

In The
Supreme Court of the United States

October 2018 Term

AREK R. FRESSADI, FRESSADI DOES I-III,
Applicants,

v.

ARIZONA MUNICIPAL RISK RETENTION POOL (AMRRP), TOWN OF CAVE CREEK,
CAVE CREEK DOES IV-XX, MARICOPA COUNTY, MARICOPA COUNTY DOES XXI-XXX,
STATE OF ARIZONA, MEMBERS OF THE JUDICIAL BRANCH OF THE STATE OF ARIZONA
DOES XXXI-L, CONESTOGA MERCHANTS, INC. D/B/A THE SONORAN NEWS, DONALD
SORCHYCH *et ux*, LINDA BENTLEY, BMO HARRIS BANK, MICHELE O. SCOTT, MARK D.
MURPHY, RHONDA F. MURPHY, TAMMARA A. PRICE, TAMMARA A. PRICE TRUST,
CHARLIE 2 LLC, MICHAEL T. GOLEC, KEITH VERTES, KAY VERTES, SALVATORE
DEVINCENZO, SUSAN DEVINCENZO, REAL ESTATE EQUITY LENDING, INC. (REEL),
BERK & MOSKOWITZ, P.C., JAY POWELL, ESQ. *et ux* D/B/A THE POWELL LAW FIRM,
PLLC, AND CHEIFETZ, IANNITELLI, MARCOLINI, P.C.,
Respondents.

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

UNOPPOSED MOTION FOR LEAVE TO EXCEED PAGE COUNT IN
PETITIONERS' PETITION FOR A WRIT OF CERTIORARI

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UNOPPOSED MOTION FOR LEAVE TO EXCEED PAGE COUNT IN PETITIONERS' WRIT OF CERTIORARI

Pursuant to Supreme Court Rules 12.2, 12.4, 14.5, and 21, Applicants Arek R. Fressadi and Fressadi Does I-III hereby respectfully request leave to file their joint Petition for Writ of Certiorari with 5 added pages to the 40-page limit set forth in Rule 33.2(b) as necessary to address major issues of exceptional national importance.

JURISDICTION

The Ninth Circuit issued its decision on October 26, 2017. Pet. App. A. On May 17, 2018, the Ninth Circuit denied petitions for panel rehearing and petitions for rehearing *en banc*. Pet. App. B. Pursuant to this Court's Rules 13.1, 13.3, and 30.1, the petitions for a writ of certiorari were originally due for filing on August 15, 2018. The Honorable Chief Justice John G. Roberts, on behalf of retired Justice Anthony M. Kennedy for the Ninth Circuit, granted an extension to file the petitions to and including October 12, 2018. This application is made in emergency in less than 10 days before the petitions are due. A U.S. Supreme Court Clerk stated preference that it be filed together with Applicants' Petition for a Writ of Certiorari. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

REASONS JUSTIFYING AN EXCEEDED PAGE COUNT

Applicants respectfully request leave to file 5 additional pages in their joint petition for a writ of certiorari seeking review of the decisions of the United States Court of Appeals for the Ninth Circuit in this case. Applicants incorporate herein by reference their granted Application for an Extension of Time to File Petition, 18A-123.

1) Applicant Arek R. Fressadi ("Fressadi") became indigent due to inverse condemnation that gives rise to Applicants' Petition for Writ of Certiorari. As such, he is filing per Rule 33.2 in 8.5" x 11" double space format with a Rule 39 Motion for Leave to Proceed *In Forma Pauperis*, and requests to file a joint Petition not to exceed 45 pages, to provide clarity to the Court's admitted confusion of the mechanics of inverse condemnation and restrictions per *Williamson Cnty. Reg'l Planning Comm'n v. Hamilton Bank*, 473 U.S. 172 (1985), as argued on October 3, 2018, in *Knick v. Scott Township*, No. 17-647.

2) In addition to clarifying *Williamson*, this matter involves 18 years of factual history, 12 years of procedural history, and numerous ongoing violations of law centered on a series of intentional predicate acts by a municipality—all of which are necessary to expose and sufficiently argue to properly address unsettled questions and split-circuit decisions of national importance, thus requires additional pages.

3) In 2016, the Town of Cave Creek admitted and provided evidence that it stopped complying with Arizona Revised Statutes (“A.R.S.”) §§ 9-500.12 and 9-500.13 as an ongoing Official Policy since 2001 to affect hundreds of property owners, including converting Applicants’ property into an apparent illegal subdivision—unlawful to sell, not entitled to permits, sewer *ultra vires*. These statutes require notice standards per *Mullane v. Central Hanover Trust Co.*, 339 U.S. 306 (1950), and an administrative hearing to establish the essential nexus of rough proportionality per *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987), and *Dolan v. City of Tigard*, 512 U.S. 374 (1994), for exactions of land, improvements and easements for entitlements, in order to decide whether just compensation is due per *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992), and *First English Evangelical Lutheran Church of Glendale v. County of Los Angeles*, 482 U.S. 304 (1987). The Ninth Circuit decided that statutes of limitations apply, which contravenes a Tenth Circuit case made 2 days prior to denial of Applicants’ Petitions for Rehearing, and a long line of rulings by the U.S. Supreme Court and Arizona courts. Applicants filed their Complaint for Quiet Title to be decided prior to their reserved 42 U.S.C. § 1983 claims, which District Court and the Ninth Circuit focused on to bar ALL claims based on statutes of limitations. However, see Arizona Quiet Title law per *Cook v. Town of Pinetop-Lakeside*, 303 P.3d 67, 70 (Ariz. Ct. App. 2013) (“As long as the cloud exists, the statute of limitations does not run against a plaintiff bringing a quiet title action who is in undisturbed possession of his property.”) If the Ninth Circuit’s ruling is allowed to stand, approximately 150 Million parcels across the country are at risk of municipalities violating due process per *Mullane / Nollan / Dolan / Lucas / First English* and their progeny regarding property rights protected by

the Fifth and Fourteenth Amendments, and continue to cause ongoing violations without remedy. As such, Applicants require additional pages to sufficiently explain and argue this matter of exceptional national importance.

