Supreme Court, U.S.
FILED
JUL 17 2023
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In the Supreme Court of the United States

No. 23A96

IN RE: HENRY L. KLEIN,

Applicant pro se

LOUISIANA OFFICE OF DISCIPLINARY COUNSEL,

Respondent

Emergency Rule 22 and Rule 23
Application to Circuit Justice Samuel A. ALITO, Jr.
For a Stay of Disciplinary Action Pending
Writ Application Pursuant to
Axon Enterprise v. FTC* and *SEC v. Cochran

MAY IT PLEASE CIRCUIT JUSTICE ALITO:

As Michelle Cochran would say: this is the last straw !!! Due to the personal character assassination that has taken place, Applicant will sometimes address the Circuit Justice in the first-person singular. Thrice, this Court has seen the *unconscionable* gouging by Girod LoanCo against Regina Heisler, a victim of the $1 Billion failure of First NBC Bank in New Orleans, 18-19A41, 20-1361 and 21A41, Exhibits A B and C. All prior overtures were about Girod and/or Heisler, the most instructive being 20-1361. This time, however, I am compelled to seek relief *pro se*. Because I would **not** stop exposing GIROD's unconscionable tactics, the Louisiana Office of Disciplinary Counsel allowed its administrative prowess to be used by GIROD to silence me. In late June, at the *singular* behest of GIROD, the Louisiana Supreme Court has suspended me for a year-and-a-day, a death sentence for this 79-year-old lawyer still feeling his oats, Exhibit D. ODC called only one witness, Eric Lockridge, who was **not** my client, but my **fieriest** adversary in the several cases which have netted GIROD $15 million for the estimated $200,000 GIROD paid for the

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Heisler debt, a vulgar profit typical in the world of vulture-funding. With oral argument set for May 1, I was relying on *Lucia, Bandimere* and other cases challenging administrative combinations of prosecutorial and adjudicatory functions in a single agency. On April 14, 2023, the ruling in *Axon/Cochran* was published, making the same argument about ODC's combining functions against Applicant. At page 2, Justice KAGAN made the following observation:

> *"Our task today is not to resolve those challenges; rather it is to decide where they may be heard."*

Pursuant to 28 U.S.C § 1257(a), the constitutionality of ODC's combined prosecutorial and adjudicative functions can be decided here and now by ***this*** High Court. And here is an additional rub: The Louisiana Supreme Court is neither a court of first-resort nor a court of last-resort. It is a court of the only-resort, theoretically deciding lawyer-enforcement cases *de novo*, answering Justice KAGAN's jurisdictional issue raised in *Axon/Cochran* at page 2. In terms of "...meaningful judicial review...", the Louisiana structure offers **less** than the ALJs at the Securities and Exchange Commission and the Federal Trade Commission. In the case at bar, the hearing panel of three non-Article III ODC appointees left the hearing room with no instructions nor deliberations. My *in limine* objections and discovery requests were DENIED by a panelist called "...the chair..." Weeks later, the first panel issued a report so *scathing* it was highly-likely written by ODC deputy Paul Pendley, who conducted everything. Objections to the Hearing Committee's report were sent to a new panel of non-Article III ODC members and oral argument, 15 minutes per side, heard but **not recorded.** The ultimate decision was sent to the Supreme Court for a 20-minute oral argument per side, heard but **not recorded.** Because Pendley played every

conceivable role, Applicant objected on *Lucia* and *Bandimere* bases[1] and filed motions to dismiss based on ODC's violation of its own rules, at Section 2 of Rule XIX:

> **A. Agency.** There is established one permanent statewide agency to administer the lawyer discipline and disability system. **While it performs both prosecutorial and adjudicative functions, these functions shall be separated within the agency insofar as practicable in order to avoid unfairness.**

ODC didn't deny Pendley played **all** the conflicting roles, yet my career of fighting corruption for 55 years has been destroyed. But after darkness, there is light. I will call the illumination "...*Axon/Cochran*..." Perhaps by karma, I am highly-likely **the** leading lawyer against the United States Department of Agriculture regarding administrative expulsions of store owners from the Supplemental Nutrition Assistance Program ("SNAP"), the successor to food stamps. Pending in the 7th Circuit Court of Appeals is the matter of *Enas Said v. The United States of America,* attacking USDA's version of ALJs who call themselves Administrative Review Officers ("AROs"). My opening brief was due April 14, the same day Justice KAGAN's opinion was published[2]. Immediately after reading *Axon/Cochran*, a request for a 15-day extension was granted. The opening brief in *Said* was restructured to address Justice KAGAN's sage observations, Exhibit E. That case is fully briefed and I intend to ask for expedited consideration. **But** there is a clear and present danger that Applicant's suspension by the Louisiana Supreme Court will receive reciprocity in the 7th Circuit. An immediate stay will allow serious issues to be decided in *this* Court here and now. In every SNAP appeal I file, I cite *Lucia; Bandimere; Buckley v. Valeo; Carr v. Saul; In re Murchison; Ryder v. United States; SEC v. Caledonian Bank; Weyerhaeuser v. United*

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1 *Bandimere v. SEC*, 844 F. 3rd 1168 (10th Cir. 2016); *Lucia v. SEC*, 585 U.S. ___ (2018).

2 Applicant-Klein receives slip opinions when released and religiously reads the rulings.

States and *Withrow v. Larkin*[3].

ALJs, AROs and ODC. In addition to the ALJs analyzed in *Axon/Cochran*, the AROs in the SNAP world are substantially less-endowed with Article III qualities than ALJs. AROs hold no hearings, administer no oaths, call store owners' explanations "...inexplicable..." and rule on all issues by a preponderance of veritable *ipse dixits*[4].

NCLA's Mission: This case would not be what it is without NCLA, whose mission will be furthered by what Applicant humbly presents to this Court:

> ***NCLA views the administrative state as an especially serious threat to constitutional freedoms. No other development in contemporary American law denies more rights to more Americans. Although Americans still enjoy the shell of their Republic, there has developed within it a very different sort of government—a type, in fact, that the Constitution was designed to prevent.***

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3 For a preview of the ruthlessness GIROD can fashion, the following statement was made twice about your beleaguered Applicant in the suspiciously brutal PER CURIAM opinion:

> *It is unfortunate that respondent does not understand that being a zealous advocate does not equate to* ***such repugnant disrespect for the system we are charged to honor and serve.***

4 See, *Morrison v. Olson,* Justice SCALIA dissenting:

> *"...He who lives by the ipse dixit dies by the ipse dixit..."*

With these introductory pages hopefully giving the Circuit Justice the gist of this Emergency Rule 22 and Rule 23 Request, Applicant-Klein respectfully elaborates:

1. Synopsis: This is the 4th time this Court has been asked for relief in connection with the relationship between Regina Heisler and GIROD LOANCO, LLC, an admitted vulture fund-purchaser of millions of dollars in First NBC Bank debt from the FDIC, which lost $1 Billion in the bank's collapse. By mid-2019, GIROD'S manifest aim was to SILENCE Applicant. Thus, ODC and GIROD lawyer Eric Lockridge ("Lockridge") embarked on a plan to accuse me of being "...overly-zealous..." in my pleadings, normally a safe haven for 1st Amendment expression. *Without* notice, ODC took a sworn statement from Lockridge, who admitted that GIROD was "...a special purpose vehicle *created* to buy the FNBC notes and collect on the notes..." In privacy, Lockridge excoriated Applicant for filing "...too many pleadings..." and making disparaging remarks not specified. Armed with alleged disparaging remarks, ODC Deputy Paul Pendley prepared Formal Charges which "...the chair..." declined because it would chill advocacy. Undeterred, Pendley was able to overrule the chair and the formal charges proceeded in two forms:

(1) ODC charged that Applicant spoke (or wrote) ill of sitting judge Scott U. Schlegel, who accepted $47,500 in campaign contributions for Supreme Court Justice from the Lockridge law firm (Kean Miller) and its clients. ODC argued that Applicant's reliance on *Caperton v. Massey Coal* was reckless and *without* proof. Not so, Exhibit F. During argument on May 1, 2023, one of the Louisiana Justices remarked that the *Caperton* case was for "...millions, not a few thousand dollars... or words to that effect[5].

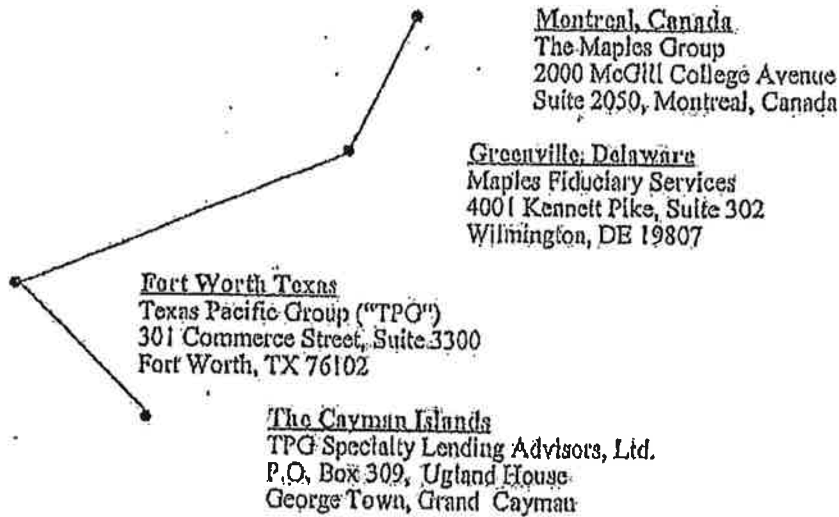
(2) ODC charged that Applicant recklessly accused ODC and GIROD of entering into a "...*Faustian Pact*..." which ired the Louisiana Justices at the unrecorded hearing. After

5 Without transcripts, "...meaningful judicial review..." is *impossible*, *infra*.

6 years of investigation and detectives from Montreal to Georgetown, the only way to stop the pesky Henry Klein was to have ODC take his license before he connected further dots:

IV. RECORD PAGE 269 — IGNORED BY HC-37

Our claims that LOANCO and REO are vulture funds operating out of "...virtual offices..." at 301 Commerce Street, Suite 3300, Fort Worth Texas, under the corrupt umbrella of Texas Pacific Group ("TPG") are no hyperbole. Here is how the dots were connected through reports by private investigators hired by counsel for Regina Heisler at great costs (she has no money)[3]:



See also, ETLOGIC, *Legal Entity Identifier Search*:

Legal Entity Identifier Search

ETLOGIC

Legal Address: ... Ugland House, George Town, KY1-1104

HQ Address: 301 Commerce Street, Suite 3300, Fort Worth, 76102

Legal Country/Region Code: KY — HQ Country/Region Code: US / US-TX

Legal Form: CAYMAN ISLANDS ORDINARY NON-RESIDENT COMPANY

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2. 1st Amendment Violations. The birthplace of expression is the mind. It is said that threats of sanctions are the most lethal enemies of the 1st Amendment. In *Wolff v. Selective Service Local Board*, 372 F.2d 817 (2d Cir. 1967), the Court held that:

> It has been held repeatedly that the mere threat of the imposition of unconstitutional sanctions will cause immediate and irreparable injury to the free exercise of rights as fragile and sensitive to suppression as the freedoms of speech and assembly and the right to vote. **Since the mere threat of unconstitutional sanctions precipitates the injury, the courts must intervene at once to vindicate the threatened liberties**.

Not so in Louisiana. Any analysis of sanctions must begin with *Dombrowski v. Pfister*, 380 U. S. 479 (1965), because the "...chilling effect of threatened sanctions..." does more harm to constitutional rights than the sanction itself, 58 Boston Law Review 658, *Fear, Risk and the First Amendment: Unraveling the "Chilling Effect"*.

3. ODC Violations of its Own Policies. These charges should never have been brought, much less prosecuted to his point. ODC broke its own rules, *viz*:

PAUL PENDLEY	=	Initial recipient of the non-complaint[6]
PAUL PENDLEY	=	Substitute complainant[7]
PAUL PENDLEY	=	Investigator
PAUL PENDLEY	=	GIROD testimony-taker
PAUL PENDLEY	=	Charge scrivener
PAUL PENDLEY	=	Objector to discovery
PAUL PENDLEY	=	Objector to specifics
PAUL PENDLEY	=	Objector to motion to dismiss

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6 The triggering letter specifically stated it not a complaint against Henry Klein.

7 *Without* a complainant, Pendley *unilaterally* assumed that role.

PAUL PENDLEY	=	Presenter to the Hearing Committee-37
PAUL PENDLEY	=	Presenter to the Board
PAUL PENDLEY	=	Advocate of the year-and-a-day sentence
PAUL PENDLEY	=	Scrivener of HC-37 Report
PAUL PENDLEY	=	Scrivener of Board Report
PAUL PENDLEY	=	Scrivener of ODC Opening Brief
PAUL PENDLEY	=	GIROD Advocate at Supreme Court
PAUL PENDLEY	=	Ventriloquist[8]

4. Additional rules violated:

> **G. Related Pending Litigation.** Upon a showing of good cause to the hearing committee chair . . . . the processing of a disciplinary matter may be stayed *due to substantial similarity to material allegations of pending criminal or civil litigation...*

"...Substantial similarity..." was an understatement:

❑ *Girod v. Regina Heisler* was the original foreclosure approved *ex parte* by Judge Schlegel, who DENIED all relief Applicant ever requested;

❑ *Heisler Concursus*: This one hurt the most; Heisler's late husband left her a $2.1 million Schwab investment account; by *ex parte* legerdemain, the Trustee and GIROD split the $2.1 million 99% to GIROD 1% to Heisler's bankrupt estate.

❑ *FNBC v Heisler* was a stand-alone foreclosure where GIROD took Succession property worth over $1 million and is now suing Applicant *personally* for an alleged $400,000 deficiency;

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8 Applicant compared Pendley to a ventriloquist, whose lips would mouth what other people said. Objections as to hearsay and ODC's failure to present witnesses were overruled.

- ❑ *Regina Heisler Bankruptcy*: There, GIROD filed an inflated $7.8 Proof of Claim and is waiting to get paid;

- ❑ *Fred Heisler Succession*: There, GIROD has demanded an accounting on everything that happened since 2007;

- ❑ *Regina Heisler v. Ramona Elliott* was an attempt to have the United States Trustee prosecute GIROD and Lockridge for Bankruptcy Fraud. Never happened.

- ❑ *Heisler v. Kyle Ardoin* was a citizen's lawsuit asking that GIROD be stripped of the right to file judicial demands for violating Louisiana's Closed-Door Statute, R.S. 12:1354(A);

- ❑ *Babin v. Heisler* was (and still is) an action to claw-back Regina Heisler's gift of the Heisler home to her three daughters. GIROD insisted despite that it has been overpaid at vulture levels;

- ❑ *USA v. Gibbs* is a criminal case wherein Regina is named as *Nominal Borrower F* because she never received any money;

- ❑ *Girod v. Henry and Julie Klein* is a suit for deficiency on a 2008 guarantee GIROD purchased from FDIC.

