

No

IN THE
SUPREME COURT OF THE UNITED STATES

JUL 29 2026

OFFICE OF THE CLERK
SUPREME COURT, U.S.

JOHN F. KODENKANDETH. PETITIONER) SCOTUS DOCKET NO.

vs

UPMC HOLDING COMPANY, INC

MAXIMUS Federal Services

Secretary, Department of Health & Human Services) M-22-1424 ALJ Appeal 3-10533871186

RESPONDENTS) M-22-284 ALJ Appeal 3-10196295036

ON PETITION FOR A WRIT OF CERTIORARI TO THE COURT OF

APPEALS FOR THE THIRD CIRCUIT DOCKET NO. 25-1513 ECF # 79

DENIAL OF EN BANC HEARING DATED JULY 14, 2026

PETITION FOR WRIT OF CERTIORARI

JOHN F. KODENKANDETH

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QUESTIONS PRESENTED

QUESTION NO.1

Whether the Ca3 and the USDC courts erred by arbitrary and capricious abuse of discretion and hubris . Due to their failure to review the two Medicare appeal Council (MAC) claims M-22-284 & M-22-1424 as invalid and non medicare appealable claims ? ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION NO 2

WHETHER the Ca3 merit panel and JUDGE CCW WERE BIASED by willful indifference to :

a) MISUSE OF MEDICARE FOUR STEP APPEAL PROCESS 42 CFR §422.564(b)(!) . et Seq WHICH REQUIRES DEFENDANT UPMC TO BE LIABLE FOR ITS OWN NEGLIGENCE,FRAUD AND MALPRACTICE.

b) Defendant UPMC is the Medicare Advantage organization (MAO) , is required by Center for Medicare Services (CMS) to operate a meaningful grievance and appeal process of its own

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION 3: Wether the District Court lacked subject-matter jurisdiction because Appellant's claims are common-law negligence and breach of contract actions, rather than appealable administrative "Medicare claims."?

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

14) QUESTION 4: Whether the District Court erred by denying petitioner's Motion to Remand despite fatal, waiver and untimely procedural defects in the Defendants' Notice of Removal.?

16) QUESTION 5 Whether the District Court erred by covering up and engaging in wilful indifference to the defective removal of complaint made by the defendants, from the state of Pa court.?

QUESTION 6) Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) of the collateral order doctrine pursuant to 28 USC §1292 et seq, by summarily denying appellant's appeal at No. 24-1208. See Ca3 docket ECF # 42, 43, 74. 75 & 76, inter alia.?

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION 7) Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) of the lack of standing of the defendants/appellees/respondents to remove the plaintiff/appellant/petitioner's complaint GD23-12632 filed on October 31, 2023 at State of Pa Allegheny County Court of Common Pleas (ACCP). For reasons that include but not limited to the following:?

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION 8 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the separation of powers (between Judiciary and DOJ) and acted as " servants" of the DOJ . Corruption of the Judiciary is prejudicial and violates the petitioner's constitutional rights of an independent Judiciary and " Equal Protection clause"under the 14th Amendment of the US Constitution. . See Ca3 docket ECF # 42, 43. & 75 , inter alia. ?

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION 9 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the constitutional rights of plaintiff/appellant/petitioner by ignoring the improper removal and " hijacking of the complaint" from the state court of Pa" ?

QUESTION 10 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the petitioner's due process and equal protection, 14th amendment right by stonewalling, and wilful blindness insisting that appellant's appealed orders ECF 39, 40 & 41 are " NOT FINAL ORDERS" pursuant 28 USC §1291./? As an arguendo the appellant agrees with the appellate judges that the appealed orders ECF 39, 40 & 41 are NOT final Orders ?

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION 11 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the separation of powers (between Judiciary and DOJ) and acted as " servants" of the DOJ; ?

QUESTION Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the separation of powers (between Judiciary and DOJ) and acted as " servants" of the DoJ. ?

QUESTION 13 WHETHER District Court PAwd and 3rd Circuit Ct of Appeals erred by REFUSING TO STAY the proceeding after petitioner appealed on February 2, 2024 the Federal District denial of the plaintiff's motion for remand on or about January 23, 2024. Federal District Judge CCW disregarded the traditional stay pending appeal, by claiming that the appeal of a denial of Remand is NOT a final order.?

QUESTION 14 WHETHER Federal Court and 3rd Cir Ct of Appeals erred and engaged in abuse of due process by ignoring the improper removal of complaint and default at the state ACCPC and refusing to remand ECF USDC 22 the improperly removed complaint based on bogus and improper motions to dismiss (District ECF 49, 51 & 52) ?

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

QUESTION 15 WHETHER Federal District Court and 3rd Circuits Ct of Appeals, erred and engaged in abuse discretion, when defendants failed to file an Appearance in the state of Pa Allegheny County common Pleas Court / And had NO standing as an attorney pursuant to Pa RCP 1012 st seq. Meaning that the Notice of Removal filed by the DOJ at ACCPC on December 6, 2023 was null and void?

QUESTION 16 Whether, the 3rd Circuit Court of Appeals and Federal district Court Erred , by arbitrary and capricious abuse of discretion, when it, without jurisdiction accepted defendants improperly removed complaint ECF 1 & 2 in the district docket 2:23-cv-2049-CCW ?

QUESTION 17 WHETHER The Third Circuit erred by refusing to consider the plaintiff's appeal pursuant to 28 US §1447(d), §1292, §1291, inter alia ?

Question 18 Finally, the Third Circuit erred by refusing consider, that the USDC Pawd lacked jurisdiction pursuant to 28 US § 1446(a) (1), §1446(b)(1) §1447(d), §1292, §1291 on November 30, 2023 and December 1, 2023.

ANSWER: YES SEE PAGE 7 FOR SUPPORTING ARGUMENTS

LIST OF PARTIES

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

JOHN F KODENKANDETH, PETITIONER PRIVATE NO STOCK SYMBOL
UPMC Health Plan Inc D/B/A UPMC for Life, PRIVATE NO STOCK SYMBOL
UPMC HOLDING COMPANY, INC , PRIVATE NO STOCK SYMBOL
University of Pittsburgh Physicians PRIVATE NO STOCK SYMBOL
MAXIMUS Federal Services, PRIVATE NO STOCK SYMBOL
Secretary, Department of Health & Human Services , GOV NO STOCK SYMB

