

**UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT**

January 29, 2026

The Honorable Michael A. Chagares  
Chief Judge, United States Court of Appeals for the Third Circuit  
U.S. Courthouse  
601 Market Street  
Philadelphia, PA 19106

**RE:** Formal Notice of Pending Matters Requiring Adjudication

**Case No. 23-2110** (Criminal Appeal — Fraud)

**Case No. 24-1381** (Civil Appeal — SEC Enforcement)

**Case No. 24-1983** (Criminal Appeal — Tax)

**Case No. 25-1188** (Mandamus)

Dear Chief Judge Chagares:

I write to formally notify this Court of critical matters requiring adjudication across four related cases that have languished without resolution, some for nearly two years. The Supreme Court's denial of my mandamus petition (Case No. 25-6128) on January 20, 2026, does not relieve this Court of its obligation to rule on pending motions and appeals. To the contrary, that denial returns these matters to this Court's jurisdiction with renewed urgency.

This letter documents a pattern that, viewed collectively, suggests systemic dysfunction: controlling Supreme Court precedent ignored, government responses never compelled, motions left pending for months or years, and fundamental constitutional protections—including the Due Process Protections Act of 2020—systematically violated at both the district and appellate levels.

**I. THRESHOLD LEGAL QUESTION: WHETHER THE GOVERNMENT AND  
THIS COURT MAY AVOID ADJUDICATION OF A NON-WAIVABLE  
JURISDICTIONAL DEFECT**

Before any procedural or factual issue, this Court must confront a threshold question it has repeatedly declined to answer: whether the charged conduct constitutes a federal crime as a matter of law under controlling Supreme Court precedent—and, if it does not, whether continued non-adjudication is being used to avoid the mandatory consequence of dismissal for lack of subject-matter jurisdiction.

This question arises not from advocacy, but from the record itself. The government has never defended its theory against *Sprint v. APCC Services*. This Court has never adjudicated it. And yet convictions, forfeitures, and collateral proceedings continue to stand.

The convergence of two facts is now unavoidable:

- (1) the absence of any ruling that the charged conduct is criminal; and
- (2) the sustained refusal of both the government and the Court to address that issue when squarely presented.

If *Sprint* applies—as its plain holding dictates—then the indictments allege conduct that is not criminal, jurisdiction never attached, and all downstream proceedings are void.

**The Court must therefore decide whether adjudication has been withheld because resolving the question would require dismissal for lack of subject-matter jurisdiction.**

Paragraph 11 of the fraud indictment (21-cr-427) states that claimants to securities class action settlements "were required to show two essential facts": (1) "that they had bought shares of the subject security," and (2) "that they had suffered damages as a result of their purchase." This statement of law has never been tested against controlling authority.

In *Sprint Communications Co. v. APCC Services, Inc.*, 554 U.S. 269 (2008), the Supreme Court held that "an assignee of a legal claim for money owed has standing to pursue that claim in federal court, even when the assignee has promised to remit the proceeds of the litigation to the assignor." *Id.* at 271. The Court further held that "such an assignment satisfies the 'injury-in-fact' requirement despite not having suffered a direct injury; in effect an assignment transfers the assignor's claim to the assignee." *Id.* at 286.

Under *Sprint*, assignees need not personally trade securities or suffer damages—they enforce assigned claims from those who did. The indictment's "two essential facts" may not be legally required elements at all. Whether they are is a threshold question of law that this Court has the duty to adjudicate.

**This controlling precedent was required to be disclosed to the defense under the Due Process Protections Act of 2020, codified at Fed. R. Crim. P. 5(f). Judge Kenney never issued the mandatory Brady order at arraignment, violating this statutory requirement.** Despite this failure, the *Sprint* defense was presented at trial, raised in post-trial motions, briefed before this Court, and presented to the Supreme Court of the United States.

**It has never once been addressed by any court at any level.** Once the legal validity of the assignment defense was confirmed through trial testimony—including government witnesses who admitted that assignment of trade rights is "common" and "not atypical in the business"—all

parties, including the Court, were obligated to adjudicate whether the prosecution could lawfully proceed. No court has done so.

The same legal theory appears in Paragraph 13 of the tax indictment (22-cr-639), which characterizes the settlement proceeds as "the result of fraud." If the underlying conduct is lawful under *Sprint*, the premise of the tax theory requires examination.

This Court's February 24, 2025 opinion in Case No. 23-2110 acknowledged the indictment's "two essential facts" theory in footnote 12 but did not analyze whether that theory is correct under *Sprint*. The word "Sprint" does not appear in the 61-page opinion. The threshold question—whether the charged conduct constitutes a federal crime as a matter of law—remains adjudicated.

**The continued refusal to adjudicate this question despite repeated presentation is itself the issue this letter addresses.**

## II. CASE NO. 23-2110 (FRAUD APPEAL)

**Status:** Opinion issued February 24, 2025. Petition for Rehearing and Addendum (ECF #63, #69) filed and denied. Remanded for restitution and forfeiture recalculation only.

