No. 21-1511

In the

Supreme Court of the United States

JOY GARNER, individually and on behalf of
THE CONTROL GROUP, *et al.,*

Petitioners,

v.

JOSEPH R. BIDEN, in his official capacity as
PRESIDENT OF THE UNITED STATES OF AMERICA,

Respondent.

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

MOTION FOR REVIEW AND DISQUALIFICATION OF ANY AFFECTED HONORABLE JUSTICES WITH ACTUAL OR PERCEIVED CONFLICTS

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MOTION FOR REVIEW AND DISQUALIFICATION OF ANY AFFECTED HONORABLE JUSTICES WITH ACTUAL OR PERCEIVED CONFLICTS

Pursuant to Supreme Court Rule 21.2(c) and 28 USC § 455, Petitioners hereby move for review and disqualification of any Justices with actual or potential conflicts of interest (or the appearance of same) "however small" as the statute reads, with vaccine developers, vaccine patent holders, and/or vaccine distributors.[1]

SUMMARY OF MOTION

As set forth in the attached declaration of Petitioner Joy Garner, financial disclosures show current Honorable Justices with tangible stock and income interests with vaccine developers, vaccine patent holders, and vaccine distributors. For purposes of 28 USC § 455, all appear affected — some more than others.

In *Liljeberg v. Health Services Acquisition Corp.,* 486 U.S. 847, 859-60 n. 8 (1988), the Court found that "§ 455(b)(4) requires disqualification no

[1] 28 U.S.C. § 455 and its case law show that *any* financial interest "however small" in the organization at issue in the litigation (of which the judge receives income or holds stock) requires recusal. The affected organization need *not* be an actual defendant in the litigation; even where the government is the defendant (as here), the judge must still recuse himself "if the outcome of the proceeding could substantially affect the value of the securities" or income.

Here, the complaint and petition for certiorari could not be more damning to the vaccine developers, vaccine patent holders, and vaccine distributors who pay teaching income to the Justices on this Court, and in certain cases where Justices own their stock.

matter how insubstantial the financial interest and regardless of whether or not the interest actually creates an appearance of impropriety." Thus, any "financial interest" as defined in § 455 requires disqualification.

Petitioners argue any vaccine developer (*i.e.,* manufacturer) stock holdings of Justices are financial interests requiring disqualification. Further, adjunct professor incomes of Justices are also financial interests requiring disqualification, since the subject universities are vaccine developers, vaccine patent holders, and vaccine distributors.[2] The Justices

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[2] The Eleventh Circuit in *Wu v. Thomas*, 996 F.2d 271, 275 (11th Cir. 1993), cert. denied, 511 U.S. 1033, implied or left open the question that a judge who receives an adjunct professor's salary would indeed be disqualified under section 455(b) (bright line rule for income "however small"). In *Wu,* the appellate court emphasized that the district court judge who served as an adjunct professor *received no salary*. Thus, finding no financial interest, the appellate court found that relationship in compliance with section 455(a) (because no reasonable person would question the judge's impartiality simply for tangential service as a professor).

Compare the tenuous plaintiff declaration in *McCann v. Commc'ns Design Corp.*, 775 F. Supp. 1535, 1537-38 (D. Conn. 1991):

> Plaintiff's second motion to recuse relies specifically upon Sections 455(b)(4), 455(b)(5)(iii), and 455(a), and the definition of the term "financial interest" in those provisions. Plaintiff alleges that my affiliation with Yale University ("Yale") — I am a trustee of Yale and my wife is a Professor of Law at Yale Law School — means that I have a "financial interest in the subject matter in controversy or in a party to the proceeding," 28 U.S.C. § 455(b)(4), because Westinghouse Electric Corporation ("Westinghouse"), the parent company of defendant WESTCOM, is a "contributor of substantial funds to Yale." June 25 Letter at 1. In support of this claim, plaintiff cites a $ 20,000 grant to Yale from Westinghouse in fiscal year 1986 and claims that "thousands of dollars in scholarship funds to Yale College students" are given by Westinghouse each year. *Id.* Further, plaintiff claims that "solicitors of funds for Yale actively continue to seek to persuade Westinghouse to provide additional funds to Yale." *Id.* Through a series of unsupported and dubious assumptions, plaintiff claims that since Westinghouse has made certain

are also vaccine customers, and are apparently proponents who have received pharmaceutical injections that are manufactured, owned, and distributed by the Defendant.[3]

If this Court were to recognize the truth of Petitioners' staggering allegations of fraud (that vaccines are knowingly worse than asbestos) it would bankrupt companies in each Justice's pharma holdings and their university employers who are responsible for *billions* of doses (hence, injuries), thereby affecting portfolios and likely removing each Justice's annual income interest ("however small"). Simultaneously, with the jaw-dropping control group data showing vaccines severely harm *most* Americans for life, simply recognizing the truth of the allegations opens the door to hundreds of thousands if not millions of dollars in compensation for each

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financial gifts to Yale, there exists here a disqualifying "financial interest" which requires my recusal. *Id.* at 2.