RELATED CASES

- 1) John F Kodenkandath v Secretary, DHHS, UPMC Health Plan Inc et al filed at Allegheny County Common Pleas Court, Pittsburgh State of Pa GD23-12632;
- 2) John F Kodenkandath v Secretary, DHHS, UPMC Health Plan Inc et al improperly removed to Federal District Court of Western Pa Docket # 2:23-cv-2049-CCW ;
- 3) John F Kodenkandath v Secretary, DHHS, UPMC Health Plan Inc et al appealed to 3rd Circuit Court of appeals at Ca3 24-1208;
- 4) John F Kodenkandath v Highmark Health et al filed at Allegheny County Common Pleas Court Pittsburgh, Pa docket No. GD23-12812;
John F Kodenkandath v Highmark Health et al filed at , improperly removed to Federal District Court of Western Pa Pittsburgh, Pa docket No. 2:23-cv-2051-CB
- 5) John F Kodenkandath v Highmark Health et al filed at , at Ca3 No, 25-2263

TABLE OF AUTHORITIES CITED

- BP Plc v Mayor & City Council of Baltimore. 141 S.Ct 1532, 1537-38 (2021)
- Dooner v. DiDonato Supreme Court of Pennsylvania. June 04, 2009 601 Pa. 209 971 A.2d 1187
- Fischer v United States Scotus Docket No 23-5572 June 28, 2024
- See Farina v Nokia et al , 625 F.3d 97 (2010)
- Quackenbush v Allstate Insurance. 527 US 706. 723-713 (1996) of NYstate courts;
- Joyce v Safeguard Mutual Ins Co , 524 A. 2d 1362 - Pa: Supreme Court 1987.;
- Mallory v Norfolk Southern Railroad Co , 600 US 122
- Citations from Ca3 ECF 75;
- Midland Asphalt Corp. v. United States, 489 U.S. 794, 798 (1989) (citing Cohen v. Beneficial Industrial Loan Corp., 337 U.S. 541, 546 (1949)).
- Cohen V Beneficial Industries, 337 U.S. 541, 69 S.Ct. 1221, 93 L.Ed. 1528 ";
- Graber v. Doe II, 59 F.4th 603, 607 (3d Cir
- Menoken v. McNamara United States District Court, D. New Jersey. February 27, 2003 213 F.R.D. 193 2003 WL 549404
- Thomas for Brown v Sullivan, 788 F.SUPP 788
- Trump v United States , Scotus Docket No. 23-939 immunity.
- Wyeth v. Levi Supreme Court of the United States March 04, 2009 555 U.S. 555 129 S.Ct. 1187

STATUTES AND RULES

- US Constitution 5th amendment due process
- US Constitution 14th Amendment Due Process
- US Constitution 14th Amendment Equal Justice & equal Protection
- 28 USC § 1291 et seq

- 28 USC § 1292 et seq Collateral order Doctrine
- 28 USC § 1442(a)(1) et seq
- 28 USC § 1446(b)(1) et seq
- 28 USC § 1447 et seq
- 28 USC § 1455(d) et seq
- 28 U. S. C. § 1254(1).
- LCvR 83.2(C) et seq Notice of Appliance
- 42 CFR §422.564(b)(1)
- 42 CFR §422.566(a)(1)

Federal Rules of Appellate Procedure

- FRCP 12, 15, 37, 50 & 55
- FRAP 27 motions
- FRAP 26, 30, & 35.

SCOTUS Rules

- Rules 13.3, 24, 33.1, 33.2, & 39

State Of Pa STATUTES & Rules of Civil Procedure

- 42 Pa CSA § 704 et seq, Waiver of Jurisdiction
- 42 Pa CSA § 1012 et seq Notice of Appearance
- Pa RCP 1026 et seq;
- Pa RCP 1028 et seq;
- Pa RCP 1028 (a) (1) et seq;
- Pa RCP 1029 et seq;
- Pa RCP 1030 et seq;
- Pa RCP 1031 et seq;
- Pa RCP 1032 et seq;
- Pa RCP 237.1 et seq;

OTHER

- Pa Constitution Article 1, § 11 Open court doctrine;
- Pa Constitution Art 5, § 10 et seq Powers of Pa Supreme court

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

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

OPINIONS BELOW

[x] For cases from federal courts: The opinion of the United States court of appeals appears at Appendix to the petition and is

[X] reported at ; *NO OPINION MADE BY APPECCATE COURT; , but order of denial are attached as in appendix*

[] has been designated for publication but is not yet reported; or, *NOT APPLICABLE*

[] is unpublished. The opinion of the United States district court appears at Appendix to the petition and is *NOT APPLICABLE*

[] reported at ;___ or, *NOT APPLICABLE*

[] has been designated for publication but is not yet reported; or *NOT APPLICABLE*

, [] is unpublished. **NOT APPLICABLE**

[X] For cases from state courts: The opinion of the highest state court to review the merits appears at Appendix to the petition and is: ***Petitioner's state complaint was improperly removed , depriving the State Court from reviewing the complaint***

[x] reported at _NA____ ; or, ***The state courts were deprived from rendering an opinion by the unlawful " hijacking" of the case GD23-12632 by improper removal to Federal district court by DOJ and defendant Department of Health and Human Services***

See Honorable Judge Klein's order at ECF 33 and Appendix

[] has been designated for publication but is not yet reported; or, [] is unpublished. The opinion of the court appears at Appendix to the petition and is ***Not applicable***

[] reported at ;_ NA or, ***Not Applicable. See Honorable Judge Klein's order at ECF 33 . attached to Appendix***

[x] has been designated for publication but is not yet reported; or, [] is unpublished. ***The State Court of Pennsylvania was deprived by Hijacking of the case by the DOJ. See Honorable Judge Klein's order at ECF 33 See appendix***

JURISDICTION

[x] For cases from federal courts:

The date on which the United States Court of Appeals decided my case was . JUNE 1, 2026

[x] Petition for rehearing was timely filed in my case. Yes

[x] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: August 2, 2024 , and a copy of the order denying rehearing appears at Appendix .A

[] ***Not applicable*** An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) _____ on (date) in Application No _____. A _____. The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] ***Not applicable*** For cases from state courts:

The date on which the highest state court decided my case was . A copy of that decision appears at Appendix ***Not applicable.***

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

[] ***Not applicable*** An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. _____ A _____.

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

ARGUMENTS IN SUPPORT OF THE 18 QUESTIONS ON PAGES 2 TO 4 SUPRA

QUESTION NO.1 Whether the Ca3 and the USDC courts erred by arbitrary and capricious abuse of discretion and hubris . Due to their failure to review the two Medicare appeal Council (MAC) claims M-22-284 & M-22-1424 as invalid and non medicare appealable claims ?

THE TWO CLAIMS MADE BY THE PLAINTIFF ARE NOT MEDICARE CLAIMS BUT NEGLIGENCE CLAIMS AGAINST THE DEFENDANT MEDICARE ADVANTAGE ORGANIZATION (MAO) DEFENDANT UPMC ET AL.

1) Plaintiff's complaint is mainly about negligence, unfair business practices of the Appellees defendants, And these are state of Pa common law claims and NOT Medicare appealable claims pursuant to 42 CFR §422.564(b)(1) et seq.

