NO. 25-431

IN THE SUPREME COURT OF THE UNITED STATES

EALAILA CONARD,

Petitioner,

v.

CHANEL, INC.,

Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Eleventh Circuit
Appeal No. 23-13624

PETITION FOR WRIT OF CERTIORARI

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I. QUESTIONS PRESENTED

Did the Court create conflicts in the law by failing to be guided by the common-law rule, well-established public policy and the long legal tradition protecting an employee's, or any competent person's, decision to refuse any unwanted medical treatment?

Did the Court create conflicts in law, pursuant to recent Supreme Court authority, by allowing a private employer, which is not the Department of Health, to require compulsory treatment purposed for the health benefit of the person treated—as opposed to compulsory treatment for the health benefit of others—which implicates the fundamental right to refuse a medical treatment based on medical privacy and informed consent as echoed in the statutes presented?

Did the Court err by failing to consider that an employer violates the ADA's prohibition on discriminatory qualification standards when it imposes a "non-job-related" medical treatment, as a condition for employment, on an employee who has not been diagnosed, or individually assessed, as a "direct threat" and the employee has challenged the employer's compliance on this issue?

Did the Court abuse its discretion by failing to consider the Congressional intent and standard of review for ADA pleadings by failing to review defendant's compliance or review it's response to determine if it expressed any viable ADA defense?

Is the Court required to have a covered employer show, particularly when challenged, that the new "COVID policy" qualification standards for employment

are both "job-related" for the position in question and consistent with "business necessity" so that the new standards do not result in prohibited actions for all employees not just those diagnosed with an actual disability?

Did the Court abuse its discretion by refusing to properly analyze whether certain "COVID policy" medical treatments and medical tests qualify as "non-job-related" qualification standards which are prohibited for all employees not just those diagnosed with an actual disability?

Is the Court biased and abusing its discretion by arbitrarily refusing to accept plaintiff's sufficiently alleged facts as true when it dismisses Conard's complaint claiming that plaintiff failed to "plausibly allege" facts in her complaint; thus implementing a higher pleading standard for a *pro se* plaintiff while the Court has adopted nearly the same discriminatory policies and practices which gave rise to plaintiff's complaint? Details are outlined in the Statement of the Case below.

II. PARTIES TO THE PROCEEDINGS

Petitioner, Ealaila Conard, was the plaintiff in the District Court and the appellant in the Court of Appeals.

Respondent, CHANEL, INC., was the defendant in the District Court and the appellee in the Court of Appeals.

III. RELATED CASES

Ealaila Conard v. CHANEL, INC, No. 22-CV-03784, U.S. District Court for the Northern District of Georgia. Order denying motion to vacate entered October 5, 2023.

Ealaila Conard v. CHANEL, INC, No. 23-13624, U.S. Court of Appeals, Eleventh Circuit. Opinion and Judgment entered on March 17, 2025, Mandate entered on April 15, 2025.

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VII. DECISIONS BELOW

The Eleventh Circuit's March 17, 2025, Opinion and Judgment and April 15, 2025 Mandate denying Conard's appeal No. 23-13624 are attached as Appendix 4 and 5. The U.S.D.C. Northern District of Georgia's Magistrate Report issued July 13, 2023 and the October 5, 2023 Order denying plaintiff's motion to vacate issued for 22-cv-03784 are attached as Appendix 2 and 3.

VIII. JURISDICTION

The Eleventh Circuit entered it's Opinion and Judgment on March 17, 2025. Conard invokes this Court's jurisdiction under *28 USC §2101(e)*, having timely filed this petition for a writ of certiorari within ninety days of the Opinion affirming the District Court's order to deny Conard's motion to vacate the order adopting the Magistrate's Report.

IX. STATUTORY PROVISIONS INVOLVED

This case involves the definition of the terms such as perceived "*disability*" under the "*regarded as*" and "*record of*" prongs (*42 USC §12112), "qualification*

standards", "job-related" "business necessity" and *"direct threat"* as defined and implemented by *29 CFR Part 1630.* The ADA was amended in 2008 by Congress to expand the definition of the protected class under the ADA-AA.

The intent of Congress as related to the "regarded as" prong definition in paragraph (3) was to reject the Supreme Court's reasoning in *Sutton v. United Air Lines, Inc.*, 527 U.S. 471 (1999) and to reinstate the reasoning of the Supreme Court in *School Board of Nassau County v. Arline*, 480 U.S. 273 (1987) which set forth a broad view of the third prong definition of diagnosed impairment and perceived impairment.

Additionally, there is considerable overlap between the "record of" and "regarded as" prongs in terms of addressing irrational discrimination, such as the one experienced in the context of the "COVID-19 pandemic". Protection from irrational discrimination based upon the fears and stigmas associated with certain perceived conditions is most frequently described as being the purpose of the "regarded as" prong. Indeed, the ADA's legislative history specifically mentions that individuals with perceived conditions are covered under the "regarded as" disability prong. The "record of" prong explicitly outlines that it covers individuals who are misclassified as having such perceived impairment.

In this case, an employer, CHANEL, INC., [hereafter "CHANEL"], engaged in irrational discrimination by treating an employee, Ms. Conard, *as if* she had a perceived impairment, meaning: an undiagnosed condition, of currently being

infected/infectious with deadly contagious disease and CHANEL took prohibited actions against the employee on this basis. The employer also misclassified the employee as a "direct threat", without performing any assessment, who was "in need" of treatment for the perceived impairment. Conard alleged the treatments "prescribed" by the employer, included quarantine, masks, and injectable treatments. Conard alleged this last was marketed as a "vaccine" but was not a traditional vaccine which confers immunity and prevents transmission to others, but rather it was a medical treatment designed to lessen the severity of COVID-19 symptoms for the user only and multiple treatments (boosters) are recommended. It was improper for the District court to ignore these allegations at the pleading stage and for the Appeal court to affirm. Both courts failed to accept, as true, Conard's allegations, from her direct experience of the employer's policy, that she was assumed to be a "direct threat" and once she claimed her right to refuse treatments, oppose prohibited qualification standards and other violations of statute, she was retaliated against. Instead the courts preferred CHANEL's naked assertion that Ms. Conard was fired for insubordination to a legitimate policy. The "COVID policy" measures were new qualification standards for employment which excluded, segregated, and diminished the benefits of employees who were misclassified as untreated "direct threats" by the employer. CHANEL imposed these mitigation measures without first satisfying the prerequisite conditions that such treatments must be both "job-related", as defined in the statute, or be a "business necessity" as established by performing the "direct threat" assessment outlined in the statute.

