

No.

IN THE
Supreme Court of the United States

SYDNEY M. OSKOU, *ET AL.*,

PETITIONERS,

v.

EVAN HANSEN NORDBY ACTING ON BEHALF OF
THOMAS PEREZ, SECRETARY OF LABOR
UNITED STATES DEPARTMENT OF LABOR,

RESPONDENTS.

On Petition for a Writ of Certiorari
To the United States Court of Appeals
for the Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

Sydney Oskoui
In Propria Persona
Sandpoint Gas'n Go & Lube Center, Inc.
830 North 5th Avenue
Sandpoint, near [83864]
State of Idaho, United States of America
(208) 597-0573

QUESTIONS PRESENTED

1. DID CONGRESS ACT BEYOND ITS AUTHORITY IN CREATING THE OCCUPATIONAL SAFETY & HEALTH ACT OF 1970 AND ENACTING CLAUSE LEGISLATION?
2. ASSUMING CONSTITUTIONALITY, DID THE LOWER COURTS ERROR IN FINDING STANDING UNDER THE UNDER SECTIONS 11 OF THE OCCUPATIONAL SAFETY & HEALTH ACT FOR SUBJECT MATTER JURISDICTION TO EXIST?
3. WAS THE PETITIONER DENIED PROCEDURAL DUE PROCESS AT ANY STAGE OF THE CASE AND APPEAL?
4. SHOULD THE DENIALS ON PETITIONER'S MOTIONS FOR SANCTIONS BE REMANDED FOR FURTHER PROCEEDINGS?
5. SHOULD PETITIONER BE AWARDED ADDITIONAL SANCTIONS AND/OR REASONABLE ATTORNEY COSTS AND FEES AND EXPENSES IN DEFENDING THIS FRIVOLOUS ACTION?

LIST OF PARTIES

This case does not have any proper parties under the Occupational Health & Safety Act of 1970 section 11(c)(2) due to the Secretary of Labor Perez did not "bring an action" as required under the Act for subject matter jurisdiction to exist.

Sydney M. Oskoui or Sandpoint Gas'n Go & Lube Center, Inc.,¹ are improperly named in the complaint. Mr. Kramer was not fired or discriminated against by Petitioner which is a requirement for subject matter jurisdiction under section 11(c)(2) of the Occupational Health & Safety Act of 1970.

Mr. Nordby signor of the complaint, has no standing under the Occupational Health & Safety Act of 1970 section 11(c)(2) to bring an action in the name of the Secretary of Labor Perez.

The alleged parties are: Sydney M. Oskoui and Sandpoint Gas'n Go & Lube Center, Inc., located at 830 North 5th Avenue, Sandpoint, Bonner County, State of Idaho, United States of America; Evan Hanson Nordby, an attorney with the United States Department of Labor, located at 300 5th Avenue, Seattle, State of Washington, United States of America.

The United States is an improper party by Evan Hanson Nordby's signed complaint and is in the commission of fraud upon the court. Nordby may have a conspirator to commit a fraud upon the court if Bruce Brown was the individual who filed the complaint and paid the court fees.

¹ See Listing of Counsel, pages xii and xii and are incorporated herein by its reference.

In any event, Petitioner challenges subject matter jurisdiction alleging that there is none under the Occupational Health & Safety Act of 1970 section 11(c)(2) to bring an action against Petitioner or Sandpoint Gas'n Go & Lube Center, Inc.

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LISTING OF COUNSEL

Appearing As In Propria Persona, Sui Juris

Sydney M. Oskoui, is Persian man from region of Iran who holds no religious beliefs. Sydney became Naturalized in August of 1993 through the State of California, one of the Several States as a citizen of the United States of America, in connection with the Declaration of Independence. See Certificate of Naturalization No. 20686183 issued by the Department of Justice and is incorporated herein by its reference.² At that time he renounced all affiliation to all other governments. "If then it be true that the sovereignty of the nation is in the people of the nation, and the residuary sovereignty of each State in the people of each State, ..." c.f. *Chisholm v. Georgia*, 2 U.S. 41(2 Dall.) 9 at 471 (1793).

Sydney M. Oskoui, hereinafter is referred to as "Petitioner" runs a gas station and lube center within the boundaries of Bonner County, State of Idaho, United States of America. The has no interstate commercial activity outside the State of Idaho of the United States of America, as defined in the Occupational Safety & Health Act of 1970, and no one working for the business performs any

² Sydney was never given the opportunity to present this evidence in open court because Mr. Winmill refused hold an open court hearing, even when created by Sydney. Also, the Certificate of Citizenship warns that, "It is punishable by U.S. law to copy, print or photograph this certificate without lawful authority." Sydney desires to present this document to the Supreme Court as evidence of his citizenship as a citizen of the United States of America.

services outside of State of Idaho, United States of America at any time.

Petitioner, as President of the Sandpoint Gas'n Go & Lube Center, Inc., mandates that he has the power of representation in all matters concerning the corporation through the Articles of Incorporation and which said corporation was incorporated in the State of Idaho, United States of America. Since the beginning of this case, this corporation was shut down and has no assets. The name, "Sandpoint Gas'n Go" is registered with the Secretary of State of the State of Idaho, United States of America as an Assumed Business Name only and has no assets, but is owned by Sydney and his wife, a non-party.

Petitioner, as President and on his own behalf, elected to provide to a Steven David of aver with a power of attorney, a contract, to act in the capacity as an attorney-in-fact for the sole purpose of assisting him and the corporation in this case. As an agent in fact with power under agency and contract law existed prior to Petitioner filing any documents with the United States District Court in the supposed District of Idaho, also located within the borders of State of Idaho, United States of America.

OPINIONS BELOW

The Order dated January 12, 2018 denying Petitioner's Petition for Rehearing is reprinted and included as Appendix "E". The opinion of the court of appeals is unreported and is reprinted at Appendix "A". The memorandums and orders and Judgment of the district court is unreported and is reprinted at Appendices "B-D" respectfully.

JURISDICTION

The denial to my Petition for Rehearing by the court of appeals was entered on January 12, 2018. See Appendix "E". The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

NOTICE

Notice to the Court is given that notification requirements pursuant to Supreme Court Rules 14(1)(e)(5), 29(4)(b) or (c) have been made.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Section 1 of Article I of the Constitution of the United States provides:

All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 1 of Article III of the Constitution of the United States provides:

The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services a Compensation which shall not be diminished during their Continuance in Office.

