

BEFORE THE UNITED STATES SUPREME COURT  
No. 18-538

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WENDY ALISON NORA,  
Petitioner,

v.

THE SUPREME COURT OF WISCONSIN  
OFFICE OF LAWYER REGULATION,  
Respondent.

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MOTION TO DEFER DISPOSITION ON PETITION FOR  
REHEARING UNDER RULE 44.2 UNTIL FINAL DISPOSITION  
OF PETITIONS FOR WRITS OF CERTIORARI IN  
NOS. 18-375, 18-711, AND/OR 18-723

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Wendy Alison Nora ("Nora" or "Petitioner"), having concurrently filed her Petition for Rehearing Under Rule 44.2 from the Order Denying her Petition for Writ of Certiorari to the Wisconsin Supreme Court under 28 U.S.C. sec. 1257(a), moves the Court, pursuant to Rule 21.1, to defer disposition of her Rule 44.2 Petition for Rehearing until this Court disposes of the pending Petition for Writ of Certiorari in *Jose Rodriguez v. Bank of America, N.A.*, No. 18-723 and the disposition of any Rule 44.2 Petition for Rehearing filed by *Daniel Alexander v. Bayview Loan Servicing, LLC*, No. 18-375 and/or *Donny Marin v. The Bank of New York Mellon*, No. 18-711.

## **JURISDICTIONAL STATEMENT**

The Petition for Writ of Certiorari to the Wisconsin Supreme Court was timely filed. The Petition for Rehearing Under Rule 44.2 has been timely transmitted to this Court and is certified as a good faith filing and not for delay. No delay can possibly result from the proceedings under Rule 44.2 or as the result of granting this Motion because Petitioner is complying with the Suspension Order as required by Wisconsin Supreme Court Rule (SCR) 22.26 to the best of her ability due to her admission to practice in other jurisdictions and her work with other attorneys as allowed by rules of those jurisdictions.

This Court has the inherent authority to grant the relief requested by this Motion so that Nora's Petition for Rehearing may be considered in the context of the Alexander, Marin, and Rodriguez Petitions which, like Nora, seek to expose the use of false evidence in civil proceedings as violations of Due Process.

## **GROUNDS TO GRANT MOTION TO DEFER DISPOSITION**

Each of the Petitions for Writs of Certiorari in Nora, Alexander, and Marin sought relief and the pending Rodriguez Petition for Writ of Certiorari seeks review by this Court on the

basis that that their Due Process Rights were violated by the use of false evidence in civil actions and judicial bias exhibited in those proceedings. The Alexander, Marin, and Rodriguez Petitions involve issues which are substantially similar to the issues raised by Petitioner Nora in the actions underlying the matters for which she has been disciplined in Wisconsin.

Nora pursued actions based on the use of false evidence in her own foreclosure action and was disciplined for "aggressively and affirmatively" pursuing those actions charged as Counts Three and Four (Nora Petition, 29a, ¶40). Nora was further denied Due Process by the use of what was ultimately shown to be false evidence in the disciplinary proceedings in Count Two, concealed by the state actor, the Wisconsin Office of Lawyer Regulation (OLR). See Nora's Petition for Writ of Certiorari, pages 97a-110a and pages 216a-246a.

The Wisconsin Supreme Court avoided the issue of the use of false evidence against Nora by re-writing the charges against Nora without notice and opportunity for Nora to be heard in violation of the minimal requirements of Due Process established in *In the Matter of John Ruffalo, Jr.*, 390 U.S. 544, 551, 88 S.Ct. 1222, 20 L.Ed.2d 117 (1968) ("Disbarment, designed to protect the public, is

a punishment or penalty imposed on the lawyer. . . He is accordingly entitled to procedural due process, which includes fair notice of the charge.”)

Both Nora’s Petition and the Rodriguez Petition in No. 18-723 (page 26) report First Amendment violations by state courts intended to chill the advocacy of lawyers representing homeowners who are seeking relief from the use of false evidence in foreclosure actions as violations of Due Process throughout the nation by the imposition of discipline and monetary sanctions.

As stated in the concurrently filed Petition for Rehearing, the filing of four (4) Petitions within less than three (3) months seeking to have this Court review wrongs of constitutional dimension in state courts involving violations of Fourteenth Amendment Due Process Rights in civil proceedings by the use of false evidence and of First Amendment Petition Rights by imposing punishment on the attorneys for exposing the false evidence warrants this Court’s intervention are issues of constitutional dimension. *Smith v. Phillips*, 455 U.S. 209, 221,102 S.Ct. 940, 71 L.Ed.2d 78 (1982).

