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OFFICE OF THE CLERK
SUPREME COURT, U.S.

No. 26-542

IN THE
SUPREME COURT OF THE UNITED STATES

TIMOTHY HALL,
Petitioner,

v.

EASTERN PANHANDLE ANESTHESIA
ASSOCIATES; WEST VIRGINIA UNITED
HEALTH SYSTEM, WVU-BMC; AIR METHODS;
HEALTHNET AEROMEDICAL SERVICES;
BERKELEY COUNTY BOARD OF EDUCATION
(sued as "Berkeley County Schools"); WEST
VIRGINIA DEPARTMENT OF EDUCATION;
NATIONWIDE MUTUAL INSURANCE
CORPORATE OFFICE; BERKELEY COUNTY
COMMISSION; and BERKELEY COUNTY
ASSESSOR,
Respondents.

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

Petition for a Writ of Certiorari

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QUESTIONS PRESENTED

1. Under 28 U.S.C. § 1291 and 9 U.S.C. § 16, may a court of appeals dismiss an appeal as non-final solely because a stay pending arbitration was entered as to one defendant, without considering that the state court that issued the underlying arbitration order had lifted its stay and dismissed the case without prejudice before the federal stay was entered?

2. Whether a district court may compel arbitration of, and stay, a plaintiff's statutory disability-discrimination and whistleblower-retaliation claims under an employer-elective arbitration clause in reliance on an arbitration order entered in a prior state-court action that was later dismissed without prejudice, where the plaintiff argued that the clause does not clearly and unmistakably reach statutory claims and that the alleged retaliation went beyond the employment contract?

**PARTIES TO THE PROCEEDING,
CORPORATE DISCLOSURE STATEMENT,
AND DIRECTLY RELATED PROCEEDINGS**

Petitioner is Timothy Hall, an individual, who was the plaintiff in the district court and the appellant in the court of appeals. Petitioner is not a corporation; no corporate disclosure statement is required as to Petitioner.

Respondents, who were defendants in the district court and appellees in the court of appeals, are: Eastern Panhandle Anesthesia Associates (“EPAA”); West Virginia United Health System (“WVU-BMC”); Air Methods; HealthNet Aeromedical Services; Berkeley County Board of Education (sued as “Berkeley County Schools”) (“BCBE”); West Virginia Department of Education; Nationwide Mutual Insurance Corporate Office; Berkeley County Commission; and Berkeley County Assessor.

DIRECTLY RELATED PROCEEDINGS

- *Hall v. Eastern Panhandle Anesthesia Associates, et al.*, No. 25-2149 (4th Cir.) (opinion and order dismissing appeal for lack of jurisdiction June 23, 2026; petition for panel rehearing denied July 21, 2026).
- *Hall v. Eastern Panhandle Anesthesia Associates, et al.*, No. 3:24-CV-61 (GROH) (N.D. W. Va.) (Memorandum Opinion and Order entered August 27, 2025, ECF No. 72). [3:24-cv-00061-GMG-RWT]

- *Hall v. Shamblin, et al.*, No. CC-02-2022-C-26 (Cir. Ct. Berkeley Cnty., W. Va.) (Order Lifting Stay and Granting Plaintiff's Motion to Dismiss [Without Prejudice] entered March 3, 2023).

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OPINIONS BELOW

The opinion and order of the United States Court of Appeals for the Fourth Circuit dismissing Petitioner's appeal for lack of jurisdiction (submitted June 18, 2026; decided June 23, 2026; Gregory and Rushing, Circuit Judges, and Keenan, Senior Circuit Judge), *Hall v. Eastern Panhandle Anesthesia Associates, et al.*, No. 25-2149 (4th Cir. June 23, 2026) (per curiam), is unpublished and is reproduced at Pet. App. A. The Fourth Circuit's judgment, entered June 23, 2026, is reproduced at Pet. App. B. The order of the Fourth Circuit denying Petitioner's petition for panel rehearing, entered July 21, 2026, is reproduced at Pet. App. H. The Memorandum Opinion and Order of the United States District Court for the Northern District of West Virginia, entered August 27, 2025 (ECF No. 72), is unpublished and is reproduced at Pet. App. E. The orders of the Circuit Court of Berkeley County, West Virginia, in *Hall v. Shamblin, et al.*, No. CC-02-2022-C-26, entered March 3, 2023 (Order Lifting Stay and Granting Plaintiff's Motion to Dismiss) and January 19, 2023 (Order Compelling Arbitration and Granting Stay), are reproduced at Pet. App. F and Pet. App. G, respectively.

JURISDICTION

The Fourth Circuit entered its opinion and order dismissing the appeal for lack of jurisdiction on June 23, 2026. Petitioner timely filed a petition for panel rehearing on July 7, 2026, which the Fourth Circuit denied on July 21, 2026. This petition is timely under Supreme Court Rule 13.1 and 13.3 because it is

filed within 90 days of the denial of rehearing; the 90th day is October 19, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The following provisions are involved; those that are lengthy are cited:

28 U.S.C. § 1291 (courts of appeals have jurisdiction of appeals from "all final decisions of the district courts").

28 U.S.C. § 1292 (interlocutory decisions).

9 U.S.C. § 3 (stay of proceedings where issue is referable to arbitration, "on application of one of the parties").

9 U.S.C. § 4 (petition to compel arbitration).

9 U.S.C. § 16(a)–(b) (appeals from certain arbitration-related orders; limitation on interlocutory appeals, "[e]xcept as otherwise provided in section 1292(b) of title 28," from an order "granting a stay of any action under section 3").

Fed. R. Civ. P. 54(b) (an order adjudicating fewer than all claims or parties does not end the action absent an express determination that there is no just reason for delay and an express direction for the entry of judgment).

The federal and state statutes under which Petitioner's claims were brought: Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., including 42 U.S.C. § 12203; Section 504 of the Rehabilitation Act, 29 U.S.C. § 794; Fair Housing Act, 42 U.S.C. § 3601 et seq.; West Virginia Human Rights Act, W. Va. Code § 5-11-1 et seq.; West Virginia Patient Safety Act, W. Va. Code § 16-39-1 et seq.

STATEMENT OF THE CASE

This petition concerns appellate jurisdiction and the civil rights violations and whistleblower retaliation claims which no court has adjudicated on a developed record. He asks the Court to review the jurisdictional dismissal that, he contends, overlooked a dispositive state-court order as well as the violations of civil rights and federal and state statutes by relying on this dispositive state-court order.

