

25-6717
No.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED
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OFFICE OF THE CLERK
SUPREME COURT, U.S.

Alaa Elkhawily

Petitioner

v.

Kaiser Permanente; Group Health System; David Dempster, M.D.; William Cammarano, M.D.; Tony Haftel, M.D.; Dennis DeLeon, M.D.; Bennett Bigelow & Leedom, P.S.; Bruce Megard; Erin Seeberger; Kimberley Nighswonger; Franciscan Health System; John Doe & Mary Doe I-X

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO

Supreme Court of The State of Washington

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QUESTIONS PRESENTED FOR REVIEW

1- UNCONSTITUTIONALLY BIASED ADJUDICATION (RULE OF NECESSITY/ SELF-INTEREST): Did the state appellate court violate the **Due Process Clause** of the Fourteenth Amendment by proceeding to decide a litigant's appeal and imposing punitive sanctions **after** that litigant filed a federal lawsuit naming the **presiding judges and court personnel as co-defendants** for misconduct, where the federal lawsuit was **judicially validated** as substantial by a United States Court of Appeals?

2- STRUCTURAL DUE PROCESS: IMPOSSIBILITY OF JUSTICE AND MANDATE OF COUNSEL: Does the **Due Process Clause** of the Fourteenth Amendment require the mandatory disqualification of an entire appellate judiciary—and/or mandate the appointment of counsel—when the **indigent litigant, suffering from a verified disability, is forced to proceed pro se** against a large, hostile legal enterprise that requires exposing **conclusively established criminal misconduct** by the **presiding judges and court personnel**?

3- CONSTITUTIONAL LIMITS ON JUDICIAL RULE-MAKING: UNREVIEWABLE ARBITRARY PUNISHMENT: Does the **Due Process Clause** of the Fourteenth Amendment permit a state court of last resort to rely on its internal rules (RAP) to: **(a)** impose a **punitive monetary sanction** and **filing bar** against a litigant without stating any legal or factual **reason** or **analysis** for the penalty; and **(b)**

simultaneously prohibit any subsequent **motion for reconsideration or clarification**, thereby rendering the imposition of the punitive sanction **unreviewable, arbitrary, and fundamentally unconstitutional?**

4- DISREGARD OF FEDERAL RULE, NULLITY OF REMOVAL, AND WAIVER OF DUE PROCESS RIGHTS: Does the **Due Process Clause** of the Fourteenth Amendment permit a state's highest court to extinguish a litigant's accrued procedural rights—including the right to a **default judgment** and the enforcement of waived affirmative defenses (**Res Judicata/S.O.L.**)—by **disregarding the federal "nullity of removal" doctrine**, thereby unilaterally imposing a federally unauthorized **"pause" on the state procedural clock** for the improper removing defendants, and ensuring the dismissal of the entire case?

5- FEDERAL PRECLUSION CONFLICT AND JUDICIAL EVASION OF MERITS: Does the **Due Process Clause** of the Fourteenth Amendment require the Supreme Court to clarify the enduring command of ***Semtek Int'l Inc. v. Lockheed Martin Corp.*** when a state court of last resort **disregards** the trial court's explicit finding that the new claims were not barred by Res Judicata, and applies an overly broad, state-law test for *res judicata* to a prior federal judgment, thereby creating an unreviewable conflict in federal preclusion law that extinguishes a litigant's right to pursue claims of post-judgment criminal fraud and denies the fundamental constitutional guarantee of access to an impartial tribunal?

6- JUDICIAL EVASION AND DENIAL OF APPELLATE REMEDIES: Does the **Due Process and Equal Protection Clauses** prohibit a state appellate court from: (a) imposing sanctions without stating **any reason or legal basis** for the penalty; and (b) enforcing a punitive monetary bar that prohibits an **indigent litigant** from filing the following mandatory motions—thereby effecting a total and unconstitutional denial of appellate review mandated by statute and ethical rules: (i) motions to **disqualify presiding judges and opposing counsel** for conclusively established misconduct; **and** (ii) any and all subsequent lawful post-opinion motions (including motions for reconsideration, petition for review, and motions to abate due to record falsification and destruction)?