5. ABA FORMAL OPINION 491. Not to be ignored, Applicant has tried in vain to have **any** court of law enforce ABA FORMAL OPINION 491, cautioning lawyers not to aid potential clients seeking to commit fraud or crimes. The ABA is unaware of any court of law enforcing that law against "...financial terrorism..."

6. Details of Corruption: *Axon/Cochran* violations are so manifest that GVR is a possibility. To be sure, the gory details of corruption are **not** provided here "...for

atmospheric purposes[9]...", as lawyers are wont to do, but to explain why Henry Klein had to be silenced by GIROD. Applicant was effectively disbarred for having "...too much zeal..." for the widow-Heisler. But after darkness, there is light. I ask — as I did before — that *this* Court conduct its own independent investigation of GIROD and ODC and to enforce ABA 491, as Justice WHITE referenced a court's "...inherent powers..." in *Chambers v. NASCO*, 501 U.S. 32, 43 (1991):

> "Of particular relevance here, the inherent power also allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court. This historic power of equity to set aside fraudulently begotten judgments is necessary to the integrity of the courts, for tampering with the administration of justice in [this] manner involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public. Moreover, a court has the power to conduct an independent investigation to determine if it has been the victim of fraud . . . ." (truncated and internal citations omitted)

One of the best expressions of the quoted concept is from Justice FRANKFURTER in *Universal Oil v. Root*, 328 U.S. 580 (1946): "...if a court finds that fraud has been practiced upon it, or the very temple of justice has been defiled..." it can impose severe sanctions and take appropriate action pursuant to 28 U.S.C. §1651(a). Since November 13, 2017, when GIROD purchased hundreds of millions of dollars from the FDIC, it has committed fraud upon *every* court through the ruthless use of the debt purchased. Today, the following question begs an answer:

Did ODC find Eric Lockridge or did Eric Lockridge find ODC?

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9 *Merrill-Lynch v. Manning*, 136 S.Ct. 1562, 1568 (2016), KAGAN, J.

Asking *that* question resulted in my unprecedented disbarment for thinking and speaking about what I thought.

7. Pre-*Axon* efforts to have ODC dismiss the complaint. Because ODC was "chilling" my zeal, an effort was made to have the complaint dismissed. Exhibit E is a 12-page communication to the Panel of non-Article III adjudicators described above. Efforts directed to ODC's Chief Counsel were met with an admonition that Pendley was in complete control of the investigation, invoking a reference from *SEC v. Caledonian Bank*, 145 F.Supp. 3rd 290, that . . . .

"...the power to investigate is the power to defame and destroy..."

The questions to be presented on Certiorari should be as follows:

> **First Cert Question to be Presented:** Did the Louisiana Office of Disciplinary Counsel ("ODC") violate the principles articulated in *Axon Enterprise v. FTC* and *SEC v. Cochran* by having a single deputy execute the roles of (i) complainant, (ii) investigator, (iii) prosecutor, (iv) GIROD advocate and (v) appellate lawyer against Applicant?
>
> **Second Cert Question to be Presented:** Is the Louisiana Supreme Court a court capable of *Axon/Cochran* "meaningful review" of the administrative proceedings by (i) the ODC Hearing Committee and (ii) the ODC Board made up of non-Article III adjudicators?
>
> **Third Cert Question to be Presented:** Did ODC and the Louisiana Supreme Court violate Applicant's 1st Amendment rights by subjecting him to disciplinary process for *only* his alleged "overly-zealous" advocacy of his client's rights?

Final Overarching Cert Question to be Presented: How did ODC get away with presenting GIROD as its *only* evidence — a vulture fund clearly described by the 111th Congress at H. R. 2932 STOP THE VULTURES ACT?

8. The Clark Committee and the McKay Commission. Thinking the Louisiana Supreme Court might consider improving the lawyer-enforcement process, I recommended the September 18, 2018 ABA Report, *Lawyer Regulation for A New Century*, chaired by Robert B. McKay, former Dean of the New York University School of Law. I was mistaken. The following passage from the McKay Commission *was* ill-received at the May 1 oral argument constitutionally *insufficient* to save a career against corruption 55 years in the making:

Progress Since the Clark Report

> Twenty years ago, the ABA Special Committee on Evaluation of Disciplinary Enforcement (the Clark Committee) published Problems and Recommendations in Disciplinary Enforcement (1970) (the Clark Report). **The Clark Committee warned of a "...scandalous situation..." in professional discipline.**

The New Civil Liberties Alliance which brought home the victories in *Axon/Cochran* is not alone in its passion for the Constitution. Why Applicant undertook the task is found in his CV as Life Altering Experience One:

> **April 9, 1948, streets of Bogotá, Colombia: the assassination of Jorge Elicièr Gaitan: vivid witness to the beginning of "La Violencia" a ten-year civil war triggered by the murders of over 3,000 people in downtown Bogota on April 9, 1948.**

My character assassination by GIROD and ODC was the last straw. These are troubled times for whistle-blowers. GIROD's retaliation with the aid of ODC is indefensible. On June 30, 2023, a stay was DENIED at Louisiana Docket 23-B-066.

9. The Dissent in Bandimere. A valuable dissent in *Bandimere* says what NCLA argued in *Axon/Cochran*, at 844 F.3d 1168 (10th Cir. 2016):

> "ALJs are vested with duties of administration and at the same time given important judicial work. **The evils resulting from this confusion of principles are insidious and far-reaching**. Pressures and influences properly directed toward officers responsible for formulating and administering policy constitute an unwholesome atmosphere in which to adjudicate private rights. These mixed duties render escape from these subversive influences *impossible.* Furthermore, the same men are obliged to serve both as prosecutors and as judges. This not only undermines judicial fairness; it weakens public confidence in that fairness. Decisions affecting private rights and conduct lie under the suspicion of being rationalizations with **the Commission, in the role of prosecutor, presented to itself**."

The HC-37 process suffered basic infirmities, *Withrow v. Larkin*, 421 U.S. 35 (1975):

> "[a] 'fair trial in a fair tribunal is a basic requirement of due process', *In re Murchison*. This applies to administrative agencies which adjudicate as well as courts, *Gibson v. Berryhill*. The contention is that the combination of investigative and adjudicative functions creates an unconstitutional risk of bias in administrative adjudication . . . . conferring investigative and adjudicative powers on the same individual poses such a risk of actual bias or prejudgment **that the practice must be forbidden if the guarantee of due process is to be adequately implemented."**

As Judge Pauley said in SEC v. Caledonian Bank:

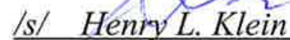
> **"...This case offers fertile grounds for agency self-examination..."**

Indeed.

10. Irreparable harm. If the Louisiana suspension remains in effect, Applicant will likely have to withdraw in the 7th Circuit and elsewhere. A stern stay order to the Louisiana Supreme Court will harm no one. In the absence of a stay, Applicant will have been eliminated after decades years of diligence and millions of low-income family members relying on SNAP will be without an advocate with zeal, a trait worthy of expulsion in Louisiana.

Unfortunately, Justice ALITO, we are mired in an epoch of corruption, with character assassins engaged in unbridled crime and lawlessness running rampant.

Respectfully submitted,



/s/ Henry L. Klein

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Member of Supreme Court Bar
since September 6, 1974

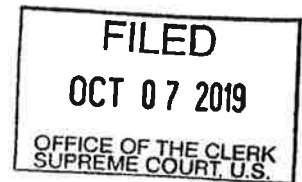
CERTIFICATE OF SERVICE AND COMPLIANCE

I certify that this pleading, containing 3387 words using Times New Roman-13 font, has been served by email to

Mr. Paul E. Pendley
Deputy Disciplinary Counsel
4000 S. Sherwood Forest Blvd
Suite 607
Baton Rouge, Louisiana 70816

July 17, 2023

/s/ Henry L. Klein



No. 18-19A412

In the Supreme Court of the United States

FEDERAL DEPOSIT INSURANCE CORPORATION,

Original Plaintiff

GIROD LOANCO, LLC

Substituted Plaintiff[1]

v.

LEVY GARDENS PARTNERS 2007 LP., HENRY L. KLEIN,
REGINA B. HEISLER AND
THE SUCCESSION OF FREDERICK P. HEISLER

Defendants - Third Party Plaintiffs -
Appellants - Present Petitioners

v.

LEWIS TITLE COMPANY INCORPORATED; LISKOW & LEWIS, P.L.C.

Third Party Defendants - Appellees -
Present Respondents

Application to the Honorable Justice Samuel A. ALITO,
Circuit Justice for the Fifth Circuit seeking a 30-day extension of time
to file a Rule 14 Petition for a Writ of Certiorari

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henryklein44@gmail.com

Counsel for Petitioners

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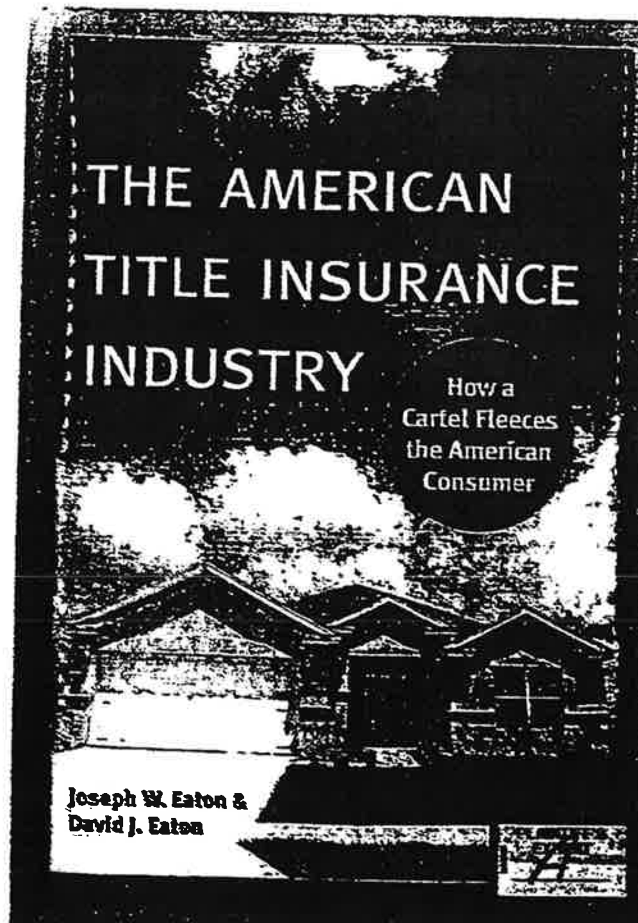
[1] After the FDIC closed the First NBC Bank in New Orleans, GIROD LOANCO, LLC, **an undisputed Vulture Fund owned by undisclosed prinicipals** purchsed in excess of $800 million in loans at deep discounts and has commenced foreclosing on propertry belonging to Petitioners, resulting in circumstances which require this request for a 30-day extension.

1. INTRODUCTION TO CHANGES IN CIRCUMSTANCES

Petitioners' original filing deadline was (or should have been) October 7, 2019. Several significant events, however, have made it necessary to seek a modest 30-day extention: (1) the forced closure of First NBC Bank by state and federal regulators, (2) the sale of First NBC Notes and Mortgages involving petitioners and over petititoners' objections, (3) the purchase of a minimal amount of petitioners' notes and collateral, (4) the use of petitioners' property to assist in manufacturing a $180,000,000 Ponzi Scheme, and now — the foreclosure of petitioners' property by Vulture Fund Girod LoanCo — without due process regard in the midst of an election for Louisiana Supreme Court Justice.

II. THE SIMPLICITY OF THE ISSUES BEFORE GIROD-LOANCO

Until circumstances took a ruthless turn, petitioners sought (and *only* sought) 28 U.S.C. § 2201 Declaratory Judgment to thr effect that *retrospective* real estate contracts mis-labeled *Owners' Policies of Title Insurance* and *Lenders' Policies of Title Insurance* were **NOT** "...contracts of insurance..."which met the *a futuro* risk-spreading tests in *Group Life & Health v. Royal Drug*, 440 U.S. 205 (1979) and *Union Labor v. Pireno*, 458 U.S. 119 (1982). The simplicity *a qua* is depicted by the following picture worth 1,000 words:



Klein v Lewis 0001

III. *LEWIS TITLE I v. LEWIS TITLE II*

Before circumstances changed what was to be analyzed, this Court would have been deciding why *Lewis Title I* (E.D. La. 2017-2205) was so incongruent with *Lewis Title II* (E.D. La. 17-6652). Both dealt with the seminal question as to whether title policies were "...contracts of insurance...", *vel non*. Both were decided by the Honorable Nannette Jolivette Brown in the Eastern District of Louisiana, but in opposite directions. *Lewis Title I* remanded the litigation between petitioners and the title agency which sold Levy Gsrdens $35 million in worthless paper (and its captivating law firm) to the Honorable Kern A. Reese, a highly-esteemed state-court judge in the City of New Orleans who saw the national significance of the case and thought it better that a federal judge should make the final call:

> "So, I'm going to leave the stay in place. I am curious to see how these rulings progress because let it not be said that this little humble District Court State Judge issued a ruling that a Federal Judge can immediately make moot by a ruling of theirs. **This case has some really potentially far-reaching implications. And I will be looking forward to the guidance that they might provide.** So I'm going to allow the Stay to remain in place."

Wrong. The same jurist who sent the case to be tested under *Group Life* and *Pireno* — and let's not forget *FTC v. Ticor Title*, 504 U.S. 621 (1992); *SEC v. National Securities*, 393 U.S. 453 (1969); *SEC v. Variable Annuity Life Insurance Co.*, 359 U.S. 65 (1959) or the documentary, ***Insurance is an arrangement for Transferring and Distributing Risk***, 1 G. Richards, the Law of Insurance, the same judge who authored a splendid opinion in 17-2205 *inexplicably* (no disrecpect intended) reversed herself in 17-6652. Appeal to the 5th Circuit followed in days, Docket 19-30359.

IV. KLEIN V. MNUCHIN AND RULE 22 APPLICATIONS TO CIRCUIT JUSTICES ALITO AND ROBERTS

Separate from the direct attack on a national fraud that FLEECES THE AMERICAN CONSUMER OUT OF $47 MILLION EVERY DAY, petitioners filed *Klein v. Mnuchin* in the District of Columbia. When Dodd-Frank was passed, the distinguished Secretary of the Treasury was supposed to report to the President and both cameras on the health of the

insurance industry. Because in 11 years, that didn't happen, we sought mandamus and when that was deemed unavailable by Judge Boasberg in D.C., we reached out to our Circuit Justices. The Clerk of Court rejected both applications and because petitioners felt that $47 million a day was too harsh, too often and too brutal a FLEECING OF AMERICA, petitioners prepared *the* petition we can't file without making changes that will take us less that 30 days and reduce the verbiage by 75%[2].

V. FIRST CIRCUMSTANCE: FIRST NBC PONZI SCHEME

We will be brief: While petitioners were litigating against the title insutance industry, the First NBC Bank was bloating its financial statement with shill loans, making a record run at becoming a member of NASDAQ. The Heisler family had assets and a civil spirit and decided to do something good for the City post-Katrina. After that backfired, the bank secretly used petitioners to create a $180 Billion Ponzi Scheme presently in the hands of DOJ, moving at a Fabian pace.

