No.

In the Supreme Court of the United States

TERM, 2011

NICHOLAS E. PURPURA, and DONALD R. LASTER Jr.,
ET AL., PETITIONERS

V.

UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES;
KATHLEEN SEBELIUS, in her official capacity individually & in their official capacity as the Secretary of the United States, Department of Health and Human Services;
UNITED STATES DEPARTMENT OF THE TREASURY;
TIMOTHY F. GEITHNER, in his official capacity as the Secretary of the United States Department of the Treasury;
UNITED STATES DEPARTMENT OF LABOR; and HILDA L. SOLIS, in her official capacity as Secretary of the United States Department of Labor,

_____

Petition for a Writ of Certiorari
to the United States Court of Appeals for the Third Circuit

_____

PETITION FOR WRIT OF CERTIORARI

_____

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QUESTIONS PRESENTED

The compelling reason to grant this Writ for certiorari under the United States Constitution is the question of whether or not it is permissible for any branch of government to deviate from, alter or exceed the powers granted under the Articles and Amendments of the Constitution without using the prescribed procedures. This Court is vested with the judicial power to correct any and all injustices including legislation that exceeds the defined and enumerated legislative powers granted under the Constitution. The questions presented are whether:

1. Federal Court[s] can refuse to adjudicate constitutional challenges to provisions set forth in the "*Patient Protection and Affordable Care Act*" "H.R.3590" that violates the United States Constitution in 19-specific incidents cited in Petitioners' 15-Count Petition;

2. The "*due process*" clause and Amendment 1 grants any citizen the right to dispute an unconstitutional act that eliminates judiciary enforced boundaries;

3. The District and Circuit Courts, in an abuse of power, can arbitrarily and capriciously ignore statutes, the *Fed. R. Civ. P.*, the Fed R. App. P., *Prior Precedent*, and the United States Code to avoid addressing specific Constitutional challenges;

4. Petitioners sufficiently posit actual and imminent injury stemming from the provisions in "Act" "H.R.3590"; and,

5. Individual jurists can use the Courts, under the "*color of law*", to set forth false and misleading findings, distort facts, law, and precedent to affirm a procedurally infirm District Court decision, and in their same order, use intentional economic harm and injury by imposing unfair costs[1] upon Petitioners for pursuing their Constitutional Rights to

[1] Please Take Mandatory Notice (Federal Rules of Evidence 201(d)) that Petitioners had a lawful right to proceed without cost, based upon the following law:

The U.S. Supreme Court has ruled that a natural man or woman is entitled to relief for free access to its judicial tribunals and public offices in every State in the Union (2 Black 620, see also *Crandell v. Nevada*, 6 Wall 35). Plaintiff should not be charge fees, or costs for the lawful and constitutional right to petition this court in this matter in which he is entitled to relief, as it appears that the filing fee rule was originally implemented for fictions and subjects of the State and should not be applied to the Plaintiff who is a natural individual and entitled to relief; *Hale v. Henkel*)(201 U.S. 43)

judicial review concerning blatant violations of their Constitutional Rights to deprive them from contesting or pursuing further litigation?

The ultimate question is are we a Republic ruled by constitutional law as founded, or a nation now governed by the dictates of despots that control not only our legislature, but many in our judiciary? Battles for civil rights are crucial and are more often crucial than battles against foreign despots. Are the despots overseas any different from those at home if our Legislature, Executive and/or Judiciary can trample upon our Constitution treating it no better than useless rags to be discarded at whim?

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OPINIONS BELOW

The Judgment and Opinion; U. S. Court of Appeals Third Circuit (A-1-5) of this petition filed September 29, 2011 [Authored Judge Vanaskie].

The Order; U.S. Court of Appeals Third Circuit (A-11-14) [5-motion] filed August 1, 2011 [Authored Judge Greenaway].

The Order and Opinion; U. S. District Court Civ. No. 3-10-cv-04814 (A-23-44) filed April 21, 2011 [Judge Wolfson].

1254, Certified questions is invoked 28 U.S.C. 1254(1) (2)

JURIDICTION AND STATUTORY PROVISIONS INVOLVED

1. Article 3, Section 2, specific violations of Articles 1, 2, 3, 4, 5, 6, Amendments 1, 4, 5, 9, 10, 13, 14, and 16 of the U.S. Constitution and the U.S. Federal Code.

2. Violations of Title 28 and Title 42, U.S.C.A. 1985 (conspiracy to interfere with civil rights), 42 U.S.C.A. 1983, 1343, (1982) and 1985; judges presiding in violation Title 28 Section 455; Petitioner brings this action pursuant to *inter alia*, Title 28 U.S. Code 1331, and 28 U.S.C. 1332(a).

The phrase "law of the land" refers to positive law, as well as compatible common law related to all of the above.

STATEMENT

A Constitutional Crisis has been created by the failure to adhere to the Constitutional Contract

Petitioners apologize for the length and breadth of this Petition, but Petitioners are compelled to alert the Court of, not just mistakes, but intentional denial of procedural "*due process*" and unlawful behavior. A quote from the Declaration of Independence is applicable in this case, "*in every stage of these oppressions we have petitioned for redress in the most humble terms. Our petitions have been answered only by repeated injury*."

3. Petitioners submitted the most comprehensive Petition in the Nation against the "*Patient Protection and Affordable Care Act*" containing **19-specific violations of the Constitution and 4 pre-existing laws**. For expediency the lower Courts dismissed the Petition exhibiting a lack of experience in and knowledge of the laws of the land. Under the "*color of law*" the Court used economic harm to intimidate and dissuade Petitioners from challenging the unconstitutionality of "H.R.3590". Each Opinion, Order and Judgment disregarded law, precedent, and Constitution:

> *Justice Ruth B. Ginsburg Justice Breye:,* [*Bond v. United States*] *made clear: "In short, a law "beyond the power of Congress," for any reason, is "**no law at all**." Nigro v. United States, 276 U. S. 332, 341 (1928).*

4. At bar, are Constitutional challenges that unilaterally render the Constitution meaningless, granting unfretted power to the Federal government to abrogate Petitioners Civil Rights? Petitioners thoroughly scrutinized the "*Patient Protective and Affordable Care Act*" and cite with specificity and particularity each provision that conflicts with the Constitution. Yet, the lower courts behaved as if Petitioner had no civil rights, effectively erasing the Constitution and Bill of Rights, reminiscent of the *Jim Crow* days.

5. Each Opinion and Order finds no basis in law, reason, logic or prior public policy to support the outcome, consequently equity and justice was non-existent! Repeatedly the Courts acted in: 1) absence of "*subject-matter jurisdiction";* 2) violated statutes; 3) prior policy; 4) rules of procedure; 5) precedent; 6) procedural "*due process*" and 7) "*equal protection*".

