

# IN THE UNITED STATES SUPREME COURT

1 FIRST STREET, NE, WASHINGTON, DC 20543  
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*Dr. Sankarshan Acharya, Plaintiff*

vs.

*The United States President and Congressional Leaders, Defendants*

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The Plaintiff of this **Public Interest Litigation** (PIL) respectfully submits this PIL to the Honorable Supreme Court of the United States with a prayer to ensure that the government of We the People:

- A. Promptly enacts **Unanimously Agreeable Constitutional System of Governance (UACSG) of banks, bank regulatory institutions and financial markets in the United States** and repeals the currently established Unanimously Disagreeable Unconstitutional System of Governance (UDUSG) enumerated in numerous memos and papers available at [pro-prosperity.com](http://pro-prosperity.com).<sup>1</sup>
- B. Appropriately and promptly compensates the sole UACSG author (the Plaintiff) – who has effectively, efficiently, persistently and successfully served the best interest of We the People - for the unwarranted loss of his income and career caused unconstitutionally and fundamentally unfairly by the advocates of currently established antithetic Unanimously Disagreeable Unconstitutional System of Governance (UDUSG).
- C. Recognizes that such compensation is necessary and crucial to serve the best interest of We the People and is consistent with guarantees under whistleblower protection-compensation act.

Arguments in favor of this PIL include the following points:

1. As the only individual who has discovered through contemporary academic research in economics and finance that the current system (rules and policies) of governance of banks, financial markets and regulatory institutions in the United States allows **unconstitutional**

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<sup>1</sup> See, e.g., (a) Acharya, S. (2013), “*Constitutional System of Money and Finance*,” which was invited and published by the Journal of Financial Transformation, which claims to have 18 Nobel Laureates as authors, and several memos submitted to the U.S. presidents, e.g., Acharya, Sankarshan (April 10, 2017), “*Deconstructing and Supplanting the Current Deep Administrative State (CDAS), with Unanimously Agreeable Philosophy and Governance (UAPG)*,” available at <http://pro-prosperity.com/Deconstructing-Current-Deep-Administrative-Estate-and-UAPG.html> and Acharya, S. (2016), “*Triumph of Ancient Philosophy, Unanimously Agreeable Governance, Economic Policy and Constitution for Civilized Coexistence*,” <http://pro-prosperity.com/triumphantphilosophy.pdf> and Acharya, S. (2010), “*Systemic Weakness in the U.S. Economy: Inefficiency and Unconstitutionality Of The Federal Reserve Act of 1913, The Federal Deposit Insurance Corporation Act 1933 Security Exchange Corporation Act 1933 (created via Glass-Steagall Act of 1933), Act of 2000 that repealed the Glass-Steagall Act's provision (separating investment banking and commercial banking), Housing Economic Recovery Act of 2008, and Dood-Frank Act of 2010*,” <http://pro-prosperity.com/Systemic%20Weakness%20in%20the%20United%20States%20Economy.html>

*surreptitious robbery of public and private wealth* with impunity, the Plaintiff is obligated to *We the People* to submit this Public Interest Litigation (PIL) to serve the best interest of *We the People* to ensure that the government of *We the People* promptly supplants the current ***Unanimously Disagreeable Unconstitutional System of Governance (UDUSG)*** with the unique ***Unanimously Agreeable Constitutional System of Governance (UACSG)*** discovered in the Plaintiff's dispassionate contemporary research since 1987.

2. PIL Plaintiff's Background:<sup>2</sup>

- a. On completion of Ph.D. in Northwestern University in 1986, the Plaintiff joined New York University as Assistant Professor of Finance. A year later, the stock market crashed. This kindled the Plaintiff's intrinsic interest in efficient governance of banks and financial markets to stem any negative effect on the economy of periodic market crashes.
- b. The Plaintiff's public policy interest led to discovery of an unprecedented optimal bank foreclosure rule, which was published in a co-authored paper in the *Journal of Finance* in 1989.<sup>3</sup> This paper led the US Congress to include the optimal bank foreclosure rule in the Federal Deposit Insurance Improvement Act of 1991. The enacted optimal bank foreclosure rule was unprecedented because, before 1989, banks could foreclose delinquent borrowers but *We the People* had no power (rule of law) to foreclose ailing banks.
- c. The US Congressional Budget Office had in 1989-1990 asked the Plaintiff to join the CBO as a researcher to develop optimal public policies for governance of other financial institutions like Fannie Mae and Freddie Mac.<sup>4</sup> The Plaintiff's research also drew the attention of the Board of Governors of the Federal Reserve System which offered him in 1990 a financial economist position with a special package designed to attract talented researchers from the academy.
- d. During the Plaintiff's tenure at the Federal Reserve (1990-1995), he discovered that mega bank holding companies, under the regulatory jurisdiction of the Fed, were transgressing the FDICIA-1991 by piling enormous risk on taxpayers while generating unseemly profits from massive leverage based on federally insured deposits. In particular, the Plaintiff found that the actual effective bank capital of mega bank holding companies like Citigroup (then Citicorp) on consolidated basis was barely about 10% of minimum regulatory capital required for consolidated holding company assets according to the spirit of optimal bank foreclosure rule enacted in FDICIA-1991. This amounted to a highly unstable degree of leverage and increased likelihood of failure of

