

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

Case No. 23-2110

UNITED STATES OF AMERICA

v.

JOSEPH CAMMARATA

Appellant

Addendum to Petition for Rehearing to Address Critical Legal Errors, Omissions, and Oversight
by the Panel Opinion

April 29th, 2025

Addendum to Petition for a Rehearing to Address Critical Legal Errors, Omissions, and Oversight by the Panel Opinion

The Appellant respectfully submits this addendum to ensure that critical errors of law and facts particularly those contained in a single paragraph of the Court's February 24th, 2025, opinion (ECF# 59) are properly addressed. While the Petition for Rehearing (ECF# 63) raised the conviction related issues of constructive amendment, this addendum highlights specific trial evidence and legal authorities that were either omitted or misapprehended by the Court, resulting in a manifest injustice.

Pro Se Filing Despite Counsel Representation:

Due to his incarceration, Mr. Cammarata did not receive a copy of the Petition for a Rehearing until well after it was filed. Legal mail delays of 4 to 6 weeks at Fairton FCI prevented his timely participation. Nevertheless, these arguments grounded in the trial record and long-standing legal principals deserve the Court's attention to prevent the continuation of a wrongful conviction.

Additionally, the Court must consider this pro se addendum despite Mr. Cammarata's representation by counsel. When fundamental constitutional rights are at stake, courts retain discretion to accept and consider pro se filings to prevent manifest injustice. As the Supreme Court recognized in *McKaskle v. Wiggins*, 465 U.S. 168, 177 (1984), a defendant's right to self-representation includes the ability to participate directly in his defense under certain circumstances. Further, in *Farretta v. California*, 422 U.S. 806 (1975), the Court affirmed that a defendant must be allowed to assert personal legal defenses when fundamental rights are implicated. The Third Circuit, in *United States v. Vampire Nation*, 451 F. 3d 189, 206 n.17 (3d

Cir. 2006), likewise acknowledged that district courts have discretion to consider pro se motions alongside counsel's filings where necessary to preserve constitutional protections.

Given the extraordinary errors of fact and law demonstrated herein, and the profound due process violations, the Court must exercise that discretion and fully consider this pro se addendum.

Summary:

The panel's opinion on page 19 contains a paragraph that is critical and dispositive, yet every sentence in it is factually incorrect, legally flawed, or misleading. Specifically, it omits controlling the Supreme Court and Pennsylvania law on legal assignments, misstates key trial evidence, and misrepresents the conduct of the Appellant. This single, page 19, paragraph should have exonerated Mr. Cammarata, yet its errors, left uncorrected, perpetuate a miscarriage of justice.

Argument:

I. The Court Ignored Settled Supreme Court and State Law on the Legal Assignment of Class Action Rights

The page 19 paragraph begins with, "The government argued, quite understandably, that Cammarata's theory that he assigned his person trades to Nimello, Quartis, and Invergasa, made no sense."

It was indeed proven that the prosecution's theory is what made no sense. The prosecution's theory relied on two purported "essential facts" for eligibility in securities class action

settlements: that a claimant must (1) have personally traded the securities; and (2) have incurred a trading loss. (from the superseding indictment, at 11). Both assertions are false.

The Supreme Court in *Sprint Communications Co. v. APCC Services Inc.*, 554 U.S. 269 (2008), 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.* @271. The Court expanded 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.* @ 286. This defeated first "essential fact" was also corroborated by government witnesses, including claims administrator Tina Chiango and cooperating witness, Erik Cohen, who testified that "companies often transfer their trade rights to other companies for filing claims" and it is "common" and "not atypical in the business".

The government conceded the legality of assignment of trade rights in its closing argument at trial. Thus, the government's theory of prosecution relied on false pretenses, contradicted Supreme Court law, witness testimony, trial evidence, and the Pennsylvania Law of Assignments from 1939, all of which was omitted from the panel's review. The opinion's failure to acknowledge the controlling law is not merely an oversight; it is a fundamental legal error.

II. Evidence of Lawful Assignments Was Undisputed at Trial

The trial record is replete with evidence that Mr. Cammarata assigned his trades to the legal entities Nimello, Quartis, and Invergasa, which then filed claims in their own names, as the beneficial owners. Government witnesses, including Stephen Dickson, the director of Quartis and cooperating witness David Punturieri both testified that Mr. Cammarata assigned his trades

from SpeedRoute to Quartis and Nimello for the purpose of filing securities class action settlement claims. Cooperating witness Mr. Erik Cohen also testified that it was the same conduct that Mr. Cammarata engaged, when he, in 2009, assigned all of trade rights from his company Sonic Trading LLC to PB Trade LLC to file the settlement claims as the beneficial owner and relied on the same Supreme Court law from Sprint. That is why Mr. Cammarata knew there was never any criminal conduct, despite telling the prosecution their theory was flawed, he was forced to exercise his constitutional right to trial, but did not anticipate the bias, deprivation of rights, judicial corruption, and complicity that has ensued.