6. For expedience the District Court denied the Petition based upon misapplication of: "*standing*" and "*subject-matter jurisdiction*". Also acknowledged it did not address the merits *based upon jurisdiction considerations*. See, (A-28,n,4&6 A-30,A-40)

7. The Circuit Court unable to dispute the facts, law, or Constitutional violations alleged throughout the Healthcare "Act's" provisions, refused to acknowledge Defendants had forfeited in the lower Court issued a "NOT PRECEDENTIAL" OPINION and ORDER, (A 7-n.3)) affirming the District Court ruling.

8. The Opinion (A-3-7) points to no relevant citation to the issue at bar, distorts facts, law, and **fails to address the exception to Rule 12 (b) (1)** that renders it inapplicable. Void any legal explanation for the departure from *prior policy*. *see Anastasoff v. United States*, 233 F.3d 898):

"*declared that unpublished opinions are not precedent and are unconstitutional because the framers, in speaking of "judicial power" in Article III, would have had in mind the common law courts of the time,* ***which consider themselves fully bound by their prior decisions***." [The *en banc* Circuit Court vacated that panel ruling, but for unrelated reasons,)

see, *Goldberg v. Kelly*, held 397 U.S. 245, 271, 299:

*"…that for a full and fair hearing to have occurred, the courts must demonstrate compliance with elementary legal rules of evidence, and must "****state reasons for their determination" and, the courts must indicate what evidence was relied on*****.**"

Jessie Allen, Brennan Center for Justice N.Y.U. School of Law explained:

"*No-citation courts in effect refuse to hear litigant's arguments that challenged judgment is* ***inconsistent with court's rulings in other cases.*** *Refusing to hear argument for consistent judicial treatment rises serious* ***'due process'*** *concerns, especially given the strong association of consistency with fairness and correctness in our legal culture*."

9. In accordance with FRCP 12(b) (1) [**Positive law]**, dismissal for lack of jurisdiction is applicable: **only if no federal questions are at issue;** *Michigan S. RR. v. Brach & St. Joseph Counties Rail Users Assn.*, 287 F.3 568, 573 commenting a claim will generally survive a motion to dismiss if plaintiff shows any arguable basis in law for the claim alleged.

10. Irrefutable, Defendants' violated FRCP 8(b) (d) failing proffer an affirmative or general defense! The Courts without explanation disregard precedent that mandated default, *Ponce v. Sheahan*, 1977 WL 79878, also, *Farrell v. Pike*, 342 F.Supp.2d 433, 440-419 (M.D.N.C.)

"***that rules do not permit defendants to avoid responding to legal allegations****."*

REASON FOR GRANTING THE PETITION

11. Compelling reason, the Opinion and Order conflicts with decisions of other Circuit Courts, statutes, rule of law, Federal Rules of Civil Procedure, prior Supreme Court precedent, and the United States Constitution.

12. Petitioners are in the difficult position of revealing nefarious behavior of jurists that used the Court under the "*color of law*" setting forth Opinions replete with false and misleading findings unsupported by evidence, record, or citations. Irrefutable proof exists that individual jurists acted in connivance with Defendants to avoid adjudication of the most comprehensive Petition against the "Act" "H.R.3590".

13. Authoring Judge Vanaskie's Opinion (A-6) taking text out of context, says:

> "Appellants are rather self-consciously presenting a generalized grievance – they purport to represent "[w]*e the people of the United States*," and say that they have brought this action because they "*feel they can no longer depend upon public officials that have been repeatedly usurping the will of the people, being subservient to political parties rather than the will of the majority and the Constitution of these United States*."

14. The above statement is totally misleading since no general grievance exists. Petitioners set forth specific Constitutional violations. Judge Vanaskie on page 5, footnote 3 (A-7) suborns the fraudulent tactic employed by Defendants to mislead the District Court intentionally disregarded proof the District Court Judge colluded with Defendants, acted without "*subject-matter jurisdiction*" violating *FRCP* Rule 6, repeatedly accepted untimely response after Defendants had legally forfeited void any proper motion[s] for an Extensions, see, District Court Docket report (A-365-370) [Will show no Motions will appear in record]. Also see Brief (A-533–534). Judge Vanaskie joined the "scheme" says:

> "*We also reject appellants' claim that the defendants' motion to dismiss was untimely. Appellants served their complaint on defendants, at the earliest, on December 15, 2010, and defendants filed their response less than 60 days later. See Fed .R. Civ. P. 4(i), 12(a)(2)"*

Please Take Special Judicial Notice: To circumvent addressing evidence Defendants defaulted, the Circuit Court refused to "*Enter a Motion for Default"*(A599-600) required by Rule 55 (a) submitted on July 10, 2011. Judge Vanaskie to cover-up procedurally infirm actions of the District and Circuit Court; including Judge Greenaway, previously presiding as "player", also ruled without "*subject-matter jurisdiction*" issuing infirm Orders' dated August 8, 2011. See, (A-13) [Five Motions] disregarding S.Ct. precedent and proper judicial procedure.

Judge Vanaskie's spurious finding allows Petitioners the opportunity to prove collusion took place below and reinforces the necessity for this Supreme Court to scrutinize the illegal use of the Court under the "*color of law*" to rectify a gross miscarriage of justice.

15. Petitioners' submitted numerous motions for default and Summary judgments following Defendants failure to respond, see (Cir. A-591, A-599, Dist. A-102, A-455, A-479). Defendants realizing they forfeited attempted to ensnare Petitioners in violation of 18 U.S.C. 1341[2] falsely proffered the District Court the untruthful claim they had been served on December 15, 2010. (A-238) Their fraudulent attempt is reminiscent of the movie "*The gang that couldn't shoot straight*"!

Proof related to "Service" was scheme to cover-up Defendants default: Court Record, Pacer System (A-365 -369):

- Served, September 20, 2010; (Doc.1);
- Proof of Service; September 27, 2010; (Doc. 3)
- Affidavit, Show Cause for Restraining Order; (Doc. 4) [*Never legally responded too*].
- Defendants Notice of Appearance; (Doc. 7); October 19, 2010 submitted by the following Defendants counsels
    (1) Tony West, Asst. Att. Gen.
    (2) Ian Heath Gershengorn, Deputy Ass't Att. Gen.
    (3) Paul J. Fishman U.S. Att. District of NJ
    (4) Jennifer Ricketts, Dir.
    (5) Sheila Lieber, Deputy Director.
    (6) Ethan P. Davis.

- A letter, not a proper reply or motion, in response to Petitioners' Temporary Restraining Order Motion, [which was never addressed by the District Court] ; (Doc 8) October 19, 2010, states:

    (1) "*defendants will demonstrate in subsequent briefings that each of the fifteen counts of plaintiffs' complaint is meritless."*

    (2) Defendants served December 15, 2010; let Circuit Court explain to whom and what were Defendants responding too for three months? Accepted service; act in performance; no Motion exists concerning service related to the unconstitutionality of the Healthcare "Act"; Petition ratified by law;

[2] Realizing connivance existed between Defendants and Court Petitioners began to tape record all conversations. Following Defendants second default, Ethan P. Davis, Esq. telephoned Petitioner requesting N.J. District Attorney's Office be sent an additional hard copy. In short, Mr. Davis said words to the effect, there's no problem, no real reason just so we have a copy so no problems arise, assuring Petitioner the case will proceed without delay. Petitioners complied along with a letter that additional hard copy is being forwarded at the request of Mr. Davis. Thereafter, Defendants received the additional copy claimed in an act of pleading fraud this was the first time they had been served. This is violation of ethics rules and "*clean hands doctrine*".

