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

RICKY KAMDEM-OUAFFO, PhD

Petitioner

v.

COLGATE PALMOLIVE CO; HILLS PET NUTRITION; NATURASOURCE INTERNATIONAL LLC; REARDON ANDERSON LLC; MORGAN LEWIS & BOCKIUS LLP; LAW OFFICE OF MARK A KRIEGEL LLC; VINCENT LEBLON, J.S.C.; TERRY D. JOHNSON, ESQ.; TODD B. BUCK, ESQ.; MARK A.. KRIEGEL, ESQ.; LASZLO POKORNY; MS. KIM; ALLISON A. KRILLA, ESQ.; ERIK ANDERSON, ESQ.; RUDOLPH J. BURSHNIC, II, ESQ.; RICHARD G. ROSENBLATT, ESQ.; CLERK NEW JERSEY SUPERIOR COURT; DEBRA NICHOLS; DAVE BALOGA; SARAH B. MARTINEZ; LUIS J. MONTELONGO; BRENT K. POPE; DENNIS JEWELL; LYNDA MELENDEZ; JASON, Hon. Leblon's Law Clerk; COLGATES SCIENCE & TECHNOLOGY; DONALD TRAUT; AKEEL A. QURESHI; ATTORNEY GENERAL NEW JERSEY; LAW OFFICE OF GERARD M GREEN; ET AL...

Respondents

**ON PETITION FOR A WRIT OF CERTIORARI TO
THE US COURT OF APPEALS FOR THE THIRD CIRCUIT
CASE No. 23-2982**

**APPLICATION ADDRESSED TO JUSTICE SAMUEL ALITO FOR
EXTENSION OF THE TIME TO FILE A PETITION FOR WRIT OF
CERTIORARI IN US COURT OF APPEALS CASE No. 23-2982**

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Ricky Kamdem-Ouaffo, PhD, Pro Se
86 Bayard Street No. 381
New Brunswick, NJ 08903
Tel: 1 732 763 8622
E-mail: rickykamer@gmail.com.

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I. GROUND FOR THE APPLICATION

A Petition for a Writ of Certiorari is due for US Court of Appeals for Third Circuit Case No. 23-2982 no later than 10/28/2024. A timely Petition for Rehearing was Denied by the US Court of Appeals for the Third Circuit on 07/30/2024 (See **EXHIBIT A**).

Petitioner prays for a 60-days extension of the time to file his Petition for a Writ Of Certiorari. The need for an extension of time arises from the fact that the Third Circuit issued its final Decision on 07/30/2024 when Petitioner was preparing two other Petitions for Writs of Certiorari for US Court of Appeals for the Second Circuit Cases No. 23-455 and 23-458. In fact, as can be seen at **EXHIBIT B**, on 07/31/2024, that is the day after the US Court of Appeals for the Third Circuit issued its Final Decision in Case No. 23-2982, the Supreme Court Granted Petitioner's Application No. 24A69 for an Extension of time to file Petitions for Writs Of Certiorari in Second Circuit Cases No. 23-455 and 23-458. Pursuant to the Supreme Court's 24A69 Order, Petitioner filed and served a timely Petition for Writs Of Certiorari on 08/27/2024 (See **EXHIBIT C**). However, as can be seen at **EXHIBIT C**, on 09/04/2024, the Clerk of the Supreme Court issued an Order directing Petitioner to make corrections to his timely filed petitions and also allowed Petitioner an additional 60 days to do so. Petitioner complied with the Clerk's 09/04/2024 Order and upon completing the corrections required by the Clerk, Petitioner mailed

the Corrected Petitions which were then delivered to the Clerk of the Supreme Court on 10/04/2024 (See **EXHIBIT D**). So, it is only now that Petitioner has the opportunity to start conducting the necessary legal research to prepare a Petition for a Writ of Certiorari in the US Court Appeals Case No. 23-2982. Accordingly Petitioner prays that the Court grants a 60-days extension of the time to prepare and file his Petition by the date of 12/27/2024.

