

No. \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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**ROBERT DOUGLAS KREB, JR.,**

**Petitioner,**

v.

**INTEGRA AVIATION, ET AL**

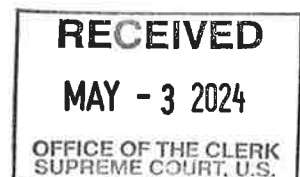
**Respondents.**

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**APPLICATION FOR EXTENSION OF TIME TO  
FILE A PETITION FOR A WRIT OF CERTIORARI**

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ROBERT D. KREB, JR, *pro se*  
2100 SE 40TH AVENUE  
AMARILLO, TX 79118  
(806) 471-3007



### **Rule 29.6 Statement**

1. Robert Douglas Krebs, Jr. is the originator of this pleading and an unrepresented party to diverse causes of brought before the district courts under 28 U.S.C. § 1331 and 28 U.S.C. § 1361 or to affirm constitutional protections afforded by several recent U.S. Supreme Court decisions remand or reversal of Article II agency administrative proceedings' abuses of individuals' constitutional protections profound in Article III Judicial Review provisions were abstained by defective agency application of statutory schemes found in Congressional Acts then affirmed or split in non-uniform judgment of lower appellate bodies such as agency Administrative Law Judges and Review Boards ("ALJ" or "ARB") such as those the Department of Labor ("DOL") was expressly given oversight by Congress' in the Wendell H. Ford Aviation Investment and Reform Act for the 21<sup>st</sup> Century, 49 U.S.C. § 42121 ("AIR21") Whistleblower Protection Program making it unlawful for adverse employment actions by air carriers against employees engaged in protected activities such as mandatory daily safety reporting.

2. The Secretary of the Department of Labor is a U.S. Government Agency represented by the Solicitor of the DOL under which the Occupational Safety and Health Administration ("OSHA") is chartered to oversee the protection of workers from unsafe working conditions. AIR21 was enacted by Congress for OSHA's investigations of AIR21 complaints and DOL ALJ's to hear objections to findings and determinations of OSHA Investigations under 29 CFR 1979.

3. Integra Aviation, LLC is the Air Carrier Employer of Petitioner operating under 14 CFR Part 135 which OSHA investigators determined Petitioner's complaint was merited in their findings and ordered full and immediate reinstatement of Petitioner, for admitting to the retaliation after learning of Petitioner's prior AIR21 activity and is represented by counsel.

4. Apollo MedFlight, LLC is a non-air carrier employer whose corporate officer(s) or other leadership engaged in numerous violations of law and statute for co-mingling finances and management with or exercising unlawful control and improper influence over Integra and is a co-defendant with Integra and several individuals for libel and/or defamation under Texas law and represented by counsel whom is also a co-defendant.

5. Sad Monkey Aviation, LLC and Panavia Air Taxi, LLC are Air Carrier Employers operating under 14 CFR Part 135 that Petitioner timely identified to OSHA in requests for or formal submission of amended claims for verifiable blacklisting of Petitioner under AIR21. However, OSHA repeatedly refused and ignored those formal requests and submissions for many months preceding the April 26, 2023 merit determination and order to reinstate Petitioner. Both defendants are jointly represented by a co-defendant counselor.

6. Individuals named in Petitioner's original complaint are charged in records as evidence shows they are persons as defined in provisions of the Pilot Records Improvement Act 49 USC § 44703(h) "PRIA" for violations of underlying law in the Privacy Act of 1974 and causes of action they are co-defendants with and represented by Counsel for Integra and Apollo.

7. Counsel representing Integra, Apollo and the entities' employees, executives and other leadership is a named co-defendant along with his P.L.L.C. firm for willful violations of PRIA and the Privacy Act as well as for libel and defamation under Texas Law; is represented by other separate in appellate court.

