

IN THE

Supreme Court of the United States

Sherry L. Miller,
Petitioner

v.

Campbell Soup Company - Retirement & Pension
Plan Administrative Committee,
Respondent

On Petition for Rehearing of an Order Denying
Certiorari to the United States Court of Appeals
for the Third Circuit

PETITION FOR REHEARING

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QUESTION PRESENTED

Whether this Court's denial of certiorari overlooked substantial constitutional and statutory issues, including (1) whether a severance agreement and a general release can extinguish Article III Standing when participant presented evidence of concrete injury under Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. No. 93-406, 88 Stat. 829, as amended, 29 U.S.C. § 1001 et seq., and (2) whether due process is violated when a district court grants summary judgment while allegedly disregarding the majority of the evidentiary record documenting fiduciary breaches, Fed. R. Civ. P. 56.

See: Article III App. 4a-16a, Fed. R. Civ. P. 56. App. 19a-21a and Pet. Writ of Cert. App. E. 51a-68a Agr. & Release.

PARTIES TO THE PROCEEDINGS

Petitioner Sherry L. Miller, *pro se* litigant, was the appellant in the Third Circuit appeals proceedings and the plaintiff in the District Court proceedings. Petitioner is a party unrepresented by counsel in this Court.

Respondent, Campbell Soup Company Retirement & Pension Plan Administrative Committee, was represented by counsel from Morgan, Lewis & Bockius LLP (known as Morgan Lewis). In the Third Circuit, the appellee counsel of record included Sean K. McMahan, Esq. (Lead Attorney), Matthew D. Klayman, Esq., and Jenna C. Ferraro, Esq. In the District Court, the Defendant's counsel of record included Sean K. McMahan, Esq., Jenna C. Ferraro, Esq. (Lead Attorney), and Brian T. Ortelere, Esq.

October 9, 2025, the Respondent's counsel of record in this Court became Michael Edward Kenneally Jr., Esq., Morgan, Lewis & Bockius LLP, 1111 Pennsylvania Avenue, NW, Washington, DC 20004.

CORPORATE DISCLOSURE STATEMENT

This statement remains as stated in the petition for writ of certiorari. "Pursuant to Supreme Court Rule 29.6, the applicant/petitioner is a *pro se* litigant. Accordingly, this disclosure rule is not applicable."

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PETITION FOR REHEARING

In accordance with this Court's Rule 44.2, the petitioner respectfully seeks rehearing of this Court's November 10, 2025 order stating "[t]he petition for a writ of certiorari is denied." App. 3a.

The merits of the case are under the Employee Retirement Income Security Act of 1974 (ERISA), Pub. L. No. 93-406, 88 Stat. 829, as amended, 29 U.S.C. § 1001 et seq., for litigation of statutory standards of fiduciary duties, prohibited transactions, applying contract laws that absolve fiduciary duties, and enforcing state contract principles that are expressly preempted by ERISA. In addition, the lower courts established a legal error with potential remedies by permitting an alleged 'abuse of discretion' by ignoring concrete evidence during summary judgement.

As a result of the allegations presented in this case and at this stage, the Supreme Court of the United States is needed to resolve a US Constitutional issue under Article III Standing and the Petitioner's right to due process under Fed. R. Civ. P. 56. Summary Judgement Appx. 4a-16a Exhibit B and Appx. 19a-21a Exhibit D.

SUMMARY OF ARGUMENT

The Court's denial of certiorari rests on a misapprehension of both Article III standing and due process under Fed. R. Civ. P. 56. Summary Judgement. Petitioner's case is not factually bound to *Thole v. U.S. Bank N.A.*, 590 U.S. ____ (2020) or *Johnston v. Independence Blue Cross*, Nos. 19-3524 (2019), 21-1441 (3d Cir.) (2021). Unlike *Thole*, petitioner suffered a concrete injury: fifteen years of erased service credit and approximately \$300,000 in

lost retirement benefits. Unlike Johnston, petitioner presented substantial proof of fiduciary breach, including the plan's own admission that years of service continued to accrue in error for more than a decade. Pet. Cross-Mot. Summ. Jdg. Doc. 93-3 Page ID 1305-1307 Benefits Review Admission.

The District Court nevertheless granted summary judgment to the respondent, relying on the severance agreement and general release as in *Johnston v. Independence Blue Cross*, Nos. 19-3524 (2019), 21-1441 (3d Cir.) (2021), while disregarding twelve of the fourteen evidentiary submissions. This deprived petitioner of a meaningful opportunity to be heard and foreclosed statutory remedies Congress intended to protect.

These errors implicate fundamental constitutional protections. Article III standing cannot be extinguished by contractual waiver where concrete injury exists, and due process requires that courts meaningfully consider the evidentiary record before foreclosing ERISA claims. The recurring use of severance agreements to shield fiduciary breaches presents a systemic issue of national importance, threatening the integrity of ERISA's remedial scheme and the retirement security of millions of American workers.