The text of the relevant provisions is contained in Appendix 1.

X. STATEMENT OF THE CASE

CHANEL is a covered entity under Title I of the ADA-AA. Ms. Conard was employed by CHANEL, since December of 2018, as a Fashion Advisor at its retail location within Neiman Marcus.

Conard alleged that CHANEL improperly assumed that all employees were a "direct threat" of deadly contagious disease when it imposed a "COVID policy" implementing new qualification standards for employment based upon this premise. Conard alleged that CHANEL was not relying on any objective assessment or diagnosis that she presented a danger to others and Conard alleged that CHANEL committed several materially adverse employment actions against her once she opposed being misclassified as a direct threat, including: harassment, a 3-month quarantine, non-job-related medical treatments and inquiries, breach of medical privacy and informed consent; decreased schedule; non-job-related qualification standards; lack of meaningful redress and competent help from HR and EEO agents; limitations/obfuscations placed on invoking her rights using ADA protections. Conard alleged that the "COVID-19 policies" misclassified her in such a way that her employment opportunities were limited because CHANEL would not permit her to work on-site without first submitting to the new qualification standards.

Conard gave written notice of her objections in an EEOC complaint which asked CHANEL to come to a mediation hearing to address possible ADA violations; but it refused. Conard received a right to sue letter from the EEOC on June 7, 2022.

In the EEOC complaint, Conard alleged that CHANEL: threatened her with termination unless she took a non-job-related medical treatment; deceptively advised her that she could only apply for a religious/medical exemption while never offering an ADA-based exemption; fired her because she tried to claim her rights and opposed violations ("protected opposition"); imposed new discriminatory qualification standards; coerced her to take a medical treatment she did not need or want; and terminated her because she refused treatment and opposed a policy that violated her rights.

Ms. Conard filed a lawsuit against CHANEL on September 19, 2022. CHANEL filed a motion to dismiss the complaint on November 17, 2022. Conard filed a response on December 19, 2022. CHANEL filed a reply on January 9, 2023 and Magistrate Judge Christopher Bly ["Bly"] was assigned to review on January 12, 2023. Nearly two months went by without Bly filing a report. On March 6, 2023, Conard sent a letter to Judge Brown ["Brown"] and Bly about the delay on this threshold matter. On April 16, 2023, Conard served notice on CHANEL and Brown stating as administrative delay was now three months, she therefore she proposed to amend the complaint. CHANEL never opposed amendment but the

court never granted amendment. Six months later, on July 13, 2023, Bly issued a report and recommendations that was thirty pages long and contained numerous case citations. Bly stated on the docket sheet that "each party may file written objections to the Report and Recommendations within 14 days of service", there was no mention of impact on appeal rights. Due to the 30-page length of the report and numerous case citations, on July 22, 2023, Conard asked for more 14 more days, until August 8, 2023, to respond to the report, that it would cause no prejudice to the other party and the request was made in good faith. On July 28, 2023, Brown denied the request for more time and on August 14, 2023, Brown issued an order adopting Bly's Report and dismissing Conard's complaint for failure to state a claim. On August 21, 2023, Conard filed a Motion to vacate this order which outlined numerous errors of fact and law and the inapplicability of several cases Bly cited to the facts of her case. Brown denied the motion by falsely claiming that it did not "identify a manifest error in law or fact" made by Bly. However, Conard's motion stated Bly erred in finding Conard was insubordinate, when Conard alleged she was fired for opposing a "...policy [that] is illegal because it violates the ADA, imposed experimental medical treatments against her will and informed consent, violates state public health laws, the defendant has no legal duty to "stop the spread of COVID" and the plaintiff has no legal duty to comply with the policy." There was no discovery process or evidentiary hearing and the complaint alleged her termination was causally-connected to her opposition. Bly stated Conard's allegations under the third prong are "not plausible" because "everyone would be

considered as disabled", and he quoted the *Shklyar* judge's opinion that one could not "infer" that an employer considers all employees as disabled because that is "not a reasonable inference". These comments are immaterial because the pleading standard requires alleging adverse actions were taken on the basis of disability. It is irrelevant to Conard's claim how many employees were considered direct threats because it is not a pleading requirement. Bly failed to apply the law correctly.

On October 27, 2023, Conard filed a notice of appeal. On October 31,2023, Conard's Appeal was opened. Conard filed her Opening Brief on December 11, 2023. On January 17, 2024, CHANEL filed its brief. On March 17,2025, the Circuit Court affirmed the District Court in an unpublished Opinion that contained these errors: 1.) it used pleading requirements applicable for public entities rather than private employers, 2.) The Circuit court denied Conard coverage because "Conard's complaint does not allege that she was *actually* disabled." (*emphasis added)* but Conard is not proceeding under the first prong (actual disability). The Circuit court mistakenly applied the ***EEOC v STME*** case from the 11th Circuit regarding "future disability". That case doesn't apply because Conard alleged that CHANEL had been treating her adversely ever since the policy quarantined her in 2020, which decreased her commissions, through firing her and by refusing to engage in EEOC mediation. The adverse actions taken demonstrate that Conard was currently treated as a direct threat without evidence.

The court of first instance had original and exclusive jurisdiction over plaintiff's claims pursuant to *28 USC. §1331*, in that the matters in controversy are brought pursuant to Title I of the ADA and ADA-AA of 2008.