II. BACKGROUND OF THE CASE AND PROCEDUAL HISTORY

This lawsuit is an independent Action pursuant to the Fed. R. Civ. P. Rule 60(d) for Fraud upon the court. An independent Action for fraud on the court does not stand alone, therefore it is necessary to provide background on the cases in which the alleged fraud upon the court occurred.

A. Court Cases In Which Fraud Upon The Court Was Perpertrated

1. *Kamdem-Ouaffo v. NaturaSource International LLC*, NJ Superior Court Case No. MID-L-5527-13

Petitioner alleged that he had developed a fermented dairy flavoring for use to impart multifunctionalities in pet foods including cats and dogs. Several studies were conducted by Petitioner himself and by independent laboratories to confirm the functionalities associated with Petitioner's flavoring system. The system was unique because it provided solution to an industry challenge that the commercially available antimicrobial were known to decrease palatability. However, Petitioner's flavoring was designed to be antimicrobial and to improve palatability at the same time.

Petitioner successfully scaled up his product and started confidentially providing samples along with the product claims to pet food manufacturers. Colgate Palmolive Company was interested and made a confidentiality agreement for information and samples to be provided to its subsidiary Hill's Pet Nutrition Inc. Hill's tested the flavoring and reported good results. But after a while they stopped communicating. While other Pet food manufacturers were still assessing how to incorporate Petitioner's flavoring in their commercial pet foods, Colgate and its subsidiary file Patent Applications at the Patent Cooperation Treaty ("PCT") containing the same claims Petitioner had disclosed to them about the functionalities of his flavoring. The PCT found that the claims were novel, but issued a Written Opinion in the year 2012 stating that Hill's Pet Nutrition Inc and Colgate Palmolive did not prove the inventorship of the novel of the novel PCT Patent claims.

In 2013, Petitioner retained the Law Firm Reardon Anderson to litigate the matter. Reardon Anderson filed a lawsuit at the Superior Court of New Jersey under the Superior Court of New Jersey Docket No. MID-L-5527-13 (See **EXHIBIT E, 3:15-cv-06290-AET-LHG Document 16-2, PageID 2478 -2495**). The lawsuit alleged that Colgate Palmolive Company and its Subsidiaries had misappropriated novel patent claims from Petitioner and had claimed the same in International Patent Applications, including PCT Patent Application No. PCT/US2011/046422 filed with the Patent Cooperation Treaty ("PCT").

In Mid-June 2015 Reardon Anderson withdrew from the case and Petitioner started his self-representation and Petitioner started his Pro Se Representation. By that time Colgate Palmolive Company had entered National Stage PCT Patent Applications in numerous Countries including in the European Union, Canada, China, Russia, Brazil, Japan, Etc... (See **EXHIBIT F, 2:22-cv-06623-CCC-JBC Document 95-10, PageID 4409 – 4414**) Upon reviewing the case files transferred to Petitioner by Reardon Anderson law firm, Petitioner decided to Remove his Action from the State Court to the Federal Court under 28 U.S.C. §1454 because the resolution of the lawsuit in essence hinged onto answering the Question of who invented the novel Patent Claims PCT Application No. PCT/US2011/046422. Furthermore, the Patent Cooperation Treaty is a Treaty of United States had issued an Opinion in the year 2012 that although it found novel Patent Claims in Colgate Applications, Colgate had failed to produce the data in support of the invention (See **EXHIBIT F, 2:22-cv-06623-CCC-JBC Document 95-10, PageID 4416**). Upon such background, Petitioner prepared his Notice of Removal pursuant to 28 U.S.C. §1454 for the Removal of his MID-L-5527-13 Action from NJ Superior Court to the US District Court for the District of New Jersey. Petitioner filed and served his Notice of Removal by mail through FedEx on 08/13/2015 and the documents were delivered on 08/14/2015 on the Clerk of the US District Court for the District of New Jersey, the Clerk of the Superior Court of New Jersey, and on all Respondents

that were sued in the Petitioner's MID-L-5527-13 Action (See **EXHIBIT G**). Along with copies of the Record submitted to the Clerk of the Superior Court of New Jersey, Petitioner submitted a legal analysis under 28 U.S.C. §1446(d) which provides the procedures to be followed during Removal, and petitioner stated "...proceed no further..." (See **EXHIBIT H, 2:22-cv-06623-CCC-JBC Document 181-8 , PageID: 12287**).

