No. 25-409

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

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PETITION FOR REHEARING - APPENDIX

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[1] Petitioner respectfully provides this appendix solely for ease of review, it does not comprise prior filings.

APPENDIX – A.

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

November 10, 2025

Ms. Sherry L. Miller
238 Weatherstone Lane
Felton, DE 19943-2609

Re: Sherry L. Miller
v. Campbell Soup Company
Retirement & Pension Plan
Administrative Committee
No. 25-409

Dear Ms. Miller:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied.

Sincerely,
/s/ Scott S. Harris
Scott S. Harris, Clerk

APPENDIX – B.

LII U.S. Constitution Annotated Article III. Judicial Branch Section II Clause I Rules of Justiciability and the Case or Controversy Requirement Rules of Justiciability and the Case or Controversy Requirement: Standing Requirement Standing Requirement:

EXCERPT – Excludes Footnotes Available Online

Standing Requirement: Overview

U.S. Constitution Annotated

ArtIII.S2.C1.2.5.1 Standing Requirement: Overview

Article III, Section 2, Clause 1:

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

Perhaps the most important element of the requirement of adverse parties may be found in the "complexities and vagaries" of the standing doctrine. "The fundamental aspect of standing is that it focuses on the party seeking to get his complaint

before a federal court and not on the issues he wishes to have adjudicated." 1 The "gist of the question of standing" is whether the party seeking relief has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." 2 This practical conception of standing has now given way to a primary emphasis upon separation of powers as the guide. "[T]he 'case or controversy' requirement defines with respect to the Judicial Branch the idea of separation of powers on which the Federal Government is founded. The several doctrines that have grown up to elaborate that requirement are 'founded in concern about the proper—and properly limited—role of the courts in a democratic society.'" 3

Standing as a doctrine is composed of both constitutional and prudential restraints on the power of the federal courts to render decisions,4 and is almost exclusively concerned with such public law questions as determinations of constitutionality and review of administrative or other governmental action.5 As such, it is often interpreted according to the prevailing philosophies of judicial activism and restraint, and narrowly or broadly in terms of the viewed desirability of access to the courts by persons seeking to challenge legislation or other governmental action. The trend in the 1960s was to broaden access; in the 1970s, 1980s, and 1990s, it was to narrow access by stiffening the requirements of standing, although Court majorities were not entirely consistent. The major difficulty in setting

forth the standards is that the Court's generalizations and the results it achieves are often at variance.6

The standing rules apply to actions brought in federal courts, and they have no direct application to actions brought in state courts.7

Generalized or Widespread Injuries

Persons do not have standing to sue in federal court when all they can claim is that they have an interest or have suffered an injury that is shared by all members of the public. Thus, a group of persons suing as citizens to litigate a contention that membership of Members of Congress in the military reserves constituted a violation of Article I, § 6, cl. 2, was denied standing.8 "The only interest all citizens share in the claim advanced by respondents is one which presents injury in the abstract. . . . [The] claimed nonobservance [of the clause], standing alone, would adversely affect only the generalized interest of all citizens in constitutional governance." 9 (per curiam). Cf. Ex parte Levitt, 302 U.S. 633 (1937); Laird v. Tatum, 408 U.S. 1 (1972).

Notwithstanding that a generalized injury that all citizens share is insufficient to confer standing, where a plaintiff alleges that the defendant's action injures him in "a concrete and personal way," "it does not matter how many [other] persons have [also] been injured. . . . [W]here a harm is concrete, though widely shared, the Court has found injury in fact." 10 (internal quotation marks omitted). In this case, "EPA maintain[ed] that because greenhouse gas emissions inflict

widespread harm, the doctrine of standing presents an insuperable jurisdictional obstacle." The Court, however, found that "EPA's steadfast refusal to regulate greenhouse gas emissions presents a risk of harm to Massachusetts that is both 'actual' and 'imminent.'" Id. at 517, 521.