A. The Claims and the State-Court Proceeding

Petitioner was employed by Eastern Panhandle Anesthesia Associates ("EPAA") as an Anesthesiologist from July 2017 through February 2020. He alleges that EPAA and others discriminated and retaliated against him on the basis of actual or perceived disability, and retaliated against him for protected whistleblower activity, in ways that extended beyond any term of his employment agreement. These actions included unlawful intentional discriminatory and retaliatory actions as well as, wrongful termination commenced in August

2019 within a month of a protection order being granted to Petitioner by Magistrate Court against a WVU-BMC employee who repeatedly threatened Petitioner while Petitioner was performing patient care and an outside entity referred to in a recorded phone conversation as "helicopter services" contacted Anthony Zelenka, CEO of WVU-BMC, regarding a safety complaint Petitioner made to the Federal Aviation Administration. Anthony Zelenka then went to Jack Shamblin, manager of EPAA and informed Jack Shamblin of Petitioner's protected activity which is documented in the audio recording of the conversation between Jack Shamblin, EPAA manager and Petitioner on August 18, 2019. The unlawful intentional discriminatory and retaliatory actions commenced at this point, and which continue presently inside and outside the workplace, were specifically intended to harm Petitioner's employment and licensure for the protected activity involved and cause intimidation for engaging in protected activity.

August 26, 2019: Petitioner was threatened with a forced discriminatory psychiatric and physiological evaluation, after the Petitioner had returned to work from a scheduled week of vacation. Petitioner was immediately removed from the call schedule and Medical Office Building 3[MOB3] schedule, threatened with a 6-month probation period and change in contract terms from 120-day notice to 10-day notice, and if Petitioner did not agree to these terms be terminated immediately. However, this letter clearly states that in NO way does the employer call into question Petitioner's ability to perform his

job duties, knowledge, or expertise and that Petitioner provides an excellent standard of care. The threat of a forced evaluation is unlawful and intentional discrimination of a “perceived disability” by the employers.

August 27, 2019: Petitioner was then given a second letter the next day, which was a slightly altered letter from the first which still made the same demands of Petitioner as the first letter. EPAA continued the retaliatory actions against Petitioner for a perceived disability and protected activity, regardless of the requests from August 26, 2019, through October 11, 2019, by Petitioner asking for resolution, EPAA wrongfully terminated Petitioner’s employment. Jared Adams, Petitioner’s legal counsel at that time, stated as such in the letter dated October 18, 2019, to EPAA’s attorney, Brad Weiss, stating

When [Petitioner] refused to agree to submit to an evaluation by a psychiatrist or psychologist- his employment was terminated. An employer cannot require such an examination unless the examination is shown to be job related and consistent with business necessity. See 42 U.S.C. Section 12112(d) (4). As your client has already acknowledged, [Petitioner] provides an excellent standard of care to his patients. Accordingly, your client terminating [Petitioner’s] employment violates federal law.

Petitioner did not agree to these terms because there was no basis for these demands and EPAA stated that Petitioner provided an excellent standard of care. However, Petitioner was immediately removed from the call schedule and MOB3 schedule and only upon Petitioner's legal representative questioning this action was Petitioner returned to the schedule in November 2019.

The required standard of causation is evident in Petitioner engaging in protected activity, the employers' knowledge of the protected activity, Petitioner suffered adverse action, and the inference that the protected activity is a factor with timing of the adverse actions imposed as well as, Jack Shamblin, EPAA manager stating that Petitioner was making too many complaints.

This was done less than a week after Jack Shamblin admitted to knowing about the complaints and reports made by Petitioner, and less than a month after Petitioner was granted a protection order for being threatened in WVU-BMC by a WVU-BMC employee while performing patient care.

Petitioner refused this illegal demand for evaluation in which retaliatory actions were already imposed by Jack Shamblin and EPAA, and in which none of the employers could produce any foundation or support for imposing these demands and retaliatory actions, yet the employers were unwilling after multiple attempts throughout the time period of August 2019 through October 2019 to resolve any matters.

On October 11, 2019, Petitioner was given a 120-day without cause notice of termination. Even after the termination letter was given, Petitioner continued to request the specific complaints and resolution of any issues involving him which EPAA and WVU-BMC denied any existence, refused to produce and refused Petitioner's requests for resolution.

It was only when EPAA was required to respond to the OSHA complaint dated October 20, 2020, did any complaints regarding Petitioner be mentioned yet, were still not substantiated, were by EPAA's own admission regarded as hearsay, and were never brought to Petitioner for proper resolution.

In fact, Petitioner through legal counsel and subsequent credentialing processes, was able to obtain his credentialing file from WVU-BMC and there is nothing adversarial listed and no complaints mentioned, again showing no substantiation for any complaints against Petitioner because these actions taken by EPAA and WVU-BMC were retaliation for Petitioner engaging in protected activity.

Mr. Weiss, attorney for EPAA, claims that the termination was a non-renewal of the employment contract which is false. Petitioner's contract had already renewed for another year on July 1, 2019, as that was the contract renewal date and Jack Shamblin, manager of EPAA, and Petitioner had multiple conversations regarding Petitioner's admittance as partner to EPAA since Petitioner had fulfilled the required 2 years of employment for this

partnership admittance at the July 1, 2019, renewal date. The events between August 2019 through October 2019 have continued to be omitted and drastically misrepresented by Mr. Weiss, Jack Shamblin's sworn affidavit and EPAA's response to the OSHA Case investigators.

WVU-BMC engaged in unlawful, intentional discriminatory and retaliatory actions against Petitioner, his credentialing and clinical professorship. Petitioner still maintained an appointment of Clinical Professorship directly with WVU-BMC. Maintaining staff privileges requires malpractice insurance coverage which was provided through West Virginia Board of Insurance and Risk Management per the Appointment letter dated July 1, 2019. Petitioner received a letter by Medical Staff Affairs, signed by Henry Kuban M.D. stating that in order to maintain credentials with WVU-BMC, Petitioner would need to send them proof of medical malpractice insurance coverage. This letter was postdated and postmarked/mailed February 17, 2020, which is the same date the credentials would be terminated if proof was not given. Petitioner did not receive the letter until February 20, 2020, since it was not mailed until after the due date. However, the Petitioner did not need to show proof since his Clinical Professorship Appointment was active and malpractice was supplied through WVU-BMC as noted on the appointment letter. These actions show intentional deceit and malice by WVU-BMC further violating ADA and OSHA statutes.