Petitioner's Notice of Removal comprised of a Pleading of the grounds for Removal under 28 U.S.C. §1454 and a copy the entire Record of the proceedings that took place or were pending in the MID-L-5527-13 Action in the NJ Superior Court. The total weight of the documents mailed to each party was in the range of 18.2 Lbs/8.26 Kgs to 21.1 Lbs/9.57 Kgs (See **EXHIBIT G, 2:22-cv-06623-CCC-JBC Document 181-3 , PageID: 12274**). Petitioner's Notice of Removal was delivered to the US District Court, the Clerk of NJ Superior Court, and onto Defendants on 08/14/2015. Nothing was left for NJ Superior Court to continue to work on. In addition, Plaintiff's Notice Of Removal included a Cover Letter titled **"Docket Number MID-L-5527-13 - NOTICE OF REMOVAL PRUSUANT TO 28 U.S.C. §1454 AND 28 U.S.C. §1338"** which stated the following:

"In view of the provisions of 28 U.S.C §1338 and pursuant to 28 U.S.C. §1454 & 28 U.S.C. §1446(d), I am removing this patent matter from the State Court to bring it to the United States District Court. 28 U.S.C. §1446(d) states the following: "Notice to Adverse Parties and State Court — Promptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse

parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded."

Please be informed that I have a Notice of Removal with the United States District Court for the District of New Jersey, therefore I am demanding pursuant to 28 U.S.C 1446(d) that you must direct the Superior Court of the State of New Jersey and the Judges assigned to this case to "**...Proceed No Further...**" and to immediately stop any activity on MID-L-5527-13." (See **EXHIBIT H, 2:22-cv-06623-CCC-JBC Document 181-8, PageID: 12287**).

And On the same date of 08/14/2015, the US District Court for the District of New Jersey immediately exercised its jurisdiction on the case, including sending Notification to the Director of the USPTO (See **EXHIBIT I, 2:22-cv-06623-CCC-JBC Document 181-10, PageID: 12297**).

2. *Kamdem-Ouaffo v. NaturaSource International LLC*, NOTICE OF REMOVAL Case No. 3:15-cv-06290-AET-LHG in the US District Court For The District Of New Jersey, and Subsequently In The US Court Of Appeals For The Third Circuit As Case No. 16-2304

In reaction to the Petitioner's Notice of Removal, Respondents lawyers and the Judge assigned to Petitioner's MID-L-5527-13 Action contacted Petitioner to ask Petitioner to attend a hearing at NJ Superior at a future date. Petitioner declined their invitation and reminded them to comply with the mandate of 28 U.S.C. §1446(d) stating "...proceed no further...." (See **EXHIBIT H, 2:22-cv-06623-CCC-JBC Document 181-8, PageID: 12287**). But in violation of 28 U.S.C. §1446(d), Respondents held a meeting at NJ Superior Court on 08/20/2015 which was attended during which they fabricated some so-called court Orders OF Summary Judgment

representing that Colgate Palmolive company was the true inventor of the novel PCT Patent Claims and that Petitioner's claims have no basis in law or in fact (See **EXHIBIT J**). Within a couple weeks from their 08/20/2015 post-removal meeting, Respondents then Certified the transcript and their 08/20/2015 post-removal meeting and the so-called Orders of Summary Judgment and filed the same in support of a Motion to Remand Petitioner's case back to the NJ Superior Court (See **EXHIBIT E, 3:15-cv-06290-AET-LHG Document 16-2 PageID: 2497 – 2517, Certification and Transcript of 08/20/2015 meeting**). Then based upon those Orders that were fabricated on 08/20/2015, the District Court Dismissed Petitioner's Notice of Removal stating that Petitioner had filed his Notice of Removal because Petitioner was trying "*to avoid the inevitable*" and that Petitioner was just trying "*to get a second bite at the American pie.*" However, the District Court did not address the patent question that was raised by Petitioner in his Notice of Removal. Subsequently the US Court of Appeals for the Third Circuit as Case No. 16-2304 Affirmed the Dismissal of Petitioner's Notice of Removal on the same basis as the District Court.

