

**IN THE SUPREME COURT
OF THE UNITED STATES OF AMERICA**

JUNE JOHNSON,

PETITIONER,

v.

WELLSFARGO BANK, N.A.

RESPONDENTS.

USCA9 No. 19-16176

**PETITIONERS MOTION
TO DIRECT THE CLERK
TO FILE PETITION
OUT OF TIME**

HONORABLE CLARENCE THOMAS

April 29, 2021 Petitioner June Johnson Petitioned this Court for a Panel Rehearing to Review the Ninth Circuits determination that Ms. Johnsons Brief was untimely and therefore it denied considering her Petition for Full Panel Rehearing. Unfortunately, the Supreme Court Clerk has followed suit determining Ms. Johnsons Petition for Writ of Certiorari was untimely followed by same in that her Petition for Panel Rehearing, the subject here is untimely. This has had a catamount domino effect which has denied her due process of the Courts review of her foreclosure related claims and asks that the Clerk would be Directed to file the Petition Out of Time.

Ms. Johnson had timely filed her Petition for Rehearing though the October 15, 2020 Order stated otherwise. In addition, the Mandate has been issued and thus Ms. Johnson has been denied her due process as to her Appeal of the District Court for the District of Arizona's erroneous dismissal of foreclosure related claims with prejudice.

MATERIAL FACTS

July 17, 2020 a Memorandum was filed by the Ninth Court Court affirming the district court which was mailed to Ms. Johnson by US Postal Service.

July 31, 2020 she in turn mailed her Petition for Rehearing also using the US Postal Service, Priority Mail. The tracking number was 9405511899220717657736.

August 7, 2020 the Petition for Rehearing arrived at the Court and was filed August 10, 2020.

October 15, 2020 Ms. Johnson received via US Mail the Order denying her Petition for Rehearing as untimely stating... *"Johnsons petitions for panel rehearing (Docket Entry No. 21) is rejected as untimely. no other filings will be entertained in this closed case."* Ms. Johnson was later informed by the Ninth Circuit Clerk they (the Court) had been short staffed due to the pandemic. In addition, the mail service to the court has been also affected by the pandemic.

Federal Rules of Appellate Procedure “FRAP” 40(a) allows 14 days for filing a Petition for Panel Rehearing after a judgment. FRAP 40(a)(1)

“Unless the time is shortened or extended by order or local rule, a petition for panel rehearing may be filed within 14 days after entry of judgment.” FRAP 26(a) explains when computing a time period specified in the rules: (A) *exclude the day of the event that triggers the period and; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays...*”

Therefore, July 18, 2020 was the start date for computation of time under FRAP 26(a). In addition, FRAP 26(b)(c) states

*“...When a party may or must act within a specified time after being served, and the paper is not served electronically on the party or delivered to the party on the date stated in the proof of service, **3 days are added after the period would otherwise expire under Rule 26(a).***

The Courts Memorandum was served via US mail thus, the start date when computing time and adding 3 days for mailing is July 21, 2020 and Ms. Johnsons petition was clearly timely and within the rules for US Postal service as allowed. The “Last Day” Defined in FRAP 26(a)(4)(C).

*(C) for filing under Rules 4(c)(1), 25(a)(2)(A)(ii), and 25(a)(2)(A)(iii)—and filing by mail under Rule 13(a)(2)—**at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system...***”

The Petition was mailed July 31, 2020, although it did not arrive until August 7, 2020 and the cause is most likely due to the pandemic. Both the US Postal Service tracking number and the Clerk both verified and agreed. The petition was also docketed August 10, 2020. Again, most likely caused by short staff and/or issues related to the pandemic. The Court may also extent time for good cause or extend the time prescribed by the rules or by its order to perform any act or may permit an act to be done after that time expires. The pandemic certainly rises to this level. COVID-19 ORDER from this Court dated March 19 specifically states...

“In light of the ongoing public health concerns relating to COVID-19, the following shall apply to cases prior to a ruling on a petition for a writ of certiorari:

IT IS ORDERED that the deadline to file any petition for a writ of certiorari due on or after the date of this order is extended to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. See Rules 13.1 and 13.3.”

This Court also Ordered on November 13, 2020 its GUIDANCE CONCERNING CLERK’S OFFICE OPERATIONS, specifically here, Filing Deadlines...

“On March 19, 2020, the Court extended the deadline to file petitions for writs of certiorari in all cases due on or after the date of that order to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. This is the maximum extension allowed by statute and rule, so the Court will not docket extension requests with respect to cert petitions covered by this order.”