XI. SUMMARY OF THE ARGUMENT

The Circuit Court and the District Court abused their discretion by: (1) ruling that Conard's allegations failed to state a claim for either discrimination or retaliation under the ADA; (2) ruling that Conard did not "plausibly" allege a cause of action when her allegations are to be taken as true; (3) failing to review CHANEL's liability, as is the ADA standard; (4) incorrectly stating that Conard alleged a future perceived disability when adverse actions were taken in the present and by ignoring facts alleged in the complaint: (i)CHANEL's policy assumed Conard had a condition (perceived disability) which needed medical treatment; (ii) CHANEL adversely acted against her due to this condition; (iii) and mis-classified Conard as a "direct threat" to others unless she received medical treatment to lessen symptom severity; (5) CHANEL failed to establish by individual assessment (ie; a doctor's diagnosis) that Conard was, in fact, a direct threat; (6) Conard alleged the new qualification standards, which do not require a showing of disability, were not "job-related"; (7) Conard alleged retaliation based upon discrimination and the causal relationship between her opposition and the adverse employment actions.

The Courts further abused their discretion by: (8) ruling Conard's alleged efforts to exercise her rights under the ADA were really "insubordination" (i) by

improperly presuming the COVID policy was a *legitimate* corporate policy when Conard alleged it conflicted with her rights, laws and public policy. The Courts refused to consider that the ADA afforded Conard a path to follow, by acting in good faith opposition to the policy, being respectful, attempting to engage in open and constructive communication with her employer, and rightfully refusing discriminatory qualification standards; and refusing to waive her medical privacy rights or informed consent which are squarely rooted in the ADA, *29 CFR Part 1630.9(d).* (9) These abuses demonstrate bias because the Courts have adopted the same policies which gave rise to Conard's complaint.

The Appeals Court further abused its discretion by (1) ignoring and misconstruing alleged facts showing that prohibited qualification standards were being imposed daily, not at a future date; (2) failing to review whether the qualification standards were prohibited if they did not meet statutory conditional standards, ie; "job-related", "direct threat"; (3) failing to note that the District court did not accept alleged facts as true at the pleading stage; (4) refusing to set precedent which confuses these important issues even further, and (5) reviewing the case while using the Title and pleading standards for public entities rather than private employers.

XII. REASONS FOR GRANTING THE WRIT

Petitioner Ealaila Conard petitions the United States Supreme Court for a writ of certiorari to the United States District Court of Appeals for the Eleventh

Circuit, Case No. 23-13624, under the following criteria. **This petition and the proceedings below involve a matter of great public importance and raise one or more significant federal questions that are in the public's interest.**

A. Court's History of Countermanding Congress

The United States District Court and its Appellate Court have a history of overruling federal law and legislating from the bench. The federal court's practice of countermanding federal law specifically includes whittling down the effectiveness of Congress' purpose intended to protect people with disabilities from discrimination. Eighteen years after the enactment of the ADA, the United States Congress had to intervene and amend the law to further state what its intent was, and to overcome some of the case law established in the federal appeals circuits and the United States Supreme Court, that had effectively repealed the congressional intent expressed in the 1990 version of the ADA.

Additionally, both the trial and appeals courts have imposed a greater pleading standard upon Conard than it would for a party represented by an attorney, or a party proceeding only under the "actual" or diagnosed prong of the ADA. The courts have presumed to become gatekeepers of the law that Congress intended to be very accessible for those with disabilities under any of the prongs, with an intentionally low standard or threshold to invoke the court's jurisdiction and not this gauntlet of unfair conditions once again fabricated by federal courts. This is nothing new as federal courts have a long history of countermanding

Congress, which is demonstrated by the congressional intent for amending the ADA in 2008.

People have a private property right to access the law and use it to protect other rights they have, and the federal courts have taken this right, intruded upon it, and trespassed upon it by impeding and frustrating access to justice, the sole means by which people can reach a remedy for damages to their property rights. The federal courts have no property rights over the law; their role is to provide access to the law and facilitate justice, not to own the law, and deny access to the law and justice. The law cannot be owned any more than mathematics can be owned, or any person can own the thoughts of another. However, federal judges have conducted themselves, as if they own the law and as if they can ration it as they desire in the expression of their own passions and prejudice. This is far from the very least that can be expected of the courts: giving the appearance of justice. This conduct is insolent and defiant for the reason that the federal courts obtained their authority to function solely from the very people they are intended to serve.

Regarding the court's "standard of review", Congress stated in 2008 that the main focus of the courts should be whether the employer is satisfying its obligations under the ADA. "...[I]t is the intent of Congress that the primary object of attention in cases brought under the ADA should be *whether entities covered under the ADA have complied with their obligations, and to convey that the question of whether an individual's impairment is a disability under the*

ADA should not demand extensive analysis." (emphasis added).[1] The standards in *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 127 S. Ct. 1955 (2007), and *Ashcroft v. Iqbal*, 556 U.S. 662, 129 S. Ct. 1937 (2009) cannot be applied without consideration of Congressional intent for the ADA, especially since Congress had to amend the law in 2008 because this very Court made decisions that countermanded the original intent of Congress and the law. It appears we are here once again, where the federal courts are attempting to create a higher threshold by their use of a legal fiction known as "implausible allegations". Congress specifically instructed courts to review the *liability* of the entity as the first order of business.

The novel application of a "plausibility" standard to *allegations* made by the plaintiff rather than to the *liability* of the defendant creates a higher threshold for those seeking relief and protection under the ADA than was intended by Congress. This is the same despicable conduct demonstrated in *Tennessee v. Lane*, 541 U.S. 509 (2004). Here, the District Court was not only participating in the same illegal policies as CHANEL; it denied Conard access to the court, the law and justice by allowing CHANEL to simply deny that it discriminated and retaliated, rather than analyzing its compliance.