VI. SECOND CIRCUMSTANCE: SALES TO VULTURE FUNDS

Petitioners immediately met with the FDIC in order to pay whatever was owed (less than $500,000) and avoid a repeat of the razzo from the days of RTC. The FDIC said the $500,000 was more than $10 Million. In Louisiana, what used to be called champerty is known as the right of litigious redemption. No luck. The FDIC sold the Heisler family to Girod LoanCo, a vulture fund which has now foreclosed and on October 9, 2019, will take the first big bite from ehat will ultimately be a carcass. In the past days, petitioners have implored the state court monitoring the auction of innocents' property to stop the carnage and heve beeen chastised for being too persistent. As between a 76-year-old widow and a Vulture, the district judge who signed the writ of seizure ruled for the Vulture.

VII. BASIS FOR REQUESTING 30-DAY EXTENSION

Pursuant to Supreme Court Rules 13.5, 22, 29 and 30, present Petitioners Levy Gardens Partners 2007 LP, Henry L. Klein, Regina B. Heisler and the Succession of Frederick P. Heisler respectfully request a 30-day extension of time, up to and including

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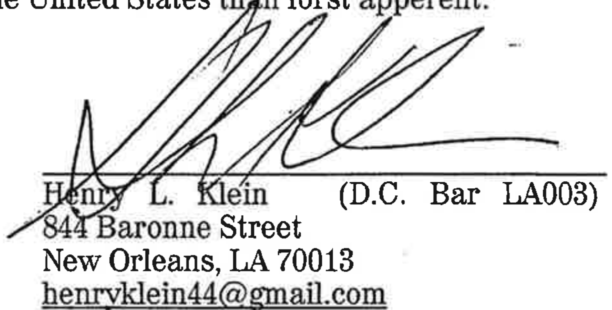
[2] Petitioners attach what we were prepared to file solely to prove the fact that we were more than ready. But we do not recomend reading much more than now necessary. The new version will be shorter and better.

November 29, 2019 to file a petition for a writ of certiorari to the United States Court of Appeals for the Fifth Circuit to review that court's decision in Docket 19-30359, dated September 18, 2019. The circumstances are unusual, if not *res nova*.

VIII. THE REAL DANGER POSED BY GIROD LOANCO

The United Nations recognizes Vulture Funds at the top of the venoms to humanity. In the case at bar, the Heisler family will lose everything it has, including the rights to attack another vulture — the title insurance industry. But the likelihood that vultures will really strike at one another is as invisible as the owners of these funds. This case brings much more to the Supreme Court of the United States than forst apperent.

Thirty days will be appreciated.



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Search documents in this case: Search

No. 20-1361

Title:	**Regina B. Heisler, Individually and as the Executrix of the Succession of Frederick P. Heisler, Petitioner** **v.** **Girod LoanCo, LLC**
Docketed:	March 26, 2021
Lower Ct:	Supreme Court of Louisiana
Case Numbers:	(2020-CC-00643)
Decision Date:	January 20, 2021 Rule 12.4

DATE	PROCEEDINGS AND ORDERS
Mar 17 2021	Petition for a writ of certiorari filed. (Response due April 26, 2021) **Petition** **Appendix** **Appendix** **Certificate of Word Count** **Proof of Service** **Other** **Appendix**
Mar 31 2021	Waiver of right of respondent Girod LoanCo, LLC to respond filed. **Main Document**
Apr 07 2021	DISTRIBUTED for Conference of 4/23/2021.
Apr 12 2021	Supplemental brief of petitioner Regina Heisler filed. (Distributed) **Main Document**
Apr 18 2021	Supplemental Brief of Regina Heisler not accepted for filing. (Corrected version submitted)(April 22, 2021)
Apr 19 2021	Waiver of right of respondent Girod LoanCo, LLC to respond filed. **Main Document**
Apr 20 2021	Second supplemental brief of petitioner Regina Heisler filed. (Distributed)

	Main Document **Proof of Service** **Certificate of Word Count**
Apr 26 2021	Petition DENIED.
May 06 2021	Petition for Rehearing filed. **Main Document** **Certificate of Word Count** **Proof of Service**
May 17 2021	Supplemental brief of Regina Heisler submitted. **Main Document**
May 18 2021	DISTRIBUTED for Conference of 6/3/2021.
May 25 2021	Second Supplemental brief of Regina Heisler submitted. **Main Document**
Jun 07 2021	Rehearing DENIED.

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Attorneys for Respondent		
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Party name: Girod LoanCo, LLC		

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Party name: Girod LoanCo, LLC		

Search documents in this case: [ ] Search

No. 21A41

Title:	**Regina Heisler, Applicant** **v.** **Girod LoanCo, LLC, et al.**
Docketed:	September 21, 2021
Lower Ct:	United States Court of Appeals for the Fifth Circuit
Case Numbers:	(21-30517)

DATE	PROCEEDINGS AND ORDERS
Sep 20 2021	Application (21A41) for a stay, submitted to Justice Alito. **Main Document** **Other**
Sep 23 2021	Application (21A41) denied by Justice Alito.
Sep 30 2021	Application (21A41) refiled and submitted to Justice Sotomayor. **Other**
Oct 06 2021	DISTRIBUTED for Conference of 10/29/2021.
Oct 06 2021	Application (21A41) referred to the Court.
Nov 01 2021	Application (21A41) denied by the Court.

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Attorneys for Petitioner		

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Party name: Regina Heisler, et al.

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CURRICULUM VITAE

Born April 26, 1944, Bogota, Colombia to Henry C. Klein (Cologne, Germany) and Leticia Velandia deKlein (Bogota, Colombia); Elementary Education, Escuela Cardinal Pacelli (Pope Pius XII), 1951; U.S. Citizenship, 1956; Married Julie S. Klein, May 4, 1987, American Cathedral, Paris, France; Graduate of Jesuit High School, New Orleans, 1962; University of New Orleans, 1965; Tulane University School of Law, 1968; Admitted to Practice by Louisiana Supreme Court August 28, 1968. Biographed in Who's Who in American Law, 1979; Martindale-Hubbell rating AV5.0/5.0; Guest Speaker, American Bar Association, Fidelity and Surety Section, Waldorf-Astoria, New York, *passim;* Member, Federal Bar Association; Louisiana State Bar Association; SOLACE program supporting lawyers needing "...comfort and consolation in a time of distress and sadness..."; Past Member, New Orleans Opera Association Executive Committee; Parliamentarian, New Orleans Opera Association; Committee on Placido Domingo Post-Katrina Gala, March 1, 2006; October 12, 2012 Committee Honoring Placido Domingo by naming the "Placido Domingo Stage" at the Mahalia Jackson Theater for the Performing Arts. Languages: English, Spanish, French and Italian.

LIFE-ALTERING EXPERIENCES:

April 9, 1948, streets of Bogota, Colombia: the assassination of Jorge Eliecèr Gaitan; vivid witness to the beginning of "La Violencia", a ten-year civil war triggered by the murders of over 3,000 people in downtown Bogota on April 9, 1948.

August 26, 1978, St. Peter's Square, Vatican City: live witness with several hundred thousand others to the two-word announcement of the election of Pope John-Paul 1st: "...HABEMUS PAPAM..."

FEDERAL & STATE PRACTICE & PRO HAC VICE APPEARANCES:

United States District Court, Eastern District of Louisiana, 1969
United States Court of Appeals 5th Circuit, 1971
United States District Court, Western District of Louisiana, 1973
United States Supreme Court, 1974
United States District Court, Northern District of Illinois, 1975
United States Court of Appeals, 7th Circuit, 1977
United States District Court, Western District of New York, 1977
United States Court of Appeals, 2nd Circuit, 1978
United States District Court, Middle District of Louisiana, 1978
United States District Court, Southern District of Alabama, 1982
United States District Court, Eastern District of Kentucky, 1983
United States District Court, Eastern District of Pennsylvania, 1983
United States District Court, Southern District of Mississippi, 1990
United States Court of Federal Claims, Washington D.C., 1993
United States Bankruptcy Court, Southern District of Texas, 1993
United States District Court, Southern District of New York, 1995

United States Court of Appeals, Federal Circuit, 1996
United States District Court, Southern District of Texas, 1996
United States District Court, Northern District of Alabama, 1998
United States Bankruptcy Court, Eastern District of Louisiana, 2005
United States District Court, Northern District of Ohio, 2006
United States District Court, Eastern District of Missouri, 2008
United States District Court, Middle District of Florida, 2012
United States District Court for the District of Columbia, 2012
United States District Court, Northern District of Texas, 2012
United States Tax Court, 2013
United States District Court, Eastern District of Texas, 2014
United States District Court, Southern District of Florida, 2014
United States Court of Appeals for the D.C. Circuit, 2014
United States District Court, Northern District of Georgia, 2015
United States Judicial Panel on Multi-District Litigation, *passim*
United States District Court for the District of New Mexico, 2018
United States District Court for the Middle District of Florida, 2018
United States District Court for the Northern District of Oklahoma, 2019
Fayette County District Court, Commonwealth of Kentucky, 1983
Philadelphia County District Court, Pennsylvania, 1983
Chancery Court, Commonwealth of Delaware, 1983
Circuit Court, Baldwin County, Alabama, 2013
Circuit Court, Leake County, Mississippi, 2013
Circuit Court, Collin County, Texas, 2014
Superior Court, Fulton County, Georgia, 2015
Acadia Parish District Court, State of Louisiana
Ascension Parish District Court, State of Louisiana
Caddo Parish District Court, State of Louisiana
Cameron Parish District Court, State of Louisiana
East Baton Rouge Parish District Court, State of Louisiana

Franklin Parish District Court, State of Louisiana
Jefferson Parish District Court, State of Louisiana
Lafayette Parish District Court, State of Louisiana
Lafourche Parish District Court, State of Louisiana
Livingston Parish District Court, State of Louisiana
Orleans Parish District Court, State of Louisiana
Plaquemines Parish District Court District Court, State of Louisiana
St. Bernard Parish District Court District Court, State of Louisiana
St. Charles Parish District Court, State of Louisiana
St. James Parish District Court, State of Louisiana
St. John the Baptist Parish District Court, State of Louisiana
St. Tammany Parish District Court, State of Louisiana
Tangipahoa Parish District Court, State of Louisiana
Terrebonne Parish District Court, State of Louisiana
Washington Parish District Court, State of Louisiana
West Baton Rouge Parish, District Court, State of Louisiana

APPEARENCES BEFORE REGULATORY BODIES:

United States Department of Homeland Security
United States Department of Housing & Urban Development
United States Securities and Exchange Commission
Federal Deposit Insurance Corporation
Federal Trade Commission
National Association of Securities Dealers
Louisiana State Department of Justice
Louisiana State Insurance Commission
Louisiana State Office of Financial Institutions
Louisiana State Riverboat Gaming Commission

CONTRIBUTIONS TO DOCTRINAL LAW:

OLIGOPOLISTIC INTERDEPENDENCE (ANTI-TRUST LAW)

Golf City v. Wilson Sporting Goods, 555 F.2d 426 (5th Cir. 1977)
Morrie Mages Sports v. Spalding, 571 F.2d 587 (7th Cir. 1978)
Fairmont Fair v. Wilson Sporting Goods, 607 F.2d 955 (5th Cir.1979)
Kadair v. SONY, 694 F.2d 1017 (5th Cir. 1983)

BANGOR-PUNTA DOCTRINE (MERGER & ACQUISITION LAW)

Schlesinger v. Corporate Realty, U.S.D.C. E.D. La. (1993)
Schlesinger v. Herzog, 2 F.3d 135 (5th Cir.1993)

PICK-BARTHE DOCTRINE (COMMERCIAL PIRATING LAW)

Potter v. Deloitte, Haskins & Sells, Fayette County, Kentucky
Lang v. McGlinchey, U. S. District Court, Eastern District of Louisiana

FORCED SELLER DOCTRINE (SECURITIES LAW)

Alley v. Miramon 614 F.2d 1372 (5thCir.1980)
Schlesinger v. Herzog, 2 F.3d 135, (5th Cir. 1993)

DOMINATION (SURETY & FIDELITY LAW)

Lambert v. Maryland Casualty Co., 418 So.2d 553 (La. 1982)

NOERR-PENNINGTON DOCTRINE (CONSTITUTIONAL LAW)

Astoria Entertainment v. Edwards, 159 F.Supp.2d 303 (2001)
Astoria Entertainment v. DeBartolo 12 So.3d 956 (La. 2009)

EX TURPI CAUSA (CORRUPT PRACTICES LAW)

CD International Enterprises v. Rockwell Capital, in process
Securities and Exchange Commission v. Blackburn, in process
Treaty Energy v. SEC, in process

CURRENT LITIGATION CONTRIBUTING TO DOCTRINAL LAW:

[1] Klein v. ALTA. Henry L. Klein, pro se and on behalf of all others similarly situated v. The American Land Title Association, Fidelity National Financial Group, First American Title Insurance Company, Stewart Title Guaranty Company and Old Republic Title Insurance Company, in re:

MCCARRAN FERGUSON IMMUNITY TO THE TITLE INSURANCE INDUSTRY.

[2] Klein v. Lewis Title. Henry L. Klein, the Succession of Frederick P. Heisler and Levy Gardens Partners 2007 LP v. Lewis Title Company, Inc. and Liskow & Lewis, in re:

MCCARRAN FERGUSON IMMUNITY TO THE TITLE INSURANCE INDUSTRY.

[3] Klein v. Mnuchin, Secretary of the Treasury. Henry L. Klein, individually and on behalf of others similarly situated and Levy Gardens Partners 2007 LP v. Steven Terner Mnuchin, as the Secretary of the Department of the Treasury and as the director of the Federal Insurance Office established re:

THE 2010 DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT.

