9/13/24

NO. 24-400

In The

Supreme Court of The United States

Jennifer Tom – Petitioner in pro se,

vs.

Martin O'Malley Commissioner of The SOCIAL SECURITY ADMINISTRATION (SSA) - Respondent

---

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Jennifer Tom
Petitioner in pro se
2101 Mangrove Court
Antioch, CA 94509
(925) 698-5028

Date: September 9, 2024

QUESTION PRESENTED

Federal Rule 50 requires a court to make a decision when a party has presented all their evidence on an issue, and there is not enough legal evidence for a reasonable jury to find in favor of that party on that issue. The standard for making this decision under Federal Rule 50 is similar to the standard for summary judgment under Federal Rule 56.

Federal Rule 56 the court must carefully review all the evidence in the record, drawing all reasonable inferences in favor of the nonmoving party, but making no credibility determinations or weighing any evidence. Lytle v. Household Mfg., Inc., 494 U. S. 545, 554-555. Fed. R. Civ. P. 52(a) ("In all actions tried upon the facts without a jury . . ., the court shall find facts specifically and state separately its

conclusions of law thereon"). Addressing all conflicting evidence in the court's findings and conclusions.

The Americans with Disabilities Act became law in 1990 and provides civil rights to all individuals with disabilities and guarantees equal access to opportunity in employment and all benefits of employment, transportation, public accommodations, state and local government, and telecommunications for individuals with disabilities.

The Rehabilitation Act of 1973 was the United States' first major federal disability rights law. The law opened doors for many qualified individuals with disabilities to enter, for the first time, the federal workforce. The Rehabilitation Act of 1973, as Amended (Rehab Act) prohibits discrimination on the basis of disability in programs conducted and funded

by the Federal government (504) and it covers discrimination in Federal employment, and in the employment practices (501 & 503).

Cir. Rule 30-1.3: No Excerpts Required for Pro Se Party: A party proceeding without counsel need not file excerpts. If such a party does not file excerpts, counsel for appellee or respondent must file Supplemental Excerpts of Record that contain all of the documents that are cited in the pro se opening brief or otherwise required by Rule 30-1.4, as well as the documents that are cited in the answering brief.

1) Can the Court allow the U.S. Court of Appeals for the Ninth Circuit decision to stand in Tom v. Social Security Administration where the U.S. Court of Appeals for the Ninth Circuit found that an employer can fire a qualified disabled employee for taking leave while waited for the Social Security Administration to approve Tom's (Appellant in pr se) requests for an effective reasonable accommodation for example full-time telework, the Social Security Administration fired Tom (Appellant in pro se) for taking sick leave while working with Social Security

Administration in the Reasonable Accommodation interactive process for the conduct of taking sick leave that results from her disabilities despite the fact the courts have found ruled that "terminate an employee for conduct that results from a disability is equivalent to terminating an employee based on the disability itself because 'conduct resulting from a disability is considered to be part of the disability, rather than a separate basis for termination.' *Humphrey v. Mem'l Hosps. Ass'n,* 239 F.3d 1128, 1139-40 (9th Cir. 2001)."?

2) Can the Court allow the U.S. Court of Appeals for the Ninth Circuit decision to stand in Tom v. Social Security Administration where the U.S. Court of Appeals for the Ninth Circuit found that an employer need not provide an effective reasonable accommodation just an accommodation rendering of the protection provided by the Americans With Disabilities Act and the protections under of the Rehabilitation Act of 1973 (Rehab Act) worthless, ineffective and powerless to protect qualified disabled employees thus hindering qualified disabled employees from gainful employment?

3. Can the Court allow the U.S. Court of Appeals for the Ninth Circuit (Ninth Circuit) decision in Tom (Appellant in pro se) v. Social Security Administration (SSA) to stand, when the Ninth Circuit, allowed SSA to violate rule Cir. Rule 30-1.3 and Cir. Rule 30-1.4 when SSA chose to withhold evidence Tom cited in her Informal Opening Brief in the joint excerpts of record per Cir. Rule 30-1.3 SSA

is responsible/obligated to add all of Tom's evidence cited in her Informal Opening Brief, in the joint excerpts of record or allow the Ninth Circuit to not enforce Cir. Rule 30-1.3 and Cir. Rule 30-1.4 or allow Ninth Circuit's improper handling of Tom's motion to compel filed September 2, 2023 only two days after the Social Security Administration filed the incomplete excerpts of record filed on July 31, 2023 or allow the Ninth Circuit's decision to denied Tom's motion to compel (without notifying Tom at all) 10 months later on May 2, 2024 at 10:59am and five minutes later on May 2, 2024 at 11:04am rewarded SSA for the willfully violation of Cir. Rule 30-1.3 and Cir. Rule 30-1.4 by withholding Tom's evidence from the excerpts of record by issuing judgment in favor of the Social Security Administration on the grounds Tom (Appellant in Pro Se) failed to provide evidence to support her claims?

LIST OF PARTIES

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

RELATED CASES

Jennifer Tom v. Social Security Administration, Hearing No. 550-2015-00104X, Agency No. SF-14-0624-SSA, EEOC ALJ Virginia Mellema MaGee (April 7, 2017).

Jennifer Tom v. Social Security Administration, Hearing No. 550-2015-00104X, Agency No. SF-14-0624-SSA, SSA Final Order, EEOC Director Kojuan Almond (May 18, 2017).

Jennifer Tom v. Social Security Administration, Appeal No. 0120172221, Hearing No. 550-2015-00104X, Agency No. SF-14-0624-SSA, Office of Federal Operation, Director Carlton Hadden (February 15, 2019).

Jennifer Tom v. Social Security Administration, Reconsideration Request No. 2019002750, Appeal No. 0120172221, Hearing No. 550-2015-00104X, Agency No. SF-14-0624-SSA, Office of Federal Operation, Director Carlton Hadden (June 25, 2019).

Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security Administration, Civil Case No. 19-cv-07914-JST, MSPB Case No. SF-0752-19-0286-I-1, Reconsideration Request No. 2020000730, Appeal No. 20190000982, Agency No. SF-19-0924-SSA, filed December 3, 2019.

Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security Administration, Civil Case No. 19-cv-06322-JST, Reconsideration Request No. 2019002750, Appeal No. 0120172221, Hearing No. 550-2015-00104X, Agency No. SF-14-0624-SSA, filed September 27, 2019.

Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security *Administration,* Civil Case No. 19-cv-06322-JST, Reconsideration Request No. 2019002750, Appeal No. 0120172221, Hearing No. 550-2015-00104X, Agency No. SF-14-0624-SSA, and *Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security Administration*, Civil Case No. 19-cv-07914-JST, MSPB Case No. SF-0752-19-0286-I-1, Reconsideration Request No. 2020000730, Appeal No. 20190000982, Agency No. SF-19-0924-SSA, Judge Jon S. Tiger Ordered the consolidation of all claims from Civil Case No. 19-cv-06322-JST and Civil Case No. 19-cv-07914-JST under Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security Administration, Civil Case Civil Case No. 19-cv-06322-JST Civil Court Docket ECF 33 (February 26, 2020).

Jennifer Tom v. Social *Security Administration,* Agency No. SF-18-0924-SSA aka SF-19-0924-SSA, Final Agency Decision, November 5, 2018 the Social Security Administration dismissed the EEOC case incorrectly on December 17, 2018 the EEOC ALJ Virginia Mellema MaGee advised SSA to rescind the dismissal of SF-18-0924-SSA on December 20, 2018 SSA reopened claims under SF-18-0924-SSA and SF-19-0942-SSA.

Jennifer Tom v. Social Security Administration, Agency No. SF-18-0924-SSA aka SF-19-0924-SSA, Final Agency Decision, EEOC Director Claudia Postell (January 30, 2019).

Jennifer Tom v. Social Security Administration, Appeal No. 20190000982, Agency No. SF-19-0924-SSA, Office of Federal Operation Director Carlton Hadden (September 24, 2019).

Jennifer Tom v. Social Security Administration, Reconsideration Request No. 2020000730, Appeal No. 20190000982, Agency No. SF-19-0924-SSA, Office of Federal Operation Director Carlton Hadden (March 12, 2020).

Jennifer Tom v. Social Security Administration, MSPB Case No. SF-0752-19-0286-I-1, Reconsideration Request No. 2020000730, Appeal No. 20190000982, Agency No. SF-19-0924-SSA, MSPB ALJ Tamara Ribas (September 30, 2019).

Jennifer Tom v. Kilolo Kijakazi *Acting Commissioner of Social Security Administration,* Civil Case No. 19- cv-06322-JST, Summary Judgment by Judge Jon S. Tiger Civil Court Docket ECF 125 (December 13, 2021).

Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security *Administration,* Civil Case No. 19-cv-06322-JST Order Denying Plaintiff Motion for Leave to File Motion for Reconsideration, by Judge Jon S. Tiger Civil Court Docket ECF 130 (January 21, 2022).

Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security Administration, Civil Case No. 19-cv-06322-JST, Finding of Fact and Conclusion of law and Amended Finding of Fact and Conclusion of law (they are identical after the word Amended), by Judge Jon S. Tiger Civil Court Docket ECF 155 and 156 (November 28, 2022).

Jennifer Tom v. Kilolo Kijakazi Acting Commissioner of Social Security Administration, Civil Case No. 19-cv-06322-JST, Judgment, by Judge Jon S. Tiger Civil Court Docket ECF 159 (December 13, 2022)

Jennifer Tom v. Martin O'Malley Commissioner of Social Security Administration, United States Court of Appeals for the Ninth Circuit Case No. 22-16977 District Case No. 4:19-cv-06322-JST Docketed December 22, 2022.

Jennifer Tom v. Martin O'Malley Commissioner of Social Security Administration, United States Court of Appeals for the Ninth Circuit Case No. 22-16977 District Case No. 4:19-cv-06322-JST, Appellant Motion to Compel Social Security Administration to provide all of Appellant's exhibits per Ninth Circuit Rule 30-1.3 and Ninth Circuit Rule 30-1.4 see Ninth Circuit Court Dkt. No. 12 filed August 4, 2023.

Jennifer Tom v. Martin O'Malley Commissioner of Social Security Administration, United States Court of Appeals for the Ninth Circuit Case No. 22-16977 District Case No. 4:19-cv-06322-JST, Motion to compel denied and Memorandum Disposition Affirming lower Court Decision, Judges Mark Bennett, Bridget Bade, Daniel Collins both on May 2, 2024 Ninth Circuit Court Dkt. No. 20 and Ninth Circuit Court Dkt. No. 21.

Jennifer Tom v. Martin O'Malley Commissioner of Social Security Administration, United States Court of Appeals for the Ninth Circuit Case No. 22-16977 District Case No. 4:19-cv-06322-JST, Order denying petition for panel rehearing June 18, 2024 Ninth Circuit Court Dkt. No. 24.

RELATED CASES- Continued

Jennifer Tom v. Martin O'Malley Commissioner of Social Security Administration there are other cases[1].

[1]There are additional cases related to SSA's failure to effectively accommodate Ms. Tom held in abeyance EEOC Case No. 550-2021-00313X 05-07-2021 Agency No. SF-16-0264-SSA, EEOC Case No 550-2021-00314X 05-07-2021 Agency No. SF-17-0039-SSA, 550-2021-00315X 05-07-2021 Agency No. SF-17-0411-SSA, EEOC Case No. 550-2021-00316X 05-07-2021 Agency No. SF-17-0526-SSA, EEOC Case No. 550-2021-00317X 05-07-2021 Agency No. SF-17-0799-SSA, EEOC Case No. 550-2021-00318X 05-07-2021 Agency No. SF-18-0328-SSA, EEOC Case No. 550-2021-00319X 05-07-2021 Agency No. SF-18-0604-SSA.

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PETITION FOR A WRIT OF CERTIORARI

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

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix 1a-9a to the petition and is unpublished.

JURISDICTION

The United States Court of Appeals decided my case on May 2, 2024 at App. 1a-9. A timely petition for rehearing was denied by the United States Court of Appeals on June 18, 2024, at App. 62a. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUORY PROVISIONS INVOLVED

The statutory provisions are reproduced in the appendix to this petition App. 63a-83a.