LIST OF PARTIES

[X] All parties appear in the caption of the case on the cover page.

RELATED CASE

Alaa Elkharwily v. Kaiser Permanente et al

Superior Court for Pierce County in the State of Washington :
Case No. 20-2-06061-1

COA Division II Case No. 552833

Washington Supreme Court Case No. 1030100

Washington Supreme Court Case No. 1033532

Supreme Court Case No. 1043406

Wall Street Apartments and Alaa Elkharwily v. All Star: This case was filed in the Supreme Court in April 2023, following the Washington Supreme Court denial in November 2022 (No. 101073-7). This is the related case concerning a litigant of the same racial group who suffered **identical selective record destruction, loss and falsification in the Appellate Court**. The SCOTUS docket number is **22-1082**.

In re Custody of C.S. (Simon): This is the related case concerning a litigant of the same racial group who suffered **identical selective record destruction, loss and falsification in the Appellate Court** (as noted in the above previous petition, page 19). This petition was filed in the Supreme Court in April 2023 under docket number **22-1084**.

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Appendix and Exhibits List (SCOTUS Rule 14.1)

This list includes all critical orders necessary to support the six questions presented in the Petition for a Writ of Certiorari

Appendix No.	Document Description	Filing Date / Case No.	Significance to SCOTUS Claims
App. A App. Pp. 1	WA Court of Appeals, Division II, Unpublished Opinion	Aug 19, 2025 (COA No. 55283-3-II)	The Judgment Under Review. Source of the blanket Res Judicata bar and the affirmation of the unconstitutional sanctions.
App. B App. Pp. 28	WA Superior Court Order Denying Motion to Reconsider	Dec 4, 2020 (Superior Ct. No. 20-2-06061-1)	THE FINAL OPERATIVE JUDGMENT. Contains the explicit finding that the new claims were <i>not</i> barred by Res Judicata , which the COA disregarded (Question 4).
App. C App. Pp. 31	WA Superior Court Omnibus Order Regarding Motions	Nov 17, 2020 (Superior Ct. No. 20-2-06061-1)	Initial order granting dismissal/denying default (preceded App. B).
App. D App. Pp. 37	WA Supreme Court Order Imposing Sanctions and Filing Bar	Feb 7, 2025 (SCOWA No. 103353-2)	The Unreviewable Bar. The order that imposed the punitive monetary sanction without stating any legal reason (Question 3/6).

App. E	WA Supreme Court Order Denying Motion to Modify Clerk's Ruling (Final Procedural Block)	Nov 6, 2025 (SCOWA No. 104340-6)	End of State Review. The final order denying the motion that challenged the bar and prevented the filing of the Petition for Review.
App. F	Ninth Circuit Court of Appeals Order Denying Motion to Dismiss	Sep 25, 2025 (9th Cir. No. 25-3405)	Judicial Validation of Conflict. Confirms the viability of the lawsuit against the judiciary (Question 2).
App. G	WA Supreme Court Letter Rulings Granting Motion to Waive Fees (GR 34)	Oct 21, 2025 (Related SCOWA Case Nos.)	Destroys Monetary Bar. Conclusively proves the Appellant's established indigent status and refutes the constitutionality of the punitive bar (Question 3).
App. H	Court of Appeals, Division II, Order Granting Motion to Supplement Record (RAP 9.11)	Feb 28, 2022 (COA No. 55283-3-II)	Judicial Admission of Corrupted Record. Proves the trial record was incomplete/falsified due to destruction, mandating abatement (Question 4).
App. I	Court of Appeals, Division II, Order Canceling Oral Argument	May 30, 2025 (COA No. 55283-3-II)	Procedural Sabotage. Order that unilaterally canceled the hearing without reason (Question 3).
App. J	Supreme Court Order Granting Accommodation/Extension	Dec 4, 2024 (Related SCOWA and COA Div.3 No. 103010-0)	Proof of Verified Disability/Need. Order granting prior accommodation request for illness/unavailability of counsel (Question 1/3).