(3) *arguendo* even if Defendants didn't receive a hard copy [which they had] how can they dispute they were served electronically? *See*, Civ. Rule 5.2 Electronic Service and filing Documents Also see, Rule 5(b)(2)(d);

(4) Defendants' fraudulent pleading took place on January 17, 2011, (A-222) after repeatedly defaulting. Further proof see, District Court Documents 11, 19, 20, and 23 all related to their repeated defaults and infirm pleadings

16. The Third Circuit Court to circumvent the **Default Argument**, among other Motions related to forfeiture, and repeated violations of *FRCP*, as did the District judge acting void "*subject matter jurisdiction*", granted extensions of time after the time period expired, *see,* Rules 6:

> "*a party's failure to act within the designated period* deprives the District Court of its power of *enlargement with demonstrating excusable neglect. and* 6 (b).

Note: No Motion for an Extension of Time has ever been submitted by Defendants throughout the pleading process in the District Court. (**Entire Record below is in Appendix)**. Yet, Defendants proceeded with impunity. Court Docket, (A-365-370) not a single motions exist in file! Time Line of Violations (A-375-379);

Proceedings in the District Court.

17. Petitioners were subjected to gross violations of procedural "*due process*", by the Court imposing its own untutored intuition about fair procedures in place of long standing and considered judgments of the federal government, reinventing the wheels of justice unilaterally erasing Constitutional Rights by judicial fiat.

18. The District Court admitted it felt no need to address the merits (A-28 n.6) disregarding the exceptions to Rule 12 (b) (1) that mandates Constitutional challenges be addressed.

19. Defendants at no time denied the allegations. Yet, Petitioners were repeatedly denied an opportunity to address relevant controversial legal arguments before lower courts[3]. Petitioners were denied "*pre-trial*", "*evidentiary hearing*" or "*oral argument*" to avoid an official record that sets forth a genuine issue of fact to warrant a dismissal:

[3] Coincidently in almost every action related to "H.R.3590" "*Patient Protective and Affordable Care Act*" Judges appointed by Mr. Obama are assigned to the matter and consistently ruling the "Act" is Constitutional ignoring established law as well as supreme law of the land, the U.S. Constitution. It must also be noted that Petitioners' complaint is the only known case in the United States to be denied oral argument or a hearing in the lower Courts Court that presented 19-specific violations of the U.S. Constitution?

20. The fundamental requisite of "*due process of law*" is the opportunity to be heard." *See*, *Grannis v. Ordean*, 234 U.S. 385, 394, *Milliken v. Meyer*, 311 U.S. 467; *Priest v. Las Vegas*, 232 U.S.604; *Roller v. Holly*, 176 U.S. 398:

> "*An elementary and fundamental requirement of due process in any proceeding which is accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action* ***and afford them an opportunity to present their objections***.

21. The Court refused to apply the "*clear and convincing evidence standard*" involving fraud [See Count 1, (A-120-121, A-275-276)].or other quasi-criminal wrongdoings in civil actions initiated by government that "*threaten the individual involved with 'a significant deprivation of liberty"*" *see Santosky*, 102 S. Ct. 1396, quoting adding, 441 U.S. 425, 426, 99 S. Ct. 1808, 1809. Again, the District Court admitted it didn't address the merits or consider whether the alleged episodes committed were functions normally performed.

Proceedings in the Court of Appeals.

22. The Third Circuit Court displayed an abuse of power and invidious discrimination, fundamentally unfair procedures, U.S.C.A. 14 *see Dean Tarry Corp. v. Friedlander*, 650 F. Supp. 1544, affirmed 826 F2 210 held: discrimination was so unjustified as to be a violation of "*due process*". Universally held; any deprivation of a right secured by the Constitution or laws of the United States, and a deprivation committed under the "*color of law*" relief is warranted, *U.S. v. Pa*. (1999, 119, S.Ct. 977, 526 U.S. 40, 143 L.Ed.2d 130. The Circuit Court departure from accepted and usual course of judicial proceedings deprived Petitioners of their civil right to procedural "*due process*" and "*equal protection*." Requests for needed oral argument were summarily denied without explanation.

23. The issue on appeal is whether "*standing*" and "*subject-matter jurisdiction"* existed. Most importantly, previously pending before the Circuit Court: (1). Motion for, TRO (A-567-576); (2). Motion to Vacate (A-581-584); (3). Motions to Recuse, (A-595-598); (4). Motion for Default(A-591-594); and, (5) request to know which judges were on the panel only to be ignored (A-649, A-682); (6) Motion for Entry of Default"(A-599-602) all summarily denied by Judge Greenaway void "*subject matter jurisdiction*" in violation of 28 U.S.C. 455(A-11-13).

Please Take Special Notice: Count 6, of the Petition alleged and proved Mr. Obama was ineligible to sign the "Act" into law, also implies he's without authority to appoint federal judges. Failing to respond, by law, mandates forfeiture. By law, any judge appointed by Mr. Obama was required pursuant to United States Code Title 28, Section 455 to recuse himself/herself. By Motion, Petitioners requested Judges Vanaskie and Greenaway recuse themselves.

In defiance of U.S. Code, Judge Greenaway (authoring) **ruled and summarily denied no less than five (5) specific pleadings without valid explanation dated August 1, 2011,** See (A-13-14). Supreme Court precedent requires an explanation for any denial, what evidence and law was relied upon, *see*, ***Goldberg v. Kelly***, (citation omitted) being a law unto himself!

Title 28, Section 455 is explicit: a judge may not hear a case in which he has a financial interest. A Judge shall – **not "may**" but **shall – disqualify himself** in that event. Judge **Greenaway and Vanaskie** also violated the Judicial Conduct Rule. **Losing one's job would certainly qualify as "an interest that could be substantially affected by the outcome of the proceedings"**. On this fact alone, as of right, Petitioners are entitled to review. Especially, since each of their Orders fail to comply with established law, and were made without "*subject-matter jurisdiction*" in violation of U.S.C. Title 28 Section 455.[4]

Judge Greenaway, prior to addressing any Constitutional challenge, *See* POINT II in a pre-determined opinion[5] stated:

> "*The appellants have failed to meet their burden of showing that they are likely to succeed on the merits of their appeal or that they will be irreparably injured absent an injunction."* [sic.]