Constitutional Standards: Injury in Fact, Causation, and Redressability

Although the Court has been inconsistent, it has now settled upon the rule that, "at an irreducible minimum," the constitutional requisites under Article III for the existence of standing are that the plaintiff must personally have: 1) suffered some actual or threatened injury; 2) that injury can fairly be traced to the challenged action of the defendant; and 3) that the injury is likely to be redressed by a favorable decision.11 . Moreover, when there are multiple parties to a lawsuit brought in federal court, "[f]or all relief sought, there must be a litigant with standing, whether that litigant joins the lawsuit as a plaintiff, a coplaintiff, or an intervenor as of right." See Town of Chester v. Laroe Estates, Inc., 581 U.S. ___, No. 16–605, slip op. at 6 (2017). A litigant must also maintain standing to pursue an appeal. See, e.g., Hollingsworth v. Perry, 570 U.S. 693, 705 (2013) ; see also, e.g., Seila Law LLC v. Consumer Fin. Prot. Bureau, 140 S. Ct. 2183, 219 (2020) (stating that a petitioner had "appellate standing" where the petitioner suffered a "concrete injury" that was "traceable to the decision below" and could be redressed by the Court).

For a time, the actual or threatened injury requirement noted above included an additional

requirement that such injury be the product of "a wrong which directly results in the violation of a legal right." 12 In other words, the injury needs to be "one of property, one arising out of contract, one protected against tortuous invasion, or one founded in a statute which confers a privilege." 13 It became apparent, however, that the "legal right" language was "demonstrably circular: if the plaintiff is given standing to assert his claims, his interest is legally protected; if he is denied standing, his interest is not legally protected." 14 Despite this test, the observable tendency of the Court was to find standing in cases which were grounded in injuries far removed from property rights.15

In any event, the "legal rights" language has now been dispensed with. Rejection of this doctrine occurred in two administrative law cases in which the Court announced that parties had standing when they suffered "injury in fact" to some interest, "economic or otherwise," that is arguably within the zone of interest to be protected or regulated by the statute or constitutional provision in question.16 Political,17 environmental, aesthetic, and social interests, when impaired, now afford a basis for making constitutional attacks upon governmental action.18 "But deprivation of a procedural right without some concrete interest that is affected by the deprivation—a procedural right in vacuo—is insufficient to create Article III standing." 19 Moreover, while Congress has the power to define injuries and articulate "chains of causation" that will give rise to a case or controversy, a plaintiff does not "automatically satisf[y] the injury-in-fact requirement whenever a statute grants a person a

statutory right and purports to authorize a person to sue to vindicate that right." 20

The breadth of the "injury-in-fact" concept may be discerned in a series of cases involving the right of private parties to bring actions under the Fair Housing Act to challenge alleged discriminatory practices, even where discriminatory action was not directed against parties to a suit. These cases held that the subjective and intangible interests of enjoying the benefits of living in integrated communities were sufficient to permit the plaintiffs to attack actions that threatened or harmed those interests.21 There also is the important case of FEC v. Akins,22 which addresses the ability of Congress to confer standing and to remove prudential constraints on judicial review. Congress had afforded persons access to Commission information and had authorized "any person aggrieved" by the actions of the FEC to sue. The Court found "injury-in-fact" present where plaintiff voters alleged that the Federal Election Commission had denied them information respecting an organization that might or might not be a political action committee.23 Another area where the Court has interpreted this term liberally are injuries to the interests of individuals and associations of individuals who use the environment, affording them standing to challenge actions that threatened those environmental conditions.24

Even citizens who bring qui tam actions under the False Claims Act—actions that entitle the plaintiff ("relator") to a percentage of any civil

penalty assessed for violation—have been held to have standing, on the theory that the government has assigned a portion of its damages claim to the plaintiff, and the assignee of a claim has standing to assert the injury in fact suffered by the assignor.25 Citing this holding and historical precedent, the Court upheld the standing of an assignee who had promised to remit the proceeds of the litigation to the assignor.26 The Court noted that "federal courts routinely entertain suits which will result in relief for parties that are not themselves directly bringing suit. Trustees bring suits to benefit their trusts; guardians at litem bring suits to benefit their wards; receivers bring suit to benefit their receiverships; assignees in bankruptcy bring suit to benefit bankrupt estates; and so forth." 27