**TO THE HONORABLE SAMUEL A. ALITO, JR., ASSOCIATE JUSTICE  
OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT  
JUSTICE FOR THE FIFTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner respectfully requests a full 60-day extension of time, up to and including June 28, 2024, to file a petition for a writ of certiorari from the United States Court of Appeals for the Fifth Circuit to review that court's Unpublished Opinion and Denial of Rehearing En Banc in *Kreb v. Integra Aviation, LLC, et al* (5<sup>th</sup> Cir. 2024) (attached as Exhibit A and Exhibit B). The Fifth Circuit Opinion and denial for rehearing en banc declined any genuine appellate review of the District Court for the Fifth Circuit of North Texas Amarillo District deviations from established law, unambiguous statute and that split from 5<sup>th</sup> Circuit and other appellate court precedence. Left unchallenged, these rulings have a deleterious effect on U.S. Supreme Court's established laws and relevant pending decisions regarding *Chevron* and balanced against *Axon* and other overdue critique to *Thunder Basin* where this Court consistent and nearly unanimous consenting opinions' Article II Agency ALJ presiding tribunals have meandered far outside of limited scope and subject matter jurisdiction as Congress intended in Acts formulating their origins' preemption of and restrictive Article III Judicial Review to compromise Constitutional Protections the Acts never intended to deprive U.S. Citizens ensnared against their will and unfairly prosecuted in these agency tribunals. The precedence implicitly manufactured and fabricated by the lower courts have a chilling effect of all potential litigation espoused in such established law as this Court was unanimous in *Lucia* regarding Agency ALJ Appointments Clause violations which one principal claim of Petitioner brought in the District Court and following this Court decision in *Axon*, establishing Petitioner right of claims squarely in the law's breadth for agency infractions against Petitioner in an April 17, 2023 conclusion of his former AIR21 action before this Court and

subsequent agency infractions perpetuating the former violation in the second AIR21 action very closely related to the first. Petitioner sought claims against the DOL under Appointments Clause violations of the presiding ALJ in Petitioner's former AIR21 and restrain the DOL from allowing reassignment of the same ALJ to the present AIR21 action and grant Petitioner Injunction of the DOL ALJ from moving forward with a respondent's fatally defective objection to the Secretary's findings while the employer had refused to comply with Secretary orders to reinstate Petitioner; by law was final and not stayed by their objection. This disparity of much conduct by the ALJ is a direct and clear contradiction to the DOL Solicitor's *amicus curiae* before the 3<sup>rd</sup> Circuit in *Lindsey Gulden et al v. Exxon Mobile Corporation* (23-1859, 3<sup>rd</sup> Cir.) in which the DOL stayed those ALJ proceedings while the matter was under judicial review as Congress intended. Still more dire is the lawless and direct attack of the ALJ on Constitutional and established laws in refusal to recuse or disqualify himself as moved by Petitioner for a valid *Lucia* challenge raised commensurate in the district court being openly and defiantly mocked by the ALJ in an opinion defiantly refusing to follow that law as this Court compelled on reverse and remand in that case. The ALJ judicial misconduct in refusing to stay proceedings and/or recuse his assignment while confirming his violations of the Appointments Clause in Petitioner's prior AIR21 case are likely to be a matter for this Court review if his recent unlawful actions to dismiss the entirety of the present AIR21 matter and every valid motion ruling favoring the employer respondent are not reversed or remanded by appellate review including employer respondent never held to account by the DOL or ALJ for failing to comply with the Secretary's mandated reinstatement of Petitioner to his former position.

