ORIGINAL

No. 25-711

FILED
DEC 11 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In the Supreme Court of the United States

DEBORAH COONEY,

Petitioner,

v.

SAN DIEGO GAS & ELECTRIC, ET AL.,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

Deborah Cooney
Petitioner Pro Se
P.O. Box 700013
Wabasso, FL 32970
(858) 380-6594
celestecan@hotmail.com

December 11, 2025
SUPREME COURT PRESS ♦ (888) 958-5705 ♦ BOSTON, MASSACHUSETTS

RECEIVED
DEC 16 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

QUESTIONS PRESENTED

We live in a fast-paced society where technological innovations make possible the most unthinkable forms of trespass. Never before have policy-makers had to confront this issue. Uproar over the revelations of former government contractor, Edward Snowden, has sparked a public policy debate about our national surveillance programs. Similar information technologies are being deployed at the state level for various purposes, such as measuring energy consumption. The Smart Grid is one such program. At the heart of this matter lies the ultimate question of

1. Whether the federally-mandated, federally-funded, state-run Smart Grid violates constitutional rights:

a. By chilling freedom of speech and the right to petition for redress?

b. By violating the Free Exercise Clause and the Religious Freedoms Restoration Act (RFRA)?

c. As an unwarranted search or seizure prohibited by the Fourth Amendment?

d. By usurping private property rights or liberties guaranteed by the Fifth Amendment?

e. By skirting due process of law during its approval, implementation, or oversight?

f. By violating the Right to Privacy?

PARTIES TO THE PROCEEDINGS

Petitioner and Plaintiff-Appellant below

- Deborah Cooney

Respondents and Defendants-Appellees below

- San Diego Gas & Electric;
- Michael R. Peevey, Michael Picker, Marybel Batjer, Former Presidents, California Public Utilities Commission (CPUC);
- Alice Busching Reynolds*, CPUC President;
- Kamala D. Harris, Xavier Becerra, Former California Attorneys General;
- Rob Bonta, California Attorney General;
- Edmund G. Brown, Former California Governor;
- Henry Coker, Randy Mize, Former San Diego Public Defenders;
- Paul A. Rodriguez*, San Diego Public Defender;
- Bonnie Dumanis, Former San Diego District Attorney;
- Summer Stephan, San Diego District Attorney;
- Itron, Inc.;
- Lewis Brisbois Bisgaard & Smith LLP (LBBS);
- Fraternal Order of Police (FOP); and
- Florida Power & Light Company (FPL);

---

* Party automatically substituted per Fed. R. Civ. P. 25(d).

Non-Parties

All of the active parties to this action are listed above. The following defendants-appellees were parties to the appeal in the Ninth Circuit, however, they are not named in this Petition which is limited to constitutionality of the Smart Grid in San Diego, CA and Vero Beach, FL. Thus, they have no interest in the outcome.

Molly C. Dwyer, Clerk of Court, United States Court of Appeals for the Ninth Circuit; Susan Y. Soong, former Clerk of Court, Office of the Clerk, United States District Court; City of San Diego; County of San Diego; John Kerr; Ivan Baroya; Dominick Addario; Tani Cantil-Sakauye; Judith McConnell; Patricia D. Benke; Judith L. Haller; Joan Irion; Alex C. McDonald; James A. McIntyre; Gilbert Nares; Cynthia Aaron; Richard D. Huffman; Terry B. O'Rourke; Yuri Hofmann; Robert C. Trentacosta; Bonny Hsu; Keith Phillips; George W. Brewster, Jr.; Jan I. Goldsmith; John Riley; Thomas Montgomery; Christina Vilaseca; Rick Scott, Former Florida Governor; City of White Sulphur Springs; City of Vero Beach; Indian River County; Monopower; AT&T Corp.; Vocelle & Berg, LLP; Dean, Ringers, Morgan & Lawton, P.A.; Diamond Litty; Kiernan Moylan; Dorothy Naumann; Lydia Pittaway; Bruce H. Colton; Brian Workman; David Dodd; Elise Brawner; Jeffrey R. Smith, Clerk Of Court; Michael Roddy, Court Executive Officer; Stan Ideker; Farmers Insurance; Stewart Title Insurance; American Strategic Insurance (ASI); New Hampshire Insurance Company; Seacoast Bank; Whole Foods; Walmart, Inc.; Cumberland Farms; Tenants Legal Center; Richard M. Benrubi; Rooney & Rooney, P.A.; Thomas A. Kennedy; City Of

Sebastian; Town Of Indian River Shores; South Florida Evaluation And Treatment Center (SFETC); Mike Carroll, Shevaun Harris, Secretary, Department Of Children And Families (DCF); Correct Care Solutions, LLC.; Core Civic, Inc.; Police Benevolent Society; Peace Officers Research Association Of California (PORAC); Publix; Global Tel Link; Burle Industries; Court Programs of The Treasure Coast (CPTC); CTIA; Frontier Communications Corporation; A-1 Bail Bonds; Robert Clark; First Presbyterian Church; National Radio Astronomy Observatory (NRAO); Jorge Cortina Del Valle; Marine Bank; South State Bank, formerly Center State Bank; FMR Corp., sued as Fidelity Investments; Florida Institute of Technology (FIT); L3 Harris Technologies, Inc. formerly Harris Corporation; David Morgan; Robert Pegg; Cynthia Cox; St. Lucie County; Martin County; Geico Insurance; Travelers Insurance.

LIST OF PROCEEDINGS

U.S Court of Appeals for the Ninth Circuit

No. 23-15236

Deborah Cooney, *Plaintiff-Appellant*, v.
Molly C. Dwyer, Clerk of Court, United States Court of Appeals for the Ninth Circuit, Individually and in Her Official Capacity; et al., *Defendants-Appellees.*

Date of Final Opinion: July 2, 2025

Date of Rehearing Denial: September 18, 2025

U.S. District Court, N.D. California

No. 4:21-cv-01721-YGR

Deborah Cooney, *Plaintiff*, v.
City of San Diego, et al., *Defendants.*

Date of Final Judgment: June 29, 2022

Order on Motion to Amend Judgment: Jan 4, 2023

TABLE OF CONTENTS

Page

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDINGS ii

LIST OF PROCEEDINGS v

TABLE OF AUTHORITIES ix

PETITION FOR A WRIT OF CERTIORARI 1

OPINIONS BELOW 2

JURISDICTION 2

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 3

A. Constitutional Provisions 3

B. Federal Statutes 4

C. State Statute 6

STATEMENT OF THE CASE 6

A. Factual Background 8

B. Procedural History 18

REASONS FOR GRANTING THE PETITION 20

I. Conflict With *Friedman v. Public Utilities Commission* 21

II. Conflict With *Murray v. Motorola* 22

III. Conflict With *Elrod v. Burns, New York Times v. US* 23

IV. Conflict With *Burwell v. Hobby Lobby, Masterpiece v. Colorado* 23

V. Conflict With *U.S. v. Jones, ACLU v. Clapper* . 24

VI. Conflict With *Silverman v. United States* 25

TABLE OF CONTENTS – Continued

Page

VII. Conflict With *DeShaney v. Winnebago County, Pauluk v. Savage* 26

VIII. Conflict With *Griswald v. CT*, CA and FL Constitutions 27

IX. No Other Adequate Remedy 28

X. Intervening Changes in Law 28

XI. The Judgment Is Void 29

XII. Conflict with Other Jurisdictions 30

A. Municipalities Ban Smart Meters 30

B Italian Court Finds RF Radiation Causes Cancer 31

C Canadian Court Rules for Plaintiffs in RF Radiation Case 31

D. France Bans Wi-Fi in Nurseries 32

E. Papal Encyclical Urges Good Stewardship 32

XIII. Interest of the Amici 33

XIV. Petitioner Demonstrates Ripeness and Standing 33

CONCLUSION 34

A. Request for Authentication 35

B. Verification 35

TABLE OF CONTENTS – Continued

Page

APPENDIX TABLE OF CONTENTS

OPINIONS AND ORDERS

Memorandum Opinion, U.S Court of Appeals for the Ninth Circuit (July 2, 2025) 1a

Order on Motion to Amend Judgment, U.S. District Court for the Northern District of California, No. 4:21-cv-01721 (January 4, 2023)..... 8a