24. Judge Greenaway in defiance of U.S.C. Title 28 Section 455, substituted his own uniformed and politically unaccountable judgment for legislatures, federal regulations, proper "*due process*" procedure, prejudiced by his direct financial interest; clearly the outcome of this matter places his appointment as a Circuit Court Judge in jeopardy.

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[4] The Supreme Court in *United States v. Turkette*, 452, U.S. 566, 69 L.Ed 2d 246, 101 S.Ct 2524, quoting *United States v Culbert*, 435 U.S. 371, 379-380, 55 L,Ed 2d 349, 98 S. Ct.112 (1978) held: "*the courts are without authority to restrict the application of the statute*!"

[5] The United States Supreme Court in *Marshall v. Jerrico*, 446 U.S. 238, 242,(1980) and *Schweiker v. McClue*, 456 U.S. 188, 195 (1982) held:"*A pre-determined decision is a clear and blatant violation of the "neutrality requirement" which guarantees the life, liberty, or property will be taken on the basis of an erroneous or distorted conception of facts of law, at the same time, it preserves the appearance and reality of fairness by ensuing that no person will be denied his interest in absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him."*

25. After ruling void jurisdiction the scheme was expanded, Judge Greenaway stepped down and was replaced by Judge Vanaskie, who likewise was in violation of Title 28 Section 455, also refused to recuse himself on two occasion, went on to authored the infirm Opinion and Judgment dated September 29, 2011, (A-1-8) before this Court.

Please Note: The Circuit Court's Order omitted who authored the Judgment and Order. Petitioners were informed by the Court officials that Judge Vanaskie was the authoring judge who also imposed costs to punish two *pro se* Petitioners without explanation as to why costs were imposed. Once again this violates the Law and precedent *see,* Federal Rules of Evidence 201(d)). Petitioners had a lawful right to proceed without cost, based upon the following law, 2 Black 620, also see *Crandell v. Nevada*, 6 Wall 35)and *Hale v. Henkel*)(201 U.S. 43).

POINT I

26. Analytical breakout of the Judgment/Opinion dealing with the threshold matter; "standing" and "jurisdiction". On page 4, (A-6) says:

> "*The District Court dismissed the case for lack of standing, and we affirm. We explained that the allegations described above 'are factually barren with respect to standing*".

27. The claim that the Petition is factually barren, defies reason since not a single Constitutional challenge was addressed by the lower Court. In footnote 1, page 5 (A-6-7) Judge Vanaskie references *Florida v. United States HHS*, - F.3d ---, 2011 U.S. App. LEXIS 16806, at *26 (11th Cir Aug .12, 2011) which has no relationship to standing. The fact is *Florida v. United States HHS* supports Petitioners Count 1.

28. The above authority Judge Roger Vinson's presiding specifically held the origination of "H.R. 3590" took place in the Senate. See Point II, Count 1, [pp. 22-3] the Constitution specifically requires all revenue raising bills must originate in the House of Representatives. Judicial examination of the history was/is relevant to Petitioners' argument.

29. The Court, page 2, (A-4) of opinion when investigated dictates by law, and precedent Petitioners had "*standing*", Judge Vanaskie correctly stated:

> "*Appellants have filed a lengthy complaint in which they allege that the Patients Protection Affordable Care Act ("the Act") violates 19 clauses of the United States Constitution.* ***Among their various and sundry claims are that the Act originated in the Senate, not the House of Representatives, in violation of Article 1, Section 7 of the Constitution****;…."* goes on see, page 2, to saying:

> *"…that the provision in the act requiring all non-exempt individuals to maintain a certain minimum, level of health insurance or pay a fine violates the commerce Clause; and* ***that President Obama lacked authority to sign the Act into law because he is not a natural born citizen***"

30. Repeating allegations doesn't change the truth, that the Courts ignored, the Defendants the failed to respond to six (6) separate Counts or properly answered the other nine (9) counts with even general denials. Count 6 explicitly relates to eligibility. Failure to respond by law, is an admission and must be taken as true. See, *FRCP* 8(b)(d). Petitioners thank Judge Vanaskie for highlighting these important facts that proves the "Act" is unconstitutional.

31. Complete details concerning Count 6, (A-132-134) in addition, Point II, [see pp. 20, see, Judicial Notice] substantiates Mr. Obama was constitutionally ineligible to sign "H.R.3590" into law. Supreme Court authorities render the issue of eligibility *stare decisis*. See (A-303-311).

32. Article 2, Section 1, Paragraph 5, U.S. Constitution mandates eligibility as a "natural born Citizen" for the Office of Presidency. Mr. Obama's father was a citizen of the British Commonwealth, which alone disqualifies Mr Obama, regardless of whether or not Mr. Obama was born in the United States.

33. Judge Vanaskie's attempt to draw a similarity to *Purpura v. Sebelius*, and *NJ Physicians.* If the original brief filed in *NJ Physicians* is scrutinized the Court will recognize this same Circuit Court never addressed the specific Constitutional violation. The only similarity is that the Third Circuit has demonstrated a propensity to ignore any Constitutional allegations for political expediency. The claim that Petitioners' allegations are factually barren (A-6) is unfounded commingling the cases as similar by referencing *New Jersey Physicians, Inc. v. President of the United States*,[6] saying:

[6]The Physicians case 2:10-cv-01489 and its version in the Appeals Court 10-4600 is somewhat similar to this action, yet different. The similarity is evident when one reviews that arguments presented by the Plaintiff in that matter which the District and Third Circuit unable to refute the allegations chose to ignore the Constitutional issue [Physician], i.e. Article 1, Section 8, Paragraph 3 - the commerce clause as well as Article 1, Section 9, Paragraph 4; Amendment 5 and 16;

A pattern of activity in the Third Circuit that when individual and groups bring up Constitutional issues instead of addressing the issues they manufacture a "standing" argument in order to dismiss the case. The Commerce Clause issue is the same as in the other courts. Instead of addressing the issue the case is dismissed on standing. There is an obvious "pattern of activity", and propensity in the Third Circuit to avoid any opportunity for a litigant to challenge the United States government dismissing each case based upon standing, by redefining the prerequisite for standing.

"*…Like Patient Roe's complaint, appellant's complaint here is "barren" with respect to standing; appellants have provided no information about themselves beyond the fact they are new Jersey residents and believe the Act is unconstitutional*."

Special Note: Petitioners repeatedly demonstrated each allegation was supported by the citation of the unconstitutional provision in the "Act" resulting in cognizant danger and imminent injury. Judge Vanaskie also distorts the Sixth Circuit; *Thomas More.. v. Obama, et al.* 10-2388 ignoring that ruling discussed standing on pages 5 through 11 and determined that the two standards of injury were/are present, being either immediate or imminent injury. On page 8 of that ruling the Court distorted *Lujan*. When the plaintiff is an object of the challenged action "*there is ordinarily little question that the action or inaction has caused him injury*." *Lujan, v.Defenders of Wildlife*, 504 U.S. at 561-62. If one is the subject of the law one can be injured by the law **and thus standing is acquired**. Example, Count 8 demonstrates immediate harm, rather than the imminent harm what's more, it directly violates Amendment 4, and the HIPPA statute.

