

App. No. 19A538

ORIGINAL

In The
Supreme Court of the United States

Bharanidharan Padmanabhan M.D. Ph.D.

v.

Carol Hulka et al

ON APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI
TO THE FIRST CIRCUIT COURT OF APPEALS

PETITIONER'S APPLICATION TO EXTEND TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI

NOVEMBER 4, 2019

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Bharanidharan Padmanabhan M.D. Ph.D
(Dr. Bharani)
v.
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**PETITIONER'S APPLICATION TO EXTEND TIME TO
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To Circuit Justice Steven Breyer:

Petitioner Dr. Bharani respectfully requests that the time to file a Petition for a Writ of Certiorari in this matter be extended for sixty days, up to and including January 14, 2020. On August 16, 2019 the First Circuit Appeals Court denied a petition for re-hearing *en banc*. Enclosed. Absent an extension of time, the Petition would therefore be due on November 14, 2019. This Court has jurisdiction over this Application under 28 U.S.C. 1254 (1) and has authority to grant the requested relief under the All Writs Act, 28 U.S.C. 1651.

B A C K G R O U N D

Petitioner here, a neurologist with two fellowships in multiple sclerosis (Harvard and UMass) was excluded from the neurology marketplace in July 2017 in order to coerce him to retract his complaint to the HHS Inspector General against the main defendant, Carol Hulka, who had allowed numerous brain MRI scan reports to issue without the images being viewed. There were multiple predicate acts of racketeering that led up to the final exclusion. Petitioner filed a cogent, organized, detailed complaint that laid the predicate acts out with particularity. The complaint, 17-CV-11939 (D. Mass), is available to Justice Breyer on PACER.

One of the defendants, William Kassler, refused to answer the summons and complaint despite having been served twice at his home. The clerk's office randomly assigned the case to Judge F. Dennis Saylor who read the various motions to dismiss and scheduled a Rule 12 hearing in December 2017. Suddenly, one week prior to this scheduled hearing, Judge Nathaniel Matheson Gorton displaced Judge Saylor, canceled the hearing, and then dismissed the complaint with prejudice against all defendants, including William Kassler, for whom Judge Gorton spontaneously presented affirmative defenses and then granted them, all without a public hearing in open court. The First Circuit found nothing wrong with this and affirmed, then refused to publish the opinion.

REASONS FOR GRANTING AN EXTENSION OF TIME

The time to file a Petition for a Writ of Certiorari should be extended for sixty days for these reasons:

This RICO / Sherman Act case is exceptional, involves a US District Court judge acting as a defendant's personal defense attorney even though the defendant never answered the summons, there is a circuit split in terms of standing (*Kevlik v. Goldstein*, 724 F.2d 844 (1st Cir. 1984)), the lower court defied this Court's holding in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) regarding both the standard to dismiss a complaint and block a jury from deciding on facts as well as the specific standard for Sherman Act / RICO cases, *Rotella v. Wood*, 528 US 549 (2000), the lower court defied this Court's ruling in *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 574 U.S. ____ (2015) by granting absolute sovereign immunity in an antitrust case to members of a professional licensing board that is not under active state supervision, the lower court violated the constitutional Separation of Powers by endorsing the spending of public money by a state executive for a purpose explicitly banned by

the state legislature, the lower court defied the Court's repeated holdings in *NOPSI*, *Sprint*, *Logan*, *England* and others regarding the fundamental duty of federal courts to hear federal claims. *Sprint Communications, Inc. v. Jacobs*, 571 U.S. ____ (2013), *New Orleans Public Service, Inc. v. Council of City of New Orleans*, 491 US 350 (1989), *Logan v. Zimmerman Brush Co.*, 455 US 422 (1982), *England v. Medical Examiners*, 375 U.S. 411 (1964), and the lower court defied the Court's repeated rulings by claiming *res judicata* barred RICO claims brought against defendants in their personal capacity because *Ex Parte Young* claims had been brought against *some* of them in their official capacity. The First Circuit's opinion so totally obliterates the statutory purpose as to warrant certiorari.

Petitioner represented himself *pro se* in the First Circuit, went unheard, and needs representation by an attorney experienced in preparing briefs in this Court. This case presents an extraordinarily important issue that warrants a carefully prepared Petition. One would be hard-pressed to envisage a worse outcome for jurisprudence than silently allowing federal judges to act as defense attorneys for RICO defendants even when the defendant has not answered the summons. Review by the Court is thus essential. There is at minimum a substantial prospect that this Court will grant certiorari, and a substantial prospect of reversal given the severe blow to Constitutional protections, judicial standards, and national public policy that the First Circuit's opinion presents.

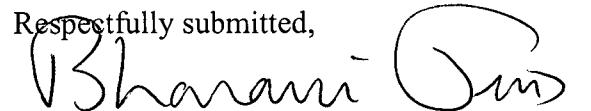
The Petitioner is working diligently to retain counsel with Supreme Court expertise to prepare the Petition. The extension sought shall assist greatly in locating appropriate counsel.

No meaningful prejudice to any party would arise from the extension.

CONCLUSION

Based on the facts and legal arguments presented herein, this Application for extension of time to file a petition for certiorari must be granted and the time to file should be extended sixty days up to and including January 14, 2020, which is what the petitioner respectfully requests.

November 4, 2019

Respectfully submitted,

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