CLOSING

It is for the reasons stated herein which started the catamount domino effect which has denied her due process of the Courts review of her foreclosure related claims and asks that the Clerk would be Directed to file the Petition Out of Time and asks for an Order Directing the Clerk to file the Petition

RESPECTFULLY SUBMITTED this 7th Day of May 2021

June Johnson
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Appendix Table

Appendix i *Appellees Notice*

Appendix ii *MARCH 2020* *COVID-19 NOTICE*

Appendix iii *NOVEMBER 2020* *COVID-19 NOTICE*

Arizona Document Services, LLC
Azdocuments@icloud.com
480. 559.3458 | AzCLDP#81339

Appendix i

Petition for Panel Rehearing

No.

**IN THE SUPREME COURT OF
THE UNITED STATES**

IN RE:

JUNE JOHNSON,

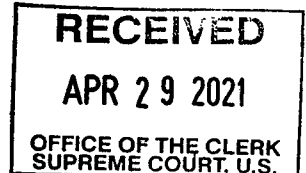
v.

WELLS FARGO BANK, N.A.

PETITION FOR REHEARING
IN RE: DENIAL OF PETITION FOR A
WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

PETITION FOR REHEARING

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(i)

INTRODUCTION

June Johnson Petitions for a Rehearing of the Denial of her Petition For a Writ of Certiorari as untimely which upheld the Ninth Circuits July 14, 2020 Memorandum incorrectly deciding Ms. Johnsons brief also was untimely. Both of these timing issues add to her appeal originating from Arizona's District Courts dismissal of her foreclosure-related claims with prejudice.

The district courts order was drastic and unwarranted pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *In re Alarcon* (D. Ariz., 2014) which was reviewed by the Ninth Circuit for an abuse of discretion. *See Pagtalunan v. Galaza*, 291 F3d 639,640.

(ii)

STANDARD OF REVIEW

The Federal Rules of Appellate Procedure "FRAP" 40(a) allows 14 days for filing a Petition for Panel Rehearing after a judgment. **"Unless the time is shortened or extended by order or local rule**, a petition for panel rehearing may be filed within 14 days after entry of judgment." FRAP 40(a)(1)

(iii)

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Appendix A

Petition to Recall Mandate

REASONS FOR REVIEW

Time Extensions by Order:

The Courts MARCH 19, 2020 ORDER explained specifically...

*"In light of the ongoing public health concerns relating to COVID-19, the following shall apply to cases prior to a ruling on a petition for a writ of certiorari: **IT IS ORDERED** that the deadline to file any petition for a writ of certiorari due on or after the date of this order is extended to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. See Rules 13.1 and 13.3. **IT IS FURTHER ORDERED** that motions for extensions of time pursuant to Rule 30.4 will ordinarily be granted by the Clerk as a matter of course if the grounds for the application are difficulties relating to COVID-19 and if the length of the extension requested is reasonable under the circumstances. Such motions should indicate whether the opposing party has an objection. **IT IS FURTHER ORDERED** that, notwithstanding Rules 15.5 and 15.6, the Clerk will entertain motions to delay distribution of a petition for writ of certiorari where the grounds for the motion are that the petitioner needs additional time to file a reply due to difficulties relating to COVID-19. Such motions will ordinarily be granted by the Clerk as a matter of course if the length of the extension requested is reasonable under the circumstances and if the motion is actually received by the Clerk at least two days prior to the relevant distribution date. Such motions should indicate whether the opposing party has an objection. **IT IS FURTHER ORDERED** these modifications to the Court's Rules and practices do not apply to cases in which certiorari has been granted or a direct appeal or original action has been set for argument. These modifications will remain in effect until further order of the Court."*

The Courts November 12, 2020 Order also explained specifically...

“In light of the ongoing COVID-19 pandemic, the Clerk’s Office is providing guidance on potential impacts of the virus on operations. This guidance provides updates to a similar document that was issued on April 17, 2020. It will be updated again as new information becomes available. Modification to Paper Filing Requirements On April 15, 2020, the Court ordered that for any document filed in a case prior to a ruling on a petition for a writ of certiorari or for an extraordinary writ, or prior to a decision to set a direct appeal for argument, a single paper copy of the document may be submitted on 8 1/2 x 11 inch paper. The filer may choose to format the document under the standards set forth in Rule 33.2 (in which case the page limits of Rule 33.2 apply), or under the standards set forth in Rule 33.1 but printed on 8 1/2 x 11 inch paper (in which case the word limits of Rule 33.1 apply). A single copy of cert- stage amicus briefs and petitions for rehearing may also be filed on 8 1/2 x 11 inch paper as outlined above. This order does not alter the requirements for filings in original cases, or in other cases after a petition for a writ of certiorari has been granted or a direct appeal has been set for argument...”