The Sixth Circuit discussed Ripeness and the fact the law will be implemented and thus plaintiffs will be subject to the law. Using the same case law and circumstances of the law having a direct impact on the Plaintiffs in the Sixth Circuit case, the Third Circuit's claim Petitioners are without standing defies law, justice and precedent.

At bar, are 19-specific violations of the Constitution, which effect Petitioners and all citizens and residents of the United States, that were identified, is in fact the same as *Thomas More Law Center, et al. v. Obama, et al.* 10-2388. In both cases specific and particularized harm and injury were/are identified and described. By law, if you are an object of the challenged action you having standing!

Irrefutable Basis For Standing:

34. Denial of "*standing*" finds no basis in law, logic, or reason. Petitioners, having thoroughly read the "Act", thereafter submitted the most comprehensive lawsuit in the Nation, citing 19-specific Constitutional violations.

35. Preposterously claiming the Court lacked "*subject-matter jurisdiction*" to adjudicate predicted upon Rule 12 (b)(1) conforms to no coherent theory of law or precedent. As a matter of law, the issue of fact must be resolved in order to determine whether the "Act" itself violates established federal law. *See, Hunter v. Bryant*, 502 US (1991) *see also*, *Anderson v. Creighton*, 483 US 635, 646, n.6 (1986). Inarguable, anyone not being given a hearing is deprived of their constitutional Civil Rights and abrogates Amendments 5 and 14. This takes place throughout the "Act".

This Supreme Court had to rectify this injustice recently in *Bond v. United States*; prayerfully the Court will intervene in *Purpura v. Sebelius*, will set forth a precedent once concerning and individual's rights to adjudication.

36. Rule 12 (b) (1) is applicable; "***Only if there is no federal question at issue***"; the Rule specially grants "*subject-matter jurisdiction"* on all federal questions raised. Also relevant Federal Courts have original jurisdiction over all "*all civil actions arising under the Constitutional laws* pursuant to Title 28 U.S.C. 1331:

37. *Marbury v. Madison*, 1 Cranch 163 (1903) makes clear; "*to deny standing is to close the court house to a litigant who seeks justice under rule of law*". The Supreme Court in *Bell v. Hood*, 327 U.S. 678, 66 S. Ct. 733 90 L.Ed. 939 held:

> "*…where federally protected rights have been invaded, it has been the rule from the beginning that courts will be alerted to adjust their remedies so as to grant the necessary relief.*"

38. Article 1, Section 8, Paragraph 9, vests District Courts with original jurisdiction to adjudicate all civil actions arising under the Constitution. Further support; Article 3, Section 2 [7], of the Constitution in relevant part says:

> "*The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States*".
>
> *Marbury v. Madison*:
>
> "*Thus, the particular phraseology of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions,* ***that the law repugnant to the Constitution is void****; and that the courts, as well as other departments, are bound by that instrument*."

Recently reaffirmed by *Bond v. U.S*. *Justices Ginsburg and Breyer*, held*: "In short, a law "beyond the power of Congress," for any reason, is "****no law at all****." Nigro v. United States, 276 U. S. 332, 341 (1928).*

39. Unquestionably "*subject-matter jurisdiction*" existed; any denial of jurisdiction is a denial of "*due process*" to maintain a constitutional protection in a court of law. See, *Cohens v. Virginia*, 19 U.S. 264 (1821):

> "***To do otherwise than grant jurisdiction nullifies the United States Constitution***";

[7] Courts' jurisdiction in which standing is found, *Flast v. Cohen*, 392 U.S. 83 (1968); *U.S. v. SCRAP D*., 410 U.S. 614 (1973); *Japan Whaling Assn. v. American Cetacean Society*, 478 U.S. 221, 230-231 (1986); *Federal Election Commission v. Aklins*, 524 U.S. 11, 25 (1998) and *Mass. V. EPA*, (citation omitted)

40. Ignored by the lower Courts **Amendment 1** explicitly grants unfretted legal and Constitutional Right to petition the government for a redress ofgrievances. No law, statute, or Amendment yet enacted abrogates that sacred Constitutional and Civil Right.

41. On page 5 (A-7) of Opinion, Judge Vanaskie distorts and redefines this Supreme Court's findings in *Bond*, saying:

> "*In support of their standing argument, appellants cite Bond v. United States, 131 S,.Ct.2355 (2011), for the proposition that federal courts possess jurisdiction over an action as long as that action presents a federal question. However, contrary to appellants' argument, Bond did nothing to upend the well-established standing rules detailed above. Rather, as relevant here, the Court held "Bond's challenge to her conviction and sentence satisfies the case-or-controversy requirement, because [her] incarceration constitutes a concrete injury, caused by the conviction." and redressable by invalidation of the conviction.*"

42. Judge Vanaskie ignored that *Bond* was a violation of Amendment 10, also double jeopardy, and reinforces Plaintiffs' standing. Apparently, failing to comprehend that individuals have always been granted "*standing*" to Petition their government to challenge unconstitutional legislation. Justice Antonin Scalia wrote:

> "*When an individual who is the very object of a law's requirement or prohibition seeks to challenge it, he always has standing.*"

"*Standing*" issue *stare decisis*:

43. This Supreme Court unanimously held individuals have "standing" to challenge federal legislation. The Department of Justice continually argues that individuals lack "standing" to challenge federal legislation. Previously, in *Bond* the Department of Justice argues individuals lacked standing, then on *Certiorari* withdrew the argument conceding individuals have "standing"[8].

44. Any violation of the Constitution grants automatic "standing" mandating adjudication renders the matter of standing *stare decisis.* In *Bond*,:

> "*Bond has standing to challenge the federal; statute on grounds that the measure interferes with the powers reserved to states. [From Summary]*

[8] Either individual have or don't have standing, you can't have it both ways, that's equivalent to having two bodies of law in the same order, innovative but unlawful, there's no special of the day in a Court of law!

> *In this case, however, where the litigant is a party to an otherwise justiciable case or controversy, she is not forbidden to object that her injury results from disregard of the federal structure of our Government. Whether the tenth Amendment is regarded as simply a "truism,"' New York, supra, at 156 (quoting United States v. Darby, 312 U.S. 100, 124 (1941)), or whether it has independent force of its own, the result here is the same.*
>
> *There is no basis in precedent or principle to deny petitioner's standing to raise her claims. The ultimate issue of the statute's validity turns in part on whether the law can be deemed 'necessary and proper for carrying into Execution" the president's Article II, Section 2 Treaty Power, see U.S. Const., Art. I. Sec.8 cl.18.*
>
> *In short, a law **'beyond the power of Congress, "for any reason, is no law at all' Nigro v United States, 276 U.S. 332, 341 (1928)**. The validity of Bond's conviction depends upon whether the Constitution permits Congress to enact S229. Her claims that it does not must be considered and decided on the merits."*

Justice Ginsberg:

> "*For this reason, a court has no "prudential" license to decline to consider whether the statute under which the defendant has been charged lacks constitutional application to her conduct. And that is so even where the constitutional provision that would render the conviction void is directed at protecting a party not before the Court*."