Furthermore, claims of: improper inquiries designed to assess a perceived disability; or non-job-related medical treatments, examinations and tests; or improper requests for disclosure of confidential medical information; or for

[1] 29 CFR Appendix to Part 1630 – Appendix to Part 1630–Interpretive Guidance on Title I of the Americans With Disabilities Act.

retaliation, may be brought by **any** applicant or employee, not just individuals with disabilities. See, e.g., *Cossette v. Minnesota Power & Light*, 188 F.3d 964, 969-70 (8th Cir. 1999); *Fredenburg v. Contra Costa County Dep't of Health Servs.*, 172 F.3d 1176, 1182 (9th Cir. 1999); *Griffin v. Steeltek, Inc.*, 160 F.3d 591, 594 (10th Cir. 1998).

Instead of reviewing CHANEL's response to determine if it had expressed any defense that was cognizable under the ADA, the trial court reviewed the complaint under a *distortion* of the standard pleading practice criteria. There is no basis for the court to presume that Conard alleged falsehoods or that the defendant is not a covered entity. There is no basis for presuming Conard's allegations of her direct experience of being presumed to need treatment, or of being a daily source of contagious disease, are implausible considering she alleged the "COVID policy" measures as written and CHANEL admitted the policy measures. There is no basis for the Circuit court to manufacture that Conard was regarded as having a perceived disability in the future when new qualification standards were currently in place and being enforced.

The trial court should have first reviewed CHANEL's response for any legally cognizable defense under the ADA, such as having conducted an individualized assessment to determine that plaintiff was a direct threat, or show that it had suffered an undue financial burden because of plaintiff's exercise of her rights under the ADA, or that her exercise of such rights would have fundamentally altered

normal operations. The court never considered the fact that the defendant's policy was not even related to plaintiff's essential job function.

CHANEL's naked denial that it ever acted *as if* plaintiff had a perceived disability is not a legal defense, nor was it objectively true given the facts.

The EEOC declared "the COVID-19 pandemic meets the direct threat standard"[2] and "...that a significant risk of substantial harm would be posed by having someone with COVID-19, or symptoms of it, present in the workplace at the current time." Clearly, the EEOC means that an individual diagnosed with "COVID-19" can be considered a "direct threat" as the CDC considers the disease to be a substantial risk. "An employee's ability to perform essential job functions will be impaired by a medical condition; or [a]n employee will pose a direct threat due to a medical condition."[3] The employee must be diagnosed as having the medical condition in order to establish direct threat.

Ms. Conard was never diagnosed with "COVID-19", however CHANEL clearly assumed everyone was a "direct threat" without any objective assessment. This doesn't make the policy less discriminatory because it is applied to everyone, it makes it more discriminatory because it is not based on facts, it is based on fear, and COVID funding.

[2]"Pandemic Preparedness in the Workplace" EEOC guidance document from "Direct Threat" page 7.
[3]*Ibid* page 6.

The Supreme Court stayed the OSHA ETS advising that Congress has not given OSHA the power to regulate universal hazards to public health and it should focus on workplace specific hazards. By the same reasoning, CHANEL has no authority to "stop the spread of COVID" by compelling its workers to take medical treatments that are not-job-related.

CHANEL's grandiose claim, although erroneous and hypothetical, that it was "preventing the spread of COVID-19", is not a legal defense to violating the ADA. Claiming there is a pandemic, is not a legal defense under the ADA. Neither is it a defense to ignore established public health law, and federal statute and legal precedents.

B. The Supreme Court Has a Duty to Preserve the Status Quo and the Uniformity of the Laws

One of the functions of the Supreme Court is to preserve the uniformity of the laws and the *status quo*. Therefore, the Supreme Court has a duty to act which is one of the compelling reasons for review.

The District Court's decision, as affirmed by the Circuit Court, is disrupting the *status quo* by allowing mere guidelines and executive orders to overcome established laws. If the Supreme Court does not act it will be allowing the court system to both contradict established public health policy and to facilitate the improper changing of established public health policy to the detriment of everyone.

The Circuit Court affirmed improper actions by the District Court which results in up-ending public health policy which has protected people for over a century and, in fact, destroys it. The two rulings create: a) conflicts with state public health laws regarding due process and threat assessment; b) conflicts in public policy by allowing employers to improperly assume duties reserved to the Department of Health; c) conflicts with the statutory conditions set forth under "Emergency Use Authorization" guidelines, namely the right to informed consent and the right to refuse experimental treatments; d) conflicts with ADA requirements (including those which do not require any showing of a disability), that the employer perform an individualized risk assessment as a pre-condition to disciplining or firing an employee it considers a safety threat/direct threat; and e) conflicts with the ADA requirement that in order for a medical treatment, test or inquiry to be a new condition of employment, it must first be established as necessary to perform the essential functions of the job.

The Supreme Court produces and preserves a uniformity of decision through the whole judicial system. The Circuit Court refused to publish its findings of fact and conclusions of law by which it affirmed the District Court's decision. Both Courts failed to perform a proper review of the claims, applied incorrect legal standards, and disregarded alleged facts. The Supreme Court has a duty to act because the lower courts are adopting different and contradictory rules of decision; and by doing so, they are leaving the citizens without remedy and without justice.

The Circuit Court affirmed the District Court's gross misreading of Conard's allegations, and it disqualified her from coverage by concluding that Conard narrowly alleged that CHANEL 1.) acted as if she might develop COVID in the future-- instead of reviewing the adverse actions taken in the present, which is the proper pleading requirement--; 2.) that she failed to allege an "actual" (diagnosed) disability --- a pre-condition existing under the actual prong which she did not proceed under--- and 3.) used the pleading standards for public entities denying public access to services, and thus the court denied Conard coverage.

The Circuit Court's baroque Opinion is neither supported by the rules of construction nor the facts. A claim of perceived disability is required to sufficiently show that adverse actions were taken on the basis of a perceived disability. There is absolutely no requirement that proceeding under the third prong (perceived disability) requires the plaintiff to allege a substantially limiting or "actual" (diagnosed) disability. This condition was removed by Congress in 2008.