[4] Klein v. Kean Miller, LLP. In re Girod LoanCo, LLC v. Heisler, pending in Louisiana Supreme Court on Vulture Funding regarding the collapse of First NBC Bank in New Orleans in re:

THE ENFORCEMENT OF ABA FORMAL OPINION 491 REGARDING VULTURE FUNDING AND MONEY-LAUNDERING IN THE CAYMAN ISLANDS

FEDERAL AND STATE CASES REPORTED:

1. Abbott v. Snow, 2005 WL 2387489 (S.D. Tex. 2005)
2. Acosta v. Bank of Louisiana, 88 Fed. Appx. 688 (2004)
3. Adams v. Internal Revenue Service, 2008 WL 769059 (2008)
4. Adamski v. Burdell, 363 So.2d 1316 (4th Cir. 1978)
5. Aiavolasiti v. Kurtz, 361 So.2d 964 (4th Cir. 1978)
6. Alexander v. Beau Rivage, S.D. Miss. 00-CV-00484 (2000)
7. Alhum v. Tulane Educational Fund, 617 So.2d 96 (4th Cir. 1993)
8. Alley v. Miramon 614 F.2d 1372 (5th Cir. 1980)
9. Andry v. Farrell Lines, 478 F.2d 758 (5th Cir. 1973)
10. Andry v. New Orleans Saints, 820 So.2d 602 (5th Cir.2002)
11. Anson Flowline v. Harvey Specialty and Supply (S.D. Tex. 2000)
12. Aviec Enterprises v. Marie's Bar, (E.D. La. 09-cv-03359)
13. AR Food Mart v. Unites States (N.D. Ok. 2029)
14. Armentor v. Thompson McKinnon (W.D. La. 1988)
15. Astoria Entertainment v. Edwards, 159 F.Supp.2d 303 (2001)
16. Astoria Entertainment v. DeBartolo, 988 So.2d 832 (2008)
17. Astoria Entertainment v. DeBartolo 12 So.3d 956 (La. 2009)
18. Avolasiti v. Kurtz, 361 So.2d 964 (4th Cir. 1978)
19. B & G Crane Service v. Lamastus, 323 So.2d 515 (4th Cir. 1975)
20. B & G Crane Service v. National American, (M.D. La. 2001)

21. Baker v. St. Bernard, 2008 WL 3876282 (E.D. La. 2008)

22. Baker v. St. Bernard, 2008 WL 3876305 (E.D. La. 2008)

23. Baker v. St. Bernard, 2008 WL 4681373 (E.D. La. 2008)

24. Bank of Louisiana v. Aetna, 2004 WL 2004583 (E.D. La. 2004)

25. Bank of Louisiana v. Aetna, 468 F.3d 237 (5th Cir. 2006)

26. Bank of Louisiana v. Aetna, 2007 WL 2990551 (E.D. La. 2007)

27. Bank of Louisiana v. Aetna, 2008 WL 1744790 (E D. La. 2008)

28. Bank of Louisiana v. Aetna, 571 F.Supp.2d 728 (E.D. La. 2008)

29. Bank of Louisiana v. Aetna, 326 Fed. Appx 321 (5th Cir. 2009)

30. Bank of Louisiana v. Craig's Stores, 402 F.3d 522 (5th Cir. 2005)

31. Bank of Louisiana v. D & A Funding (MDL 97-1315, 2997)

32. Bank of Louisiana v. General Growth Prop., 2008 WL 65664

33. Bank of Louisiana v. Med-Data, 2004 WL 3017215 (2004)

34. Bank of Louisiana v. SunGard, 551 F. Supp.2d 463 (E.D. La.)

35. Bank of Louisiana v. SunGard, 307 Fed. Appx. 862 (5th Cir.)

36. Bank of Louisiana v. SunGard, 2009 WL 2762826 (5th Cir. 2009)

37. Bank of Louisiana v. SunGard, 374 Fed. Appx. 539 (5th Cir.)

38. Bank of New Orleans v. Lambert, 373 So.2d 550 (4th Cir. 1979)

39. Bank of the South v. Korner, 309 So.2d 804 (4th Cir. 1975)

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41. Barecki v. Cox Communications, (E.D. La. 03-CV-2532)

42. Barraso, Usdin v. Burch, 163 So.3d 201 (4th Cir. 2015)

43. Baton Rouge Bank & Trust v. Subco Inc, 306 So.2d 312 (1974)

44. Berdugo v. Cox Communications, (E.D. La. 02-CV-00915)

45. Besselman v. Commissioner of IRS, 589 F. Appx. 544 (D.C.C.)

46. Bezou v. Fairway Medical Center, 2010 WL 502973 (2010)

47. Billiot v. Bourg, 317 So.2d 684 (4th Cir. 1975)

48. Billiot v. Bourg, 338 So.2d 1148 (La. 1976)

49. Blaise v. Central Parking, 2003 WL 22948307 (E.D. La. 2003)

50. Bond v. TransairCo, 514 F.2d 642 (5th Cir. 1975)

51. Bordelon v. Tulane Ind. Laundry, 275 So.2d 878 (4th Cir. 1973)

52. Braquet v. Tulane Edu. Fund, 304 So.2d 720 (4th Cir. 1974)

53. Breck Construction Co. v. Reliance Insurance (W.D. La. 1998)

54. Brooks v. IRS Commissioner Snow, 313 F. Supp.2d 654

55. Brooks v. IRS Commissioner Dam, 126 Fed. Appx. 173 (2005)

56. C & G Boat Works v. Perez, 2006 WL 1181833 (S.D. Ala. 2006)

57. Carriere v. Bank of Louisiana, 684 So.2d 907 (La. 1996)

58. Carriere v. Bank of Louisiana, 702 So.2d 648 (La. 1996)

59. Cheramie v. GELCO, (E.D. La. 02-CV-01313, 2002)

60. Cipriano v. Houma, 395 U.S. 701 (1969)[1]

61. City of New Orleans v. Century Mangt, 442 So.2d 831 (1983)

62. City of New Orleans v. Various Acres of Land, (E.D. La. 1994)

63. City of New Orleans v. Vicon, 529 F. Supp. 1234 (La. 1982)

64. CLB Enterprises v. Kittok, 575 So.2d 834 (5th Cir. 1991)

65. Colonial Bank v. Pier Five, 469 So.2d 1029 (4th Cir. 1985)

66. Con-Plex v. Vicon, 448 So.2d 191 (4th Cir. 1984)

67. Costello v. Hardy, 807 So.2d 950 (5th Cir. 2002)

68. Costello v. Hardy, 844 So.2d 212 (5th Cir. 2003)

69. Costello v. Hardy, 864 So.2d 129 (La. 2004)

70. Cox v. City of New Orleans, 250 So.2d 47 (4th Cir. 1971)

71. Curry v. Allstate, 435 So.2d 1030 (4th Cir. 1983)

72. Dalton v. Tulane Toyota, 526 F. Supp. 575 (E.D. La. 1981)

73. Dalton v. Tulane Toyota, 703 F.2d 137 (5th Cir. 1983)

74. Dazet v. Gulf Builders, 2000WL I 0315 (La. 2000)

75. Delta Catering v. Sodexo, 2009 WL1870894 (E.D. La. 2009)

76. Dimitri v. Canada, 2003 WL22948345 (E.D. La. 2003)

77. Drumm v. Sizeler Realty, 647 F. Supp. 1288 (E.D. La. 1986)

78. Drumm v. Sizeler Realty. 817 F.2d 1195 (5th Cir. 1987)

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[1] Second chair to Eugene E. Huppenbauer, Jr. at Oral Argument before Justices BURGER, BLACK, FORTAS, BRENNAN, DOUGLAS, MARSHALL, WHITE, STEWART and HARLAN.

79. East New Orleans v. Levy Gardens, 20 So.3d 1131 (4th Cir. 2009)

80. Equitable Life v. Boudreaux, 225 So.2d 75 (4th Cir. 1969)

81. Ernst Cafe v. Landry, 966 So.2d 1080 (4th Cir. 2007)

82. Eymard v. McKinnon, 302 So. 2d 56 (4th Cir.1974)

83. Fabacher v. Hammond Dairy, 389 So.2d 87 (4th Cir. 1980)

84. Fairmont Fair v. Wilson, 607 F.2d 995 (7th Cir.1979)

85. Federal Bank of Shawnee v. Calsim, 340 So.2d 611 (4th Cir.1977)

86. First National State Bank v. Barker, 234 So.2d 770 (1st Cir. 1970)

88. Fox v. Heisler, 874 So.2d. 932 (4th Cir. 2004)

89. Fransen v. New Orleans, 862 So.2d 142 (4th Cir. 2003)

90. Fransen v. New Orleans, 970 So.2d 1 (4th Cir. 2007)

91. Fransen v. New Orleans, 988 So.2d 225 (La. 2008)

92. Garrett v. Dimitri, Docket 03-CV-034 (E.D. La. 2003)

93. General Electric v. Ponder, 234 So.2d 786 (1st Cir. 1970)

94. Giesler v. LP&L, 346 So.2d 339 (4th Cir. 1977)

95. Golf City v. Wilson, 555 F. 2d 426 (5th Cir. 1977)

96. Gulf Engineering v. Jarquin, 03-CV-02610, (E.D. La. 2003)

97. Gulf Marine v. C&G, 2007 WL 2332309 (E.D. La. 2007)

98. Gulf Marine Equipment v. C&G, 242 Fed. Appx. 207 (5th Cir. 2007)

99. Gulf Marine Equipment v. C&G, 471 Fed.Supp.2d 679 (E.D. La.)

100. Gulf Marine v. C&G Boat Rentals (MDL 06-00102 2006)

101. Hannan v. Arabie, 2004 WL13320 (La. 2004)

102. Harrison v. Louisiana State Police, 721 So.2d 458 (La. 1958)

103. Hart v. Cox Communications, Docket 02-CV-00914 (E.D. La.)

104. Harvey v. Anson Flowline, 434 F. 3d 320 (5th Cir. 2005)

105. Hibernia v. Kuebel, 868 So.2d 969 (5th Cir. 2004)

106. Hills v. Henderson, 529 F.2d 397 (5th Cir. 1976)

107. Hospital Service District v. Alas, 657 So.2d 1378 (5th Cir. 1995)

108. In re: Bank of Louisiana v. Kenwin, 1999 WL335667 (E.D. La.)

109. In re: Craig's Stores of Texas, 266 F.3d 388 (5th Cir. 2001)

110. In re: Craig's Stores of Texas, 402 F.3d 522 (5th Cir. 2005)

111. In re: Dimitri, 111 Fed. Appx. 756 (5th Cir. 2004)

112. In re: Levy Gardens Partners, U. S. Supreme Court Docket 13-510

113. In re: Levy Gardens Partners, U. S. Supreme Court Docket 13A413

114. INA v. Davidson, 282 So.2d 585 (4th Cir. 1973)

115. International Towing v. Gulf Coast Bank, 03-CV-00076 (E.D. La.)

116. Jackson v. Slidell Memorial Hospital, 2002 WL34157311 (2002)

117. Johnsa v. Edwards, 569 So.2d 54 (4th Cir. 1990)

118. Johnsa v. Edwards, 582 So.2d 1280 (La. 1991)

119. Junker v. Crory, 650 F.2d 1349 (5th Cir. 1981)

120. Kadair v. Sony, 88 F. R. D. 280 (M.D. La. 1980)

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122. Kaufmann v. Corporate Realty, 648 So.2d 1010 (5th Cir. 1994)

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124. Kelley v. Price-Macemon, 992 F.2d 1408 (5th Cir. 1993)

125. Kennedy v. Fagan, 92 So.3d 528 (5th Cir. 2014)

126. Kenwin Shops v. Bank of Louisiana (MDL 97-0907, 2007)

127. Kimble v. Bruza, 377 So.2d 896 (4th Cir. 1980)

128. Kinsley v. Lakeview, 2007 WL4256971 (E.D.La.2007)

129. Kinsley v. Lakeview, 570 F.3d 586 (5th Cir. 2009)

130. Klein v. ALTA, 926 F. Supp.2d 193 (D.C. 2013)

131. Klein v. Fidelity National Title Insurance Co, MDL 2423 (2013)

132. Klein v. Lewis Title, 2017 WL 201707 (E.D. La. 2017)

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134. Lafont v. Secretary of HE&W, 363 F. Supp. 443 (E.D. La.1973)

135. Lake Forest v. Healthmark, 138 Fed. Appx 676 (5th Cir. 2005)

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137. Lake Forest v. Healthmark, 2004 WL 1794445

138. Lalonde v. Associated Pipeline, 496 F.2d 1175 (5th Cir. 1974)

139. Lambert v. Cavalier, 338 So.2d 932 (4th Cir. 1976)

140. Lambert v. Cronvich, 373 So.2d 554 (4th Cir. 1979)

141. Lambert v. Maryland Casualty Co., 403 So.2d 739 (4th Cir. 1981)

142. Lambert v. Maryland Casualty Co., 418 So.2d 553 (La. 1982)

143. Lancaster v. Zufle, 932 F. Supp. 109 (S.D.N.Y.1996)

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146. Landry v. Blaise, 829 So.2d 661 (4th Cir. 2002)

147. Landry v. Latter, 780 So.2d 450 (4th Cir. 2000)

148. Landry v. Latter, 829 So.2d 661 (4th Cir. 2000)

149. Langendorf v. Tulane Ed. Fund, 528 F.2d 1076 (5th Cir. 1976)

150. Langendorf v. Tulane Ed. Fund, 361 So.2d 905 (4th Cir. 1978)

151. Landry v. Latter, 780 So.2d 450 (4th Cir. 2000)

152. Lavery v. Fleet Boston, Docket 03-CV-02431 (E.D. La. 2003)

153. Levy Gardens v. Commonwealth, U. S. Supreme Court Docket 14-929

154. Levy Gardens v. Lewis Title, 2011 WL 1882664

155. Levy Gardens v. Rainwater 2012 WL 3597124

156. Levy Gardens v. Eastern District Louisiana, U. S. Supreme Court Docket 13-1366

157. Levy Gardens v. Eastern District Louisiana, U. S. Supreme Court Docket 13-0468

158. LRC Technologies v. McKee, 2011 WL 4007389 (2011)

159. Lincoln v. Case; 340 F.3d 283 (5th Cir. 2003)

160. Marine Worldwide v. Ramkhalawan, (E.D. La. 05 CV 06333)

161. Martin v. Ater, et al, 998 F.2d 408 (W.D. La. 1994)

162. Maryland Casualty Co. v. Lambert, 612 F.2d 229 (5th Cir. 1980)

163. McCarthy v. Linebarger- Goggan, 2006 WL 2700063 (E.D .La.)

164. McKee v. Popich, 2011 WL 35600023 (N.D. Ala. 2011)

165. McDonald v. Tingle, (E.D.La. 01 CV 02389)

166. Med-Data v. Bank of Louisiana, 898 So.2d 482 (La. 2004)

167. Migliore v. Traina, 474 So.2d 980 (5th Cir. 1985)

168. Moore v. Citizens S & L, 2007 WL 10047 (CDC 2007)

169. Moore v. A.C. Suhren, 269 So.2d 476 (1st Cir. 1972)

170. Moran v. Montgomery Ward, 424 So.2d 1207 (1st Cir. 1982)

171. Moran v. Thornton, 341 So.2d 1135 (1st Cir. 1976)

172. Morrie Mages v. Spalding, 571 F.2d 587 (7th Cir. 1978)

173. Oakbrook Venture v. Odom, 2009 WL 2356865 (E.D. La. 2009)

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175. Palmer v. Lanco, 665 So. 2d 1217 (4th Cir. 1995)

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177. Paul Kadair v. Sony Corp., 88 F.R.D. 280 (M.D. La. 1980)

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179. Pearl Corp. v. Knesel, 416 So.2d 149 (4th Cir. 1982)

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182. Picou v. Department of Highways, 224 So.2d 102 (4th Cir. 1969)

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Intellectual Property Law

Maritime Law

Medical Malpractice Law

Negligence Law

Patent Infringement Law

Real Estate Law

Securities Law

Surety and Fidelity Law

Tax Law

Tort Law

Trademark Infringement Law

Trade Regulation Law

June 3, 2020

No. 23-1023

In the United States Court of Appeals for the Seventh Circuit

ENAS N.A. SAID,

Plaintiff-Appellant,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

Appeal from the United States District Court for the Southern District of Indiana – Indianapolis Division, No. 1:21-cv-01385-RLY-TAB.
The Honorable **Richard L. Young**, Judge Presiding.