45. Prior to *Bond*: this Court emphasized the importance of standing and jurisdiction, *Valley Forge Christian College v. American United for Separation of Church and State, Inc.*, 454 U.S. 464, 470 (1982) [v. AUSCS] held: the unusually broad and novel view of standing to litigate a substantive constitutional question in federal courts adopted by the Court of Appeals, *see Massachusetts v. EPA*, 549 U.S. 497, 227 S.Ct. 1439 1447 (2007). In the first case the Court denied standing since *AUSCS* were objecting to a legitimate transfer of property to a non-profit organization, which happened to be a church, planning to use the land for a public college. If the organization receiving the land had not been a church there would have been no suit. There was no actual harm to AUSCS. In the second case *Massachusetts* was granted standing based since potential future harm was present – similar to *Bensonville v FAA* (citation omitted) cited by Petitioners (A-271).

46. *FRCP* 12(b)(1) mandates jurisdiction and standing if a Constitutional question is an issue. At bar; 19-specific violations of the Constitution effect Petitioners individually and all Americans by design.

47. *Thomas More Law Center v. Obama*" 10-23888, on pp. 6-8 the Sixth Circuit supports Plaintiffs' standing; the Eleventh Circuit noted the Government admitted an individual had "standing" when the court ruled the individual mandate was unconstitutional under the commerce clause.

Conclusion Part I

Clearly, Petitioners have "standing" and the Court had "jurisdiction" to address the 19-specific violations to the Constitution. Below, Petitioners prove the "Act" is unconstitutional in its entirety. As the Honorable Justice Antonin Scalia wrote:

> "*When an individual who is the very object of a law's requirement or prohibition seeks to challenge it, he always has standing*." (Doctrine of Standing as an Essential Element of Separation of Power, 17, Suffolk U.L. Rev. 881, 894 (1983)

POINT II

> "*A good judge does nothing according to his private opinion, but pronounces sentence according to the law and the right*" Thomas Aquinas quoting Augustine

48. The foregoing analysis demonstrates the failure to address Constitutional challenges violates the unbreakable rule: (1) Supreme Court precedent; (2) legislative law; (3) Constitutional violations and, (4) conflicting rulings by other Circuits. The merits demonstrate tangible injury. In essence the "Act" erases the full and equal protections granted by law of the land, the U.S. Constitution. No injury could be more imminent.

49. Federal Courts have a fiduciary duty to grant relief for unconstitutional discrimination. Refusal to address the merits ignores established precedent: *"no set of circumstances exist under which the Act would be valid*." *See*: *United States v. Salerno*, 481 U.S. 739, 745 (1987); also *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 449 (2008).

50. Honorable Judge Christopher C. Conner recently found (1:10-CV-763):

> "*Even a law passed with the highest and most noble intentions must be rendered void if constitutionally infirm: It is the high duty and function of this court in cases regularly brought to its bar to decline to recognize or enforce seeming laws of Congress, dealing*

with subjects not entrusted to Congress, but left or committed by the supreme law of the land to the control of the states".

"*We cannot avoid the duty, even thought [sic] it requires us to refuse to give effect to legislation designed to promote the highest good. The good sought in unconstitutional legislation is an insidious feature, because it leads citizens and legislators of good purpose to promote it, without thought of the serious breach it will make in the ark of our covenant, or the harm which will come from breaking down recognized standards. In the maintenance of local self-government, on the one hand, and the national power, on the other, our country has been able to endure and prosper for near a century and a half.*"

51. In *Griffen v. Breckenridge*, 1971, S.Ct. 1790, 403 U.S. 88 29 L.Ed2d 338; Note, the scope of section 1985 (3) see *Griffen v. Brenridge*, 1977, 45, Geo. Wash. L. Rev. 239:

"*every person who under the color of any statute, ordinance, regulation, custom, or usage, of any state…. Subjects or causes to be subjected, any citizen of the United States or any other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or* ***other proper proceedings for redress****."* [Emphasis Added].

Count 1.

52. Violated: Article 1, Section 7, Paragraph 1 of the Constitution's '*Origination Clause*'. In order to pass the "Act" the Congressional leadership with fraudulent intent took an unrelated House Bill - H.R. 3590, "*Service Members Ownership Tax Act of 2009*", extracted the entire contents, thereafter replacing the contents with the Senate's version of the Senates "*America's Healthy Future Act*" (S. 1796) a precursor to the "Act" giving the appearance of legality in passage of the "Act".

53. The leadership[9] thereafter substituted the name of the "*Service Members Ownership Tax Act of 2009*" H.R.3590 renaming it "*Patient Protection and Affordable Care Act* surreptitiously to acquire a "*House Designation Number*". By law, only the House of Representatives has **Constitutional authority to originate a revenue raising 'Act**". The House accepted the Senate bill for expediency independent of any written House bill.

[9] This was done behind closed doors following the election of Scott Brown to the Senate replacing Senator Kennedy in order to stop a Republican filibuster.

54. Judge Roger Vinson was asked by both sides of the controversy to address the legislative history of the Act and concluded **the bill originated in the U.S. Senate**. *See*, *Florida v. U.S. Department of Health & Human Service*, ---F. Supp. 2d---, 2011 WL285683 (N.D. Fla.2011) document 79: By established law of the land:

(a) No provision in the Constitution grants exceptions to Article 1, Section 7, Paragraph 1, nor does any provision exist that allows "revenue bills" to originate by Senate. Nor can it be argued that the House of Representatives was amending a House Bill,[10] since it was found to have been originated in the Senate.

55. **Recent precedent:** *Bond v. U.S. a law "beyond the power of Congress," for any reason, is "**no law at all**." Nigro v. United States, 276 U.S. 332, 341 (1928).* Defendants at no time presented any specific defense, or denial to where the "Act" originated. Therefore the "Act" must be rendered unconstitutional. (A-120-121)(A-275-276)

Count 2.

56. Issue of first impression.[11] Indisputable the "Act" violates Article 1, Section 8, Paragraph 3, of the Constitution. Secondly, the argument whether the "Act" violates the "Commerce Clause" must be considered ***stare decisis*** because it creates "Specific Welfare".

57. The government claims a "non-activity", under the guise of the "*Commerce Clause*" has become an act of commerce. But, in reality, the "Act" grants the government absolute police power to dictate, without judicial review, what a citizen is required to purchase.

(a). The power to regulate interstate commerce does not subsume the power to dictate a lifetime financial commitment to health insurance coverage. Without judicially enforceable limits, the constitutional blessing of the minimum coverage provision, codified at 26 U.S.C. § 5000A, would effectively sanction Congress's exercise of police

[10] Further evidence that the House of Representatives were aware of their authority and the limited authority of the Senate is illustrated by their recent rejection of S-510 because it contained "revenue rising" provision. There is no difference in either instance.