- a) Defendant UPMC is an insurance company with revenue in excess of 100 billion dollars;
- b) One of the many Plaintiff's claims against defendant UPMC is about its failure to reimburse the plaintiff \$45 for FAILURE TO PROVIDE SPECIALIST SERVICE; ;
- c) Reimbursement of the plaintiff \$45 is NOT a covered Medicare benefit. And it is NOT a Medicare appealable claim. See 42 CFR 42 CFR § 422.564(b) ;

- d) But defendant UPMC logged the plaintiff's reimbursement claim for \$45 as a medicare claim in Medicare's notorious four step appeal process that famously takes several years to process. Defendant UPMC was engaged in a liability shifting scheme;
- 2) Plaintiff will refer to this fake medicare claim as " fake medicare claim" and liability shifting scheme which when repeated a million times can exceed billions dollars;
 - a) Defendant UPMC got many of monetary and legal benefits by shifting defendant UPMC's liability to Medicare;
 - b) And defendants, and federal Judges get to use AND REGURGITATE the thousands of medicare statutes and Code of federal regulations(CFR) as affirmative defenses and legal talking points
- 3) Plaintiff states substantive questions as an example below:

QUESTION NO 2 WHETHER the Ca3 merit panel and JUDGE CCW WERE BIASED by willful indifference to :

- c) MISUSE OF MEDICARE FOUR STEP APPEAL PROCESS 42 CFR §422.564(b)(1) . et Seq WHICH REQUIRES DEFENDANT UPMC TO BE LIABLE FOR ITS OWN NEGLIGENCE,FRAUD AND MALPRACTICE.
- d) Defendant UPMC is the Medicare Advantage organization (MAO) , is required by Center for Medicare Services (CMS) to operate a meaningful grievance and appeal process of its own for enrollees in the MA plan Pursuant to 42 USCA §1395w-22(f), 42 USCA §1395mm(c)(5)(A);
- i) Defendant UPMC the MAO is required to provide a meaningful procedure for hearing and resolving a grievance between the MAO and its members Pursuant to 42 USC §1395w-22(f), 42 USC §1395mm(c)(5)(A) ;
- ii) Defendant UPMC failed to provide a fair grievance procedure and instead converted a grievance against the defendant UPMC the MAO into a Medicare four appeal (that causes legal noise and take years even for fake invalid appeals) procedure pursuant to 42 CFR §422.566 -660 et seq;
- iii) Defendant UPMC MAO failed to provide Notice to plaintiff regarding the " grievance conversion to medicare claim" in Count for MAC Claim for M-22-1424 and M-22-284 of the Amended complaint ,pursuant to 42 CFR §422.564(b) et seq;
- iv) The specific regulation that clarifies why a grievance against a Medicare Advantage (MA) organization is not appealable to the Medicare Appeals Council is 42 CFR § 422.564(b) et seq.
- v) 42 CFR § 422.564(b) - Distinguished from appeals: This section explicitly states, "Grievance procedures are separate and distinct from appeal procedures, which address organization determinations as defined in § 422.566(b)."
- vi) Grievances are complaints about the MA organization's operations, quality of care, or other aspects of the plan that do not involve a denial of coverage or payment for a service. Examples include issues with customer service, appointment availability, negligence, malpractice or the cleanliness of a facility.
- b) Defendants including UPMC have fraudulently shifted a grievance that is not appealable into a four step appeal boondoggle for avoiding legal costs, liabilities and unjust enrichment, inter alia, All lesser cumulative issues included ;

WHEREFORE THE CA3 RULING ECF 79 AND JUDGE CCW's ORDER ECF 104 MUST BE VACATED AS INVALID due to the false basis of ignoring material facts and CFR regarding , misuse of the Medicare appeal process by UPMC et al defendants . And being arbitrary, capricious, biased, abuse of discretion and violation of article III §1 by Judge CCW, overtly and covertly manipulating the FRCP rules to benefit defendants and the federal officer secretary of DHHS and UPMC.

- 4) Meanwhile, the Medicare four step appeal process accepted the two "fake Medicare appeals" fraudulently started by defendants UPMC et al , without questioning their validity, LIKE A BRAIN DEAD BUREAUCRACY. .
 - a) Medicare ALJ then processed these " fake medicare appeals " and made false conclusions at M-22-1424 and M-22-284 (that are really hearsay) based on Federal Rules of evidence 401 to 404;
 - i) M-22-284 was about failure of defendant UPMC to refund \$45 which pursuant to 42 CFR §422.564(b)(1) et seq is not a medicare appealable claim. But a negligence common law claim against defendant UPMC;

- ii) M-22-1424 is about breach of contract by defendant UPMC's insurance contract with plaintiff to pay for out-of-network purchases up to \$500 . This claim, pursuant to 42 CFR §422.564(b)(1) et seq is not a medicare appealable claim;
- b) However Judge CCW, DOJ and defendants continued to rely on the MAC false rulings at M-22-284 and M-22-1424;
- c) On June 28, 2024 Scotus overruled the Chevron deference doctrine

i) The Eradication of Chevron Deference Mandates Independent Judicial Review

The Merit Panel's improper false findings of no substantive issues and passive adoption of the agency's administrative framework constitutes legal error. Following the Supreme Court's overruling of *Chevron* deference, this Court cannot blindly defer to agency actions or interpretations regarding what constitutes an administrative claim. The Court must perform an independent, de novo analysis of the statutory boundary between state common-law claims and administrative remedies.

ii) Denial of State Court Default Rights

On or about March 22, 2024, Court of Common Pleas Judge Arnold Klein noted that the state court was unconstitutionally deprived of its power to enter a default judgment against the Appellees due to DHHS's improper and defective removal actions.

5) On October 31, 2023 plaintiff filed a state of Pa lawsuit against all defendants at GD23-12632 in Allegheny County Common Pleas Court (ACCPC) with 39 state of Pa counts against all defendants;

- a) All defendants were served pursuant to Pa RCP 424 et seq;
- b) All defendants failed to file a preliminary objection on or before November 20, 2023 pursuant to Pa ECP 1028(a)(1-8) And failed to file A NOTICE OF REMOVAL pursuant 28 USC §1446(b)(1) et seq;
- c) Hence all defendant waived all rights to file objections pursuant to Pa RCP 1028(a)(1-8), 1029, 1030, 1031, 1032 regarding subject matter jurisdiction;

6) On December 6, 2023 defendant DHHS filed a six day late Notice of Removal at ACCPC in violation of 28 USC §1446(a) (1) and § 1446(b)(1) et seq;;

7) On November 30, 2023 defendant DHHS filled plaintiff's state of a complaint instead of filing a Notice of removal ;

a) Hence defendant DHHS failed to file a valid notice of Removal; pursuant 28 USC §1446(a)(1)'

b) Defendant UPMC and Maximus failed to file a 28 USC §1441(a)(1) Notice of Removal;

8) On December 27, 2023 plaintiff filed a motion to remand on the grounds that Federal Court and Judge CCW did not have jurisdiction. Judge CCW denied this plaintiff's motion to remand ECF 22 with wilful blindness and indifference;

9) On March 12, 2025 Judge CCW used vague language and contradictory arguments that supported the defendants, and dismissed the Plaintiff's complaint with prejudice. see ECF 104;

10) On March 18, 2025 plaintiff made this appeal to Ca3 No, 25-1513 . And almost 500 days later Ca3 has not done any analysis and just affirmed lower court without prejudice.