Petitioner immediately called Dr. Kuban to address this issue and was told that as long as Petitioner sent Samantha Colbert, Medical Staff Coordinator, the proof of insurance there was nothing more they would need, and his credentialing would be maintained. Since malpractice through the Clinical Professorship was on file already the proof of insurance was never needed Petitioner's credentials should have been maintained. Again, malpractice insurance was on file under the Clinical Professorship already.

Petitioner requested his credentialing file throughout this time period and any employee files to ensure that his file did not contain any erroneous information, which was also delayed due to the pandemic closures. Once Petitioner received the file at the end of April 2020, it did not show any adverse information. However, after sending the Medical Staff secretary additional malpractice information, since WVU-BMC already had active malpractice insurance on file for him, he received emails that the Credentialing Committee and Medical Executive Committee would have to meet to approve his credentialing status.

These actions were directly against what Dr. Kuban had assured in February 2020, however, their assurances as to this being formality prevented Petitioner further from taking any action. On June 30, 2020, Petitioner received a letter stating that the Medical Executive Committee, in which members on this committee are also partners in EPAA, decided that Petitioner would need to go through an FPPE

evaluation process to “re-instate” his credentials and the letter stated this decision was to be put in his credentialing file. This is not normal procedure for credentialing and is not done across the board for all staff making it an unlawful, intentional, discriminatory and retaliatory action against Petitioner.

There was no indication of any adverse issues with Petitioner’s practice or in his credentialing file which he received before this action. WVU-BMC also, decided without Petitioner’s consent or request to classify, what WVU-BMC termed “this lapse” as a leave of absence. Petitioner never requested a leave of absence, there is no documentation of any leave of absence paperwork which would need to be signed by employer/employee with any agreed upon beginning and ending dates and stipulations of the leave and outline a valid reason for a leave of absence, and there was no lapse in active credentialing with the facility. If it was a leave of absence, then being required to undergo an FPPE would be another violation under EEOC and ADA statutes for discrimination and OSHA for the whistleblower retaliation, not to mention, a leave of absence would violate employment laws for summarily classifying an employee under a leave of absence without proper documentation and paperwork.

Petitioner attempted to inquire as to the basis for this decision and on June 30, 2020, was finally told at the end of July 2020 that there were complaints from staff which were subsequently created by an HR review initiated concurrently with Petitioner’s

departure. In this email communication, Garland Nagy, WVU-BMC in-house counsel refers to the Petitioner's illegal retaliatory termination as a resignation which is false, since in no way did Petitioner resign. Petitioner was wrongfully terminated after EPAA subjected him to threats of a psychiatric and psychological evaluation and adverse, retaliatory actions. She further states that the hospital universally decided to treat this as a leave of absence which is in violation of employment laws, their own Medical Staff By-Laws, procedures, and protocols, etc.

Garland Nagy's list of complaints was fabricated, has never been substantiated, never followed any of WVU-BMC's protocols or procedures for complaint processes and the Petitioner has never been given these complaints for rebuttal, recourse, or resolution which demanded discriminatory actions against the Petitioner under a further fabricated "re-credentialing" issue. Again, these actions show intentional deception and malice.

WVU-BMC claims this was a leave of absence yet lacks all of the paperwork outlining a leave of absence. Further a leave of absence would not necessitate a "subsequently created concurrent review" especially, with no protocols, procedures and rebuttal processes governing such a review or recourse processes afforded to the Petitioner under such review. Nothing has been listed or mentioned in multiple credentialing processes for subsequent opportunities which means there are no adverse issues with the Petitioner and this "subsequently

created, concurrent review” and “leave of absence” are false statements showing continued retaliatory action taken against the Petitioner.

Upon further inquiry, among the complaints which were listed, one had to do with the helicopter safety inquiry the Petitioner made, which is the second time they have used this protected activity, safety inquiry to retaliate against the Petitioner. These complaints were of the same nature as the unsubstantiated complaints EPAA refused to produce evidence of when they invoked retaliatory, illegal demands of Petitioner, all leading to the Petitioner’s retaliatory termination in February 2020 and WVU-BMC’s use of the same shows continued retaliation against the Petitioner. By this point, the Petitioner had already received a credentialing packet in April 2020 stating nothing adverse in his credentialing file or with his practice.

Petitioner was further warned if he did not comply with these demands he would be reported to the National Practitioner Database, which could have permanent negative effect on his licensure, once again showing retaliation against Petitioner, without being allowed any due process according to medical staff by-laws. Petitioner was also told if he withdrew from the credentialing process, WVU-BMC would not report it to the NPDB. However, withdrawal from a credentialing process is a reportable event, so either way the Petitioner potentially would have a reportable event.

These unlawful intentional discriminatory and retaliatory actions by the Respondents were imposed on Petitioner to harm his licensure, livelihood, and reputation for making, in good faith, patient safety, personal safety and flight safety complaints which is protected activity and in violation of whistleblower statutes and a warning to would be whistleblowers to refrain from reporting safety concerns or bear the consequences, in this case, unlawful intentional discriminatory evaluations on perceived disabilities and illegal termination.

On September 8, 2020, Employer EPAA breached Petitioner's retirement account held in Fidelity Investments, changed the contact information and two step authentications to Jack Shamblin's personal cell number. This breach was reported to ERISA investigators and is listed in the OSHA complaint. This breach was also reported to the ERISA-EBSA Headquarters, Criminal Investigations Division in Washington, D.C.; WV State Police; FBI wire fraud division and civil rights division; and the Northern District of WV US Attorney's Office. Audio recordings of this event were stated to the investigator yet, every attempt to have these audio recordings released to the Petitioner has been obstructed.

2023-2024: In trying to file court documents to obtain the subpoena from Fidelity Investments for the audio recordings of a breach of his retirement account on September 8, 2020; which has been withheld from him since 2020 even though it is his account; the filing documents were tampered with at the local circuit

court in Berkeley County, WV. These documents which were mailed USPS certified, return receipt requested to Berkeley County Circuit Court. These were signed for by a court employee and then subsequently opened, re-taped closed and "returned to sender" fraudulently. This was reported to the FBI with no follow-up to date. This was also reported to the County Prosecuting Attorney for investigation, however there are conflicts of interest with individuals who are related and hold positions within the court, prosecuting attorney's office and those involved with the cases.