[11] Judge Vinson (Fla.) and Judge Hudson (Va.) are quoted as saying the government's claim that the mandate to purchase of Health Insurance is based upon prior Supreme Court precedent. Judge Vinson wrote: "*governments claim is not even a close call*" Judge Hudson was quoted as saying *"[N]o reported case from any federal appellate court*" has ever ruled that Congress' power "included the regulation of a person's decision not to purchase a product." Even Judge Steeh (Michigan) hedge his decision by stating this case the "*issue of first impression*" existed.

power under the auspices of the Commerce Clause, jeopardizing the integrity of our dual sovereignty structure [Amendment 10].

(b). The Legislature's attempt to distorted the "Commerce Clause" is nothing new, this Court had to rectify the apparent unfamiliarity Congress has with the Constitution, see:

(i) In *United States v. Lopez*, 515 U.S. 549, 115 Sc.D. 1624, 131 L.Ed.2d 626 (1995) and *United States v. Morrison*, 529 U.S. 598, 607 (2000); id. (stating that a court should "*invalidate a congressional enactment only upon a plain showing that Congress has exceeded its constitutional bounds*");

(ii) Also *United States v. Whited*, 311 F.3d 259, 266 (**3d Cir**. 2002); *United States v. Bishop*, 66 F.3d 569, 576 (**3d Cir**.1995) "[The court] in reaching their decision took various tests; (i) the channels of interstate commerce; (ii) persons or things in interstate commerce or instruments of interstate commerce; and, (iii) activities that have "a substantial relation to interstate commerce i.e. those activities that substantially affect interstate commerce.

(c). Specifically, the Constitution states: "*To regulate the Commerce with foreign nations, and among the several States, and Indian Tribes*;" No definition of "regulate" [requires action] allows the government to dictate commerce or a mechanism to force any commerce be performed. Though Petitioners submitted in their original Petition the same argument [Petitioners as their Exhibit1] presented by the multistate legal action in *Florida ex rel. Attorney General v. U.S. Department of Health & Human Services*, --- F.3d ---, 2011 WL 3519178, at *24-35 in which the Court found the "Act" unconstitutional, **Petitioners expanded upon that argument**, adding one very important factor overlooked by all Attorneys General.

58. The issue is ***stare decisis*;** provisions within the "Act" create "*Specific Welfare*" **not** "*General Welfare*". "*Specific Welfare*" was previously found unconstitutional in 1936, *see*, *United States v. Butler*, 287 U.S. 1 that prohibits the type of activities being promulgated by the "Act" because it levies taxes, fines and fees specifically to supply a product to one specific group by taxing another specific group (A-123-5)(A-276-9).

59. To raise revenues to fund the "***Specific Welfare***" the government inserted provisions that employ *extortion* and *intimidation* under the "*color of law*" to force individuals and/Corporation to purchase or offer Health-Insurance.

(a). **Third Circuit/Supreme Court**, held: "*The wrongful use of threatening…or fear of economic harm… to surrender a federally protected rights constitutes extortion within the meaning of 18 U.S.C. 1951 (b)(1)*" *United States v. Sweeney*, 262 F2d 272 (3rd Cir. 1959) *United States v. Kenny*, 462 F2 1205 (3d Cir.) cet. Denied, 409 U.S. 914, 93 S. Ct.

234, 34 L.Ed.2d 176 (1972) *United States v. Provenzano*, 334 F.2d 678 (3rd Cir.) cert. denied 379 U.S. 212, 80 S. Ct. 270, 4 L.Ed.2d 544 (*fear or wrongfully threaten economic lose also satisfies the Hobbs Act"*). Such intimation violates Supreme Court precedent. Also see, *Mathges v. Eldridge*, 424 U.S. 319 344: "*The rules "minimize substantively unfair treatment or mistake, deprivation by enabling a person to contest the basis upon which a state proposes to deprive them of protected interest*." See, *Cary v. Piphus*, 435 U.S.: Procedural due process rules are meant to protect persons not, from deprivation, but to contest from the mistake or justified deprivation of life, liberty or property.

Count 3.

60. The "Act" violates Article 1, Section 8, Paragraph 12 since it appropriates monies for four (4) years not two (2) years. It also violates the "*Posse Comitatus*" Act by illegally granting the President unfretted authority to create a new Corps and deploy create federal troops into any State without the consent of the governor. See complete explanation (A-126-128, A-279-281).

Count 4,

61. The Act violates Article 1, Section 9, Paragraph 4, "*Capitation taxes*", by explicitly taxing individuals and states discriminately.[12] This extends to a violation of Amendment 14. *See*, Appendix (A-129, A-281-282).

Count 5.

62. Violation of Article 1, Section 9, paragraphs 3, 5, and 6, and violates Amendment 5, by **precluding any judicial review**: Defendants failed to set forth any affirmative defense or general denial in opposition, according to *FRCP* are '**deem to have admitted the averment'** *See*, FRCP 8 (b)(d); forfeited on this Count [as well as Counts 6, 7, 12,13, and 14] See, (A-130, A-282-283).

[12] The Honorable Chief Judge Roger Vinson in his previous finding, *see*, Case 3:10-cv-00091, noting that Section 10907 of "H.R.3590" explicitly imposed taxes on indoor tanning salon on individuals as a "service" tax which is clearly a violation of the Constitution "*capitation*" provision.

Count 6.

63. Issue of "**first impression**"; and/or, (2) the question arises; is the court bound by the principles of ***stare decisis?*** Again, Defendants failed to set forth an affirmative defense or general denial in opposition. Article 2, Section 1, Paragraph 5, is unambiguous,

> "*No person except a natural born Citizen, or Citizen of the United States at the time of the adoption of this constitution, shall be eligible to the Office of President".*

64. This matter has been previous adjudicated, by the Supreme Court and established precedent exists and is binding on the Court. In essence the matter is "***stare decisis et no movere***"?

Please Take Special Judicial Notice: It has recently been uncovered that that certain individual in a premeditated and intent to deceive removed all reference to Supreme Court precedent from the website "*Jusatia.com*" corrupting no less than 25-Supreme Court authorities erasing reference to the words "*Minor v. Happersett*" to other relevant cases inserting misleading numerical citations, thus far it has been uncovered that actual text was removed. The most extreme sabotage so far took place in the landmark decision *United States v. Wong Kim Ark,* with reference to *Scott v. Sandford*, and the *Slaughterhouse Case*s. Petitioners cite these cases (A-303-311) that conclusively proved Mr. Obama was ineligible to exercise Presidential authority.

65. Noteworthy to consider John Jay's correspondence to George Washington during the convention that created the contract represented by the Constitution:

> "*Permit me to hint, whether it would be wise and reasonable to provide a strong check to the admission of Foreigners into the administration of our national Government; and to declare expressly that the Commander in Chief of the American army shall not be given to nor devolve on, any but a natural born Citizen*."

