

NO. 16-CV-354

IN THE
SUPREME COURT OF THE UNITED STATES

ALI ELGHANNAM – PETITIONER

VS

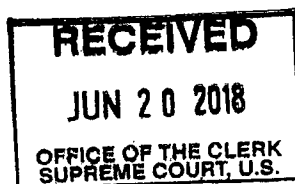
EDUCATIONAL TESTING SERVICES

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Do the Fifth and Fourteenth Amendments to the U S Constitution create a substantive right of a pharmacist not to be violated so as to invoke the procedural requirements of the Due Process Clause of the 5th and 14th Amendments when substantial evidence of pharmacist exists?
2. Whether or not a pharmacist might be conspired against under 42 USC, and federal conspiracy law, or even as in this case subjected to life damages.
3. What are the proper steps for judging NABP's leaking of the pharmacist's confidential information to a third party, which constitutes conspiracy with ETS, (the third party), discrimination, and violation of his right to Due Process under 42USC, and the 5th and 14th Amendments to the U S Constitution.
4. The Petitioner's handwriting on the contract and his photo, taken at the moment of his sitting to the exam, either of which is sufficient evidence to save or condemn a person in the Courts, were ignored...WHY did the court violate the simplest basic principle of any court in the world ?
5. Is there any exclusionary rule barring the Court's use of its authority and its inherent power to regulate litigation and to sanction litigants for abusive practices,

and for ignoring the last agreement's terms (also, no other contract is presented in this case), the breached contract, the forensic evidence, and the ETS documents that condemn itself?

6. Respondent's cancellation of the Petitioner's iBT valid score was an arbitrary, reckless and irresponsible violation of the Petitioner's due process rights as well as defamation. Without any evidence, without any hearing, no investigation was ever done, and it was a discriminatory decision. How should the constitutional question be answered ? Or, how should the "question of law" be answered?

LIST OF PARTIES

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**IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI**

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

OPINIONS BELOW

The opinion of the District Court of Appeals appears at Appendix B to the petition. The order of the Superior Court appears at Appendix C.

JURISDICTION

The judgment of the District Court of Appeals was entered on July 18, 2017. A timely petition for rehearing en banc was denied by the District Court of Appeals on Jun 4, 2018, and a copy of the order denying the Petition for rehearing en banc appears at Appendix A.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fifth and Fourteenth Amendments to the U.S. Constitution, a Conspiracy under 42 U.S.C. §1983., *The Civil Rights Act of 1871 (42 U.S.C. § 1983 (1976))* , the Federal Conspiracy Law, title 18 United States Code §§ 2(a), 2(b), 3 and 4. "Agreement," and *42 US Code Subchapter I: § 1981 - Equal rights under the law, § 1981a – Damages in cases of intentional discrimination in employment, § 1985 - Conspiracy to interfere with civil rights. § 1986 - Action for neglect to prevent, § 1987 –Prosecution of violation of certain laws.*

STATEMENT

This case is not a Civil Case as it seems, but it is a criminal action including:-

(a) conspiracy, (b) forgery in official papers, (c) violation of the Petitioner's rights in the United States Constitution, and (d) discrimination.

The Memorandum Opinion and Judgment of District of Columbia Court of Appeals never mentions the documents and the facts that support the Petitioner and justice, for example the attached#7 (the secret investigation), and the last contract, the attached #5 were never mentioned in the Court's Memorandum.

Also, the lower Court did not apply the law and did not follow the Constitution, but followed its personal postulation, rejecting the law, rejecting the documents, the Petitioner's personal rights in the Constitution, and violated the judicial system.

Petitioner, Ali Elghannam is a victim of systematic brutal entertainment, his case reflects legal issue of exceptional importance to national justice and what is committed against him is not only a violation of the law and his rights in the constitution, violation of the Petitioner's due process rights, but also torture, and brutal discrimination exceeding any description.

The Petitioner's right is violated, a complete injury and damage to the his life and his family's life, but the lower Courts neglected the matter for unknown reason.

Petitioner, Ali Elghannam is an old man, 58 years old, he is a Muslim Egyptian American citizen and a foreign pharmacist since 33 years ago, and **because of his fluent English language that enabled him to work with the American forces**, was appointed as international pharmacist during the Gulf War, in the Military Medical Complex in Dhahran, Saudi Arabia, and obtained several honors for his higher graduate studies, and obtained in 1993 a certification from the College of Pharmacy, University of Minnesota, USA. Attached#1(is 2 pages).

Mr. Elghannam's university education, and his master degree were earned by the English language, so he had passed easily the Test of English as a Foreign Language (TOEFL) and received from the EDUCATIONAL TESTING SERVICES (ETS) his scores by email on April 20, 2015, and a confirmation letter by US mail on April 25, 2015, i.e. an email and then an official letter from ETS indicating his successful results. Attached #2, and Attached #3

But, after more than one month of reporting favorably to the Petitioner, ETS illegally cancelled Mr Elghannam's valid legal scores. Attached#4

In fact, according to the law, and according to the ETS Confidentiality Statement for the TOEFL iBT® Test, (Attached#5), ETS violated its contract by cancellation of the scores after reporting to the Petitioner and to NABP. In line 2 it says, "If cancellation should be necessary, no scores will be reported and your test fee will be forfeited." Again, confirmation of this statement repeated after item 6 says,

“...and the reporting or cancellation of scores.

Attached#5

So, according to the ETS Confidentiality Statement for the TOEFL iBT® test, (Attached#5), if ETS had suspected any scores, they never would have released them, which means ETS had to choose one action, “Reporting or Cancellation,” but ETS reported the score, then cancelled it after more than one month, so, the contract is breached.

This reversal indicates interference in this matter by a third party who conspired with ETS and pushed ETS to cancel the Petitioner’s valid score. This third party is NABP, who refused for one month to send to the Petitioner his pharmacist certificate, that was being held under one condition, that he must pass in the Toefl iBT. Thus, ETS breached its adhesion contract, violated its contract, the law, the Constitution, and the Petitioner’s constitutional rights of due process under the fifth and fourteenth Amendments of the United States Constitution.

Further, at the moment of his sitting to the exam:

(A) Two forensic evidences prove that the Petitioner was the person who took the TOEFL, the Petitioner’s photo and his handwriting on the contract, taken at the moment of his sitting to the exam, only one of which is sufficient evidence to save or condemn any person in the Courts. Attached#3 is the Petitioner’s photo, and #5 is his handwriting.

(B) The last contract, issued at the moment of his sitting to the exam, is the ETS Confidentiality Statement for the TOEFL iBT® Test, (Attached#5) **It is the**

superior one that has power over any other previous contract, papers, or bulletin, and can cancel any previous terms or any different or opposite points. (Also, no other contract is presented in this case.) Thus, ETS breached its adhesion contract, violated its contract. Also, the court knows that the last will is the superior.