In obtaining FOIA records for the mail tampering incident above, it has been discovered that the Circuit Court clerk Shelly Schoppert, Judge Faircloth's clerk, Belinda Parsons, and Berkeley County Prosecutor Office investigator, Kevin Miller, met and discussed the incident on May 30, 2023. It is stated that Belinda Parsons knew about the reasons behind the mail incident and covers Judge Faircloth's courtroom. This paperwork was to file a new court case, had not been assigned to any Judge and had nothing to do with Judge Faircloth.

Kevin Miller, the investigator, stated that the paperwork was filled out incorrectly and the Petitioner should hire an attorney to file cases. Petitioner had requested an attorney file these subpoenas who delayed submission then withdrew from the cases. Subsequent paperwork sent to the courthouse which *was* processed was an exact duplication of the original sent. The paperwork was not the issue. Catie Delligatti, former Berkeley

County Prosecuting Attorney did not respond to these issues or address the obstruction of court cases under her jurisdiction at that time. Kevin Miller is related to Shelly Schoppert, Berkeley County Circuit Court Clerk, and his wife, Carol Miller is the Court Administrator. Further, Kevin Miller is also related to employees of WVU-BMC who participated in these unlawful intentional discriminatory and retaliatory actions, and he is a retired Martinsburg Police Chief in Berkeley County having ties to all law enforcement in this area.

After months of trying to file the court case to obtain a subpoena for the Fidelity records, the Petitioner was finally granted a subpoena however, Shelly Schoppert stated in a letter that NO court case was filed and just gave the signed and stamped subpoena document. When Fidelity Investments refused to comply with the subpoena and the Petitioner filed a Motion to Compel, the court clerk assigned it the same number as a totally different case. Judge Redding denied the Motion to Compel, and further motions to reconsider. The Petitioner is currently appealing the dismissal of the case which listed two separate matters under one case number, intermingling and undermining both cases.

Petitioner's ability to obtain and retain counsel in these matters has been interfered with since WVU-BMC is the largest employer in the state, major law firms in this area represent and/or sit on WVU-BMC boards, AUSA Erin Reisenweber, is a family member of long time head nursing supervisor Ginny Reisenweber, employee of WVU-BMC; other

employees of WVU-BMC have immediate family members working in the local court system, law enforcement, prominent local businesses and law firms throughout the county making it impossible to retain a lawyer without conflicts of interest and reluctance to represent a party against WVU-BMC.

Also, one CRNA, Sara Goss-Harvey, whose husband is Matthew Harvey, a former local prosecuting attorney in the adjoining Jefferson County, WV, participated in the unlawful, intentional discriminatory actions. Matthew Harvey's influence and affiliations in the legal and business community have further obstructed this case and his ability to retain counsel. Jared Adams, Petitioner's legal counsel during the protection order hearings and the start of the unlawful intentional discriminatory and retaliatory actions taken by EPAA and WVU-BMC, once apprised of the connection of these events with Sara Goss-Harvey, CRNA and Matthew Harvey, Jefferson County Prosecutor, stated he was friends with them and then his representation and legal advice began to fade. He never advised Petitioner about the EEOC/ADA/OSHA statutes involved, never tried to get any discovery with the protection order violation, and tried to dissuade Petitioner from legal avenues for these violations. Jared Adams also had conflicts of interest due to his connection with Andrew Skinner and Skinner Law Firm with whom he shares an office. Andrew Skinner, esq. is on the board of Bank of Charles Town: Potomac Bancshares, inc. with Anthony Zelenka, former CEO of WVU-BMC. All attempts at filing civil court cases for basic injunctive relief in Berkeley County WV have been obstructed.

Berkeley County WV Prosecutor Catie Wilkes-Delligatti has refused to investigate any of the reports given to her which shows bias and conflicts of interest in her decisions since she is also affiliated with Matthew Harvey, Jefferson County Prosecutor and WVU-BMC administration. This includes a violation of the protection order Petitioner was granted against a WVU-BMC employee who threatened Petitioner while he was performing patient care in the operating room. State Trooper Conner refused to investigate the violation because he knew one of the individuals listed who took part in the violation. The refusal to investigate the protection order violation and the unlawful retaliatory termination are further, unlawful intentional discriminatory actions taken by employers, WVU-BMC and Eastern Panhandle Anesthesia Associates, the retaliation and harassment inside and outside the workplace are all violations under ADA statutes as well as federal and state laws from agencies and businesses receiving federal funds.

Petitioner reported and made requests for assistance and intervention: of the WV Human Rights Commission, WV Attorney General's Office, WV Governor's Office, Northern District of WV US Attorney's Office, WV Department of Education, federal, state, and local law enforcement agencies including the local Berkeley County Prosecutors Catie Wilkes-Delligatti, all of which receive federal funding and grants. These agencies refusal to investigate and hold accountable the parties violating federal and state statutes as well as refusal to provide relief and restitution to victims is a violation, misuse,

and abuse under the federal funds and grants they are receiving due to the nature of the violations in question.

Family ADA Violations by Association

Since this time, the Petitioner and his family by association, have been retaliated against outside of this workplace in the community and at their personal residence. There have been continued incidents of stalking, harassment, trespassing, breaches of financial accounts, breaches of personally identifiable information in private databases, illegal dissemination of this personally identifiable information to the community at large, destruction of property, threats to personal safety, and ruination of livelihood and reputation.

Petitioner has now had four jobs interfered with across state lines since the beginning of these incidents, which have been reported to appropriate agencies, involving violations of Federal EEOC/ADA/OSHA statutes. Petitioner's and his family members' civil rights have been violated by agencies and businesses receiving federal funds/grants in violation of federal laws. The unlawful, intentional discrimination and retaliatory termination at WVU-BMC involved threats in which the Petitioner was granted a PSO and which was violated. This violation crossed state lines being considered then a felony offense rather than a misdemeanor in reports to Loudoun County, Va. Sheriff's Office. However, when reported to law

enforcement they never investigated or forwarded to the FBI as requested since it involves a felony.

Petitioner and family members' private data, personal identifiable information had been disseminated illegally within two weeks of the Petitioner's wife submitting an application and personally identifiable information through a private database in the local Berkeley County School District. The school district, along with the WV Department of Education have obstructed investigation of this matter as evidenced in FOIA documentation, which shows they have omitted key facts and documentation as well as materially misrepresented information to the WV Attorney General's Office and WV State Police. Former WV State Police Colonel Clay Ellwanger, employed by BCBE as an internal investigator, refused to follow through with a proper internal investigation and although these omissions and falsehoods were made known to the WV Attorney General's Office and the WV State Police, these agencies still refused to investigate any further because of the individuals involved which can only be concluded as public corruption.