STATEMENT OF THE CASE

I. Factual Background

Jennifer Tom has sensitivity to environmental irritants, migraines with aura, and vertigo. Job responsibilities as a Benefit Authorizer (BA) include creating, updating, and maintaining Social Security title two records. In 2013, per Social Security Administration (SSA) policy Tom informed her co-worker, about her perfume triggering Tom disability sensitivity before going to management for help. Despite attempts to resolve the issue, the co-worker increased perfume usage and refused to speak with Tom. Sought help from her first line Rolanda Carter, Carter did not take any action. In December 2013, while Carter was on vacation Tom sought help from her second line, Mireille Hanft, who only provided temporary relief. Despite Tom's requests for help,

Carter did not take any action but assured Tom that she was working on it. On May 5, 2014, chemicals sprayed on her cubicle overwhelmed Tom, leading her to seek medical attention and file a workers' compensation claim.

When Tom returned on May 6, 2024, she found her cubicle still contaminated and asked it be cleaned. She requested to sit in a different cubicle which was allowed, but Tom continued to experience issues with fragrances and chemicals. On May 12, 2014, Tom learned Carter suddenly moved modules and that Tammie Doan would take over as her first line. Tom went directly to Doan asked about her worker's compensation and stopping harassment, but Doan was unaware of the situation. Tom informed Doan about the coworker contaminating her workstation

since 2013. Tom offered to provide medical documentation, but Doan said it would not be necessary.

However, Ms. Doan delayed taking action until she had heard the coworker's side of the story. On May 30, 2014, Doan met with harasser and then with Tom. In a May 30, 2014, harasser demanded Doan provide Tom's medical documentation. It is clear after Doan's meeting with the harasser; Doan's actions protected the harasser from Tom's complaints rather than following official policy that protects the harassed not the harasser. During the meeting with Tom, Doan requested medical documentation before taking further action and prioritized staff rights to wear perfume over Tom's need for a safe working environment. Doan told Tom to keep away from her harasser and to move, despite already sitting in a

different cubicle since her workstation was contaminated on May 5, 2014 and still uncleaned. Doan told Tom that it was her responsibility to protect her health, not SSA's. She also said that if Tom were sick, she would move. Tom had already moved cubicles after her cubical was contaminated on May 5, 2014.Tom expressed concern about moving the assaulted employee away from the harassing employee, but Doan insisted it was the right thing to do.

On June 3, 2014, Doan asked Tom to walk around the module with her to find a replacement temporary cubicle, but Doan denied the cubicles away from perfume and fragrances. Important to note that during the June 3, 2014 meeting was the first time Doan wore perfume to work, and Doan continued to

wear perfume to work from June 3, 2014 on. Tom told Doan, her perfume triggered her disability, but Doan continued wearing it to work.

From May 12-30, 2014, Tom contacted Doan via email and SKYPE, asking for her help due to ongoing contamination in her workspace, causing her harm and required medical attention. Despite Doan being her main contact for assistance until she left, Tom's pleas for assistance were fruitless. All of Tom's efforts to get Doan and CREO to address the ongoing harassment and their failure to provide an effective RA were fruitless which resulted in her wrongful termination in 2018.

From 2013-2018, Tom tried to get SSA to provide her with a healthy and safe working environment, by filing EEOC complaints. There are 10 EEOC complaints, 7 are in abeyance. Tom always worked in

good faith with SSA to find an effective RA enabling her to work full time. However, SSA chose to approve RA liberal leave claiming it was just as effective as full-time telework. Since 2014, SSA continued to claim full-time telework as a possible RA, but SSA needed Tom to try just one more location before they would allow telework. Tom in good faith, tried more than 26 different locations, used gloves, masks, and an air purifier, moving around in the building was not effective because SSA could not control what was used in the public buildings which SSA's own medical Officer told SSA (app.339a, 240a and 314a-319a). Social Security Administration was able to provide Tom with two clean laptops but because SSA required that Tom leave the laptops in SSA's buildings unprotected they eventually became contaminated had SSA allowed Tom to keep the

laptops with her there would have been no need for replacement laptops, the third laptop was contaminated since day one because SSA failed to take the steps to ensure they provided Tom with a new laptop handled by the one computer tech that was fragrance free see app. 156a-159a,171a-172a. Every time Tom asked for an effective reasonable accommodation like telework SSA was never satisfied that there was sufficient proof that SSA buildings could not provide Tom with a healthy and safe working environment and continued to require Tom try more spaces within SSA buildings even though SSA's own medical officer told SSA it would be impractical for Tom to find scent free environment in public areas which would include transportation:

> "Even if Ms. Tom is eventually found to be an individual with a disability per the RA, the requested accommodation of scent free work environment is impractical in most public buildings.

> Furthermore, Ms. Tom is unlikely to avoid similar exposures if she visits public places such as shopping malls, restaurants, grocery stores and numerous others." (app. 339a)

There is no lawful reason SSA refused to provide Tom with telework five days a week Tom's first line testified he would have approved Tom for telework five days a week see app 102a-103a his claim SPIKE was an essential function is not true per Civil Court Discovery Decision ECF 84 where SSA admitted SPIKE was not an essential function of Tom's job see app. 205a-211a. SSA approved full time telework as a reasonable accommodation (RA) to BA's (app. 258a). SSA failed to act in good faith to effectively RA Tom see *Gamez v. Social Security Administration,* 103 LRP 49900, EEOC No. 07A20129 (EEOC 2003).

Tom brought to SSA's attention SSA policy "Reasonable Accommodation Requests Involving Fragrance Sensitivity," listing accommodations such

as eliminating offending odors and chemicals, alerting employee to fragrances, changing desk location, and **allowing the employee to work from home** (app. 314a-319a) (emphasis) because of SSA's own policy for employees with fragrance sensitivity and that SSA approved full time telework as a reasonable accommodation (RA) to BA's (app. 258a) is definitive evidence Tom's request for telework is reasonable on is face against the Ninth Circuits ruling app. 1a-9a.