Judgment, U.S. District Court for the Northern District of California, No. 4:21-cv-01721 (June 29, 2022) 16a

Order, U.S. District Court for the Northern District of California, No. 4:21-cv-01721 (June 6, 2022) 18a

Order Granting Defendants' Motions to Dismiss, U.S. District Court for the Northern District of California, Case No. C 12-6466 CW (July 15, 2014) 28a

REHEARING ORDER

Order Denying Petition for Rehearing En Banc, U.S Court of Appeals for the Ninth Circuit (September 18, 2025)..... 41a

TABLE OF AUTHORITIES

Page

CASES

303 Creative LLC v. Elenis,
600 U.S. 570 (2023) 28, 29

Abbott Laboratories v. Gardner,
387 U.S. 136 (1967) 33

American Civil Liberties Union v. Clapper,
785 F.3d 787 (2nd Cir., 2015) 25

Blum v. Yaretsky,
457 U.S. 991, 102 S.Ct. 2777,
73 L.Ed.2d 534 (1982) 8

Burton v. Wilmington Parking Auth.,
365 U.S. 715, 81 S.Ct. 856,
6 L.Ed.2d 45 (1961) 8

Burwell v. Hobby Lobby Stores, Inc.,
134 S. Ct. 2751 (2014) 23

Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) 29

Daniels v. Williams,
474 U.S. 327 (1986) 26

Davidson v. Cannon,
474 U.S. 344 (1986) 26

DeShaney v. Winnebago County,
489 U.S. 189 (1989) 26, 27

Dombrowski v. Pfister,
380 U.S. 479 (1965) 20

Elrod v. Burns,
427 U.S. 347 (1976) 23

TABLE OF AUTHORITIES – Continued

Page

Environmental Health Trust v. FCC,
No. 20-1025 (D.C. Cir. 2021) 29

Flast v. Cohen,
392 U.S. 83 (1968) 33

Gantner v. PG&E Corp.,
No. S273340 (2023) 28

Gormley v. Wood-El,
93 A.3d 344 (N.J. 2014) 26

Griswold v. Connecticut,
381 U.S. 479 (1965) 27

Hanson v. Denckla,
357 U.S. 235 (1958) 30

Harper v. Va. Dep't of Taxation,
509 U.S. 86 (1993) 28

Hazel-Atlas Glass Co. v. Hartford Empire Co.,
322 U.S. 238, 64 S. Ct. 997,
88 L.Ed. 1250 (1944) 18

L.W. v. Grubbs (Grubbs I),
974 F.2d 119 (9th Cir. 1992) 26

Lake Carriers' Assn. v. MacMullan,
406 U.S. 498 (1972) 34

Lawrence ex rel. Lawrence v. Chater,
516 U.S. 163 (1996) 28

Loper Bright Enterprises v. Raimondo,
603 U.S. 369 (2024) 29

Lugar v. Edmondson Oil Co.,
457 U.S. 922, 102 S.Ct. 2744,
73 L.Ed.2d 482 (1982) 7, 8

TABLE OF AUTHORITIES – Continued

Page

Maryland Casualty Co. v. Pacific Coal & Oil Co., 312 U.S. 270 (1941) 34

Masterpiece Cakeshop v. Colorado Civil Rights Commission, 584 U.S. 617 (2018) 24

McDonald v. Mabee, 243 U.S. 90, 37 S.Ct. 343, 61 L.Ed. 608 (1917) 30

Murray v. Motorola, Inc., 982 A. 2d 764 (DC 2009) 22

New York Times Co. v. U.S., 403 U.S. 713 (1971) 23

Parratt v. Taylor, 451 U.S. 527 (1981) 26

Pauluk v. Savage, 836 F.3d 1117 (9th Cir. 2016) 27

Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed 565 (1877) 30

Pettipas v. Bell Alliant Regional Communications, Inc., 2014 NSSC 25 (CANLII) 32

Plaut v. Spendthrift Farm, Inc., 514 U.S. 211 (1995) 28

Rose v. Himely, 4 Cranch 241, 2 L.Ed 608 (1808) 30

San Diego Gas & Electric Co. v. Superior Court (Covalt), (1996) 13 Cal.4th 893 28

Sanford v. Stiles, 456 F.3d 298 (3d Cir. 2006) 26

TABLE OF AUTHORITIES – Continued

Page

Silverman v. United States,
365 U.S. 505 (1961) 25, 26

Terry v. Adams,
345 U.S. 461, 73 S.Ct. 809,
97 L.Ed. 1152 (1953) 8

Thompson v. Whitman,
18 Wall 457, 21 L.Ed 897 (1873) 30

U.S. v. Jones,
132 S. Ct. 945 (2012) 24, 25

United States v. Knotts,
460 U.S. 276 (1983) 25

United States v. Schooner Peggy,
5 U.S. (1 Cranch) 103 (1801) 28

United States v. Seeger,
380 U.S. 163 (1965) 24

Windsor v. McVeigh,
93 U.S. 274, 23 L.Ed 914 (1876) 30

CONSTITUTIONAL PROVISIONS

Cal. Const. art. I, § 1 27

Fl. Const. art. I, § 23 27

U.S. Const. amend. I 6, 23, 24, 25

U.S. Const. amend. IV ..... i, 7, 24, 25, 27

U.S. Const. amend. IX 27

U.S. Const. amend. V ..... i, 7, 26, 27

U.S. Const. amend. XIV 7, 26, 27

U.S. Const. Art. III 5, 10, 18, 19, 29, 35

TABLE OF AUTHORITIES – Continued

Page

STATUTES

18 U.S.C. § 1964(c) 2
28 U.S.C. § 1254(1) 2
28 U.S.C. § 1331 2
28 U.S.C. § 1343(a) 2
28 U.S.C. § 2201 ..... 2, 34
28 U.S.C. § 2202 2
42 U.S.C. § 1983 ..... 7, 26, 33
42 U.S.C. § 1985 ..... 8, 33
42 U.S.C. § 1986 ..... 8, 33
42 U.S.C. § 2000bb, Religious Freedom Restoration Act of 1993 4
42 U.S.C. § 2000bb-1 5
42 U.S.C. § 17381, Energy Independence and Security Act of 2007 5
American Recovery and Reinvestment Act of 2009 10
CA Civ. Code § 3523 28
D.C. Code § 28-3904 (2001) 22
Patriot Act of 2001 25
PUC § 303(a) 12
PUC § 1759 19
PUC § 1760 19

TABLE OF AUTHORITIES – Continued

Page

JUDICIAL RULES

Fed. R. Civ. P. 12(b)(1) 18
Fed. R. Civ. P. 12(b)(6) 18
Fed. R. Civ. P. 25(d) ii
Fed. R. Civ. P. 60(b) 18
Sup. Ct. R. 10 20
Sup. Ct. R. 10(a) 22, 30
Sup. Ct. R. 10(c) 23, 25

