24-5724

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

VICTOR GUYTON II – PETITIONER

vs

GOLDEN DONUTS LLC – RESPONDENT et al

TO

GEORGIA SUPREME COURT

PETITION FOR WRIT OF

CERTIORARI VICTOR GUYTON II

15001 NW 12 AVE

MIAMI, FL 33168

305-321-9692

VWG II

QUESTION(S) PRESENTED

The Civil Rights Act provides civil rights and labor law in the United States that outlaw discrimination based on race, color. The Civil Rights Act of 1957 signed by President Dwight D. Eisenhower on September 9, 1957. The Civil Rights Act of 1964 bill included provisions to ban discrimination in public accommodations and enable the U.S. Attorney General to join lawsuits against state governments. 78 Stat. 241; United States Statutes at Large, Volume 78, 88th Congress, 2nd Session; An Act to enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes.; Public Law 88-352. The Civil Rights Act of 1991 is a United States labor law, passed to modify the Civil Rights Act of 1964 the basic procedural and substantive rights provided by federal law in employment discrimination cases. It provided the right to trial by jury on discrimination claims and introduced the possibility of emotional distress damages and limited the amount that a jury could award. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, which took effect in 1868, provides nor shall a State...deny to any person within its jurisdiction the equal protection of the laws validate the equality provisions contained in the Civil Rights Act of 1866. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor deny to any person within its jurisdiction the equal protection of the laws.

Does it give a state the right to violate its constitution to violate the U.S. constitution in efforts to waive sovereign immunity? How can third party claimant Petitioner close the claim he has with Respondent's insurer policy pay period for accident without violating any laws? How can one get justice for being rear ended at approximately 55MPH?

LIST OF PARTIES

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

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

Selective Insurance Company of America

Selective Insurance Company of South Carolina

John F. King in his capacity as the Georgia Commissioner of Insurance

RELATED CASES

Chisholm v. Georgia, 2 U.S. 419 (1793)

The Cherokee Nation v. The State of Georgia, 30 U.S. 1 (1831)

Coppedge v. United States 369 U.S. 438 (1962)

Jackson v. Georgia Dept. of Transp, 16 F.3d 1573 (11th Cir. 1994)

Olmstead v. L.C., 527 U.S. 581 (1999)

United States v. Georgia, 546 U.S. 151 (2006)

In re Sele. Ins. v. N. Y. State Workers' Compen., 2010 N.Y. Slip Op. 33374 (N.Y. Sup. Ct. 2010)

Selective Insurance Company of America v. Swarey, 07-CV-6324 (W.D.N.Y. Jan. 24, 2011)

Selective Ins. Co. of Am. v. Hudson E. Pain Mgmt. Osteopathic Med., 210 N.J. 597, 46 A.3d 1272 (N.J. 2012)

Selective Ins. Co. of America v. Rothman, 208 N.J. 580, 34 A.3d 769 (N.J. 2012)

Selective Ins. Co. of SC v. Bureau of Workers' Comp. Fee Review Hearing Office, No. 1433 C.D. 2013 (Pa. Cmmw. Ct. Feb. 27, 2014)

Selective Ins. Co. of Am. v. Boy Scouts of Am., CIVIL ACTION NO. 15-0299 (E.D. Pa. Apr. 2, 2018)

Selective Ins. Co. of Am. v. Wach, Civil Action No. 4:18-cv-00468-RBH (D.S.C. Jun. 4, 2019)

Selective Ins. Co. of Am. v. Cmty Living Options Inc., Case No. 19-cv-0082 (WMW/BRT) (D. Minn. Aug. 26, 2019)

Selective Insurance Company of South Carolina v. Sela, No. 20-2029 (8th Cir. 2021)

Selective Ins. Co. of Am v. Westfield Ins. Co., 73 F.4th 239 (4th Cir. 2023)

Fuisz v. Selective Ins. Co. of America, 61 F. 3d 238 (4th Cir. 1995)

Deakyne v. Selective Ins. of America, 728 A.2d 569 (Del. Super. Ct. 1997)