Clause 1 of Section 2 of Article III of the Constitution of the United States provides:

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 Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

Sections 1 and 13 of Article I – Declaration of Rights in the Constitution of the State of Idaho, which provides:

Section 1. INALIENABLE RIGHTS OF MAN.

All men are by nature free and equal, and have certain inalienable rights, among which are enjoying and defending life and liberty; acquiring, possessing and protecting property; pursuing happiness and securing safety.

Section 13. GUARANTIES IN CRIMINAL ACTIONS AND DUE PROCESS OF LAW. In all criminal prosecutions, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend in person and with counsel.

No person shall be twice put in jeopardy for the same offense; nor be compelled in any criminal case to be a witness against himself; ***nor be deprived of life, liberty or property without due process of law.***

The Occupational Safety & Health Act of 1970 – specifically sections 2, 3, 11, and 14 of the Act provides:

(In Part) Sec. 2 Congressional statement of findings and declaration of purpose and policy

(b) *The Congress declares it to be its purpose and policy, through the exercise of its powers to regulate commerce among the several States*

and with foreign nations and to provide for the general welfare, to assure so far as possible every working man and woman in the Nation safe and healthful working conditions and to preserve our human resources-

[Emphasis Added] c.f. Occupational Safety & Health Act of 1970.

(In Part) Sec. 3 For the purposes of this chapter-

(1) The term "Secretary" mean the Secretary of Labor.

(3) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a State and any place outside thereof, or within the District of Columbia, or a possession of the United States (other than the Trust Territory of the Pacific Islands), or between points in the same State but through a point outside thereof.

(4) The term "person" means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or any organized group of persons.

(5) The term "employer" means a person engaged in a business affecting commerce who has employees, but does not include the United States (not including the United States Postal Service) or any State or political subdivision of a State.

(6) The term "employee" means an employee of an employer who is employed in a business of his employer which affects commerce.

(7) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(8) The term "occupational safety and health standard" means a standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment. c.f. Occupational Safety & Health Act of 1970.

Sec. 11 (partial) (c) Discharge or discrimination against employee for exercise of rights under this chapter; prohibition; procedure for relief

(1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this chapter or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this chapter.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such

violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of paragraph (1) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

(3) Within 90 days of the receipt of a complaint filed under this subsection the Secretary shall notify the complainant of his determination under paragraph (2) of this subsection. c.f. Occupational Safety & Health Act of 1970.

Sec. 14 Except as provided in section 518(a) of title 28 relating to litigation before the Supreme Court, the Solicitor of Labor may appear for and represent the Secretary in any civil litigation brought under this chapter but all such litigations shall be subject to the direction and control of the Attorney General. c.f. Occupational Safety & Health Act of 1970.

29 U.S.C. § 555. Solicitor

There shall be *a* solicitor for the Department of Labor. [Emphasis Added]

28 U.S.C. §§ 501 – 530D – Part II Department of Justice, Chapter 31 – The Attorney General, applicable sections provides:

§515. Authority for legal proceedings; commission, oath, and salary for special attorneys

(a) The Attorney General or any other officer of the Department of Justice, or any attorney specially appointed by the Attorney General under law, may, when specifically directed by the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrate judges, which United States attorneys are authorized by law to conduct, whether or not he is a resident of the district in which the proceeding is brought.

(b) Each attorney specially retained under authority of the Department of Justice shall be commissioned as special assistant to the Attorney General or special attorney, and shall take the oath required by law. Foreign counsel employed in special cases are not required to take the oath. The Attorney General shall fix the annual salary of a special assistant or special attorney.

§516. Conduct of litigation reserved to Department of Justice

Except as otherwise authorized by law, the conduct of litigation in which the United States, an agency, or officer thereof is a party, or is interested, and securing evidence therefor, is reserved to officers of the

Department of Justice, under the direction of the Attorney General.

§517. Interests of United States in pending suits

The Solicitor General, or any officer of the Department of Justice, may be sent by the Attorney General to any State or district in the United States to attend to the interests of the United States in a suit pending in a court of the United States, or in a court of a State, or to attend to any other interest of the United States.

§518. Conduct and argument of cases

(a) Except when the Attorney General in a particular case directs otherwise, the Attorney General and the Solicitor General shall conduct and argue suits and appeals in the Supreme Court and suits in the United States Court of Federal Claims or in the United States Court of Appeals for the Federal Circuit and in the Court of International Trade in which the United States is interested.

(b) When the Attorney General considers it in the interests of the United States, he may personally conduct and argue any case in a court of the United States in which the United States is interested, or he may direct the Solicitor General or any officer of the Department of Justice to do so.

§519. Supervision of litigation

Except as otherwise authorized by law, the Attorney General shall supervise all litigation

to which the United States, an agency, or officer thereof is a party, and shall direct all United States attorneys, assistant United States attorneys, and special attorneys appointed under section 543 of this title in the discharge of their respective duties.

Federal Rules of Civil Procedure - Rule 43(c)

(c) **Evidence on a Motion.** When a motion relies on facts outside the record, the court may hear the matter on affidavits or may hear it wholly or partly on oral testimony or on depositions. F.R.C.P. Rule 43(c)

STATEMENT OF THE CASE

This case presents a constitutional challenge to the Occupational Safety & Health Act of 1970, hereinafter referred to as "the Act", challenging the creation of the Act, and the sufficiency of the court regarding subject matter jurisdiction for being in derogation of section 1 of Article I of the Constitution of the United States.

If the Act is determined to be constitutional, then, Petitioner presents for the Court to address a novel issues regarding constitutional and statutory standing under the Act, to clarify the scope of Article III standing as to who can initiate an action under section 11(c) and representation of the action under section 14 of the Act.

If determined to be constitutional and complainant is deemed to have standing, then, this case presents for the Court to address a various issues regarding whether Petitioner was provided with proper procedural due process in both the

District Court and the Ninth Circuit Court of Appeals.