3. Kamdem-Ouaffo v. Leblon, et al., District Court Case No. 15-cv-07481-AET-TJB;US Court of Appeals For The Third Circuit Case No. 16-1006

In this Action, Petitioner alleged that the post-removal meeting held by Respondents on 08/20/2015 after the proper filing and service of Petitioner's Notice of Removal in the Petitioner's MID-L-5527-13 Action was a violation of 28 U.S.C.

§1446(d) and that the so-called Orders of Summary Judgment they fabricated during the said meeting were VOID (See **EXHIBIT K, 3:15-cv-07481-AET-TJB Document 8 PageID: 87 – 97, 138**). However, the District Court Dismissed Petitioner's Complaint and made numerous and demeaning and defamatory remarks against Petitioner, including saying that Petitioner had sued only because Respondent Vincent Leblon had ruled against Petitioner on 08/20/2015. On Appeal in the US Court of Appeals for the Third Circuit Case No. 16-1006, the Court of Appeals the Dismissal and added more defamatory statements against Petitioner.

4. *Kamdem-Ouaffo v. Colgate Palmolive, et al.*, District Court Case No. 15-cv-07902-CCC-JBC; US Court of Appeals For The Third Circuit Case No. 21- 1198

Petitioner filed this lawsuit as a Diversity Case on Claims that had been dismissed earlier by NJ Superior Court Judge Kantor without prejudice during the MID-L-5527-13 Action (See **EXHIBIT L, 2:15-cv-07902-CCC-JBC Document 39, Cantor's Orders**). But the District Court dismissed the Action based upon the preclusion doctrines with regard to the Orders that were fabricated by Respondents on 08/20/2015. The Third Circuit Affirmed the Dismissal in US Court of Appeals for the Third Circuit Case No. 21- 1198

B. Post Judgments Proceedings To Vacate Void Court Orders

1. Motions To Vacate Pursuant To The Fed. R. Civ. P. Rule 60(b)(4) And NJ Court Rule 4:50-3

When the Supreme Courts issued its *Sua Ponte* Decision *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 140 S. Ct. 696, 206 L. Ed. 2d 1 (2020), Petitioner filed Motions pursuant the Fed. R. Civ. P. Rule 60(b)(4) and its NJ equivalent NJ Court Rule 4:50-3 to ask the inferior courts to vacate their Jurisdictionally and Procedurally VOID court Orders but they Denied the Motions. Petitioner argued that their Orders, Judgments, and Mandates in the Petitioner's prior Cases were Jurisdictionally and Procedurally VOID because they were premised upon State Court Orders that were fabricated by Respondents on 08/20/2015 in a post-removal meeting violating 28 U.S.C. §144(d). But they Denied Petitioner's Motion, notwithstanding *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 140 S. Ct. 696, 206 L. Ed. 2d 1 (2020).

C. Colgate's National Stage Patent Prosecution at the USPTO

On 06/04/2022, the United States Patent Office ("USPTO") issued a Notice of Final Rejection and of Abandonment concluding the fourth rounds of US National Stage Patent Application process it had allowed Colgate Palmolive Company on its PCT Applications. Thus, even though Respondents had stated during their 08/20/2015 post-removal meeting that Colgate was the true inventor (See **EXHIBIT E, 3:15-cv-06290-AET-LHG Document 16-2 PageID: 2497 – 2517, Certification**

and Transcript of 08/20/2015 meeting), in the seven years that followed Colgate Still could not produce evidence in support of novel PCT patent claims it had disclosed PCT Application No. PCT/US2011/046422.