- a) It has been more than 1500 days and \$2000 dollars in court fees and costs , since plaintiff experienced this bad service from defendants and the grossly incompetent to Medicare organization '
- b) Chevron deference has been overruled since June 28, 2024. Ca3 has to perform analysis and cannot deflect to Medicare hearsay rulings.

11) on March 22, 2024 honorable Judge Aenold Klein of ACCPC that he was deprived from entering a default judgment against the defenders, due to the improper removal of the state case to the Federal court by defendant DHHS . See docket GD23-12632

12) For all these reasons SCOTUS must remand this case to the state court at ACCPC for entry of default Judgment;

This petition involves questions of exceptional importance regarding the jurisdictional boundary between state-law tort/breach of contract claims against a Medicare Advantage Organization (MAO) and administrative Medicare claims. Scotus review is necessary because the Ca3 panel's decision allows an MAO to fraudulently bypass state court jurisdiction by mischaracterizing ordinary negligence and billing disputes as formal administrative Medicare appeal

QUESTION 3: Whether the District Court lacked subject-matter jurisdiction because Appellant's claims are common-law negligence and breach of contract actions, rather than appealable administrative "Medicare claims." ?

1 Nature of the Claims: Appellant's complaint alleges tortious negligence and unfair business practices by Appellee UPMC (an enterprise with revenues exceeding \$100 billion). Specifically:

The dispute arises from: UPMC's failure to reimburse Appellant \$45 for a specialist service that was not performed under his private contract plan.

- UPMC's breach of contract regarding a \$500 out-of-network purchasing allowance.

Misapplication of 42 C.F.R. § 422.564(b): Under federal law, regular consumer grievances against an MAO—such as poor customer service, negligence, or administrative malpractice—are separate and distinct from "organization determinations" regarding coverage denials.

The "Fake" Appeal AND LIABILITY Shifting Scheme: Rather than resolving these internal consumer grievances through its mandated procedures (pursuant to 42 U.S.C. § 1395w-22(f)), UPMC unilaterally logged these minor billing disputes into Medicare's multi-year, four-step administrative appeal process (ALJ Appeals M-22-1424 and M-22-284). UPMC insulated itself from immediate common-law liability and shifted its defense costs to the federal government by creating this pretextual "fake Medicare claim."

14) **QUESTION 4:** Whether the District Court erred by denying petitioner's Motion to Remand despite fatal, waiver and untimely procedural defects in the Defendants' Notice of Removal.?

1. State Court Action and Waiver: On October 31, 2023, Appellant filed a 41-count civil complaint in the Allegheny County Court of Common Pleas (ACCPC) (GD23-12632). Defendants were properly served pursuant to Pa.R.C.P. 424.
2. Untimely and Defective Removal: Under 28 U.S.C. § 1446(b)(1), defendants have 30 days to file for removal.
 - Appellee Department of Health and Human Services (DHHS) filed a deficient, late Notice of Removal on December 6, 2023 (six days past the statutory deadline).
 - Co-defendants UPMC and Maximus failed to properly file or join a valid Notice of Removal under 28 U.S.C. § 1441(a)(1), thereby waiving their rights and failing the rule of unanimity.
3. Judicial Error Below: The District Court (Judge CCW) exhibited willful blindness to these jurisdictional flaws, improperly denying Appellant's Motion to Remand (ECF No. 22) and dismissing the case with prejudice (ECF No. 104).

I. Simple Contract Grievances Are Not Appealable Medicare Benefits

Under 42 C.F.R. § 422.564(b), grievance procedures are legally decoupled from formal benefit appeals:

"Grievance procedures are separate and distinct from appeal procedures, which address organization determinations as defined in § 422.566(b)."

The \$45 specialist reimbursement and the \$500 out-of-network allowances are contract disputes, not national coverage determinations. The Administrative Law Judge's (ALJ) subsequent findings on these issues constitute administrative hearsay (Fed. R. Evid. 401–404) and cannot form an affirmative defense for UPMC's operational negligence.

II. The Eradication of Chevron Deference Mandates Independent Judicial Review

The Merit Panel's passive adoption of the agency's administrative framework constitutes legal error. Following the Supreme Court's overruling of *Chevron* deference, this Court cannot blindly defer to agency actions or interpretations regarding what constitutes an administrative claim. The Court must perform an independent, de novo analysis of the statutory boundary between state common-law claims and administrative remedies.

III. Denial of State Court Default Rights

On March 22, 2024, Court of Common Pleas Judge Arnold Klein noted that the state court was unconstitutionally deprived of its power to enter a default judgment against the Appellees due to DHHS's improper and defective removal action

16) QUESTION 5 Whether the District Court erred by covering up and engaging in wilful indifference to the defective removal of complaint made by the defendants, from the state of Pa court.?

i) The USDC Pawd district court lacked subject matter jurisdiction on November 30, 2023, since defendant DHHS filed the plaintiff's complaint ECF #1 instead of filing a Notice of Removal pursuant to 28 USC §1446(b)(1) the 20 day rule and the 28 USC §1446(a)(1) the 30 day rule.

■ Regardless defendant DHHS's Notice of Removal dated December 6, 2023 was late, untimely and defective;

ii) Defendant UPMC and Maximus failed to file a notice of removal in violation of 28 USC §1441 (a) and §1446(a)(1) et seq

The District Court and Judge CCW made structural and reversible errors of denying plaintiff's motion to Remand ECF 22 in the biased Rulings ECF 39 inter alia;

iii) The district court and Judge CCW's entire theory of the case rests on the structural and reversible error that the plaintiff's claims all arise out of the Medicare Act. This is a false self serving belief to dispose of a Pro se case;

■ Plaintiff's Medicare claims MAC M-22- 284 for reimbursement of \$45 is not a medical claim pursuant to 42 CFR §422.564(b)(1) et seq. But a strict liability of defendant UPMC the MAO operator, due to negligence and fraud;

■ Plaintiff's Medicare claim MAC M-22- 1424 for out-of-network allowance of \$500 per plan year is not a medical claim pursuant to 42 CFR §422.564(b)(1) et seq. But a strict insurance contract liability of defendant UPMC the MAO operator, due to breach of contract, negligence and fraud;

