Consolidated Minesv. United States, 325 U. S. 212, 217 (1945).

Or Hobby Lobby Stores, Inc. v. Sebelius, 568 US 1401 – Sup.Ct 2012

whatever the ultimate merits of the applicants' claims, their entitlement to relief is not "indisputably clear

Or the Petitioner must demonstrate that the "right to issuance of the writ is clear and indisputable." Cheney, 542 U.S. at 380-81, 124 S.Ct. 2576

Or Cheney v. United States Dist. Court for DC, 542 US 367-Sup.Ct 2004

Defendant owes him a clear nondiscretionary duty

Test-3: a question of first impression is raised.

Or

"the issuing Court, must be satisfied that the writ is appropriate under the circumstances (*In re US, 139 S. Ct. 452*)

Or

*that the permanent injunction being sought would not hurt public interest (*eBay Inc v. Mercexchange llc, 547.US.388,S.Ct 2006*)*

i.e when there is need of public interest or nation interest, permanent injunction prayer should be granted.

In the USSC, test-1 is not required to grant the Writs.

XIX.REASONS FOR GRANTING THE WRIT(S)

1) Order that the Lower federal Court (s) to vacate the order of dismissal granted for ISOS defendants ECF-34/App.11 and Access Defendants ECF-35/App.18.

Test:2

Dist. Court Ruled:

*Plaintiff contends, however, that the judgment in the Prior Action was not "on the merits" because it was premised on pleading deficiencies under Rules 8 and 10 and on his failure to comply with Court Orders under *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984). While Plaintiff is correct as to the bases of the prior dismissal, he is incorrect as to the preclusive effect of such dismissals.*

Though not squarely determined by the Third Circuit, district Court's in this Circuit have held that dismissal of a plaintiff's claims with prejudice for

failure to comply with federal Court orders operates as an adjudication on the merits for preclusion purposes.
USCA3 Ruled:

District Court expressly dismissed Karupaiyan's prior suit with prejudice under Rule 42(b). That ruling operates as a judgment on the merits as to this suit. See Papera v. Pa. Quarried Bluestone Co., 948 F.3d 607, 610-11 (3d Cir. 2020).

Test:3

Prior action dismissed (with prejudice) for failure to comply Court order (to amend the complaint) which is error. Please see the following docket entry in prior action.

46	<p>ORDERED THAT PLAINTIFF'S AMENDED COMPLAINT IS DISMISSED WITHOUT PREJUDICE. IT IS FURTHER ORDERED THAT WITHIN 30 DAYS PLAINTIFF SHALL FILE A SECOND AMENDED COMPLAINT. DEFENDANTS MOTIONS TO DISMISS, PLAINTIFF'S MOTION FOR ACCEPTING ADDITIONAL EVIDENCE AND ADDITIONAL SIX MOTIONS, AND FOR ADDITIONAL TIME ARE ALL DENIED AS MOOT. THE CLERK OF COURT IS DIRECTED TO CORRECT PLAINTIFF'S NAME ON THE DOCKET. ETC.. SIGNED BY HONORABLE PETRESE B. TUCKER ON 5/6/2020.5/6/2020 ENTERED AND COPIES E-MAILED. NOT MAILED TO PRO SE.(sg,) (Emailed to litigant on 06/16/2020 per</p>
----	---

	chambers) Modified on 6/16/2020 (nd,). (Entered: 05/06/2020)
--	--

Clearly the above docket entry stated Hon Judge TUCKER signed on May 6 2020 to amend the complaint within 30 days which was not emailed to *prose* plaintiff until Jun 16 2020.

The above is error of Court employee or PACER's error which emailed the order to plaintiff after 30 days expired.

Under above error, lower Court applying *Res Judicata* is error, because excusable neglect, good faith, or good cause to the petitioner or (additional) exception to Rule 41(b) dismissal and the order is meritless.

Rule 41(b) is not simple default rule which has exceptions.

Semtek Int'l Inc. v. Lockheed Martin Corp., 531 US 497 - Supreme Court 2001 @ 503

In short, it is no longer true that a judgment "on the merits" is necessarily a judgment entitled to claim-preclusive effect; and there are a number of reasons for believing that the phrase "adjudication upon the merits" does not bear that meaning in Rule 41(b). To begin with, Rule 41(b) sets forth nothing more than a default rule for determining the import of a dismissal (a dismissal is "upon the merits," with the three stated exceptions, unless the Court "otherwise specifies").

Beasley v. Howard, 14 F. 4th 226 - Court of Appeals, 3rd Circuit 2021 @ 232

Recognizing the severity of claim preclusion's consequences, we apply the doctrine with care and only in appropriate circumstances. See, e.g., Papera v. Pa. Quarried Bluestone Co., 948 F.3d 607, 611 (3d Cir. 2020) (construing ambiguities in prior dismissal against claim preclusion)

Lower Court did not apply the good cause, good faith, or clerical/pacer error, (additional) exception on Rule 41(b), or severity of claim preclusion's consequences(harmful). So, the petitioner prays this Court to vacate these (meritless) orders.