App. K App. Pp. 57	Urgent Notice of Violations of Criminal Codes	Sep 15, 2025 (COA Div. 3 No. 400166) filed in Supreme Court September 26, 2025 in two parts. 1) Notice with Exhibit's A-J ; and 2) Exhibits K-V.	Conclusive Proof of Criminality. Documents 22 felonies and names judicial adversaries, establishing the basis for the mandatory disqualification (Question 1/2).
App. L App. Pp. 168	Letter from Clerk Pendleton Rejecting Emergency Motions to Abate (Blocking Prior to Calendar)	Nov 4, 2025 (SCOTUS No. 104340-6)	Blockade of Abatement. Clerk's administrative refusal to present emergency motions to the judicial panel, confirming the deliberate obstruction of justice and mandatory abatement arguments.
App. M App. Pp. 171	Clerk's Ruling Denying Motion to Abate/Disqualify ("No Action" Ruling)	Nov 6, 2025 (SCOTUS No. 104340-6)	Final Administrative Denial. Sarah Pendleton's official ruling rejecting motions related to abatement and disqualification, citing the sanction bar (App. D) and serving as a procedural commission of the final cover-up.
App. N App. Pp. 174	Petitioner's Letter Motion for Clarification Re: Sanctions	Mar 14, 2025 (SCOTUS No. 103353-2)	Proof of Due Process Demand. Petitioner's formal request to the Justices for stated reasons for the punitive sanction (Question 6).

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

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

OPINIONS BELOW

The opinion of the Washington Court of Appeals, Division II, affirming the dismissal of Petitioner's lawsuit (Case No. 55283-3-II) appears at **Appendix A** to the petition and is **[X] unpublished**.

The final order of the highest state court to review the merits of the procedural bar and the underlying judgment was the **WA Supreme Court Order Denying Motion to Modify Clerk's Ruling** (Case No. 104340-6) entered on November 6, 2025. This order appears at **Appendix E** to the petition and is **[X] unpublished**.

The final, operative judgment of the trial court (Pierce County Superior Court No. 20-2-06061-1) appears at **Appendix B**.

JURISDICTION

[X] For cases from state courts:

The date on which the highest state court decided my case (denying the final motion to modify the bar) was **November 6, 2025**. A copy of that decision appears at **Appendix E**.

A timely petition for rehearing was thereafter denied on the following date: **[N/A]**, and a copy of the order denying rehearing appears at Appendix **[N/A]**.

The jurisdiction of this Court is invoked under **28 U. S. C. § 1257(a)**.

CONSTITUTIONAL AND STATUTORY PROVISIONS

U.S. Const. amend. XIV, § 1 (Due Process and Equal Protection Clauses)

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

28 U.S.C. § 1738 (Full Faith and Credit)

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seals of such States, Territories, or Possessions thereto.

The records and judicial proceedings of any court of any such State, Territory, or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

STATEMENT OF THE CASE

This Petition addresses a profound institutional crisis where the Washington State Judiciary, acting as the highest state court, shielded its own members from claims of criminal liability by violating constitutional due process and improperly applying federal preclusion law. The imperative public interest requires this Court to assert its supervisory authority over the state court's defiance of federal procedural commands.

A. Factual and Procedural History

1. Underlying Claims, Judicial Misconduct, and the Trial Court

Record:

- Petitioner's final state action (*Elkharwily III*) asserts claims of **forgery, conspiracy, and misconduct discovered** after prior federal judgments, targeting the opposing attorneys **(Bennett, Bigelow & Leedom, P.S., Bruce Megard, Seeberger et al.)** and judicial officers [App. A, p. 2].