The basis for this Writ of Certiorari is quite basic on the question this case was initiated in excess of authority. Did Mr Nordby (Nordby), complainant, act in excess of authority. Did Mr. Lynn B. Winmill (Winmill) act in excess of authority or failed to act properly as judge of the United States District Court. Did the Ninth Circuit Court of Appeals Mr./Ms. PAEZ, BEA and MURGUIA act properly?

The American people are watching the emerging trend of higher court decisions being ignored by lower courts, i.e. President Trump's policies on immigration and your decisions affirming his policies. Also we are aware of justices of this Court were being threaten to decide cases in a certain way, i.e. as reported - when Justice Scalia refused to do his duty as a Justice resulting in his murder in cold blood.

If this report was true, then, if Justice Scalia did nothing else as a Justice his sacrifice was heroic to every American for his stance and integrity. But we know from his many opinions he is responsible for so much more.

Mandates of this Court through its decisions are not being kept by insubordinate subordinates. It is time for this Court to restore the rule of law by taking control of its subordinates through your inherent power of contempt.

Petitioner's hereby presents constitutional challenges that require some historical facts to be established. The Declaration of Independence comprised of thirteen original States was called the "United States of America." See Declaration of

Independence. From this document the Articles of Confederation was forged. Every new State, all thirty-seven of them, since the original thirteen States in pursuant to Article XI of the Articles of Confederation have been admitted as new States of the Union as part of the United States of America. See the Admission Bills of the thirty-seven States in the Statutes-At-Large for the United States of America; Admission Bill of the State of Idaho – 26 Stat. L. 215, chapter 656, July 3rd, 1890 and are incorporated herein by its reference.

Further, it is a fact from the Journals of Congress of the United States during the period of the Articles of Confederation prior to the formation of the Constitution of the United States that the delegates only had an agreement to amend the Articles of Confederation and not create a new government of the Constitution of the United States. Irrespective of any reasoning for the necessity of supplanting the Articles of Confederation, the delegates acted outside their authority as provided in the Articles of Confederation. Their passage of the Constitution of the United States was an act of treason/sedition in excess of their authority within the Articles of Confederation.

Because the delegates acted in excess of their authority under the Articles of Confederation, the delegates ceased to be representatives of anybody, unless it's considered the Constitution is an Amendment to the Articles of Confederation in order to form a more perfect Union and not a replacement. The United States is a separate body and corporate from the States of the United States of America. *Van Brocklin v. State of Tennessee*, 171 U.S. 151 at 154 (1884). See also *Cotton v. United States*, 52 US 229

(1851) In *Van Brocklin*, the part about the American people ordained and established this great corporation is incorrect.

Irrespective of any consideration to the foregoing, as a consequence of their illegitimate acts, they created a new citizenship called, "United States citizens." Prior to the Constitution of the United States there was only one citizenship and that was called either a citizen of a State a.k.a. a citizen of the United States of America based upon the Declaration of Independence.

1. Did Congress Act beyond its authority in creating the Occupational Safety & Health Act of 1970 and Enacting Clause legislation?

The Constitution of the United States uses the phrase, "United States of America" in two places. It describes the capacity of the President as the "President of the United States of America." See Section 1 of Article II of the Constitution of the United States and is incorporated herein by its reference. The other is in the Preamble wherein it states: "do ordain and establish this Constitution for the United States of America." The style of the Confederacy remains as declared to be "The United States of America." Article 1 of the Articles of Confederation and the Declaration of Independence.

Further, the Articles of Confederation refers to Congress as "united States or United States in Congress assembled" Articles II, V, VI, VIII, IX, XIII of the Articles of Confederation or "congress of the united States", Article XIII of the Articles of Confederation. The Constitution of the United States refers to Congress in Section 1 of Article I which

provides: "All legislative Powers herein granted shall be vested in a ***Congress of the United States***, which shall consist of a Senate and House of Representatives."

Every legislative enactment from the inception of the Congress of the United States has used an enacting clause of: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled" This enacting clause is in excess of its authority under Section 1 of Article I of the Constitution of the United States and is completely unauthorized under the Articles of Confederation.

On July 30, 1947 Congress using the same enacting clause to enact chapter 388, 61 Stat. L. 633 created its authority for Congress to use the current enacting clause that's repugnant to Section 1 of Article I of the Constitution of the United States and is unconstitutional.

The Occupational Health & Safety Act of 1970, as amended, also used this enacting clause and is in excess of Congress' authority under Section 1 of Article I of the Constitution of the United States and is also unconstitutional.

Congress has never had the authority to act in the name of the United States of America prior to passing chapter 388, 61 Stat. L. 634 pursuant to Section 1 of Article I of the Constitution of the United States or the Articles of Confederation.

In the cases of *Vanhorne v. Dorrance*, 2 US 304 at 308 (1795)(32A-33A); *Marbury v. Madison*, 5 US 137 at 179 (1803)(26A-27A); *Reynoldsville Casket Co. v. Hyde*, 514 US 749 at 760-761 (1995)(29A); *Perez v. Mortgage Bankers Ass'n*, 135 S. Ct. 1199 at 1220-1221 (2015)(27A-28A)) and are incorporated

herein by its reference and are quoted in APPENDIX "F" laid down the limits on Legislative authority that every act of the Legislature, repugnant to the Constitution, is absolutely void and is no law.

With this act being void pursuant to *Vanhorne v. Dorrance*, 2 US 304 at 308 (1795)(32A-33A); *Marbury v. Madison*, 5 US 137 at 179 (1803)(26A-27A); *Ex Parte Siebold*, 100 U.S. 371, 376 (1880) and its progeny. Additional case excerpts are quoted in APPENDIX "F" of *Sheldon v. Sill*, 49 US 441 (1850)(30A); *ex parte McCardle*, 74 US 506 (1868)(20A); *Capron v. Van Noorden*, 6 US (2 Cranch) 126 (1804)(19A); *Grace v. American Central Ins. Co.*, 109 US 278 (1883)(22A); and *Mansfield, C. & LMR Co. v. Swan*, 111 US 379 (1884), and are incorporated herein by its reference, buttressing Petitioner's position that these statutes are void for being unconstitutional and are of no effect as law.

This illegitimate use of using this enacting clause in the name of Congress of United States of America was also used in passing the Occupational Health & Safety Act of 1970, as amended, using the unconstitutional enacting clause as its enacting clause.