[3] CDC admitted Covid-19 vaccines are owned by the federal government, then removed the page after Petitioners publicized the fact on social media. CDC (October 27, 2021). *CDC COVID-19 Vaccination Program Provider Requirements and Support.* https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html (retrieved on October 27, 2021). https://web.archive.org/web/20211027025400/https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html ("Vaccine remains U.S. government property until administered to the vaccination recipient.")

See also Petitioner Joy Garner's declaration submitted herewith: "Judges should not be allowed to inject themselves with drugs, take money from institutions who make and distribute those drugs, and then preside over cases where the disputed issue is the danger of those drugs. Logic, if it be allowed, welcomes the existence of healthy unvaccinated judges who don't take the defendant's patented drug in question while presiding over that drug's litigation."

Justice and their family members. This is a case that can only be adjudicated by disinterested judges, as Congress directed, because 28 U.S.C. § 455 provides essential checks and balances for Art. III judges.

In the rare case where a plaintiff makes a credible[4] and yet *comprehensive* legal challenge to an entire industry, as here with Petitioners' sweeping allegations against Big Pharma's vaccine alliance with POTUS through the National Vaccine Program, this Court must comply with 28 U.S.C. § 455(e) ("a full disclosure on the record of the basis for disqualification") by proactively disclosing its potential conflicts.

Petitioners' previous motions successfully resulted in recusal of one District Court judge and one Ninth Circuit judge based on their financial interests. So far, zero disclosures or recusals have issued from this Supreme Court.

With the utmost respect for this high Court and its honorable Justices, Petitioners respectfully move for an openly published review of this Court's vaccine developer, vaccine patent holder, and vaccine distributor conflicts, and issue any recusals/disqualifications as required to ensure not only this

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[4] Any question of the credibility of this case can be resolved by this Court taking the opportunity rule upon Petitioners' three volumes of pending requests for judicial notice, which can be granted now or at any stage of the litigation, as they are incorporated by reference in the complaint, and referenced repeatedly in the petition for certiorari. Federal Rule of Evidence 201(d) states, "The court may take judicial notice at any stage of the proceeding." Indeed, Federal Rule of Evidence 201(c)(2) provides that the Court "must take judicial notice if a party requests it and the court is supplied with the necessary information."

Court's fair discussion in conference behind closed doors, but the appearance of same to those outside the doors.

Nothing in this motion should be interpreted to disparage this high Court or suggest any impropriety whatsoever. The goal is to assure that Petitioners and the public can access a written record of this Court's compliance with 28 USC § 455, which is also a matter of procedural due process.

RELEVANT FACTUAL BACKGROUND

A. District Court

This case was filed in the California Eastern District Court in December 2020.

District Court Judge Shubb granted a motion to dismiss with prejudice (which is the subject matter in this Supreme Court proceeding). Cert. Pet., App. B.

B. Ninth Circuit

Petitioners appealed this dismissal to the Ninth Circuit and filed two motions to recuse affected judges owning vaccine manufacturer stock:

(1) Motion to Vacate Order and Judgment of Dismissal; and for Disqualification of Judge Shubb. No. 2:20-cv-02470-WBS-JDP, D. Ct. Dkt. 48.

(2) Motion to Disqualify Circuit Judge Kim McLane Wardlaw.

Ninth Cir., No. 21-15587, Dkt. 35-1.

Ninth Circuit Judge Wardlaw recused herself immediately. Ninth Cir. Dkt. 36; *Garner v. Biden*, No. 21-15587, 2022 U.S. App. LEXIS 3255 (9th Cir. Feb. 4, 2022).

District Court Judge Shubb did the same and also vacated all his previous orders, "the undersigned judge [Shubb] hereby RECUSES himself from all proceedings in this case nunc pro tunc, and the Judgment and all orders entered by the undersigned judge in this action are hereby VACATED and SET ASIDE." D.Ct. Dkt. 50.

Over Petitioners' objection, the Ninth Circuit rejected Judge Shubb's recusal in a footnote, "The [district] court's order had no effect, however, because it was issued after Appellants filed their notice of appeal in our court." Cert. Pet., App. A, 2a.

Then, in a very short and unpublished opinion, the Appellate Court upheld the dismissal. Cert. Pet., App. A.