Information was obtained through a FOIA request of the WV Department of Education and BCBE. Kimberly Croyle of Bowles & Rice law firm represents BCBE. Kim Croyle was emailed by Justin Schooley within two hours of Patrick Murphy, former Superintendent of BCBE, being apprised of this breach by the Petitioner's wife in August 2021. Official statements were made to WV Attorney General that no one knew the Petitioner or his family

members about the breach making the dissemination of personally identifiable information all the more alarming as it was discerned that a select few had privy to the information.

Kimberly Croyle was asked to explain conflicting responses regarding the knowledge that Justin Schooley had about the sibling relationship and his attempt at intervening of an FOIA request, which she deflected by sending the information to Justin Schooley's private legal representation, Tracey Eberling, of Steptoe and Johnson. Tracey Eberling had no jurisdiction in this matter and did not represent BCBE or their FOIA responses.

Kim Croyle, Bowles and Rice law firm attorney, once realizing the extent and gravity of this breached information, refused to answer any more of Petitioner's requests. The BCBE and WVDE also receive federal funding.

Michael Fallon, of Fallon Insurance Agency has been at the forefront of many of the breaches and incidents which have occurred. He was the first to apprise the Petitioner of the Berkeley County School District database breach in which he named Justin Schooley, Assistant Superintendent of Human Resources of Berkeley County School District as the culprit. He now feigns amnesia of this occurrence, when in fact he was fraudulently disseminated this information. He made sure to make egregious discriminatory statements to investigating WV State Police Sergeant Nine when questioned where he obtained the information whereby Sgt. Nine chose to

purposefully include these statements in his report to further damage the Petitioner's credibility and deflect accountability from Mr. Fallon. This perceived disability narrative is being illegally disseminated to agencies and businesses and is further violation of ADA statutes as well as federal and state laws for agencies receiving federal funding.

This narrative using discriminatory language was also stated by Anthony Delligatti, legal counsel for Berkeley County Council and Berkeley County Prosecutor Catie Wilkes-Delligatti's husband. Anthony Delligatti referred to the Petitioner as "paranoid" when he was asked to correct known errors in the county's GIS maps which were being used by 3rd parties, the WV Department of Natural Resources, and individuals in trespassing and boundary issues. Individuals are continuing to trespass on the Petitioner's land and using these maps to do so yet, Anthony Delligatti refused to have the corrections made perpetuating and facilitating this trespassing issue even after the WVDNR requested the same corrections. Anthony Delligatti and his wife, former Berkeley County Prosecutor are affiliates with Matthew Harvey, Jefferson County Prosecutor and his wife, Sara Goss-Harvey, CRNA at WVU-BMC as well as law enforcement personnel, Berkeley County Courthouse personnel, the legal community, federal and state agencies in Berkeley County, WV as well as, local businesses and board members. Their refusal to address known issues not only violates their duties as appointed officials, but federal and state statutes furthering the discrimination and retaliation towards Petitioner's

family. This is not an inclusive list of the continued retaliation and discrimination inside and outside the workplace and through agencies receiving federal funding. Petitioner sought assistance as stated including that of Senator Shelley Moore Capito's Office and the West Virginia Governor's Office over two administrations with adversarial responses. In fact, after submitting documentation to Senator Shelley Moore Capito's Office of these intentional discriminatory and retaliatory actions as well as possible criminal violations of federal and state statutes, which made reference to Jefferson County Prosecuting Attorney, Matthew Harvey, he was nominated by Senator Moore Capito to be instated as the new United States Northern District of West Virginia Prosecuting Attorney.

Petitioner pursued administrative remedies, including a complaint to the Occupational Safety and Health Administration beginning in 2021 [ARB-2025-00034; OALJ Case No.: 2023-AIR-00024; OSHA Case No. 3-0480-20-063], which he states remains in appeal, and an Equal Employment Opportunity Commission charge that required resubmission and investigation before a notice of right to sue issued. On February 21, 2024, the EEOC's Pittsburgh Area Office issued two notices in Charge Nos. 533-2023-02519 and 533-2023-02520, each titled "Dismissal of Charge" and "Notice of Your Right to Sue," closing the charges as not timely filed and advising that any lawsuit must be filed within 90 days of receipt of the notice. Petitioner states that earlier EEOC notices from 2020, on which the district court later relied, were never received by him, and that the EEOC

permitted his charge to be refiled and investigated before dismissing it as untimely and issuing the February 21, 2024, notices.

In 2022, Petitioner sued EPAA and others in the Circuit Court of Berkeley County, West Virginia, in *Hall v. Shamblin, et al.*, No. CC-02-2022-C-26. On January 19, 2023, that court entered an Order Compelling Arbitration and Granting Stay, based on an arbitration provision, and staying the remaining matters pending arbitration. Pet. App. G. On March 3, 2023, the Berkeley County Circuit Court entered an "Order Lifting Stay and Granting Plaintiff's Motion to Dismiss," dismissing the entire action without prejudice and lifting the stay. Pet. App. F. The order provides that the case "is dismissed, without prejudice, in its entirety." The order recites that Petitioner moved to dismiss because he no longer wished to prosecute the lawsuit; EPAA has described the dismissal as following Petitioner's failure to file with the American Arbitration Association within 45 days. EPAA's Mem. in Supp. of Mot. to Dismiss or Compel Arbitration, ECF No. 32, at 2 & Ex. A (the January 19, 2023 order, reproduced at Pet. App. G). The state action never proceeded to discovery, trial, or judgment on the merits, and no arbitration took place. Arbitration is not a legal remedy for violations of federal and state statutes beyond employment contracts for which Congress adopted the federal anti-discrimination and anti-retaliation statutes at issue to protect the very rights Petitioner asserts, and a jurisdictional dismissal that leaves those claims without appellate review, on an incomplete account of the record, warrants this Court's attention.

B. The District Court Proceedings

In 2024, Petitioner, proceeding pro se, filed this action in the United States District Court for the Northern District of West Virginia, No. 3:24-CV-61, invoking 28 U.S.C. § 1331, filed May 20, 2024, amended and filed August 13, 2024. The amended complaint asserted claims under the ADA (Counts One and Two), Section 504 of the Rehabilitation Act (Count Three), the Fair Housing Act (Count Four), the West Virginia Human Rights Act (Counts Five and Six), the West Virginia Patient Safety Act (Count Seven), and West Virginia common-law wrongful discharge (Count Eight) against the Respondents. Pet. App. E.