III. The Court's Characterizations of These Entities as "Made Up" Is Unsupported

The page 19 paragraph continued with, "If Cammarata had personally bought and sold securities and was thereby entitled to a share of settlement proceeds, why, the Government asked the jury, would he have made up three clients and pretended that it was they who had purchased and sold those securities?"

Contrary to the panel's suggestion, the assignee entities were real, legally formed and valid corporations with independent directors and were in good standing with all their corporate and tax filings. Where do the Courts think billions of actual trades magically appeared from, to file claims on 10 million trades, if Mr. Cammarata did not assign his SpeedRoute trades from 2008 through 2015? It was testified that SpeedRoute executed 2-3% of the U.S. Exchange volumes daily and had owned millions of trades every day. Then, of the millions of trades in which claims were filed, how is it possible that not a single one was ever invalid or was a duplicate trade filed by someone else, if the trades were not Mr. Cammarata's and properly assigned to the legal

entities? Every claim administrator witness testified that in the seven years and millions of trades filed by the assignees, there was ever a fake or duplicate trade filed. They also testified on cross-examination, along with every clearing firm witness, that "they never checked to see if the trades filed in the class action claims ever belonged to Mr. Cammarata or his entities". There was never any evidence to suggest that the entities were made up or anything other than the valid assignees and beneficial owners who complied with the laws.

IV. The Court Misunderstood the Legal Rights of Assignees

The fallacious paragraph 19, next stated that, "The Government acknowledged that if Cammarata was, in fact, the beneficial owner of a security issued by a company that had settled any of the relevant class action cases, he was entitled to submit a claim in his own name."

The opinion suggested that Mr. Cammarata should have filed claims in his own name, despite having lawfully assigned those rights. But both Sprint and Pennsylvania law are clear: as assignee, as the beneficial owner, "has standing to legal claims and sue in 'their own names', holding that as the assignees, they were asserting their rights as first-parties, not as third parties." Sprint @ 290. This was exactly what Mr. Cammarata had done. In fact, if he would have filed the claims in his own name after assigning his trades, it would have been fraud, because the claim forms require that the claimant attest that they are the beneficial owner and have the exclusive right to file claims on the trades in the subject security.

V. Every Claim Identified the Assignees as Beneficial Owners

Paragraph 19 went on to say, "But, as the Government pointed out, no evidence was presented to show that Nimello, Quartis, and Invergasa were ever the beneficial owners of the subject securities."

Again, the facts of the troubled paragraph could not be more wrong. The claim forms for securities class actions require certain items in which the claim will be rejected if not provided. These items include an attestation that the claimant is the beneficial owner of the trade rights, declarations of the accuracy of the trades, and required tax forms. All of this was not only provided on every single claim filing, but was also corroborated by claims administrator witness James Facciolla, who expressly stated the requirements and the need for the representations as the beneficial owner. Indeed, every claim form identified Quartis, Nimello, and Invergasa as the beneficial owner and included tax forms and other attestations, as presented at trial. Please see Attachment A, which is five pages of Government Exhibit 152 (pages 1, 3, 15, 31, and 33), presented at trial, which is one of the attached tax forms that illustrates how patently wrong the entire thrust of the opinion was regarding the conviction, and the contorting or omission of exculpatory materials and law, actually presented at trial. This represents just one page, of thousands, which was included in every claim filing and undeniably "identified Nimello, Quartis, and Invergasa as the beneficial owners of the subject securities".

VI. The Court's Assumption That Claims Administrators Were Entitled to Assignment Information is Legally Baseless

Finally, the page 19 paragraph ended with, "And, even if Cammarata had assigned his personal trades to Nimello, Quartis, and Invergasa, he never advised the claims administrators of those assignments. To properly administer the settlement, they were entitled to that information."

Despite the fact that there is and has not been a single claim form that has asked the claimant to define how they are the beneficial owner, the law is quite clear in Sprint and the Pennsylvania Law of Assignments, which is not required. There is no legal or regulatory requirement that a claimant disclose whether they are beneficial owner by virtue of assignment. The claim forms only required that the filer attest to being the beneficial owner, which was done properly in each and every claim filed by Nimello, Quartis, and Invergasa. These were also verified by the claim's administrators at trial and demonstrated by the fact that the assignees were paid on thousands of claims in the previous seven years without any incident.

