

In the Supreme Court of the United States

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,

MOTION FOR RECUSAL
JUSTICES SOTOMAYOR AND KAGAN

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

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Council for Appellee/Defendants

1. This Honorable Court has yet to decide whether or not to hear Petitioners' Writ of Certiorari, Case No. 11-7275. As required pursuant the United States Code it is just and proper that Justices Kagan and Justice Sotomayor be precluded from any and all proceeding throughout each and every stage of this litigation. A profound question exists about the propriety their participation in this case will arise concerning the legitimacy of any decision in which they are in the majority or plurality would be instantly suspect if they chooses not to recuse themselves. For the reasons set forth below, it would be unconscionable for Justices Kagan and Sotomayor to deny that they do not have a profound interest in the outcome of these proceedings.

2. Petitioners submit this Motion for the Recusal of the Honorable Justice Sotomayor and Justice Kagan based upon the following reason pursuant to the Federal Civil Rules Handbook:

Title 28 USC 41 Section 144 Biases or prejudice of judges,

3. Pursuant to specific requirements of Title 28 Section 455 titled “**Disqualification of justice, judge, or magistrate judge**” cited herein:

- (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
- (b) He shall also disqualify himself in the following circumstances:
 - (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;
 - (2) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
 - (4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;
- (c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

Justice Kagan and Justice Sotomayor are required by law to recuse themselves from all of the proceedings related to this case.

4. Title 28 Section 455 (d) defines the following:

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

- (1) “proceeding” includes pretrial, trial, appellate review, or other stages of litigation;
- (2) the degree of relationship is calculated according to the civil law system;
- (3) “fiduciary” includes such relationships as executor, administrator, trustee, and guardian;
- (4) “financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

It is without argument Justice Kagan and Justice Sotomayor have a financial interest in the outcome of these proceedings which precludes their participation.

5. As this Honorable Court is aware, or should be aware, defendants failed to answer Count 6 of the Petition that concerns whether Mr. Barack Hussein Obama II is, pursuant to Article 2 of the United States Constitution, “a natural born Citizen” and was authorized to sign “H.R.3590” “*Patients Protection Affordable Care Act*” into law. The question presented to this Court is does Mr. Obama have the authority to exercise Presidential authority and thus the question does Mr. Obama have the authority to appoint judges to any Federal Court must be addressed as well?

Please Take Special Judicial Notice: It is incontrovertible the request for the recusal of the Honorable Judges Sotomayor and Judge Kagan is valid since each has a financial stake in the outcome of this litigation.

6. At bar is whether “H.R.3590” is Constitutionally valid. The allegations have yet to be disproven by any Court that there are 19-violations of the Constitution and 4 existing statutes. The DOJ failed/refused to answer as required by law see, FRCP 8(b)(d). It is also noteworthy to mention Defendants stated on the record they would answer each Count and prove them meritless which they did not do. Therefore, if Petitioners are correct concerning Count 6, which

prior Supreme Court precedent establishes in the first instances, it stands to reason Mr. Obama is unauthorized to appoint Judge Sotomayor and Judge Kagan to the Supreme Court.

7. It is also noteworthy to inform this Honorable Court that this same request was made in the Third Circuit, related to Judges Thomas I. Vanaskie and Judge Joseph A. Greenaway, to repeatedly not take part due to the fact they also were appointed by Mr. Obama and clearly have a financial stake in the outcome of this matter as does Justices Sotomayor and Kagan.

8. It is important to remind this Honorable Court that Petitioners had to devote most of their 24-page Writ of Certiorari, Case No. 11-7275, to the repeated violations of procedural due process by the authoring judges in the Third Circuit.

9. To protect their financial interest and judicial appointment Judges Vanaskie and Greenaway ignored the *Fed. R. Civ. P.*, and U.S. Constitution. The question this Court must ask, were they unconstitutionally appointed by Mr. Obama? And, if so in the interest of substantial justice should not Judges Sotomayor and Kagan recuse themselves being in the same position?

WHEREFORE, Petitioners are in their legal right to request the Honorable Justice Sotomayor and Justice Kagan not take any part in any stage of this litigation.

Special Note: In no way are Petitioners questioning the honesty or integrity of either of these two individuals. This request for recusal adheres to the rules of the Court to assure the integrity of the Court does not come into question. Prayerfully Petitioners will not experience what took place in the Court of Appeals for the Third Circuit Court.

Respectfully submitted,

Nicholas E. Purpura , *pro se*