It is acknowledged that this Court has not recognized the right to be free from the use of false evidence in civil proceedings as under the Due Process Clause of the Fourteenth Amendment as it has recognized Due Process violations by the use of false evidence

in criminal proceedings in *Mooney v. Holohan*, 294 U.S. 103, 112, 55 S.Ct. 340, 79 L.Ed. 791(1935), *Alcorta v. State of Texas*, 355 U.S. 28, 32, 78 S.Ct. 103, 2 L.Ed.2d 9 (1957) and *Napue v. People of the State of Illinois*, 360 U.S. 264, 271, 79 S.Ct. 1173, 3 L.Ed.2d 1217 (1959). Instead, relief from the use of false evidence civil proceedings has been recognized within the equitable powers of the Court in *Keystone Driller Co. v. General Excavator Co.*, 290 U.S. 240, 54 S.Ct. 146, 147, 78 L.Ed. 293 (1933), *Hazel-Atlas Glass Company v. Hartford Empire Company*, 322 U.S. 238, 64 S.Ct. 997, 88 L.Ed. 1250 (1944), and *Precision Instrument Mfg Company v. Automotive Maintenance Machinery Company*, 324 U.S. 806, 65 S.Ct. 993, 89 L.Ed. 1381 (1945) where this Court provided for equitable relief from false evidence used to obtain patents in the public interest. The public interest in the integrity of the judiciary is even greater than the integrity of the patent process.

Equitable relief was granted in *Keystone Driller*, *Hazel-Glass*, and *Precision Instrument* after judgment was entered and after the time for appeal had expired. Nora, Alexander, Marin, and Rodriguez timely sought relief from the use of false evidence within ongoing judicial proceedings and sought review by the respective state courts by timely and direct appeal. This Court has been asked to review the wrongs of constitutional dimension by the use

of false evidence as well as the punishment of lawyers (in Nora and Rodriguez) who sought to expose the use of false evidence in the very proceedings for which review is being sought.

This Court has the ultimate constitutional authority to put an end to the ubiquitous use of false evidence in judicial foreclosure proceedings and the unconstitutional punishment of lawyers for seeking to expose the production of false evidence by the prevailing party in foreclosure proceedings. Nora, Alexander, Marin, and Rodriguez report that there is substantial evidence that false evidence is being used in civil proceedings which warrants this Court's intervention to correct wrongs of constitutional dimension.

Nora asks this Court to defer disposition of her Petition for Rehearing pending the disposition of the pending Rodriguez Petition and the Alexander and Marin Rule 44.2 Petitions, if timely filed.

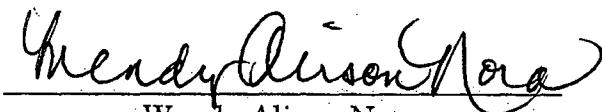
**WHEREFORE**, Nora respectfully moves the Court to defer disposition of her Petition for Rehearing until the Court disposes of the Rodriguez Petition and the Alexander and Marin Rule 44.2 Petitions, if timely filed, which seek to have this Court correct errors of constitutional dimension in state court proceedings in which the production of false evidence by the prevailing party and the state courts' refusal to grant relief to the injured parties violate

Due Process guaranteed by the Fourteenth Amendment to the  
*Constitution of the United States.*

Dated at Madison, Wisconsin this 16<sup>th</sup> day of January, 2018.

Respectfully submitted,

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FORCE AND EFFECT AS THE ORIGINAL

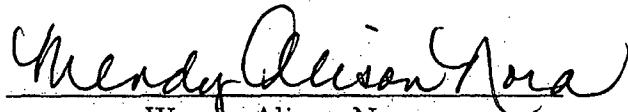


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**UNSWORN DECLARATION OF  
UNDER PENALTY OF PERJURY**

Wendy Alison Nora declares, under penalty of perjury of the laws of the United States of America, pursuant to 28 U.S.C. sec. 1746, that the facts set forth above are true of her own personal knowledge.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME  
FORCE AND EFFECT AS THE ORIGINAL



Wendy Alison Nora

**DECLARATION OF SERVICE PURSUANT TO  
28 U.S.C. sec. 1746**

Wendy Alison Nora declares, pursuant to 28 U.S.C. sec. 1746, under penalty of perjury of the United States of America, that she has directed service of the foregoing Motion by UPS upon retained counsel for the Office of Lawyer Regulation, Paul W. Schwarzenbart, by hand-delivery to his address of record in the

proceedings concurrently with the service with the foregoing Rule 44.2 Petition for Rehearing on January 16, 2019.

AN IMAGE OF THE SIGNATURE BELOW SHALL HAVE THE SAME FORCE AND EFFECT AS THE ORIGINAL

Wendy Alison Nora

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