The Court’s order of April 15, 2020 also identifies certain categories of documents that, if filed through the Court’s electronic filing system, need not be submitted in paper form at all. Those categories are: (1) motions for an extension of time under Rule 30.4; (2) waivers of the right to respond to a petition under Rule 15.5; (3) blanket consents to the filing of amicus briefs under Rules 37.2(a) and 37.3(a); and (4) motions to delay distribution of a cert petition under the Court’s Order of March 19, 2020. These types of filings should be filed electronically in cases governed by Rule 34.6, although other types of documents in those cases should still be filed in paper form only. Filers not authorized to file

documents through the Court's electronic filing system should continue to send a single copy of such documents to the Clerk's Office.

Filing Deadlines:

On March 19, 2020, the Court extended the deadline to file petitions for writs of certiorari in all cases due on or after the date of that order to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. This is the maximum extension allowed by statute and rule, so the Court will not docket extension requests with respect to cert petitions covered by this order. The Court's order of March 19, 2020, also addresses other types of extension requests in existing cert-stage cases, noting that they will ordinarily be granted by the Clerk's Office where the request is reasonable and based upon difficulties relating to COVID-19. The order also authorizes the filing of motions to delay distribution of a cert petition to allow the petitioner time to file a reply brief; such motions are not contemplated by the Court's Rules because Rules 15.5 and 15.6 provide that distribution and consideration of the petition will not be deferred pending receipt of a reply. Motions to defer distribution of a cert petition in these circumstances may be presented in the form of a letter to the Clerk under Rule 30.4. At this time, the Clerk's Office will not send letters to the parties reflecting the result of such Rule 30.4 extension requests, but the results will be reflected on the public docket for the case in question.

Background

July 17, 2020 a Memorandum was by this Court affirming the Johnson Order by the District court stating in pertinent part... *"the district court did not abuse its discretion by dismissing with prejudice Johnson's action)*. The Memorandum was mailed to Appellant by US Postal Service. July 31, 2020 Appellant mailed for filing her Petition for Rehearing also using the US Postal Service, Priority Mail. The tracking number is 9405511899220717657736. August 7, 2020 the Petition for Rehearing arrived at the Court and was filed August 10, 2020, however October 15, 2020 Appellate received via US Mail the Order at issue here, denying her Petition for Rehearing as untimely stating... *"Johnsons petitions for panel rehearing (Docket Entry No. 21) is rejected as untimely. no other filings will be entertained in this closed case."* Appellate instantly contacted a Clerk at the Court and was informed by the Clerk that they (the Court) have been short staffed due to the pandemic and in addition the mail service to the court has been also affected by the pandemic. Federal Rules of Appellate Procedure "FRAP" 40(a) allows 14 days for filing a Petition for Panel Rehearing after judgment. *"Unless the time is shortened or extended by order or local rule, a petition for panel rehearing may be filed within 14 days after entry of judgment."* FRAP 40(a)(1) and FRAP 26(a) explains when computing a time period specified in the rules: *(A) exclude the day of the event that triggers the period and; (B) count every day, including intermediate Saturdays, Sundays, and legal holidays;*

Therefore July 18, 2020 is the start date for computation of time under FRAP 26(a). *In addition, FRAP 26(b)(c)"...When a party may or must act within a specified time after being served, and the paper is not served electronically on the party or delivered to the party on the date stated in the proof of service, 3 days are added after the period would otherwise expire under Rule 26(a).*

The Courts Memorandum was served via US mail thus, the start date when computing time and adding 3 days for mailing is July 21, 2020. Appellants petition is clearly timely within the rules having relied on US Postal service as allowed. The "Last Day" Defined in FRAP 26(a)(4)(C). *(C) for filing under Rules 4(c)(1), 25(a)(2)(A)(ii), and 25(a)(2)(A)(iii)—and filing by mail under Rule 13(a)(2)—at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system...*" Thus, the US Postal Service tracking number, and the Clerk both verified and agree the Petition was mailed July 31, 2020, although it did not arrive until August 7, 2020 and the cause is most likely due to the pandemic. The petition was also docketed August 10, 2020. Again, most likely caused by short staff and/or issues related to the pandemic. Thus, with respect to the last day for filing, Ms. Johnson is timely.

Indeed the Ninth Court also could have extended the time for good cause prescribed by the rules or by its order to perform any act or may permit an act to be done after that time expires. Clearly the COVID pandemic certainly rises to this level as almost hundreds of thousands of Americans have lost their lives. Business is not usual when considering the timeliness of Appellants petition and this issue justifies the granting of review.