■ The district court and Judge CCW lacked subject matter jurisdiction over all the state counts and constitutional claims in the Plaintiff's complaint at ECF 1 and amended complaint ECF 85;

■ On June 1, 2026, Ca3 No. 25-1513 merit panel agrees with the plaintiff that the district court lacked subject matter jurisdiction;

■ Hence the reasonable decision of the Ca3 court must be to remand the appellant's case to the state court at ACCPC.

iv) In short defendants UPMC et al were able to engage in Medicare fraud in plain sight, with the active assistance of the Federal district court and article III judges like Judge CCW, who kept on parroting the Medicare statutes and CFR that did not apply to plaintiff's claims for MAO negligence pursuant to

42 CFR §422.564(b)(1) et seq'

v) On June 28, 2024 "Chevron Deference was overruled by SCOTUS. Articles III judges are required to enforce the law regarding negligence and fraud without resting on the Medicare agency and its bureaucratic article II AJ hearsay rulings.

vi) Petitioner/Plaintiff's instant case is about exposing the corruption and fraud in the Medicare Advantage Organization (MAO) operated by defendant UPMC in particular and the article III courts and Judges help and role to perpetuate Medicare (MAO) corruption and fraud, that is a national problem.

VII) ON OR ABOUT MARCH 22, 2024 HONORABLE JUDGE KLEIN OF STATE OF PA COURT RULED THAT DEFENDANTS ARE IN DEFAULT. AND WILL ENTER DEFAULT JUDGMENT WHEN THE CASE IS REMANDED FROM THE FEDERAL COURTS;

VIII) HENCE IT WILL MAKE MORE SENSE TO MODIFY THE DISTRICT COURT FINAL DOCKET TEXT RULING AND REMAND THIS CASE TO THE STATE COURT ACCPC.

QUESTION 6) Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) of the collateral order doctrine pursuant to 28 USC §1292 et seq, by summarily denying appellant's appeal at No. 24-1208. See Ca3 docket ECF # 42, 43, 74, 75 & 76, inter alia ?.

QUESTION 7) Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) of the lack of standing of the defendants/appellees/respondents to remove the plaintiff/appellant/petitioner's complaint GD23-12632 filed on October 31, 2023 at State of Pa Allegheny County Court of Common Pleas (ACCPC). For reasons that include but not limited to the following: ?

a) The defendants/appellees/respondents defaulted on November 21, 2023 by failing to respond to the mandatory Notice to defendant and Pa RCP 1026 notice to Plead. And failed to cure the default. See Ca3 ECF 78, 42, 43, & 75, inter alia.

i) This is a violation of 28 USC §1446(b)(1), which required the defendants to file a response (notice of Removal) on or BEFORE the shorter time period of twenty (20) days that applies to ACCPC, rather than 30 days, that applies to the USDC :

ii) Removal of complaint is not a discretionary issue/matter but a Jurisdictional issue and a collateral issues pursuant to 28 USC §1292

b) The defendants/appellees/respondents failed to file at ACCPC, Preliminary objections pursuant to Pa RCP 1028 et seq, and hence, waived all rights to the following:

- i) Waived objections as to Venue, forum, jurisdiction, and right to removal of plaintiff's Complaint, pursuant to Pa RCP 1028(a)(2) et seq and 28 USC § 1442(a)(1) et seq, and 28 USC §1446(b)(1) et seq;
- ii) Waived all rights to new matter affirmative defenses and CounterClaims , pursuant to Pa RCP 1030 & 1031 et seq; and
- iii) Waived all rights to subject matter jurisdiction pursuant to Pa RCP 1032 et seq; and
- iv) Defendants admitted to all 41 counts in plaintiff's original complaint at GD23-12632;
- v) Defendants/appellees/respondents, improper and unlawful removal Notice for complaint dated December 6, 2023 was six days late in violation of the 30 day rule 28 USC § 1446(b)(1) et seq; And more than 16 days late using the 20 day rule in 28 USC §1446(b)*1 See Allegheny County Common Pleas Court docket GD23-12632;
- vi) In Short, respondents' defaulted on Nov 21, 2023 and respondent DHHS has no standing to file a notice of removal on Dec 6, 2023 at ACCPC or on December 1 at Federal District Court PaWD;
- vii) Inter alia

QUESTION 8 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the separation of powers (between Judiciary and DOJ) and acted as " servants" of the DOJ . Corruption of the Judiciary is prejudicial and violates the petitioner's constitutional rights of an independent Judiciary and " Equal Protection clause"under the 14th Amendment of the US Constitution. . See Ca3 docket ECF # 42, 43. & 75 , inter alia.?

QUESTION 9 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the constitutional rights of plaintiff/appellant/petitioner by ignoring the improper removal and " hijacking of the complaint" from the state court of Pa" ?

a) Nameless attorneys and clerks in the DOJ circumvented the "due process safeguards and procedures " and ordered (unrecorded phone line) the clerks in the state court (Allegheny County Common Pleas Court) to cancel the hearing (lawfully scheduled /calendared on March 4, 2024) and engaged in ex parte communications with the the clerks of General motions court of Allegheny County Common Pleas court of Pittsburgh Pa; See ECF 33, Honorable Judge Klein's order dated March 22, 2024;

QUESTION 10 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the petitioner's due process and equal protection, 14th amendment right by stonewalling, and wilful blindness insisting that appellant's appealed orders ECF 39, 40 & 41 are " NOT FINAL ORDERS" pursuant 28 USC §1291.?

- a) As an arguendo the appellant agrees with the appellate judges that the appealed orders ECF 39, 40 & 41 are NOT final Orders ::
- b) But, these appealed orders 39, 40, & 41 can be collateral orders which deals with improper removal that are separate and collateral to the 41 counts in plaintiff's original complaint filed in the state of Pa, on October 31, 2023 GD23-12632;
- c) Therefore district court and 3rd Circuit appeals courts argument that the appealed orders 49 , 40 & 41 are not appealable has no merit;

QUESTION 11 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the separation of powers (between Judiciary and DOJ) and acted as " servants" of the DOJ; ?

The DOJ filed an invalid Removal in the Federal District Court on December 1,2023, even though DOJ did Not file a Notice of Removal at the state of Pa Court ACCPC (where the original complaint was filed by Plaintiff) .?

On December 6, 2023 filed an invalid Notice of Removal at the State Court that was six days late pursuant to 28 USC §1446(b)(1) et seq; In short there was no removed complaint filed at the Federal District court.

Despite this serious error Federal District Judge CC Wiegand engaged in deliberate indifference and wilful blindness and dismissed plaintiff's non-existing removed complaint at the Federal district court on August 16, 2024, even though plaintiff has appealed to the Third Circuit on February 2, 2024. see Ca3 docket No. 24-1208.

QUESTION 12 Whether, the 3rd circuit court of Appeal and district court of Western Pennsylvania, erred by Arbitrary, Capricious abuse of discretion by deliberate indifference (Wilful Blindness) and violated the separation of powers (between Judiciary and DOJ) and acted as " servants" of the DoJ. ?