CALIFORNIA PUBLIC UTILITIES COMMISSION

D1112023; Petition 07-11-007 13
Decision D.10-04-047 13
General Order 95 13
Rules 31.122 and 3823 13

OTHER AUTHORITIES

Cindy Sage, MA, David O Carpenter, MD
The BioInitiative 2012 Report Updated 2014-2022: A Rationale for Biologically-Based Exposure Standards for Low Intensity Electromagnetic Radiation, https://bioinitiative.org 14

David O. Carpenter,
CCST study leaves smart meter health questions unanswered, http://emfsafetynetwork.org/?page_id=3299 15

TABLE OF AUTHORITIES – Continued

Page

Josh Del Sol,
France Law Bans Wi-Fi in Daycares,
Take Back Your Power, http://
takebackyourpower.net/2015/02/france-
new-law-bans-wifi-in-daycares-restricts-
wireless-infrastructure/ 32

Michael J. Aguirre,
Report of Malfeasance and Institutional Corruption at the California Public Utilities Commission, (January 2015),
http://www.amslawyers.com/Breaking-
News/Storm-Warning-CPUC-1-7-14.pdf 13

Pope Francis,
Draft of Pope Francis' Climate Change Encyclical, http://www.washingtonpost.
com/local/an-italian-draft-of-pope-francis-
environmental-paper-leaks-setting-off-
scurry-to-google-translate/2015/06/15/
89af0012-1379-11e5-9ddc-e3353542100c_
story.html 32

Suzanne Burdick, Ph.D.,
Pennsylvania Woman Scores Temporary Win Against Smart Meter Mandate,
(November 5, 2025), https://
childrenshealthdefense.org/defender/
pennsylvania-woman-scores-temporary-
win-smart-meter-mandate/ 17

U.S. Dept. of Health and Human Services,
MAHA Report, https://www.hhs.gov/
maha/index.html 17



PETITION FOR A WRIT OF CERTIORARI

The information age is upon us. Private multinational corporations stand eager to capitalize on the information technology (IT) craze. The Petitioner asks this Court to contemplate whether our society's preoccupation with information-gathering violates constitutional rights. For the benefit of all citizens, government agents, contractors, investors, suppliers, and the like, this issue must be addressed forthwith by the nation's highest court. We are all desperate for the Court's guidance. This case presents an actual controversy which affords the Court a much-needed opportunity to impart its wisdom. This Court should assume the mantle.

The constitutional challenges include not only access to private information, but also the nonconsensual placement of radio frequency (RF) radiation-emitting devices on private property, the physical occupation of the airspace of private residences and businesses, and the physical and/or psychological injury and other harm that it causes. In the past, we transmitted radio signals for the purpose of entertainment or emergency services communication. Our homes were equipped with receivers, but transmitters were properly sited in remote, non-residential areas. We all benefited from this safe communal use of technology, and we consented to its presence in our homes and private property.

Today, the commons have been taken without consent and solely for private gain. Indeed, even our private possessions have been usurped in the same endgame. Transmitters, such as Smart Meters, have

been placed on our homes without our knowledge or permission. Magnetic data now streams through our homes, our personal possessions, our bodies, and even our children's bodies. Scientific studies show alarming biological effects. Researchers have determined that nothing less than the human genome, itself, is at stake. We withdraw consent. We now assert our rights. We require the Court's assistance for enforcement.

OPINIONS BELOW

The U.S. Court of Appeals for the Ninth Circuit issued a Memorandum Disposition and Judgment (App.1a) affirming the Judgment of the U.S. District Court for the Northern District of California, dismissing Case (App.16a). These opinions have not been designated for publication.

JURISDICTION

The Ninth Circuit entered its Memorandum Disposition and Judgment on July 2, 2025 (App.1a), and its Order Denying Panel and En Banc Rehearing on September 18, 2025. (App.33a) The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

The original federal jurisdiction arises pursuant to 28 U.S.C. §§ 1331, 1343(a), 2201, 2202, and 18 U.S.C. § 1964(c).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A. Constitutional Provisions

U.S. Const., amend. I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

U.S. Const., amend. IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const., amend. V

No person shall . . . be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

U.S. Const., amend. IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

U.S. Const., amend. XIV § 1

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

B. Federal Statutes

42 U.S.C. § 1983
Civil Rights Act of 1871

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or 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 proceeding for redress . . .

42 U.S.C. § 2000bb
Religious Freedom Restoration Act of 1993

(a)(3) governments should not substantially burden religious exercise without compelling justification;

(b)(2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

42 U.S.C. § 2000bb-1

(a) In general

Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).

(b) Exception

Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person—

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) Judicial relief

A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

42 U.S.C. § 17381
Smart Grid – Energy Independence and Security Act of 2007

[. . .]

(8)Provision to consumers of timely information and control options

C. State Statute

California Public Utilities Code § 1760

> . . . [I]n any proceeding wherein the validity of any order or decision is challenged on the ground that it violates any right of petitioner under the United States Constitution or the California Constitution, the Supreme Court or court of appeal shall exercise independent judgment on the law and the facts, and the findings or conclusions of the commission material to the determination of the constitutional question shall not be final.

STATEMENT OF THE CASE

"Petitioner"-Appellant-"Plaintiff" Deborah Cooney's federal rights were abridged by the implementation of the federally-funded, federally-mandated, state-run Smart Grid, which caused serious injury and catastrophic loss. The Plaintiff lost her home, her business which is her sole means of livelihood, her health, her life savings, her cat, her life partner, her ability to tolerate low levels of RF radiation, her ability to live freely anywhere there is a Smart Grid. The Petitioner seeks declaratory and injunctive relief as well as compensatory damages. The Complaint enumerates several Constitutional violations, including but not limited to:

1. First Amendment Free Speech and Free Exercise Clauses.
2. Right to petition the government for redress of grievances.

3. Fourth Amendment protection from unlawful search and seizure.

4. Fifth Amendment protection of life, liberty and property.

5. Fifth Amendment prohibition against private property being taken for public use without just compensation.

6. Fifth and Fourteenth Amendment Due Process violations arising from Defendant Peevey's prohibited financial and official relations with the utilities that he was entrusted with regulating.

7. Fifth and Fourteenth Amendment Due Process violations whereas thousands of injuries were reported to the Defendants, who refused to acknowledge them and take corrective action.

8. Right to privacy including the right to be free from vexatious digital noise and disturbance in one's own home.

The Complaint invokes 42 U.S.C. § 1983 which affords a federal private right of action against the Defendants who are public employees, public entities, or public contractors. In a § 1983 claim, a private party can be held liable where he is "fairly said to be a state actor." *Lugar v. Edmondson Oil Co.,* 457 U.S. 922, 937, 102 S.Ct. 2744, 2753, 73 L.Ed.2d 482 (1982) (stating that conduct allegedly causing deprivation of federal rights is fairly attributable to the state. A private individual is a state actor when he has acted together with or has obtained significant aid from state official); *Blum v. Yaretsky,* 457 U.S. 991, 1004,

102 S.Ct. 2777, 73 L.Ed.2d 534 (1982) (finding a close nexus with the State); *Burton v. Wilmington Parking Auth.*, 365 U.S. 715, 725, 81 S.Ct. 856, 6 L.Ed.2d 45 (1961) (finding a symbiotic relationship with the state); *Lugar*, 457 U.S. at 941, 102 S.Ct. 2744 (1982) (finding a joint action with the state); *Terry v. Adams*, 345 U.S. 461, 468-470, 73 S.Ct. 809, 97 L.Ed. 1152 (1953) (state action found where private actor administered a public function).