Based upon the foregoing and cited cases, Congress has acted beyond its authority by enacting laws with an enacting in the name as Congress of the United States of America. In turn, the acts being challenged are void for being unconstitutional therefore the complaint shows no subject matter jurisdiction as there is no statutory authority to be in compliance with Section 2 of Article III of the Constitution of the United States for a case to exist. Therefore this Writ of Certiorari needs to be granted

and all orders and judgments REVERSED and VACATED for the lack of subject matter jurisdiction.

2. Assuming constitutionality, did the lower courts error in finding standing under Section 11 of the Occupational Safety & Health Act of 1970 for subject matter jurisdiction?

If this Court finds these acts to be constitutional, then Petitioner Offers additional due process issues for this Court to review concerning The Occupational Health & Safety Act of 1970, as amended with the following in arguments.

Substantive and procedural due process issues existed from the complaint being filed concerning subject matter jurisdiction which was decided in error. Both lower courts failed to maintain substantive and procedural stare decisis. See APPENDIX "F" - *Hurst v. Florida*, 136 S. Ct. 616 (2016)(24A) and is incorporated herein by its reference. Also relevant facts applicable to the statute to properly answer question of jurisdiction was ignored by Winmill and PAEZ, BEA and MURGUIA who chose to not perform their duties in office and have acted in excess of their authority.

None of Petitioner's cited cases have been found to have their underpinnings eroded by subsequent developments of constitutional law.

Two points of law that are applicable to this case: 1st - "Rule 12(b)(1) jurisdictional attacks can be either facial or factual. See 2 James Wm. Moore et al., *Moore's Federal Practice* ¶ 12.30[4], at 12-38 to 12-41 (3d ed.1999)." c.f. *White v. Lee*, 227 F.3d 1214 (9th CIR. 2000); and 2nd - "Because standing and mootness both pertain to a federal court's subject-

matter jurisdiction under Article III, they are properly raised in a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1), not Rule 12(b)(6)." c.f. *White v. Lee*, 227 F.3d 1214 (9th CIR. 2000). Justice Ginsberg explained the difference in procedure between a F.R.C.P. Rule 12(b)(1) versus a 12(b)(6) motion in *Arbaugh v. Y & H Corp.*, 546 US 500 (2006) and held as follows:

The objection that a federal court lacks subject-matter jurisdiction, see Fed. Rule Civ. Proc. 12(b)(1), may be raised by a party, or by a court on its own initiative, at any stage in the litigation, even after trial and the entry of judgment. Rule 12(h)(3) instructs: "Whenever it appears by suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action." See *Kontrick v. Ryan*, 540 U. S. 443, 455 (2004). By contrast, the objection that a complaint "fail[s] to state a claim upon which relief can be granted," Rule 12(b)(6), may not be asserted post trial. Under Rule 12(h)(2), that objection endures up to, but not beyond, trial on the merits: "A defense of failure to state a claim upon which relief can be granted . . . may be made in any pleading. . . or by motion for judgment on the pleadings, or at the trial on the merits." Cf. *Kontrick*, 540 U. S., at 459. c.f. *Arbaugh v. Y & H Corp.*, 546 US 500 (2006)

Also the case of *McCarthy v. US*, 850 F. 2d 558 at 560 (9th Cir. 1988) adds to instructive

procedural due process requirements applicable to this case and held:

Moreover, when considering a motion to dismiss pursuant to Rule 12(b)(1) the district court is not restricted to the face of the pleadings, but may review any evidence, such as affidavits and testimony, to resolve factual disputes concerning the existence of jurisdiction. *See, e.g., Land v. Dollar*, 330 U.S. 731, 735 n. 4, 67 S. Ct. 1009, 1011 n. 4, 91 L.Ed. 1209 (1947) ("when a question of the District Court's jurisdiction is raised ... the court may inquire by affidavits or otherwise, into the facts as they exist.") c.f. *McCarthy v. US*, 850 F. 2d 558 at 560 (9th CIR. 1988)

Petitioner has asserted facts by affidavit in both Motions challenging subject matter jurisdiction for want of jurisdiction and standing issues. These Two (2) Motions, Briefs and Affidavits clearly established the lower courts lack of subject matter jurisdiction.

Winmill acting as a lower court judge is subject to *stare decisis* from this Court. See APPENDIX "F" - *Hilton v. South Carolina Public Railways Commission*, 502 U.S. 197, 202 (1991)(23A-24A) and is incorporated herein by its reference. Whether or not Petitioner mentioned them or not is irrelevant, as Winmill was obligated by duty to adhere to *stare decisis* as required in this case, calling for dismissal *ex meru moto*. The same holds true for Mr./Ms. PAEZ, BEA, and MURGUIA of the Ninth Circuit Court of Appeals who also failed to do their duty. All these individuals (Nurdy, Brown,

Winmill, Paez, Bea, and Murguia) all acted wholly without jurisdiction against Petitioner beyond their statutory and constitutional authority, requiring this Court to Reverse and Dismiss this case and award sanctions, costs and fees.

Petitioner also cites the case of *FW/PBS, Inc. v. Dallas*, 493 US 215 (1990) in APPENDIX "F" (21A-22A) concerning appellate court duty to ensure that subject matter jurisdiction exists.

"We begin with the familiar canon of statutory construction that the starting point for interpreting a statute is the language of the statute itself. Absent a clearly expressed legislative intention to the contrary, that language must ordinarily be regarded as conclusive." c.f. *Consumer Product Safety Comm'n v. GTE Sylvania, Inc.*, 447 US 102 (1980). "Because federal courts are courts of limited jurisdiction, we must first look to the Act of Congress which confers jurisdiction over claims such as respondent's on a United States district court." c.f. *Parratt v. Taylor*, 451 U.S. 527, 101 S. Ct. 1098, 68 L.Ed.2d 420 (1981). "The first step "is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U. S. 337, 340 (1997) (citing *United States v. Ron Pair Enterprises, Inc.*, 489 U. S. 235, 240 (1989)). "The inquiry ceases "if the statutory language is unambiguous and `the statutory scheme is coherent and consistent.'" 519 U. S., at 340." c.f. *Barnhart v. Sigmon Coal Co.*, 534 US 438 (2002).