### Unaddressed Issues:

- *Sprint v. APCC Services* never cited, distinguished, or addressed despite being controlling on the threshold legal question of whether assignees must personally trade or suffer injury—and despite being raised at trial, in post-trial motions, on appeal, and before the Supreme Court
- Government conceded at closing argument that assignment of trade rights is legal, then argued Appellant "stole" his clients' trades—a theory requiring duplicate trades that every government witness confirmed did not exist
- Trial evidence established lawful assignments: Directors of Quartis and Nimello testified confirming assignments; claims administrator Tina Chiango testified transfer of trade rights is "common" and "not atypical in the business"
- **Rule 5(f) / Due Process Protections Act violation:** Judge Kenney (E.D. Pa.) never issued the mandatory Brady order at arraignment as required by Fed. R. Crim. P. 5(f), enacted in 2020
- Government's theory shift at closing constitutes constructive amendment—the indictment charged that entities "never traded" securities; the closing argument conceded they could legally file as assignees but accused Appellant of "theft" from his own clients

**The Panel's Statement:** Page 19 of the opinion states: "The Government acknowledged that if Cammarata was, in fact, the beneficial owner of a security... he was entitled to submit a claim in his own name." Under *Sprint*, assignees file in *their own names* as first parties, not third parties. *Sprint* at 290. When *Sprint* is applied, it is impossible for there to have been a crime or subject matter jurisdiction—which is precisely why no court has been willing to adjudicate it or even respond to it.

## III. CASE NO. 24-1381 (SEC CIVIL APPEAL)

**Status:** Appeal docketed March 2024. **Government has never filed a response brief despite 21+ months of pendency.**

### Unaddressed Issues:

- **Void TRO:** The ex parte TRO issued November 4, 2021 expired by operation of law on November 24, 2021 under Fed. R. Civ. P. 65(b)(2)'s 14-day limit. All subsequent orders extending the "TRO" are void ab initio.
- **Impossible Compliance:** The district court scheduled hearings simultaneously in Miami (SEC case) and Philadelphia (criminal arraignment) on November 9, 2021. Appellant

could not appear at both. This manufactured "default" formed the basis for adverse rulings.

- **Fabricated Service:** USM-285 form shows the date altered from '9' to '8' to fabricate timely service.
- **Unresolved Threshold Question of Subject Matter Jurisdiction:** The SEC's complaint alleges violations "in connection with" securities trading, but the claims aggregation business has no nexus to securities trading sufficient to invoke Section 10(b). The "in connection with" element was never established.
- **Improper Collateral Estoppel:** The district court applied collateral estoppel from the criminal wire fraud conviction to the civil securities fraud claims. This was legal error. Collateral estoppel requires, among other elements, that the issue was (1) actually litigated, and (2) identical to the issue in the prior proceeding. Neither requirement is met:
  - The *Sprint* defense was never adjudicated on the merits in the criminal case
  - Wire fraud and securities fraud are not identical issues—securities fraud under Section 10(b) requires additional elements not present in wire fraud, including the "in connection with" a securities transaction requirement and the heightened pleading standard of Fed. R. Civ. P. 9(b)

Judge Kenney's application of collateral estoppel from a wire fraud conviction to securities fraud claims ignores these fundamental distinctions.

- **ECF #22 (Opening Brief) and ECF #42 remain unanswered.** The government has never been required to respond.

#### IV. CASE NO. 24-1983 (TAX APPEAL)

**Status:** Fully briefed. Submitted for decision on the papers December 2, 2025. **No ruling in nearly two months.**

**Unaddressed Issues:**

- **Grand Jury Contamination:** On September 22, 2022—*three weeks before the fraud trial began* on October 13, 2022—prosecutors told the tax grand jury that \$16 million was "the result of fraud." No fraud conviction existed. This violated the presumption of innocence and contaminated the indictment.
- **Brady Violations — \$19 Million in Suppressed Business Expenses:** The same prosecutors who produced business expense records in the E.D. Pa. fraud case deleted \$19 million in deductible expenses from discovery in the D.N.J. tax case. These expenses would eliminate the alleged tax deficiency entirely.
- **Additional Suppressed Evidence:** IRS 1042-S forms proving taxes were withheld and reported; settlement check statements stating proceeds were "generally not taxable income" (negating willfulness).
- **Rule 5(f) Violation:** Judge Sheridan (D.N.J.) also failed to issue the mandatory Brady order at arraignment.
- **Hearsay Evidence and Missing Witness:** The government's case rested entirely on hearsay. IRS Agent Missouri, who testified at trial, admitted he was not the one who produced the underlying work. IRS Agent Evenly—who actually performed the analysis and gave grand jury testimony alone, using leading questions throughout—did not testify at trial. Critically, Agent Missouri admitted on cross-examination that if there were legitimate business expenses, they would offset any tax liability. Yet \$19 million in such expenses were suppressed.
- **Derivative Theory:** The tax indictment (Paragraph 13) premises the entire tax theory on the proposition that the settlement proceeds constituted fraud. If that premise fails under *Sprint*, the tax conviction has no independent basis.