Due to SSA's failure to provide Tom with effective RA since 2013, her disabilities expanded in 2015 to include sensitivity to environmental irritants, migraines with aura, and vertigo app.253a. These disabilities noted in return-to-duty notice dated September 25, 2017 which noted:

"Since July 21, 2016 due to a variety of medical

> issues including but not limited to: chemical sensitivity, migraines with aura and vertigo. Since July 21, 2016, you have been approved on Leave-Without-Pay (LWOP) based on medical documentation that you have provided and permitted to telework one day a week." (app. 217a-218a and app. 277a-278a)

Proof SSA is aware of Tom's disabilities and that Tom known to be a qualified disabled employee, who is entitled to RA's. Instead, SSA voided Tom's medical documents and revoked the only reasonable accommodation SSA gave Tom the RA of Liberal Leave given in lieu of full time telework RA in an attempt to legitimize AWOL posted to Tom's record. Clearly, SSA fired Tom for taking sick leave due to her disabilities (app. 216a-218a). If SSA had approved full-time telework in 2014, Tom could have worked full-time. Tom's successful performance appraisals and awards in the ten years with SSA proved she is fully capable of performing the

essential functions of her job. SSA admits firing Tom for being out sick due to her disabilities not due to her job performance "Defendant admits that the agency removed Plaintiff for conduct (AWOL) and not her performance." See app. 218a, app. 220a, and app. 258a.

II. The District Court's ruling allowed the Social Security Administration to take back admitted facts and permit misrepresented material facts to stand despite overwhelming evidence that disproved SSA claims and supported Tom's claims.

The District Court's summary judgment decision (SMJ) did not address the fact that Tom proved that 129 out of 138 "undisputed facts" cited by the SSA in their Motion for Summary Judgment were false and contradicted facts admitted to by the SSA in ECF 47

Defendant's Answer to Consolidated Amended Complaint. see app. 212a-313 or that SSA's reply to Tom's Opposition to SMJ did not dispute Tom's evidence proving the falsity of their SMJ facts or claim harassing events did not occur.

The District Court's decision conflicts with SMJ processing case law:

> Therefore, the Court must carefully review all the evidence in the record, cf., e. g., *Matsushita Elec. Industrial Co. v. Zenith Radio Corp.*, 475 U. S. 574, 587, drawing all reasonable inferences in favor of the nonmoving party, but making no credibility determinations or weighing any evidence, e. g., Lytle *v. Household Mfg., Inc.*, 494 U. S. 545, 554-555. Fed. R. Civ. P. 52(a) ("In all actions tried upon the facts without a jury . . ., the court shall find facts specifically and state separately its conclusions of law thereon").

Alpha Distrib. Co. v. Jack Daniel Distillery, 454 F.2d 442, 453 (9th Cir. 1972), that held: Rule 52(a) requires the district court's findings to

> "be explicit enough to give the appellate court a clear understanding of the basis of the trial court's

> decision, and to enable it to determine the ground on which the trial court reached its decision." See also *Norris v. City and County of San Francisco*, 900 F.2d 1326, 1329, 1332 (9th Cir. 1990) (applying the same rule in a discrimination case).
>
> *Reynolds v. Royal Mail Lines, Ltd.*, 254 F.2d 55, 57 (9th Cir. 1958) (holding that in a bench trial, it is the trial judge's responsibility to resolve disputes arising from conflicting testimony); *Fisher v. Roe*, 263 F.3d 906, 912 (9th Cir. 2001) ("Trial courts find facts. We do not."), *abrogated on other grounds*, *Mancuso v. Olivarez*, 292 F.3d 939, 944 n. 1 (9th Cir. 2002).

During the summary judgment process, it is not appropriate to make credibility determinations or weigh any evidence; however, that is precisely what the District Court did in its SMJ decision. The District Court did not acknowledge Tom's contradicting evidence, which consisted of 616 pages of evidence; instead, the District Court claimed that Tom failed to provide evidence. Because there were genuine issues of material facts and conflicting evidence, dismissing claims that required a full

review of the evidence was inappropriate.

The District Court's Findings of Fact and Conclusions of Law mirrored the same facts used in SSA's SMJ, which Tom had disproved. Examples of misrepresented material facts found by the District Court is that Tom did not demonstrate she performed the essential functions of her job (app. 45a) and that Tom did not and could not work on SSA's laptop (app. 46a). Still, SSA admitted that Tom was not fired for her performance see app.218a, 220a, 258a, 288a-289a and 289a. SSA admitted that Tom continued to work earning credit hours and over time until SSA wrongfully terminated her on August 15, 2018

> "Defendant admits that Plaintiff teleworked one day a week. Defendant admits that from July 2016 through the date of her termination, Plaintiff reported to work only on her assigned telework day. Defendant admits that Plaintiff worked credit hours or over time hours, but only on her assigned telework day." (app. 298a)

SSA also admitted that Tom had no disciplinary record before being removed, which means Tom was performing the essential functions of her job while using SSA's laptop see app. 298a.

The fact that SSA admits that Tom was not fired for her performance and, that SSA approved Tom to earn credit hours and work overtime and that Tom had no disciplinary record is proof that Tom was successfully performing her job while using SSA's laptop. This proves that Tom was more than capable of performing her duties while at home, with or without a reasonable accommodation. Tom was teleworking under SSA's Pilot telework program, not SSA's RA of telework.

The District Court failed to give any credit to Tom's successful performance appraisals throughout her 10-year career or to the fact that SSA specifically

noted Tom was a qualified disabled employee with whom SSA was in RA talks. see app. 167a-168a and 172a. Additionally, the fact that Tammie Doan's testimony changed each of the three days (174a-175a) during the trial and was ignored by the District Judge when he found Doan a credible witness over Tom and Tom's evidence. It is difficult to understand how the judge found Doan's testimony credible despite these inconsistencies. The District Court ignored that SSA's medical officer told SSA that "scent free work environment is impractical in most public buildings" (app.339a) and ignored the fact that SSA admitted the EEOC AJ told SSA the RA's SSA provided Tom are ineffective:

> "If Complainant is credible and her symptoms are genuine, then the current accommodations are not working, and the Agency must consider full-time teleworking. To justify not allowing Complainant to telework full-time, the Agency must demonstrate undue hardship. In its MSJ,

> SSA did not address the undue hardship of full-time telework because the Agency contends the other accommodations provided are effective."