Williams v. United Community Bank, 313 Ga. App. 706, 708 (722 Se2d 440) (2012)

JD v. Selective Ins. Grp., Inc., 38 Misc. 3d 1234, 2013 N.Y. Slip Op. 50385, 969 N.Y.S 2d 803 (N.Y. App. Div. 2014)

Otterbacher v. Snyder, 2015-UP-332 (S.C. Ct. Oct. 1, 2015)

Zurich Am. Ins. Co. v. Bureau of Workers' Comp. Fee Review Hearing Office, No. 72 C.D. 2015 (Pa. Cmmw Ct. Oct. 1, 2015)

Bratton v. Selective Ins. Co. of Am., 290 Va. 314, 776 S.E.2d 775 (Va. 2015)

Marks v. Scootsdale Ins. Co., 791 F.3d 448 (4th Cir. 2015)

TJR Constr. Co. v. Selective Ins. Co. of Am., Docket No. A-1281-14T1 (App. Div. Jan. 14, 2016)

JD&K Associates, LLC v. Selective Insurance Group, Inc., 38 N.Y.S.3d 658, 143 A.d.3d 1232, 2016 N.Y. Ship Op. 6563 (N.Y. App. Div. 2016)

Cholankeril v. Selective Ins. Co. of Am, Civil Action No. 15-3269 (W.D.N.Y. Jun. 28, 2017)

Sidell v. Selective Ins. Co. of Am., 14-CV-0558A(Sr)(W.D.N.Y. Jun. 28, 2017)

Golon, Inc. v. Selective Ins. Co. of Se., 17cv0819 (W.D. Pa. Jul. 20, 2017)

Quality Stone Veneer, Inc. v. Selective Ins. Co. of Am., 229 F. Supp. 3d 351 (E.D. Pa. 2017)

T-Mobile USA Inc v. Selective Insurance Company of America, 908 F.3d 581 (9th Cir. 2018)

Yonkers Lodging Partners, LLC v. Selective Ins. Co. of Am., 158 A.D.3d 732, 2018 N.Y. Slip Op. 1090, 72 N.Y.S. 3d 104 (N.Y. App. Div. 2018)

Nautilus Ins. Co. v. 200 Christian St. Partners, LLC, 363 F. Supp. 3d 559 (E.D. Pa. 2019)

United Hebrew Congregation of St. Louis v. Selective Ins. Co. of Am., No. 21-2752 (8th Cir. Apr. 5, 2022)

Griffin v. Stewart, 362 Ga. App. 669 (870 SE2d 3) (2022)

Bay Club Members, LLC v. Selective Ins. Co. of Am., 654 F. Supp. 3d 1 (4th Cir.) (2023)

Westfield Insurance Company v. Selective Insurance Company, 19-1498, (45h Cir.) (2023)

Arch Ins. Co. For Itself v. Selective Ins. Co. of Am., 2024 N.Y. Slip Op. 32392 (N.Y. Sup. Ct. 2024)

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OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

For cases from state court: Superior Court of Fulton County, The Court of Appeals and Georgia Supreme Court. The opinion of the highest state court to review the merits appears at Appendix A, B, C, D, F, to the petition and is unpublished.

JURISDICTION

That date on which the highest state court decided may case September 17, 2024.

A copy of that decision appears at Appendix C. The jurisdiction of this Court is invoked under 28 U.S.C. 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISION INVOLVED

Article IV Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof. Article IV Section 2 Clause

1. State Citizenship: Privileges and Immunities The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

Article III Section 2 Clause 1 Cases and Controversies; Grants of Jurisdiction The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority;—to all Cases affecting Ambassadors, other public Ministers and Consuls;—to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party;—to Controversies between two or more States; between a State and Citizens of another State; between Citizens of different States,—between Citizens of the same State claiming Land under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Article III Section 2 Clause 2. Original and Appellate Jurisdiction In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be a Party, the Supreme Court shall have original Jurisdiction. In all other Cases before mentioned, the Supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Article III Section 2 Clause 18 Necessary and Proper Clause The Congress shall have Power * * * To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof Article III Section 2 Clause 7 Appropriation and Accounting of Public Money No Money shall be drawn from the Treasury but in Consequence of

Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Article III Section 10 Clause 1 Treaties, Going Money, Impairing Contracts, Etc No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility. First Amendment Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

A law can discriminate on the basis of viewpoint even if it is viewpoint-neutral on its face. In assessing whether a facially neutral law nevertheless discriminates on the basis of viewpoint, the Supreme Court has asked whether the law, in its "design" or "operation," favors or disfavors a particular point of view. With regard to discriminatory design, the Court appears to distinguish between a law intended to or crafted to suppress a particular viewpoint and a law advanced or supported by a group with a particular viewpoint. According to the Court, "facially neutral and valid justifications" cannot save a law "that is in fact based on the desire to suppress a particular point of view." A law is not viewpoint-based, however, "simply because its enactment was motivated by the conduct of the partisans on one side of a debate." Further, while the Supreme Court has examined the general purposes of a statute to assess viewpoint neutrality in some cases, the Court has declined to examine the motivations of particular legislators or regulators

in other cases.

Although the Court has recognized valid governmental interests in extending protection to privacy, it has nevertheless interposed substantial free expression interests in the balance. The Court's constitutional jurisprudence in this area has drawn heavily from its rulings in New York Times v. Sullivan and other defamation cases discussed in an earlier essay. Thus, in Time, Inc. v. Hill, the Times standard requiring proof of actual malice precluded recovery under a state privacy statute that permitted recovery for harm caused by exposure to public attention in any publication which contained factual inaccuracies, although not necessarily defamatory inaccuracies, in communications on matters of public interest. Given that this actual malice standard did not limit the recovery of compensatory damages for defamation by private persons, the question arose whether Hill applied to all "false- light" cases or only such cases involving public officials or public figures. More specifically, one defamation case left unresolved the issue "whether the State may ever define and protect an area of privacy free from unwanted publicity in the press." In Cox Broadcasting Corp. v. Cohn, the Court declined to pass on the broad question, holding instead that the accurate publication of information obtained from public records is absolutely privileged. Thus, the state could not permit a civil recovery for invasion of privacy occasioned by the reporting of the name of a rape victim obtained from court records and from a proceeding in open court.

387.1 Purpose and Scope This subpart prescribes the minimum levels of financial responsibility required to be maintained by motor carriers of property operating motor vehicles in interstate, foreign, or intrastate commerce. The purpose of these regulations is to create additional incentives to motor carriers to maintain

and operate their vehicles in a safe manner and to assure that motor carriers maintain an appropriate level of financial responsibility for motor vehicles operated on public highways.

The Due Process Clause requires that the decision to deprive a person of a protected interest be entrusted to an impartial decision maker. This rule applies to both criminal and civil cases.1 The Supreme Court has explained that the "neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law" and "preserves both the appearance and reality of fairness . . . by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him"

In SEC v. Jarkesy, the Supreme Court provided additional guidance on how to determine whether an action constitutes a Suit[] at common law for Seventh Amendment purposes. In Jarkesy, the Court held that George Jarkesy, Jr., a defendant in a Securities and Exchange Committee (SEC) fraud action for civil penalties, had a right to a jury trial under the Seventh Amendment. The Court identified two pertinent factors for whether an action was covered by the Seventh Amendment: (1) whether the action was akin to a common law cause of action and (2) whether the remedy was the type that could only be obtained in a court of law. Because the civil penalties in Jarkesy were designed "to punish and deter, not to compensate," they were, according to the Court, the "type of remedy at common law that could only be enforced in courts of law." Turning to the nature of federal securities fraud actions, the Court reasoned that because securities fraud actions, like common law fraud actions, address "misrepresenting or concealing material

facts" and because Congress and the SEC had adopted common law fraud concepts into federal securities fraud law, the securities fraud actions were "legal in nature." As such, the case constituted a "Suit[] at common law" for Seventh Amendment purposes, entitling Jarkesy to a jury trial.