- The trial court initially dismissed the case via an Omnibus Order [App. C]. Critically, in its **Order Denying Motion to Reconsider** (Dec 4, 2020), the trial court explicitly clarified that the dismissal was *not comprehensive*, finding that "**To the extent there were new claims not yet litigated sufficiently to be barred by the above doctrines, the Court determined that those newer claims were barred by various statutes of limitations**" [App. B, p. 25]. This ruling established the **non-barred status** of the new misconduct claims.
- The reliability of the appeal record was fundamentally compromised when the Court of Appeals, Division II, granted the Petitioner's **Motion to Supplement the Record (RAP 9.11)** [App. H], acknowledging that the underlying trial court records were **incomplete, inaccurate, and the subject of criminal destruction and concealment** by opposing counsel.

2. The Unconstitutional Bar (Punishment Without Stated Cause):

- **Arbitrary Reprisal; Compliance Trap and Lack of Reasoning:**

The Supreme Court imposed the punitive **monetary sanction and filing bar if sanctions are not paid** (February 7, 2025) [App. D, p. 1]. This bar was imposed **without stating any reasoning or legal analysis for the sanction**, even though Petitioner had complied with a prior Commissioner instruction to file a new accommodation motion [App. D, p. 1; App. C, p. 1]. This confirms the sanction was **arbitrary reprisal** (Question 6).

- **Disability and Tampering:** The Supreme Court **denied Petitioner's verified accommodation for disability** [App. J].

Petitioner alleges Commissioner **Byrne** engaged in **ex parte communication** with his medical provider in an effort to tamper with evidence, demonstrating institutional hostility and actual bias [App. K].¹

¹ The **Urgent Notice of Violations** (App. K) incorporates voluminous attachments, including Appendix A-V, V1, W, and X, which total more than 1,200 pages and are part of the record in the Washington Court of Appeals (Case No. 55283-3-II) and the Washington Supreme Court (Case Nos. 1043406 ; and 1033532). For purposes of judicial economy and to lessen the burden of printing, these attached exhibits are incorporated herein by reference to the state appellate and supreme court records.

- **Total Denial of Review:** The Bar prohibited Petitioner from filing **all** lawful motions to disqualify the appellate court members and the opposing counsel, post-opinion motions, including the **Motion for Reconsideration** and **Petition for Review**, thereby effecting a **total and unconstitutional denial of the right to appeal** [App. G, p. 1]. This prohibition was upheld despite the Supreme Court later **granting IFFP status (GR 34)** in parallel cases [App. G], demonstrating its constitutional illegitimacy.

3. Judicial Lawsuit and Validation (The Conflict is Confirmed):

- Petitioner filed a federal lawsuit (now **Ninth Circuit Case No. 25-3405**) naming the highest presiding judicial personnel—including the Justices and Commissioners of the Appellate Courts—as defendants for misconduct related to the underlying dispute. Crucially, the **Ninth Circuit Court of Appeals denied the motion to dismiss** that federal lawsuit (Order filed September 25, 2025), **judicially validating the substantiality and merit of the claims** [App. F, p. 1].

4. Appellate Court's Evasion and Error of Law:

- **Disregard of Trial Court Finding:** The Washington Court of Appeals, Division II (**Case No. 55283-3-II**), affirmed the dismissal by **imposing a blanket Res Judicata bar** on all claims [App. A, p. 3]. This act of **judicial evasion** was performed by **disregarding the trial court's explicit finding** in the final judgment (App. B, p. 25) that the new claims were not barred by Res Judicata (Question 4).
- **Denial of Due Process:** The COA further executed the cover-up by **canceling scheduled oral argument sua sponte without reason** [App. I], denying the Petitioner the final opportunity to expose the conflict. Furthermore, the Court **erred in denying Petitioner's motion for default**, holding that the federal removal period merely "**paused**" the state court clock [App. A, p. 13], thereby extinguishing the Petitioner's accrued right to a default judgment and validating the defendants' waived defenses (Question 5).

B. Orders Sought to be Reviewed

Petitioner seeks review of the denial of the Petition for Review by the Washington Supreme Court [App. G] and the judgment of the Washington Court of Appeals, Division II [App. A].