So, Mr. Elghannam filed this Complaint against Educational Testing Services (ETS) to reinstate his TOEFL iBT scores, and requests his right in compensatory and punitive damages, compensatory damages in the amount of \$3,000,000, and punitive damages in the amount of \$4,000,000, plus interest and costs, the relief sought above, and reasonable attorney's fees and litigation expenses.

The cancellation of the Petitioner's valid TOEFL score after more than one month of reporting favorably to the Petitioner by E-mail and US Post, this cancellation resulted also in expiration of the Petitioner's American pharmacist certificate.

N.B. ETS reported the scores to the third party, the National Association of Boards of Pharmacy, "NABP".

The Court erred when it supported the ETS's violation of the Petitioner's rights under the fifth and fourteenth Amendments of the U.S. Constitution.

Mr. Elghannam has passed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), but NABP is holding Elghannam's FPGEC Pharmacist Certification under one condition, which is to pass in the Test of English as a Foreign Language (TOEFL).

The Petitioner discovered that ETS was sending him low scores although he was excellent in several exams:

Petitioner's Complaint to the ETS Director in 2014 (Attached#7, which is stamped by the ETS's stamp), **forced ETS to report, for the first time, the Petitioner's real scores**, but NABP, for more than one month after receiving Elghanam's real scores from ETS, refused to send to Elghannam his pharmacist certificate. NABP was in contact and relationship with ETS and pushed ETS to cancel Mr. Elghannam's valid TOEFL real score because he is Muslim. Also, the Memorandum and Judgment ignored this Exhibit. Attached#7

N.B. Some people in United States still believe they must violate the minority's rights, unless they have power to face that racism, for example, violation of the Jewish and African rights at past. See, The Journal of Legal Issues and Cases in Business, Statistical analysis of religious discrimination against Muslims in the healthcare sector. Attached#8

ETS, in conspiratorial agreement with NABP, canceled the Petitioner's valid TOEFL score under the allegation, "Was not the person who took TOEFL test." Then, in order to use his signature as evidence, ETS decided in its documents, and in the court, that Petitioner was the person who took the TOEFL and signed the contract. Attached#4 and #6

ETS conspired, committed unlawful act by cancellation of the Petitioner's valid scores, and committed discrimination against the Petitioner. Also, ETS breached its contract.

Further, **two forensic evidences** that Petitioner was the person who took the TOEFL, the Petitioner's photo and his handwriting on the contract, **taken at the moment of his sitting to the exam**, only one of which is sufficient evidence to save or condemn any person in the Courts, were ignored...WHY did the Court violate the simplest basic principle? Attached#3 and#5

Important basic point in any Court that the Lower court violated :

Courts are forbidden to condemn people if evidence proves their presence in other places at the time of the crime, for example photo, or handwriting.

But, our lower court ignored the Petitioner's photo and his handwriting on the contract, taken at the moment of his sitting to the exam, and followed an illegal nonsense allegation.

In addition, the contract is breached, the law is violated, and Mr. Elghannam's due process rights in the United States Constitution were violated.

A confirmation for the relationship and conspiracy between ETS and NABP:
NABP leaked the Petitioner's confidential information to ETS, not only to cancel Elghannam's TOEFL valid score after reporting it, but also, to push ETS to

ban Mr. Elghannam for one year from sitting for the TOEFL exam to enable NABP to expire the Petitioner's pharmacist certificate. **Attached#4**

So it was not only cancellation of his TOEFL score but also expiration of his pharmacy certificate and a complete damage for him.

Thus, a complete injury and damage to the Petitioner's life and cancellation of all his valid college and university certificates, and putting him again in a school stage.

The Respondent's cancellation of the Petitioner's iBT valid score was forgery in official papers, conspiracy with NABP, and an arbitrary, reckless and irresponsible violation of the Petitioner's due process rights as well as defamation, without any evidence, without any hearing, no investigation was ever done, and it was a discriminatory decision. How should the constitutional question be answered? Or, how should the "question of law" be answered?

The relationship between NABP and ETS is used to discriminate against Muslims, and also is a civil and federal conspiracy, and violation of the Constitution. See, the Journal of Legal Issues and Cases in Business, Statistical analysis of religious discrimination, states "the healthcare sector had a significant increase [of discrimination] in the Muslim religion," **Attached#7**

ETS forbade the Petitioner to defend himself or to appeal, or to retake the exam before one year which resulted in expiration of his valid pharmacist certificate in June, 2015.

REASONS FOR GRANTING THE WRIT OF CERTIORARI

1. In this case every question presented is an issue of law with wide scale public exceptional importance, the Court of Appeal's decision is incorrect based on unreasonable application of the district court. It brings a long overdue question and the application of due process and equal protection.. This Writ of Certiorari should be granted because the Petitioner in this case has suffered a severe injustice and violation of constitutional due process protections, for example:

Last Contract is Superior (also, no other contract is presented in this case).

Also, the court knows that the last will is the superior,

The Memorandum and Judgment, especially p.6, shows that the Court misunderstood that ETS violated and breached its contract - breached its adhesion contract - and that the Court ignored important legal point that the last contract is the Superior one :

There is legal basis that the last agreement or contract between two parties is superior over any previous or opposite ones. Based on that, the last contract that ETS forced the Appellant to sign at the moment of sitting for the exam, is the superior and final contract and has power over any other previous contract, papers, or bulletin, and can cancel any previous terms or any different or opposite points.

So, based on that, the Confidentiality Statement that ETS forced the Petitioner to sign at the moment of sitting for the exam is the superior contract, and its terms have priority over any opposite terms or points in the Bulletin, or other papers.

N.B. (Also, no other contract is presented in this case).

The Confidentiality Statement in line 2 says, "If cancellation should be necessary, no scores will be reported." Again, confirmation of this statement repeated after item 6 says, "...and the reporting or cancellation of scores...,

So, according to the ETS Confidentiality Statement for the TOEFL iBT® Test, (Attached#5), if ETS had suspected any scores, they never would have released them, which means ETS had to choose one action, "Reporting or Cancellation," but ETS reported the score, then cancelled it after more than one month, so, the contract is breached.

This reversal indicates interference in this matter by a third party who conspired with ETS and pushed ETS to cancel the Petitioner's valid score. This third party is NABP, who refused for one month to send to the petitioner his pharmacist certificate, that was being held under one condition, that he pass the Toefl iBT.