Beyond these historical anomalies, the Court has indicated that, for parties lacking an individualized injury to seek judicial relief on behalf of an absent third party, there generally must be some sort of agency relationship between the litigant and the injured party.28 In Hollingsworth v. Perry,29 the Court considered the question of whether the official proponents of Proposition 8,30 a state measure that amended the California Constitution to define marriage as a union between a man and a woman, had standing to defend the constitutionality of the provision on appeal. After rejecting the argument that the proponents of Proposition 8 had a particularized injury in their own right,31 the Court considered the argument that the plaintiffs were formally authorized through some sort of official act to litigate on behalf of the State of California.

Although the proponents were authorized by California law to argue in defense of the proposition,32 , which was answered in the affirmative, see Perry v. Brown, 265 P.3d 1002, 1007 (Cal. 2011). the Court found that this authorization, by itself, was insufficient to create standing. The Court expressed concern that, although California law authorized the proponents to argue in favor of Proposition 8, the proponents were still acting as private individuals, not as state officials33 or as agents that were controlled by the state.34 Because the proponents did not act as agents or official representatives of the State of California in defending the law, the Court held that the proponents only possessed a generalized interest in arguing in defense of Proposition 8 and, therefore, lacked standing to appeal an adverse district court decision.35

More broadly, the Court has been wary in constitutional cases of granting standing to persons who alleged threats or harm to interests that they shared with the community of people at large; it is unclear whether this rule against airing "generalized grievances" through the courts36 has a constitutional or a prudential basis.37

In a number of cases, particularly where a plaintiff seeks prospective relief, such as an injunction or declaratory relief, the Supreme Court has strictly construed the nature of the injury-in-fact necessary to obtain such judicial remedy. First, the Court has been hesitant to assume jurisdiction over matters in which the plaintiff seeking relief cannot articulate a concrete harm.38 ("[D]eprivation

of a . . . right without some concrete interest that is affected by the deprivation . . . is insufficient to create Article III standing."); see, e.g., Thole v. U.S. Bank N.A., 140 S. Ct. 1615, 1618, 1621–22 (2020) (holding that participants in a defined-benefit plan lacked a concrete stake in a lawsuit seeking monetary and injunctive relief to remedy alleged mismanagement of the plan where the plaintiffs' monthly payments were fixed and not tied to plan performance); Cal. Bankers Ass'n v. Shultz, 416 U.S. 21, 73 (1974) (plaintiffs alleged that Treasury regulations would require them to report currency transactions, but made no additional allegation that any of the information required by the Secretary will tend to incriminate them). For example, in Laird v. Tatum, the Court held that plaintiffs challenging a domestic surveillance program lacked standing when their alleged injury stemmed from a "subjective chill," as opposed to a "claim of specific present objective harm or a threat of specific future harm." 39 And in Spokeo, Inc. v. Robins, the Court explained that a concrete injury requires that an injury must "actually exist" or there must be a "risk of real harm," such that a plaintiff who alleges nothing more than a bare procedural violation of a federal statute cannot satisfy the injury-in-fact requirement.40

Second, the Court has required plaintiffs seeking equitable relief to demonstrate that the risk of a future injury is of a sufficient likelihood; past injury is insufficient to create standing to seek prospective relief.41 The Court has articulated the threshold of likelihood of future injury necessary for standing in such cases in various ways,42 ("[T]he