Petitioner herein prays for extraordinary relief in the Justices' acceptance, review and granting a full extension of 60 days for submission of his petition for writ of certiorari, for the

record will show that defendants in this action can be clearly identified in a persistent and exceptional strain of all professional and ethical conduct for Constitutional protections' deprivation or unequal application of law or statute, discriminated against Petitioner in his present agency action, by withholding agency enforcement or stay in proceedings while agency or personal causes of action were deployed to compel the employer respondent to comply with the agency order for reinstatement that was final, mandatory and not stayed by their objection filed with the DOL under AIR21 required their compliance and the prejudicial ALJ repeatedly and routinely ignored while holding Petitioner to a much higher standard than respondent or their counsel and that disregarded Petitioner's persistent and diligent objections and demand for the ALJ to follow established law and Congress' clearly unambiguous intent of AIR21 statutes.

The ALJ repeatedly acknowledged, briefed and intimated an awareness of Petitioner's Civil Case Status in many of his rulings and decision or other correspondence with the parties to the present AIR21 action. Any reasonable observer could deduce from the timing of decisions or other unnecessary or impulsive orders set upon prejudicially preempting Petitioner from obtaining any default judgments stated before the ALJ he was entitled and then neglecting to preside or otherwise adjudicate an untimely submission of the parties' first appearance and unsupported pleading lacking rebuttal evidence to Petitioner's substantial submissions, any reasonable observer could be swayed the ALJ hasty actions and disheveled rulings at all times were conveniently issued contextually or forming relevant nexus of tolling limits to Petitioner's progress in perfecting his appeals and claims for judicial review of the civil complaint recklessly dismissed by the district court. This clever correlation of the DOL ALJ active deployment of well placed extrajudicial conduct in the agency proceeding yielded an exceptional and extraordinary burden upon Petitioner with an presumed objective to fabricate some induced fatal

defect or default as Petitioner may show the depths and means of the lower courts and agencies can endeavor to undermine this Court's now well established Constitutionally afforded protection for U.S. Citizenry compelled or captured by Article II Agency Administrative prejudice against a subject like Petitioner's Article III Judicial Review by conspicuously coordinating a calculated campaign to subdue Petitioner with exceptional and improper burdens from deferment of the agency's own procedural rules and other clearly established law to deprive petitioners' any or all Constitutional protections from Article III review of agency actions.

Petitioner is reluctant to prayerfully impose upon this Court to grant extraordinary relief for the unexpected passing of an endeared immediate family member in the week preceding this petition and the debilitating distraction it confounded Petitioner while preparing significant simultaneous pleadings' deadlines contributed to circumstance delaying this requested extension.

This matter presents substantial and far reaching precedential questions pertaining to recently well established federal law and also by this Court: Whether district and appellate courts possess such discretion to overrule this Court's established law in any ruling; procedural rules of the courts and/or the clear and unambiguous language framing Congress' intent in U.S. Code:

1. Did the District Court err in dismissal *sua sponte* of the entirety of Petitioner's claims after the summons of the parties were not timely answered nor had they appeared before the Court before the deadline indicated in the summons, to escape default judgments.

2. Did the District Court err in the untimely dismissal *sua sponte* without first noticing Petitioner of his intention and provide an opportunity to cure any alleged defect as subject matter jurisdiction according to Administrative Procedures Act ("APA") were improperly indicted by District Court and contrary to plain language of the claims when viewed in light most

favorable to claimant as rules require and upon revised claims proffered in a motion to reconsider the *sua sponte* dismissal.

3. Did the District Court err refusing to accept Petitioner's claims requiring appropriate judicial review codified in 49 USC § 42121(b)(6) "Enforcement of Order by Parties/Commencement of action;" and 49 USC § 42121(c) Mandamus.

4. Did the District Court err in failing to preserve any remaining diversity of jurisdiction claims plainly separate and apart from those the District Court indicted for dismissal under the APA such as the Privacy Act Violations incorporated in 49 USC § 44703(h) Pilot Records Improvement Act which defines "persons" may be subject to a causes of action for violating provisions of the Act or failing to comply with Privacy Act protections in PRIA.

5. Did the District Court err in failing to advise the litigants or otherwise disclose potential conflicts that could prejudice the court or improperly interfere with presumptive impartiality or perception of fair and equal protection or application of law between litigants.