ARGUMENT: REASONS FOR GRANTING THE WRIT (RULE 10)

Review is warranted under Supreme Court Rule 10 because this case presents a profound and unprecedented constitutional crisis. The Washington State Judiciary has demonstrated a structural inability to police its own alleged criminal misconduct, forcing this Court to assert its authority to preserve the rule of law and protect the public interest nationwide.

I. UNCONSTITUTIONALLY BIASED ADJUDICATION (RULE OF NECESSITY/SELF-INTEREST) (Q1 & Q2)

The most immediate constitutional failure is the Washington Supreme Court's decision to preside over a case involving its own criminal liability and to effectively deny counsel to the opposing litigant.

A. Constitutionally Intolerable Risk of Actual Bias (Q2): The affirmation of the dismissal and sanctions was made by judges who are simultaneously **defendants in a meritorious Ninth Circuit lawsuit** (Case No. 25-3405) challenging their conduct [App. F, p. 1]. The **Urgent Notice of Violations (App. K)** documents **conclusively established criminal misconduct** and names these judicial officers as adversaries. By refusing to recuse itself, the state court violated the **Due Process right to an impartial tribunal**, creating a **constitutionally intolerable risk of actual bias** (*Caperton v. A.T. Massey Coal Co.*). The **absolute necessity** for review arises from the fact that the state court chose to protect its own institutional interests over the non-waivable constitutional rights of the Petitioner.

B. Structural Due Process and Impossibility of Justice (Q1): This case is the ideal vehicle to define the constitutional necessity of counsel in complex civil litigation. The denial of due process is absolute when: (1) the litigant is **indigent** (App. G), **suffering from a verified disability** (App. J), his pro bono counsel was made unavailable due to circumstances out of Petitioner's control (App. J) and (2) the **institutional conflict** (judges are adversaries) makes securing private

counsel impossible. The systematic **denial of accommodation**, despite the court's prior grant of accommodation [App. J], confirms that the judiciary used procedural rules to guarantee the litigant's failure, demanding clarification on the **mandate of counsel** under the *Mathews v. Eldridge* test. The *Mathews v. Eldridge* test mandates an inquiry into the private interest affected, the risk of erroneous deprivation through the procedures used, and the value of additional procedural safeguards, which, in this context, requires the Court to clarify the Due Process mandate for legal representation when the litigant is indigent, disabled, and structurally precluded from securing counsel by the judiciary's conflict of interest.

The Court must ensure that, under these circumstances, a constitutionally required "hearing" is given, which binds the deciding authority to consider the evidence and argument, a principle violated when the institutional conflict made securing representation impossible (*Morgan v. United States*). Mandatory Counsel for the Indigent and Disabled (Question 1)

This case is the ideal vehicle to establish the conditions under which the **Due Process Clause** mandates legal representation in complex civil litigation. The unique confluence of factors—**indigency, verified disability, and the structural impossibility of securing counsel due to the judicial conflict**—creates the highest possible threshold for requiring appointed counsel, settling a question of overriding national importance concerning **equal justice for disabled, indigent litigants**.

C. Mandatory Abatement: When the court records—including the entire appellate docket—are incomplete, untrue, and the subject of criminal forgery, the Appellate Court loses the authority and power to proceed. The Supreme Court must firmly intervene to settle that litigants cannot be imposed to proceed with an appeal based on a corrupted record, mandating the abatement of proceedings for the preservation of justice. **The Case is therefore the Ideal Vehicle for Civil Rights and Judicial Integrity**

II. CONSTITUTIONAL LIMITS ON JUDICIAL RULEMAKING: UNREVIEWABLE ARBITRARY PUNISHMENT (Q3 & Q6)

The judicial response to the conflict was to impose an arbitrary monetary penalty designed to silence the litigant and foreclose all legal recourse, challenging the constitutional limits of the state's judicial power.