BRIEF AND APPENDIX OF PLAINTIFF-APPELLANT ENAS N.A. SAID

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PRINTED ON RECYCLED PAPER

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JURISDICTIONAL STATEMENT

The district court had original jurisdiction to review a final agency decision pursuant to Title 7, United States Code, Section 2023(a)(13) and 7 C.F.R. 279.7(a) providing that a store aggrieved by a final determination of disqualification or the owner of a disqualified firm may obtain judicial review by filing a complaint against the United States in a court of competent jurisdiction. The District Court also had ancillary and/or supplemental jurisdictional pursuant to 28 U.S.C. § 1367 because Appellant sought a declaration that the SNAP permanent disqualifications were "... unconstitutional as applied ..." arising out of the same nucleus of facts as the case-in-chief and thus "... "form[ing] the same case or controversy under Article III of the United States Constitution ...".

This Court has jurisdiction on appeals from all final decisions of district courts in the Seventh Circuit pursuant to 28 U.S. Code § 1291. This is an appeal from a final judgment dated December 7, 2022 disposing of all issues in this case. The Notice of Appeal was timely filed on January 5, 2023. No other actions or appeals have been taken in connection with the case at bar.

This Court has the inherent power and jurisdiction to issue a 28 U.S.C. § 2201 Declaratory Judgment on the societal and constitutional issues presented.

AXON v. FTC and *SEC v. COCHRAN* ISSUES

Because of the SCOTUS ruling on April 14, Said's Opening Brief, also due April 14, had to be restructured to address *Axon/Cochran* issues.

A. Justice **KAGAN**'s introduction:

In each of these two cases, the respondent in an administrative enforcement action challenges the constitutional authority of the agency to proceed. Both respondents claim that the agencies' administrative law judges (ALJ's) are insufficiently accountable to the President, in violation of separation-of-powers principles. **And one respondent attacks as well the combination of prosecutorial and adjudicatory functions in a single agency. The challenges are fundamental, even existential. They maintain in essence that the agencies, as currently structured, are unconstitutional in much of their work.**

These are **the** challenges that Said has made, almost *in totidem verbis.*

B. Given the import of *Axon/Cochran,* does this appellate court have jurisdiction to make the unconstitutional-as-applied declarations despite the failure of the district court to rule on the record made? YES.

C. Given the import of *Axon/Cochran,* can this appellate court provide "...meaningful review..." of Enas Said's attack on the combination of prosecutorial and adjudicatory functions in a single ARO (as with ALJs) despite the failure of the district court to rule on the record made? YES.

At Section II of *Axon/Cochran,* the Court identified factors pursuant to *Thunder Basin Coal v. Reich,* 510 U.S. 200 (1994) as matters of "...meaningful judicial review..." by an appellate court. Because the district court did not consider the constitutional issues — dismissing on discovery-dispute bases — this case

is ripe for *de novo* consideration by the SeventhCircuit. Regarding "...meaningful judicial review..." United States Magistrate-Judge Steven Yarbrough, deciding *Four Winds Behavioral Health v. United States*, made the following finding about the USDA's process:

> "The lack of accounting on the underlying data and the dearth of evidence related to specific transactions make it *impossible* for the Court to conclude with confidence that there was or there was not a pattern of trafficking at the Four Winds store. This lack of evidence means the party who carries the burden of proof — Plaintiff Four Winds — loses."

In the case at bar, the lack of a district court ruling on Said's constitutional attacks is addressed thus in *Axon/Cochran*:

> "*Thunder Basin* and *Elgin* both make clear that adequate judicial review does not usually demand a district court's involvement. Review of agency action in a court of appeals can alone 'meaningfully address[ ]' a party's claims."

In essence, the Seventh Circuit is a court of first resort which *Axon/Cochran* considers capable of addressing the issues not addressed below. Enas Said clearly challenged all AROs who decide the fate of millions of low-income families arbitrarily, *infra*. She also challenged the combination of prosecutorial and adjudicative roles in a single ARO untested by the Appointments Clause. Declaratory relief, which could have ended the controversy pursuant to Rule 57, is intended to avoid wasteful motion practice, discovery disputes and acrimonious litigation, as well-articulated by E. Borchard at *Declaratory Judgments 25* (1941).

Notably, in *Wilton v. Seven Falls,* 515 U.S. 277 (1995), Justice O'CONNOR observed:

> We agree, for all practical purposes, with Professor Borchard [that] by the Declaratory Judgment Act, Congress sought to place a remedial arrow in the district court's quiver; it created an opportunity, rather than a duty, to grant a new form of relief to qualifying litigants.

ISSUES PRESENTED FOR REVIEW

A. Did the district court err by dismissing Enas' entire case with prejudice?

B. Did the district court err by failing to address the constitutional issues pursuant to Rule 57?

C. Does this Court have jurisdiction to make the *pro bono publico* declarations on the record made?

D. Are USDA *permanent* disqualifications from SNAP "...unconstitutional as applied..."?

E. What impact will *Axon Enterprise v. FTC* and *SEC v. Cochran*, decided April 14, 2023, have upon the issues in this case?

STATEMENT OF ISSUES REGARDING THE DISMISSAL

A. Standard of Appellate Review

As to the dismissal with prejudice of Enas' entire case, the standard of review is "...abuse of discretion...", as in any Rule 11 (or Rule 37) case, *Bell v. Vacuforce,* 908 F.3d 1075 (2018), citing *Cooter v. Hartmarx*, 496 U.S. 384 (1990). The most fundamental precept on dismissal, "...the harshest of sanctions..." is found at

Critical Analysis of Rule 11 Sanctions in the Seventh Circuit, 72 Marquette Law Review 91 (1988) at 108: **judicial flexibility**. Unfortunately, the USDA's personal attacks on Mahmoud and Enas, and later on Said's counsel, Henry Klein, caused the district judge to lose the virtue of "...judicial flexibility...", notwith-standing his highly-regarded opinion on the dignity of marriage in *Baskin v. Bogan*, 12 F. Supp 3d 1137 (2014). At bottom, this case was about Enas' marriage to Mahmoud 7 years after he was allegedly disqualified from SNAP when he wasn't, *infra*.

B. The district court's failure to consider the language barriers as to both Enas and Mahmoud

This was not a routine case. In her Amended Complaint, Doc. 6, Enas' Declaration was in Arabic because she does not speak English. This required simple tasks like answering interrogatories to be accomplished by undersigned counsel's trip from New Orleans to Indianapolis. The USDA made discovery a war featuring vicious personal attacks on Mahmoud. The district court abused discretion by not considering the language barriers when serious constitutional issues loomed large, as *Axon/Cochran* recognized on April 14, 2023.

By any measure, Enas' declaration was disregarded by the esteemed jurist who authored *Baskin v. Bogan*:

> *I have never been accused of anything improper or illegal and our Muslim values and beliefs prohibit harming others or engaging in wrongful actions . . . . The permanent disqualification of all three stores will ruin us financially. Most of our customers are poor and can't pay cash for their food needs. They all have families with children that*

need what used to be called food stamps, now called SNAP. Most customers use their allowance in the first two or three weeks of the month and we try to help them survive the end of the month. Our customers look up to Mahmoud as a father. The accusation that I knowingly defrauded the United States government is impossible to explain to the customers who rely on our stores for their hunger needs. All my life, I have devoted myself to society and to my husband. The attack on my integrity is an outrage.

C. The district court's failure to consider the *invalidity* of USDA's claim that Mahmoud was disqualified in 2006

The deepest cut of all was the accusation that Mahmoud was disqualified in Wisconsin 7 years before he married Enas and that Enas was concealing the disqualification. It took USDA forever to produce the Wisconsin Administrative Record, which painted a picture that was hardly sinister, Doc. 93, Exhibits A - U.

- The Wisconsin store was owned by an entity created in 2001 called Papa-Pant. On March 28, 2005, Mahmoud purchased a 49% interest in Papa-Pant, Exhibit F.

- On October 14, 2005, Mahmoud sold the interest back, Exhibit G, and *never* saw the store again.

- On December 29, 2005, a USDA charge letter was sent to Randy Musailef, **not Mahmoud**, alleging "...trafficking..." Mahmoud *never* saw the charge letter.

- On February 8, 2006, a Final Agency Decision ("FAD") found Papa Pant, Mr. Musaitef and **Mr. & Mrs. Said guilty of trafficking**, Exhibit K. Mahmoud *never* saw the FAD.

- On February 20, 2006, a new entity, Midtown Market, LLC was created by one Ravinder Singh in anticipation of purchasing the store from Musaitef, Exhibit L. Mahmoud had *nothing* to do with Midtown.

- On March 1, 2006, Musaitef sold Papa-Pant to Singh, Exhibit M; the sale took place when Papa-Pant was under a charge of trafficking, *never* contested. Mahmoud had been gone for five months by then.

- On March 21, 2006, USDA sent all Kenosha and Racine retailers a notice that Midtown Market and **Mr. and Mrs. Said...**" were disqualified from SNAP, Exhibit N.

- Mrs. Said was *Maram Said*, not Enas, Id.

- A copy of the notice was sent to Musaitef's house at 1003 Center Street, Racine, Wisconsin, Exhibit O. The Certified Mail Return Receipt was *never* signed, Exhibit P.

- On February 12, 2007, *Papa-Pant v. United States* was filed in the Eastern District of Wisconsin by Musaitef lawyer Othman Atta, Exhibit U. **Mahmoud knew nothing about any of these events.**

USDA's accusations (i) that Mahmoud was disqualified and (ii) that Enas lied about it beckons the following comment about "...governmental insensitivity to the rights of others..." in *Weyerhaeuser* by the late jurist, Martin L.C. Feldman:

The Court has little doubt that what the government has done is remarkably intrusive and has all the hallmarks of governmental insensitivity to the rights of others.

The district court below did not consider the dishonest claim that Mahmoud was disqualified in Wisconsin in 2006 and Enas "...knowingly..." concealed that fact.

D. The district court's failure to consider USDA's humiliating attacks against Mahmoud as depicted in Enas' Rule 408 motion

The USDA's attacks upon Mahmoud were so brutal at the July 20, 2022 settlement conference that Enas filed a Code of Evidence Rule 408 Motion, Doc 64, containing **the following humiliating terms and insults**[1]:

> [1] Mahmoud Said shall not now, or in the future, have an ownership interest, manage, or work (in any capacity, paid or unpaid) in any of the three authorized stores.
>
> [6] To verify that Mahmoud Said has no ownership interest in and does not manage or work in any capacity in any of these three authorized stores, by May 1 of each year that any of the three stores are authorized to participate in the SNAP, Plaintiff Enas Said shall provide the following information to the USDA: **Her and Mahmoud Said's 1040s and any and all income information used to prepare the 1040s including any W-2s, 1099s, or K-1s received by her or Mahmoud Said; Tax returns for each business**

[1] We beg the Court's indulgence in presenting USDA's abusive terms of adhesion word-for-word. But *Axon/Cochran* allows this tribunal to step into the shoes of the district court without remand.

including all schedules, K-1s, Forms 1125-E; and all payroll information for each store.

[7] Plaintiff Enas Said further recognizes that the reporting requirements set forth in paragraph 6 and its subparagraphs above are affirmative duties, and she acknowledges that the USDA-FNS has no obligation to put Plaintiff on notice for failure to timely submit the documentation set forth above. **Plaintiff Enas Said also acknowledges that full reporting is required, and failure to provide complete documentation required by the Settlement Agreement shall be treated as a failure to report.**

[8] Plaintiff Enas Said further agrees that any documentation or evidence, regardless of the source of the documentation or evidence that Mahmoud Said is owning, managing, or working in any capacity in, or acting on behalf of, any of the three authorized stores, including, but not limited to, communicating with the USDA-FNS, **is the basis for permanent and immediate disqualification without administrative appeal rights.**

[9] Plaintiff Enas Said acknowledges, understands, and agrees that if the USDA-FNS discovers any of the following: (a) that Mahmoud Said has a role in the operations of any of the three authorized stores due to the ownership of the property at which the store, or stores, are located; (b) that she or any authorized store uses

the terms of any lease, license, agreement, whether written or oral, with Mahmoud Said (or any entity he has an ownership interest in) to circumvent the reporting requirements under the FNS regulations or this Settlement Agreement; or (c) that she or any authorized store pays rental amounts under the terms of any lease with Mahmoud Said (or any entity he has an ownership interest in) in a manner or in amounts inconsistent with reasonable commercial practices based upon the market rates of comparable facilities; **then that act or acts will constitute a violation of the terms of this Settlement Agreement and provide a further basis for permanent and immediate disqualification without administrative appeal rights.**

[10] The parties further agree that Plaintiff Enas Said shall not apply for SNAP authorization and that the USDA-FNS shall not approve any SNAP authorization for any other stores, firms, or locations besides the three stores already authorized for participation in the SNAP.

[11] Plaintiff Enas Said and the three stores further agree . . . to fulfill their obligations as set forth in this Settlement Agreement. Notwithstanding the foregoing sentence, **the fact of Plaintiff's prior disqualification and the prior disqualification of her husband, Mahmoud Said, along with the fact of this settlement, should**

be disclosed on any future SNAP applications for re-authorization for the three stores specified herein.

[12] This Settlement Agreement does not in any way prevent the **USDA-FNS or any other federal or state governmental agency from applying any criminal or civil sanction or penalty, including permanent SNAP disqualification**, should the USDA-FNS or such other agencies determine in the future either that Plaintiff or any of the three authorized stores has not complied with the terms of this Settlement Agreement. . . .

[13] By signing this Settlement Agreement, Plaintiff Enas Said acknowledges that **she knows that (1) Mahmoud Said has been permanently disqualified from the SNAP and (2) that Mahmoud Said cannot own, manage, or work in any capacity in, or act on behalf of, any of the three authorized stores.** Plaintiff Enas Said agrees to answer any further questions or inquiries from the USDA-FNS about Mahmoud Said's previous disqualification honestly and in accordance with this admitted knowledge.

[14] Plaintiff Enas Said further waives any claim for damages arising out of or related to the disqualification of SCF Market, Inc., Steak City Fish & Chicken, and Mini Food & Market, Inc....

[16] Plaintiff Enas Said further acknowledges that the USDA-FNS's authority to terminate hers or any of the three authorized

stores' participation in the SNAP due to a breach of this Settlement Agreement **is full and final and shall not be subject to any administrative appeal, further notice requirements, or opportunity to cure.**

The district court did **not** consider the abuse of power by the USDA in veritably crushing Mahmoud and Enas Said's spirit over a meaningless mistake in a stealth questionnaire.

This case is LANDMARK.

E. The district court's failure to consider the substantial responses to discovery by Enas

Efforts to appease the USDA and the Court were futile, given the hostile attitude on the part of USDA's counsel. Efforts to bring the meaningful issues to the fore before the district judge were also vain and futile. In the sake of brevity, the following filings provided substantial response to discovery requests and evidence Enas' efforts to deal with the constitutional issues extant: Docs. 57, 58, 64, 70, 75, 76, 80, 87, 88, 93, 94, 99, 101 and 102 (details omitted). Document 99 is particularly illuminating and thus included in the Short Appendix.