So, since ETS reported the Scores to the Petitioner and to third party NABP, the cancellation of the Petitioner's valid TOEFL score after more than one month of reporting to the Petitioner by E-mail , and by US Post, is a breach of the contract and illegal action that violates the Constitution and the law and the Petitioner's personal rights in the Constitution . So, the Petitioner's scores were valid as reported to him and to NABP, and are still valid until now.

Attached#5, Confidentiality Statement for the TOEFL iBT® Test,"
is ETS Exhibit with Petitioner's handwriting, and is the contract
that the Petitioner was forced to sign at the moment of sitting for the exam.

This leads us to the fact that the Petitioner is the person who took the Exam, and Petitioner's score was valid as reported to him and to NABP.

2. There is a conflict between the Court's decision and the filed facts and documents, the appeal court not only committed clear error, and its decision was manifestly unjust, the appeal court failed to review the case, and denied the presence of the filed facts, and 3. permitted breach of contract, discrimination, forgery, and ignored the forensic evidence, and the federal conspiracy law:

Memorandum Opinion and Judgment built on fake legitimacy.

ETS and the Court used Two contradictory facts to create fake legitimacy:

A. { To create legitimacy to cancel the scores, ETS decided that Elghannam is not the person who took the Exam, although as we explained before, based on the Contract, (attached#5), ETS cannot cancel the score after reporting it. }

B. { To create legitimacy of the Contract, ETS needs to use Mr. Elghannam's signature on the contract, so ETS decided that Elghannam is the person who took the Exam, } . Attached#6

In fact, ETS committed conspiracy and discrimination against the Petitioner, since after ETS reported Petitioner's scores, Petitioner's file had closed forever.

A closed file cannot open itself, which means NABP requested that ETS open the closed file and cancel the score of this Muslim Petitioner, more than one month

after reporting his valid scores, which represents conspiracy, discrimination, and forgery, i.e., alteration of official documents, and that has legal significance affecting on the Petitioner's personal rights.

So, NABP requested cancellation, leaked the Petitioner's confidential information to ETS, committed with ETS conspiracy, discrimination, forgery, and defamation,

{ 42 US Code Subchapter I: § 1981 - Equal rights under the law, § 1981a – Damages in cases of intentional discrimination in employment, § 1985 - Conspiracy to interfere with civil rights. § 1986 - Action for neglect to prevent, § 1987 –Prosecution of violation of certain laws. See, p. 21 of the Appellant's Brief;-}

Petitioner suffers damages from deprivation of his rights under the U.S. Constitution. There is evidence that ETS performed its discretionary functions arbitrarily, irrationally, and with bad faith in fact. Also, ETS did not perform its duty in its contract.

Cancellation of the valid scores was arbitrary, depriving Petitioner of his right to due process under the Fifth and Fourteenth Amendments to the U.S. Constitution, and also Petitioner's NABP certificate eligibility expired in June of 2015.

N.B. Mr. Elghannam has passed the Foreign Pharmacy Graduate Equivalency Examination (FPGEE), but NABP is holding the Petitioner's FPGEC Pharmacist Certification under one condition, which is to pass in the Test of English (from ETS) as a Foreign Language (TOEFL).

The role of ETS in the conspiracy was as recipient of confidential information leaked from NABP, so as to cancel the Petitioner's valid scores and to ban Mr. Elghannam for one year from sitting for the TOEFL [English exam] to enable NABP to expire the Petitioner's pharmacist certificate.

See. A conspiracy under 42 U.S.C. §1983 can exist even if only one party to the agreement is named as a defendant, as in Adickes v. S.H. Kress & Co., 398 U.S. 144, 152 (1970).

Therefore, ETS breached its adhesion contract, violated its contract, the law, the Constitution, and violated the Petitioner's constitutional rights under the fifth and fourteenth Amendments.

Petitioner does not seek to avoid the terms of his contract with the Respondent, merely to enforce them. Also, ETS never performed its duty in the contract. ETS breached legal duty to properly score the Petitioner, and breached the contract by sending contradictory letters to the Petitioner: the cancellation letter of the Petitioner's valid TOEFL score, more than one month after a letter reporting favorably to the Petitioner.

ETS owed a duty to the public to report scores accurately. ETS's breach of this duty gives Petitioner a claim in negligence.

See, DALTON v. EDUC. TESTING SERV•155 Misc.2d 214, 225 (N.Y. Misc. 1992). "ETS, therefore, breached its adhesion contract with Brian. Also: Dalton Brian v. Educational Testing Service. Citation: 87 N.Y.2d 384, 663.E.2d 289, 639 N.Y. .2d 977, 1995 N.Y. (Dalton, 588 N.Y.S.2d at 746)

In Dalton, Brian Dalton is entitled to the benefit of his contract with ETS and since the subject matter of that contract is undeniably unique, specific performance is the proper remedy. The court, therefore, directs ETS to release, without comment or qualification, the November 2, 1991 SAT scores of Brian Dalton.

Forgery: (a) ETS committed alteration in official documents (Petitioner's score certificate). (b) This alteration has some legal significance affecting on the Petitioner's personal rights: not only the Petitioner cannot sit for the TOEFL again for one year, but also National Association of Boards of Pharmacy certificate eligibility expired in June 2015, and the Petitioner's situation is now that he must again pass the FPGEE (Foreign pharmacy graduate equivalency exam) from NABP and also take the TOEFL from ETS.

4. The Court of Appeals reflects misapplication and violation of U S Constitution and federal law and treated the case unlawfully, for example:

The Memorandum Opinion, Appendix B:

Does Washington, DC, Legally Exist As a Safe Place To Commit Crimes

ARGUMENTS ARE WITHOUT MERIT of the Memorandum Opinion and

Judgment. It alleges Washington DC is an independent country:-App.B-10a,

on p.8, lines 1 to 9, that does not submit to forgery, conspiracy law, or to U.S.

Constitution, and legally exists as a safe place to commit forgery and conspiracy as you want.

There is an agreement between the two parties, ETS and Elghannam. The Petitioner was photographed at the moment of sitting for the exam, (the photo, (Attached#3) is a face print like the finger print), and also provided his ID that has his photo, in addition **to half page of his handwriting on the contract, made at the moment that Petitioner was sitting for the Exam.,** Attached#5.

*see, DISTRICT OF COLUMBIA COURT OF APPEALS, No. 08-CF-1361
ROBERT E. PETTUS, APPELLANT, v. UNITED STATES, APPELLEE decided :-
(handwriting comparison and expert opinions based thereon satisfy the bedrock)*

5. and 6. The Court of Appeals permits violation of the Petitioner's Constitutional rights via leaking his confidential information to third party, and ignoring the secret investigation which broke the circle and forced, for the first time, ETS to report the Petitioner's real scores.