2) Order that Lower Court to Vacate the order of dismissal for Kapital data Corp, Kumara Mangala, and Karupaiyan Consulting Inc. ECF-50/App.28

Test-2:

Dist. Court ruled:

Reason for dismissed without prejudice that "not properly serving by February 23, 2023, the summons and the amended complaint upon Defendants Kapital Data Corp., Kumar Mangala, and Karupaiyan Consulting Inc., as required by Federal Rule of Civil Procedure 4.

USCA3 ruled:

Plaintiff's claims against Kapital data defendant are barred by claim preclusion for the same reasons as his claims against the moving defendants.

As for Karupaiyan Consulting, Karupaiyan's amended complaint did not allege any actionable conduct by that defendant and did

not suggest any way in which he could do so by amendment

Test-3:

The dismissal without prejudice for Kapital Data Corp, Kumara Mangala, and Karupaiyan Consulting for the purpose of to get finality status for appeal.

Dist. Court ruling that defect in the prose, forma pauperis plaintiff's effort to serve the complaint and summon is error. Under 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3), this petitioner is entitled serve the complaint and summon by US Marshal service. See. *Sullivan v. Little Hunting Park, Inc., 396 US 229 - Supreme Court 1969* @ 239 ("[W]here federally protected rights have been invaded, it has been the rule from the beginning that courts will be alert to adjust their remedies so as to grant the necessary relief")

The term "without prejudice" means that the dismissal does not constitute an adjudication of the merits of the complaint See. Semtek Int'l Inc. v. Lockheed Martin Corp., 531 US 497 - Supreme Court 2001 @ 505

an "adjudication upon the merits" is the opposite of a "dismissal without prejudice":

So the dismissal without prejudice should not have res judicata effect

Further, Dismissals for insufficient process or for insufficient service of process likewise do not operate as adjudications on the merits.

See. UNIVERSITY OF LOUISVILLE LAW REVIEW [Vol. 52:265, page 278]



https://www.usCourts.gov/sites/default/files/fr_import/14-CV-D-suggestion.pdf

USCA3's Ruling for Kapital data defendants under Rule 41(b) on prior action is error as Pacer error applied to International SOS defendants and Access Staffing Defendants as above argued.

For Karupaiyan Consulting claim should be discoverable during the discovery process.

So the petitioner pray this Court for order to the Lower Court to vacate this Order of dismissal without prejudice.

3) Writ against International SOS that ISOS should not discriminate the US citizenship AND favor of foreign nationals against US citizen in employment or in application for employment

Test-2: i) International SOS, Access Staffing removed from employment, denied employment to the petitioner because of his US Citizenship and employed the young foreigner instead of US citizen petitioner. ECF-24, FAC@134,147,137,138

Test-3: Favoring foreigner against US Citizen in employment is discrimination.

In *Novak v. World Bank*, No. 79-0641, 1979 U.S. Dist. LEXIS 11742 (D.D.C. June 13, 1979), the plaintiff argued that defendant had a policy of discriminating against United States citizens in violation of Title VII's prohibition against national

origin discrimination. The Court held that such a claim — i.e., discrimination against U.S. citizens — alleges discrimination based only on citizenship and thus was barred by the holding in *Espinoza*¹. Id. at *3. (Cited in *English v. MISYS INTERNATIONAL BANKING SYSTEMS, INC.*, Dist. Court, D.NJ 2005)

In *Novak v. World Bank, 20 Fair Empl. Prac. Cas.* (BNA) 1166, 1167 (D.D.C.1979), *Discrimination against a United States citizen in favor of an alien has been labeled reverse Espinoza.*

Reasons stated above, petitioner prays this Court for Writ that ISOS should not discriminate the US citizenship and favor the foreigner against US citizen in employment.

4) Order that (i) International SOS should not outsource it's IT/BPO jobs. (ii) International SOS should not involve in Tax evasion and Money Laundering against United States and its Local govt(s).

Test-2: International SOS outsourced the IT/ BPO jobs to India. ECF-24, FAC@265-267,270-271

Test-3: The foreigner employee(s) to do the US Corporate Jobs, the [potential] employer need to get approved Labor Certification² from Dept of Labor that No US Citizen is available to take the jobs. So the potential employer can hire foreign employee without discrimination US citizen. The outsourcing, put the foreigner at front, automatically discriminate the US

¹ *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88 (1973).

citizen in employment. *See* 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa).

8 U.S. Code § 1188

The Immigration and Nationality Act (INA) Section - 101(a)(15)(H)(i)(b).

20 C.F.R. § 656.17(e) (Labor Certification³)

20 C.F.R. §655.101(b)(1) (Temp employment for foreigner)

When the International SOS IT Jobs/BPO Jobs were outsourced, International SOS involves Tax evasion including Payroll tax against United States and its Local govts. 26 U.S. Code § 7201. Attempt to evade or defeat tax, 26 U.S.C. § 7203 and § 7206(1)

ISOS outsourcing is violation in 18 USC § 371 - Conspiracy to commit offense or to defraud United States, 18 USC § 1956, money laundering law.