San Diego Gas & Electric (SDG&E), "Itron", Inc., and Florida Power & Light Company (FPL) are state actors under the public function test because providing electricity is a state function which was later farmed out to investor-owned private companies purportedly overseen by the state regulators. In fact, FPL purchased the electric utility from the City of Vero Beach as recently as December 17, 2018. Some electric utilities are still state-owned, such as the neighboring Fort Pierce City utility. The utilities operate under franchise agreements with the state authorizing them to run their transmission lines through public rights of way. This creates a joint action with the state. There is also a close nexus and a symbiotic relationship due to their tight relationship with the state commissions. Thus, the Defendants are state actors under all four tests, although only one is needed. The Complaint also states a §§ 1985-6 civil conspiracy claim and a RICO Act claim.

A. Factual Background

On or about August 24, 2011, the Plaintiff began to suffer ongoing injuries from Smart Grid equipment, manufactured by Itron, installed by SDG&E, and approved or mandated by the California Public Utilities Commission (CPUC). The Smart Grid equipment was

installed on and around the Plaintiff's San Diego home without her consent and over her express objections. The electromagnetic frequency (EMF) assault became so intolerable that the Plaintiff was forced out of her home. Her husband and her cat stayed and died within a few years of being sickened from the toxic exposure, while she fled to the radio-free zone in Green Bank, WV, seeking respite and healing. When Monopower illegally installed a Smart Meter on her WV home, she was forced to seek refuge elsewhere. She found Vero Beach, Florida, with a City-owned electric utility and no Smart Grid. On December 17, 2018, FPL purchased the utility and began deploying a Smart Grid over the Plaintiff's objections.

Unable to outrun the Smart Grid, the Plaintiff currently maintains a primary residence in Vero Beach and a second home in San Diego. After a Pyrrhic battle, she was able to opt out of a Smart Meter on her home; however, she continues to be harmed by adjacent Smart Grid equipment emitting radiation into her home. The Defendants are using her home to transmit their illegally collected bulk data. Even without a Smart Meter on her home, the Plaintiff's data continues to be illegally collected by adjacent Smart Meters. As a result, the Plaintiff is suffering ongoing injuries from the continuing operation of the Smart Grid. She suffers new injuries every day. Furthermore, both SDG&E and FPL have threatened to reinstall the Smart Meters on her homes at an unspecified time in the future. There is a looming threat to ramp up the severity of ongoing injuries.

The Plaintiff has lost homes, belongings, and business because of the Smart Grid. Her husband and her cat were killed by the harmful emissions. The

constant assault on her health includes headaches, heart arrhythmia, muscle aches and cramping, congestion, insomnia, tissue-heating, and more. Because of the devastation, the Plaintiff does not consent to any Smart Grid emissions in her home, in her community, or through her body.

SDG&E and FPL are the Smart Grid purveyors in San Diego and Vero Beach, respectively. They received a 50% matching grant for Smart Grid deployment through the American Recovery and Reinvestment Act of 2009. The CPUC and its various officers deprived the Plaintiff of fundamental rights by greenlighting the harmful program. The various California Attorneys General, Kamala "Harris", Xavier "Becerra", and Rob "Bonta", counseled their clients, the CPUC and its officers, to violate the law. The sister Florida commission, which has not been named as a party, based its approval on the prior decisions of the CPUC and then abdicated its duty to ensure safety.

The remaining parties, Lewis Brisbois Bisgaard & Smith (LBBS); Fraternal Order of Police (FOP); Edmund G. Brown; Henry Coker; Randy Mize; Paul Rodriguez; Bonnie Dumanis; and Summer Stephan, caused the derailment of the original Smart Meter case. They orchestrated a false arrest and malicious prosecution solely for the purpose of curtailing the Plaintiff's speech and preventing her from seeking redress in the courts. LBBS lied and misled the courts while representing Itron and SDG&E. The underlying cases were decided by rogue clerks at the behest of LBBS and other Defendants. The Plaintiff proved that no Article III judge has looked at the case or made any of the rulings. The Plaintiff proved this fact by inserting a request for authentication in most of her submissions.

She requested that the judges provide a signed, notarized affidavit stating that they read the papers and made the decisions. There was no response because there was no judge.

The Plaintiff is being bombarded and forcibly harmed by non-consensual EMF radiation in public places and in her own home by Smart Grid, Smart Meters, and other installations. This ongoing battery restricts her speech and hampers her ability to present her case in court.

The Plaintiff believes in living in harmony with nature and keeping the body well-nourished, well-rested, and free of toxins. She does not use any cell phones, Wi-Fi, Bluetooth, or any other harmful devices. She subscribes to the sincerely-held religious belief of "Do no harm". The Defendants have infringed upon her right to practice this religious belief in the privacy of her own home and business.

Her freedom of speech has likewise been abridged or chilled, as she is not able to express her love of nature and health by keeping her home and business free of toxic radiation. The Defendants have interfered with the very formulation of speech in the brain by polluting the Plaintiff's body with a substance scientifically proven to affect cognitive function. Similar government programs, such as Project MKUltra, have been shut down on the same premise. The RF pollution has caused injuries, homelessness, business loss, and financial crisis, which has significantly curtailed the Plaintiff's participation in civic discourse, again chilling free speech.

The Defendants have violated the Plaintiff's person (body) and home with their unwanted radiation.

The Defendants have imposed a permanent physical occupation of the Plaintiff's residence without probable cause, without consent, and without just compensation. The Defendants have used the airwaves in the Plaintiff's home for public use without just compensation, without her informed consent, and over her express objections. The Defendants have conducted a toxic intrusion of the Plaintiff's person (body) and home, in ways that usurp power and disparage rights.

Former CPUC President Michael "Peevey" breached ethics and violated California Public Utilities Code PUC § 303(a) by holding official relations to and a financial interest in several companies or persons subject to regulation by the CPUC. Succeeding Presidents, Michael "Picker", Marybel "Batjer", and Alice "Reynolds" have continued to reward SDG&E and Itron for this bribery by continuing the Smart Grid.

State and federal agencies investigated the CPUC for wrongdoing in the San Bruno fires. The investigations turned up a cache of incriminating emails showing ex parte communications between the Commission and the companies it regulates. In one email, Peevey admitted that he was causing people pain and suffering from RF radiation emitted by the Smart Grid. Another email revealed that Peevey had asked several of the electric utilities for million dollar donations to his various non-profit slush funds, such as the California Clean Energy Fund (CalCEF), the California Emerging Technology Fund (CETF), or the California Foundation on the Environment and the Economy (CFEE). Another $100,000 donation was required from each of the regulated utilities to fund a hedonistic anniversary celebration. This clearly breaches PUC § 303(a), which prohibits

commissioners from official or financial relations with any regulated utilities.