Attached # 7 is a Secret Investigation which puts the truth in the Supreme Court's hands, as absolute evidence of conspiracy: the Petitioner's Documented Complaint in 2014 requesting an investigation, which broke the circle, and forced for the first time ETS to report the Petitioner's real scores.

The Memorandum opinion and Judgment ignored the Petitioner's documented complaint to the ETS Director (stamped by ETS stamp) that forced ETS to stop sending false low score to the Petitioner. Attached # 7

So, Petitioner's Complaint to the ETS Director in 2014 forced ETS, for the first time, to report the Petitioner's real scores.

P. 2, lines 11-15(App.B-4a), the judges' memorandum supports cancellation of the Petitioner's score based on the brittle allegation that there was a big difference in the Petitioner's scores. So, the lower court failed to read clear facts, ignored the Petitioner's Complaint to the ETS Director in 2014, which forced ETS after some months to send to the Petitioner his real score for the first time as a result of the Petitioner's complaint to ETS's director, which exposed that the lower score that ETS sent before the Petitioner's complaint was not his real score. So, if the lower court behaved by oppressive manner in spite of all these evidences, where is it that the victims can find justice?

So, the lower Court ignored the Petitioner's Complaint to the ETS Director in 2014 and its consequences, which after some months forced ETS for the first time to report the Petitioner's real scores by E-mail, and by US Post, also ETS reported the scores to the third party, Pharmacy Board, NABP. See Petitioner's complaint to ETS that was stamped by [Respondent] ETS, App. at 23 of Appendix to the Brief of Petitioner. Attached#7

After several attempts to pass the TOEFL exam, Mr. Elghannam discovered that **ETS was sending him low scores** although he was excellent in several exams, especially when a section of one of his exams was in the health sector, which was very, very easy to answer (since Elghanam is a pharmacist, and all his Pharmacy studies in Egypt were in English), but Elghannam received poor scores in this section also, so in 2014, Elghannam filed a complaint to the Director of ETS, dated August 24, 2014, requesting an investigation about that, and about all his

previous exams. Copy of the complaint attached as #7.

Some months after the Petitioner's complaint dated August 24, 2014, to the ETS-TOEFL director, and as a result of this complaint, the Petitioner received for the first time his real scores by email on April 20, 2015, and a confirmation letter by US mail on April 25, 2015. So, an email, and then an official letter, from ETS indicating his successful results, and he had obtained scores 30 and 30, 28 and 29 on his TOEFL exam dated April 10, 2015. Attached#2 and#3

NABP, the National Association of Boards of Pharmacy, for more than one month after receiving the Petitioner's valid scores refused to send to the Petitioner his pharmacist certificate. The relationship between NABP and ETS (the Respondent) is planned to discriminate against Muslims (civil conspiracy and discrimination).

NABP controls this certificate and held it for more than one month until the Respondent ETS supplied an illegal cancellation letter of Petitioner's TOEFL scores, based on NABP's request. So, the Respondent committed this overt act, and during this month the Respondent was in a contact conspiracy with NABP that convinced ETS to send a cancellation of Petitioner's score.

This conspiracy and discrimination to cancel the Petitioner's valid TOEFL score also forbade him to sit for the TOEFL again for one year, thus terminating his FPGEC pharmacist certificate eligibility which expired in June of 2015.

N.B. The role of ETS in the conspiracy was as recipient of confidential information, leaked from NABP in order to not only cancel the Petitioner's valid scores but to ban Mr. Elghannam for one year from sitting for the TOEFL [English exam] to enable NABP to expire the Petitioner's pharmacist certificate, since they know if cancellation only, the Petitioner will go again immediately in the TOEFL and will pass easily in the Exam. And if that happened NABP will be forced to send him his pharmacist certificate that it was holding it under one condition, which is to pass in the TOEFL exam.

Have the Lower Courts Lost Credibility, and Violated the Judiciary System

Did the lower Courts violate the judicial system when they refused the repeated requests to review the voice between the last exam and the previous ones?

The Petitioner's score was canceled under allegation that the Petitioner is not the person who took the Exam, based on allegation of inconsistencies in the voice between the last exam and the previous ones, although no previous ones exist to make comparison.

The Petitioner requested an independent review of the tests. (See p.6 and p.7 of the Petitioner's Brief.) Elghannam asserts that ETS does not possess any previous tests. Why did the Courts refuse Elghannam's repeated requests to review the voice between the last exam and the previous ones? (Also, see p.1, line 1-5 from bottom of Appellant's Petition for Rehearing En Banc).

The Petitioner was photographed at the moment of sitting for the exam, (the photo is a face print like the finger print), and also provided his photo ID, in addition to his handwriting on the contract which was made at the moment that Elghannam was sitting for the Exam. Attached#5

N.B. Elghannam challenged the assertion of ETS that they made a voice comparison between previous TOEFL tests and the last test, dated April 10, 2015.

If such previous tests exist, without an impartial investigation ETS's claim about a voice comparison is only an allegation. Petitioner requested an independent review. Pages 6 and 7 of the Petitioner's Brief assert that ETS does not possess any previous tests, and also that the Court refused to issue Order that Petitioner's scores are still valid.

As a result of the illegal cancellation of Mr. Elghannam's valid scores, he has been left without employment, deprived of income and benefits, suffered damages to his reputation, has suffered emotional distress, and has otherwise been damaged, and several examples of Petitioner's emotional distress and punitive damage appear in the record in the trial court.

ETS used, and the Court accepted, mutually exclusive facts to create fake legitimacy, as follows:

7. This case reflects legal issue of exceptional importance to national justice. The Respondent's action was an arbitrary, reckless and irresponsible violation of the Petitioner's due process rights as well as defamation. Without any evidence,

without any hearing, no investigation was ever done, and it was a discriminatory decision by committing a fraud on the Court and improper dishonest conduct that threatens the integrity of the judicial process, to avoid the discrimination and the conspiracy count. The Petitioner submits legal, officially notarized documents, issued by the ETS itself to refute that fraud.

PROCEDURAL BACKGROUND AND THE CONSTITUTIONALITY QUESTION.

The Petitioner asserts rights under the fifth and fourteenth Amendments of the United States Constitution, and, as described by the Legal Information Institute, 42 US Code Subchapter I: §1981 - Equal rights under the law, § 1981a - Damages in cases of intentional discrimination in employment, § 1985 - Conspiracy to interfere with civil rights. § 1986 - Action for neglect to prevent, § 1987 - Prosecution of violation of certain laws.

In illegal support of ETS, and violation of Rule 201 of Federal Rules of Evidence and the inherent equitable authority of the federal courts of appeals, the judges ordered removal of the Petitioner's Supplemental exhibits.