Conclusion:

For the foregoing reasons, Mr. Cammarata respectfully urges this Court to reopen its decision and grant rehearing. The panel opinion particularly the critical paragraph 19 is predicated on clearly erroneous factual assumptions and fails to apply the controlling precedent, which warrants reconsideration under Fed. R. App. 40(a)(2) and the Court's inherent authority to correct manifest injustice.

First, as Mr. Cammarata demonstrated, the Supreme Court's decision in Sprint Communications Co. v. APCC Services, Inc., 554 U.S. 269 (2008) confirms that an assignee of a legal claim for money owed has standing to pursue the claim in their own name, even if they have not personally suffered the original injury.

Second, the Due Process Protections Act of 2020 (codified at Fed. R. Crim. P. 5(f)) and the landmark decision in *Brady v. Maryland*, 373 U.S. 83 (1963), impose affirmative duties on the government and courts to disclose and apply exculpatory evidence and law. The government's failure to present such law, and the district court's failure to issue the required Fed. R. Crim. P. 5(f) order, are violations that independently mandate relief.

Third, The Third Circuit has repeatedly held that manifest injustice occurs when a conviction rests on non-criminal conduct. In *United States v. McNeill*, 887 F.3d 24, 247 (3d Cir. 2018), the Court recognized that a conviction unsupported by the law must be vacated. Similarly, in *United States v. Syme*, 276 F.3d 131 (3d Cir. 2002), this Court emphasized that the government may not constructively amend the indictment at trial, a fatal flaw that occurred here when the prosecution shifted theories during the closing argument.

Fourth, the trial irrefutably establishes that Mr. Cammarata lawfully assigned his rights under long-standing principles of federal and Pennsylvania law. The claims administrators always accepted the assignee entities Nimello, Quartis, and Invergasa as valid beneficial owners. As the panel correctly pointed out during oral arguments, it was odd that the government pursued the investigation as a criminal matter, rather than being a civil matter of securities class actions, under Fed. R. Civ. P. 23.

Accordingly, Mr. Cammarata respectfully requests that this Court:

1. Grant the rehearing to reconsider the panel opinion.
2. Correct the legal and factual errors identified in the page 19 paragraph and elsewhere.

3. Apply controlling precedent, including Sprint, Brady, McNeill, Syme, McKaskle, Faretta, and Vampire Nation.

4. Vacate the conviction and dismiss the indictment, or in the alternative.

5. Remand for a new trial consistent with constitutional guarantees and due process

6. In the case of a remand to the district court, please reassign to a judge other than the existing one who is being charged with bias and the appeal is pending before this Court (23-1381, ECF #22)

Justice, constitutional fairness, and the integrity of the judicial system demand no less.

Respectfully submitted,

/s/ Joseph Cammarata

Joseph Cammarata

Dated: April 28th, 2025

ATTACHMENT A

CASE

ADES

CONTROL #
RANGE

1875

TO

1878

FILENAME

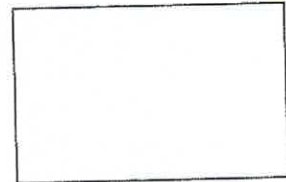
Alphaplus-Nimello.X5x

INSTITUTION NAME	Alphaplus Buffalo Recovery Co
ADDRESS	Nimello Address
PHONE	
EMAIL	
ENTERED BY	JS
DATE	5/10/17
#1877*1878 Do Not BALANCE RESPONDED - PROCESSED	
CALCULATED BY	JA
DATE	9-14-17

PROOF OF CLAIM FORM

**MUST BE
POSTMARKED
NO LATER THAN
FEBRUARY 10,
2017**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
*United Food and Commercial Workers Union and
Participating Food Industry Employers Tri-State
Pension Fund v. Advanced Emissions Solutions,
Inc., et al., Case No. 14-cv-01243*



PART I: CLAIMANT IDENTIFICATION

Claimant/Representative Contact Information:

The Claims Administrator will use the contact information for all correspondence relevant to this claim (including the distribution (check), if the claim is ultimately determined to be eligible for payment). If the contact information changes, then you must notify the Claims Administrator in writing at the address listed on page 18.

Claimant's Name (as you would like it to appear on your check if eligible for payment)

Alphaplus Portfolio Recovery

C/o Nimello Holding

Address Line 1 (Number and Street or P.O. Box)

3171 Route 9 North

Address Line 2 (if needed)

#353

City

Old Bridge

State or Province

New Jersey

Zip Code

08857

Country name

USA

Last 4 Digits of Social Security Number (for individuals)
Or T.I.N. (for estates, trusts, corporations, etc.)

