

No. 19-332

In The
SUPREME COURT OF THE
UNITED STATES

Steven E. Davis et, al

Petitioner

v.

Bank of America N.A et, al

Respondent

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

PETITION FOR REHEARING

Steven Davis et, al

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Chicago, IL 60643

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{Please refer to parties List}

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No. 19-332

**In The
Supreme Court of the United
States**

**Steven Davis et, al
Petitioners**

V.

**Bank of America N.A. et, al.
Respondents'**

PETITION FOR REHEARING

**Supreme Court Rule 44.2 Certification
Good Faith and Not for Delay**

As required by Supreme Court Rule 44.2 Rehearing and outlined in the Supreme Court. I certify that the document filed with this certification, Petition for Rehearing, is presented in good faith and not for delay.

Parties Petitioners

Steven Segura	Geraldine Blanton
Peggy L. Strong	Cherly Bell
Louis G. Bartucci	
Cherly M. Malden	Jeffrey Sanders Denise Woodgett
Mack Glover	Yvonne Singleton
Zdzislaw Krajewski	
Elizabeth Robinson	
Larry and Belinda	
Dennis F. and Susan R. Martinek	
Emmanuel S. and Connie C. Bansa	
Ralph E. and Joan M. Holley	
Ulsen and Georgia Anderson	
Darryl and Ann-Coney-Bell	

Respondents:

Bank of America Corporation
Bryan Cave Leighton Paisner LLP
Atty: Jena M. Valdetero
 Robert W. Brunner

MERS and Merscorp Inc.
K&L Gates LLP
Atty: Andrew C. Glass
 Gregory N. Blasé

Citigroup Inc., HSBC Bank USA N.A.
Wells Fargo & Co.
Mayer Brown LLP
Atty: Lucia Nale
Thomas V. Panoff
Christopher S. Comstock
Tyler Alfermann
Michelle V. Dohra

U.S. Bank Trust National Assoc.
And Irina Daskevsky
Locke Lord LLP
Atty: Ryan M. Holz

SunTrust Bank Corp.
Pilgrim Christakis LLP
Atty: Jeffrey D. Pilgrim
Carter

Chase Manhattan Bank a/k/a JP
Morgan Chase
Morgan, Lewis & Bockius LLP
Atty: Megan R. Braden
Kenneth M. Kliebard

Bank of New York Mellon
Unrepresented

Respondent List Cont.

Ditech Financial LLC
Bankruptcy Attorneys
Weil, Gotshal & Manges LLP
Atty: Ray C. Schrock, P.C.

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25 U.S.C. § 1302 A,1

45 CFR § 681.10 - What happens if a defendant fails to file an answer?
FED. R. CIV. P. 6(b)(1)(B).

PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, the Petitioner's and all other petitioners, hereby respectfully petition for rehearing of this case before a full nine-Member Court.

Respectfully Petition for Rehearing of the Court's Decision to deny the Petition for Writ of Certiorari dated October 15, 2019.

Mr. Davis

And all Petitioners member (to numerous to name see list of petitioners) moves this Court to grant this Petition for Rehearing because of the substantial controlling effect of the right to redress intentional Constitutional deprivations.

By Rule 44.2, this Petition for Rehearing is filed within 25 days from the October 18th, 2019 Denial of the Petition for Writ of Certiorari.

1.

REASONS FOR GRANTING THE PETITION

This Court should grant this petition base on the facts that the Lower Court denied Petitioners they were **“Deprived of their “DUE PROCESS”.**

The merit became nothing more than pure hearsay after the Respondents failed to respond to the complaint. The Petitioners' has been discriminated, humiliate, ridicule, criticized and labeled as low-income ghetto pro se litigants.

This kind of behaviors from officers of the court was unappreciated and disrespectful to this diverse group of Petitioners... whereas 80% are professional collage educated seniors citizens.

2.

We did not deserve the treatment we received from both the courts and attorneys.

The deprivation of Petitioners “RIGHTS” in this case were pursuant to 18 U.S. Code §242. When Judge Charles P. Kocoras of the Northern District Court unduly brought harm to the Petitioners by allowing the Respondents’ to

disregard and disrespect Petitioners complaint. Without paraphrase any law the Petitioners violated.

As Pro Se Petitioners there’s no leverage in the justice system unless you can reach a judge who will show you that justice do exists, and leverage is number one priority.

Fortunately, the Petitioners found that Judge in the state of New York.

3.

On October 25, 2017, Petitioners re-filed their case as case No. 17-cv-7714. From a previous case filed on June 8, 2016, as case No. 16-cv-5993 whereas, that case was dismissed by Judge Charles P. Kocoras. In the Northern District of Illinois.

As a defendant, you must typically file an answer or other responsive motion within 21 days of being served with the summons and complaint.