F. The district court's failure to afford oral argument on the various serious issues raised

Enas Said, Mahmoud Said and their beleaguered counsel begged, implored and beseeched the district judge for an opportunity to present testimony and engage in oral argument. It was an abuse of discretion to dismiss Enas Said's entire case with prejudice over the USDA's abuse of power and character assassination, *infra.*

STATEMENT OF ISSUES REGARDING CONSTITUTIONAL VIOLATIONS

A. Standard of Appellate Review The standard of review has always been *de novo, Han v. Food and Nutrition Service*, 580 F. Supp. 1564 (D. N.J. 1984). The April 14 ruling in *Axon/Cochran* however, takes it to another level: this Court can step into the shoes of the district court and provide all the meaningful review necessary to achieve the ends of justice.

B. The Appointments Clause Challenge to USDA AROs

The combination of prosecutorial and adjudicative roles has always been forefront in the challenge by Enas Said. Further argument is provided below, but the USDA does not appear to be able to defend what Justice KAGAN referenced as "...fundamental, even existential...", observing that "...the agencies, as currently structured, [may be] unconstitutional in much of their work..." Since Justice KAGAN left the issue of where the final verdict would be rendered, it is respectfully submitted that THIS COURT can and should pull the plug on the USDA's "...unconstitutional as applied..." methodology of *permanently* disqualifying stores at the veritable whim and caprice of an ARO in his or her inner sanctum in Virginia.

C. The disproportionate punishments versus alleged misconduct The Eight Amendment of the United States Constitution prohibits cruel and unusual punishment. Also, excessive fines. The USDA does not distinguish two (x) marks by Enas Said from trading SNAP benefits for heroin.

D. The societal damage to families impacted

STATEMENT OF THE CASE

A. Preamble from *Caledonian Bank* and *Weyerhaeuser*

This case involves an agency of the executive branch of government, the Food and Nutrition Service ("FNS") — a self-regulating organization ("SRO"). FNS has unbridled power to investigate stores distributing nutritional food pursuant to SNAP. The late and respected jurist, William H. Pauley, III made these comments in *SEC v. Caledonian Bank,* 145 F. Supp. 3d 290 (2015):

> This case provides fertile ground for agency self-examination . . . . the power to investigate carries with it the power to defame and destroy . . . . judges rely on [FNS] to deploy these powers conscientiously and provide accurate assessments regarding the evidence collected in their investigations. In that way, the integrity of the regulatory regime is preserved . . . . by overstating its case, the [FNS] can do great harm and undermine public confidence in the administration of justice. ("FNS" substituted for "the agency").

Another late and respected jurist, Martin L.C. Feldman, made this comment in *Weyerhaeuser v. United States Fish & Wildlife,* 586 U.S. ______ (2018):

> The Court has little doubt that what the government has done is remarkably intrusive and has all the hallmarks of governmental insensitivity to the rights of others.

Considering the societal damage inflicted and the governmental insensitivity to the rights of others, these comments should stay forefront in the panel's collective mind as it decides this humanitarian case.

B. *Four Winds Behavioral Health v. The United States*

The issues presented here were presented to the United States Court of Appeals for the 10th Circuit at Docket 2021-2089 in *Four Winds v. United States.* That Court, however, did not reach the substantive issues due to failures to meet the rigors of presenting issues to a Circuit Court. One significant casualty was the non-consideration of *Bandimere v. SEC,* 844 F.3d 1168 (10th Cir. 2016) and *Lucia v. SEC,* 585 U.S. ___ (2018) as untimely raised. That deficit (i) was cured in *Enas v. United States,* (ii) eliminated by the ruling in *Carr v. Saul,* 593 U.S. ____ (2021) and (iii) addressed by *Axon Enterprise v. FTC* and *SEC v. Cochran,* both decided by the United States Supreme Court on April 14, 2023.

C. The 2013 Marriage of Enas to Mahmoud Said and the *Meher.*

After graduating from the University of Jerusalem in 2011, Enas was lauded by the European Cultural Center for Excellency, teaching high school in Tulkarem, Palestine, Doc 5-2. She met Mahmoud and the two were married on October 24, 2013 pursuant to Arabic traditions. Her declaration supporting this lawsuit was written in Arabic, Appendix 5. The following translation highlights provide insight to the travesty *sub judice:*

> *My name is Enas N A Said . . . . Our family always professed the Muslim Faith and followed Muslim values. Our Qur'an, revealed by God to the Prophet Muhammad, teaches that marriage is a fundamental building block of life called a NIKAH. Before I met and married Mahmoud Said, I was a teacher in Tulkarem. . . . I taught for two years before I came to the United States and consider that [teaching] experience a highlight of my life until I married Mahmoud. .*

. . Pursuant to Arabic tradition, a groom must give is bride security for life, which is why I am the owner of the three stores disqualified . . . . I have never been accused of anything improper or illegal and our Muslim values and beliefs prohibit harming others or engaging in wrongful actions . . . . The permanent disqualification of all three stores will ruin us financially. Most of our customers are poor and can't pay cash for their food needs. They all have families with children that need what used to be called food stamps, now called SNAP. Most customers use their allowance in the first two or three weeks of the month and we try to help them survive the end of the month. Our customers look up to Mahmoud as a father. The accusation that I knowingly defrauded the United States government is impossible to explain to the customers who rely on our stores for their hunger needs. All my life, I have devoted myself to society and to my husband. The attack on my integrity is an outrage.

D. USDA's *stealth* investigation of the Enas-Mahmoud marriage

In an alleged routine review, USDA sent Enas a form which asked if her stores had anybody involved who had been disqualified from SNAP before. She was assisted by her nephew in filling out the form. She knew nothing about an alleged Mahmoud disqualification in 2006 and so she marked "no" with an (x) two times.

On January 19, 2021, Enas received notice that she was in terrible trouble, Doc. 5-6, Exhibit F:

> There is evidence of filing an application containing false or misleading information. Specifically, withholding the relationship of Mahmoud Said, who was permanently disqualified from SNAP in 2006 as the owner of Midtown Market.

Enas knew nothing of the kind and Mahmoud had valid doubts, as discussed at Section F below. The January 19 letter warned Enas that if she sold or transferred ownership, she would face further sanctions. It also provided constitutionally-harsh instructions:

> If you wish to present any information, explanation or evidence you have regarding these charges, you must reply within ten days of the date you receive these charges . . . . If you or your attorney wish to respond by phone, please make an appointment for this purpose by telephoning John Dotson at (608) 662-4422 Ext. 301. If you schedule but fail to keep the appointment, we will consider that action as a non-response to this letter.

Enas was able to hire the very capable ANSARI LAW FIRM, which put together and submitted a *compelling* response to the January 19 accusations, Doc. 5-7. It didn't matter. On May 3, 2021, all three stores were *permanently* disqualified, sentencing low-income families in Muncie, Anderson and Indianapolis to "...food insecurity..." defined at https://www.feedingamerica.org/hunger-in-america/food-insecurity thus:

> The USDA defines 'food insecurity' as a lack of consistent access to enough food for every person in a household to live an active, healthy life. This can be a temporary situation for a family or can last a long time. Food insecurity is one way we measure how many people can't afford food. More than 34 million people, including 9 million children experience food insecurity in the United States.

E. USDA's *permanent* disqualification of all 3 Enas stores

All 3 Final Agency Decisions ("FADs") advised Enas that she could appeal to a federal district court in 30 days and exculpate herself exactly as all *permanently*

disqualified store-owners in the United States must do pursuant to a "...guilty-until-proven-innocent..." standard impossible to understand:

USDA STANDARD OF REVIEW

> In an appeal of an adverse action, Appellant bears the burden of proving by a preponderance of evidence that the administrative action should be reversed. That means Appellant has the burden of providing relevant evidence that a reasonable mind, considering the record as a whole, would accept as sufficient to support a conclusion that the argument asserted is more likely to be true than untrue.

As depicted by her Declaration in Arabic, Doc. 5-1, Appendix 5, Enas didn't read or write in English. But a Rhodes Scholar reading the Standard of Review would fare no better. There is no legal, equitable, commonsensical, compelling, moral or explicable reason why a store-owner facing fiscal death must respond to the United States Department of Agriculture, a powerful self-regulating agency of the United States Executive Branch of Government in ten (10) days. Despite the ANSARI response to all three parallel January 19 charge letters, ARO Ronald Gwinn rejected **all** explanations in the May 3, 2022, FADs. The USDA will **not** deny the material parallelism of the FADs here nor the process leading thereto. This Court can, of course, acquaint itself of adjudicative facts pursuant to Rule of Evidence 201(b)(2).

The lack of meaningful analysis of the USDA "...guilty until proven innocent..."standard was addressed in *Four Winds* by Judge Yarbrough thus:

> The lack of accounting on the underlying data and the dearth of evidence related to specific transactions make it *impossible* for the Court to conclude with confidence that there was or there was not a pattern of trafficking at the Four Winds store. This lack of evidence means the party who carries the burden of proof — Plaintiff Four Winds — loses."

On April 14, 2023, the United States Supreme Court decided *Axon Enterprise, Inc. v. Federal Trade Commission*, 21-86 and *Securities and Exchange Commission v. Cochran*, 21-1239, discussing many of the issues raised herein, to be further addressed as time allows analysis.

F. The claim that Mahmoud was disqualified in 2006 and the Rule 408 humiliation.

False calumny against an innocent: Mahmoud was never disqualified. The chronicle at pages 6-7, *supra*, are a travesty of due process violations.

G. The efforts to obtain a declaratory judgment

This record is replete with issues raised but not considered because of the discovery war that USDA waged. Had the District Court given Enas any deference on the grave issues presented, the case would not have been dismissed on discovery. Enas tried very hard to have her "...day in court...":

- ❑ Doc. 57 Motion for Declaratory Judgment *Declaring the Permanent Disqualification Process by USDA "...unconstitutional as applied..."*

- ❑ Doc. 58 Motion for Oral Argument on Doc. 57.

- ❑ Doc. 64 Motion *for Ruling on Rule 408 Issue.*

- Doc. 70 Motion *for Oral Argument on Discovery.*
- Doc. 75 Response to Motion to Compel.
- Doc. 76 Self-Sanction.
- Doc. 80 Motion to Intervene *by Mahmoud Said.*
- Doc. 87 Discovery *Responses Prior to the Scheduling Conference on Rule 57 (deemed an MSJ).*
- Doc. 88 Notice *of Issues to be Discussed at the Scheduling Conference.*
- Doc. 93 *Motion to Strike Motion for Sanctions.*
- Doc. 94 Enas *Motion to Shorten Time to Respond to 35 Requests for Admissions Regarding the Wisconsin case and the Appointments Clause issues as to USDA AROs.*
- Doc. 99 *Emergency Motion for Reconsideration, offering $2,500 fine to be paid by counsel.*
- Doc. 101 Supplement to Rule 59 Motion, including bar disclosures.
- Doc. 102 *Notice of Disproportionate 8th Amendment Punishment.*

In all instances, undersigned counsel sought to do what the Federal Declaratory Judgment Act intended: simplify litigation. The harsh December 7, 2022 dismissal prejudiced Enas' fundamental rights.

H. The Character Assassination of Mahmoud and Henry Klein

Character Assassination works: *The Art of Defamation Throughout the Ages, International Colloquim, Heidelberg University, July 21 - 23 2011,* https://characterattack.files.wordpress.com/2012/01/2011-schedule.pdf. The USDA's brutal attacks at the July 22, 2022 settlement conference against Mahmoud and Enas' lawyer "...poisoned the well..." for the eventual sanctions dismissal at Doc. 97.

It is the use of sanctions as a litigation weapon that courts must guard against. In a December 2000 presentation to the Maryland Trial Lawyers Association, the following observation was made about the disturbing use of sanctions as a predatory litigation weapon, *The Proper Use of Sanctions in Litigation - The Overlooked Weapon in Today's Atmosphere*:

> Regrettably, an increasing number of lawyers equate litigation with war. Trampling the truth, taking no prisoners, scorching the earth-doing anything to win, regardless of the consequences.

Regrettably indeed, the personal attacks on Mahmoud and Henry Klein turned this case into guerrilla warfare and "...poisoned the well..." as to Judge Young, who authored a significant decision about the dignity of marriage in *Baskin v. Bogan*, 12 F. Supp 3d 1137 (S.D. In. 2014).

I. The significance of *Axon Enterprise v. FTC* and *SEC v. Cochran*

Before endeavoring to argue the issues listed, a quick read on the Supreme Court's April 14 ruling is appropriate, Justice KAGAN speaking for the Court. First, we quote in italics, then make our observations in regular font:

[1] In each of these two cases, the respondent in an administrative enforcement action challenges the constitutional authority of the agency to proceed. Both respondents claim that the agencies' administrative law judges (ALJs) are insufficiently accountable to the President, in violation of separation-of-powers principles. And one respondent attacks as well the combination of prosecutorial and adjudicatory functions in a single agency.

Enas comment: Exactly our point: USDA AROs are accountable to no one. The same ARO plays prosecutorial and adjudicatory roles.

[2] The question presented is whether the district courts have jurisdiction to hear those suits—and so to resolve the parties' constitutional challenges to the Commissions' structure. The answer is yes. The ordinary statutory review scheme does not preclude a district court from entertaining these extraordinary claims.

Enas comment: This Appellate Court has all the jurisdiction needed to make a decision on this societal travesty. The USDA has abdicated its mission statement:

> **Our mission is to increase food security and reduce hunger by providing children and low-income people access to food, a healthful diet and nutrition education in a way that supports American agriculture and inspires public confidence.**

[3] An ALJ assigned to hear an SEC or FTC enforcement action has authority, much like a regular trial judge, to resolve motions, hold a hearing, and then issue a decision. . . . [Here] each suit charged that some fundamental aspect of the Commission's structure violates the Constitution; that the violation made the entire proceeding unlawful; and that being subjected to such an illegitimate proceeding causes [independent] legal injury. . . . In addition, Axon claimed that the

combination of prosecutorial and adjudicative functions in the Commission renders all of its enforcement actions unconstitutional.

Enas comment: USDA AROs resolve no motions, hold no hearings, administer no oaths, accept hearsay from USDA *stealth* investigators and give the store owner no opportunity to confront witnesses. The combination of prosecutorial and administrative functions renders all Final Agency Decisions unconstitutional.

[4] We begin with the factor whose application here is least straightforward: whether preclusion of district court jurisdiction "could foreclose all meaningful judicial review." Thunder Basin, 510 U. S., at 212–213. Thunder Basin and Elgin both make clear that adequate judicial review does not usually demand a district court's involvement. Review of agency action in a court of appeals can alone "meaningfully address[ ]" a party's claims. Thunder Basin, 510 U. S., at 215; see Elgin, 567 U. S., at 21 (holding that Congress provided "meaningful review" in authorizing the Federal Circuit "to consider and decide petitioners' constitutional claims").