In contrast, the Court has upheld the lack of a jury provision in certain actions on the ground that the suit in question was not a suit at common law within the meaning of the Amendment, or that the issues raised were not particularly legal in nature. When there is no direct historical antecedent dating to the Amendment's adoption, the court may also consider whether existing precedent and the sound administration of justice favor resolution by judges or juries.

In Lyon v. Mutual Benefit Ass'n, the Court sustained a district court in rejecting the defendant's motion for dismissal and in peremptorily directing a verdict for the plaintiff. The Supreme Court held that there was ample evidence to support the verdict and that the trial court, in following Arkansas's procedure in the diversity action, acted consistently with the Federal Conformity Act. Courts may provide relief from government wrongs under the doctrine that sovereign immunity does not prevent suits to restrain individual government officials. The doctrine is built upon a double fiction: that for purposes of the sovereign's immunity, a suit against an official is not a suit against the government, but for the purpose of finding state action to which the Constitution applies, the official's conduct is that of the state. The doctrine is often associated with the decision in Ex parte Young.

Young arose when a state legislature passed a law reducing railroad rates and providing severe penalties for any railroad that failed to comply with the law. Plaintiffs brought a federal action to enjoin Young, the state attorney general, from

enforcing the law, alleging that it was unconstitutional and that they would suffer irreparable harm if he were not prevented from acting. An injunction was granted forbidding Young from acting on the law, an injunction he violated by bringing an action in state court against noncomplying railroads; for this action he was adjudged in contempt. Thus, as with the cases dealing with suits facially against the states themselves, the Court's greater attention to state immunity in the context of suits against state officials has resulted in a mixed picture, of some new restrictions, of the lessening of others. But a number of Justices have increasingly turned to the Eleventh Amendment as a means to reduce federal-state judicial conflict.

Amendment of the Constitution during the post-Civil War Reconstruction period resulted in a fundamental shift in the relationship between the Federal Government and the states. The Civil War had been fought over issues of states' rights, particularly the right to control the institution of slavery. In the wake of the war, the Congress submitted, and the states ratified the Thirteenth Amendment (making slavery illegal), the Fourteenth Amendment (defining and granting broad rights of national citizenship), and the Fifteenth Amendment (forbidding racial discrimination in elections). The Fourteenth Amendment was the most controversial and far-reaching of these three "Reconstruction Amendments." The Fourteenth Amendment, by its terms, limits discrimination only by governmental entities, not by private parties. As the Court has noted, "the action inhibited by the first section of the Fourteenth Amendment is only such action as may fairly be said to be that of the States. That Amendment erects no shield against merely private conduct, however discriminatory or wrongful." Although state action requirements also apply to other provisions of the Constitution and to federal governmental

actions, the doctrine is most often associated with the application of the Equal Protection Clause to the states.

Certainly, an act passed by a state legislature that directs a discriminatory result is state action and would violate the first section of the Fourteenth Amendment. In addition, acts by other branches of government "by whatever instruments or in whatever modes that action may be taken" can result in a finding of "state action." But the difficulty for the Court has been when the conduct complained of is not so clearly the action of a state. For instance, is it state action when a minor state official's act was not authorized or perhaps was even forbidden by state law? What if a private party engages in discrimination while in a special relationship with governmental authority? "The vital requirement is State responsibility," Justice Felix Frankfurter once wrote, "that somewhere, somehow, to some extent, there be an infusion of conduct by officials, panoplied with State power, into any scheme" to deny protected rights.