D. Kamdem-Ouaffo v. Colgate Palmolive, et al., District Court Case # 22-cv-06623-CCC-JBC; U Court Of Appeals For The Third Circuit Case No. 23- 2982

In light of On 06/04/2022, the United States Patent Office (“USPTO”)’s Notice of Final Rejection and of Abandonment, Petitioner filed this lawsuit as an independent Action alleging Fraud Upon the Court in all prior Actions. And once again, notwithstanding the Supreme Court’s decision *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano* 140 S. Ct. 696 (2020), the District Court dismissed Petitioner’s independent Action based upon preclusion and immunities doctrines which they claimed are derived from the Orders that were fabricated by Respondents during their 08/20/2015 post-removal meeting at NJ Superior Court. They also stated that Petitioner will not be able to prove that Fraud Upon the court was committed in prior Actions. However, the records of the NJ Superior Court and of the US District Court for the District of New Jersey are unanimous on the fact that Petitioner had filed and served his Notice of Removal for the MID-L-5527-13 Action on 08/14/2015 (See **EXHIBIT M [2:22-cv-06623-CCC-JBC Document 181-1 PageID: 12263]**, And **EXHIBIT N [2:22-cv-06623-CCC-JBC Document 181-1 PageID: 12268]**)

III. SUGGESTED QUESTIONS TO BE PRESENTED IN SUPPORT OF A WRIT OF CERTIORARI

With regard to the Questions that Petitioner has in view for the Supreme Court, it appears to Petitioner as if the Supreme Court already divinely and providentially Decided the outcome of this lawsuit of in its 2020 *Sua Ponte* Decision in the matter of *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano*, 140 S. Ct. 696, 206 L. Ed. 2d 1 (2020) in which the Courts held the following:

“Once a notice of removal is filed, "the State court shall proceed no further unless and until the case is remanded." 28 U. S. C. § 1446(d) ². The state court "los[es] all jurisdiction over the case, and, being without jurisdiction, its subsequent proceedings and judgment [are] not ... simply erroneous, but absolutely void." *Kern v. Huidekoper* , 103 U.S. 485, 493, 26 L.Ed. 354 (1881). "Every order thereafter made in that court [is] *coram non judice* ," meaning "not before a judge." *Steamship Co. v. Tugman* , 106 U.S. 118, 122, 1 S.Ct. 58, 27 L.Ed. 87 (1882); Black's Law Dictionary 426 (11th ed. 2019). See also 14C C. Wright, A. Miller, E. Cooper, J. Steinman, & M. Kane, Federal Practice and Procedure § 3736, pp. 727–729 (2018)

² "The laws of the United States relating to... removal of causes ... as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the United States District Court for the District of Puerto Rico and the courts of Puerto Rico." 48 U. S. C. § 864.

The Court of First Instance issued its payment and seizure orders after the proceeding was removed to federal district court, but before the federal court remanded the proceeding back to the Puerto Rico court. At that time, the Court of First Instance had no jurisdiction over the proceeding. **The orders are therefore void.**" *Id* at 700.

The Supreme Court's *Sua Ponte* ruling in *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano* 140 S. Ct. 696 (2020) was a refresher of *Kern v. Huidekoper* 103 U.S. 485 (1880) which held the following:

“Where a State court, proceeding to the trial of a suit which had been removed therefrom, renders judgment against the party, whose petition for a removal it erred in refusing to grant, **he may raise here the question as to the jurisdiction of that court**, notwithstanding the fact that he appeared at the trial and insisted upon the merits of his cause of action or defence.”

And with specific regard to the Subject Matter Jurisdiction of the federal Courts, the Supreme stated the following:

In *Ins. Corp. of Ir. v. Compagnie Des Bauxites De Guinee*, 456 U.S. 694, 102 S. Ct. 2099 (1982), the Supreme Court explained the following:

“The validity of an order of a federal court depends upon that court's having jurisdiction over both the subject matter and the parties. *Stoll v. Gottlieb*, 305 U.S. 165, 171-172 (1938); *Thompson v. Whitman*, 18 Wall. 457, 465 (1874). The concepts of subject-matter and personal jurisdiction, however, serve different purposes, and these different purposes affect the legal character of the two requirements.....