In short the Federal and state court lost their value as courts and became just rubber stamps and members of the deep state. DOJ This deprived the plaintiff and the state of Pa Courts their constitutional due process rights, both at the state and Federal Level;

QUESTION 13 WHETHER District Court PAwd and 3rd Circuit Ct of Appeals erred by REFUSING TO STAY the proceeding after petitioner appealed on February 2, 2024 the Federal District denial of the plaintiff's motion for remand on or about January 23, 2024. Federal District Judge CCW disregarded the traditional stay pending appeal, by claiming that the appeal of a denial of Remand is NOT a final order. While Judge Wiegand in an abuse of discretion ignored the collateral order doctrine that allows appeals pursuant to 28 USC §1292 et seq. ? See

- BP Plc v Mayor & City Council of Baltimore. 141 S.Ct 1532, 1537-38 (2021) for 28 USC § 1447(d)
- And See Quackenbush v Allstate Insurance, 527 US 706, 723-713 (1996); for review and appeal of denial of Remand motion pursuant 28 USC §1291.

QUESTION 14 WHETHER Federal Court and 3rd Cir Ct of Appeals erred and engaged in abuse of due process by ignoring the improper removal of complaint and default at the state ACCPC and refusing to remand ECF USDC 22 the improperly removed complaint based on bogus and improper motions to dismiss (District ECF 49, 51 & 52) ?

Defendant DHHS Motion to dismiss ECF 49 has just a few words.

QUESTION 15 WHETHER Federal District Court and 3rd Circuits Ct of Appeals, erred and engaged in abuse discretion, when defendants failed to file an Appearance in the state of Pa Allegheny County common Pleas Court / And had NO standing as an attorney pursuant to Pa RCP 1012 st seq. Meaning that the Notice of Removal filed by DOJ at ACCPC on December 6, 2023 was null and void; ?

QUESTION 16 Whether, the 3rd Circuit Court of Appeals and Federal district Court Erred , by arbitrary and capricious abuse of discretion, when it, without jurisdiction accepted defendants improperly removed complaint ECF 1 & 2 in the district docket 2:23-cv-2049-CCW?

- The Federal District Court did Not have F RCP 12(b)(1) jurisdiction over the "invalid removed complaint"
- Defendants were in violation of 28 USC §1446(b)(1) et seq. specifically a Twenty(20) day rule applied to the defendants removal, instead of the thirty(30) day rule;
- Further, District Court erred by dismissing plaintiff's state claims under F RCP 12(b)(6) when defendants did Not have F RCP 12(b)(1) jurisdiction. And Federal preemption of State Claims need specific Congressional intent and explicit statutory language in the Federal Statute, which the district court and the defendants failed to cite or identify as grounds;
- See Dooner v. DiDonato Supreme Court of Pennsylvania. June 04, 2009 601 Pa. 209 971 A.2d 1187
 - When determining whether a federal statute preempts state law, the task of statutory construction must in the first instance focus on the plain wording of an express preemption clause, which necessarily contains the best evidence of Congress' pre-emptive intent. U.S.C.A. Const. Art. 6, cl. 2....
 - ... The "task of statutory construction must in the first instance focus on the plain wording of the [express preemption] clause, which necessarily contains the best evidence of Congress' pre-emptive intent."
- See Farina v Nokia et al , 625 F.3d 97 (2010)

- Wyeth v. Levi Supreme Court of the United States March 04, 2009 555 U.S. 555 129 S.Ct. 1187

QUESTION 17 WHETHER the Third Circuit erred by refusing to consider the plaintiff's appeal pursuant to 28 US §1447(d), §1292, §1291, inter alia ?

- Remand that was denied, when there was clear evidence on the docket (state of Pa GD23-12632 and Federal docket 2:23-cv-2049-CCW) that the USDC and defendants did NOT have valid FRCP 12(b)(1) jurisdiction at the Federal District Court , and a valid Pa RCP 1028 et seq jurisdiction at the State of Pa Court ACCPC;
- The 28 USC § 1442(a) et seq Removal was invalid , due to violation of 28 USC §1446(b)(1) twenty (20) day rule and the Thirty day Rule pursuant to ;28 USC §1446(a)(1) ;
- And University of Pittsburgh Physicians denial of the plaintiff's Remand Motion is reviewable and appealable pursuant to 28 USC § 1447(d) , §1291, and 1292 inter alia. See BP Plc v Mayor & City Council of Baltimore. 141 S.Ct 1532, 1537-38 (2021) for 28 USC § 1447(d)
- And See see Quackenbush v Allstate Insurance, 527 US 706, 723-713 (1996); for review and appeal of denial of Remand motion pursuant 28 USC §1291.

Question 18 WHETHER the Third Circuit erred by refusing consider, that the USDC Pawd lacked jurisdiction pursuant to 28 US § 1446(a) (1), §1446(b)(1) §1447(d), §1292, §1291 on November 30, 2023 and December 1, 2023. **ANSWER YES**

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case shows that the US constitution can be easily circumvented by the DOJ (Department of Justice). The DOJ usually partners with administrative clerks of the Court to prejudice the plaintiff/petitioner. This type of off the record partnering has already happened in this instant case. Many times, that conduct of the DOJ prejudiced the petitioner.. The DOJ US attorney is co-located with Judge CCW and staff.

The US Constitutional Violations in this case include but NOT limited to:

- a) Violation of Due Process of the 5th and 14th amendment;
 - i) Due Process violation is the most common violation in this case. This violation was committed by Judges, Law clerks, nameless staff of the courts, nameless staff of the DOJ and defendants. All these " due process" violations prejudiced the plaintiff petitioner.
 - ii) Some of the due process violations are described in detail in ECF 42, 43, & 75. Inter alia.
- b) Violation of " Equal Protection": With the presence of the DOJ and DHHS, as defendants , in this case, it was common for the DOJ attorneys to contact court staff ex parte , and request favors that were very prejudicial to the plaintiff. The Federal district court, appellate court and even the state of Pa court made no effort to prevent this violation of the " equal protection clause " of the 14th Amendment;
 - i) For example on or about February 22, 2024 plainriff filed a motion for Non Pros to be heard on March 4, 2024 at Allegheny County Court of Common Pleas (ACCPC);
 - ii) On March 1, 2024, DOJ attorney Ryan Wilk made an ex parte contact with ACCPC staff and had the hearing removed from the court calendar. There was no hearing or motion for continuance by the DOJ;.
 - iii) This is an example of the coercive power of the DOJ.
 - iv) For more details see ECF 42, 43, & 75 inter alia.
- c) Violation of Separation of powers that eschews colluding, partnering and favoring DOJ over the Pro se plaintiff.