The District Court also ignored the fact that SSA admitted during the trial that SSA found Tom is a qualified disabled employee see app. 170a and app. 297a. The District Court failed to recognize that SSA needs to provide qualified disabled employees with effective reasonable accommodations for the employees' particular disability, not just an accommodation see *U.S. Airways, Inc. v. Barnett, U.S.*, 122 S. Ct. 1516, 152 L.Ed.2d 589 (2002)

> "... (3) **offering an accommodation that is reasonable and effective**. Id. at 1114-15." (Emphasis added) and *E.E.O.C. v. Yellow Freight Sys. Inc.*, 253 F.3d 943, 951 (7th Cir. 2001) (en banc) (citation and internal quotation marks omitted); see also *Barnett,*228 F.3d at 1115 (**requiring the selected accommodation to be reasonable and effective**)." (Emphasis added)

The District Court decision failed to note Tom

asserted and provided evidence that the AWOL posted to Tom's record was fake and actually because of sick leave taken by Tom, a known qualified disabled employee, while waiting for SSA to provide an available effective RA is not separate a issue from Tom's disabilities and conflicts with case law *Ralph Villalobos V. TWC Administration, No. 16-55288 (9th Cir. 2017)*

> "Section 12940(a) of FEHA prohibits employers from firing an employee 'because of' disability. *Nadaf-Rahrov v. Neiman Marcus Grp., Inc.*, 166 Cal. App. 4th 952, 962 (2008)." And "'Terminating an employee for conduct that results from a disability is equivalent to terminating an employee based on the disability itself because 'conduct resulting from a disability is considered to be part of the disability, rather than a separate basis for termination.' *Humphrey v. Mem'l Hosps. Ass'n*, 239 F.3d 1128, 1139-40 (9th Cir. 2001)."

and conflicts with *Irina T. v. Robert Wilkie, Secretary, Department of Veterans Affairs*, Appeal No.

finding:

> "In determining whether an individual is qualified for a job, the Commission asks whether that person can perform the essential functions of the job when at work. *Gilberto S. v. Homeland Security*, EEOC Petition No. 0320110053 (Jul. 10, 2014)." And "Under the Rehabilitation Act and the Commission's regulations, an agency is required to make reasonable accommodation to the known physical and mental limitations of a qualified individual with a disability unless the agency can show that accommodation would cause an undue hardship. 29 C.F.R. §§ 1630.2(o), 1630.2(p)." and "Complainant requested a reasonable accommodation - continued LWOP for her disability-related absences from work. To determine an appropriate reasonable accommodation, it is often necessary for an agency to initiate an informal, interactive process with the individual with a disability who needs accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations. 29 C.F.R. § 1630.2(3)." and "Instead, the Agency simply applied its blanket leave policy to charge Complainant AWOL because she exhausted all her available paid leave and her FMLA coverage ran out."

Tom had a right to continued LWOP instead of AWOL being posted to her record because it was SSA who revoked Tom's RA Liberal Leave without justification while at the same time voiding all of Tom's medical documentation while claiming to work with Tom to find her an effective RA see app. 167a-168a, 172a. SSA chose to use a blanket leave policy and forced AWOL on Tom's record claiming Tom's being out sick was a separate issue form Tom's continued request for an effective RA to replace the RA of liberal leave SSA revoked. Tom never stopped asking for more telework days so that the need for additional sick leave would no longer be an issue.

The record shows that Tom performed the essential functions of her job when at work, as evidenced by her successful performance appraisals. There is no indication in the record that, in

anticipation of cutting off Tom's LWOP under its blanket leave policy, that SSA initiated or engaged in any sort of interactive process with Tom to explore means of accommodating her disabilities, even though her management is well aware of her disabilities. (app. 253a, 275a, 296a). Also, in *Complainant v. Department of Housing and Urban Development*, 0720130029, 115 LRP 9436 (EEOC OFO 02/12/15) which found

> "It found that EEOC "precedent clearly has established that a request for telecommuting or a shorter commuting time because of a disability triggers an Agency's responsibility under the Rehabilitation Act. "Further, modifying where work is performed can be a reasonable accommodation if it's not an undue hardship, which the agency failed to show in this case. The EEOC pointed out that the "federal government is charged with the goal of being a 'model employer' of individuals with disabilities, which may require it to consider innovation, fresh approaches, and technology as effective methods of providing reasonable accommodations."

The District Court's decisions did not properly discuss the conflicts of evidence presented by both parties there was no attempt to discuss the legal cases presented by both parties to determine who proved their case based on the evidence the decision made it appear as though Tom made complaints without evidence which the record does not support also failing to hold SSA to what SSA admitted to in Defendant's Answer to Consolidated Amended Complaint. see app. 212a-313a.

III. The Ninth Circuit affirmed the District Court's ruling, stating that Tom failed to provide evidence to support her claims. However, the Ninth Circuit failed to enforce Circuit Rules 30-1.3 and 30-1.4, which made the Social Security Administration responsible for providing Tom's evidence to the Court in the

excerpts of record and improperly handled Tom's Motion to Compel the Social Security Administration to comply with Circuit Rules 30-1.3 and 30-1.4.

The record shows that the Ninth Circuit judges did not rule on a motion to compel Social Security to abide by Cir. Rule 30-1.3 and Cir. Rule 30-1.4 and provide the Ninth Circuit with both parties' excerpts of record Tom filed within two days of SSA's filing the incomplete excerpts of record. Whoever **Tom's motion to compel** SSA to abide by Cir. Rule 30-1.3 and Cir. Rule 30-1.4 **sat untouched for 10 months** and was dismissed by the court clerk **five minutes before posting** the Ninth Circuit's decision (app. 87a) to uphold the District Court's decision **on the grounds Tom failed to provide evidence to support her claims which is not true** Tom cited

evidence located in the District Court's Docket as allowed. SSA was responsible for including all of Tom's (appellant in pro se) evidence in the excerpts of the record SSA submitted to the courts per Cir. Rule 30-1.3 and Cir. Rule 30-1.4 (app. 72a). The Ninth Circuit did not rule on Tom's Motion to Compel SSA to provide the complete excerpts of record, nor did the Court send Tom any decision on her motion to compel as the decision to dismiss was not on any of the decisions mailed to Tom who is pro se and is a paper filer. In Ninth Circuit Dkt. No. 15 (app. 188a-191a), SSA admitted, "Defendant-Appellee excluded only material not relevant to the issues on appeal..." It is clear that SSA intentionally omitted specific evidence cited by Tom in her Informal Opening Brief that should have been included in the excerpts of record. The missing exhibits include trial exhibits and

evidence from later filings is also necessary, especially with regard to the SMJ decision also being appealed. SSA's claim that it could choose what evidence Tom had a right to have included in the excerpts of record is not in accordance with Cir Rule 30-1.3 or 30-1.4 noting memoranda and briefs "They may be relevant if a **party asserts that an issue was waived, forfeited, or not exhausted, to support disputed assertions of procedural history**, or in other similar circumstances." the rule does not give any party the right to decide for the opposing party or the Court what exhibits are or are not relevant to support their opponents claims before the Court (app. 72a-76a). SSA's willful act of withholding Tom's exhibits from the Ninth Circuit amounts to evidence tampering per 18 U.S. Code § 1519