In the pleading, Conard alleged that she was treated *as if* she was a "direct threat" of contagious disease to others from the moment CHANEL adopted a COVID policy. It is the adverse treatment she endured which establishes her coverage under the third prong. To make matters worse, CHANEL imposed medical treatments, marketed as vaccines, which only claim to lessen the severity of symptoms for user and do not claim to prevent transmission to others, hence the need for "booster shots".

Conard did not claim an actual disability at all, she never claimed to "have COVID". She claimed she was being treated as a contagious threat (perceived disability) and being misclassified as a "direct threat". CHANEL failed to properly claim an affirmative defense.

In order for CHANEL to compliantly exclude Conard from the workplace because of posing a "direct threat" CHANEL must make "an individualized assessment of the individual's present ability" to safely perform her job, based on "a reasonable medical judgment that relies on the most current medical knowledge and/or on the best available objective evidence." as outlined in 42 U.S.C. §§12111(3), 12113(a), (b); 29 C.F.R. §§1630.15(b)(2), 1630.2(r). CHANEL never exhibited such an assessment nor did it claim it performed such an assessment.

C. This Is a Case of First Impression

Many of the facts and circumstances in the pending appeal are unprecedented and are enumerated by the following:

1. The appellant is proceeding under both the "regarded as" and "record of" prongs of the ADA. The appellee adopted a policy that instigated and provoked disability discrimination and retaliation on its face and it is the appellant's sincere belief that this is unprecedented.

As the Supreme Court has observed, these protections are particularly necessary to guard employees against misperceptions regarding communicable

diseases, given that "[f]ew aspects of a handicap give rise to the same level of public fear and misapprehension as contagiousness." *Arline*, 480 U.S. at 284.

2. Moreover, the facts giving rise to the complaint include the unprecedented situation where the government has declared a public health emergency in which every single American is presumed likely to transmit a contagious disease. This outrageous presumption is made without requiring evidence that any specific individual has such contagious disease. A covered entity, like CHANEL, is required to have a reasonable, individualized, objective basis to make such a declaration about an employee. This focus on reasonableness and individualized inquiry is particularly necessary to combat the myth-based hysteria that can accompany well-publicized but misunderstood outbreaks of disease. *Arline*, 480 U.S. at 284-85. Despite the ensuing hysteria, no public health emergency declaration created any new legal duty or legal authority for any of these "COVID-19 policies" or nullified any laws. Again, the backdrop of hysteria mixed with a lack of proper procedure is unprecedented.

3. The federal court has once again sought to countermand the intent of Congress by imposing superfluous conditions on pleadings by inventing new legal concepts such as: "fails to plausibly allege"; refusing to analyze the defendant's response and legal defense to claims of ADA violations by statutory standards; and erroneously elevating mere website commentary (EEOC, CDC) as some sort of new

legal authority which lawfully imposed a new legal duty on the parties; thereby and once again attempting to defeat the intent of Congress.

4. Attorneys lack the training and willingness to represent plaintiffs in these types of cases; specifically, no attorney would agree to represent the appellant in this matter. Appellant was unable to find an attorney who was even competent in this area of law; and yet, she is being held to a higher legal standard than any bar member and the court has frustrated appellant's access to the law by acting as its gatekeeper or owner.

5. There has never been a situation where the court has adopted and implemented the same illegal policies as the defendant, the same "COVID-19 policies", which have given rise to the complaint. Both the District and Appellate Courts refused to explain themselves or acknowledge this conflict. The conflict has expressed itself in several ways, one of which involves federal judges who have intruded upon cases, thereby frustrating access to the court for plaintiffs who are attempting to sue their employers for ADA violations, such as Conard detailed above.

6. The policies and practices of CHANEL, which gave rise to the complaint specifically exclude and ignore having any provisions for those employees with disabilities as defined by the ADA while simultaneously regarding every employee as a direct threat of the same exact contagious disease/disability. Despite CHANEL disingenuously denying that it regarded any employee as having a perceived

disability (contagious disease); this set of facts is apparent on the face of the employer's policy which punishes employees who oppose being considered a direct threat of a contagious disease.

While it is not relevant whether or not any specific person, including the employer, admits to regarding (meaning "acting as if") an employee as a direct threat, by virtue of the government's announcement of a public health emergency, every employee was regarded as having the same perceived disability. All subsequent adverse employment actions taken by CHANEL against Conard were based upon this premise.

Moreover, CHANEL failed to provide any designated representative to competently respond to disability discrimination and retaliation complaints. In fact, the CHANEL employees who would normally have this designation, are the very ones perpetuating the discriminatory violations (e.g., human resources). Again, this is unprecedented.

7. An "Emergency Use Authorization" or EUA period, which establishes that any medical treatments, such as "mask wearing" (for the novel purpose of containing the wearer's viral particles), or "COVID testing" (which does not yield a *bona fide* diagnosis of "COVID-19" despite positive results mistakenly called "cases"), or the novel mRNA "vaccines" (which do not prevent infection or transmission) are clinical trials and epidemiological experiments, none of which have been **approved** by the Food and Drug Administration and are therefore, not

bona fide "vaccines", tests or medical treatments. Moreover, the pharmaceutical companies disclaim all liability for their experimental "vaccines" and the United States has indemnified the same pharmaceutical companies from having any liability for the manufacture, sale, or distribution of these experimental "vaccines".

8. The published and intended function of the Department of Health has been unlawfully circumvented and replaced by the association of private businesses and employers, thereby denying employees the protections normally afforded by public health policy, which places the burden of proof on the Department of Health. In the case of an employer circumventing this authority, the burden of proof is unfairly shifted to the employee, and they are made to suffer the adverse employment action of enduring new exclusionary qualification standards that are unrelated to performing job duties while having no redress to a retaliatory policy which fully intends to eliminate anyone who attempts to claim their rights which then leads to having to incur the unfair burden of trying to seek a remedy in the courts against an employer. In the process, CHANEL then begins paying a law firm and several attorneys hundreds of dollars an hour to oppose Conard's claim in the corrupted court system.