6. Did the District Court err in failing to grant Petitioner any relief as moved from the Final Judgment or for Leave to Filed an Amended Complaint as is freely granted by courts in procedural rules and affirmed ad nauseam by Circuit Courts of Appeals.

7. Did the District Court err in denying Petitioner's Motion for Reconsideration implying Petitioner was only attempting to "relitigate issues that were resolved to the movant's dissatisfaction" when the District Court belated and improper *sua sponte* dismissal failed to provide Petitioner any opportunity to actually litigate any aspect of any of his claims.

8. Did the District Court err in failing to remain impartial, demonstrating biases or prejudices in denying all of Petitioner's motions for relief from and reconsideration of the dismissal, other courts routinely and freely grant however, the District Court inappropriately



framed another biased and prejudicial decision against Petitioner in another cause of action in another district court where previously disclosed conflicts were not waived when the Covid Pandemic forced Petitioner's counsel to withdraw representation in that matter and prior to the Magistrate Judge's retirement, the court unfairly dismissed that action and a technical defect in Petitioner's appeal deprived him of any appellate review for that Court's biased and prejudicial conduct. Here, the District Court openly mocked Petitioner and demonstrated a disdain for Petitioner and all of his claims in that denial of the motion to reconsider dismissal.

9. Did the Appellate Court err in concealing their affirming the District Court ruling undermining of this Court established law, procedural rules and the plain language of the statute by failing to allow the openly defiant affirmation to be published as a relevant and determined application of the APA could avoid public scrutiny and substantive amicus responses in the heightened public and judicial scrutiny administrative agency conduct is presently subject and with several outstanding matters before this Court such as Jarkey and Chevron await rulings.

10. Did the Appellate Court Panel decision denying Petitioner's appeal split from precedence of this Circuit and other Appellate reversals requiring District Courts to follow procedural rules in sua sponte dismissal and notify the parties of the court's intention to dismiss the action and provide plaintiff's an opportunity to cure alleged defects as many courts' precedence provided multiple opportunities for many plaintiffs to cure defective claims.

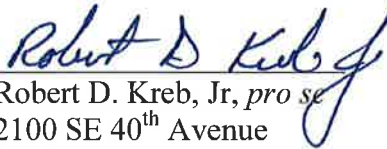
11. Did the Appellate Court Panel decision denying Petitioner's appeal violate appellate rules by failing to remand those diversity of claims not related to the APA and apart from the implied "non-final" agency action for proper adjudication under those clearly civil causes of action ripe for the District Court.

12. Did the Appellate Court err in improperly applying appellate rules to refrain from taking evidence or arguments not in the record for the District Court heard no arguments nor provided no opportunity for Petitioner to raise any adjudicative facts before the District Court prior to *sua sponte* dismissal having the chilling effect of denying petitioner any opportunity to be heard in any court under improperly applied APA preemption or even appeal such decisions.

Accordingly, Petitioner respectfully requests an order be entered extending the time to file a petition for writ of certiorari for 60 days, up to and including June 28, 2024.

Dated: April 27, 2024

Respectfully Submitted,

  
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**APPENDIX A**

**KREB V. INTEGRA AVIATION, LLC, ET AL**

Unpublished Opinion  
Denial of Appeal  
Document #44  
5<sup>th</sup> Circuit Court of Appeals  
December 29, 2023

United States Court of Appeals  
for the Fifth Circuit

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No. 23-10758  
Summary Calendar

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United States Court of Appeals  
Fifth Circuit