C. U.S. Supreme Court

In May 2022, Petitioners filed a petition for writ of certiorari, which cited all of the above-stated facts. On October 3, 2022, this Court denied the petition for writ of certiorari.[5]

Together with this motion for review and disqualification, Petitioners

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[5] *Garner v. Biden*, No. 21-1511, 2022 U.S. LEXIS 3786 (Oct. 3, 2022).

are concurrently filing a petition for rehearing on the order denying the petition for writ of certiorari.

ARGUMENT

A. Applicable Law on Disqualification

The applicable law for judicial disqualification is 28 U.S.C. § 455:

> **(a)** Any justice, judge, or magistrate [magistrate judge] of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
>
> **(b)** He shall also disqualify himself in the following circumstances:
>
> **(1)** Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
>
> **(2)** Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;
>
> **(3)** Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
>
> **(4)** He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding**…**
>
> **(c)** A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.
>
> …

> **(d)(4)** "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:
> **(i)** Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
> …
> **(iv)** Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.
>
> **(e)** No justice, judge, or magistrate [magistrate judge] shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

This statute and its case law show that any financial interest in the organization at issue (of which the judge receives income or holds stock) need *not* be an actual defendant in the litigation. Even if the government is the defendant in the litigation, the judge must still recuse himself "if the outcome of the proceeding could substantially affect the value of the securities"[6] or income interest.

Here, the Verified Petition presented to the District Court[7] is based

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[6] 28 U.S.C. section 455. See also *Obert v. Republic W. Ins. Co.*, 190 F. Supp. 2d 279, 284 (D.R.I. 2002) (recusal under 28 USCS § 455, "should not wait until a party moves for disqualification. It is the judge's duty to ensure that his or her presence does not taint the process of justice or the integrity of the United States Courts.")

[7] Cert. Pet., App. C.

entirely on scientific evidence that vaccines are utterly destroying the health of the majority of Americans. See Petitioner Garner's Declaration in support of this motion; and Cert. Pet., App. C., especially ¶32 ("Without a suspension of the National Childhood Vaccine Injury Act of 1986 (NCVIA), which shifted civil liability for injuries caused by vaccines from pharmaceutical companies to the Federal government who recommends vaccines, the Federal government is at serious risk of bankruptcy. See e.g., 42 USCS § 300aa-22.")

Part of the record in this case (*i.e.,* PRJN2, Garner report) shows the pervasive influence of vaccine manufacturers who dominate Washington D.C. by selling billions of vaccines annually. Petitioners' Verified Petition requests the President, as a matter of national security to sustain the Republic, shift the multi-trillion dollar financial liability for vaccine injury from U.S. taxpayers to vaccine developers and distributors (*i.e.,* to shift financial liability onto the perpetrators including the universities providing income to this Court's Justices).

Accordingly, if this Court were to rule in Petitioners' favor on the petition for writ of certiorari, it would open the door to a federal court reviewing scientific evidence that can bankrupt each Justice's pharma stock and university employers, thereby completely removing each Justice's annual income interest ("however small").

28 U.S.C.S. § 455(b)(4) is clear that recusal is necessary where a Judge or family member holds *any* amount of stock directly in a company that is substantially affected by the outcome of the proceeding.

Case law does not require the judge's stock/income interest at issue to be an actual defendant in the litigation. Even if the government is the defendant in the litigation, the judge must still recuse himself "if the outcome of the proceeding could substantially affect the value of the securities." *See e.g., Shell Oil Co. v. United States*, 672 F.3d 1283 (Fed. Cir. 2012) (Where trial judge discovered that judge's spouse owned stock in parent company of certain oil companies in action against government, and judge severed affected companies from action and entered judgment in favor of non-severed companies, recusal of judge was required from entire proceeding; because stock was not divested, recusal was mandatory and could not be waived, and trial judge was required to recuse judge from entire proceeding rather than severing affected companies). *United States v. Wolff*, 263 F. App'x 612, 613, 615 (9th Cir. 2008) (judge abused his discretion by failing to recuse in case where judge owned stock in "unindicted co-conspirators"; as the appellant alleged, "the district judge was required to recuse himself because he owned stock in a company that was connected to the scheme").