Within The Occupational Health & Safety Act of 1970, there is a legislatively created remedy for the protection of whistle blower employees who report safety violations in the workplace of their

employers, which said remedy is located in section 11(c)(2) of the Act. Neither the United States District Court or the Ninth Circuit Court of Appeals found that Section 11(c)(2) of the Act to be ambiguous.

As with any case, subject matter jurisdiction can be challenged at any time, even on appeal and even now to this Court. See APPENDIX "F" - *Steel Co. v. Citizens for Better Environment*, 523 US 83 (1998)(31A-32A) and is incorporated herein by its reference.

Petitioner's Two (2) Motions both challenged jurisdiction of the Court. Each Motion had a brief and Affidavit in support. The first Motion is based on the lack of a real party in interest, being the Secretary of Labor Perez as required under the Act and the other Motion is based on Nordby's lack of authority to have standing under the Act. Both Motions is about section 11(c)(2) of the Act. Also section 14 of the Act was included in the Motions concerning representation or standing by someone not identified to have any authority to act under the Act.

Other defined issues are: 1) The fact that Kramer was not ever fired by Petitioner barring a claim under the Act; 2) Secretary Perez never had knowledge of Kramer's complaint to initiate an investigation or complaint barring an action under the Act; 3) Secretary of Labor Perez never initiated a complaint under the Act in compliance to the Act and F.R.C.P. Rule 11, barring subject matter jurisdiction under the Act; 4) Nordby had no authority to act on behalf of the Secretary pursuant to the Act, constituting a lack of standing and a lack of subject matter jurisdiction.

Unbeknownst to the Petitioner, Kramer a "worker" filed a claim with the Department of Labor

reporting safety violations. Before Kramer filed the safety violation complaint, Kramer's punctuality was an issue. He began not showing up for work leaving the lube center shorthanded. Petitioner warned Kramer that it was necessary for him to appear for work on time. Kramer continued not showing up for work. As a result of Kramer's conduct Petitioner scheduled some of Kramer's hours to other workers. When Mr Kramer realized his work hours had been cut back, he complained to Petitioner. When Kramer heard Petitioner's explanation, **HE CHOSE TO WALK OFF THE JOB**, terminating his job. It was his right to terminate the job at the Lube Center at any time, as an at-will worker under State of Idaho law and not federal law. The Declaration of Kevin Byers confirms this point.

The fact that he chose to terminate his job is stated by Petitioner in the accompanying Affidavits to both Motions to Dismiss challenging subject matter jurisdiction. ***Both Motions were replied to by Mr. Nordby, who has no standing to represent the Secretary of Labor, and responded without an objection to or an affidavit contesting Petitioner's Affidavit.***

Although F.R.C.P. Rule 12(b) motion of this type does not require an affidavit in support, Petitioner did attach affidavits as part of the Motions challenging jurisdiction pursuant to F.R.C.P. 43(c) and is incorporated herein by its reference.

Because these Motion were connected to requirements for an action under section 11(c)(2) of the Act, those motions raised legitimate issues to the very existence of subject matter jurisdiction, as the requirements for subject matter jurisdiction under and within section 11(c)(2) of the Act are very

specific. As already discussed Affidavits to a F.R.C.P. Rule 12(b)(1) motion must be considered. *McCarthy*, supra. See also, *Taylor v. Portland Paramount Corp.*, 383 F.2d 634 (9th Cir. 1967) and is incorporated herein by its reference.

In most cases motions must be filed within 20 days response requirement to be deemed timely, however, because Petitioner's two (2) motions challenged subject matter jurisdiction they are timely, as subject matter can be raised at any time. *Kontrick and Arbaugh*, supra. Further pursuant to F.R.C.P. Rule 12(g) makes it clear that a motion under F.R.C.P. Rule 12 can be joined with any other motion allowed by this rule. Both of Petitioner's Motions were issues surrounding subject matter jurisdiction on whether section 11(c)(2) of the Act was complied with to give the court any jurisdiction.

Nordby's responses to Petitioner's Motions failed to have any objections to the affidavits or file counter affidavits to the facts stated by Petitioner made under the penalties of perjury that he did not fire Kramer and that Kramer terminated himself by walking off the job. Mr. Nordby's complaint is unqualified to state facts which are not known to him. F.R.E. Rule 602.

Nordby failed to cure the jurisdictional defect by not getting an affidavit from Kramer rebutting Petitioner's many affidavits. As such, Petitioner's affidavit stated issues of fact surrounding Kramer's decision to voluntarily abandon the job at the Lube Center, thus making any claim under section 11(c)(2) of the Act unobtainable. Additionally, Nordby's complaint does not allege discrimination under the Act. Therefore, if Nordby had standing to initiate an action under the Act, there was no claim of

discrimination for subject matter under section 11(c)(2) under the Act, if constitutional, for any court to acquire subject matter jurisdiction.

However there are other glaring defect in Nordby's pleading which would deny any federal court of jurisdiction. Nordby's pleading failed to affirmatively and distinctly connect himself as counsel for Secretary of Labor Perez. See APPENDIX "F" - *Smith v. McCullough*, 270 U.S. 456, 459, 46 S. Ct. 338, 70 L.Ed. 682 (1926)(30A-31A) and are incorporated herein by its reference.

Section 11(c)(2) of the Act specifically requires only the Secretary of Labor Perez who has authority to bring an action under this section. The language used in section 11(c)(2) of the Act concerning as to who initiates an action is unambiguously crystal clear and it states:

If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person.

The record is absent of any showing that Perez brought any action because he did not sign the complaint, nor was there even a signature line for him or reference to him. It is a fact that the complaint was not signed by Perez, which should be concrete proof that section 11(c)(2) of the Act wasn't complied with for the court to acquire ANY jurisdiction and divested the court of jurisdiction.