9. Conard alleged the provisions of CHANEL's "COVID-19 policy"; and the policy describes the medical treatments sought to be involuntarily imposed. These new qualification standards do not meet certain statutory conditions which makes them *prohibited actions*, and they come with penalties which makes them *adverse*

employment actions; and the causal relationship is written into the policy. However, the Appeal Court failed to review that the pleading does allege the causal relationship between Conard 1.) opposing violations of her rights and claiming the protection of the ADA and 2.) refusing unwanted medical treatments to lessen the severity of symptoms she does not have and the resulting adverse employment actions. She alleged both actions she took resulted in adverse employment actions. The District court nonsensically opines that there is no causal relationship because Conard objected after the policy was in place; yet Conard would have no cause to object the policy until after it was implemented and she began to object to her employer once CHANEL imposed masks and medical treatments and began imposing adverse actions like cutting her hours.

The Circuit court refused to properly analyze whether the new qualification standards[4] were *prohibited actions* which excluded Conard and were neither *job-related* nor found to be a *business necessity* due to a conclusive *direct threat* assessment.

CHANEL's HR deceptively told Conard that she could only apply for a religious exemption and then CHANEL refused to accept it on the false premise that she could no longer perform the "essential function" of working in-person because CHANEL refused to allow her to work in-person. In this email, CHANEL misclassified Conard as too limited to work in-person. It also coerced her to comply

[4]See Appd'x 1 for CFR 1630.2 (g) which outlines the conditions under which employers are allowed to designate medical treatments (ie; face masks, COVID drugs, unpaid quarantines), and tests (ie; temperature checks, symptom surveys, "COVID tests") as qualification standards for employment.

under duress, decreased her monetary benefits and schedule, interfered with protected rights and terminated her on the basis of her opposition to the policy measures/qualification standards, all of which are adverse actions taken on the basis of undiagnosed impairment.

10. Conard provided sufficient written notice that she was "exempting" herself from the new qualification standards under the protection and guidelines of the ADA, CHANEL refused to accept her exemption or come to the mediation hearing Further, CHANEL disingenuously stated that it would allow exemptions for religious reasons but then denied her statement of religious exemption while failing to advise her of exemption based upon legal rights available to the appellant.

11. The court and employers (defendant) are receiving compensation for participating in the "pandemic" scheme and have an ulterior motive beyond the noble-sounding claim of "preventing the spread of COVID-19". None of them have any concern about protecting anyone, especially in view of the fact that no one has any financial responsibility for "preventing the spread of COVID-19", nor any financial responsibility for any adverse health consequences suffered by any employee who complies with the experimental medical treatments, nor can any employee state a cause of action against an employer for having contracted "COVID-19" at work because it would be impossible to establish proximate cause.

It is not even possible to "prevent the spread of COVID-19", because there are no controlled environments by which such a task could be managed, and employers such as CHANEL have no competence or qualifications for such an undertaking.

Likewise, an employee who participates in the experimental medical treatments of the "COVID-19 policy" is not able to state a cause of action against her employer for suffering any adverse health consequences thereby, for the simple reason that there was no legal duty to impose such a policy, there was no legal authority to impose such a policy and the policy was not legally binding upon either the employer or the employee.

12. The employer's policy, along with the government's, is disproportionately applied to different groups of employees. First, the "COVID-19 policy" of the appellee fails to even recognize employees claiming the protection of the ADA. On its face, by excluding this group of people, it demonstrates discrimination. Second, the policy fails to: (1) include any provision for those with disabilities as defined by the ADA; (2) identify any designated representative or employee who can assist those with disabilities and any grievances they have; (3) provide any means of appeal or review of the employer's actions; (4) offer any legitimate accommodations that are recognized or cognizable under the ADA-AA; and (5) provide conspicuous notice, or the means by which such notice should be provided, to any employee, describing the manner in which the policy relates to their essential job function.

The "COVID-19 policy" is applied disproportionately to those who participate (by disclosing their medical records, vital statistics, wearing masks and submitting to "COVID-19 tests"). The policy is then applied differently to employees who object to the policy and in good faith refuse to participate unless the employer satisfies its legal duty to obtain an individualized assessment that determines the employee to be a direct threat.

D. Everyone Is Implausibly Regarded as Being Infected with "COVID-19"

A contagious disease is defined by the ADA as one type of disability. The moment the President announced a public health emergency on January 31, 2020, specifically for "COVID-19", everyone in the entire nation was suddenly regarded as infected or likely to become infected, with such a disease. All of the states, counties, cities, towns, and government agencies began making the same proclamation. It was based on the exceedingly implausible premise that three-hundred thirty million people could suddenly become infected with or be at risk of incurring the same exact illness within a short period of time, and this situation would continue for over two years, however, this is the premise of the emergency declarations and of the COVID-19 policy.

Conard simply stated the facts of CHANEL's "COVID-19 policy" with the stated purpose of "preventing the spread of COVID-19", based upon the implausible presumption that every employee is currently a risk of contagion. The District Court invented the legal fiction that because such a conclusion, simply restated by

Conard, is implausible, therefore, Conard's complaint failed to state a plausible cause of action. This Court must acknowledge that it is the "COVID policy" itself which is implausible, not Conard's experiences of discrimination because of it.

Denying that plaintiff was currently regarded as disabled (by the government, the CDC, her employer) is not a legal defense to allegations of ADA violations. CHANEL never made a proper defense, cognizable under the ADA, but the court invented the legal fiction that plaintiff's complaint did not state a cause of action because it is "not plausible" to allege that everyone is regarded as having a disability, when in fact, this is the very premise of all government proclamations and every single employer's "COVID-19 policy", including the court's.

The entire "pandemic" artifice rests upon the ridiculous and implausible presumption that everyone has incurred the same exact disability, or will imminently incur such a disability, and that everyone should be treated according to a corporate policy published as a "guideline" by the CDC.