A. Unreviewable Arbitrary Punishment (Q6): The Washington Supreme Court imposed the punitive **monetary sanction and filing bar** (App. D) **without stating any reasoning or legal analysis for the penalty** [App. D, p. 1]. This utter lack of justification violates the fundamental Due Process mandate that a decision-maker state the reasons for its determination and indicate the evidence relied on to ensure the decision rests solely on legal rules and evidence (*Goldberg v. Kelly*). This lack of justification, coupled with the reliance on internal rules (RAP) to **prohibit any subsequent motion for reconsideration or clarification** [App. D, App.L, App. M, App. N], renders the punishment **unreviewable, arbitrary, and fundamentally unconstitutional**. This Court must intervene to assert its authority as the ultimate constitutional check on state rule-making power.

B. Total Denial of Statutory Right and Mandatory Motions (Q3): The sanctions bar prohibited Petitioner from filing **all** lawful post-opinion motions, including **mandatory motions to disqualify** the presiding judges and **Motions to Abate** due to record falsification [App. D, App. E]. This complete prohibition, applied against an **indigent litigant** (App. G), is an **unconstitutional penalty** against the right to appeal statutory remedies (*Boddie v. Connecticut*). The Supreme Court established that when a state monopolizes the legal forum, due process prohibits it from denying indigents access to its courts solely due to inability to pay, mandating a "meaningful opportunity to be heard" on claims of right and duty (*Boddie v. Connecticut*). The financial bar, imposed without stated reason and preventing all mandatory motions, effects a total denial of this non-waivable right.

1. This Case Proffer the Ideal Vehicle for Civil Rights and Judicial Integrity

i. Arbitrary Punishment and Suppression of Rights (Question 3)

The need for SCOTUS review is imperative to settle that judicial punishment must not be arbitrary. The imposition of sanctions **without**

stated reason and the use of the monetary bar to suppress **mandatory motions to disqualify** (which is mandated by statute and ethical rules) violates fundamental Due Process and confirms a pattern of judicial reprisal. This systemic abuse of the sanctions power must be checked by this Court to protect the public from arbitrary judicial action.

ii. No Retrospective Cure of Compromised Due Process Especially When the Appellate Court Records are conclusively established to be criminally compromised :

Abatement of Proceedings, Correction of Records, and Remand must be the Only Path Forward to Cure.

III. FEDERAL PRECLUSION AND REMAND CONFLICTS (Q4 & Q5)

The urgent necessity stems from the state court's defiance of long-standing federal procedural commands, which affects public interest nationwide.

A. Subversion of Federal Preclusion Law and Full Faith and Credit (Q4)

The Washington Court of Appeals and the Washington Supreme Court committed a direct violation of federal law, demanding intervention under 28 U.S.C. § 1738 (the Full Faith and Credit Statute). This statute mandates that the prior federal judgment be given the **exact same preclusive effect** it would have been given by the federal court in the state where it was rendered (California law, per **Semtek Int'l Inc. v. Lockheed Martin Corp.**).

The Washington judiciary disregarded two fundamental federal requirements:

1. Violation of the Full Faith and Credit Statute (28 U.S.C. § 1738):

The Washington Court of Appeals affirmed the dismissal by applying a blanket, overly broad **state-law test for res judicata** to the prior federal judgment. The final, operative state trial court judgment already contained an **explicit finding (App. B, p. 25)** that the new claims were *not* barred by Res Judicata, instead dismissing them on a separate, time-based ground (S.O.L.). By ignoring this factual finding and retroactively imposing a total preclusion bar on all claims, the Appellate Court refused to give

the federal judgment the specific, limited effect mandated by federal common law (as defined by *Semtek*). This act constituted a **direct subversion of the federal preclusion regime** intended to ensure national uniformity.