Since section 11(c)(2) of the Act specifically provides who has authority to "bring an action" and

that person has not yet done so, no other person could Act under the Act pursuant to the doctrine of *expressio unius est exclusio alterius*. See APPENDIX "F" - *National Railroad Passenger Corporation v. National Assn. of Railroad Passengers*, 414 US 453 (1974)(27A) Also the Act itself in Section 3(1) defines "Secretary" to mean the Secretary of Labor and no other. See Section 3(1) - Occupational Safety & Health Act of 1970. See APPENDIX "F" - *Stenberg v. Carhart*, 530 U. S. 914, 942 (2000)(32A) and is incorporated herein by its reference. Stare decisis in *Stenberg* serves as a bar to expand the definition of "Secretary" to include anybody else, except the Secretary Perez, which the trial and appellate courts did in error.

Under the Act, it is mandatory for the District Court to acquire jurisdiction that the complainant **MUST** be the Secretary of Labor and nobody else. Section 11(c)(2) of the Act mandates only one person who is authorized to "bring an action" against Petitioner and that person is the Secretary of Labor. The record is clear that Secretary of Labor Perez DID NOT BRING AN ACTION AGAINST THE PETITIONER.

Further any regulation contrary to the specific authority given by the legislature is unenforceable. *Chevron USA Inc. v. Natural Resources Defense Council, Inc.*, 467 US 837 (1984).

Additionally, Norby lacks standing as complainant under section 11(c)(2) of the Act, as he is specifically excluded by the Act's lack of inclusion. For this reason alone the complaint never had any subject matter jurisdiction for the court to act under section 11(c)(2) of the Act, requiring the court to dismiss the case *ex meru moto*.

Another glaring defect in Nordby's pleading, if he had standing, failed to affirmatively and distinctly allege that Perez had determined Section 11(c)(2) of the Act was violated. The record is absent that Perez had made any determination that Petitioner violated the Act. This is another essential element to subject matter jurisdiction under 11(c)(2) of the Act to confer jurisdiction to the court. Again the complaint should have been dismissed *ex meru moto*.

Here are several other examples of how Section 11(c)(2) of the Act was not complied. There is a requirement for the initial complaint be filed with the Secretary and the Secretary then initiates an investigation. In order for this requirement to have been met, the Secretary MUST have personal knowledge of the complaint. Nordby's Discovery Report admits that Secretary of Labor Perez does not have personal knowledge of the case.

Without knowledge of the complaint, demonstrates that: 1) Secretary Perez did not receive the complaint; 2) The Secretary did not initiate an investigation; and 3) The Secretary never determined if there was a cause of action or not, thus the requirements of filing and/or Secretary initiating an investigation and/or determining if there was cause within Section 11(c)(2) of the Act was never complied with negating the court's subject matter jurisdiction pursuant to *Kokkonen v. Guardian Life Ins. Co. of America*, 511 US 375 at (1994)(24A-25A).

Further, there is a duty for every United States District Court, Circuit Court of Appeals and this Court to ensure that legal and lawful subject matter jurisdiction exist. See APPENDIX "F" -

Kokkonen v. Guardian Life Ins. Co. of America, 511 US 375 at (1994)(24A-25A).

Kokkonen and other cases state that courts of limited jurisdiction only possess only the power to adjudicate cases that are compliant with the constitution and statute. See also APPENDIX "F" - *National Railroad Passenger Corporation v. National Assn. of Railroad Passengers*, 414 US 453 (1974)(27A). Petitioner has shown through the records of the "case" that Winmill had sufficient notice that section 11(c)(2) of the Act had not been complied to give the court subject matter jurisdiction.

Besides acting wholly without subject matter jurisdiction, Winmill set aside his impartiality and acted with bias and prejudice against Petitioner by treating Petitioner unequally before the law in violation of International Law - Treaty of the International Covenant on Civil and Political Rights (ICCPR). See ICCPR - Article 14 and is incorporated herein by its reference.

Also, Section 2 of Article III of the Constitution of the United States of the standards for standing under *Lujan* and *Lexmark and n. 4* was not met either as described in *Bank of America v. City of Miami, Florida*, 137 S. Ct. 1296 at 1302-1303 (2017) in APPENDIX F (17A-18A) and is incorporated herein by its reference.

Under dicta of *Lujan v. Defenders of Wildlife et al*, 504 U.S. 555 (1992) neither Perez or Nordby could comply with the "case and controversy" standards under *Lujan* as neither person suffered an injury at the hands of the Petitioner or that injury is connected to Petitioner's actions. Additionally the complaint doesn't allege or claim that either Perez or Nordby has suffered an injury at the hands of the Petitioner.

The requirements under *Lexmark* and n. 4 as described in APPENDIX "F" - *Bank of America v. City of Miami, Florida*, 137 S. Ct. 1296 at 1302-1303 (2017)(17A-18A) couldn't also be complied with, because Perez couldn't meet the requirements of standing under the Act, as Kramer was not fired or discriminated by Petitioner. The record clearly indicates Petitioner never fired or discriminated against Kramer. Again the Declaration of Kevin Byers confirms this point.

Nordby who originally filed the complaint under section 11(c)(2) of the Act is not the Secretary of Labor; Attorney General of the United States; Solicitor General; assigned United States Attorney by the Attorney General of the United States.³ In fact, Nordby is not specifically mentioned in section 11(c)(2) of the Act or anywhere else in the Act to cloth him with any authority. See APPENDIX "F" - *Schweiker v. Wilson*, 450 U.S. 221 (1981)(30A) and is incorporated herein by its reference. Nordby being without any authority to act under the Act, simply committed a fraud upon the court with the full blessings of the trial and appellate courts in error and has allowed the Petitioner to continuously be damaged through his unauthorized action.

Winmill who as a trial judge is presumed to know the law. *Walton v. Arizona*, 497 US 639 at 653 (1990) (Trial judges are presumed to know the law and to apply it in making their decisions.) It is presumed that Winmill knows that he has a

³ And if Nordby was any of those people, he would have been subject to Part II, Chapter 31 of Title 28 U.S.C. But he was an attorney in the administrative law part of the Department of Labor, not described in Title 5 U.S.C. section 3106.

continuing duty to ensure that proper subject matter exists under *FW/PBS, Inc. v. Dallas*, 493 US 215 (1990) and *Steel Co. v. Citizens for Better Environment*, 523 US 83 (1998) and the specific requirements under section 11(c)(2) of the Act for subject matter jurisdiction to exist. Winmill failed to act properly when it was self evident by the complaint itself that section 11(c)(2) was not complied with requiring Winmill to dismiss the case *ex meru moto* pursuant to F.R.C.P Rule 12(h), with or without Petitioner calling attention to it by motion.