A corporate policy is not a *bona fide* medical diagnosis. The policy is **intended** to be imposed without any *bona fide* medical diagnosis and by circumventing the legislative process and the authority of the Departments of Health, at the federal, state and county levels and thereby, circumventing judicial oversight and denying everyone her right to due process based upon evidence. Conard's due process rights (including but not limited to medical privacy and

informed consent) are squarely rooted in *29 CFR Part 1630.9(d)* and when she exercised them, she was penalized by appellee.

E. The Policy Contravenes a Century of Public Health Policy

When has it been necessary for one person to undertake a medical treatment in order to prevent illness in another person? This is the ridiculous and illogical premise behind the "COVID-19 policies" adopted and imposed by nearly every employer in the country, including this very Court.

The "COVID-19 policy" imposed by the appellee contravenes long-standing public health policy and ironically, the CDC publishes a list of bench books advising judges on the correct public health policy. The Georgia Administrative Office of the Courts of Georgia and the Judicial Council of Georgia publishes a Pandemic Bench Guide manual for Judges.[5] These bench books establish that it is only the state legislature which can establish a legal duty to impose medical interventions that prevent transmission of disease to others, subject to judicial oversight based upon medical evidence. This power cannot be delegated but can only be exercised by the Department of Health, not private businesses and certainly not by a private employer.

It is long-standing public health policy, that the only way to unilaterally impose any medical intervention or mitigation measure on people is by judicial

[5] https://jcaoc.georgiacourts.gov/wp-content/uploads/2024/04/Pandemic-Bench-Guide-Final.pdf

review and approval based upon the affidavit of a physician who conducted a *bona fide* medical examination of an individual with her informed consent; and having diagnosed the contagious disease, then provided an affidavit to the local public health officer. The public health officer could then petition the court to impose isolation or quarantine measures against the individual. Appellee's policy fails to comply with any of this public health policy[6]; in fact, it is clearly **intended** to violate, circumvent, and abolish these long-standing public health policies.

Since when did the mere announcement of a contagious disease create any new legal duties and new legal authorities to violate the rights of people and create new and negligent public health risks? The mere proclamation of a "deadly contagious disease" did not suddenly change hundreds of years of public health policy or the intangible private property rights of anyone, or suddenly create any new legal duty or legal authority for anyone to implement or impose the "COVID-19 policies".

F. The Policy Is Negligent and Has Created a Public Health Disaster

CHANEL's implementation of its illegal and negligent "COVID-19 policy" created the dangerous condition involving the involuntary imposition of the exact same experimental medical treatments on everyone without any *bona fide* diagnosis or assessment of contraindications, without judicial oversight, without any

[6]As it pertains specifically to Ms. Conard, CHANEL contravenes long-standing public health policy expressed under O.C.G.A. Health code Title 31 Chapter 12 and 14 et seq. (See Appendix 1.)

physician's oversight, without any financial responsibility and in violation of each employee's medical privacy rights and rights to informed consent.

The policy is arbitrary, irrational, and unreasonable because it was based on the implausible scenario that every employee suddenly had become infected with the same exact deadly contagious disease within the same time period.

When did it cease to be *negligent* for laymen with no financial responsibility or professional accountability to impose involuntary medical treatments, that are not the result of a competent and qualified medical examination, but merely the policy of a corporation?

Why was the responsive policy so carelessly and negligently implemented? It excludes any provision for those claiming disabilities, it failed to review applicable ADA provisions; and it penalizes anyone who questions the policy. Further, just like shouting "fire" in a crowded theater, CHANEL's "COVID-19 policy" instilled fear, anxiety, and apprehension in every employee such that every time an employee had a cough or a symptom of the common cold, she believed she was not only going to die a horrible death but that she would infect other employees with the same demise. This created a very hostile and antagonistic working environment, especially between those who believed the COVID hysteria or felt compelled to comply to keep their job and those who either were not concerned due to assessing their age and health condition or did not agree with CHANEL's policy.

CHANEL's "COVID-19 policy" fails to address the screaming reality that neither CHANEL, nor any scientific principles known to mankind at this time, has the ability to establish the proximate cause behind any employee becoming infected with "COVID-19". CHANEL's negligent "COVID-19 policy" fails to address the very obvious reality that each employee ends her shift and leaves the premises and is free to roam about the town or travel to faraway lands and engage with unknown and unidentifiable "risks" or "infected people", and then return to her job to begin his next shift. It is by this fact alone that CHANEL, no matter what its policies are, is wholly unable to "prevent the spread of COVID-19" by any stretch of the imagination, even if such a risk did exist.

How then is it reasonable or equitable to punish any employee for refusing to participate in such a policy? The policy is completely useless simply because CHANEL cannot control any employee's environment every moment of the day, whether at work or away.

G. The Policy Imposes Involuntary Experimental Medical Treatments without Notice, Due Process, FDA Approval, or Informed Consent

Every medical treatment and test in the policy is under Emergency Use Authorization ("EUA")[7] guidelines and is classified as a clinical trial or epidemiological experiment. CHANEL has not obtained FDA approval to conduct clinical trials, nor has it obtained the informed consent of anyone affected by the

[7] The Emergency Use Authorization period announced by the Food and Drug Administration continues to this day.

policy. There are no "vaccines" during an EUA period as any medical intervention is a clinical trial by definition, not an FDA-approved medical treatment ("authorized" is not "approved"). Furthermore the shots are medical treatments and not designed to prevent infection. Or transmission.

Every medical intervention that is being administered under the EUA scheme is purely experimental and those participating in them are doing so at their own risk. However, this has not been disclosed by CHANEL or any government authority, including the Department of Health which is tacitly participating and overtly facilitating.[8]

CHANEL refused to inform any employee that its "COVID-19 policy" is a clinical trial and that each person submitting to its provisions is a test subject. Conard asked her employer, in her notice of discrimination, for a risk/benefit analysis necessary for informed consent and to receive the EUA disclaimer sheet for each treatment or test CHANEL imposed; CHANEL failed to provide this information. This violates Title 21 of the Code of Federal Regulations, "Food and Drugs", Part 50.20. No one, including Conard, has been given the opportunity to decide whether to consent to this medical experiment free of any element of force, fraud, deceit, duress, coercion, or undue influence. No one, including Conard, is required to become the subject in any epidemiological experiment. Conard's rights to informed consent and medical privacy, her right to refuse any medical treatment,

[8] Using the same terms from the most recent table-top exercise known as "Event 201" that preceded the January 31, 2020, announcement of the now, live-action role-playing event.

is squarely rooted in *29 CFR Part 1630.9(d)* which CHANEL has a legal duty to uphold.