On January 7, 2015, former San Diego City Attorney, Michael J. Aguirre, published a Report of Malfeasance and Institutional Corruption at the California Public Utilities Commission detailing additional abuses. (http://www.amslawyers.com/Breaking-News/Storm-Warning-CPUC-1-7-14.pdf) The report also implicates SDG&E in the wrongdoing. "Under Peevey, the CPUC derailed its investigation into the SDG&E equipment that started two of the 2007 fires in San Diego. (Decision D.10-04-047) CPUC staff determined SDG&E was in violation of General Order 95, Rules 31.122 and 3823 at the time of the fires. As in the case of San Bruno, the CPUC under Peevey imposed a fine but bestowed a rate increase large enough to absorb the penalty. (D1112023; Petition 07-11-007)"

"Facing mounting opposition to wireless 'smart' meters being rolled out by California utilities, including 10 local governments who have criminalized installations, and 23 more who have demanded that the CPUC stop the program because of widespread reports of health impacts, the Commission yesterday signaled that it would ask one of California's utilities-PG&E-to develop a plan to allow customers to opt out of having a wireless meter installed-at customers' expense. . . .Environmental health advocates and a burgeoning grassroots movement to halt the installations welcomed the CPUC's admission that there is a health crisis with the smart meter program, but slammed the meager steps proposed to address it . . . The wireless meters have been widely reported to cause headaches, dizziness, ringing in the ears even memory loss and heart palpitations among susceptible individuals due to bursts

of microwave radiation. The movement against wireless meters is the sharp end of a growing movement demanding health-based standards for wireless technology." (March 11, 2011, stopsmartmeters.org)

A June 11, 2012, article in La Maison features Harvard-educated physician, Dr. David O. Carpenter, founder of the University at Albany School of Public Health, joined by more than 50 of his esteemed colleagues to "correct some of the gross misinformation" being propagated by industry-funded studies and rogue government agencies, such as the CPUC. Highlights include:

> "A technical study performed by Sage Associates in California indicates that RF levels from various scenarios depicting normal smart meter installation and operation may violate even the out-of-date U.S. public safety standards."
>
> "Wireless smart meters typically produce atypical, relatively potent and very short, pulsed RF/microwaves whose biological effects have never been fully tested. They emit these millisecond-long RF bursts on average 9,600 times a day with a maximum of 190,000 daily transmissions and a peak level emission two and a half times higher than the stated safety signal, as the California utility Pacific Gas & Electric recognized before that State's Public Utilities Commission. Thus people in proximity to a smart meter are at risk of significantly greater aggregate of RF/microwave exposure than with a cell phone, not to mention the cumulative exposure received by people living near multiple meters mounted

> together, pole-mounted routers or utility collector meters using a third antenna to relay RF signals from 500 to 5,000 homes."
>
> "Stop Smart Meters!, the EMF Safety Network, and other groups opposing 'smart' meters continue to receive reports from hundreds of people experiencing health impacts after the wireless meters are installed, including sleep problems, headaches, tinnitus and nausea. The California Public Utilities Commission has received over 2000 complaints of health impacts. The CCST report failed to interview anyone reporting health symptoms, and neglected to cite peer-reviewed findings of non-thermal biological damage from low level RF emissions."

(http://emfsafetynetwork.org/?page_id=3299)

Although there are hundreds of scientific studies showing that RF radiation causes biological harm and even cancer, the industry claims that there is no scientific evidence of harm. (The Bio Initiative). In 2011 the World Health Organization declared RF radiation a class 2B (possible) carcinogen. The industry commissions its own studies, instructing scientists to create experiments that show no harm. Former employees, such as Dr. George Carlo, have confirmed this. The industry then cites their own studies, ignoring all others. Meanwhile, out the other side of the mouth, the industry warns shareholders of the impending catastrophe from EMF injuries. The insurance industry has refused to provide product liability insurance on cell phones, Wi-Fi, and other RF emitting devices, primarily due to fear that this litigation may turn out like tobacco or asbestos litigation did with huge punitive awards.

The Smart Grid is a dismal failure. Fifteen years into this failed experiment, we are all worse off. The Smart Grid has caused fires and explosions. Thousands of EMF injuries have been reported, including the Plaintiff's, and many more have gone unreported or unrecognized. The safe analog grid functioned flawlessly without using any energy. The Smart Grid requires extra energy to power unnecessary and harmful radio transmissions. As a result, power bills have skyrocketed even while usage remains static. A safe analog meter costs about $25 and lasts 30-40 years. A Smart Meter costs hundreds of dollars and lasts about 10 years. Moreover, the Smart Grid requires thousands of repeater meters and additional transmission equipment. The microwave emissions heat up the planet and the community, just as a microwave oven heats food, a highly undesirable side effect in the face of catastrophic climate change.

The original *raison d'etre* was to enable time-of-use pricing so that poor people would have to get up at 3 am to cook, vacuum, and do laundry. Most people disagreed with this objective from the outset. Regardless, it never came to fruition as most utilities have not adopted time-of-use pricing. The Smart Grid was supposed to eliminate meter-reader jobs and reduce the need to drive to customer locations. Lower carbon dioxide emissions were cited as a benefit; however, FPL drives a fleet of electric vehicles. Moreover, there are better ways to accomplish this, such as asking customers to self-report usage or photograph their meters, with occasional in-person audits. The Smart Grid is vulnerable to security threats and hacking. A well-placed EMF pulse could knock out power to an entire city for hours or days. The Smart Grid is an

economic, environmental, safety, security, and public health boondoggle.

Health and Human Services (HHS) Secretary, Robert F. Kennedy, Jr., has taken a stand opposing excess and unnecessary EMF radiation. As Chairman and founder of Childrens Health Defense and as the leader of the Make America Healthy Again (MAHA) movement, he has spearheaded lawsuits against the FCC to reduce the harm from EMF radiation and end this technological holocaust. Our nation is the sickest it has ever been, and EMF radiation is one of the reasons for this. One in 31 children are autistic. Sixty percent of Americans have one or more chronic diseases. (https://www.hhs.gov/maha/index.html). The rate of harm is unsustainable. We are on a slippery slope. We must immediately scale back our EMF pollution by eliminating unnecessary emissions. The Smart Grid is completely unnecessary. In fact, we are better off without it. The analog grid safely and securely provides us with all the electricity we need.

"More people point to smart meters as the cause of their sensitivity to electromagnetic radiation (EMR) than any other trigger, Beatrice Alexandra Golomb, M.D, Ph.D., told The Defender in a recent interview." (https://childrenshealthdefense.org/defender/pennsylvania-woman-scores-temporary-win-smart-meter-mandate/) This is exactly what happened to the Plaintiff. Her injuries from the Smart Grid are permanent, with cumulative effects with each successive RF pulse. Thousands are suffering the same fate. This Court has the power to stop the mayhem.

B. Procedural History

This litigation has been marred by foul play. The gravamen of the instant Complaint is fraud on the court in the underlying Smart Meter case, the interim case, and other underlying cases which are not included in this Petition. The lower courts erred in finding res judicata where fraud on the court was alleged. (Federal Civil Procedure Rule 60(b); *Hazel-Atlas Glass Co. v. Hartford Empire Co.*, 322 U.S. 238, 244, 64 S. Ct. 997, 1001, 1003, 88 L.Ed. 1250 (1944)). Indeed, the lower courts handed down rulings replete with legal, factual, and grammatical errors, sometimes even befuddling the parties. The judgments had to be amended. (App.8a) The lower courts entered void judgments that found no jurisdiction and then proceeded to exercise jurisdiction. This is not the work of esteemed Article III judges.

The clerks declined default, finding that SDG&E and FPL were not served in both underlying cases. The clerk found that Peevey, Harris, and most of the defendants were never served in the interim case. If we accept the clerks' rulings, then jurisdiction over the Defendants was never established. Thus, there can be no res judicata. Moreover, the injuries and abridgement of rights are ongoing. New injuries and facts are alleged. This creates a new and distinct cause of action.