Mr./Ms. PAEZ, BAE and MURGUIA of the Ninth Circuit also being under the same standards as Winmill failed to perform their duty under *Bender v. Williamsport Area School Dist.*, 475 US 534 at 541 (1986). See APPENDIX "F" – *Bender* (18A-19A). However, their failure is even more gross, as their basis for AFFIRMING was based upon two (2) points going directly to the question of subject matter jurisdiction.

First, in error they found that Nordby had standing to sue under 5 U.S.C. §§ 302(b) and 3106 *in pari materia* with section 11(c)(2) of the Act, supposedly authorizing re-delegation of authority. The Act does not provide the Secretary of Labor with authority to delegate responsibilities specifically given to him by Congressional Act. Neither sections 11(c)(2) or 14 of the Act can be applied to Nordby.

Petitioner's standpoint is: Mr./Ms. PAEZ, BAE and MURGUIA's deliberately conspired to deny Petitioner of due process of law, while at the same time protect Winmill who acted wholly without subject matter jurisdiction and Nordy who should have sanctions levied against him under F.R.C.P. Rule 11 and costs and fees under 28 U.S.C. 1919.

The record is clear along with *stare decisis* that Winmill AND Mr./Ms. PAEZ, BAE and MURGUIA all failed to perform their duty to the court and to the Petitioner. This Court needs to correct the lower court's bungling and REVERSE and VACATE all orders and judgments made in the case for a lack of all jurisdiction. And REMAND on the issues of SANCTIONS, and reimbursement of costs of litigation.

The question remains the same will anybody in the Judiciary enforce the rule of law or will you admit that the Judiciary has absolutely no integrity and continue to act with bias and prejudice against Petitioner, especially when you do not have an attorney with you as an appendage.

3. Was the Petitioner denied procedural due process at any stage of the case and appeal?

It should be obvious that any case having no subject matter jurisdiction under Section 11(c)(2) of the Act but continues anyway by the District Court is a lack of due process. Also the Circuit Court failing to correct the error of the lower court on appeal is a lack of due process, especially when there is a plethora of *stare decisis* from this Court on the issue of subject matter jurisdiction as cited in Petitioner's APPENDIX "F" and are incorporated herein by its reference.

Seemingly, the record shows Winmill's concerns on Petitioner's Motions challenging subject matter jurisdiction was on other things not associated with questions of jurisdiction. Such issues include denying Petitioner of in Court appearance(s) to place relevant evidence and oral argument into

the record demonstrating the court's lack of subject matter jurisdiction. This not only violated Petitioner's due process but also was in violation of Local Civil Rule 83.8 – Fairness and Civility. Loc.Civ.R. 83.8 and is incorporated herein by its reference.

Winmill lacking impartiality and acting with bias against Petitioner failed to provide Petitioner with a hearing as requested in my letter of November 17th, 2014 to Winmill. When the request was ignored, Petitioner scheduled a hearing with notice to him and Nordby. Winmill vacated the hearing and denied Petitioner due process of law. *Armstrong v. Manzo*, 380 U.S. 545, 552, 85 S. Ct. 1187, 1191, 14 L.Ed.2d ____ (1965).

These records which the Petitioner was unable to include in the record was: Petitioner's Certificate of Naturalization as a citizen of the United States of America, State of Idaho Certificate of Incorporation, Admission Bill of the State of Idaho admitting the State of Idaho as a State of the Union on equal footing with the original States of the United States of America, 26 Stat. L. 215, Chapter 656, July 3rd, 1890 and other documents demonstrating the business only conducts its business within the borders of the State of Idaho, United States of America. All these documents set him outside the definitions within Section 3 of the Act concerning the definitions of "Commerce", "Employer", "Employee" and "State", respectfully, all denying the court of subject matter jurisdiction.

Winmill issued an Order on a non-party, which the non-party wrote Winmill a letter objecting to that Order. That letter was entered into the record by Winmill just seconds before in retaliation against

Petitioner denied my Motions and Ordered the Clerk to enter Default against the Petitioner. The Order is insufficient on its face as nowhere does he show HOW HE HAS JURISDICTION for a court of limited jurisdiction to proceed, *Steel Co. v. Citizens for Better Environment*, 523 US 83 (1998); *ex parte McCardle*, 74 US 506 (1868), another denial of due process.

His Order in denying Petitioner's Motions challenging subject matter jurisdiction only addressed issues surrounding timeliness. Motions challenging subject matter jurisdiction can be brought any time pursuant to *Kontrick and Arbaugh*, *supra*. His failure to dismiss the case was a denial of due process.

Nordby having no standing to sue under section 11(c)(2) of the Act also had no authority to defend it, pursuant to Section 14 of the Act.

Every appearance by other attorneys all appeared in derogation of Section 14 of the Act. The Solicitor of Labor has never made an official appearance and 29 U.S.C § 555 creating and defining this position with singular language as "a Solicitor of Labor." Nobody else can do the job which a statute prescribes to a specific person. If Congress wanted every Tom, Dick & Harry on the job, then they would define who a "Solicitor of Labor" is by adding the words "or his delegate."

Further, Section 14 mandates that any litigation in which Solicitor of Labor appears in is subject to the direction of the Attorney General is *in pari materia* with 28 U.S.C. §§ 501 – 530D - Part II Department of Justice, Chapter 31 – The Attorney General, specifically 28 U.S.C. § 516. The record is absent of any participation by the Attorney General. This Court understands the importance of Chapter

31 of Title 28, as pursuant to Supreme Court Rule 14 & 29 Petitioner was required to give Notice to Solicitor General being this Writ is in this Court. Stands to reason that only those identified in Section 14 of the Act can represent the Secretary of Labor Perez, if he actually had initiated an action under 11(c)(2) of the Act. Congress allowing the Secretary of Labor to initiate an action without the Attorney General is an exception to Chapter 31 of Title 28 U.S.C. Petitioner asserts that the court allowing these unauthorized attorneys standing to appear in a case lacking jurisdiction was also a due process violation.