In Sullivan v. Little Hunting Park, Inc., 396 US 229 - Supreme Court 1969 @ 239-240

Compensatory damages for deprivation of a federal right are governed by federal standards, as provided by Congress in 42 U. S. C. § 1988, which states:

"The jurisdiction in civil . . . matters conferred on the district Court's by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and

³ Foreigner to do the US based Job, [Potential employer to foreign employee(s), need to get Labor Certification from Dept of Labor that no US citizen is available to take the job so the potential employer need to hire foreigner. In outsourcing, International SOS did not get Labor certification, simply outsourced and evaded the tax including payroll tax

enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect

By-product of discriminating the US Citizen, Outsourcing cause the tax evasion, money laundering against the United States and local Govts, knowledge drain to Nation's STEM knowledge sector happening/happened.

For the above reasons, petitioner pray this Court for order that ISOS should not outsource the IT⁴/BPO⁵ jobs and should not involve tax evasion, Money laundering,

5) Order that International SOS should deposit to US treasury the 3 times of Money International SOS took out of United States by Outsourcing and lock/jail the International SOS's CEO when International SOS fail to deposit the money within 3 months of this Court order. Equal amount of money ISOS send out for outsourcing, ISOS need to pay the plaintiff/petitioner.

Test-2: International SOS outsourced the IT/ BPO jobs without US Dept of Labor certification⁶ that

⁴ Information Technology Jobs

⁵ Back office, Business Process Outsourcing.

⁶ Foreigner to do the US based Job, [Potential employer to foreign employee(s), need to get Labor Certification from Dept of Labor that no US citizen is available to take the job so the potential employer need to hire foreigner. In outsourcing, International SOS did not get Labor

when US citizens were available and able to take the Jobs and evade the USCIS fees, Payroll tax against US and local govts i.e International SOS illegally outsourced and money laundered.

Test-3:

Any wrongdoing with Dept of Labor certification is perjury crime. 8 USC § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa)

By Illegal outsourcing, without Dept of Labor's Certification, International SOS did Tax evasion including payroll tax, money laundering, corrupt corporate business practices.

International SOS's CEO should be lock until these 3 times outsourced money recovered and deposited to US Treasury. These Top officials were personally economically benefitted/gained by outsourcing.

So petitioner prays this Court to order that ISOS should deposit 3 times of money to US treasury, the money ISOS took out of US thru outsourcing and lock these ISOS's CEO until all money recovered and deposited to US Treasury. These wrong doings were did by these Top officials were done knowingly, intentionally. Equal amount of money ISOS send out for outsourcing, ISOS need to pay the plaintiff/petitioner

certification, simply outsourced and evaded the tax including payroll tax.

6) Order that International SOS should pay the petitioner \$15 million dollars for [r]easonable money for time and effort of the [P]laintiff, pain and suffering and all expenses and costs of this action.

Test-2: When Petitioner tried to get attorney to representation to file the case, the attorney told that employment cases were complicated and requested the petitioner for down payment which was not affordable to the petitioner when the petitioner is unemployed, disabled status, and pauperis.

Test-3:

Without help of attorney, and attorney is unavailable to the petitioner, with petitioner spine injury, back pain, diabetic disability which eyes were blurring, petitioner drafted the complaint and this petition. For Petitioners multiple request, Lower Court's multiple time failed/denied to appoint attorney to the petitioners.

In Boyadjian v. Cigna Companies, 973 F. Supp. 500 - Dist. Court, D. New Jersey 1997@504

Although plaintiff may not recover attorneys' fees, he may recover litigation costs reasonably incurred. See Cunningham, 664 F.2d at 387 n. 4; Carter, 780 F.2d at 1482; DeBold, 735 at 1043 (citing Crooker v. United States Dep't of Justice, 632 F.2d 916, 921 (1st Cir.1980)) ("[A] pro se litigant who substantially prevailed certainly is entitled to 'litigation costs reasonably incurred' A pro se litigant is made whole thereby, serving as a small incentive to pursue litigation if no attorney may be found to represent the litigant.")

Crooker v. Department of Justice, supra, holding that "in actions where the complainant represents himself, sometimes as a hindrance instead of an aid to the judicial process, an award of fees does nothing more than subsidize the litigant for his own time and personal effort

So petitioner prays this Court's order that the International SOS to pay \$15 million the petitioner for the petitioner time, effort, pain and suffering for the petitioner(s) went thru in this proceeding.

XX.CONCLUSION

Petitioner(s) Palani Karupaiyan, PP, RP pray(s) the US Supreme Court for the Petition for a Writ of Certiorari should be granted.

Respectfully submitted.

WPK *WPK* *Feb 13, 2024*

Palani Kàrupaiyan, Pro se, Petitioner
1326 W. Williams St,
Philadelphia, PA 19132.