

No. 18-541

IN THE
SUPREME COURT OF THE UNITED STATES

LAKHDEEP DEOL,
Petitioner,

v.

GARY W. DEPRETA; DAWN M. DUROSS; DAVID B.
LATOUR,
Respondents.

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

PETITION FOR REHEARING

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PETITION FOR REHEARING

Pursuant to Rule 44.2 of this Court, Petitioner respectfully prays that the Court grant the Petition for Rehearing.

BACKGROUND

On Oct. 19, 2018, Petitioner filed a Petition for Writ of Certiorari in this Court. On Dec. 3, 2018, the Court denied the Petition for Writ of Certiorari. Petitioner sought a Writ of Certiorari to review an erroneous decision by the U.S. Court of Appeals for the Fourth Circuit, pertaining to dismissal with prejudice of a suit in equity that Petitioner had filed in the U.S. District Court for the Eastern District of Virginia, Alexandria division. On May 30, 2018, the Fourth Circuit erroneously affirmed the trial court's decision.

There exist two other substantial factors upon which a Petition for Rehearing should be granted.

The Petition for Rehearing is presented in good faith and not for delay.

LEGAL ARGUMENT

I. Rehearing is warranted because the decision of the Fourth Circuit Court of Appeals conflicted with and is contradictory to a precedential decision of the Second Circuit Court of Appeals. In *Williams v. Citigroup Inc.*, 659 F.3d 208, 7th Cir. (2011), the Second Circuit remanded the case in similar circumstances to that of Petitioner's case in the trial court.

The Fourth Circuit Court of Appeals failed to consider a binding decision by the Second Circuit Court of Appeals in *Williams v. Citigroup Inc.*, 659 F.3d 208,

7th Cir. (2011). This decision by the Second Circuit was favorable toward and supportive of Petitioner's Appeal in the Fourth Circuit. It also negated the erroneous argument that Respondents had submitted in response to Petitioner's appeal.

The Second Circuit in *Williams v. Citigroup Inc.* was presented with an appeal from a lawsuit in a federal trial court in which some claims were pled under federal law and some claims were pled under state law. All the claims had been dismissed with prejudice by the trial court on a motion to dismiss by the defendants, and later, the trial court had also denied the plaintiff's postjudgment motion to replead. However, upon appeal, the Second Circuit ruled in favor of the plaintiff-appellant on the state law claims and vacated the order pertaining to the postjudgment motion, and remanded the case for further proceedings pertaining to the state law claims. The Second Circuit opined that the trial court should not have dismissed the state law claims with prejudice. Also, the Second Circuit opined that the trial court applied a standard of evaluation in the postjudgment motion that was in conflict with this Court's decision in *Foman v. Davis*, 371 U.S. 178, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962).

Petitioner's lawsuit and appeal proceedings contained similar circumstances as those in *Williams v. Citigroup Inc.* Petitioner's lawsuit was filed in a federal trial court, while the claims pled all pertained to state law, torts, and holding, for the Virginia jurisdiction. The trial court erred in dismissing with prejudice Petitioner's claims based on state law. In particular, the trial court also did not allow any opportunity to amend the Complaint.

Petitioner had filed the lawsuit in a federal trial court in Virginia, on the basis of diversity jurisdiction as parties resided in different states and that the

amount in relief sought exceeded a requisite monetary threshold. Yet, the claims were based solely on the state law, torts, and holding for the Virginia jurisdiction. Petitioner had correctly pled the claims in his Complaint, according to state law, in addition to satisfying federal pleading standards.

However, in Petitioner's Appeal, the Fourth Circuit failed to recognize the details that the claims were based on state law, rather than federal law, and it was incorrect for the trial court to hurriedly and irrevocably dismiss the claims. The Fourth Circuit should have reversed the trial court's judgment and remanded the case for further proceedings.

Rehearing is warranted because the Fourth Circuit failed to consider or erred in its interpretation of precedential case law pertaining to Petitioner's Appeal.

Rehearing is warranted so the Court can further examine the measures a federal appeals court should apply to claims pled under state law compared to claims pled under federal law in civil lawsuits filed in a federal trial court. There is a lack of clarity around this subject in federal civil litigation.