The associated judges ordered removal the Petitioner's Supplemental exhibits which represent indisputable facts that directly relate to the issues on appeal.

Petitioner did not give ETS permission to commit negligence, misrepresentation, humiliation and mental anguish.

Put into consideration that ETS does not represent the Petitioner, it is just a place that NABP forced the Petitioner to sit to take the exam, and the Petitioner paid the fee of the ETS exam (\$180.00). ETS committed specific acts of behavior “that evidence an utter disregard for others.” Under District of Columbia law, it is firmly established that a Petitioner may recover damages for mental suffering unaccompanied by physical injury.

Adams v. George W. Cochran & Co., Inc., 597 A.2d 28, 31 (D.C. 1991); *Parker v. Stein*, 557 A.2d 1319, 1322 (D.C. 1989); *Barnes v. Dist. of Columbia*, 452 A.2d 1198, 1199 (D.C. 1982).

8. Did the court build its judgment on fake legitimacy? Two contradictory [statements of] facts at the same moment, facts that contradict the Court's Order, which frustrates the purpose of litigation and justice by facilitating violation of the Constitution and Federal Court decisions and rules.

Is Mr. Elghannam the Person Who Took the Exam, or Not.

A. { To create legitimacy to cancel the scores, ETS decided that Elghannam is not the person who took the Exam, although as we explained before, based on the Contract, (see APP. 28), ETS cannot cancel the score after reporting it}.

B. { To create legitimacy of the Contract, ETS needs to use Mr. Elghannam's signature on the contract, so ETS decided that Elghannam is the person who took the Exam,}

Attached#4 and#6.

So, the opposition party decided that Mr. Elghannam is the person who took the Exam, and also decided that Elghannam is not the person who took the exam, This is the Key of the Case. The clue is evidence condemning the Respondent, who wants to use Mr. Elghannam's signature on the contract at the time that it was made, at the moment that Petitioner was sitting for the Exam, so accepts that "Mr. Elghannam is the person who took the Exam." (Attached#6)

Then, when the Respondent wants to violate Mr. Elghannam's rights under the Constitution by canceling his valid TOEFL scores, he says that "Elghannam is not the person who took the exam," although as we explained before based on the Contract, APP. 28, ETS cannot cancel the score after reporting it.

Failure to state a claim:- Case law bars dismissal of lawsuits when facts are alleged that state federal causes of actions, Federal Judges Repeated Violations of Criminal and Civil Rights Laws.

"With regard to a motion to dismiss for failure to state a claim, a § 1983 complaint should not be dismissed unless it appears that the plaintiff can provide no set of facts which would entitle him to relief." *Doe v. Public Health Trust of Dade County*, 696 F.2d 901, 907 (11th Cir. 1983) (Hatchett, J. specially concurring); *Richardson v. Fleming*, 651 F.2d 366, 368 (5th Cir. 1981). For purposes of testing sufficiency of the complaint, the allegations of the complaint must be taken as true. *Richardson*, 651 F.2d at 368

The Court ignored forensic evidence. Forensic Evidence, the Petitioner's photo and handwriting, [almost half a page of the Petitioner's handwriting on the contract which was made at the moment that Elghannam was sitting for the Exam], was ignored, and so doing threatens the nation, violates the Constitution and Federal Court rules and decisions, and the simplest rules of forensic evidence.

Attached , (APP 28 of Appendix to Appellant's Brief.)

See as example:

DISTRICT OF COLUMBIA COURT OF APPEALS, No. 08-CF-1361

ROBERT E. PETTUS, APPELLANT, v. UNITED STATES, APPELLEE,

decided:-

*(**handwriting comparison and expert opinions based thereon satisfy the bedrock**)*

opinion of an FBI forensic document examiner that a piece of handwriting left on the body of the murder victim had been written by appellant. Specifically, we must decide whether opinion evidence of this kind based on comparison of "known" and "questioned" handwritings, resulting in the opinion that the same individual wrote both documents, meets the test of "general acceptance of a particular scientific methodology,"

Ibn-Tamas v. United States, 407 A.2d 626, 638 (D.C. 1979);

*see Frye v. United States, 54 App. D.C. 46, 47, 293 F. 1013, 1014 (1923), required by this jurisdiction for the admission of forensic science evidence. Although appellant, joined by the Public Defender Service as amicus curiae, makes a spirited attack on the general acceptance of all such "pattern-matching" analysis in the light of a recent National Research Council Committee Report, we hold that forensic **handwriting comparison and expert opinions based thereon satisfy the bedrock** admissibility standard of Frye and Ibn-Tamas and may be put before a jury, where remaining issues of reliability may be argued, after cross-examination and any counter-expert testimony, as affecting the weight of the opinions.*

ETS confessed, “Mr. Elghannam is the person who took the Exam” Attached #6
See, *K.D. v. Educational Testing Service*, 386 N.Y.S.2d 747 (N.Y. Sup. Ct. 1976),
authorized negligence claims on the ground that plaintiffs did not have the
opportunity to bargain freely over the terms of the contracts they had entered.

9. The court tried to deny the conspiracy, the discrimination count, and violation of
Mr.Elghannam’s rights to due process under 42, the fifth and fourteenth
Amendments to the U S C.

Memorandum and Judgment ignored that the relationship between NABP and ETS
discriminates against Muslims. This relationship between NABP and ETS is
planned to discriminate against Muslims and to prevent them from taking any
pharmacist certificate in the USA. The Petitioner is one of those Muslims and is
injured and damaged as a victim of this civil conspiracy and discrimination.

See, A conspiracy under 42 U.S.C. §1983 can exist even if only one party to the
agreement is named as a defendant, as in *Adickes v. S.H. Kress & Co.*, 398 U.S.
144, 152 (1970). See p. 20 of the Appellant’s Brief,

42 US Code Subchapter I: § 1981 - Equal rights under the law, § 1981a –
Damages in cases of intentional discrimination in employment, § 1985 -
Conspiracy to interfere with civil rights. § 1986 - Action for neglect to prevent, §
1987 –Prosecution of violation of certain laws. See, p 21 of the Appellant’s Brief;-

Legal journal cites “Health Care Discrimination against Muslims in USA.”