As of yet, no court has considered the constitutional claims. In the original case, the District Court granted the Defendants' Rule 12(b) motions to dismiss for (1) lack of subject matter jurisdiction and (6) failure to state a claim. It found a lack of jurisdiction based on Eleventh Amendment immunity over Peevey and Harris in their official capacities. Although the officials were sued personally as well, the lower court found

that they were not. Again, there can be no res judicata regarding the officials in their personal capacities. The lower court conferred legislative immunity on Peevey; however, Peevey was not sued for any discretionary legislative activity. He was sued for due process violations, corruption, and breaching a ministerial duty to keep customers safe. The lowers courts never ruled on this. The lower court found that Attorney General Harris had no "connection to the Smart Grid"; however, no connection is needed for her to fulfill her ministerial duty to uphold the Constitution and advise her client, Peevey, to comply with law. This is another new issue that has never been decided. Itron and SDG&E were dismissed based on a state law. (Public Utilities Code (PUC) § 1759). The dismissals were granted with nary a word about the constitutional violations pleaded in the Complaint, completely ignoring PUC § 1760, which affords courts the authority to override the CPUC determinations regarding constitutional rights. A finding of unconstitutionality would overrule all of the District Court's findings, as the Constitution is the highest statutory authority.

The Ninth Circuit declined to hear any appeal of the original case and the interim case because the Plaintiff was unable to pay the docketing fee. The IFP applications were improperly denied without the authorization of any Article III judge. The Plaintiff filed a similar certiorari petition in this Court in 2015 contesting the constitutionality of the Smart Grid. It was rejected by the clerk. The Plaintiff was unable to perfect the submission because the Defendants orchestrated a false arrest and malicious prosecution solely for the purpose of hampering her ability to present her case in court. The Defendants committed extrinsic

fraud on the court, curtailing the Plaintiff's right to petition for redress. (*Dombrowski v. Pfister*, 380 U.S. 479 (1965)). If the Court had heard the case in 2015, we all could have avoided the past ten years of mayhem. All that the Defendants were able to accomplish through their foul play was to cause Americans another ten years of pain and suffering.

Make no mistake about it. The Smart Grid will come down. That is a certainty. The only question is when. How many more injuries and deaths are we willing to endure?

Whereas the lower courts have refused to hear the constitutional claims, due process was violated. Unless this Court grants certiorari, additional collateral attacks will likely ensue. This Court should exercise its supervisory powers here, if only to preserve the integrity of American jurisprudence and prevent an endless roundelay of litigation exposing rampant corruption in our courts.

The constitutional questions presented herein warrant a thorough review by the nation's highest court. They are very timely and relevant to the ongoing public discourse. Petitioner encourages the Court to embrace this opportunity to review the substantive issues presented herein.

REASONS FOR GRANTING THE PETITION

The Petitioner presents the following "compelling reasons" as defined by the Rules of the Supreme Court, Rule 10.

> "(a) a United States court of appeals has entered a decision in conflict with the decision of another United States court of appeals on the same important matter; has decided an important federal question in a way that conflicts with a decision by a state court of last resort; or has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by a lower court, as to call for an exercise of this Court's supervisory power;"
>
> "(c) a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court."

I. Conflict With *Friedman v. Public Utilities Commission*

In *Friedman v. Public Utilities Commission*, 2012 ME 90, the Maine Supreme Court decreed "Contrary to the Commission's conclusion, we are not persuaded that Friedman's health and safety concerns were "resolved" . . . " The highest state court in Maine found a lack of due process in Smart Grid proceedings, which bear striking similarity to that of California. In both states, the commissions disregarded the thousands of injuries reported. Both pushed the agenda forward in the face of overwhelming public opposition. Both were unduly influenced by industry. Both ignored reams of scientific evidence showing the adverse biological effects of electromagnetic radiation. Neither took heed of urgent warnings from distinguished doctors and

scientists with extensive expertise in the field. Neither required any kind of safety testing.

Rule 10(a) authorizes this Court to resolve the conflict between the decisions of the Maine Supreme Court and those of the Ninth Circuit. This Court should step up to the plate and resolve this issue.

II. Conflict With *Murray v. Motorola*

The Ninth Circuit's opinion conflict's with the decision of the District of Columbia (DC) Court of Appeals, the equivalent of a state court of last resort (state supreme court), on important issues of federal law concerning RF radiation. The DC Court allowed the cases to move forward where the defendants exceeded Federal Communications Commission (FCC) standards, as the Plaintiff has alleged, and where there was fraud, also alleged by Plaintiff. This demonstrates a "compelling reason" for granting certiorari under Rule 10(a).

"[W]e conclude that insofar as plaintiffs' claims are premised on allegations that they were injured through use of cell phones that did not meet the FCC standard, the claims are not federally preempted. We also conclude that plaintiffs' claims alleging violations of the District of Columbia Consumer Protection Procedures Act ("CPPA"), D.C. Code § 28-3904 (2001), may survive the preemption challenge." *Murray v. Motorola, Inc.*, 982 A. 2d 764, 768 (DC 2009). This case, filed in 2001, is still being litigated.

"Federal law is the supreme law of the land, but there is no constitutional provision that says federal facts are the supreme facts of the land. Federal law can preempt state law, but it cannot preempt scientific fact. The scientific truth, whatever it may be, lies

outside of the FCC's regulations about what is 'safe' or 'unsafe.'" Judge Frederick H. Weisberg, Washington D.C. Superior Court: August 8, 2014, Expert Preemption Order (page 5), *Michael Patrick Murray et al. v. Motorola Inc. et al.* Case No. 2001-CA-008479B.

III. Conflict With *Elrod v. Burns*, *New York Times v. US*

It is well established that the deprivation of constitutional rights is actionable. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976). The First Amendment overrides certain government interests. *New York Times Co. v. U.S.*, 403 U.S. 713 (1971). The Plaintiff contends that the failed Smart Grid is one of them. The Ninth Circuit erred when it refused to consider this issue. This Court should grant certiorari pursuant to Rule 10(c).

IV. Conflict With *Burwell v. Hobby Lobby*, *Masterpiece v. Colorado*

This Court established that a provision of the Affordable Care Act violated the Religious Freedoms Restoration Act of 1993 (RFRA) because it was not done in the "least restrictive way". (*Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014)). Likewise, the federally-funded Smart Grid violates RFRA by abridging the Plaintiff's right to exercise her religious belief in her own home. The Smart Grid is obviously not the "least restrictive way" to distribute and measure energy. The previous electric grid accomplished this goal in a less restrictive way. The Smart Grid must be enjoined under RFRA or the Free Exercise Clause and

replaced by the safe analog grid which has worked flawlessly for decades.

This Court found that a state commission violated the Free Exercise Clause when it ordered a vendor to bake a cake for a gay couple, an act prohibited by his sincerely-held religious beliefs. *Masterpiece Cakeshop v. Colorado Civil Rights Commission*, 584 U.S. 617 (2018). The Court granted certiorari and applied strict scrutiny. The Petitioner requests the same consideration regarding the CPUC's religious animus to her sincerely-held naturalist and wholistic beliefs, which are tantamount to a religion and likewise protected by the First Amendment. *United States v. Seeger*, 380 U.S. 163 (1965). The Ninth Circuit failure to follow the edicts of this Court must be corrected.

V. Conflict With *U.S. v. Jones*, *ACLU v. Clapper*

The facts of *U.S. v. Jones*, 132 S. Ct. 945 (2012) are remarkably similar to this Smart Grid case. In *Jones,* the government, without consent, placed a GPS radiation-emitting device on Jones' private vehicle in order to track his movements. Likewise, the government mandates or places Smart Meters on private property without consent for the purpose of gathering information. The *Jones* Court found this to be unconstitutional.