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<sup>2</sup> A brief CV of the Plaintiff is available at <http://pro-prosperity.com/Sankarshan%20Acharya.html>

<sup>3</sup> Acharya, S. and J.F. Dreyfus (1989), "*Optimal Bank Reorganization Policy and Pricing of Federal Deposit Insurance*," *Journal of Finance*, <http://pro-prosperity.com/Research/Bank-foreclosure-rule-paper-Acharya-Dreyfus-Journal-of-Finance-1989.pdf>

<sup>4</sup> Neither the Plaintiff nor anyone else in the academy could develop optimal policies for governance of Fannie Mae and Freddie Mac until April 2013. See Acharya, S. (April 2013), "*Coalitions of Borrowers and Lenders, Government-Regulated Lender, Interest Rate and Safe Central Bank in Equilibrium*," <http://pro-prosperity.com/Research/Coalition%20of%20Borrowers.pdf>

banks.<sup>5</sup> During his tenure (1990-1995) at the Federal Reserve, the Plaintiff had warned top Citi management and Federal Reserve officials in a meeting at Citi headquarters in New York about the enormous looming risk to taxpayers due to failure of banks and financial markets because of severe undercapitalization of the bank holding companies on a consolidated basis. The Plaintiff chose to leave the Fed in 1995 after observing indifference of top Fed officials to his proposals like *safe central banking policy* to resolve moral hazard risk in banking industry.<sup>6</sup> Only after the financial catastrophe of 2008 did the Federal Reserve admit that moral hazard in banking is a serious problem affecting the economy.<sup>7</sup>

- e. The Plaintiff then (August 1995) joined the University of Illinois at Chicago as an Associate Professor of Finance with tenure to focus on articulating his mathematical models, theorems and proofs to plain English for circulation among US Congressional leaders and presidents. It took many years of lucubration by the Plaintiff to accomplish such articulation (by March 2003), which was *ex ante* impossible according to UDUSG advocates. The Plaintiff promptly communicated the findings directly to US Congress starting in March 2003<sup>8</sup> and to the US President starting in January 2005<sup>9</sup> to warn about a looming financial catastrophe with potential recurrence of the Great Depression due to unsustainable leverage at bank holding companies unless his safe central banking policy proposal were enacted to avert the impending crisis preemptively.
- f. The U.S. Congress must have taken the Plaintiff's March 2003 warning seriously to have the Federal Reserve testify a few months later that year on safety and soundness of the banking system and then hold a conference of experts late in 2003. The Plaintiff was invited to the conference of experts in late 2003, but he chose, instead, to send his papers submitted to Congress for circulation among experts. The expert summary announced by the President of American Economic Association in January 2004 was that the U.S. banking and financial system was invincible (crash-free). This expert-proclamation squarely contrasts the *counterfactual testimony of UDUSG advocates* before the US Financial Crisis Inquiry Commission in 2010 that the 2008 financial catastrophe was an act of invisible hands (god?) that no one in the academy, industry or government had seen coming.

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<sup>5</sup> Acharya, S. (2016), "Public Lending to Private Hedge Funds is Inefficient, Unstable, Unconstitutional and Unanimously Disagreeable," *Journal of Governance and Regulation*, <http://pro-prosperity.com/Public%20Financing%20of%20Private%20Hedge%20Funds%20is%20Unanimously%20Disagreeable.pdf>

<sup>6</sup>See, e.g., Acharya, S. (1991-2016), "Arbitrage Pricing of Total Risk of Assets, First-best Governance of Financial Markets and Unanimously Agreeable Safe Central Banking in Equilibrium," mimeographed in 1991 at the Board of Governors of the Federal Reserve System and available at <http://pro-prosperity.com/Research/moralhazardliberty.pdf>

<sup>7</sup>Acharya, S. (2014), "Federal Reserve now admits that Moral Hazard in Banking and Finance is a serious problem," <http://pro-prosperity.com/Federal%20Reserve%20Now%20Admits%20that%20Moral%20Hazard%20in%20Banking%20and%20Finance%20is%20a%20Serious%20Problem.html>