The state action doctrine is not just a textual interpretation of the Fourteenth Amendment, but may also serve the purposes of federalism. Thus, following the Civil War, when the Court sought to reassert states' rights, it imposed a rather rigid state action standard, limiting the circumstances under which discrimination suits could be pursued. During the civil rights movement of the 1950s and 1960s, however, when almost all state action contentions were raised in a racial context, the Court generally found the presence of state action. As it grew more sympathetic to federalism concerns in the late 1970s and 1980s, the Court began to reassert a strengthened state action doctrine, primarily but hardly exclusively in nonracial cases. "Careful adherence to the 'state action' requirement preserves an area of

individual freedom by limiting the reach of federal law and federal judicial power. It also avoids imposing on the State, its agencies or officials, responsibility for conduct for which they cannot fairly be blamed. A major consequence is to require the courts to respect the limits of their own power as directed against state governments and private interests. Whether this is good or bad policy, it is a fundamental fact of our political order."

It has long been established that the actions of state officers and agents are attributable to the state. Thus, application of a federal statute imposing a criminal penalty on a state judge who excluded black citizens from jury duty was upheld as within congressional power under the Fourteenth Amendment; the judge's action constituted state action even though state law did not authorize him to select the jury in a racially discriminatory manner. The fact that the "state action" category is not limited to situations in which state law affirmatively authorizes discriminatory action was made clearer in Yick Wo v. Hopkins, in which the Court found unconstitutional state action in the discriminatory administration of an ordinance that was fair and non-discriminatory on its face. Not even the fact that the actions of the state agents are illegal under state law makes the action unattributable to the state for purposes of the Fourteenth Amendment. "Misuse of power, possessed by virtue of state law and made possible only because the wrongdoer is clothed with the authority of state law, is action taken 'under color of' state law." When the denial of equal protection is not commanded by law or by administrative regulation but is nonetheless accomplished through police enforcement of "custom" or through hortatory admonitions by public officials to private parties to act in a discriminatory manner, the action is state action. In addition, when a state clothes a private party with official authority, that private

party may not engage in conduct forbidden the state.

In other instances in which the discrimination is being practiced by private parties, the question essentially is whether there has been sufficient state involvement to bring the Fourteenth Amendment into play. There is no clear formula. "Only by sifting facts and weighing circumstances can the nonobvious involvement of the State in private conduct be attributed its true significance." State action has been found in a number of circumstances. The "White Primary" was outlawed by the Court not because the party's discrimination was commanded by statute but because the party operated under the authority of the state and the state prescribed a general election ballot made up of party nominees chosen in the primaries. The "degree of state participation and involvement in discriminatory action," therefore, was sufficient to condemn it. The question arose, then, what degree of state participation was "significant"? Would licensing of a business clothe the actions of that business with sufficient state involvement? Would regulation? Or provision of police and fire protection? Would enforcement of state trespass laws be invalid if it effectuated discrimination? The "sit-in" cases of the early 1960s presented all these questions and more but did not resolve them.

It may be that the substantive rule that is being enforced is the dispositive issue, rather than the mere existence of state action. Thus, in Evans v. Abney, a state court, asked to enforce a discriminatory stipulation in a will that property devised to a city for use as a public park could be used only by "white people," ruled that the city could not operate the park in a segregated fashion. Instead of striking the segregation requirement from the will, however, the court instead ordered return of the property to the decedent's heirs, inasmuch as the trust had failed. The

Supreme Court held the decision permissible, inasmuch as the state court had merely carried out the testator's intent with no racial motivation itself, and distinguished Shelley on the basis that African Americans were not discriminated against by the reversion, because everyone was deprived of use of the park.

STATEMENT OF THE CASE

The case involves the proper interpretation of the minimum under the Federal Motor Carrier Safety Regulations part 387-Minimum Levels of Financial Responsibility for Motor Carriers. Petitioner after over 12 hours of labor was traveling home to complete a duty change in accordance to FMCSA, when Golden Donuts LLC insured driver rear ended and was cited by Fulton county police department for following too close on March 6, 2021. Golden Donuts LLC insurer Selective Insurance processed claim during policy period. During such made final offer to settle claim for $147,000. Petitioner filed a lawsuit against Selective Insurance policy holder a complaint for damages with a prayer of relief for punitive damages. Golden Donuts LLC is authorized to do business in Georgia, and Selective Insurance is authorized to do business in Georgia both subject to fair business and implementing insurance laws. The insured driver pled nolo contendre for the citation he received. Golden Donuts LLC insisting his insurance company would handle the policy claim. The policy was a $1 million for bodily injury and $4 million aggregate limit. Petitioner perfected service of process upon Commissioner of Insurance John King. Petitioner files suite alleging violations of establishing the minimum standards against policy holder. During discovery policy holder Dunkin Donuts registered agent argued they were not the proper entity to lawsuit. Petitioner filed a motion to add party, after discovery of police report Golden Donuts