Enas comment: The harsh dismissal at the district level does not preclude the SeventhCircuit from providing a meaningful review of the constitutional issues raised. Just like *Axon* and *Cochran*, Enas objects to a non-Article III adjudicator without Article II credentials making arbitrary and capricious decisions that display "...governmental insensitivity to the rights of others...", *Weyerhaeuser*.

SUMMARY OF ARGUMENT

Enas and Mahmoud Said fell in love and were married in Palestine on October 24, 2013 pursuant to Arabic tradition. Mahmoud's *Meher* to Enas was the gift of three stores in Indiana that provided security. All three stores gave nutritional assistance to low-income families through SNAP, the governmental successor to food stamps. Out of nowhere, USDA sent a non-descript document asking if any SNAP-disqualified person had anything to do with Enas' three stores. She marked (x) twice for "no". She had no idea Mahmoud was allegedly disqualified in 2006 from a store in Wisconsin. Neither did Mahmoud, because he wasn't disqualified by any measure of due process. The USDA called Enas a "liar" and took all her stores out of the SNAP programs, hurting thousands of families in the remorseless process.

In the litigation that followed, USDA treated Mahmoud like the worst of criminals. The entire ". . . structure . . ." of the USDA allows adjudicators untested pursuant to the consent clause of the United States Constitution to expel any store owner **for life** at their own whim and caprice. The April 14, 2023 rulings in *Axon Enterprise v. FTC* and *SEC v. Cochran* allow an expanded test dealing with the "structure" of an agency. The practice of arbitrary disqualifications is ". . . unconstitutional as applied . . ."

ARGUMENT

I. Standard of Review

As to the failure by the district court to declare that USDA's practice of *permanently* disqualifying SNAP stores at its whim and caprice is "...unconstitutional as applied...", the standard is *de novo, Han v. FNS*, 580 F. Supp. 1564 (D. N.J. 1984).

II. The District Court Erred In Dismissing Enas' Entire Case With Prejudice.

By any measure, the USDA engaged in discovery abuse to take the focus away from the constitutional issues presented. Enas did nothing wrong: she married Mahmoud. If anyone violated discovery rules, it was undersigned counsel. Under the totality of circumstances, it was an abuse of discretion for the district court to severely punish Enas. Because Enas didn't speak English, undersigned counsel had to fly to Indianapolis to assist in answering interrogatories. Efforts to have oral argument on the difficulties were *never* afforded. Nonetheless, substantial discovery was provided on subject matters that had nothing to do with the two (x) marks that Enas made unwittingly.

At least twice, undersigned counsel took responsibility in an effort to appease the Magistrate in charge. There was a clear indication that USDA poisoned the Magistrate's mind by mentioning that undersigned counsel was disciplined in the 1980s during a difficult epoch in his life. Character Assassination Works, *supra*.

Intent on not allowing Enas to be prejudiced, on October 19, 2022, undersigned counsel took the unprecedented step of self-sanctioning himself and

sent the court $1,000, Doc. 76. After the dismissal, undersigned counsel filed a Motion to Accept a $2.500 Sanction Against Counsel and . . . . for an Expedited Rule 57 Hearing on the Declaration that the *permanent* disqualification process was unconstitutional as applied. Enas lost her entire *Meher* for not knowing anything about Mahmoud's *alleged* disqualification in 2006, seven years before they met and married. But by poisoning the well with Judge Young, the entire focus was shifted from the constitutionally-infirm administrative process. The dismissal must be vacated and this Court should focus on the landmark attributes of the case at bar *de novo.*

III. The District Court Erred In Not Taking Up The Declaratory Judgment Issue Pursuant To Rule 57.

There are **no** disputed facts regarding the constitutional issues raised. *Imprimis*, a reminder of the national stakes before this Court: on July 30, 2019, the USDA Center of Budget and Policy Priorities made the following public statement, cited at Doc. 57-1, Undisputed Fact 22:

> **More Adequate SNAP Benefits Would Help Millions of Participants Better Afford Food:**
> The Supplemental Nutrition Assistance Program (SNAP, formerly food stamps) is the primary source of nutrition assistance for many low-income families and individuals. SNAP enables low-income households to spend more on food than their limited budgets would otherwise allow and makes it easier to put enough food on the table. Households participating in SNAP include low-wage working families, low-income seniors, and people with disabilities living on fixed incomes; close to 70 percent of participants in an average month are in

families with children, and more than one-quarter are in households with seniors or people with disabilities. SNAP forms a critical foundation for their health and well-being, lifting millions out of poverty and improving food security. Steven Carlson, Id.

Secondly, every FAD in the United States places an unbearable burden on a store-owner facing fiscal death. The standard is impossible to understand, bringing *Keyishian v. Board of Regents*, 385 U.S. 589 (1967) to the fore:

> "[When] a regulatory maze is wholly lacking in terms susceptible of objective measurement, it has the quality of 'extraordinary ambiguity' found to be fatal in Cramp and *Baggett v. Bullitt*. '[M]en of common intelligence must necessarily guess at its meaning and differ as to its application. Vagueness of wording is aggravated by prolixity and profusion of statutes, regulations and administrative machinery..."

Of greater significance, the USDA Standard of Review is wrong: it is the **validity** of the administrative process that counts. The rule in *Redmond v. United States*, 507 F.2nd 1007 (5th Cir. 1975) is *never* mentioned in the FADs:

- ❑ Under 7 U.S.C.A. § 2022, a district court review shall be a trial *de novo* in which the court shall determine the **validity** of the questioned administrative action in issue.
- ❑ "...under 7 U.S.C.A. § 2022, the aggrieved food store has the burden of establishing the **invalidity** of the administrative action..." (at 1008).
- ❑ "The suit in the United States district court or State court shall be a trial de novo by the court in which the court

shall determine the **validity** of the questioned administrative action in issue..." (*Redmond*, at footnote 2).

- "The language [about validity, *vel non*] is uncommon in federal statutes providing for judicial review of administrative decisions, and hence there is little authority to guide the determination as to just what is supposed to happen in the district court....**it is an ineptly-worded statute...**"

These issues were before the District Court pursuant to 28 U.S.C. § 2201 and Rule 57, but were never addressed because the USDA was focusing on attacking Mahmoud and later, Henry Klein. This Court can make the declarations. The USDA's arbitrary and capricious ways and means violate the principles in *Weyerhaeuser v. United States Fish & Wildlife*, 586 U.S. _____ (2018), which ruled that agencies of the Executive Branch must (i) engage in *careful* analysis, (ii) consider agency-actions' impact on *private* rights, and (iii) give *plausible* explanations for their decisions.

Equally compelling is *SEC v. Caledonian Bank*, 145 F. Supp. 3d 200 (2015), observing that "...the power to investigate carries with it the power to defame and destroy..." as did ROD in "...investigating the fact that Enas married Mahmoud. A second point by the esteemed jurist in *Caledonian* is found at 310-311: *(By overstating its case, the [agency] can do great harm and undermine public confidence in the administration of justice).*

A. The Many Hats Of AROs

In the SNAP world, the AROs wear many hats: investigator, prosecutor, adjudicator, sentencing authority and appeals administrator. Never a "hearing officer" because AROs hold no hearings, administer no oaths, see no witnesses and believe nothing the store owner has to say. The dissent in *Bandimere v. SEC*, 844 F.3d 1168 (2016) by Circuit Judges LUCERO and MORITZ makes Enas' case:

> [The ALJs] are vested with duties of administration and at the same time they are given important judicial work. **The evils resulting from this confusion of principles are insidious and far-reaching.** Pressures and influences properly enough directed toward officers responsible for formulating and administering policy constitute an unwholesome atmosphere in which to adjudicate private rights. But the mixed duties of the commissions render escape from these subversive influences impossible. Furthermore, the same men are obliged to serve both as prosecutors and as judges. **This not only undermines judicial fairness — it weakens public confidence in that fairness.** Commission decisions affecting private rights and conduct lie under the suspicion of being rationalizations of the preliminary findings with the Commission in the role of prosecutor presented to itself.

In *Whitrow v. Larkin*, 421 U.S. 35 (1975), the High Court said:

> "[a] 'fair trial in a fair tribunal is a basic requirement of due process', *In re Murchison*. **This applies to administrative agencies which adjudicate as well as to courts.** The combination of investigative and adjudicative functions creates an unconstitutional risk of bias in administrative adjudication . . . . under a realistic appraisal of psychological tendencies and human weakness, conferring

> investigative and adjudicative powers on the same individual poses such a risk of actual bias or prejudgment **that the practice must be forbidden if the guarantee of due process is to be adequately implemented."**

In the undisputed facts at Doc. 57, the issue was covered and the facts remain indisputable. During the entire course of investigation, ARO Gwinn did not hold an evidentiary hearing, did not administer oaths and did not receive evidence pursuant to any Rule of Evidence, UF 25. During the entire course of investigation, ARO Gwinn accepted hearsay reports from ROD without adherence to hearsay principles, UF 26.

During the entire course of investigation, Enas Said did not have any opportunity to confront any witnesses supporting the disqualification, UF 27. During the entire course of investigation, there has been no disclosure of the qualifications, credentials or method of appointment as to ARO Gwinn, UF 28.

The dismissal below failed to consider the social mandate of the USDA Food and Nutrition Service:

> "The mission of FNS is to provide children and needy families better access to food and a more healthful diet through its food assistance programs and comprehensive nutrition education efforts."

B. *Lucia* And *Bandimere* And The Appointments Clause

Pursuant to the Supreme Court's decision in *Ryder v. USA*, "...one who makes a timely challenge to the constitutional validity of the appointment of an officer who adjudicates his case..." is entitled to relief, cited by *Lucia.* Enas challenged the validity of having her rights adjudicated by ARO Gwinn, who was

either an officer of the United States *without* Appointments Clause authority or a "...mere employee..." The ARO FADs must be given no deference whatsoever. Similarly, the holding in *Bandimere v. SEC* is consistent with the proposition that officers [of the United States] who (i) exercise discretion, (ii) wield significant authority and (iii) make credibility calls must survive the rigors of the Appointments Clause of the United States Constitution, Article II, § 2, clause 2. In the case at bar, as in *Bandimere*, Gwinn acted as an "...appointee exercising significant authority pursuant to the laws of the United States...", making credibility calls as to Enas' "...motive and intent..." in answering an affidavit used as an *entrapment* tool.

Without a hearing, *without* a scintilla of evidence regarding motive and intent and *without* any opportunity to test "...the demeanor of any witness...", ARO Gwinn reached the conclusion that Enas was *knowingly* hiding Mahmoud's past. In any administration of the law, "credibility" is vital. See, Gregory Ogden *Role of Demeanor Evidence in Determining Credibility of Witnesses in Fact Finding*, ALJ Journal available at https://digitalcommons.pepperdine.edu/naalj/vol20/iss1/1:

> Demeanor evidence refers to the non-verbal cues given by a witness while testifying, including voice tone, facial expressions, body language, and other cues such as the manner of testifying, and the witnesses' attitude while testifying. Demeanor evidence is recognized in the law as an important basis for determining the credibility of a witness. The opportunity to observe the demeanor of a witness while testifying provides historical and modem justification for trials in which the fact finder observes the witness testify in a face-to-face

hearing. Demeanor evidence has been assumed to be crucial for determining whether a witness is telling the truth or a falsehood. The rules of law governing live testimony, confrontation rights, and hearsay rules have all been shaped by this assumption about demeanor evidence. **Observing demeanor evidence has been considered part of the right to confront witnesses since before the adoption of the U.S. Constitution.**

IV. The Court Of Appeals For The Seventh Circuit Has Before It A Landmark Case Impacting Millions Of Citizens Suffering From Food Insecurity Versus A Runaway Agency Of The Executive Branch Of Government.

The USDA's methodology of policing the successor to food stamps cannot continue to give non-Article III adjudicators free reign at arbitrary and capricious disqualifications at the "...drop of a hat..." Enas Said respectfully avers that the SNAP disqualification program, providing a Standard of Review **not** found in any statute should be declared unconstitutional as applied. The arbitrary and capricious FAD before this Court is indefensible. Madison's Angels will not sleep, Federalist 51.

CONCLUSION

We live in an unfortunate epoch devoid of accountability. USDA ARO's answer to no one and have no incentive to fulfill humanitarian goals. Justice KAGAN and the dissenting Circuit Judges in *Bandimere* recognize the combination of prosecutorial and adjudicatory functions in a single person at a self-regulating agency as ". . . evils that are insidious and far-reaching . . ." Justice KAGAN called the challenges ". . . fundamental, event existential . . ." New York jurist William Pauley said that *SEC v. Bandimere* provided ". . . fertile ground for agency self-

examination . . ." Considering what USDA has done to Enas Said and Mahmoud Said should have Madison's Angels turning in their Federalist 51 graves.

The USDA structure that imposes a ". . . guilty-until-proven-innocent . . ." burden on nutritional food outlets permanently disqualified from SNAP is unconstitutionally-structured as *Axon / Cochran* recognized on the 14th day of April past.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limitations of Fed. R. App. P. 32(a)(7)(B) and Circuit Rule 32, because this document contains 7,733 words, excluding the parts of the document exempted by Fed. R. App. P. 32(f).

This document complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word 2016 in 12-point Century Schoolbook style font.