H. Budgeted for the Future and a Trillion Dollar Market Cap

There is no end in sight for this "pandemic" scheme, it will continue perpetually, and it is intended to continue perpetually because the banking system has made it profitable to engage in these policies. In its first year, the "pandemic" had a market cap in the billions of dollars. The "pandemic" is a profitable business enterprise for the pharmaceutical companies, governments, and those involved with the collection of data such as medical, biographical, biometric, and other surveillance data collected from online "contact tracing", "vaccine tracking", and "COVID-19 testing" online portals. The repositories for this human data include the university system, specifically Johns Hopkins University.

The Global Preparedness Monitoring Board ("GPMB") includes the World Bank and the World Health Organization, and the plan is to provide funding for nations which participate in future schemes. This is explained in hundreds of publications, but see "A World at Risk-- Annual report on global preparedness for health emergencies", September 2019[9]. The "COVID-19 pandemic" was just another test in a long series of trials that have been taking place for decades. See "From Worlds Apart to a World Prepared, GPMB Report" 2021[10].

[9] Available at: https://www.gpmb.org/annual-reports/annual-report-2019.
[10] Available at: https://www.gpmb.org/annual-reports/annual-report-2021.

As of October 16, 2020, Congress has enacted four emergency supplemental funding bills to address the "COVID-19" pandemic, which collectively provide almost $3.2 billion for the global response. Of this amount, approximately $2.4 billion (75%) was designated for country, regional, and worldwide programming efforts through the State Department ($350 million), the U.S. Agency for International Development ($1.24 billion), and the CDC ($800 million); the remainder was for operating expenses. We examined the status of global "COVID-19" country, regional, and worldwide funding to assess how much has been committed to date and where it has been directed. See *U.S. Global Funding for COVID-19 by Country and Region: An Analysis of USAID Data, June 29, 2022*, published by Kaiser Family Foundation.[11]

Countries that are evolving their "COVID-19" pandemic response into longer term investments to strengthen systems for health and pandemic preparedness can consider applying for C19RM Portfolio Optimization (PO) Wave 2. This is a process that allows countries to receive additional C19RM funds and align investments with revised priorities. Eligible Country Coordinating Mechanisms (CCMs) have received letters with instructions on how to apply for funding. See *The Global Fund (theglobalfund.org) February 9th, 2023*[12].

[11]https://www.kff.org/global-health-policy/issue-brief/u-s-global-funding-for-covid-19-by-country-and-region-an-analysis-of-usaid-data/

[12] Available at: https://www.theglobalfund.org/en/updates/2023/2023-02-09-additional-funding-from-c19rm-and-the-new-pandemic-fund/.

The news is endless. See, *The Pandemic Fund Announces First Round of Funding to Help Countries Build Resilience to Future Pandemics*[13].

> "Washington, Feb. 3, 2023 — The Pandemic Fund Governing Board approved $300 million in financing for its first round of funding to help developing countries better prepare for and respond to future pandemics. The Fund is also inviting interested eligible countries and Implementing Entities to submit Expressions of Interest (EOI) for potential projects to be supported by this initial funding".

This scheme is funded for many years to come, please also see *COVID-19 World Bank Emergency Response: Projects Repository*.[14]

The "pandemic" is the business of the world banking system and the world military (United Nations and World Health Organization). The United States Supreme Court is in a unique position to protect employees from this diabolical scheme and set an example for the world.

[13] Available at: https://www.worldbank.org/en/news/press-release/2023/02/03/the-pandemic-fund-announces-first-round-of-funding-to-help-countries-build-resilience-to-future-pandemics#:~:text=3%2C%202023%20%E2%80%94%20The%20Pandemic%20Fund,and%20respond%20to%20future%20pandemics.

[14] Please consult: https://docs.google.com/spreadsheets/d/1416zufQFM7IY9OvHufmOmeF0jiQTT7V7jAlPg3Iqe9Q/edit#gid=0.

XIII. CONCLUSION

This Court should grant certiorari to review the Eleventh Circuit's judgment.

DATED this 15th day of June 2025

Respectfully submitted,

By: Ealaila : Conard

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Lawrenceville, Georgia 30043

CERTIFICATE OF SERVICE

Ealaila Conard

Petitioner

v. No. USA11 23-13624

CHANEL, INC.

Respondent

I, Ealaila Conard, hereby certify that all parties required to be served have been served.

I certify that a copy of the enclosed *Petition for Writ of Certiorari* with an updated appendix was served by electronic mail and three paper copies were served by first-class mail upon CHANEL, INC.'s attorney Alex S. Drummond, at the address of Seyfarth Shaw, LLP; 1075 Peachtree Street NE, Suite 2500; Atlanta, GA 30309, on this 04 day of October, 2025.

I further certify that a copy of the same was served by electronic mail and three paper copies were served by first-class mail upon CHANEL, INC.'s other attorneys Shana Madigan and Karla Grossenbacher, at the address of Seyfarth Shaw, LLP; 975 F Street NW; Washington, DC 20004-1454 on this 04 day of October, 2025.

CERTIFICATE OF COMPLIANCE

I, Ealaila Conard, do certify that this document complies with Supreme Court Rule 33.1(g) because, excluding parts of the document exempted by Supreme Court Rule 33.1(d) this document contains 8,995 words. I further certify that no change to the substance to the petition was made, only the appendix was updated.

Executed on October 04, 2025

By: Ealaila Conard

Ealaila Conard