<sup>8</sup>Acharya, S. (2003), "Warning to US Congress in 2003 On Current Home Mortgage Debt Debacle," <http://pro-prosperity.com/Global%20Economy%20Chatterbox/Warning-USCongress-In-2003-On-Home-Mortgage-Debacle.html>

<sup>9</sup>Acharya, S. (2005), "Enhancing American Competitiveness," <http://pro-prosperity.com/USPresident013105.html>

- g. The U.S. President must have been alarmed by the Plaintiff's January 2005 memo to (i) invite the sole academic researcher with a doctoral dissertation on the Great Depression, Dr. Ben Bernanke, to the White House by mid-2005 in order to appoint him as the next Federal Reserve chief in the following year and (ii) urge the then reluctant Goldman Sachs CEO, Mr. Hank Paulson, to be the Treasury Secretary to restructure the banking industry. As Treasury Secretary, Mr. Paulson publicly threatened the highly leveraged bank holding companies (in late 2007 and early 2008) to either cut their unsustainable leverages by raising new capitals or perish. Then mega bank holding companies like Bear Stearns, Merrill Lynch and Lehman Brothers collapsed while the largest among them, Citigroup, tottered. The Plaintiff's warning thus came true. The Plaintiff even received calls from the Swiss Banking Federation to admit the truth in late 2008.
2. The Plaintiff's research is based on contemporary dynamic microeconomics-mathematical model of general equilibrium among net-worth maximizing business enterprises and households with a not-for-profit government minimizing the cost of governance and free markets. This model is more general than any other ever written in the literature, to the best of his knowledge.<sup>10</sup>
  3. A unique axiomatic-principle of fundamental fairness – that no one robs others' wealth even surreptitiously – attains in equilibrium of the Plaintiff's mathematical model of the economy. This principle of fundamental fairness is unanimously agreeable because no one including robbers prefers to be robbed of their wealth.<sup>11</sup>
  4. This Unanimously Agreeable Principle of Fundamental Fairness (UAPFF) is consistent with the first modern constitution of mankind (scripted by the U.S. founding fathers in 1776) and with the ethos of ancient Gita scripted in 5000 B.C.
  5. The Plaintiff, thus, claims that his UAPFF as well as other equilibrium governance policies like safe central banking are constitutional and rational.
  6. The Plaintiff has proved that these equilibrium governance policies (UACSG) are efficient (necessary for continued competitiveness of the economy) and stable (necessary to avert social unrest, if not internecine).
  7. The Plaintiff has also proved within his general math-econ model that the currently established UDUSG is not attained in equilibrium, and that UDUSG is unstable (leading to social unrest) and inefficient (causing decay in economic competitiveness).
  8. The Plaintiff's contemporary rational (undogmatic), general-equilibrium-based model proves that UDUSG is antithetic to UACSG.

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<sup>10</sup>Acharya, S. (2012), "*Constitutional Capitalism for First-best Efficient Governance, obtained in general equilibrium based on rational microeconomic analysis, devoid of parochial dogmas, politics or prejudice,*" <http://pro-prosperity.com/Constitutional%20Capitalism.html>

<sup>11</sup>Acharya, S. (2015), "*Absolute Knowledge on Governance,*" <http://pro-prosperity.com/Absolute%20Knowledge%20on%20Governance.html>

9. As the sole discoverer of UACSG, which is crucial for civilized and efficient co-existence of mankind, based on limited global resources, the Plaintiff had been obligated to spread his research discoveries for survival of mankind (to whom he owes his existence), despite severe risk of vindictiveness unleashed on him by the deeply entrenched beneficiaries of the established UDUSG.<sup>12</sup>
10. The Plaintiff's research has never been implicitly or explicitly funded by anyone except by his own hard-earned salary as a professor and researcher of economics and finance at non-profit organizations like New York University, Board of Governors of the Federal Reserve System and University of Illinois at Chicago that have offered no pecuniary incentive or non-pecuniary inducement to conduct research on UACSG. During unpaid vacations, the Plaintiff researches his savings-funded Academy of Unanimously Agreeable Philosophy and Governance (AUAPG).
11. The Plaintiff's research on UACSG has not been directly or indirectly induced, inspired or impelled by any individual, business or government agency, but by his own inherent will to discover significant epistemic truth for civilized coexistence of mankind.
12. The Plaintiff has pursued research on UACSG despite threats to his career, income and physical survival, after UDUSG advocates found that his antithetic-heretical UACSG is detrimental to these advocates' wealth and power stemming continuously from UDUSG's legalized system of robbery of enterprising wealth creators. These are detailed in several memos in the Plaintiff's website, pro-prosperity.com.<sup>13</sup>
13. Fearing that UACSG would, if publicized, supplant UDUSG (due to pressure from public), the advocates of UDUSG in the academy of economics and finance blocked publication of the Plaintiff's research in UDUSG-controlled academic journals so that university academic departments, mandated to value only publications in such journals, would surely block his promotion and salary raise, which has indeed happened. The UDUSG advocates, thus, effectively blocked the Plaintiff's career and salary raise, fundamentally unfairly, to preserve their unconstitutionally robbed wealth and power.
14. In light of the above pertinent points in favor of the afore-stated prayers of the Plaintiff, it behooves the United States Government of *We the People*:
  - A. To promptly supplant the currently established UDUSG with UACSG to serve the best interest of *We the People*.