4) “*Je n’ai fait celle-ci plus longue que parce que je n’ai pas eu le loisir de la faire plus courte.*” Blaise Pascal, French Philosopher and Théologian, *Lettres provinciales* (Provincial letters), 1657. (Translation: “I made this one longer because I had not the leisure to make it shorter.”) Applicants have been as diligent as possible to complete the Petition per Supreme Court requirements, considering that:

a) Trial for related case CV2006-014822 in Maricopa County Superior Court of Arizona, from which *this* case arose, ended only 2 days before the Ninth Circuit’s decision to deny Applicants’ Petitions for Rehearing. On May 15, 2018, the subject reciprocal easement and utilities agreement was declared void *ab initio* to flip the subject matter and rulings in CV2006-014822 and related cases, including this one before the U.S. Supreme Court. Since trial to September 16, 2018, there has been an intense flurry of post-trial and appellate motions in Superior Court and in Arizona Court of Appeals, 1 CA-CV18-0429, involving 18 years of subject matter and multiple parties, to tremendously impact the necessary time to work on the Petition. As in CV2006-014822, the court evaded to address due process violations, ongoing violations of state law and municipal ordinances, series of frauds, and illegalities on the subject properties.

b) Fressadi was run over by a truck in 2014. He is fortunate to be alive, but has physical injuries including worsened glaucoma that affects his ability to work at a computer for the necessary lengths of time.

c) Fressadi was litigating his personal injury case *pro se*, currently at District Court (CV16-03260-DJH-PHX). In February 2018, he hired supposed competent attorneys who were willing to take on the complex case based on contingency. Fressadi provided all of the case files, but later discovered the

attorneys did not read much of them, if at all. The attorneys failed to comprehend the subject matter and procedural mess Defendants made since the case started and especially after Fressadi got favorable rulings. Defendants removed the case to District Court as a judge/forum-shopping maneuver to the same judge involved in *this* matter, despite applicable abstention doctrines on ongoing parallel state court proceedings of complex matters of state law, and that the first of the consolidated cases did not have federal claims. Fressadi had to explain the case to the attorneys multiple times to no avail. Since August 2018, the attorneys failed to send Fressadi documents, failed to report what transpired at a pre-trial conference, missed deadlines on dispositive motions, botched a settlement agreement with one of the Defendants, and then filed a Motion to Withdraw on September 25, 2018—all of which continues to require Fressadi's immediate attention.

d) Adding insult to injury, Fressadi's drivers license got suspended upon default judgment for allegedly not appearing at a hearing at which he *did* appear on July 30, 2018, albeit a few minutes late due to lack of notice and no signage for courtroom assignments to require wait time for a Clerk's instructions. In "life is stranger than fiction" fashion, the matter involves Fressadi's citation for allegedly speeding, near the site he got run over by a truck, while he was on his way to trial for CV2006-014822. Since the hearing, Traffic Court has been attempting to extort funds from indigent Fressadi, who is living on social security income, by suspending his license with threat of arrest. On August 3, 2018, Fressadi filed an injunction to quash suspension and warrant, preceding and followed by several other motions, which have been tossed to different judges and courts. The Traffic Court judge originally handling his case left it stranded after getting indicted for tax evasion. The case is currently in Pima County Superior Court (C20184203) in limbo on a change of judge and transfer of venue as Pima County is a Counter-Claimant

in this matter and a party in the intertwined personal injury case. Fressadi is still without a driver's license, which is impacting his health and safety as he lives in a rural area without public transportation and cannot afford alternative transportation. This matter has taken considerable amount of time and frustration to impact Fressadi's ability to work on the Petition.

e) Fressadi is litigating *pro se* without the luxury of a staff comparable to Respondents to manage his caseload in order to protect his rights to seek necessary remedy and reparations for his personal injuries and numerous harms on the subject property in this matter.

As such, Appellants' good faith diligence and complex subject matter on questions of national importance, for all property owners in the country, warrant additional pages.

CONCLUSION

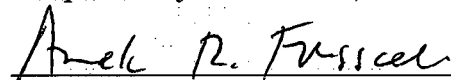
For reasons stated herein and in the incorporated Motion for Extension, 18A-123, Applicants respectfully request the U.S. Supreme Court to grant leave from Supreme Court Rule 33.2(b) to file an oversized Petition for a Writ of Certiorari of 45 pages total in order to properly adjudicate this matter of exceptional national importance. Fressadi consulted with applicable Respondents' counsel on this Motion with notice of "silence is acceptance." Only the State of Arizona responded, stating it takes no position.

Pursuant to Rule 14.5, if the Court determines that Appellants' Petition must be submitted with less pages than requested, Appellants request opportunity to submit a shorter version within 60 days of its order.

Pursuant to 28 U.S.C. § 1746, Fressadi declares under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 12, 2018.

Respectfully submitted,



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