LLC as the owner of the vehicle. After a motion hearing the trial court grant motion to dismiss Dunkin Donuts as MOOT after impartially denying in part and granting in part Petitioner's motion to add party. The trial court gives an order to service of process Golden Donuts LLC. Petitioner was not in the state of Georgia and could not get a ride to the Sheriff's office when the order was issued. While out-of-state making arrangements to comply with order the counsel to Golden Donuts LLC filed a motion to dismiss. Petitioner immediately returned to the state of Georgia to service of process Golden Donuts LLC. The first attempt was a NON-EST because petitioner misspelled the address to registered agent. Petitioner had to have a church member write the correct address to perfect service. After which Golden Donuts LLC was service of process and his counsel filed an answer. It was during this time service of process was made upon the Commissioner of Insurance John King. Petitioner was beginning to introduce the nonparty Selective Insurance for apportionment of fault for the damages Petitioner sustained the trial court dismissed with prejudice. Petitioner was homeless in Georgia because his landlord had not received payments since March 6, 2021. The Fulton county clerk misspelled Petitioner's mailing address in he never received the cost bill while being in a 30 day homeless shelter in Georgia. Petitioner was able to go the clerk and obtain the cost bill he would have not received because the address was misspelled. Filed a pauper's affidavit after showing the presiding judge of bank account in the negative. Petitioner filed to the Court of Appeals who reverse the trial court dismissal with prejudice to without prejudice and remanded the trial court without addressing the tolling of statute of limitations. Petition filed a writ of certiorari to the Georgia Supreme Court and without explanation all denied.

REASONS FOR GRANTING THE PETITION

This Court's intervention is necessary to resolve the complaint for damages sustained in a motor vehicle accident regarding the minimum standards circumstances Petitioner complaint alleges and for punitive damages, a procedural defect in the integrity of federal regulations Title 49 Federal Motor Carrier Safety Regulations which at the time applied equally to all parties and can reopen the judgment in that action on equitable grounds under Fed. R. Civ. P. 60(b). In Fuisz v. Selective Ins. Co. of America, 61 F.3d 238 (4th Cir. 1995) If a suit is brought against an insured for damages because of bodily injury, personal injury, or property damage caused by an occurrence to which this policy applies, we [Selective] will provide a defense at our expense by counsel of our choice. The policies define "occurrence" as "[a]n offense, including a series of related offenses, committed during the policy period, which results in personal injury."(Emphasis added.) The policies define "personal injury" to include "injury arising out of . . . [l]ibel, slander or defamation of character "The policies also contain numerous exclusions from coverage, including two material to this case. The first states that Selective will not provide coverage for "any act committed by or at the direction of an insured with intent to cause . . . personal injury" The other relevant exclusion provides :We [Selective] do not cover bodily injury, personal injury or property damage arising out of or in connection with a business engaged in by an insured. This exclusion applies but is not limited to an act or omission, regardless of its nature or circumstance, involving a service or duty rendered, promised, owed, or implied to be provided because of the nature of the business. This is pretty much what has happened again, in T-Mobile USA Inc. v. Selective Insurance Company of America, 908 F.3d 581 (9th Cir. 2018) the question was certified to the Washington Supreme Court Under Washington law, is an insurer bound by representations made by its authorized agent in a certificate of insurance with respect to a party's status as an