See also, Sollenbarger v. Mountain States Tel. & Tel. Co., 706 F. Supp. 776, 781 (D.N.M. 1989):

> In cases where the judge has a financial interest within § 455(d)(4) in a non-party, the court examines how direct an effect the litigation before it will have on the interested non-party. For example, in *In re Placid Oil Co.*, 802 F.2d 783, 786 (5th Cir. 1986), plaintiff brought suit against 23 banks. The trial judge had a large investment in a non-party bank; the financial interest definition is satisfied ... *Department of Energy v. Brimmer*, 673 F.2d 1287 (Temp. Emerg. Ct. App. 1982), is similar to *Placid Oil*. Plaintiff energy company in *Brimmer* challenged the validity of regulations written to wind up a Department of Energy regulatory program. 673 F.2d at 1289-91. Judge Brimmer held stock in energy companies who participated in the same program plaintiff did; thus, he had a financial interest. TECA held that his interest in non-party corporations did not equal "a financial interest in the subject matter of the litigation before him" because "the judge does not have a *direct* economic or financial interest in the outcome of the case, ..." *Id.* at 1295 (emphasis added). The court of appeals also held that his stock ownership did not constitute "any other interest" because his rulings could at most have a slight effect, not a substantial one. *Id.*

A helpful explanation of the law here is also provided in *Dominguez v. Gulf Coast Marine & Assocs.*, 607 F.3d 1066, 1073-1074 (5th Cir. 2010).

To the extent that any Supreme Court Justices or their family members are still financially and professionally invested in vaccine developers, vaccine patent holders, and vaccine distributors, their ability to be impartial and acknowledge what is destroying the health of Americans would be compromised.

The President has been deemed a properly named Defendant in other,

more narrow vaccine cases allowed to proceed to trial,[8] whilst this Control Group case was dismissed outright with prejudice for lack of standing ('vaccines are too big to fail,' the lower courts imply). This double standard does not give the appearance of an impartial judiciary.

B. Whether Aware or not, Justices are Defendant's Consumers

CNN reported all nine Justices have already received Covid-19 vaccines and boosters.[9] Can a plaintiff receive a fair trial from a judge who receives or continues to receive pharmaceutical injections manufactured, owned, and distributed by the defendant in a case about that product? A judge who consumes every available vaccine appears to be a loyal customer of the Defendant. By contrast, a judge who is free from the Defendant's pharmaceutical product has the necessary qualification: disinterest one way or the other.

In *Virginia Elec. and Power Co. v. Sun Building and Dry Dock Co.,* 539 F.2d 357 (4th Cir. 1976), the assigned judge was a customer of the utility defendant and, if the utility prevailed, could receive a $100 refund. The district judge recused himself because $100 is "however small" under section

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[8] *See e.g., Brnovich v. Biden*, No. CV-21-01568-PHX-MTL, 2022 U.S. Dist. LEXIS 15137, at *49-51, 89 (D. Ariz. Jan. 27, 2022) where the district court upheld standing to sue the President for constitutional claims such as Fourteenth Amendment equal protection arising out of a Covid-19 vaccine mandate on federal contractors.

[9] Cole, D *et al* (2022). *All nine Supreme Court justices have received a Covid-19 booster shot.* CNN. https://www.cnn.com/2022/01/04/politics/supreme-court-justices-covid-booster-shot/index.html

455. *See also, Gordon v. Reliant Energy, Inc.,* 141 F. Supp. 2d 1041 (S.D. Cal. 2001), where a district judge addressed recusal in a case that was not a class action but which would have an effect on class actions. The district judge found that recusal was "necessary" in each action (both the class and non-class actions) because any decision on the merits made by the court could result in collateral estoppel in related cases in which the judge, a member of his family, or a member of his staff has a personal interest.

Where a judge is a user of the product/company at issue but does not choose to recuse from the case, the appellate courts ask whether the case's personal impact upon the judge's life and finances will be "substantial" because that is the word used in 28 U.S.C. § 455. *See e.g., Advanced Optics Elecs. v. Robins,* 2011 U.S. Dist. LEXIS 31056 (D.N.M. Mar. 11, 2011).

Here, can a judge consume the Defendant's patented pharmaceutical products causing the judge's lifetime chronic illness rate to exceed 60 percent, and then preside over this case exposing said pharmaceutical products? Regardless of whether a judge will find vaccines are safe or unsafe, the judge will always need a genuine control group. So too with judicial recusal — whether a judge finds vaccines are safe or unsafe, due process must be issued from judges who do *not* inject themselves with the patented products in question. Judicial disqualification itself is a type of control group mechanism.

C. Form or Substance

An intellectual criticism of this motion for disqualification might be 'it is form over substance' because 28 U.S.C. §455 only *technically* requires recusal for any financial interest "however small."

Indeed, there is no presumption that the honorable Justices of this Court, who for example receive modest teaching incomes, would actually be swayed to follow the aggressive vaccine activities of their university patrons. Yet, Congress has set a bright line procedural rule here (a check and balance upon Art. III), so that reading the statute, literally any income whatsoever ("however small") received from vaccinators should require judicial recusal in a comprehensive vaccine challenge such as this case.