2. Nullification of Due Process: The Appellate Court's action of disregarding the trial court's factual finding was necessary to **shield the judicial officers** and opposing counsel from claims of **post-judgment criminal fraud**. By using a blanket *res judicata* bar on a corrupted record, the court created an unreviewable conflict of federal preclusion law, which simultaneously extinguished the Petitioner's right to pursue evidence of misconduct and denied the fundamental guarantee of access to an impartial tribunal. This evasion of the merits is a flagrant Due Process violation, as a court decision must be based solely on the evidence of record (**Goldberg v. Kelly**), not on procedural fictions designed to cover up systemic criminality.

The Necessity for Review is Absolute (Q4)

Review of this Question is warranted because the scarcity of cases challenging the misapplication of Semtek and the Full Faith and Credit Statute creates a vacuum in which state judiciaries can operate with impunity when protecting their institutional interests:

- 1. Institutional Self-Protection:** This case exposes how a state's highest courts can weaponize the complex nature of federal preclusion law to shield themselves from allegations of criminal misconduct, effectively immunizing themselves under color of law. This is a direct assault on the **judicial integrity** that this Court is charged with preserving.
- 2. Unsettled Federal Command:** This case offers a unique and pristine vehicle to clarify the enduring command of Semtek and the constitutional force of 28 U.S.C. § 1738, compelling state courts to respect the discrete factual and legal findings of federal judgments, even when those findings are inconvenient to the local judicial system.

3. Conflict in Factual Preclusion: The decision creates a conflict by allowing a state appellate court to override an *unappealed factual finding* (that the claims were not barred by *res judicata*) made by its own trial court, using an overly broad interpretation of federal law. This judicial defiance must be checked by the Supreme Court to prevent states from rewriting federal legal principles to serve local administrative ends

B. Disregard of Federal Rule and Waiver of Defenses (Q5): The State Court's ruling that the federal removal period merely "**paused**" the **state court clock** [App. A, p. 13] improperly negated the **nullity of removal** doctrine and rewarded the defendants' procedural default. This misapplication extinguished the Petitioner's accrued right to a non discretionary **default judgment** and validated the defendants' **waived affirmative defenses** (*Res Judicata* and *S.O.L.*), a denial of due process that must be settled.

The foundational constitutional error here is the state court's explicit refusal to apply the **doctrine of nullity**, thereby extinguishing the Petitioner's accrued procedural rights. The U.S. Supreme Court

established this doctrine in **Home Life Ins. Co. v. Dunn**, 86 U.S. (19 Wall.) 214 (1873), holding that when a case is improperly removed, the original state court jurisdiction is **never interrupted** and the notice of removal is a **nullity** that does not suspend the state court's power to proceed. Therefore, the federal court's subsequent remand is not a transfer of jurisdiction, but merely a formal recognition that the state court **never lost it**.

By adopting the fiction that the improper removal merely "paused" the state court deadline—as the Washington Court of Appeals did [App. A, p. 13]—the state judiciary unilaterally created a **federally unauthorized exception** to its own rules (CR 12(a) and CR 55) to shield the removing Defendants from the consequences of their procedural default. This action **revived the Defendants' waived affirmative defenses** (Res Judicata and S.O.L.), enabling them to obtain a dismissal that they had already forfeited the right to pursue. This denial of the Petitioner's right to enforce the accrued default judgment and maintain the waiver of defenses constitutes an egregious **deprivation of Due Process** and undermines the historic command of *Home Life Ins. Co.*

The need for review is paramount because:

- 1. Constitutional Antiquity:** The nullity doctrine is over 150 years old, yet few state courts have addressed its precise effect on accrued state rights in the modern era, creating a fundamental and unsettled conflict over federal procedural preeminence.
- 2. Reward for Misconduct:** The state court's ruling creates a dangerous incentive structure where defendants are rewarded for improper removals by receiving an automatic extension and protection from default and waiver, enabling procedural gamesmanship at the expense of substantive due process.
- 3. Scarcity and Isolation:** Given the rarity of cases challenging this specific, post-remand due process violation, this case presents the ideal vehicle to reaffirm the inviolable nature of state jurisdiction following improper removal and correct the Washington judiciary's misapplication of this historic federal doctrine.