injury required for standing need not be actualized. A party facing prospective injury has standing to sue where the threatened injury is real, immediate, and direct."). generally refusing to find standing where the risk of future injury is speculative.43 More recently, in Clapper v. Amnesty International USA, the Court held that, in order to demonstrate Article III standing, a plaintiff seeking injunctive relief must prove that the future injury, which is the basis for the relief sought, must be "certainly impending" ; a showing of a "reasonable likelihood" of future injury is insufficient.44 . In adopting a "certainly impending" standard, the five-Justice majority observed that earlier cases had not uniformly required literal certainty. Id. at 414 n.5. Amnesty International's limitation on standing may be particularly notable in certain contexts, such as national security, where evidence necessary to prove a "certainly impending" injury may be unavailable to a plaintiff. Moreover, the Court in Amnesty International held that a plaintiff cannot satisfy the imminence requirement by merely "manufacturing" costs incurred in response to speculative, non-imminent injuries.45 A year after Amnesty International, the Court in Susan B. Anthony List v. Driehaus46 reaffirmed that pre-enforcement challenges to a statute can occur "under circumstances that render the threatened enforcement sufficiently imminent." 47 In Susan B. Anthony List, an organization planning to disseminate a political advertisement, which was previously the source of an administrative complaint under an Ohio law prohibiting making false statements about a candidate or a candidate's record during a political campaign, challenged the

prospective enforcement of that law. The Court, in finding that the plaintiff's future injury was certainly impending, relied on the history of prior enforcement of the law with respect to the advertisement, coupled with the facts that "any person" could file a complaint under the law, and any threat of enforcement of the law could burden political speech.48

Of increasing importance are causation and redressability, the second and third elements of standing, recently developed and held to be of constitutional requisite. A plaintiff must show its injuries are fairly traceable to the conduct complained of.49 . The former examines a causal connection between the allegedly unlawful conduct and the alleged injury, whereas the latter examines the likelihood that the judicial relief requested would redress that injury. Id. at 273, 286–87. Thus, poor people who had been denied service at certain hospitals were held to lack standing to challenge IRS policy of extending tax benefits to hospitals that did not serve indigents because they could not show that alteration of the tax policy would cause the hospitals to alter their policies and treat them.50 Low-income persons seeking the invalidation of a town's restrictive zoning ordinance were held to lack standing because they had failed to allege with sufficient particularity that the complained-of injury—inability to obtain adequate housing within their means—was fairly attributable to the ordinance instead of to other factors, so that voiding of the ordinance might not have any effect upon their ability to find affordable housing.51 Similarly, the link between fully integrated public schools and

allegedly lax administration of tax policy permitting benefits to discriminatory private schools was deemed too tenuous, the harm flowing from private actors not before the courts and the speculative possibility that directing denial of benefits would result in any minority child being admitted to a school.52

But the Court did permit plaintiffs to attack the constitutionality of a law limiting the liability of private utilities in the event of nuclear accidents and providing for indemnification, on a showing that "but for" the passage of the law there was a "substantial likelihood," based upon industry testimony and other material in the legislative history, that the nuclear power plants would not be constructed and that therefore the environmental and aesthetic harm alleged by plaintiffs would not occur. Thus, voiding the law would likely relieve the plaintiffs of the complained of injuries.53 And in a case where a creditor challenged a bankruptcy court's structured dismissal of a Chapter 11 case that denied the creditor the opportunity to obtain a settlement or assert a claim with "litigation value," the Court held that a decision in the creditor's favor was likely to redress the loss.54 Operation of these requirements makes difficult but not impossible the establishment of standing by persons indirectly injured by governmental action, that is, action taken as to third parties that is alleged to have injured the claimants as a consequence.55

In a case permitting a plaintiff contractors' association to challenge an affirmative-action, set-aside program, the Court seemed to depart from

several restrictive standing decisions in which it had held that the claims of attempted litigants were too "speculative" or too "contingent." 56 The association had sued, alleging that many of its members "regularly bid on and perform construction work" for the city and that they would have bid on the set-aside contracts but for the restrictions. The Court found the association had standing because certain prior cases under the Equal Protection Clause established a relevant proposition. "When the government erects a barrier that makes it more difficult for members of one group to obtain a benefit than it is for members of another group, a member of the former group seeking to challenge the barrier need not allege that he would have obtained the benefit but for the barrier in order to establish standing. The 'injury in fact' in an equal protection case of this variety is the denial of equal treatment resulting from the imposition of the barrier, not the ultimate inability to obtain the benefit." 57 The association, therefore, established standing by alleging that its members were able and ready to bid on contracts but that a discriminatory policy prevented them from doing so on an equal basis.58

Redressability can be present in an environmental "citizen suit" even when the remedy is civil penalties payable to the government. The civil penalties, the Court explained, "carried with them a deterrent effect that made it likely, as opposed to merely speculative, that the penalties would redress [plaintiffs'] injuries by abating current violations and preventing future ones." 59

APPENDIX – C.