additional insured under a policy issued by the insurer, when the certificate includes language disclaiming its authority and ability to expand coverage? The Washington Supreme Court responded: "Under this state's law, the answer is yes: an insurance company is bound by the representation of its agent in those circumstances. Otherwise, an insurance company's representations would be meaningless and it could mislead without consequence." T-Mobile USA Inc. v. Selective Ins. Co. of Am.450 P.3d 150, 152 (Wash. 2019). Another reason to grant petition is because like in the Otterbacher v. Snyder, 2015- UP-332 (S.C. Ct. App. Jul. 1, 2015) Petitioner allegedly has to establish liability against the policyholder Golden Donuts LLC and Respondent has an entirely different insurance company providing insurance for him. When there is a "case of actual controversy within its jurisdiction," a federal court has the authority to "declare the rights and other legal relations of any interested party seeking such declaration."28 U.S.C. 2201(a). Respondents insurer argued in its principal headquarters state of New Jersey are bound to the terms of the policies under which they are seeking payment. Similarly Respondents insurer contends that the decision of the trial court should be reviewed to determine whether it abused its discretion when it ordered defendants to supply the requested discovery 210 N.J.597 (N.J. 2012). Selective's policies and set forth the relevant language. PART E—DUTIES AFTER AN ACCIDENT OR LOSS, We have no duty to provide coverage under this policy unless there has been full compliance with the following duties: B. A person seeking any coverage must: 1. Cooperate with us in the investigation, settlement or defense of any claim or suit. In an effort to protect the public from insurance fraud, New Jersey has adopted both statutory and regulatory structures. The Legislature passed the Insurance Fraud Prevention Act, N.J.S.A. 17:33A–1 to –30, which created the Office of the Insurance Fraud Prosecutor, N.J.S.A. 17:33A–16, and the Bureau of Fraud Deterrence,

N.J.S.A. 17:33A–8(a)(1). Defendants contend that the statute thus places responsibility for the detection and prevention of insurance fraud on the Attorney General and the Department of Banking and Insurance, not on private entities such as Selective. In Ryan v. Selective Ins. Co. of Am., Civ. No.13-6823 (KM)(MCA) (D.N.J. Jun. 23, 2014) Selective Insurance moved, pursuant to Fed. R. Civ. P. 39(a)(2) in regards to a federal right to jury trial. There is a "presumption of honesty and integrity in those serving as adjudicators," so the burden is on an objecting party to show a conflict of interest or some other reason for disqualification of a specific officer or for disapproval of an adjudicatory system as a whole. The Court has held that combining functions within an agency, such as by allowing members of a State Medical Examining Board to both investigate and adjudicate a physician's suspension, may raise substantial concerns, but does not by itself establish a violation of due process. In Caperton, a company appealed a jury verdict of $50 million, and its chairman spent $3 million to elect a justice to the Supreme Court of Appeals of West Virginia at a time when "[i]t was reasonably foreseeable . . . that the pending case would be before the newly elected justice." The justice was elected, declined to recuse himself, and joined a 3-2 decision overturning the jury verdict. The Supreme Court, in a 5-4 opinion written by Justice Anthony Kennedy, concluded that there was "a serious risk of actual bias—based on objective and reasonable perceptions—when a person with a personal stake in a particular case had a significant and disproportionate influence in placing the judge on the case by raising funds or directing the judge's election campaign when the case was pending or imminent. In some civil and administrative cases, due process requires that a party have the option to be represented by counsel. In the 1970 case Goldberg v. Kelly, the Court held that a government agency must permit a welfare recipient who has been denied benefits to be represented by and assisted by counsel. In a

subsequent case, the Court established a presumption that an indigent litigant does not have the right to appointed counsel unless his "physical liberty" is threatened. Petition physical liberty is threatened he has a class 3 separated shoulder with disruption to clavicle, a permanent injury from a second degree burn wound, cervical spine misalignment, a traumatic brain, was administered fentanyl in the hospital all have left untreated, disability to work, mental disability from this post traumatic stress disorder and physical disabilities from a rear end collision by Respondent Golden Donuts LLC.

CONCLUSION

The petition for a writ of certiorari should be granted. Respectfully submitted,
Victor Guyton II