> "prohibits tampering with evidence related to a federal investigation or bankruptcy proceeding. The elements of the crime include: Acting with knowledge. To alter, destroy, mutilate, **conceal,** cover up, falsify, or to make a false entry in any record, document, or tangible object". (emphasis)
>
> For a list of Tom's missing exhibits, see app. 204a.

Some of the missing exhibits are trial exhibits. The Ninth Circuit decision cannot stand because SSA intentionally withheld Tom's exhibits. Tom notified the Ninth Circuit within two days of SSA withholding Tom's exhibits from the excerpts of record, giving the Ninth Circuit time to address the concealing of Tom's exhibits and allowing the decision to stand rewards SSA for willfully concealing Tom's evidence from the courts and causing further insult to injury.

The Ninth Circuit Court rendered its decision solely on the evidence SSA provided in their excerpts

of record, which excluded Tom's (Appellant in pro se) evidence cited in her Informal Opening Brief even though SSA asked for and was granted a 90-day extension for the sole purpose to give SSA time to include Tom's exhibits in the joint excerpts of record per Cir. Rule 30-1.3 and 30-1.4 see app. 186a-187a.

Tom's Informal Opening Brief cites evidence found in the District Court's docket proving claims of disability discrimination, including ineffective accommodations provided by SSA, resulting in an increase in Tom's disabilities from one to three. Citing evidence telework was effective RA, Tom successfully performing her job, AWOL was fake and placed on Tom's record for taking sick leave due to her disabilities not being effectively accommodated, SSA wrongfully terminated Tom, and disparate treatment occurred. Doan worked with Tom's

harasser, not with Tom, and knew or should have known behaviors such as wearing perfume to work, forcing Tom into meetings, and following her onto elevators would trigger her disability, creating a hostile work environment due to Doan's authority over Tom. SSA excluded Tom's evidence from the excerpts of record against Cir. Rule 30-1.3 and Cir. Rule 30-1.4: As Tom is pro se, she did not have to provide excerpts of the record. SSA is responsible for providing both parties complete excerpts of the record when they filed because they are not pro se.

The Ninth Circuit's decision conflicts *with Irina T. v. Robert Wilkie, Secretary, Department of Veterans Affairs*, Appeal No. 0120180568 Agency No. 200I-0614-2016101883 finding on LWOP as an RA

> "The Commission has taken a clear position that, absent proof of undue hardship, reasonable accommodation includes "making modifications to existing leave policies and providing leave when

> needed for a disability even where an employer does not offer leave to other employees. See EEOC's guidance *Employer-Provided Leave and the Americans with Disabilities Act* (May 9, 2016) (footnote 1 indicates that this guidance applies to federal employees). Relevant to this case, the guidance indicates that granting leave as a reasonable accommodation may be required even when the employee has exhausted the leave the employer provides as a benefit, including leave exhausted under the FMLA."

Therefore, Tom had a legal right to request continued LWOP as an RA, while SSA refused full-time telework as an RA. Despite Tom providing medical documentation every three months, SSA failed to engage in an individualized RA discussion of Tom's need for more LWOP RA. SSA failure to meet its obligations to prove continued LWOP was an undue hardship. SSA cannot justify refusing to

1Reasonable accommodation does not require the employer to provide paid leave beyond what it provides as part of its paid leave policy. We note in this case, Petitioner was requesting leave without pay.

approve additional LWOP requests as an RA for Tom's disabilities and cannot justify revoking RA Liberal Leave and posting only AWOL on Tom's record on days Tom is forced to take off sick due to her disabilities not being effectively accommodated.

SSA admits firing Tom due to being out sick because of her disabilities that prevented her from commuting to work, even though she successfully performed her job on SSA pilot telework days (app. 218a, 220a, 258a, 274a, 288a, 298a.). Tom's managers testified Tom was in good standing during her employment app. 101a-102a. The evidence supports that Tom was fired because of her disabilities and not legitimate AWOL (app. 218a, 220a, 258a, 274a, 288a, 298a.) In 2018, Kris Chamrernlaska testified he recommended allowing Tom to telework full-time instead of terminating her

due to the quality of her work. See the Informal Opening brief at the bottom of the app. 102a top page and app. 103a Claims SPIKE is an essential function, but it is a lie per SSA admissions during District Court Discovery Dispute decision; see app. 205a-211a. SSA had no lawful reason to deny Tom telework as a reasonable accommodation.

The Ninth Circuit's decision misapplied *Zivkovic v. Southern California Edison* 302 F.3d 1080, 1089 (9th Cir. 2002) and Barnett, 228 F.3d at 1115 claiming the belief that the case law above found:

> "not obligated to provide an employee the accommodation he requests or prefers"—it need "only provide some reasonable accommodation."

The complete ruling requires reasonable accommodations to be effective:

> "An 'employer is not obligated to provide an

employee the accommodation he requests or prefers, the employer need only provide some reasonable accommodation.' *E.E.O.C. v. Yellow Freight Sys. Inc.*, 253 F.3d 943, 951 (7th Cir. 2001) (en banc) (citation and internal quotation marks omitted); see also *Barnett*, 228 F.3d at 1115 **(requiring the selected accommodation to be reasonable and effective)**." (Emphasis added)

The omission of "requiring the selected accommodation to be reasonable and effective" is a critical element to leave out because it alters an employer's obligation, increasing SSA's obligation beyond just providing any one-size-fits-all accommodation; it requires SSA to provide effective RAs tailored to each employee's individual disability needs. SSA was well aware that the RAs they provided Tom were ineffective (app. 240a, 267a,

314a-319a, 339a-342a).