The Federal Rules of Appellate Procedure “FRAP” 40(a) allows 14 days for filing a Petition for Panel Rehearing after a judgment. “**Unless the time is shortened or extended by order or local rule**, a petition for panel rehearing may be filed within 14 days after entry of judgment.” FRAP 40(a)(1). Here the Orders specifically highlighted herein show that the timeline for filing was extended.

Less Drastic Measures

The heart of this original appeal is pivotal if self-represented parties are to receive federal justice after forced removal from state court property actions by banks that enjoy major advantages. The Arizona District court erred in not considering less drastic alternatives to dismissal with prejudice, not exercising its discretion within appropriate limits, and its **failure to consider the relevant factors in imposing dismissal as a sanction**. Wells Fargo sold Ms. Johnsons home to a third party at an unnoticed trustee sale at the central point of its purported "prejudiced" time period. In addition to being completely made whole by the sale of the Johnson home its agent trustee also initiated an action against

Ms. Johnson for recovery of excess proceeds. Amazingly the Johnsons were made homeless while Defendants stripped them of their over \$25,000 of excess proceeds from the trustee sale. Unquestionably less drastic measures were available. Rule 41(b) provides a dismissal for failure to prosecute and operates as an adjudication upon the merits. Thus, at a minimum and in the alternative, the complaint and the action should have been without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *In re Alarcon* (D. Ariz., 2014).

Wells Fargo did not establish that Ms. Johnsons actions impaired its ability to proceed to trial or threatened to interfere with the rightful decision of the case. *Malone v. United States Postal Serv.*, 833 F.2d 128, 131 (9th Cir. 1987) And pendency of a lawsuit is not sufficiently prejudicial in and of itself to warrant dismissal. *Yourish*, 191 F.3d at 991. "Limited delays and the prejudice to a defendant from the pendency of a lawsuit are realities of the system that have to be accepted, provided the prejudice is not compounded by 'unreasonable' delays." *Id.* (quoting *Ash v. Cvetkov*, 739 F.2d 493, 496 (9th Cir.1984)). Unnecessary delay inherently increases the risk that witnesses' memories will fade, and evidence will become stale. *See Sibron v. New York*, 392 U.S. 40, 57, 88 S.Ct. 1889, 20 L.Ed.2d 917 (1968).

Ms. Johnson offered clear explanations of what actions she actually took during the relevant time periods, and it was as a result of Wells Fargo's unnoticed and unauthorized trustee sale, that Ms. Johnson was forced additionally to

simultaneously defend her property from a third party in a lower court. Had the district court followed the long line of circuit authority insisting that they weigh all the relevant factors with priority to prejudice and alternative measures before deciding to dismiss a plaintiffs case *See, e.g., Yourish, 191 F. 3d at 990; Hernandez v. City of El Monte, 138 F. 3d 393, 399 (9th Cir. 1998); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir.1992); Thompson v. Housing Authority, 782 F.2d 829, 831 (9th Cir. 1986); Henderson v. Duncan, 779 F. 2d 1421, 1423-24 (9th Cir. 1986); Ash v. Cvetkov, 739 F. 2d 493, 496 (9th Cir. 1984); Mir, 706 F.2d at 918.* cases which all implicitly accepted pursuit of less drastic alternatives prior to the purported disobedience of the court's order then Ms. Johnsons claims could not have been disposed of.

CONCLUSION

For the reasons stated herein, this Petition for Rehearing should be Granted because Ms. Johnsons Ninth Circuit brief was timely, and the District court abused its discretion when it dismissed Ms. Johnson claims with prejudice for failure to prosecute and did not exercise discretion within the proper limits.

Respectfully submitted the 12th day of April, 2021

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RECEIVED
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOV 02 2020

June Johnson
7826 E. Las Piedras Way
Scottsdale, Arizona 85266

FILED _____
DOCKETED _____
DATE _____ INITIAL _____

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

JUNE JOHNSON
Plaintiff-Appellant,

v.

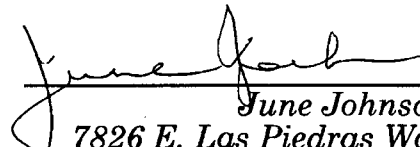
WELLS FARGO BANK N.A.
Defendant-Appellees

No. 19-16176

District of Arizona
No. 2:18-cv-02819-JJT

**APPELLANTS MOTION
TO RECALL MANDATE**

COMES NOW, June Johnson ("Appellant" "Ms. Johnson") to Make Motion for the Recall of the Mandate issued prematurely for the reason that Ms. Johnson had timely filed her Petition for Rehearing though the October 15, 2020 Order stated otherwise. (EXHIBIT I) In addition, the Mandate has been issued and thus Ms. Johnson has been denied her due process as to her Appeal of the District Court for the District of Arizona's erroneous dismissal of her foreclosure related claims with prejudice. This Motion is supported with Exhibits and Memorandum included herein. Respectfully Submitted this 23rd day of October, 2020.