Federal courts are courts of limited jurisdiction. The character of the controversies over which federal judicial authority may extend are delineated in Art. III, § 2, cl. 1. Jurisdiction of the lower federal courts is further limited to those subjects encompassed within a statutory grant of jurisdiction. Again, this reflects the constitutional source of federal judicial power: Apart from this Court, that power only *702 exists "in such inferior Courts as the Congress may from time to time ordain and establish." Art. III, § 1.

Subject-matter jurisdiction, then, is an Art. III as well as a statutory requirement; it functions as a restriction on federal power, and contributes to the characterization of the federal sovereign. Certain legal consequences directly follow from this. For example, no action of the parties can confer subject-matter jurisdiction upon a federal court. Thus, the consent of the parties is irrelevant, California v. LaRue, 409 U.S. 109 (1972), principles of estoppel do not apply, American Fire Casualty Co. v. Finn, 341 U.S. 6, 17-18 (1951), and a party does not waive the requirement by failing to challenge jurisdiction early in the proceedings. Similarly, a court, including an appellate court, will raise lack of subject-matter jurisdiction on its own motion. "[T]he rule, springing from the nature and limits of the judicial power of the United States is inflexible and without exception, which requires this court, of its own motion, to deny its jurisdiction, and, in the exercise of its appellate power, that of all other courts of the United States, in all cases where such jurisdiction does not affirmatively appear in the record."

Petitioner argued in all prior court cases and in post-judgment motions to vacate that the so-called State Court of Summary Judgment had no validity and could not effectuate any preclusion on the Petitioner's claims. However, the Third Circuit seems to be in Denial and has simply refused to honor the Decision of the Supreme Court in *Roman Catholic Archdiocese of San Juan v. Acevedo Feliciano* 140 S. Ct. 696 (2020). There are very many questions that could be raised but Petitioner has identified the following two questions as leading ones:

1) WHETHER A FEDERAL COURT HAS THE SUBJECT-MATTER JURISDICTION UNDER ANY LAW OF THE UNITED STATES TO "ORDER, DECREE, ADJUDGE" OR "AFFIRM" THAT A STATE COURT HAS SUBJECT-MATTER JURISDICTION OVER AN ACTION THAT WAS PROPERLY

REMOVED TO A FEDERAL COURT, AND WHETHER IN DOING SO THE INFERIOR COURTS DEPRIVED PETITIONER'S FUNDAMENTAL CONSTITUTIONAL RIGHTS.

2) WHETHER A FEDERAL COURT OTHER THAN THE US COURT OF APPEALS FOR THE FEDERAL CIRCUIT AND US DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA HAS ORIGINAL SUBJECT-MATTER JURISDICTION TO "ORDER, DECREE, ADJUDGE" OR "AFFIRM" THAT A NOTICE OF FINAL REJECTION ISSUED BY THE PCT AND USPTO ON A PCT PATENT APPLICATION ON GROUND OF THE APPLICANT'S FAILURE TO PRODUCE RELEVANT DATA IS NOT SUFFICIENT TO SUPPORT A COURT CLAIM THAT THE APPLICANT WAS NOT THE INVENTOR OF THE NOVEL PATENT CLAIMS DISCLOSED IN THE SAID PCT APPLICATION.

IV. REQUEST FOR RELIEF

Based upon all the above, Petitioner's prays that the court allows a 60-days extension of the time to prepare and file a petition for a Writ Of Certiorari in US Court of Appeals for The Third Circuit Case No. 23-2982 and set a new due date for 12/27/2024.

Respectfully submitted.

A handwritten signature in black ink, appearing to read 'Ricky Kamdem-Ouaffo'. The signature is stylized with large loops and a long horizontal stroke at the bottom.

Ricky Kamdem-Ouaffo, PhD., Pro Se
86 Bayard Street No. 381
New Brunswick, NJ 08903
Tel: 1 732 763 8622
E-mail: rickykamer@gmail.com