The relationship between NABP and ETS is used to discriminate against Muslims
and to prevent them from taking any pharmacist certificate in the United States of

America, and the Petitioner is one of those Muslims and is injured and damaged as a victim of this discrimination against Muslims. (Attached#8)

A. The healthcare sector has significant discrimination against Muslims. The Journal of Legal Issues and Cases in Business in its statistical analysis of religious discrimination complaints through the Equal Employment Opportunity Commission reported a significant increase involving Muslims, especially in the healthcare sector. They said, (see p.1, lines 11-14) "The findings concluded that the healthcare sector had a more significant increase in non-meritorious religious discrimination charges than the other comparative categories. The data indicates that there was a significant increase in the Muslim religion conciliation failures while the other religious categories did not show a significant increase over the relevant period. " Attached, App. At 35 Appendix of Appellant Brief. Attached#8

ETS and NABP conspired to cancel Petitioner's valid reported scores. This relationship between NABP and ETS is planned to discriminate against Muslims and to prevent them to take any pharmacist certificate in United States of America, and the Petitioner is one of those Muslims, and is injured and damaged as a victim of this conspiracy and discrimination against Muslims.

Memorandum and Judgment rejected the fact that ETS is a State Actor. See the Appellant's Brief:- (filed on Feb 23, 2016).

The Supreme Court has held private citizens to be liable as state actors when they conspire to deprive people of their rights. In the supplemental response, filed

February 5, 2016, on p.3 the Petitioner cited the “damage caused to the Plaintiff” by the civil conspiracy between ETS and NABP. “This scheme is an unlawful act **and caused an injury and damage to him. ETS forbade the Petitioner to defend himself or to appeal, or to retake the exam before one year which resulted in expiration of his valid pharmacist certificate in June, 2015. So it was not only cancellation of his TOEFL score but also expiration of his pharmacy certificate and a complete damage for him.**

ETS committed conspiracy and discrimination against the Petitioner, since after ETS reported Petitioner’s scores, Petitioner’s file had closed forever. The closed file cannot open itself, which means Board of Pharmacy (NABP) requested that ETS open the closed file to cancel the score of this Muslim.

A Cause of Action is stated under the Civil Rights Acts of 1866 and 1871, the fourteenth Amendment to the United States Constitution.

(1) Whether ETS’s involvement constitutes the requisite State action in order to hold it to trial; (2) whether a cause of action is stated under the Constitution of the United States and of every State; (3) or whether a cause of action is stated under the Civil Rights Acts of 1866 and 1871; the fourteenth Amendment to the United States Constitution prohibits any state from depriving any person of his property without due process of law.

The Civil Rights Act of 1871 (42 U.S.C. § 1983 (1976)) requires that in order to be liable one must be acting under color of any statute, ordinance, regulation, custom or usage. This has been treated as the same thing as state action under the fourteenth Amendment. (*United States v. Price (1966)*, 383 U.S. 787, 16 L.Ed.2d 267, 86 S.Ct. 1152.) Therefore it follows that ETS’s participation must be state

action. ETS and NABP are virtual partners with the State in a statutorily mandated activity.

“GOLDEN RULE LIFE INSURANCE COMPANY et al., Plaintiffs-Appellants, v. RICHARD L. MATHIAS, Director of Insurance, ETS. Al., Defendants-Appellees.” 86 Ill. App.3d 323 (1980), 408 N.E.2d 310)

Mr. Justice Clark said: “The State has so far insinuated itself into a position of interdependence with Eagle [the restaurant] that it must be recognized as a joint participant in the challenged activity, which, on that account, cannot be considered to have been so ‘purely private’ as to fall without the scope of the Fourteenth Amendment.” 365 U.S. 715, 725, 6 L.Ed.2d 45, 52, 81 S.Ct. 856, 862. “In our judgment the activity of ETS in the case at bar was State Activity.”

B- Also, Petitioner’s case v. ETS is similar to Golden v. ETS in the alleged points, discrimination and due process under the Constitutions:

1. Golden alleges a violation of the due process clauses of the Constitution of the United States in addition to damages from ETS.
2. ETS discriminated against Muslims, and Petitioner is one of those; also in the Golden case, ETS committed racial discrimination against black persons and members of other racial minority
3. Golden asks for damages against ETS for both the corporate and the individual plaintiffs for deprivation of rights under the Constitution of the United States.
4. Golden alleges violations of the due process clauses of the Federal and State laws, and of the civil rights acts; discrimination must be shown. Defendant ETS has intentionally and knowingly discriminated against applicants who are black or members of other racial and minority groups. Golden held that ETS’s

function was State action, and therefore the color of law requirement of the statute is met. The next requirement is that purposeful discrimination must be shown.

Washington v. Davis (1976), 426 U.S. 229, 48 L.Ed.2d 597, 96 S.Ct. 2040.

N.B. Memorandum and Judgment ignored that Damage is Cause of Action, as stated the Appellant's Brief.

ETS forbade the Petitioner to defend himself or to appeal, or to retake the exam before one year which resulted in expiration of his valid pharmacist certificate in June, 2015. So it was not only cancellation of his TOEFL score but also expiration of his pharmacy certificate and a complete damage for him.

Civil conspiracy has four elements:-

“(1) an agreement between two or more persons; (2) to participate in an unlawful act, or a lawful act in an unlawful manner; (3) an injury caused by an agreement; (4) which overt act was done pursuant to and in furtherance of the common scheme.” *Halberstam v. Welch, 705 F.2d 472, 477 (D.C. Cir. 1983).*

In our case ETS committed an unlawful act by cancellation of the Petitioner's valid scores, and ETS committed discrimination against the Petitioner. Also, ETS breached its contract.

Memorandum and Judgment rejected Petitioner's Defamation Claim.

ETS alleges that Petitioner's defamation claim fails, but Petitioner did not give ETS permission to commit negligent misrepresentation, humiliation or mental anguish. Consider that ETS does not represent the Petitioner, it is just a place that NABP forced the Petitioner to sit to take the exam, and the Petitioner paid the fee

of the ETS exam (\$180.00). ETS committed specific instances of behavior “...that evidence an utter disregard for others.” (See the Appellant’s Brief.) Under District of Columbia law, it is firmly established that a plaintiff may recover damages for mental suffering unaccompanied by physical injury.

Adams v. George W. Cochran & Co., Inc., 597 A.2d 28, 31 (D.C. 1991); *Parker v. Stein*, 557 A.2d 1319, 1322 (D.C. 1989); *Barnes v. Dist. of Columbia*, 452 A.2d 1198, 1199 (D.C. 1982).

Memorandum and Judgment ignored that ETS committed forgery, according to the Criminal Law. See Appellant’s Brief.

Forgery is the false making or material alteration of a writing, where the writing has the apparent ability to defraud and is of apparent legal efficacy with the intent to defraud. Thus, one element of forgery is Legal efficacy: the document or writing has to have some legal significance affecting another person’s right to something. The Respondent’s allegation that ETS did not forge anything contradicts the definition of forgery for the following reasons:

- (a) ETS committed alteration in official documents (Petitioner’s score certificate).
- (b) This alteration has some legal significance affecting on the Petitioner’s personal rights: not only the Petitioner cannot sit for the TOEFL test again for one year, but also NABP certificate eligibility expired in June 2015 and the Petitioner’s situation is now that he must again pass the FPGEE (Foreign pharmacy graduate equivalency exam) from NABP and also take the TOEFL from ETS.
- (c) This forgery is a crime according to the criminal law.