IV. ABSOLUTE NECESSITY FOR REVIEW: THE CORRUPTED JUDICIAL RECORD AND INSTITUTIONAL OBSTRUCTION

A. The Corrupted Record and Mandatory Abatement: The viability of the appeal is fundamentally compromised by the **conclusive establishment of criminal conduct**. The Court of Appeals, Division II, itself judicially acknowledged the corruption by granting the **RAP 9.11 Motion to Supplement** [App. H] because the underlying records were found to be **incomplete, inaccurate, and the subject of criminal destruction and concealment** [App. H]. The Supreme Court must intervene to settle that litigants cannot be imposed to proceed with an appeal based on a **corrupted record**, mandating the abatement of proceedings for the preservation of justice. (App. L, M, N).

B. established misconduct.

IV. ABSOLUTE NECESSITY FOR REVIEW: THE CORRUPTED JUDICIAL RECORD AND INSTITUTIONAL OBSTRUCTION

A. The The Corrupted Record and Mandatory Abatement: The viability of this appeal is **fundamentally compromised** by the conclusive establishment of criminal conduct concerning the official court records. The Court of Appeals, Division II, itself **judicially acknowledged this corruption** by granting the RAP 9.11 Motion to Supplement [App. H], recognizing the underlying records were **incomplete, inaccurate, and the subject of criminal destruction and concealment** [App. H]. This systemic failure extends to the State's highest courts, which maintain widespread corrupt records—forged, falsified, destroyed, and concealed—in this and countless other cases, as **conclusively established** in the Urgent Notice of the Violations of Criminal Codes (App. K).

B. Systemic Criminality and Judicial Complicity: The **Urgent Notice of Violations (App. K)** documents **22 felonies** and names judicial adversaries, establishing that the systemic pattern of corruption stems from the highest levels of the judiciary. The failure to

intervene in this crisis—given the pattern of denying the *Simon*, *Wall Street*, and *Elkharwily* petitions—transforms the judicial omission into an act of **criminal commission** by protecting its members' conclusively

C. The Supreme Court must intervene to settle that litigants cannot be imposed to proceed with an appeal based on a corrupted record, mandating the abatement of proceedings for the preservation of justice. (App. L, M, N).

B. The Mandate for Supervisory Intervention: A Threat to Judicial Integrity

The documented, systemic corruption of court records at the highest levels of the Washington judiciary is not merely a sufficient reason for review—it is the **most essential and urgent mandate** of this Court's supervisory role.

The evidence conclusively demonstrates an institutional crisis: the state's highest courts have been complicit in **destroying, concealing, and falsifying** the most sacred records of justice (the public dockets), specifically to effect the dismissal of cases and shield judicial officers

from criminal and civil accountability. This unprecedented subversion of due process has become a pervasive pattern, explicitly targeting multiple litigants.

Despite the denial of petitions for a writ of certiorari in related cases, including **Wall Street Apartments, LLC v. All Star (No. 22-1082)** and **Simon v. Strand (No. 22-1084)**, the problem has not been remedied; it has **escalated**. The state judicial system has interpreted this Court's prior silence as tacit permission to continue its criminal commission, leveraging the structural impossibility of securing an impartial hearing to silence whistleblowers.

The U.S. Supreme Court is the **only judicial body** with the authority to supervise the Supreme Courts of the States and enforce federal constitutional limits on state judicial misconduct. When the very integrity of the judicial record is corrupted, the rule of law collapses. This pervasive corruption is a direct threat, not only to public confidence in the Washington judiciary but, if left unaddressed, to the **supremacy of the federal judicial system itself**. The U.S. Supreme Court must intervene immediately to compel the abatement of

proceedings, restore the integrity of the record, and put an end to this crisis.

CONCLUSION

For the foregoing reasons, a writ of certiorari should be granted.

I declare under penalty of perjury that the factual basis of the foregoing is true and correct and the Appendix Exhibits are true and correct copies of what they represent,

Executed on November 17, 2025

S/ Alaa Elkharwily

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