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<sup>12</sup> Acharya, S. (2017), "*Superiority of Collegium System of Appointment of Judges by the Supreme Court and Ushering an era (Rama-Krishna Rajya) of Unanimously Agreeable Fundamental Fairness in Governance,*" <http://pro-prosperity.com/Superiority-of-Collegium-System-of-Appointment-of-Judges.html>

<sup>13</sup> See, e.g., "*Superiority of Collegium System of Appointment of Judges by the Supreme Court and Ushering an era (Rama-Krishna Rajya) of Unanimously Agreeable Fundamental Fairness in Governance,*" at <http://pro-prosperity.com/Superiority-of-Collegium-System-of-Appointment-of-Judges.html>

B. To restore fundamental fairness (constitutionality) in the salary and career of the *sole successful discoverer of UACSG* (Plaintiff) at a greater level than that of established academic *UDUSG advocates (experts)* who have – according to the 2011 finding of Financial Crisis Inquiry Commission of the US Congress – *failed and caused the avoidable (manmade) 2008 financial catastrophe*, which was worse than the Great Depression according to even the Federal Reserve. Such gargantuan failure of UDUSG academic advocates and their chosen students at the helm of financial institutions and regulatory agencies wiped out an under-estimated \$13 trillion of hard-earned wealth and 9 million good paying jobs. In contrast, the Plaintiff’s UACSG policies submitted to the U.S. Congress in 2003 to preemptively avert a looming crisis that he saw coming – like safe central banking and bank capital requirement on a consolidated basis – were badly needed and actually adopted by the U.S. Government to stem the domino of crashing financial markets in 2008.<sup>14</sup> Factually, the UDUSG advocates or the journals they control have failed to publish any UACSG policy paper that is crucial for stability and efficiency of the economy and for civilized co-existence of mankind.<sup>15</sup> The UDUSG advocates even failed to suppress UACSG or its author, despite their massive wealth and power stemming from systemic robbery of enterprising wealth creators. Yet, a triumphant UACSG researcher’s career and income has been fundamentally unfairly and unconstitutionally impaired by the failed UDUSG academic advocates. The Plaintiff was among the highest paid academic researchers before his UACSG discovery was known to be a credible threat to UDUSG advocates’ unconstitutional wealth and power amassed through systemic robbery of enterprising wealth creators by the now-failed advocates of UDUSG. *A successful UACSG researcher’s salary is barely 20% of each failed academic UDUSG advocate.* This should be corrected, constitutionally, by *We the People* and their government via decree of the Honorable Supreme Court.

15. The Plaintiff, therefore, prays the Honorable Supreme Court - the penultimate protector of fundamental fairness and justice under the constitution - to decree that the government of *We the People* appropriately and fairly compensate a triumphant UACSG researcher for vigorously and effectively serving the best interest of *We the People* for the unwarranted loss in his income and career. Such compensation will obviously serve the best interest of *We the People* and is guaranteed under the whistleblower protection/compensation act.

Respectfully,

Plaintiff (Dr. Sankarshan Acharya)  
Director, Academy of Unanimously Agreeable Philosophy and Governance

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<sup>14</sup>Acharya, S. (2011), “*Cause of the 2008 Financial Catastrophe: The Experts Deceived the Academy and the Nation by Surreptitiously Rejecting Research on Economically Efficient and Constitutional System of Money and Finance, and on Optimal Holding Company Organization and Capital Structure under Constitutional Governance,*” <http://pro-prosperity.com/Cause%20of%20the%202008%20Financial%20Catastrophe.pdf>

<sup>15</sup> Acharya, S. (2017), “*Intellectual Terrorism to Thwart Establishment of Unanimously Agreeable Philosophy and Governance,*” <http://pro-prosperity.com/Intellectual-Terrorism-to-Thwart-Establishment-of-Unanimously-Agreeable-Philosophy-and-Governance.html>