Evidence abounds, see, Appendix (A-132-134, A-283-284, A-251-257) including precedent held by this Supreme Court.

Count 7.

66. Violation of Amendment 16, at no time do Petitioners claim it is invalid. But, interrelated are violations of Amendment 5, and 8, resulting from excess fines a violation of Amendment 8. Defendants failure to respond automatically '*deems to have admitted the averment' See*, Fed. R. Civ. P. 8(d); forfeited on this Count. See, (A-135, A-284-285) complete explanation supported by authorities, proves judicial review prohibited

Count 8.

67. The "Act" abrogates Amendment 4, and "HIPAA" legislation. Complete with explanation and legal authorities see (A-136-137, A-286-287)

Count 9.

68. The "Act" abrogates Amendments 5 and 13 and numerous violations; "illegal takings", "extortion", "servitude", "*Specific Welfare*", [the principle of ***stare decisis*** is supported by Supreme Court authorities]. See, (A-138-139, A-287-290).

Count 10.

69. The "Act" violates Article 4, Section 2, complete explanation and legal authorities in support see (A-140-141, A-290-293)

Count 11.

70. Violations: "Establishment Clause", Amendment 1, interrelated violations of Amendments 5 and 14. Explanation and supporting authorities (A-142; A-293-296)

Count 12.

71. Violation of the Anti-Trust Laws interconnecting Amendment 5 and 14, renders the judiciary irrelevant. This provision constitutes "*Reckless Endangerment*". Defendants unable to contradict the allegation chose not to answer with any specificity or particularity or even set forth a general denial. Their reasoning, no legal defense exists.

Violation of the Anti-Trust Laws, 15 U.S.C. 1 enjoins only anti-competition conduct "effected by a contract, combination, or conspiracy," *see*, *Copperweld Corp v. Independence Tube Corp.*, 467 U.S. 752, 775, 104 S.Ct. 2731, 81 L.Ed.2d 628 (1984). [*P*]etitioners; "*pleaded that the defendants "ha[d] entered into a contract, combination or conspiracy to prevent competitive entry ...."* [Explanation and legal authorities in (A-143-144, A-296-299)]

Count 13.

72. Violates Title VII, "Civil Rights" Law, interconnects Amendment14 violation. Unable to present any defense Defendants chose not to reply or give a general denial warranting forfeiture. *See*, *FRCP* 8(b) & (d). Explanation and legal authorities in support see (A-145-147, A-299-300)

Count 14.

73. Violation of Article 6, Section 3, the Oath of Office. Having no retort Defendants chose to forgo replying *See, FRCP* 8(b) & (d), the District and Circuit Court were mandated to grant relief. Complete explanation and legal authorities see (A-148, A-300-301).

Count 15.

74. Issue of first impression Amendment 10, violation, appropriate to say; no State has yet surrendered their total Sovereignty to the Federal Government they created. The "Act" usurps the contractual agreement between the States that created the Federal Government effectively eviscerates the limits of power on the Federal Government. The elimination of these limits on the Federal Government is inconsistent with the dual sovereignty system that jeopardizes the integrity of our dual structure of government. Complete details (A-150-153, A-301-302).

CONCLUSION

75. Constitutional issues and civil rights violations cannot be bartered for or dismissed through a wave of the Court's magic wand. The magnitude of Constitutional violations is unprecedented in American jurisprudence. This "Act" effectively eliminates the Constitution, and effectively removes all judicial review.

76. Based upon the indisputable evidence the District and Circuit Court acted with "*deliberate indifference*" and "*expressed malice*" to forgo adjudication based upon a fabricated "standing and jurisdictional" argument, and failed to set forth any cognizant support based upon evidence, facts, reason, logic, or precedent.

77. Petitioners throughout have been denied procedural "*due process*". Precedent is consistent: A parties whose rights are to be affected are entitled to be heard. *Baldwin v. Hale,* 68 U.S.(1 wall) 223, 233. "*The notice of a hearing and opportunity to be heard must be granted at a meaningful time and in a meaningful manner*." *Armstrong v Manzo*, 380 U.S. 545, 552 (1965). "*The constitutional right to be heard is a basic aspect of the duty of government to follow a fair process of decision making when it acts to deprive a person of his possessions*." It is indisputable; no "*full and fair*" hearing took place below. See U.S. 304 U.S. 1, 58 S. Ct 773, 776, 777, 82 L.Ed 1129. Petitioners were denied a reasonable opportunity to present and counter the claims of opposing counsels by the denial, of evidentiary hearing, or oral argument allowed from a standpoint of justice and law[13], see *Akron, C.Y. R.Y. Co. NV. U.S.*, 184, 43 S. Ct. 270, 67 L.Ed. 605; *Boston Y.M.R.R. v U.S.D.C. Mass*, 208 F. Supp. 661, 669.

78. Based upon the facts and law this Petition for a "Writ of Certiorari" should be granted. Petitioners respectfully remind this Honorable Court that this kind of legislation had been attempted during President Franklin D. Roosevelt's administration. Supreme Court Justice Sutherland (1922-38) made a similar observation. Hettinger's book "*First Things*" says of Justice Sutherland:

> "*Was one of the 'Four Horsemen' who resisted the economic and social legislation of Roosevelt and the seventy-Third Congress. The National Industrial Recovery Act was ruled unconstitutional in 1935, and the Agricultural Adjustment Act in 1936. Federal judges by 1936 had issued some 1,600 injunctions to restrain federal officials from carry out various congressional acts*".

[13] *Conley*, 490 F3, 155. no-set-of-facts test was relied upon by the District or Court of Appeals, failing to comply with Conley in the opinion discussed at length how to apply the Court's "standard for assessing the adequacy of pleadings." 490 F3, 155. The appellate Court that had jurisdiction but failed and refused to address the "ultimate issues" whether the legal wrong asserted was clearly violation of clearly established law while excluding the question whether the facts pleaded establish such a violation. Since whether a particular complaint sufficiently alleges a clearly established violation of law cannot be decided in isolation from the facts pleaded. Turn on "abstract," rather than "fact-based," issues of law.

79. "*We the People*" (Petitioners) pray the Court follow in the footsteps of those Honorable Jurists to protect the Constitution, to do otherwise renders the Constitution meaningless and violates the oath of office all have taken to preserve and protect the same.

WHEREFORE, "*We the People*" Petitioners' and 600-plus individuals and organizations pray this Court;

i. Grant this Petition for a Writ of Certiorari; and,

ii. Set aside the decision and Order of the Court of Appeals for the Third Circuit; and, render the "Act" "H.R.3590" "*null and void*" on Constitutional ground on all 15-Counts setting forth precedent to the Constitutional against all future usurpation of provisions set forth within.

Respectfully submitted,

Nicholas E. Purpura, *pro se* Donald R. Laster, Jr. *pro se* October 31, 2011