On August 27, 2025, the district court entered a Memorandum Opinion and Order (ECF No. 72) that disposed of the defendants in different ways. It dismissed the claims against Air Methods, West Virginia United Health System, HealthNet Aeromedical Services, Berkeley County Board of Education ("BCBE"), West Virginia Department of Education, and Nationwide Mutual Insurance Corporate Office with prejudice, principally on limitations grounds, and, as to certain defendants, on grounds including sovereign immunity and failure to state a claim. It dismissed the claims against the Berkeley County Commission and Berkeley County Assessor without prejudice for insufficient service of process. As to EPAA, it granted a motion to compel arbitration and ordered the action "STAYED as to EPAA only pending arbitration," directing the parties to report on the status of arbitration every 90 days

and warning that failure to pursue arbitration "will likely result in dismissal with prejudice." Pet. App. E at 15–17.

EPAA's memorandum (ECF No. 32, filed October 2, 2024) sought dismissal with prejudice or, in the alternative, an order compelling arbitration, relying on Section 10.6 of Petitioner's employment agreement, which provides that the Employer "may elect" arbitration, and on the January 19, 2023, state-court order. The memorandum cited 9 U.S.C. § 1 et seq. and § 2 but not 9 U.S.C. §§ 3 or 4 and did not request a stay or a hearing. *Id.* at 6, 9. The district court noted EPAA's representation that the state court had earlier ordered Petitioner to arbitrate similar claims. *Id.* at 13. The district court recorded that Petitioner's response focused on the state-court proceedings and did not address the arbitration provision, and that he "offered no argument against the enforceability of the arbitration provision." *Id.* at 13. Petitioner's October 30, 2024 opposition (ECF No. 53), however, argued that (1) the state-court case, including its stay and arbitration orders, was dismissed without prejudice "in its entirety" and that its orders therefore had no continuing effect; (2) the arbitration agreement does not apply to his statutory discrimination claims because a general arbitration clause does not contain a clear and unmistakable waiver of the right to litigate statutory claims, and his claims for intentional discrimination and retaliation go beyond contract issues; (3) the pending OSHA AIR21 proceeding, which involves different statutes and limited relief, does not bar the federal action; and (4) the amended complaint states plausible claims

and, as a pro se pleading, should be liberally construed. ECF No. 53 at 2–6. Petitioner contends that the district court's order does not reflect these arguments. The district court entered the stay as "the appropriate counterpart to a motion to compel arbitration." Pet. App. E at 15. Petitioner contends that EPAA filed no petition under 9 U.S.C. § 4 and no application for a stay under 9 U.S.C. § 3, and that no hearing was held on the enforceability or scope of the arbitration provision. Petitioner did not raise those points in his district court opposition. However, these points were raised in the Petition for Panel Rehearing, No. 25-2149 (4th Cir. filed July 7, 2026). EPAA's accompanying motion (ECF No. 31, filed October 2, 2024) likewise requested only dismissal of the claims against it under Rule 12(b)(6) or, in the alternative, an order compelling arbitration; it cited neither 9 U.S.C. § 3 nor § 4, and it requested neither a stay nor a hearing. ECF No. 31 at 1. The August 27, 2025, order does not contain a Rule 54(b) determination or direct entry of a separate judgment as to any fewer-than-all parties.

C. The Court of Appeals' Decision

Petitioner timely appealed, filed September 24, 2025. In his opening brief, filed December 19, 2025, he challenged, among other things, the dismissal of his claims without discovery and without application of the governing civil-rights standards. On June 23, 2026, the Fourth Circuit dismissed the appeal for lack of jurisdiction in a three-page unpublished per curiam opinion. The panel described the order appealed from as one "granting Defendants' motions to dismiss—

and, as to Hall's former employer, granting its request to compel arbitration." It stated that it may exercise jurisdiction only over final orders under 28 U.S.C. § 1291 and certain interlocutory and collateral orders under 28 U.S.C. § 1292, Federal Rule of Civil Procedure 54(b), and *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541 (1949), and concluded that the order "is neither a final order nor an appealable interlocutory or collateral order." It cited Rule 54(b) and *Geneva Enters., LLC v. Chavez*, 173 F.4th 64, 71 (4th Cir. 2026), for the proposition that the court lacks jurisdiction over an order granting a stay pending arbitration. Pet. App. A at 3. The opinion does not mention the March 3, 2023, state-court order or 9 U.S.C. § 16.

Petitioner sought panel rehearing under Federal Rule of Appellate Procedure 40 on July 7, 2026. He argued that the panel had overlooked or misapprehended the March 3, 2023, state-court order dismissing the prior action without prejudice and lifting the arbitration stay; that, as a result, the arbitration stay had no operative foundation; that the dismissals of other defendants were independently final; and, alternatively, that appellate jurisdiction existed under 28 U.S.C. § 1292, 9 U.S.C. § 16(a), or the collateral-order doctrine. Petition for Panel Rehearing, No. 25-2149 (4th Cir. filed July 7, 2026). The Fourth Circuit denied the petition for panel rehearing on July 21, 2026. Pet. App. H.

REASONS FOR GRANTING THE PETITION

Petitioner acknowledges that a district court order that leaves claims against one defendant pending is ordinarily not a "final decision" under 28 U.S.C. § 1291, see *Fox v. Balt. City Police Dep't*, 201 F.3d 526 (4th Cir. 2000), that Federal Rule of Civil Procedure 54(b) provides the mechanism for immediate appeal of fewer than all parties, and that 9 U.S.C. § 16(b) generally bars interlocutory appeals from orders granting a stay under § 3. See also *Green Tree Fin. Corp.-Ala. v. Randolph*, 531 U.S. 79 (2000) (observing that an order staying rather than dismissing would not be appealable). See also *Geneva Enters., LLC v. Chavez*, 173 F.4th 64 (4th Cir. 2026) (dismissing for lack of appellate jurisdiction under 9 U.S.C. § 16(b) an appeal from an order maintaining a stay pending arbitration), on which the panel relied. Pet. App. A at 3. Those rules govern orders resting on a valid stay under § 3. Petitioner's contention is that the stay here rested only on an arbitration order from a state action that the state court had lifted and dismissed without prejudice on March 3, 2023, and that the decision below applied the finality rules without addressing that order. Review is warranted under Supreme Court Rule 10(a) and (c) so that the jurisdictional dismissal is not left to rest on an overlooked record fact, in a manner that departs from the accepted course of judicial proceedings.