II. Rehearing is warranted because of unsolicited and illegal third-party interference during the proceeding for the Petition for Writ of Certiorari.

Petitioner had noted in his Petition for Writ of Certiorari that Cisco Systems, Inc. ("Cisco"), a third-party that was not named in the original lawsuit or in any cause of action therein, had interfered extensively and illegally in the trial court and the appeals court proceedings. Cisco repeatedly breached a contract that it had signed with Petitioner that expressly banned Cisco from participating in litigation related action

against Petitioner. Petitioner had signed this contract with Cisco in 2009. Petitioner had repeatedly cautioned the Cisco attorney of record in the appeals court to cease interfering with the appeal and the review process in this Court.

However, Cisco did not cease its wrongful interference and breach of contract against Petitioner. After Petitioner filed the Petition for Writ of Certiorari, on Oct. 19, 2018, Cisco proceeded to illegally and wrongfully interfere again.

On Oct. 30, 2018, Stephen Dellinger, Esq. (“Dellinger”) of Littler Mendelson P.C. filed a one page document to note his appearance in the matter as an opposing counsel along with waiving the filing of a response to the Petition. However, Dellinger failed to file a corporate disclosure statement, as required by Rule 29.6. Dellinger did not disclose to the Court that he is an attorney for a publicly traded corporation, Cisco. Dellinger was a Cisco attorney representing Cisco’s interest in the matter, and the document filed on Oct 30, 2018, was filed by Cisco and on behalf of Cisco through Dellinger. Dellinger was retained by Cisco’s C.E.O. Chuck Robbins (“Robbins”) and general counsel, Mark Chandler, Esq. (“Chandler”) based out of San Jose, CA, to represent Cisco’s interest in the matter. Dellinger had a fiduciary relationship with Cisco only. Further, there was no fiduciary relationship between Dellinger and Respondents named in the Petition. A counselor cannot claim to represent a party without a fiduciary relationship.

Robbins and Chandler have an extensive record of engaging in unethical and inappropriate behavior.

Robbins in June 2018 also made various inappropriate comments pertaining to the President of the United States. In published comments, Robbins deliberately used the wording “This is a fundamental

issue" while referring to a President's position on a political topic pertaining to public policy. Robbins was using the wording to invoke the term mental issue.

These comments were made in an article in a Fortune publication on June 20, 2018. The full title of the article was "This is a fundamental issue: Why Cisco CEO Chuck Robbins Challenged Trump on Border Separations."

Robbins does not hold any political office, elected or non-elected, and it is highly inappropriate and wrongful for Robbins to make such bizarre statements, pertaining to elected or other government officials. Robbins is not able to do his own job duties at Cisco, as he is entirely devoid any competence. Further, Robbins is also entirely devoid of integrity or ethics.

Cisco's Board of Directors are well aware of Robbins' misconduct, including in the litigation matter pertaining to Petitioner's lawsuit and appeal. However, Cisco's Board of Directors failed to take disciplinary action against Robbins or dismiss him from Cisco.

Rehearing is warranted so the Court can examine the repeated wrongful and illegal interference by third-party intervenors. As Petitioner had noted in the Petition for Writ of Certiorari, the Court should provide parameters of involvement by third-party intervenors. A plaintiff with a set of truthful and meritorious claims should not be hindered by wrongful or illegal third-party interference from obtaining relief regarding his or her claims. The Court should not allow this question to remain unresolved or undeveloped.

CONCLUSION

Based upon the foregoing legal arguments, Petitioner respectfully prays that the Court grant the Petition for Rehearing.

Petitioner respectfully prays that the Court
request Respondents to file a response to the Petition
for Rehearing.

This is the _____ day of _____, 2018.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

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LAKHDEEP DEOL,

Petitioner,

v.

GARY W. DEPRETA; DAWN M. DUROSS; DAVID B. LATOUR,

Respondents.

I hereby certify that the Petition for Rehearing in the above-captioned case is presented in good faith and not for delay.

Executed on Dec. 26th, 2018.

Lakhdeep S. Deol

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