The same outcome would apply to a disqualification motion brought in a comprehensive lawsuit against POTUS for his executive programs (including executive orders) forcing patented GMOs on Americans (*i.e.,* through mandatory government school and prison lunches, and Veterans Affairs medical applications). Though such a case (as in *Juliana v. United States*, 947 F.3d 1159 (9th Cir. 2020)) might never survive Rule 12(b), if the plaintiffs made credible expert-verified scientific points, it should at least trigger the need for the court to proactively review and recuse judges who interweaved patented GMO income, "however small," into their careers and family finances — which income comes from the genetic engineering industry

(*i.e.,* Genentech, Bayer) that also executes the President's programs for the federal government.

Even as patented genetic engineering (much of it mad science in Petitioners' perspective) has become ubiquitous and nationwide in scope, it is *still* the requirement of the judiciary to comply with 28 U.S.C. § 455, thereby providing a check and balance upon judges who *choose* to consume and profit from patented genetic engineering. In some lawsuits, this check and balance may seem a needless waste of time and resources to judges desiring business as usual, but even the wise cannot see all ends. Strict legal compliance (*i.e.,* referring patented consumer product cases to judges who do *not* use the patented consumer product in question) may prove vital to American litigants on paths still unseen, especially as the ungodly effects of patented genetic engineering, like patented vaccine injuries, manifest over time.

From Petitioners' perspective, one of the substantive benefits of § 455 is that it invites the Justices to wear the shoes of the unvaccinated for a moment, to be banished ('disqualified') based on their vaccination status ('affiliation with vaccinators'), even if those shoes are technically on switched feet for purposes of this motion. The undersigned counsel (an unvaccinated lawyer) wore his clients' shoes last year when the Ninth Circuit banished him from the courthouse because of his *un*vaccinated status.

A motion for disqualification is quite unlike other motions that a

lawyer makes on the way to trial. A disqualification motion puts the lawyer on a potential parity (or toward parity) with the honorable court that must make disclosures to his client. The recusing judge is given the opportunity (if he wills to take it) to genuinely see the lawyer's client just as the lawyer sees his client: a free American who may, by right, terminate a servant's service. Indeed, these Petitioners, as never-vaccinated natural born children of God, should have the greatest rights possible in our constitutional system. In some sense, natural people are more sovereign than the Defendant who is an officer. We jurists in the legal system ought not to thwart peacefully natural humans by any presumption that we are superior to them. And we hope this honorable Court will take the reflective opportunity afforded by this motion to see the world from Petitioners' God-given perspective, as alleged in their complaint attached to the petition for certiorari.

Though it may be unwanted here, § 455 operates as a check and balance on the judiciary. Art. I and II have political checks and balances not present upon judges appointed for life.

Petitioners understand their scientific evidence is shocking, and that their request for comprehensive federal relief in this case (as in *Juliana*) is a tall order even with the shocking evidence in support. But Petitioners respectfully request the dignity of a response and a remedy, to ensure that procedural due process under 28 U.S.C. § 455 has been performed and

documented with the rigor deserved of this intense subject matter, for today and for posterity.

CONCLUSION

Given the history of multiple judicial recusals in this case, and the importance of the appearance of justice, before any denial of rehearing, SCOTUS must provide full written disclosure of its own personal and financial contacts with vaccine developers, vaccine patent holders, and vaccine distributors, and then recuse or disqualify per the rule of law.

Dated: October 28, 2022.

Respectfully submitted,

GREGORY J. GLASER

GREGORY J. GLASER
COUNSEL OF RECORD for Petitioner

CORPORATE DISCLOSURE STATEMENT

Petitioners submit the following statement of corporate interests and affiliations for the use of the Justices of this Court: Petitioners have no corporate interests. Petitioners are not a publicly-held corporation or other publicly-held entity. Petitioners have no stock, so no publicly-held corporation or entity owns any stock in Petitioners.

GREGORY J. GLASER
COUNSEL OF RECORD for Petitioners

CERTIFICATE OF COUNSEL

I hereby certify that this motion is presented in good faith and not for delay.

GREGORY J. GLASER
COUNSEL OF RECORD for Petitioners

CERTIFICATE OF SERVICE

I hereby certify that I caused service of this Motion to the following parties required to be served via electronic mail and by U.S.P.S. first-class mail, postage prepaid:

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I further certify that I caused service to be made by U.S.P.S. first-class mail, postage prepaid, upon the following:

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Executed on on October 28, 2022.

GREGORY J. GLASER
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