W-8

Representative's Name (if different from the Claimant's Name(s) listed above)

Telephone Number (Work or Mobile)

646-462-3859 ext 8124

Telephone Number (Home)

Email

pd@alphaplusglobal.com

If any portion of this Agreement is determined to be unenforceable or illegal by any court of competent jurisdiction, the remaining portions of this Agreement shall remain in full force and effect as if the provisions determined to be unenforceable or illegal have been struck from the Agreement.

Section 14 – Authorization to Obtain Data

This Authorization to Obtain Trading Data and File Claims (the "Authorization") is made by ("Client") pursuant to the Services Agreement, made and entered into as of April 1st, 2015 (the "Agreement") between ALPHAPLUS PORTFOLIO RECOVERY, a New Jersey limited liability company ("APR") and Client.

Client and/or its customers and clients are engaged in the business of trading securities. Client entered into the Service Agreement with APR, by which APR would provide services in connection with identifying, asserting and filing claims on behalf of Client in class action securities litigations that relate to trading securities. In order to assist and facilitate APR in identifying its past and present security ownership records, Client has granted authority to APR as follows:

1. Client has granted to APR the authority, on behalf of Client, to obtain, in electronic form reasonably satisfactory to APR, all existing trading data and records from Client's clearing firm or other sources, relating and pursuant to the services provided in the Services Agreement, including but not limited to (i) the trading symbol or CUSIP number of the company issuing securities purchased or sold by Client, (ii) the purchase date of such securities and the quantity of shares or contracts purchased and the price at which purchased as well as any applicable commissions paid for the purchase, (iii) the sale date of such securities and the quantity of shares or contracts sold and the price of such sales, including any applicable commissions paid for the sale and (iv) the name of the purchasing or selling entity and account.
2. Client has authorized APR, on behalf of Client, to complete and file all required documents and file all claims that APR has determined that Client may be eligible to make and to receive on behalf of Client any funds paid in respect of such claims for disbursement in accordance with the Service Agreement.

The undersigned has executed this Agreement and Authorization as of the date set forth above.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

ALPHAPLUS PORTFOLIO RECOVERY

CLIENT: NIMELLO HOLDINGS LIMITED

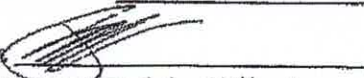
Client Tax ID: _____

By:
Name:
Title:



Scott F. Carotenuto
President + CEO

By:
Name:
Title:


Todd Callender
Director

Certificate of Service

I hereby address that as of April 28th, 2025, I caused a true and correct copy of the foregoing Addendum to Petition for Rehearing to Address Critical Errors, Omissions, and Oversights by the Circuit Court Panel to be served upon the following parties via first-class mail, email, or the Court's Electronic Case Filing (ECF) system.

U.S. Court of Appeals for the Third Circuit
US Courthouse 2400
615 Market Street
Philadelphia, PA 19106

Office of the United States Attorney
Attn: Paul Shapiro
615 Chestnut Street
Philadelphia, PA 19106

Peter Goldberger, Esq.
P.O. Box 645
Ardmore, PA 19003

Office of the United States Attorney
Attn: Honorable Alina Habba
District of New Jersey
970 Broad Street
Newark, NJ 07102

and via email: info@habbalaw.com

Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

The Honorable Attorney General Pam Bondi
via email at: openjustice@doj.ca.gov

President Donald J. Trump
1100 S. Ocean Blvd
Palm Beach, FL 33480

Chief Judge of The Third Circuit
Attn: Honorable Judge Michael A. Chagares
615 Market Street
Philadelphia, PA 19106

DOJ - OIG Office of General Inspector
950 Pennsylvania Ave
Washington, DC 20530-0001

Ms. Alice Marie Johnson
via email at: Alice@takingactionforgood.org

Mr. Walter Pavlo

via email at: walt.pavlo@gmail.com

and: walter.pavlo@nyu.edu

Ms. Miranda Devine

via email at: Miranda.Devine@gmail.com

ABC's 20/20

via email at: news.tips@abc.com

Dateline NBC

via email at: dateline@nbc.com

and: tips@nbcuni.com

Because I am incarcerated and proceeding pro se, due to an unresolved unlawful asset freeze (please see Third Circuit Case # 24-1381, ECF# 22), U.S. mail service is effectuated through the prison mailbox system pursuant to the prison mailbox rule.

Respectfully submitted,

/s/ Joseph Cammarata

Joseph Cammarata

Reg# 02555-506

Fairton- Federal Correctional Institution -Camp

655 Millville-Fairton Road

Fairton, NJ 08320

Dated April 28th, 2025