**I. THE DECISION BELOW TREATS A STAY
RESTING ON A DISMISSED STATE
ACTION'S ARBITRATION ORDER AS
DEFEATING FINALITY WITHOUT
ADDRESSING THE ORDER THAT
LIFTED THAT STAY AND DISMISSED
THE CASE.**

Section 3 of the Federal Arbitration Act directs a stay where an issue is referable to arbitration under a written agreement and "on application of one of the parties." 9 U.S.C. § 3. This Court has held that when a court finds a dispute arbitrable and a party requests a stay, the court must stay rather than dismiss, *Smith v. Spizzirri*, 601 U.S. 472 (2024), and that the stay preserves the district court's continuing supervisory role. The Fourth Circuit's finality conclusion rests on that continuing role: the action remained pending as to EPAA.

Petitioner does not dispute that a valid § 3 stay ordinarily has that effect. His position is that the stay here was entered in reliance on an arbitration order from a state action that the state court had dismissed without prejudice, and whose stay it had lifted, more than two years before the federal order. Pet. App. E at 13; Pet. App. F. The district court's account records that EPAA advised that the state court "had previously ordered Plaintiff to arbitrate similar claims, but arbitration had not occurred," *id.*, without noting that the state court had later lifted the stay and dismissed the action. The Fourth Circuit's opinion likewise described the district court's ruling as "granting its request to compel arbitration," and

does not mention the March 3, 2023, order. Pet. App. A at 3. Petitioner raised the omission directly on rehearing and rehearing was denied. Pet. App. H. The jurisdictional consequence of the federal order was before the Fourth Circuit, which has an independent duty to assure itself of jurisdiction. The point is not merely a new merits objection; it concerns whether the purported § 3 stay was legally operative enough to prevent finality.

The stay here was also entered although no party requested one. Section 3 provides for a stay "on application of one of the parties," 9 U.S.C. § 3, and EPAA's motion and memorandum requested dismissal or an order compelling arbitration, not a stay. Pet. App. E at 15; ECF No. 32 at 9; ECF No. 31 at 1. Petitioner did not raise this point in his district court opposition; he raised it on rehearing in the Fourth Circuit in the Petition for Panel Rehearing, No. 25-2149 (4th Cir. filed July 7, 2026), which denied rehearing. Petitioner acknowledges that this Court ordinarily does not decide questions that were neither pressed nor passed upon below. He presents the point as part of the context for the jurisdictional question, and not as an independent ground for review.

Whether a stay entered under these circumstances defeats finality, or whether the lack of an operative arbitration order permits appellate review, is a question the court of appeals did not address. *Geneva* concerned a stay in an embedded action in which arbitrations had been initiated by the parties before the stay was maintained; Petitioner contends that a stay resting only on a lifted and

dismissed state-court arbitration order presents a different question. The question is one of recurring importance to pro se and other litigants whose cases are removed from court by arbitration orders in prior, abandoned, or dismissed proceedings. The record matters because the district court reportedly cited the earlier arbitration ruling as the basis for compelling arbitration while failing to identify the later order that dissolved its stay. The Fourth Circuit denied review without grappling with that gap, including after the rehearing request squarely identified it.

II. A DISMISSAL WITHOUT PREJUDICE DOES NOT CARRY FORWARD A PRIOR COURT'S INTERLOCUTORY ORDERS.

This Court has explained that "[t]he primary meaning of 'dismissal without prejudice' . . . is dismissal without barring the defendant from returning later to the same court, with the same underlying claim." *Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497 (2001). A dismissal without prejudice is not a merits adjudication, and *Semtek* recognizes that it ordinarily does not have claim-preclusive effect elsewhere, although the preclusive effect of a particular judgment depends on its terms and the governing law. Petitioner does not contend that a dismissal without prejudice erases every consequence of the dismissed proceeding. The effect of any particular prior order depends on its character and terms. He contends that the state court's order, which by its terms lifted the arbitration stay and dismissed the entire action without prejudice at Petitioner's request, left no arbitration

directive in force on which a federal court could rely without first deciding for itself, under 9 U.S.C. §§ 3 and 4, whether the claims were referable to arbitration. Petitioner also argued below that the arbitration clause does not clearly and unmistakably reach his statutory discrimination claims, and that his claims go beyond contract issues although the district court's order records that no such argument was made. Pet. App. E at 13. Petitioner notes that discrepancy as part of the record the Fourth Circuit did not address; he does not ask this Court to decide the arbitrability of his claims in the first instance. The court of appeals treated the federal order as an ordinary, unreviewable arbitration stay without addressing whether that stay was grounded in an operative and independently determined basis. The state court expressly lifted the stay and dismissed the entire action. That ended any live directive to arbitrate in that case. Petitioner is not claiming that the employment contract vanished; he argues that the federal court needed to decide arbitrability anew rather than treat the old state order as operative. Because the record includes a later state order lifting the prior stay and dismissing the entire case, the Fourth Circuit should have considered whether the federal stay actually left a live claim pending for finality purposes. Review is warranted so that the lower courts have guidance on how this Court's treatment of dismissals without prejudice bears on the use of a dismissed action's interlocutory orders to support a federal stay.

III. THE DECISION BELOW LEAVES SUBSTANTIAL CIVIL-RIGHTS AND WHISTLEBLOWER CLAIMS WITHOUT APPELLATE REVIEW.

The court of appeals considered 28 U.S.C. §§ 1291 and 1292, Federal Rule of Civil Procedure 54(b), and the collateral-order doctrine, and concluded that none supplied jurisdiction. Pet. App. A at 3. On rehearing, Petitioner argued that appellate jurisdiction existed, at minimum, as to the defendants dismissed with prejudice, and alternatively under those provisions and 9 U.S.C. § 16(a). The dismissal order contains no Rule 54(b) determination, and Petitioner recognizes that Rule 54(b) provides that an order adjudicating fewer than all claims or parties does not end the action absent an express determination that there is no just reason for delay and an express direction for the entry of judgment. He submits, however, that the opinion, which does not mention the March 3, 2023, state-court order, does not address his contention that the stay lacked an operative arbitration foundation and therefore should not have been treated as defeating review. That conclusion assumes the EPAA stay was valid and properly entered. If the federal court should have dismissed or fully resolved the EPAA matter—or if the stay rested on a legally defunct state order—then no live claim remained that could defeat finality. At minimum, the court should address that premise rather than assume it.