The Smart Grid is a federal program which engages in physical intrusion of private homes and businesses in order to obtain information. The Ninth Circuit's opinion conflicts with this Court's determination that "when the Government does engage in physical intrusion of a constitutionally protected area in order to obtain information, that intrusion may constitute a violation of the Fourth Amendment." *Id* 132 S. Ct. 945

at 951 quoting *United States v. Knotts*, 460 U.S. 276, 286 (1983). The *Jones* opinion was upheld again in *American Civil Liberties Union v. Clapper*, 785 F.3d 787 (2nd Cir., 2015) (Mass surveillance and the bulk collection of data violates Fourth Amendment.)

The ACLU alleged both First and Fourth Amendment violations. The Second Circuit found that the data collection, which violated constitutional rights, was never justified by Section 215 of the Patriot Act of 2001. Likewise, Petitioner proposes that the Smart Grid clause of the Energy Independence and Security Act of 2007 does not justify the constitutional abuses enumerated herein. On the contrary, it calls for "customer control options". The Ninth Circuit opinion cannot stand. This Court must grant certiorari in accordance with Rule 10(c).

VI. Conflict With *Silverman v. United States*

In a rare unanimous opinion, this Court proclaimed, "At the very core" of the Fourth Amendment "stands the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion." *Silverman v. United States*, 365 U. S. 505, 511 (1961) The Ninth Circuit has decided an "important federal question" in a way that conflicts with this decision. The Ninth Circuit has denied the Plaintiff's constitutional right to be free from Smart Meters and Smart Grid radiation in her own home. Yet the Smart Grid is completely unnecessary. For decades, we have had a safe, reliable, and lawful electric grid that supplied us with plenty of energy. The Smart Grid is not necessary for energy distribution and is thus, an "unreasonable government intrusion". Relief is authorized under Rule 10(c) and should be granted. Now is

the time for this Court to solidify its position as stated in *Silverman*.

VII. Conflict With *DeShaney v. Winnebago County*, *Pauluk v. Savage*

A "state-created danger" claim under the Due Process Clause arises where: (1) the state affirmatively places the plaintiff in danger; and (2) acts with "deliberate indifference" to a "known or obvious danger." Like its counterpart in the Fifth Amendment, the Due Process Clause of the Fourteenth Amendment was intended to prevent government "from abusing [its] power, or employing it as an instrument of oppression," *Davidson v. Cannon*, 474 U.S. 344, 348 (1986); *Daniels v. Williams* 474 U.S. 327, 331 (1986); *Parratt v. Taylor*, 451 U.S. 527, 549 (1981); *DeShaney v. Winnebago County,* 489 U.S. 189 (1989). Although *DeShaney* denied the § 1983 relief against private actors on an endangerment theory, it opened the door for these claims to advance against state actors.

The Ninth Circuit "and a majority of other circuits have held that a state actor can be held liable when that state actor did 'play a part' in the creation of a danger. *See Gormley v. Wood-El*, 93 A.3d 344, 360 (N.J. 2014) ('Most federal circuit courts now recognize the state-created-danger doctrine as a basis for a substantive-due-process violation.' (citing *Sanford v. Stiles*, 456 F.3d 298, 304 (3d Cir. 2006))); *see also L.W. v. Grubbs (Grubbs I)*, 974 F.2d 119, 122 (9th Cir. 1992). Under the state-created danger doctrine, a state actor can be held liable for failing to protect a person's interest in his personal security or bodily integrity when the state actor affirmatively and with deliberate indifference placed that person in danger. The doctrine holds state actors liable 'for their roles in creating or

exposing individuals to danger they otherwise would not have faced.'" *Pauluk v. Savage*, 836 F.3d 1117, 1122 (9th Cir. 2016).

The Smart Grid is a state-created danger. Thousands of injuries have been reported. The state is harming people in their own homes. There is no escape. This creates an affirmative duty to protect under the Fifth and Fourteenth Amendment. The Ninth Circuit contradicted itself, something it is only allowed to do en banc. This alone constitutes a serious error that should be corrected by granting certiorari.

While the circuit courts have been busy expanding the state-created danger doctrine, the high Court has been silent on the issue since *Deshaney*. This case provides a perfect vehicle for the Court to speak.

VIII. Conflict With *Griswald v. CT*, CA and FL Constitutions

Although the federal right to privacy is judicially-crafted from the Fourth, Fifth, Ninth, and Fourteenth Amendments, the right has been enshrined in several state constitutions, including California (Article I § 1) and Florida. Article I, § 23 of the Florida Constitution states that "Every natural person has the right to be let alone and free from governmental intrusion into the person's private life . . . " The California and Florida utilities must stay out of the Plaintiff's bedroom, pursuant to *Griswold v. Connecticut*, 381 U.S. 479 (1965), and stay out of her whole house. The utilities and commissions have a ministerial duty to obey the constitutions of their respective states. The Ninth Circuit error must be corrected.

IX. No Other Adequate Remedy

The Ninth Circuit has left the Petitioner with no other adequate remedy than certiorari in this Court. The California Supreme Court recently affirmed in *Gantner v. PG&E Corp.*, No. S273340 (2023), that PUC § 1759 bars a District Court from hearing any claim that would interfere with a CPUC regime such as the Smart Grid. (*San Diego Gas & Electric Co. v. Superior Court (Covalt)* (1996) 13 Cal.4th 893). A constitutional challenge is the only remedy. Since both the District Court and the Ninth Circuit refused to hear the constitutional claims, this Court must do so. For every wrong there is a remedy. (California Civil Code § 3523).

X. Intervening Changes in Law

Because this is a rapidly developing, cutting edge issue, pivotal decisions have been entered since arguments were filed in the District Court. In accordance with longstanding precedent, intervening changes in law must be considered. A party is entitled to the benefit of changes in the law that occur before a decision becomes final. *See, e.g., Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 226-27 (1995); *Harper v. Va. Dep't of Taxation*, 509 U.S. 86, 96-97 (1993); *United States v. Schooner Peggy*, 5 U.S. (1 Cranch) 103, 109-110 (1801); *cf. Lawrence ex rel. Lawrence v. Chater*, 516 U.S. 163, 166-68 (1996).

Expounding on the *Masterpiece* decision, this Court upheld Freedom of Speech in its recent opinion in *303 Creative LLC v. Elenis*, 600 U.S. 570 (2023), finding that a state commission could not compel speech that violated a designer's religious beliefs. Likewise, this case presents similar infringement of the Free

Speech and Free Exercise Clauses by a state commission, the CPUC. The Ninth Circuit stands in conflict with the *303 Creative* decision of this Court. Certiorari must be granted to resolve the conflict.

Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024) recently overturned *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), signaling that the courts can no longer defer to the FCC's interpretation of a law or statute. The FCC has consistently decided to propagate, approve, and even auction off RF bandwidth that kills and injures Americans. The FCC has consistently abridged constitutional rights as set forth herein. The utilities, the CPUC and other state commissions rely on the FCC's erroneous legal interpretations. It is high time for this Court to set them straight.

In *Environmental Health Trust v. FCC,* No. 20-1025 (D.C. Cir. 2021), the DC Circuit found that the FCC failed to provide a reasoned explanation for its determination that its guidelines adequately protect against the harmful effects of exposure to RF radiation unrelated to cancer. The case was remanded for further proceedings. To date, the FCC has failed to comply.