For example, the partnering of district and Ca3 appeals judges with the DOJ's self-serving narrative that only " final orders" can be appealed. And these Judges completely ignored the Collateral issue of the fact that there is an improper and non-existing removed complaint at the federal district court, because the removal at the state court on December 6, 2023 was six days late and invalid. See ECF 42, 43 & 75 , inter alia.

- i) Petitioner cites the ongoing Trump trials at the DC federal District and appeals courts and the Alvin Bragg and Judge Machan partnership on Manhattan NY state Court;
Separation of powers becomes important for a Pro se plaintiff when the defendant involves the United States and DOJ. The judges favor the United States and the DOJ, seriously prejudicing the plaintiff Pro Se;
- d) Plaintiff/petitioner's right to a fair and impartial trial has been ineluctably impaired, and relief is mandatory and essential for preservation of the rule of law and constitutional fairness of the justice system.
- e) See recent constitutional ruling in
Fischer v United States, Scotus Docket No 23-5572 June 28, 2024

IMPORTANT FEDERAL STATUTES INVOLVED

- a) 28 USC § 1292 Collateral order Jurisdiction;
- b) 28 USC § 1291 Final order Tule
- c) 28 USC § 1442 Federal Officer removal
- d) 28 USC § 1446(a & b)(1) The thirty day rule & Twenty day Rule
- e) 28 USC § 1447(d) Remand;
- f) 42 CFR §422.564(b)(1)

STATEMENT OF THE CA

- 1) On or about October 31, 2023 plaintiff/petitioner filed a complaint in the state Court of Pa, Allegheny County Common Pleas Court (ACCPC), This complaint contained 41 counts of state of Pa based claims and about two issues that involved Medicare benefits.
 - a) Even though 39 of the 41 counts in the plaintiff's complaint were state claims, the two federal claims were not Medicare claims, the plaintiff was forced to go through the four step Medicare appeal process that started in April 2021 and September 2021. And the final Medicare appeal Council (MAC) ruling for M-22-284 & M-22-1424 sixty day Judicial review date was on or before November 20, 2023
 - b) Forcing the plaintiff to go through a time consuming MAC four level appeal process was a liability shifting fraud by the MAO defendant UPMC. The two false Medicare claims M-22-1424 and M-22-284 were state common law claims pursuant to 42 CFR §422.564(b)(1) et seq.
 - c) Which is in violation of the current interpretation of the Chevron doctrine, by Scotus;
 - d) Even though Federal Preemption of state of Pa claims requires an explicit congressional intent in the language of the federal preemption statute- which did not exist for the 39 count common law state of Pa claims-- federal district court failed to bar the preemption of state of Pa claims and Remand to state court. SSee ECF 22
- 2) Plaintiff's state complaint filed on October 31, 2023 GD23-12632 had a mandatory Notice to defend in twenty (20) days, and a Pa RCP 1026 Notice to plead in twenty (20) days on or before November 21, 2023;
 - a) All five defendants failed to respond to the mandatory state of a requirement to affirmatively respond on or before November 21, 2023;
 - b) The defendants/appellees/respondents failed to file Preliminary objections pursuant to Pa RCP 1028 et seq, and waived all rights to the following:
 - i) Waived objections as to Venue, form and jurisdiction, and removal pursuant to 28 USC § 1442(a)(1) et seq; and
 - ii) Waived all rights to new matter and affirmative defenses pursuant to Pa RCP 1030 & 1031 et seq; and
 - iii) Waived all rights to subject matter jurisdiction pursuant to Pa RCP 1032 et seq; and
 - iv) Defendants admitted to all 41 counts in plaintiff's original complaint at GD23-12632;

- v) Defendants/appellees/respondents' improper and unlawful removal dated December 6, 2023 was six days late in violation of the 20 day rule 28 USC § 1446(b)(1) et seq; See Allegheny County Common Pleas Court docket GD23-12632;
 - vi) Defendants failed to seek leave of the State Court at ACCPC following their default on Nov 21, 2023, pursuant to Supreme Court of Pennsylvania, precedent at Joyce v Safeguard Mutual Insurance Co. 524 A. 2d 1362 - Pa Supreme Court 198.;
 - vii) Inter alia;
- 3) In spite of the fact that the DOJ did NOT have a valid removed complaint and was in default at the state court of Pa at ACCPC. Without removing the plaintiff's complaint at ACCPC, the DOJ unlawfully filed a fake invalid removed complaint on December 1, 2023 in the Federal district court of Western Pa.
- a) Federal district Court and Judge CCW wilfully failed to note that defendants had failed to remove the plaintiff's complaint at State of Pa Court ACCPC until December 6, 2023,
 - i) And this date of December 6, 2023 was six days late in violation of the 30 day rule 28 USC 1446 (a)(1) et seq by six days and 16 days late using the 20 day rule; 28 USC 1446 (b)(1);
 - b) Federal District Judge CC Wigand, with deliberate indifference (wilful Blindness) ignored the fact that DOJ's removed complaint at 2:23-cv-2049-ccw was improper and had numerous irregularities and State of Pa violations;
 - i) Federal Judge CCW failed to note that the defendants removed complaint filed on December 1, 2023 was invalid and null and void, since the removal of the complaint at state of Pa had not happened until December 6, 2023. See State of Pa docket at GD23-12632;
 - ii) This improper conduct of Judge CCW and clerks of federal district Court, of favoring and covering up for DOJ is a violation of the separation of Powers that prejudiced the plaintiff;
 - iii) This conduct of treating the DOJ as a favored party continued to the third circuit appellate court, in violation of separation of powers required by the constitution of US;
 - iv) Constantly referring to the plaintiff as Pro Se, in a pejorative sense is a violation of the " equal protection" clause of the 14th Amendment and a violation of the Constitutional separation of Powers;
- 4) Meanwhile the DOJ was engaged in administrative misconduct, when the DOJ attorney Mr Wilks called the clerk of general motions court at ACCPC and coerced this clerk to cancel a scheduled hearing for plaintiff's motion for Non Pros judgment, at ACCPC for March 4, 2024 to be removed from the court calendar at ACCPC;
- a) This misconduct of the DOJ attorney deprived the plaintiff of his Pa Constitutional section § 11 right of access to Pa Court and at the same time deprived the Pa ACCPC court to rule on the Plaintiff's motion for judgment for Non Pros, in open court. See ECF 33 in Ca3 docket 24-1208
 - b) Honorable Judge Arnold Klein of ACCPC was deprived from entering Judgment of Non Pros against defendants and DHHS, because DOJ " Hijacked " plaintiff's complaint from ACCPC in violation of State of Pa due Process requirements;
 - c) This conduct of the DOJ is in violation of Scotus ruling in Fisher v United states ruled on June 28, 2024. That DOJ is in violation of the 18 USC §1512(c)(1) et seq of obstructing an official proceeding for an improper purpose;
 - d) Defendant DHHS and DOJ are engaged in hubris and conduct outside the scope of their Congressional mandate and needs to be disciplined in the manner indicated in the " Big Question Doctrine Ruling of Scotus" in West Virginia v EPA, Recently SCOTUS ruled on a case West Virginia v EPA, 597 US 697 (2022) where SCOTUS ruled to Curb the abusive and Ultra Vires power of the EPA, to extend its authority into area that is outside its scope of its congressional approved scope of duty or work.' This new curbs or

limits to the power of an agency without permission is called " Big Question Doctrine ";

- e) And can be applied in this instant case at Writ of Certiorari to curb and clip the wings of defendant DHHS , DOJ. defendant UPMC and Maximus.