#### V. CASE NO. 25-1188 (MANDAMUS)

**Status:** Petition filed February 10, 2025. **Eleven months without ruling. Government entered appearances but never filed a substantive response.**

**Unaddressed Motions:**

- **ECF #12 (March 24, 2025):** Motion to transfer to Second Circuit based on venue and conflict of interest—*no ruling*
- **ECF #14 (May 21, 2025):** Motion regarding newly discovered evidence—*no action*
- **ECF #16 (September 8, 2025):** Motion for clarification—*still pending*
- **No panel has been assigned.**

**Supreme Court Proceedings:** The Solicitor General waived the government's right to respond on December 3, 2025. The Supreme Court denied the petition on January 20, 2026, without opinion. This denial does not vindicate the Third Circuit's handling of these cases—it returns them here for proper adjudication.

## VI. CROSS-CUTTING ISSUES AFFECTING ALL CASES

### A. Undisclosed Conflicts of Interest and Judicial Bias

- **Prosecutor's Spouse:** Jeanne Donnelly, spouse of SEC prosecutor, is employed in the Third Circuit Executive Office. This was never disclosed. When raised, it was never denied.
- **District Judge's Spouse and Demonstrated Bias:** The spouse of Judge Kenney (E.D. Pa.) is a class action attorney whose practice involves the same settlement administrators at issue in this case. Judge Kenney displayed extreme bias throughout the proceedings, including at the November 9, 2021 hearing where he stated on the record: "I consider this a crime against the courts." This statement was subsequently removed or altered in multiple hearing transcripts—suggesting recognition of how prejudicial it appeared. This undisclosed conflict, combined with the documented bias, creates an appearance-of-impropriety concern that has never been addressed on the record.

### B. Pattern of Government Non-Response

Across these four cases, the government has been permitted to ignore filing deadlines and substantive briefing obligations without consequence:

- Case 24-1381: 21+ months, no response brief
- Case 25-1188: 11+ months, appearances filed but no substantive response
- Case 23-2110: Government's closing argument theory never tested against Sprint
- Case 24-1983: Brady material produced in one case, deleted in related case by same prosecutors

### C. Systematic Failure to Adjudicate Controlling Law

No court at any level has adjudicated the application of *Sprint v. APCC Services* to the charged conduct. The Third Circuit's opinion in 23-2110 acknowledged the indictment's legal theory but did not analyze whether that theory is correct under binding Supreme Court precedent. This threshold question remains open.

## VII. REQUEST FOR RELIEF

I respectfully request that the Chief Judge direct the following procedural actions:

- **Case 23-2110:** That the Court acknowledge whether the threshold legal question under *Sprint v. APCC Services*—whether the charged conduct constitutes a federal crime as a matter of law—has been adjudicated, and if not, whether it will be. This is the foundational issue. If *Sprint* applies, there was no crime, the unresolved threshold question of subject matter jurisdiction must be addressed, and all subsequent proceedings—including the SEC civil action and the tax prosecution—flow from this original error.



- **Case 24-1381:** That the pending appeal be assigned for adjudication, including resolution of the government's prolonged failure to file a response brief, and that the Court either enforce ordinary briefing obligations or proceed to decision on the existing record.
- **Case 24-1983:** That a ruling be issued on the fully-briefed appeal that has been submitted since December 2, 2025.
- **Case 25-1188:** That a panel be assigned, that pending motions (ECF #12, #14, #16) be ruled upon, and that the government be required to respond substantively or the matter proceed on the existing record.
- **All Cases:** That the conflict of interest created by the prosecutor's spouse's employment at the Third Circuit Executive Office, and the demonstrated bias of Judge Kenney, be addressed on the record.

If the Court declines to take any of these actions, I respectfully request a statement on the record explaining the basis for that decision.

### VIII. CONCLUSION

The matters documented in this letter present a discrete procedural question: whether pending appeals and motions will be adjudicated, and whether controlling legal authority will be addressed.

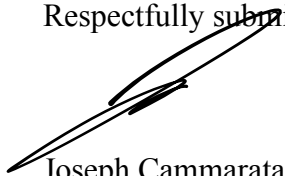
The threshold question in the criminal cases—whether the conduct charged in the indictments is criminal under *Sprint v. APCC Services*—has never been adjudicated by any court, despite being raised at trial, in post-trial motions, on direct appeal, and before the Supreme Court. Motions have remained pending for months without ruling. The government has not been held to ordinary briefing obligations. These procedural failures are themselves the subject of this notice.

This Court retains jurisdiction over the pending matters. The duty to adjudicate them persists. Continued non-adjudication, without explanation, warrants the attention of this Court's administrative leadership.

Public record and supporting materials available at:

<https://exposejustice.com>

Respectfully submitted,



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**cc:**

Third Circuit Judicial Council  
Committee on Judicial Conduct and Disability  
Administrative Office of the United States Courts  
Clerk of Court, Third Circuit Court of Appeals  
Office of the United States Attorney, E.D. Pa. (Paul G. Shapiro)  
Office of the United States Attorney, D.N.J.  
Securities and Exchange Commission, Division of Enforcement  
Department of Justice, Office of Professional Responsibility  
Department of Justice, Office of the Inspector General