(d) The Respondent on his Motion to Dismiss dated Sep. 24, 2016, p.4 line 6 from bottom, concedes that the Petitioner is the person who took the Exam and says, "On the date he took the TOEFL, plaintiff signed a Confidentiality Statement." (See APP at 84...)

Therefore,

A. This Case Presents an Issue of Exceptional Importance.

It's a simple matter, that one man went to his exam, his photo and his handwriting (the photo is a face print like the finger print), taken at the moment of his seating in the exam, and also his handwriting is forensic evidence, and the Court's violation of that evidence is considered unreasonable decision that conflicts with Supreme and Federal Court decisions.

The judgment in this case is also in conflict with the decisions of several other cases, for example *DISTRICT OF COLUMBIA COURT OF APPEALS, No. 08-CF-1361. ROBERT E. PETTUS, APPELLANT, v. UNITED STATES, APPELLEE*, decided "...**handwriting comparison and expert opinions based thereon satisfy the bedrock...**"

This is an exceptionally important issue of the simplest constitutional rights. The Court ignored the last Contract, and Documented Complaint requesting secret investigation, which broke the conspiratorial circle, and after some months the Petitioner received for the first time his real scores. [App. at 23 of Appendix to the Brief of Appellant.] Attached#7

The Court erred when it supported the ETS's violation of the Petitioner's rights under the fifth and fourteenth Amendments of the United States Constitution. The Petitioner does not seek to avoid the terms of his contract,

merely to enforce them. ETS breached the contract by cancelling the Petitioner's score after reporting it. ETS owed a duty to the public and their breach of this duty gives Petitioner a claim in negligence.

See, DALTON v. EDUC. TESTING SERV. 155 Misc.2d 214, 225 (N.Y. Misc. 1992). "ETS, therefore, breached its adhesion contract with Brian by failing to act in good faith in the course of determining whether there was reason to question the validity of Brian's SAT score. Under these circumstances, Brian is entitled to the benefit of his contract with ETS and since the subject matter of that contract is undeniably unique, specific performance is the proper remedy. The court, therefore, directs ETS to release, without comment or qualification, the November 2, 1991 SAT scores of Brian Dalton."

10. The Court refused Elghannam's repeated requests to review the previous tests. (The Court cannot know if any previous tests exist.). The Petitioner's Essential Request is a Fundamental point in the case:

There is no credibility for the opposition party who breached his Contract, and contradicts himself by saying "that Elghannam is the person who took the exam,".. and also says Elghannam is not the person who took the exam. ETS's cancellation of Petitioner's score is based on the false assertion that ETS made a voice comparison between previous TOEFL exams and the last test. Based on that: Petitioner's essential request is to review these tests **(an independent review)**, and if the ETS fails to submit to that request, the Court should issue an immediate Order that Petitioner's score is still valid, and ETS's cancellation was based on

conspiracy, discrimination, deception and forgery.

This means Petitioner's score was valid and already reported to him and to NABP, who refused to mail the Petitioner his pharmacist certificate, and instead requested from ETS to cancel the Petitioner's score because he is Muslim. Clearly, if ETS had suspected in any scores, they never would have released them.

The conclusion is that the Petitioner's score is valid, and thus ETS reported it to him and to NABP, which requested the cancellation. Petitioner's photo, ID, and handwriting expose the conspiracy and the discrimination, and also refute any allegation that Petitioner was not the person who sat for the exam.

Not only was the Petitioner barred to sit for the TOEFL for one year, but also NABP Pharmacy certificate eligibility expired in June of 2015, and the Petitioner's situation is now that he must again pass the FPGEE (Foreign pharmacy graduate equivalency exam) from NABP as well as take the TOEFL from ETS .

Petitioner suffers damages from deprivation of his rights under the Constitution of the United States. There is evidence that ETS performed its discretionary functions arbitrarily, irrationally, and with bad faith in fact. Also, ETS did not perform its duty in its contract. Cancellation of the valid scores was arbitrary, depriving Petitioner of his right to due process under the Fifth and Fourteenth Amendments to the US Constitution, and also Petitioner's National Association of Boards of Pharmacy certificate eligibility expired in June of 2015.

Dismissal should be denied when, as here, the Petitioner supplies evidence to support each of the elements of the cause of action, such as discrimination and

defamation and all other claims of cause of action, and that the Respondent made a false and discriminatory and defamatory statement and action concerning the Petitioner and caused special harm; (See Oparaugo v. Watts, 884 A.2d 63, 76 (D.C. 2005) (internal quotation and citation omitted), and when it tends to injure him in his profession or community standing, or lowers him in the estimation of the community. (See Williams v. District of Columbia, 9 A.3d 484, 491 (D.C. 2010) (internal citations omitted); quoting Guilford Transp. Indus., Inc. v. Wilner, 760 A.2d 580, 594 (D.C. 2000) (quoting Howard University v. Best, 484 A.2d 958, 989 (D.C. 1984)).

Therefore, the Superior Court erred when it supported ETS's violation of the Petitioner's rights under the fifth and fourteenth Amendments. The Petitioner also does not seek to avoid the terms of his contract, merely to enforce them.

Similarity between the Petitioner v. ETS, and *DALTON v. ETS*:-

ETS's breach of this duty gives Petitioner a claim in negligence, and the following case for *Dalton* is similar to our case exactly, see *DALTON v. EDUC. TESTING SERV*•155 Misc.2d 214, 225 (N.Y. Misc. 1992).. "ETS, therefore, breached its adhesion contract with Brian by failing to act in good faith in the course of determining whether there was reason to question the validity of Brian's SAT score. Under these circumstances, Brian is entitled to the benefit of his contract with ETS and since the subject matter of that contract is undeniably unique, specific performance is the proper remedy, Dalton does not seek to avoid the terms of his contract with the ETS, merely to enforce them.

The court, therefore, directs ETS to release, without comment or qualification, the November 2, 1991 SAT scores of Brian Dalton.”

In our case, the court committed clear error or the decision was a manifest showing of a failure to consider material facts presented to the Court before such order, or the decision was manifestly unjust, and arbitrary. See *Fed. R. Civ. P. 60(b)*. *Absent unusual circumstances, reconsideration is appropriate where the court has committed clear error or the decision was manifestly unjust, or there was an intervening change in controlling law. Sch. Dist. No. 1J, Multnomah Cnty. v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993).*

However, the basis for relief may “include mistake and inadvertence by the judge.” Kingvision Pay-Per-View Ltd. v. LakeAlice Bar, 168 F.3d 347, 350 (9th Cir. 1999). Motions under Rule 60(b) are within the sound discretion of the district court. Price v. Seydel, 961 F.2d 1470, 1473 (9th Cir. 1992).