**FILED**

December 29, 2023

Lyle W. Cayce  
Clerk

ROBERT KREB,

*Plaintiff—Appellant,*

*versus*

INTEGRA AVIATION, L.L.C., *doing business as* APOLLO MED FLIGHT; APOLLO MED FLIGHT, L.L.C.; PANAVIA AIR TAXI, L.L.C., *doing business as* HAVEN AERO, L.L.C.; HAVEN AERO, L.L.C.; FLIGHT MECHANIX, L.L.C.; YOUNG FIRM, P.C.; LEE McCAMMON, *Corporate Officer of Apollo*; THOMAS L. KLASSEN, *Director of Operations*; JOSEPH H. BELSHA, III, *Chief Pilot*; WHITNEY SMITH, *Vice President of Human Resources*; TRAVIS LAMANCE, *Director of Maintenance*; JEREMI K. YOUNG; SECRETARY, *United States Department of Labor*,

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:23-CV-88

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Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:<sup>\*</sup>

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<sup>\*</sup> This opinion is not designated for publication. See 5TH CIR. R. 47.5.

No. 23-10758

Robert Kreb, a pilot, was fired by Integra Aviation after his repeated reports that his flight operation assignments did not comply with federal aviation regulations. He sued, *pro se*, various private parties and the Secretary of Labor, claiming violations of the Privacy Act of 1974 and the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century, and asserting libel, defamation, and slander under state law. Those claims were also pending before the Department of Labor. Kreb sought a temporary restraining order to enjoin the DOI from initiating a review of his claims by an administrative law judge.

In a five-page order issued June 21, 2023, the district court denied the TRO and dismissed the action, without prejudice, for want of subject matter jurisdiction. We affirm that dismissal, essentially for the reasons assigned by the district court.

That court properly determined that the Administrative Procedure Act does not authorize judicial interference with an agency action that is not “final.” The court distinguished *Axon Enterprise, Inc. v. FTC*, 143 S. Ct. 890 (2023), because it involved a structural, constitutional claim, which Kreb’s suit does not. The district court also observed that the claims related to the non-federal defendants “are not yet fit for adjudication in federal court.” And the court noted that the suit includes non-diverse parties.

As carefully explained by the district court, the dismissal without prejudice is correct and is AFFIRMED.

**APPENDIX B**

**KREB V. INTEGRA AVIATION, LLC., ET AL**

Unpublished Opinion  
Denying Rehearing En Banc  
5<sup>th</sup> Circuit Court of Appeals  
January 29, 2024

United States Court of Appeals  
for the Fifth Circuit

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No. 23-10758

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ROBERT KREB,

*Plaintiff—Appellant,*

*versus*

INTEGRA AVIATION, L.L.C., *doing business as* APOLLO MED FLIGHT; APOLLO MED FLIGHT, L.L.C.; PANAVIA AIR TAXI, L.L.C., *doing business as* HAVEN AERO, L.L.C.; HAVEN AERO, L.L.C.; FLIGHT MECHANIX, L.L.C.; YOUNG FIRM, P.C.; LEE McCAMMON, *Corporate Officer of Apollo*; THOMAS L. KLASSEN, *Director of Operations*; JOSEPH H. BELSHA, III, *Chief Pilot*; WHITNEY SMITH, *Vice President of Human Resources*; TRAVIS LAMANCE, *Director of Maintenance*; JEREMI K. YOUNG;

SECRETARY, *United States Department of Labor,*

*Defendants—Appellees.*

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Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 2:23-CV-88

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ON PETITION FOR REHEARING EN BANC  
Before SMITH, HIGGINSON, and ENGELHARDT, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a petition for panel rehearing (5<sup>TH</sup> CIR. R. 35 I.O.P.), the petition for panel rehearing is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5<sup>th</sup> CIR. R. 35), the petition for rehearing en banc is DENIED.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**



## CERTIFICATE OF SERVICE

This is to certify that the foregoing instrument has been served via UPS PRIORITY EXPRESS OVERNIGHT MAIL to the Court Clerk in compliance with Rule 29 of the Supreme Court Rules, April 27, 2024, on all registered counsel of record and unrepresented and interested parties to the action via Electronic Mail as Provided in the Appellate Court Record or USPS First Class Mail.



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