Rehearing is warranted under Rule 44.2 to correct these misapprehensions and ensure that fiduciary accountability remains enforceable under ERISA.

STATEMENT OF THE CASE

Petitioner accrued thirty years of service, including fifteen years of credited service that were later erased. Fiduciaries initially calculated benefits for almost thirty years, then made an undisclosed correction and eliminated accruals without communication. During the benefits review process, fiduciaries admitted that petitioner's years of service continued to accrue in error. The erasure resulted in approximately \$300,000 in lost retirement benefits.

Petitioner presented fourteen pieces of evidence documenting continued accrual (continual increase of years of service) and fiduciary mismanagement. The District Court granted summary judgment to the respondent, holding petitioner lacked standing due to a severance agreement and general release, while disregarding twelve of the fourteen evidentiary submissions. The court relied on *Johnston v. Independence Blue Cross*, Nos. 19-3524 (2019), 21-1441 (3d Cir.) (2021), a case factually distinct from petitioner's, sharing only the same defense counsel and severance agreement/general release language. This Court denied certiorari without explanation. Petitioner now seeks rehearing to correct this misapprehension and ensure ERISA fiduciary accountability is not extinguished by contractual waiver or procedural error.

ARGUMENT

I. The Court's Denial Misapprehended Article III Standing.

Petitioner suffered a concrete and particularized injury: the erasure of an additional fifteen years of credited service, valued at approximately \$300,000 in lost retirement benefits. Unlike *Thole v. U.S. Bank N.A.*, 590 U.S. ___ (2020), where participants continued to receive all promised benefits, petitioner's benefits were materially reduced. The plan fiduciaries themselves admitted during the benefits review process that petitioner's years of service continued to accrue in error, yet they unilaterally erased those accruals without notice. This is not speculative harm; it is a quantifiable financial loss directly traceable to fiduciary misconduct. This Court's denial of certiorari overlooked this distinction, misapprehending the standing issue and warranting rehearing under Rule 44.2.

II. The Court's Denial Overlooked a Due Process Violation.

The District Court granted summary judgment to the defense while disregarding twelve of the fourteen evidentiary submissions documenting fiduciary breach. Fed. R. Civ. P. 56. requires courts to view the evidence in the light most favorable to the non-moving party. By ignoring the majority of the record, the court deprived petitioner of a meaningful opportunity to be heard, raising constitutional concerns under *Mathews v. Eldridge*, 424 U.S. 319 (1976). This procedural defect is not

merely a misapplication of civil rules; it implicates fundamental due process protections.

III. The Lower Courts Misapplied *Johnston v. Independence Blue Cross*, Nos. 19-3524 (2019), 21-1441 (3d Cir.) (2021).

Petitioner's case was dismissed on the same grounds as *Johnston v. Independence Blue Cross*, despite critical factual differences. *Johnston* involved no proof of fiduciary breach and no admission of error. In contrast, petitioner presented substantial evidence, including the fiduciaries' own acknowledgment that years of service continued to accrue in error. The only similarities between the two cases are the defense attorneys and the severance agreement/general release language. Treating petitioner's case as indistinguishable from *Johnston* disregards the evidentiary record and constitutes a misapprehension warranting rehearing. Reliance on *Johnston* to foreclose review of petitioner's unique claims undermines the integrity of ERISA enforcement.

IV. The Question Presented Is of Exceptional National Importance

ERISA governs trillions of dollars in retirement assets and affects millions of American workers. If severance agreements/general releases can be used to extinguish fiduciary accountability even when fiduciaries admit to erasing accrued benefits, ERISA's remedial scheme becomes illusory. The recurring use of severance agreements and prior dismissals to shield fiduciary breaches presents a systemic issue of national importance.

Only this Court can resolve the tension between contractual waivers, Article III standing, and due process, ensuring that fiduciary accountability remains enforceable for as long as the ERISA exist.

CONCLUSION

For the foregoing reasons, petitioner respectfully requests that this Court grant rehearing and reconsider its denial of certiorari. The constitutional and statutory issues presented are of exceptional importance, and the Court's denial rests on a misapprehension of both Article III standing and due process under Fed. R. Civ. P. 56. Summary Judgement Appx. 4a-16a Exhibit B and Appx. 19a-21a Exhibit D.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 26, 2025,
Respectfully submitted,

/s/Sherry L. Miller

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**CERTIFICATION OF A PARTY
UNREPRESENTED BY COUNSEL**

I, petitioner proceeding pro se, hereby certify pursuant to Rule 44.2 of the Rules of the Supreme Court of the United States, that this petition for rehearing is restricted to the grounds specified in Rule 44.2, timely filed within 25 days of this Court's denial of certiorari and is presented in good faith.

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Executed on November 26, 2025,

/s/Sherry L. Miller

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