Dated: May 15, 2023

/s/ Henry L. Klein
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DUCOTE FOR JUSTICE

A CONSTITUTIONAL REPUBLICAN

UPDATES

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SCOTT SCHLEGEL'S FUNDS

July 17, 2019

SCOTT SCHLEGEL'S SUPREME COURT CAMPAIGN FUNDED BY HUGE TEXAS COMPANY WITH $$$MILLIONS AT STAKE IN LOUISIANA LAWSUITS. In his July 15 campaign finance report, Scott Schlegel's team disclosed that his campaign took $25,000 from Texas Brine Co., a large Houston based company involved in many Louisiana lawsuits in which it stands to lose or gain millions of dollars. The $25K was all paid on July 1, and broken up into 5 payments of $5K each by Texas Brine and its 4 subsidiaries (all with the same Houston address of 4800 San Felipe Street) to avoid the $5K corporate contribution limit. Texas Brine is known best for its involvement in the Bayou Corne sinkhole in Assumption Parish which swallowed scores of homes affecting 350 residents, and prompted many of the lawsuits and scores of filings in both the First Circuit Court of Appeal and the Louisiana Supreme Court. Just Google "Bayou Corne Sinkhole" for all of the story. There is no doubt that much of Texas Brine's fate will be decided by the Louisiana Supreme Court in a number of appeals. I have attached a partial listing of the appellate activity involving Texas Brine. There is no question that Texas Brine believes that Schlegel is a good investment for them. Why would some Texas outfit otherwise care who sits on the Louisiana Supreme Court? His approving the $25K campaign contribution is an indefensible and arrogant lapse of ethics and judgment. Imagine watching a Saints game where one team, say the Rams, handpicked the game's ref with $$$$. Would you have any confidence whatsoever in the fairness of any 4th quarter calls in the secondary? I have no opinion about the mer the Texas Brine lawsuits, and will judge them, and every other p suit with fairness and integrity. But, whatever anyone thinks of m

EXHIBIT F

decisions, there will be no basis for any worry that I was for sale. Tomorrow I will post more about his campaign finance report. That is why I am not taking one red cent of campaign contributions from anybody. I hope you consider all of this on October 12, and vote for me as your next Supreme Court Justice. Thanks, Richard Ducote FB: Ducote for Justice ducoteforjustice.com

#ducoteforjustice.com

CANDIDATE'S REPORT

(to be filed by a candidate or his principal campaign committee)

1. Qualifying Name and Address of Candidate
SCOTT U. SCHLEGEL
406 N Labarre Road
Metairie, LA 70001

2. Office Sought (include title of office as well)
Associate Justice
Louisiana Supreme Court
First District

OFFICE USE ONLY
Report Number: 77420
Date Filed: 7/15/2019
Report Includes Schedules:
Schedule A-1
Schedule B
Schedule C
Schedule E-1

3. Date of Primary 10/12/2019

This report covers from 1/1/2019 through 7/4/2019

4. Type of Report:

___ 180th day prior to primary
X 90th day prior to primary
___ 30th day prior to primary
___ 10th day prior to primary
___ 10th day prior to general
___ 40th day after general
___ Annual (future election)
___ Supplemental (past election)
___ Amendment to prior report

5. FINAL REPORT if

___ Withdrawn
___ Unopposed
___ Filed after the election AND all loans and debts paid

6. Name and Address of Financial Institution
(You are required by law to use one or more banks, savings and loan associations, or money market mutual fund as the depository of all

GULF COAST BANK
5001 Veterans Blvd
Metairie, LA 70006

7. Full Name and Address of Treasurer
AMY L BODET
4805 Kent Avenue
Metairie, LA 70006

9. Name of Person Preparing Report AMY L BODET

Daytime Telephone 504-415-1120

10. WE HEREBY CERTIFY that the information contained in this report and the attached schedules is true and correct to the best of our knowledge, information and belief, and that no expenditures have been made nor contributions received that have not been reported herein, and that no information required to be reported by the Louisiana Campaign Finance Disclosure

This 15th day of July, 2019.

Amy L Bodet — Signature of Candidate/Chairperson (To be signed by Chairperson only if report by principal campaign committee)
504-415-1120 — Daytime Telephone

Amy L Bodet — Signature of Treasurer
504-415-1120 — Daytime Telephone

8. FOR PRINCIPAL CAMPAIGN COMMITTEES ONLY
a. Name and address of principal campaign committee, committee's chairperson, and subsidiary committees, if any (use additional sheets if necessary)

On attached sheet

Form 102 Rev. 1/08, Prev Rev. 3/00

SUMMARY PAGE

RECEIPTS	This Period
1. Contributions (Schedule A-1)	$ 82,000.00
2. In-kind Contributions (Schedule A-2)	$ 0.00
3. Campaign paraphernalia sales of $25 *or less*	$ 0.00
4. **TOTAL CONTRIBUTIONS** (Lines 1 + 2 + 3)	$ 82,000.00
5. Other Receipts (Schedule A-3)	$ 0.00
6. Loans Received (Schedule B)	$ 25,000.00
7. Loan Repayments Received (Schedule D)	$ 0.00
8. **TOTAL RECEIPTS** (Lines 4 + 5 + 6 + 7)	$ 107,000.00

DISBURSEMENTS	This Period
9. Expenditures (Schedule E-1)	$ 11,747.15
10. Other Disbursements (Schedule E-2)	$ 0.00
11. Loan Repayments Made (Schedule B)	$ 0.00
12. Funds Loaned (Schedule D)	$ 0.00
13. **TOTAL DISBURSEMENTS** (Lines 9 + 10 + 11 + 12)	$ 11,747.15

FINANCIAL SUMMARY	Amount
14. Funds on hand at beginning of reporting period (Must equal funds on hand at close from last report or -0- if first report for this election)	$ 711.80
15. *Plus* total receipts this period (Line 8 above)	$ 107,000.00
16. *Less* total disbursements this period (Line 13 above)	$ 11,747.15
17. *Less* in-kind contributions (Line 2 above)	$ 0.00
18. Funds on hand at close of reporting period	$ 95,964.65

Form 102 Rev. 3/08 Page Rev. 3/08

SCHEDULE A-1: CONTRIBUTIONS (Other than In-Kind Contributions)

The following information must be provided for all contributors to your campaign during this reporting period, except for in-kind contributions. Information on in-kind contributions is reported on SCHEDULE A-2: IN-KIND CONTRIBUTIONS. In Column 1, check if the contributor is a political committee or a party committee. Any personal funds a candidate contributes to his campaign must be reported on this schedule. Personal funds a candidate *loans* to his campaign should be reported on Schedule B. For anonymous contributions, see SCHEDULE F. Totals and subtotals are *optional*. Completion of totals and subtotals may assist in calculating totals that must be reported on the Summary Page.

1. Name and Address of Contributor	2. Contributions this Reporting Period		3. Total this Election
	a. Date(s)	b. Amount(s)	
ROSITA U SCHLEGEL 138 Imperial Woods Harahan, LA 70123 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	06/24/2019	$5,000.00	$5,000.00
HEATHER BONGY 4701 Sheridan Avenue Metairie, LA 70002 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$250.00	$250.00
STEPHEN M PETIT JR ATTORNEY AT LAW 801 Oriole Street Metairie, LA 70003 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$250.00	$250.00
STERNBERG, NACCARI & WHITE LLC 935 Gravier Street Suite 2020 New Orleans, LA 70112 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	06/26/2019	$2,500.00	$2,500.00
KIRK TALBOT 9625 Evelyn Place River Ridge, LA 70123 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/02/2019	$500.00	$500.00
TBC SALES & DISTRIBUTION LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
4. SUBTOTAL (this page)		$13,500.00	N/A
5. TOTAL (complete only on last page of this schedule)			N/A

6. CONTRIBUTIONS FROM POLITICAL COMMITTEES:

SUBTOTAL (this page) $0.00 TOTAL (complete only on last page of this schedule) ________

Form 102, Rev. 3/98 Form Rev. 3/98

SCHEDULE A-1: CONTRIBUTIONS (Other than In-Kind Contributions)

The following information must be provided for all contributors to your campaign during this reporting period, except for in-kind contributions. Information on in-kind contributions is reported on SCHEDULE A-2: IN-KIND CONTRIBUTIONS. In Column 1, check if the contributor is a political committee or a party committee. Any personal funds a candidate contributes to his campaign must be reported on this schedule. Personal funds a candidate *loans* to his campaign should be reported on Schedule B. For anonymous contributions, see SCHEDULE F. Totals and subtotals are *optional*. Completion of totals and subtotals may assist in calculating totals that must be reported on the Summary Page.

1. Name and Address of Contributor	2. Contributions this Reporting Period a. Date(s)	b. Amount(s)	3. Total this Election
TEXAS BRINE COMPANY LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
THE KING FIRM LLC 2912 Canal Street New Orleans, LA 70119 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
UNDERGROUND SERVICES MARKHAM LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
UNDERGROUND STORAGE LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
UNITED BRINE SERVICES LLC 4800 San Felipe Street Houston, TX 77056 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	07/01/2019	$5,000.00	$5,000.00
HC WELLMAN, JR 102 Elaine Street Harahan, LA 70123 POLITICAL COMMITTEE? ___ PARTY COMMITTEE? ___	06/24/2019	$1,000.00	$1,000.00
4. SUBTOTAL (this page)		$26,000.00	N/A
5. TOTAL (complete only on last page of this schedule)			N/A

6. CONTRIBUTIONS FROM POLITICAL COMMITTEES:

SUBTOTAL (this page) $0.00 TOTAL (complete only on last page of this schedule) ______

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1. Assumption Parish Police Jury v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 13, 2017 215 So.3d 246 2017 WL 374926

Denied. HUGHES, J., would grant.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La., 2017 Supreme Court of Louisiana. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. NO. 2016-CC-2000 January 13...

2. Assumption Parish Police Jury v. Texas Brine Company, LLC
Court of Appeal of Louisiana, First Circuit. March 05, 2018 Not Reported in So.3d 2018 WL 1151935

WRIT DENIED. We decline to exercise our supervisory jurisdiction.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La.App. 1 Cir., 2018 UNPUBLISHED OPINION. CHECK COURT...

...Louisiana, First Circuit. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al. NO. 2017 CW 1463 March 5...

3. Assumption Parish Police Jury v. Texas Brine Company
Court of Appeal of Louisiana, First Circuit. December 28, 2016 Not Reported in So.3d 2016 WL 7468155

WRIT DENIED.

...Assumption Parish Police Jury v. Texas Brine Company La.App. 1 Cir., 2016 UNPUBLISHED OPINION. CHECK COURT RULES...

...Louisiana, First Circuit. Assumption Parish Police Jury , et al v. Texas Brine Company, LLC , et al State of Louisiana v. Texas Brine Company, LLC , et al Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al NO. 2016 CW 1489 DECEMBER 28...

4. Assumption Parish Police Jury v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 13, 2017 215 So.3d 247 2017 WL 374927

Denied.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La., 2017 Supreme Court of Louisiana. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. Assumption Parish Sheriff Mike Waguespack v. Texas Brine Company, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. NO. 2016-CC-2001 January 13...

5. Assumption Parish Police Jury v. Texas Brine Company, LLC
Court of Appeal of Louisiana, First Circuit. February 21, 2018 Not Reported in So.3d 2018 WL 1027124

WRIT DENIED ON THE SHOWING MADE.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La.App. 1 Cir., 2018 UNPUBLISHED OPINION. CHECK COURT...

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...Louisiana, First Circuit. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. State of Louisiana v. Texas Brine Company LLC , et al. Assumption Parish Sheriff, Mike Waguespack v. Texas Brine Company, LLC NO. 2018 CW 0223 FEBRUARY 21, 2018 In...

6. Assumption Parish Police Jury v. Texas Brine Company, LLC
Supreme Court of Louisiana. February 23, 2018 259 So.3d 705 2018 WL 8489140

Stay denied. Writ denied.

...Assumption Parish Police Jury v. Texas Brine Company, LLC La., 2018 Supreme Court of Louisiana. ASSUMPTION PARISH POLICE JURY , et al. v. TEXAS BRINE COMPANY, LLC , et al. State of Louisiana v. Texas Brine Company, LLC , et al. Assumption Parish Sheriff Mike Haguespack v. Texas Brine Company, LLC NO. 2018-CC-0311 February 23, 2018 Applying...

7. Crosstex Energy Services, L.P. v. Texas Brine Company
Supreme Court of Louisiana. September 06, 2016 205 So.3d 912 2016 WL 4991885

Denied.

...Crosstex Energy Services, L.P. v. Texas Brine Company La., 2016 Supreme Court of Louisiana. CROSSTEX ENERGY SERVICES...

...L.P. Crosstex Lig, L.L.C. , and Crosstex Processing Services, LLC v. TEXAS BRINE COMPANY Zurich American Insurance Company and American Guarantee and Liability Insurance Company In re: Texas Brine Company LLC , Defendant NO. 2016-C-0935 September 6, 2016...

8. Pontchartrain Natural Gas System v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 13, 2017 215 So.3d 244 2017 WL 374925

Denied.

...Pontchartrain Natural Gas System v. Texas Brine Company, LLC La., 2017 Supreme Court of Louisiana. PONTCHARTRAIN NATURAL...

...d/s Promix, LLC and Acadian Gas Pipeline System v. TEXAS BRINE COMPANY, LLC NO. 2016-CC-1997 January 13, 2017 Applying...

9. Florida Gas Transmission Co. v. Texas Brine Company, L.L.C.
Supreme Court of Louisiana. January 14, 2019 261 So.3d 790 2019 WL 277627

Denied.

...Florida Gas Transmission Co. v. Texas Brine Company, L.L.C. La., 2019 Supreme Court of Louisiana. FLORIDA GAS TRANSMISSION CO. , et al. v. TEXAS BRINE COMPANY, L.L.C. , et al. NO. 2018-CC-1658 January 14...

10. Crosstex Energy Services v. Texas Brine Company, LLS
Supreme Court of Louisiana. January 13, 2017 215 So.3d 252 2017 WL 375665

Denied.

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...Crosstex Energy Services v. Texas Brine Company, LLS La., 2017 Supreme Court of Louisiana. CROSSTEX ENERGY SERVICES , et al. v. TEXAS BRINE COMPANY , LLS, et al. NO. 2016-CC-1984 January 13...

11. Pontchartrain Natural Gas System v. Texas Brine Company, LLC
Court of Appeal of Louisiana, First Circuit. March 23, 2018 Not Reported in So.3d 2018 WL 1448098

WRIT DENIED. We decline to exercise our supervisory jurisdiction.

...Pontchartrain Natural Gas System v. Texas Brine Company, LLC La.App. 1 Cir., 2018 UNPUBLISHED OPINION. CHECK COURT...

...d/s Promix, L.L.C. , and Acadian Gas Pipeline System v. TEXAS BRINE COMPANY, LLC NO. 2017 CW 1506 MARCH 23, 2018 In...

12. Labarre v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 29, 2018 233 So.3d 608 2018 WL 825703

Not considered. See La.S.Ct. Rule IX, §6.

...Labarre v. Texas Brine Company, LLC La., 2018 Supreme Court of Louisiana. Gustave J. LABARRE, Jr., et al. v. TEXAS BRINE COMPANY, LLC and Georgia Gulf Chemical & Vinyls, LLC NO. 2017...

13. Labarre v. Texas Brine Company, LLC
Supreme Court of Louisiana. February 23, 2018 237 So.3d 519 2018 WL 1063931

Denied.

...Labarre v. Texas Brine Company, LLC La., 2018 Supreme Court of Louisiana. Gustave J. LABARRE, Jr., et al. v. TEXAS BRINE COMPANY, LLC and Georgia Gulp Chemical & Vinyls, LLC NO. 2017...

14. Labarre v. Texas Brine Company, LLC
Supreme Court of Louisiana. January 14, 2019 261 So.3d 786 2019 WL 277615

Denied.

...Labarre v. Texas Brine Company, LLC La., 2019 Supreme Court of Louisiana. Gustave J. LABARRE, Jr., et al. v. TEXAS BRINE COMPANY, LLC and Georgia Gulf Chemical & Vinyls, LLC NO. 2018...

15. W & T Offshore, L.L.C. v. Texas Brine Corporation
Supreme Court of Louisiana. October 08, 2018 253 So.3d 788 2018 WL 4997442

Granted. And, whereas, the Court has this date, pursuant to Article 5, Section 5, of the Constitution of Louisiana, made and issued the following order, to wit—"It is ordered that the writ of review issue; that the District Court and the Court of Appeal send up the record in Duplicate of the case; and that counsel for all parties be...

...W & T Offshore, L.L.C. v. Texas Brine Corporation La., 2018 Supreme Court of Louisiana. W & T OFFSHORE, L.L.C. v. TEXAS BRINE CORPORATION and Texas Brine Company, L.L.C. Texas Brine Company, L.L.C. v. W & T Offshore, L.L.C. NO. 2018-C...

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