REASONS FOR GRANTING THE PETITION

This petition is a good vehicle to reform and improve the judicial branch that has become arrogant, haughty, and distant from the needs of the people. Scotus has a duty to oversee and correct the misconduct of the courts and make sure there is no violation of the constitutional separation of powers. Meaning the court judges and staff should not become subservient and a " rubber stamp " for the DOJ. defendant DHHS and defendants UPMC and defendant Maximus.

- 1) On July 14 206, the En Banc 3rd Circuit Appellate Court voted against the petitioner's appeal at Ca3 docket 25-1513, because the the appealed orders ECF 104 (from the district court docket 2:23-cv-2049-CCW) was final orders "pursuant to 28 USC § 1291. But the 3rd circuit panels of judges wilfully with deliberate blindness and indifference ignored 28 USC §1292, 28 USC §1447(d),42 CFR §422.563(b)(*1(1) and the overruled Chevron doctrine inter alia.
- 2) The En Banc panel voted to ignore appellant's request to Remand this case to the State of Pa Court at Allegheny County Common Pleas Court (ACCOC);
 - a) The 3rd Circuit Court and Federal district court of Western Pa are silent on whether the orders 39, 40 & 41 are collateral appealable orders pursuant to 28 USC § 1292 et seq and 28 USC § 1447(d), in appeal Ca3 No. 24-1208;
 - b) This is wilful and deliberate indifference and blindness that helps defendant such as United States, DHHS, UPMC Maximus and DOJ;
 - c) There are many other Federal Circuits and Federal districts that engage in violation of the separation of powers, that favors DOJ and United States agencies, such as:

CONCLUSION :

FOR DETAILSEE QUESTIONS 1 TO 18 SUPRA

- 1) The Federal courts lack jurisdiction over the plaintiff's complaint from the day it was filed in the State of Pa ACCPC, on October 31, 2023 to the present date.
 - a) All five defendants defaulted on November 20, 2023 pursuant to Pa RCP 1028 et seq and 28 USC §1446(b)(1) et seq, the 20 day rule;
 - b) Defendant DHHS filed at ACCPC , a late and invalid notice of Removal on December 6, 2023 in violation of 28 USC §1446(a)(1) and §1446(b)(1) et seq. inter alia;
 - i) the remaining four defendants UPMC and Maximus defaulted and failed to file a Notice of Removal at ACCPC and at USDC at Pawd.
- 2) On November 30 and December 1, 2023 defendant DHHS failed to file a timely Notice of Removal at the USDC Pawd pursuant to 28 USC §1446(a)(1) and §1446(b)(1) et seq.at USDC PaWD;
 - i) Defendant UPMC and Maximis failed to file a valid abs timely notice of Removal at USDC Pawd.
- 3) Despite Judge CCW and USDC lacking jurisdiction judge CCW denied the plaintiffs motion to Remand see ECF 22 and 39;
 - i) Then after more than 759 days without hearing, discovery, analysis, opinion and trial, Judge CCW dismissed the plaintiffs amended complaint with prejudice on March 12, 2025 at ECF 104.
 - ii) Ca3 & USDC judge CCW, failed to determine that MAC were flawed and invalid since the medicare claims were not valid and are just grievance that were the liability of the defendant UPMC who fraudulently shifted its liability to Medicare

4) Plaintiff appealed at Ca3 No. 25-1513. After more than 400 days , Ca3 affirmed the lower court decision with a modification of changing the lower court order to " without prejudice ".

i) This Ca3 ruling is NOT dispositive and leaves the plaintiff in limbo;

ii) Then the plaintiff/appellant requests an En Banc hearing to Remand the case to the state court of Pa at ACCPC. Ca3 denied this request at ECF Ca3 79;

iii) Hence after 1500 days , petitioner is at Scotus asking for Remand to the State court of Pa at ACCPC.

5) The third Circuit appellate Court and the Federal District Court of Western Pa and Judges were engaged in favoring the defendants DHHS, DOJ, defendants UPMC and Maximus . This is a flagrant violation of the separations of powers , that resulted in depriving the petitioner of his " Equal Protection Constitutional rights" and deprives State of Pa of its Powers and Privileges.

a) The 3rd Circuit Appellate court on July 14, 2026 denied the appellant's appeal 25-1513 and did not file an opinion. This meant that the appellant does not have a clue of the reasons for denial of the appellant's appeal at 25-1513;

b) This arbitrary and capricious conduct of the 3rd Circuit is a violation of equal protection constitutional rights of the appellant/petitioner'

c) The 3rd Circuit Appellate Court and the Federal District Court of Western Pa did NOT answer any of the questions of this petition.

17) RELIEF SOUGHT

Appellant respectfully requests that the Court *en banc*:

1. MODIFY TO REMAND, the ruling of the Merit Panel dated June 1, 2026 (ECF No. 76) and its accompanying judgment (ECF No. 77.1);
2. VACATE the District Court's final dismissal orders (ECF No. 104); and
3. REMAND case No. 2:23-cv-2049-CCW back to the Allegheny County Court of Common Pleas(ACCPC) with instructions to enter a default judgment against all defendants and joinder defendants;
4. Enforce sanctions on all the attorneys for engaging in unethical and unprofessional conduct pursuant to Pa Rules of Professional Conduct 1 to 8.4 et seq;
5. Punitive damages against all defendants and joinder defendants pursuant to Pa unfair Trade Practice and Consumer Protection Law
6. Appellee UPMC to Refund the \$45 with interest and penalties;
7. Grant plaintiff's court fees of \$275 at state court, \$1210 appeal fee at Ca3, US Postal cost of \$78 and photo copying costs of \$219,
8. Grant plaintiff/appellant Interest and delay costs inter alia on all damages and payments due ;

WHEREFORE, Plaintiff/Appellant humbly requests this honorable SCOTUS Court to to grant writ of Certiorari and the relief sought. " *let there be justice* "

Respectfully submitted, /s/ John F. Kodenkandeth

John F. Kodenkandeth, Plaintiff-Appellant

WHEREFORE The petition for a writ of certiorari should be granted.

Respectfully submitted,

/S/ JOHN F. KODENKANDETH