XI. The Judgment Is Void

As it stands the judgment is void. The District Court found no jurisdiction and yet proceeded to exercise jurisdiction, dismissing the Defendants with prejudice. (App.27a, footnote) At every level, the case was decided by rogue clerks without authorization from any Article III judge. This lack of due process also renders the judgment void. (*Hanson v. Denckla*,

357 U.S. 235, 255 (1958)-Judgment is void for being "offensive to the Due Process Clause").

An order that exceeds the jurisdiction of the court, is void, or voidable, and can be attacked in any proceeding in any court where the validity of the judgment comes into issue. (*Rose v. Himely* (1808) 4 Cranch 241, 2 L ed 608; *Pennoyer v. Neff* (1877) 95 U.S. 714, 24 L.Ed 565; *Thompson v. Whitman* (1873) 18 Wall 457, 21 l ED 897; *Windsor v. McVeigh* (1876) 93 U.S. 274, 23 L ed 914; *McDonald v. Mabee* (1917) 243 U.S. 90, 37 S.Ct. 343, 61 L.Ed. 608). A void judgment cannot stand. This Court should exercise its supervisory power pursuant to Rule 10(a) to restore the dignity and stature of our nation's judiciary.

XII. Conflict with Other Jurisdictions

Although not controlling, other jurisdictions have decided similar RF radiation issues in a manner conflicting with the Ninth Circuit. The Petitioner presents this information only to demonstrate the magnitude of the problem, in hopes that this will assist the Court in its certiorari determination. As society grapples with this technological encroachment, the U.S., as the leader of the free world, should offer some direction from its highest court.

A. Municipalities Ban Smart Meters

Many municipalities across the country have enacted legislation in opposition to Smart Meters. In California alone, to date, 57 local governments have banned Smart Meters. Many have criminalized their installation. The utilities have ignored these public mandates, foisting these radiation-emitting devices on the residents despite the local ordinances.

The misconduct at the CPUC is the most egregious of any state public utilities commission. California was one of the first states to institute a Smart Grid. Other states followed reading from the same sordid script. The industry handpicked, groomed, and padded the pockets of the man who would lead the efforts, former CPUC President Peevey. It is most fitting that the Supreme Court hears a Smart Grid case from California. This controversy provides a suitable vehicle. Certiorari should be granted.

B. Italian Court Finds RF Radiation Causes Cancer

The Supreme Court of Italy was the first high court in the world to find a causal link between cell phone radiation and cancer on October 18, 2012. As we know, this is a matter of fact, not law. Thus, the differences between Italian law and American law are of no consequence. The court relied on the research of Dr. Lennart Hardell. Scientific truth knows no national borders. "In upholding the lower court's decision, the Supreme Court held 'that scientific evidence advanced in support of the claim was reliable' . . . " (http://www.loc.gov/lawweb/servlet/lloc_news? disp3_l205403378_text)

C. Canadian Court Rules for Plaintiffs in RF Radiation Case

On January 27, 2014 the Supreme Court of Nova Scotia overturned summary judgment and issued a ruling against a telecommunications provider, allowing the plaintiffs to go to trial. The plaintiffs were injured and lost their home when a cell phone tower was erected on their property. (*Pettipas v. Bell Alliant*

Regional Communications, Inc. 2014 NSSC 25 (CANLII))

D. France Bans Wi-Fi in Nurseries

On January 29, 2015, France took the lead in protecting health and ensuring rights by enacting ground-breaking legislation. "Today the French Parliament passed a law addressing electromagnetic fields and electromagnetic hypersensitivity. While the new law does not go nearly far enough, it is the first of its kind in the world. Among its provisions are the following: . . . Wireless internet is prohibited in places dedicated to the welcome, rest, and activities of children under 3 years of age. Wireless access for internet in elementary schools must be disabled when not in use for teaching." (http://takebackyourpower.net/2015/02/france-new-law-bans-wifi-in-daycares-restricts-wireless-infrastructure/).

E. Papal Encyclical Urges Good Stewardship

On June 18, 2015, Pope Francis, released an encyclical addressing man-made pollution and urging better stewardship of the earth. "The pope is almost saying: 'You may not believe in God, but if you believe in ecology, you can't ignore this.'" (http://www.washingtonpost.com/local/an-italian-draft-of-pope-francis-environmental-paper-leaks-setting-off-scurry-to-google-translate/2015/06/15/89af0012-1379-11e5-9ddc-e3353542100c_story.html) With 1.2 billion members worldwide and six out of nine Justices of this Court, the Catholic Church has sent a powerful message in support of the Petitioner's plea.

XIII. Interest of the Amici

Various amici curiae are invited to file supporting briefs. This matter may well inspire briefs from distinguished constitutional scholar and Harvard Law School professor of ethics, Lawrence Lessig, and public interest groups such as the American Civil Liberties Union (ACLU), Childrens Health Defense (CHD), Environmental Health Trust (EHT), EMF Safety Network, The Utilities Reform Network (TURN), Californians for Renewable Energy (CARE), Electronic Frontier Foundation (EFF) and others. Lawrence Lessig has addressed First Amendment RF radiation issues while representing the City of Berkeley in defense of the Cell Phone Right to Know Act, which he also co-drafted. CHD and EHT have successfully sued the FCC for RF harm to human health. The EMF Safety Network, TURN, and CARE have all filed actions with the CPUC to stem the tide of Smart Grid abuses. CARE has previously supported Petitioner in this action. The IT industry and government agencies should also chime in to bring clarity to these issues.

XIV. Petitioner Demonstrates Ripeness and Standing

The Petitioner has sustained, continues to sustain, and will sustain direct injury or harm as a result of the Smart Grid. This harm is redressable under 42 U.S.C. §§ 1983, 1985 and 1986 as well as other federal statutes such as RFRA. (*Flast v. Cohen*, 392 U.S. 83 (1968)) The claim is ripe for judicial review by this court as the administrative decisions have been formalized and their effects felt in a concrete way. (*Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967)) The Smart Grid has been installed, causing the Petitioner

to suffer bodily injury as well as abridgment of federal rights.

The Complaint "does present an 'actual controversy' within the meaning of the Declaratory Judgment Act, 28 U.S.C. § 2201, that is ripe for decision. The test to be applied is stated in *Maryland Casualty Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270, 273 (1941): 'Basically, the question in each case is whether . . . there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.'" *Lake Carriers' Assn. v. MacMullan*, 406 U.S. 498, 506 (1972). The Petitioner demonstrates both standing and ripeness in this controversy. Certiorari should be granted.

CONCLUSION

A Supreme Court opinion in this case would help to define the constitutional limits of government-mandated spying. It would restore confidence in the personal, property, and privacy rights of all citizens. It would also create an atmosphere of greater economic certainty, particularly vis-à-vis future investments in the IT industry. This multi-trillion dollar industry needs to know how far they can lawfully extend their business of electronic data collection. The participation of the highest court in this dynamic debate would be most welcome. This Court should allow these momentous issues to be fully briefed. With such high stakes on both sides, all parties and various amici should be given the opportunity to state their positions and air

their concerns. At the very least, the Petitioner should be accorded full and fair hearing on the merits. This Court should grant the Petition.

A. Request for Authentication

The Petitioner requests that each justice certify that he or she has personally read the Petition and made the rulings and orders by issuing an affidavit with a hand-written, notarized signature. This is necessary to stem the tide of foul play associated with this case and to ensure that decisions are properly made by Article III judges.

B. Verification

I, Deborah Cooney, verify and declare that the factual statements in the foregoing Petition for a Writ of Certiorari are true and correct to the best of my knowledge and belief, under penalty of perjury under the laws of the United States.

Respectfully submitted,

Deborah Cooney
Petitioner Pro Se
P.O. Box 700013
Wabasso, FL 32970
(858) 380-6594
celestecan@hotmail.com

December 11, 2025