These two issues have authority in the case of *Transamerica Mortgage Advisors, Inc. v. Lewis*, 444 US 11 (1979) Justice Stewart delivered the opinion of the Court pertaining to statutory construction which the Petitioner has relied on for the courts to be observant of and enforcement in this case. Justice Stewart wrote about statutory construction and held that:

Yet it is an elemental canon of statutory construction that where a statute expressly provides a particular remedy or remedies, a court must be chary of reading others into it. "When a statute limits a thing to be done in a particular mode, it includes the negative of any other mode." *Botany Mills v. United States*, 278 U. S. 282, 289. See *Amtrak*, 414 U. S., at 458; *Securities Investor Protection Corp. v. Barbour*, 421 U. S. 412, 419; *T. I. M. E., Inc. v. United States*, 359 U. S. 464, 471. c.f. *Transamerica Mortgage Advisors, Inc. v. Lewis*, 444 US 11 at 19-20 (1979)

The United States District Court is located in Coeur d'Alene in the State of Idaho, by which said Courthouse and property are owned by a private limited Corporation. Due process emanates from the Constitution of the State of Idaho under Article I, section 13 therein. Other rights such as the inalienable right to life, liberty, pursuit of happiness and property have all been affected negatively from the actions of Nordby.

Everything that Winmill and Mr./Ms. Paez, BAE, AND MURGUIA has done outside of dismissing the complaint was done without subject matter jurisdiction. Awarding sanctions was a denial of due process and are collateral issues which still needs to be properly heard and determined.

This yet another reason for REVERSAL and granting all orders and judgments to be VACATED along with an Order/Writ for the lower court to Dismiss the case for lack of jurisdiction.

4. Should the denials on Petitioner's motions for sanctions be remanded for further proceedings?

Petitioner's Motions being denied in error, Petitioner's Motion for Sanction was also denied in error. Petitioner's Motion for Sanction under F.R.C.P. Rule 11 should be remanded to the lower court for further proceedings pursuant to *stare decisis* of *Roadway Express, Inc. v. Piper*, 447 US 752 at 764-765 (1980) quoted in APPENDIX "F" (29A-30A) and is incorporated herein by its reference.

Also applicable is the case of *Willy v. Coastal Corp.*, 503 US 131 at 137-138 (1992) Chief Justice Rehnquist delivering the opinion of the Court held:

The District Court order which the petitioner seeks to upset is one that is collateral to the merits. We recently had occasion to examine Rule 11's scope and purpose in great detail in *Cooter & Gell v. Hartmarx Corp.*, 496 U. S. 384 (1990). The challenge in that case was to an order imposing Rule 11 sanctions for filing a frivolous complaint, entered after the plaintiff had voluntarily dismissed his action. In the course of our discussion we noted that "[i]t is well established that a federal court may consider collateral issues after an action is no longer pending. . . . [An] imposition of a Rule 11 sanction is not a judgment on the merits of an action. Rather, it requires the determination of a collateral issue: whether the attorney has abused the judicial process, and, if so, what sanction would be appropriate." *Id.*, at 395-396. Such an order implicates no constitutional concern because it "does not signify a district court's assessment of the legal merits of the complaint." *Id.*, at 396. It therefore does not raise the issue of a district court adjudicating the merits of a "case or controversy" over which it lacks jurisdiction. c.f. *Willy v. Coastal Corp.*, 503 US 131 at 137-138 (1992)

Willy citing *Cooter* reminds us that a federal court may consider collateral issues, such as F.R.C.P. Rule 11 motion for sanctions, after an action is no

longer pending. In this case remand is appropriate here because Cooter held that, "district courts may award costs after an action is dismissed for want of jurisdiction. See 28 U. S. C. § 1919."

Petitioner has already filed such a motion which was denied, because Winmill accepted a case wholly without proper subject matter jurisdiction. The denial on the Motion for Sanctions needs to be VACATED/SET ASIDE and REMANDED for further proceedings.

5. Should Petitioner be awarded additional sanctions and/or reasonable attorney costs and fees and expenses in defending this frivolous action?

Petitioner should be awarded additional sanctions for fraud upon the Court by Nordby, pursuant to the stare decisis of *Hazel-Atlas Co. v. Hartford Co.*, 322 US 238 (1944) quoted in APPENDIX "F" (22A-23A) and is incorporated herein by its reference. Also the *stare decisis* of *Chambers v. Nasco, Inc.*, 501 US 32 (1991) applies to this case which is quoted in APPENDIX "F" (19A-20A) and is incorporated herein by its reference. See also, *Willy v. Coastal Corp.*, 503 US 131 at 137-138 (1992) citing *Cooter & Gell v. Hartmarx Corp.*, 496 US 384 (1990) also applies.

Petitioner requests the Court to issue all necessary to perfect its appellate jurisdiction for Sanctions.

CONCLUSION

An injustice will have occurred against the Petitioner if this Court refuses to hear this Writ which was initiated under color of "law" in total disregard to the integrity of the justice system. Petitioner will be further damaged by the illegal taking of his property without substantive or procedural due process contrary to the constitutional guarantees of due process of law.

Complying with this Court's *stare decisis* is enough justification for granting this Writ of Certiorari, inclusive of the case of *United States ex rel. Darcy v. Handy*, 351 US 454 at 462 (1956) wherein this Court in delivering its opinion of the Court held:

While this Court stands ready to correct violations of constitutional rights, it also holds that "it is not asking too much that the burden of showing essential unfairness be sustained by him who claims such injustice and seeks to have the result set aside, and that it be sustained not as a matter of speculation but as a demonstrable reality." *Adams v. United States ex rel. McCann*, 317 U. S. 269, 281. See also, *Buchalter v. New York*, 319 U. S. 427, 431; *Strobbel v. California*, 343 U. S. 181, 198. c.f. *United States ex rel. Darcy v. Handy*, 351 US 454 at 462 (1956)

Good cause exists for this Court to act because Petitioner has supplied good cause and an opportunity to this Court to address the issue of

those who are acting as judges should act with impartiality instead of with bias and prejudice just because they present themselves before the court.

The Petitioner has shown good cause for this Court to act and GRANT the Petition for Writ of Certiorari and issue all necessary Writs in the exercise of its appellate jurisdiction as requested herein.

Respectfully submitted,

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April 10th, 2018