The consequences are significant. The district court dismissed with prejudice, principally as time-

barred, federal disability-discrimination and retaliation claims, a state whistleblower claim, and related state-law claims against six respondents, and dismissed two others without prejudice for insufficient service of process, without discovery. Pet. App. E. No appellate court has reviewed those rulings, including the district court's treatment of the limitations period in light of Petitioner's EEOC and OSHA administrative proceedings, which began in 2021. Congress adopted the federal anti-discrimination and anti-retaliation statutes at issue to protect the very rights Petitioner asserts, and a jurisdictional dismissal that leaves those claims without appellate review, on an incomplete account of the record, warrants this Court's attention.¹

¹ Federal enforcement agencies have addressed disability-discrimination issues under the ADA and related statutes in other matters, and Petitioner cited these materials in support of federal enforcement of those statutes in the lower courts. They are cited here as non-precedential supportive background; while they do not address arbitration or the appealability of orders under 9 U.S.C. § 16, they do underscore that these federal enforcement agencies have addressed issues in the same vein as the Petitioner's claims. One of them, *Abdi v. Hennepin County*, involves an ADA retaliation claim. See Agreement Between the United States of America and the City of Miami Beach, DJ 205-18-18 (Jan. 3, 2024); Br. for the United States as Amicus Curiae, *Andrews v. City of Hartford*, No. 16-15576 (11th Cir. filed Dec. 12, 2016); Br. for the United States as Amicus Curiae, *Nawara v. Cook County*, 132 F.4th 1031 (7th Cir. 2025); Br. for the United States as Amicus Curiae, *Gilead Community Health Services, Inc. v. Town of Cromwell*, No. 22-1209 (2d Cir. filed Dec. 20, 2022); Br. for the United States as Amicus Curiae, *A.J.T. v. Osseo Area Schools, Independent School District No. 279*, 605 U.S. 335 (2025); Br. for the United States as Amicus Curiae,

The limitations ruling illustrates the point. The district court held the ADA claims untimely because suit was not filed within 90 days of an EEOC notice dated September 11, 2020. Pet. App. E at [3]. Title I ADA claims proceed under Title VII's enforcement procedures, 42 U.S.C. § 12117(a), which permit a civil action "within ninety days after the giving of such notice." 42 U.S.C. § 2000e-5(f)(1). Petitioner states that he never received the 2020 notices and that the EEOC thereafter accepted, investigated, and dismissed his charges and issued new notices on February 21, 2024. As Petitioner reads it, the district court's order does not discuss the February 21, 2024, notices or whether, on these facts, the limitations period was subject to equitable tolling in the least. However, it should be noted by this Honorable Court that this case involves far more than discrimination claims. This case involves abuse of appointed positions, discretion, and office as well as weaponization of government to harm citizens which the District Court was apprised and is within this appeal. The Department of Justice abused their authority in ignoring the use and abuse of non-public information in a network of federal, state, local and tribal agencies, organizations, businesses, and groups all of which receive federal funding without accountability or transparency as well as protecting

Abdi v. Hennepin County, No. 24-1393 (8th Cir. filed May 15, 2024), disposition at 2024 WL 4615831 (8th Cir. Oct. 30, 2024) (per curiam) (unpublished); Complaint, *EEOC v. Chesapeake Montessori Foundation, Inc.*, No. 1:23-cv-02544 (D. Md. filed Sept. 19, 2023); Complaint, *EEOC v. Len Stoler, Inc.*, No. 1:23-cv-02487 (D. Md. filed Sept. 13, 2023).

the individuals who take part in this abuse and violations of civil rights. The individuals involved have taken advantage of the legal system through procedural pressuring and lawfare which only further weaponizes the measures which were put in place to protect citizens in the first place. The merits of law are not the goal; exhaustion of resources, confusion of legal processes, and overwhelm, especially for self-represented parties [in this case not by choice] under the cloak of legitimate legal processes which have no basis in the merits of the case matter and have become the weapon of choice.

At a minimum, the Court may grant the petition, vacate the judgment, and remand so that the Fourth Circuit may consider, in the first instance, the March 3, 2023, state-court order and its bearing on appellate jurisdiction.

IV. A PRIVATE ARBITRATION AGREEMENT DOES NOT LIMIT GOVERNMENT ENFORCEMENT OF FEDERAL ANTI- DISCRIMINATION STATUTES.

This Court has recognized that an arbitration agreement between an employer and an employee does not limit the enforcement authority of the government agencies charged with enforcing federal anti-discrimination law. In *EEOC v. Waffle House, Inc.*, 534 U.S. 279, 296–98 (2002), the Court held that “[a]n agreement between an employer and an employee to arbitrate employment-related disputes does not bar the EEOC from pursuing victim-specific judicial relief, such as backpay, reinstatement, and

damages, in an ADA enforcement action.” See *id.* at 288–89, 293–94.

Petitioner recognizes that *Waffle House* involved a government plaintiff that was not a party to the arbitration agreement, and Petitioner does not contend that it exempts a private litigant from an otherwise valid and applicable arbitration agreement. The decision nonetheless illustrates two points relevant to the second question presented. First, the Federal Arbitration Act enforces a written agreement to arbitrate “a controversy thereafter arising out of such contract or transaction,” 9 U.S.C. § 2, and an arbitration agreement is a contract that binds its parties and reaches only the controversies within its scope. Second, although civil statutory claims are generally arbitrable unless Congress has indicated otherwise, *Shearson/American Express Inc. v. McMahon*, 482 U.S. 220, 226–27 (1987), the Act by its terms addresses contractual controversies. It contains no provision for private arbitration of a criminal prosecution brought by the sovereign.

Here, Petitioner alleged that the retaliation extended beyond the employment contract and involved persons and entities that were not parties to the arbitration clause, and that the alleged conduct implicates federal and state statutes enforced by public authorities. Whether the employer-elective clause clearly and unmistakably reaches those statutory claims is the second question presented. Because 9 U.S.C. § 16(b) bars an immediate appeal from the stay and arbitration order, and because the Court of Appeals dismissed without considering that

the state court had lifted its stay and dismissed the prior action, the scope of the clause has not been reviewed by any appellate court. The materials cited in note 1, *supra*, reflect the federal government's continuing enforcement interest in these statutes, and the question whether such claims may be diverted to private arbitration on the strength of a dismissed state-court order warrants this Court's review.

CONCLUSION

The petition for a writ of certiorari should be granted. In the alternative, the judgment of the court of appeals should be vacated and the case remanded for further consideration of appellate jurisdiction in light of the March 3, 2023, state-court order.

Respectfully submitted,

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