As a result of the illegal cancellation of Mr. Elghannam's valid scores, he has been left without employment, deprived of income and benefits, has suffered damages to his reputation, has suffered emotional distress, and has otherwise been damaged.

Factors considered by several federal courts of appeals when exercising their inherent equitable authority to supplement the record, relate conceptually to the advancement of principles fundamental to the function of the judiciary: fairness, truth, and judicial efficiency. See *Warren v. Pollard*, 2012 WL 3234999, at *2 (E.D. Wis. Aug. 6, 2012) (referring to inherent equitable power and concluding that a court "may enlarge the record in unique cases when it believes the interests of justice are at stake").

(Cases Support Supplementation) : I. FRE 201,

Landy v. FDIC, 486 F.2d 139, 151 (3d Cir. 1973).

Philips Med. Sys. Intl., B. V. v. Bruetman, 982 F.2d 211, 215 (7th Cir. 1992).

White v. Gaetz, 588 F.3d 1135, 1137 n. 2 (7th Cir. 2009). *Smith v. Duncan*, 297 F.3d 809, 815 (9th Cir. 2002)

Colonial Penn Ins. Co. v. Coil, 887 F.2d 1236, 1239 (4th Cir. 1989)

II. The inherent equitable authority of the federal courts of appeals

If supplementing the record will advance the principles of fairness, truth, or judicial efficiency. *See Cedar Coal Co. v. UMW*, 560 F.2d 1153, 1166 (4th Cir. 1977), *See Warren v. Pollard*, 2012 WL 3234999, at *2

(E.D. Wis. Aug. 6, 2012) .*See Gibson*, 744 F.2d at 405 n. 3 . *Colbert*, 471 F.3d at 166 ; *Schwartz*, 341 F.3d at 1225 n. 4 . 757 F.2d 909 (7th Cir. 1985); *Doug Grant, Inc. v. Greate Bay Casino Corp.*, 232 F.3d 173, 177 n. 2 (3d Cir. 2000). *Highsmith v. Chrysler Credit Corp.*, 18 F.3d 434, 439 (7th Cir. 1994).

In fact, according to the law, and according to the ETS Confidentiality Statement for the TOEFL iBT® Test, (Attached#5) ETS violated its contract by cancellation of the scores after reporting to the Petitioner and to NABP. In line 2 it says, “If cancellation should be necessary, no scores will be reported and your test fee will be forfeited.” Again, confirmation of this statement repeated after item 6 says, “...and the reporting or cancellation of scores. Attached#5

So, according to the ETS Confidentiality Statement for the TOEFL iBT® test, (Attached#5) if ETS had suspected any scores, they never would have released them, which means ETS had to choose one action, “Reporting or Cancellation,” but ETS reported the score, then cancelled it after more than one month, so, the contract is breached.

This reversal indicates interference in this matter by a third party who conspired with ETS and pushed ETS to cancel the Petitioner's valid score. This third party is NABP, who refused for one month to send to the Petitioner his pharmacist certificate, that was being held under one condition, that he must pass in the Toefl iBT.

Thus, ETS breached its adhesion contract, violated its contract, the law, the Constitution, and violated the Petitioner's constitutional right of due process under the fifth and fourteenth Amendments of the U.S. Constitution.

Further, **two forensic evidences show** that Petitioner was the person who took the TOEFL: the Petitioner's photo and his handwriting on the contract, **taken at the moment of his sitting to the exam**, only one of which is sufficient evidence to save or condemn any person in the Courts. **So:**

{A} The Contract exposes the illegality of cancellation the petitioner's score. Last Contract is Superior (also, no other contract is presented in this case). Also, the court knows that the last will is the superior,

{B} Fake Legitimacy, ETS and Judges used contradicted facts to create fake legitimacy.

{C} The Documented Complaint requesting secret investigation broke the circle.

{D} The Judges' Decision Frustrates Justice and the Purpose of Litigation by

facilitating violation of the Contract, the Constitution, Federal Court decisions and rules, and forensic evidences.

{E}As a result of the illegal cancellation of Mr. Elghannam's valid scores, he has been left without employment, deprived of income and benefits, suffered damages to his reputation, has suffered emotional distress, has otherwise been damaged, and his pharmacist certificate expired. The Petitioner insists on his previous requests:-

- a. Issue order to ETS to reinstate the Petitioner's TOEFL IBT scores .
- b. Grant Petitioner's right in compensatory and punitive damages, compensatory damages in the amount of \$3,000,000, and punitive damages in the amount of \$4,000,000, plus interest and costs, the relief sought above, and reasonable attorney's fees and litigation expenses.

*See, United States Supreme Court, BAILEY v. PATTERSON, (1962), No. 643
Bailey v. Patterson (1962) The Court in this case prohibited racial segregation of interstate and intrastate transportation facilities.*

See, Ricci v. DeStefano, 557 U.S. (2009)., Ricci involved a challenge to the refusal by the City of New Haven, Connecticut ("City") to certify the results of a promotion examination because the test-passage results displayed a disparate impact on non-white applicants. Supreme Court Holds Employer Liable for Trying to Avoid Claims of Adverse Impact Discrimination.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted



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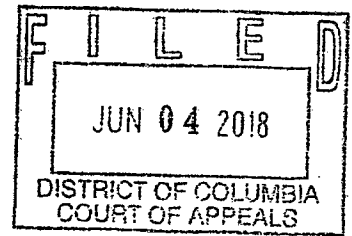
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Date: Jun 21, 2018

APPENDIX A

**District of Columbia
Court of Appeals**



No. 16-CV-354

ALI ELGHANNAM,

Appellant,

v.

CAB9834-15

EDUCATIONAL TESTING SERVICES,

Appellee.

**BEFORE: Blackburne-Rigsby, Chief Judge; Glickman, Fisher, Thompson,
Beckwith, Easterly, and McLeese, Associate Judges.**

O R D E R

On consideration of appellant's motion for leave to exceed the page limitation, and appellant's lodged petition for rehearing *en banc*; and it appearing that no judge of this court has called for a vote on the petition for rehearing *en banc*, it is

ORDERED that appellant's motion for leave to exceed the page limitation is granted, and the Clerk is directed to file appellant's petition for rehearing *en banc*. It is

FURTHER ORDERED that appellant's petition for rehearing *en banc* is denied.

PER CURIAM

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Director, Civil Division
Quality Review Branch

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APPENDIX B