The Ninth Circuit's decision conflicts with rule 50, and rule 56; the Court must review all of the evidence in the record and with *Reynolds v. Royal Mail Lines, Ltd.*, 254 F.2d 55, 57 (9th Cir. 1958) holding that in a bench trial, it is the trial judge's responsibility to resolve disputes arising from conflicting testimony. And *Fisher v. Roe*, 263 F.3d 906, 912 (9th Cir. 2001) finding "Trial courts find facts. We do not."

The Ninth Circuit overlooked the facts presented by Tom in the Informal Opening Brief, which notes numerous conflicts in evidence and testimony, including the fact Doan's testimony changed all three days see Informal Opening Brief No. 112 app.174a-175a. The air test was not relevant to whether SSA effectivity accommodated Tom; the test was only

testing for human comfort Debby Ellis was aware of the fact the test would not provide answers as to where SSA provided Tom with fragrance and chemical-free environment prior to the test a fact she shared with other staff that it would provide no information relevant to Tom's sensitivity to fragrances and chemicals but SSA has used the test to blind the Court to the truth that SSA knowingly failed to effectively accommodate Tom

> "P.S. I have some concern about the "air quality" survey because I can't get a straight answer as to exactly what the air quality survey tests for. According to the FOH website, it seems more geared to carbon dioxide (dangerous stuff) and not to the "chemical odors" Ms. Tom is complaining about. I guess there is still value in determining that the air quality is of acceptable level from a health & safety perspective just to have that info" (app. 335a)

The air quality test is only for human comfort

> "At the time of the assessment, temperature/relative humidity and carbon dioxide levels were within the comfort parameters established by ASHRAE" and "ASHRAE indicates

> that carbon dioxide concentrations of 1,000ppm can be used as a reference for human comfort levels in indoor spaces. **This is a standard relating to human comfort and not health.**" (app.331a-332a) (emphasis added)

Tom meticulously reviewed the District Court record to gather evidence supporting her claims and demonstrate discrepancies between testimony and evidence provided by SSA, proving that the physical evidence does not support SSA's version of events. The fact that SSA is a Federal Agency should not automatically grant SSA blind credibility on their word over the evidence Tom provided to prove her claims and disprove SSA's claims.

REASONS FOR GRANTING THE PETITION

I. The Court Should Grant Certiorari to address the erosion of the protections under the Americans with Disabilities Act and Rehabilitation Act of 1973 (Rehab Act) by the

U.S. Court of Appeals for the Ninth Circuit decision in Tom v. Social Security Administration.

This Court should grant a review in this case to restore the protections of the Americans with Disabilities Act and Rehabilitation Act of 1973 (Rehab Act) that ensures that a qualified disabled employee will be given an effective reasonable accommodation for their specific disability needs and not just a blanket one size fits all accommodation and to ensure qualified disabled employees are not fired because of their disability under false charges of AWOL and that an employer must show undue hardship to support the refusal of an accommodation requested by a qualified disabled employee when other accommodations prove ineffective. In Tom v Social Security Administration, the Ninth Circuit

Court's ruling not only reduced protections of the Americans with Disabilities Act and Rehabilitation Act of 1973 (Rehab Act) by changing employers' requirements to provide a qualified employed with an effective reasonable accommodation, removal of an employer's responsibility to prove undue hardship when refusing to provide a qualified disabled employee an accommodation the employer provides to other qualified disabled employees, allow an employer to post false charges of AWOL to blacken a qualified disabled employees unjustly record to fire an otherwise pristine employment record of a qualified disabled employees for the sole purpose of firing them instead of providing the qualified disabled employee with the requested reasonable accommodation. This Court cannot allow case law to stand that removes the right of a qualified disabled

employee to receive an effective reasonable accommodation that enables them to return to work full time. This Court cannot allow case law that enables an employer to force an employee to exhaust their leave while pretending to work with the employee to find a reasonable accommodation other than the accommodation the employee is asking for and fire the qualified disabled employee because of the leave the employer forced them to take because their disability was not being effectively accommodated under false AWOL charges.

II. The Court of Appeals are divided on the Questions Presented.

The Ninth Circuit decision to uphold the District Court decision in Tom v Social Security Administration allowing SSA to fire Tom for the forced sick leave Tom took while she tried working

with SSA from 2014-2018 in the interactive process for an effective RA when SSA chose to void Tom's medical documentation and revoked the RA leave without pay (LWOP) and refused to approve telework RA or more LWOP SSA chose to post AWOL knowing SSA failed to provide a Tom with an RA that would enable her to return to work full time.

The Ninth Circuit Case law created in Tom v. Social Security Administration contradicts the standing case law in *Ralph Villalobos V. TWC Administration, No. 16-55288 (9th Cir. 2017)*

> "Section 12940(a) of FEHA prohibits employers from firing an employee 'because of' disability. *Nadaf-Rahrov v. Neiman Marcus Grp., Inc.*, 166 Cal. App. 4th 952, 962 (2008)." And "'Terminating an employee for conduct that results from a disability is equivalent to terminating an employee based on the disability itself because 'conduct resulting from a disability is considered to be part of the disability, rather than a separate basis for termination.' *Humphrey v. Mem'l Hosps. Ass'n*, 239 F.3d 1128, 1139-40 (9th Cir. 2001)."