Supreme Court Rule 44. Rehearing

1. Any petition for the rehearing of any judgment or decision of the Court on the merits shall be filed within 25 days after entry of the judgment or decision, unless the Court or a Justice shortens or extends the time. The petitioner shall file 40 copies of the rehearing petition and shall pay the filing fee prescribed by Rule 38(b), except that a petitioner proceeding in forma pauperis under Rule 39, including an inmate of an institution, shall file the number of copies required for a petition by such a person under Rule 12.2. The petition shall state its grounds briefly and distinctly and shall be served as required by Rule 29. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). A copy of the certificate shall follow and be attached to each copy of the petition. A petition for rehearing is not subject to oral argument and will not be granted except by a majority of the Court, at the instance of a Justice who concurred in the judgment or decision.

2. Any petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ shall be filed within 25 days after the date of the order of denial and shall comply with all the form and fling requirements of paragraph 1 of this Rule, including the payment of the filing fee under Rule 38(b) in any case in which the filer paid the filing fee under Rule 38(a), but its grounds shall be limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not

previously presented. The time for fling a petition for the rehearing of an order denying a petition for a writ of certiorari or extraordinary writ will not be extended. The petition shall be presented together with certification of counsel (or of a party unrepresented by counsel) that it is restricted to the grounds specified in this paragraph and that it is presented in good faith and not for delay; one copy of the certificate shall bear the signature of counsel (or of a party unrepresented by counsel). The certificate shall be bound with each copy of the petition. The Clerk will not file a petition without a certificate. The petition is not subject to oral argument.

3. The Clerk will not file any response to a petition for rehearing unless the Court requests a response. In the absence of extraordinary circumstances, the Court will not grant a petition for rehearing without first requesting a response.

4. The Clerk will not file consecutive petitions and petitions that are out of time under this Rule.

5. The Clerk will not file any brief for an amicus curiae in support of, or in opposition to, a petition for rehearing.

6. If the Clerk determines that a petition for rehearing submitted timely and in good faith is in a form that does not comply with this Rule or with Rule 33 or Rule 34, the Clerk will return it with a letter indicating the deficiency. A corrected petition for rehearing submitted in accordance with Rule 29.2 no more than 15 days after the date of the Clerk's letter will be deemed timely.

APPENDIX - D.

Fed. R. Civ. P. 56. Summary Judgment

(a) Motion for Summary Judgment or Partial Summary Judgment. A party may move for summary judgment, identifying each claim or defense — or the part of each claim or defense — on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court should state on the record the reasons for granting or denying the motion.

(b) Time to File a Motion. Unless a different time is set by local rule or the court orders otherwise, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery.

(c) Procedures. (1) Supporting Factual Positions. A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) Objection That a Fact Is Not Supported by Admissible Evidence. A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) Materials Not Cited. The court need consider only the cited materials, but it may consider other materials in the record.

(4) Affidavits or Declarations. An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) When Facts Are Unavailable to the Nonmovant. If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(e) Failing to Properly Support or Address a Fact. If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 56(c), the court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials — including the facts considered undisputed — show that the movant is entitled to it; or

(4) issue any other appropriate order.

(f) Judgment Independent of the Motion. After giving notice and a reasonable time to respond, the court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(g) Failing to Grant All the Requested Relief. If the court does not grant all the relief requested by the motion, it may enter an order stating any material fact — including an item of damages or other relief — that is not genuinely in dispute and treating the fact as established in the case.

(h) Affidavit or Declaration Submitted in Bad Faith. If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the court — after notice and a reasonable time to respond — may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

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