After commencing a federal suit, the plaintiff must ensure that each defendant receives a summons and a copy of the complaint against it. *Cardenas v. City of Chicago, 646 F.3d 1001, 1004 (7th Cir. 2011)*

When a defendant brings a motion under Rule 12(b)(5), it is the plaintiff's burden to demonstrate that effective service occurred. *Cardenas*, 646 F.3d at 1005.

Respondents' Bank of America Corporation, US Bank Trust as Trustee for LSF9 Master Participation Trust, JP Morgan Chase Bank N.A. CitiGroup Inc. and Wells Fargo & Company were served on October 26, 2017, their answer or otherwise plead was respectfully due on November 16, 2017.

Bank of New York Mellon USA and Irina Dashevskt of Locke and lord LLP was served on October 30, 2017, whereas, answer was respectfully due November 22, 2017, Merscorp Holdings Inc., Mortgage Electronic Registration Systems Inc., The Bear Stremain Companies, LLC and Richard A. Rice served on November 17,

5.

2017, and SunTrust Banks was served on November 27, 2017.

Ditech Financial LLC aka GreenTree Financial Corp. was certified mail on November 21, 2017. There answer was due no later than December 6, 2017.

See *Honorable Wendell Griffen v. Arkansas Supreme Court, et al., No. 4:17-cv-639-JM (Eastern District of Arkansas Western Division)*.

On November 3, 2017, and order from Judge Charles P. Kocoras order which stated in parts: Lead counsel for each party is required to attend the initial hearing. On December 5, 2017, Failure to appear at any schedule court hearing may result in the dismissal of claims for want of prosecution.

That language was intended for the Petitioners/Plaintiffs' only. The Petitioners were unaware at that time until they filed their "first notice of default"

6.

which was invisible by both Court and Court Clerk.

At that point Petitioners rights were defeated by both the Federal and Appeal Court. There's no justice for the pro se litigants.

On February 11, 2019 Respondent Ditech Financial LLC filed a Chapter 11 Bankruptcy within the Southern District of New York Bankruptcy Court as case No. 19-10412.

Whereas, the Petitioners case became a creditor to bankruptcy action.

This where we were able to see some form of equal justice. Due to the fact this case is still pending the attorneys involved in this case has been in complete communication with the Petitioners. Sad to say this the only time the attorneys reached out to the Petitioners.

Over the course of the Petitioners case we had tried to communicate with the Defendants attorneys in order to possibly reach a settlement.

Petitioners do not wish to speculate it appears that some form of agreement was reached between the Judge Charles P. Kocoras. When he disregarded his on order and dismissed with prejudice Petitioners case on both court date December 5, and 14 2017. Refused to recognize Petitioners' motion of default against the Respondents'.

Rule 4(2) *If a Party Fails to Appear.* No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

Sec. 3. *Default; declaration of.* — If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default.” See *Gerlach v. Michigan Bell Tel. Co.*, 448 F. Supp. 1168, 1174 (E.D. Mich. 1978) (“F.R.C.P. 12 does not explicitly address the issue of whether the filing of a motion under F.R.C.P. 12(b) … alters the time within which the moving party must respond to claims in the complaint not addressed in the motion.”).

If the defendant in a federal case “fails to file an answer in response to a complaint, and the plaintiff notifies the Court, then the Clerk must enter default against that defendant.” *Kingvision Pay-Per-View Ltd. v. Niles*, 150 F. Supp. 2d 188, 190 (D. Me. 2001) (citing FED.R.CIV.P. 55(a)).

Once that occurs, “no responsive pleading may be made ... unless the Defendant formally moves to set aside the entry of default.”

The Supreme Court has ruled upon Section 3 (c) of Rule 9 in the case of *Pinlac, et al. vs. Court of Appeals, et al.*, G.R. No. 91486, 19 January 2001. There the Supreme Court affirmed that when a party does not file an Answer, although his co-defendants do so, default is availing against the former. The Supreme Court ruled:

(c) Effect of partial default. — When a pleading asserting a claim states a common cause of action against several defending parties, some of whom answer and the others fail to do so, the court shall try the case against all upon the answers thus filed and render judgment upon the evidence presented.”

10.

Conclusion

The Petitioners' pray that the facts presented in this rehearing petition will be justified and granted. rehearing should be granted on grounds that Petitioners' were wrongfully and intentionally deprived of their "DUE PROCESS" denied of filing notices of default for summary against the Respondents.

Respectful, Submitted
By Listed Petitioners'

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PETITION FOR REHEARING

**Supreme Court Rule 44.2
Certification
Restricted Grounds**

As required by Supreme Court Rule 44.2 Rehearing, I certify that the document filed with this certification, Petition for Rehearing, is restricted to substantial and controlling effect and substantial grounds not previously mentioned.

Dated: November 9, 2019

Steven Davis et, al, Pro Se