And conflicts with the full finding in *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1089 (9th Cir. 2002) findings:

> "The ADA prohibits discrimination against a "qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or **discharge of employees**, employee compensation, job training, and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a)" and "An employer discriminates against a qualified individual with a disability by "not making reasonable accommodations to the **known physical or mental limitations** of an otherwise qualified individual with a disability who is an applicant or employee, unless [the employer] can demonstrate that the accommodation would impose an undue hardship on the operation of the business of [the employer]." 42 U.S.C. § 12112(b)(5)(A) (emphasis added)."
>
> "In *Barnett v. U.S. Air, Inc.*, 228 F.3d 1105, 1112 (9th Cir. 2000) (en banc), vacated on other grounds, *U.S. Airways, Inc. v. Barnett, U.S.*, 122 S.Ct. 1516, 152 L.Ed.2d 589 (2002), we held that once an employee requests an accommodation or an employer recognizes the employee needs an accommodation" and" the employer must engage in an interactive process with the employee to determine the appropriate reasonable accommodation." "The interactive process requires:

(1) direct communication between the employer and employee to explore in good faith the possible accommodations; (2) consideration of the employee's request; and (3) **offering an accommodation that is reasonable and effective**. Id. At 1114-15. "Liability for failure to provide reasonable accommodations ensues only where the employer bears responsibility for the breakdown" in the interactive process. *Beck v. Univ. of Wis. Bd. Of Regents*, 75 F.3d 1130, 1137 (7th Cir. 1996). An "employer is not obligated to provide an employee the accommodation he requests or prefers, the employer need only provide some reasonable accommodation." *E.E.O.C. v. Yellow Freight Sys. Inc.*, 253 F.3d 943, 951 (7th Cir. 2001) (en banc) (citation and internal quotation marks omitted); see also *Barnett*, 228 F.3d at 1115 (**requiring the selected accommodation to be reasonable and effective**)." (Emphasis added)

And conflicts with conflicts with *Alpha Distrib. Co. v. Jack Daniel Distillery*, 454 F.2d 442, 453 (9th Cir. 1972), that held:

Rule 52(a) requires the district court's findings to "be explicit enough to give the appellate court a clear understanding of the basis of the trial court's decision, and to enable it to determine the ground on which the trial court reached its decision." See also *Norris v. City and County of San Francisco*,

900 F.2d 1326, 1329, 1332 (9th Cir. 1990) (applying the same rule in a discrimination case).

And conflicts with *Reynolds v. Royal Mail Lines, Ltd.*, 254 F.2d 55, 57 (9th Cir. 1958) (holding that in a bench trial, it is the trial judge's responsibility to resolve disputes arising from conflicting testimony); *Fisher v. Roe,* 263 F.3d 906, 912 (9th Cir. 2001) ("Trial courts find facts. We do not."), *abrogated on other grounds, Mancuso v. Olivarez,* 292 F.3d 939, 944 n. 1 (9th Cir. 2002). The district court ruled without resolving the conflicting testimony between SSA and Tom, yet it is the obligation of the trier of fact to do just that.

III. The Questions Presented Are Exceptionally Important.

This Court cannot allow any court to give up the Court's authority to one party in a court case to decide what evidence their opponent can use to support their claims and determine what evidence can be used to disprove their opponent's defense. Nor can the courts allow one party of a court case to alter the requirements in Civil Court Rules or any court

rules they don't wish to follow to the letter of the law. By allowing Tom v. Social Security Administration to stand, the courts will open the floodgates to unethical behavior. And make it appear the courts are allowing parties to govern themselves under a broken honor system where the courts are unwilling to force the law or hold those who violate the law accountable for their actions, thus eroding the confidence and faith the people have in the justice system. The Courts must enforce Circuit Rules to restore the rule of law and secure equality and equal protection for all under the law

This Court cannot allow the demolishing of the Americans with Disabilities Act and the Rehabilitation Act of 1973 (Rehab Act) by allowing Tom v. Social Security Administration to stand taking away qualified disabled employees right to an

effective reasonable accommodation and give absolute authority to employers to say what accommodation an employee can have removing the employer's responsibility to engage in an individualized RA discussion of each employee and not just provide a blanket one size fits all approach to accommodating qualified disabled employees. By allowing this decision to stand, the Court is gutting the Americans with Disabilities Act and the Rehabilitation Act of 1973 (Rehab Act), leaving it an empty shell with full authority to employers and none to qualified disabled employees.

This Court should grant review in this case to guide on how to properly apply the protections of American with Disabilities Act and the Rehabilitation Act of 1973 (Rehab Act) that enable qualified disabled employees to receive effective

reasonable accommodations that are individualized to that employees' disabilities needs since no two people are alike and no two people disabilities can be resolved every time by the same reasonable accommodation. This Court need also make sure that all courts enforce the laws equally and that no party in a court case can pick and choose for their opponent what evidence the Court can review and ensure that the courts retain authority to decide what evidence they will use to render judgment.

The Ninth Circuit's first mistake was not acting on Tom's Motion to Compel SSA to provide both parties' full evidence. Allowing the Motion to Compel for 10 months failing to mention Tom's Motion to Compel in the Ninth Circuit's decision to affirm the District Court decision on the grounds Tom failed to provide evidence to support her claims on the same day the

Ninth Circuit Court Clerk dismissed Tom's Motion to Compel **five minutes before** posting the decision to affirm. (Emphasis)

This mistake, in turn, led the Court to affirm the district court's conclusion that Tom failed to provide evidence to prove her claims and disprove SSA's defense. This reasoning is unfounded and rests on a misunderstanding of whose responsibility it was to provide Tom's evidence to the Ninth Circuit and the belief that the District Court followed proper Summary Judgment processing procedures and drew all reasonable inferences in favor of the nonmoving party and made no credibility determinations or weighing any evidence and that the District Court Judge looked at both parties evidence to determine whose claims were supported by the physical evidence. However, a review of the record and the

decisions issued by the District Court will show that the District Court claimed that Tom provided no evidence and the decisions issued are carbon copies of the Social Security Administration's filings despite the fact Tom provided that the facts the District Court used to rule in Social Security Administrations favor contradicting facts SSA admitted to in their Defendant's Answer to Consolidated Amended Complaint app. 212a-313a. In Tom's Informal Opening Brief to the Ninth Circuit Court, she again shows that the facts relied on by the District Court are misrepresented material facts; see My Informal Opening Brief app. 91a-181a.

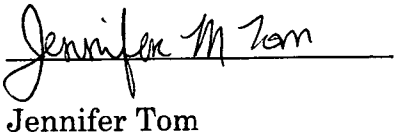
Because the lower courts are not properly reviewing all the evidence provided before issuing their decisions and have allowed the Social Security Administration to withhold Tom's evidence and tell

the courts what evidence Tom can use to support her claims, this Court's review is warranted to restore the courts' sole authority to decide what evidence is and is not evidence that the courts will use.

CONCLUSION

Petitioner in pro se Jennifer Tom respectfully requests that a writ of certiorari be granted.

Respectfully submitted,



Jennifer Tom
Petitioner in pro se

September 9, 2024

APPENDIX A