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MEMORANDUM OF POINTS AND AUTHORITIES

I. MATERIAL FACTS

July 17, 2020 a Memorandum was filed by this Court affirming the district court and stating in pertinent part... *"the district court did not abuse its discretion by dismissing with prejudice Johnson's action..."* (EXHIBIT II).

The Memorandum was mailed to Appellant by US Postal Service. July 31, 2020 Appellant mailed for filing her Petition for Rehearing also using the US Postal Service, Priority Mail. The tracking number is 9405511899220717657736 (EXHIBIT III). August 7, 2020 the Petition for Rehearing arrived at the Court and was filed August 10, 2020.

October 15, 2020 Appellate received via US Mail the Order at issue here, denying her Petition for Rehearing as untimely stating... *"Johnsons petitions for panel rehearing (Docket Entry No. 21) is rejected as untimely. no other filings will be entertained in this closed case."*

Appellate instantly contacted a Clerk at the Court and was informed by the Clerk that they (the Court) have been short staffed due to the pandemic and in addition the mail service to the court has been also affected by the pandemic.

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II. ANALYSIS

Federal Rules of Appellate Procedure “FRAP” 40(a) allows 14 days for filing a Petition for Panel Rehearing after a judgment. FRAP 40(a)(1) *“Unless the time is shortened or extended by order or local rule, a petition for panel rehearing may be filed within 14 days after entry of judgment.”*

FRAP 26(a) explains when computing a time period specified in the rules: (A) *exclude the day of the event that triggers the period and;*
(B) *count every day, including intermediate Saturdays, Sundays, and legal holidays;*

In this situation, July 18, 2020 is the start date for computation of time under FRAP 26(a).

Also, relevant here is FRAP 26(b)(c) *“...When a party may or must act within a specified time after being served, and the paper is not served electronically on the party or delivered to the party on the date stated in the proof of service, 3 days are added after the period would otherwise expire under Rule 26(a).*

The Courts Memorandum was served via US mail thus, the start date when computing time and adding 3 days for mailing is July 21, 2020.

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With respect to the last day for filing, Appellants petition is clearly timely within the rules having relied on US Postal service as allowed. The “Last Day” Defined in FRAP 26(a)(4)(C). *(C) for filing under Rules 4(c)(1), 25(a)(2)(A)(ii), and 25(a)(2)(A)(iii)—and filing by mail under Rule 13(a)(2)—at the latest time for the method chosen for delivery to the post office, third-party commercial carrier, or prison mailing system...*”

The US Postal Service tracking number, and the Clerk both verified and agree the Petition was mailed July 31, 2020, although it did not arrive until August 7, 2020 and the cause is most likely due to the pandemic. The petition was also docketed August 10, 2020. Again, most likely caused by short staff and/or issues related to the pandemic.

III. CONCLUSION

Lastly, this Court may also extent time for good cause and the Court may extend the time prescribed by the rules or by its order to perform any act or may permit an act to be done after that time expires. The pandemic certainly rises to this level as almost 250,000 Americans have lost their lives and understandably business is not as usual. When considering the timeliness of Appellants petition, this justifies Granting the review of that petition by the Court and Appellant requests a Recall of the Mandate if needed if the Petition is granted.

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EXHIBIT I

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

OCT 15 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUNE JOHNSON,

Plaintiff-Appellant,

v.

WELLS FARGO BANK, N.A.;
UNKNOWN PARTIES,

Defendants-Appellees.

No. 19-16176

D.C. No. 2:18-cv-02819-JJT
District of Arizona,
Phoenix

ORDER

Before: CANBY, FRIEDLAND, and R. NELSON, Circuit Judges.

Johnson's petition for panel rehearing (Docket Entry No. 21) is rejected
as untimely.

No further filings will be entertained in this closed case.

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EXHIBIT II

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 17 2020

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUNE JOHNSON,

Plaintiff-Appellant,

v.

WELLS FARGO BANK, N.A.;
UNKNOWN PARTIES,

Defendants-Appellees.

No. 19-16176

D.C. No. 2:18-cv-02819-JJT

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
John Joseph Tuchi, District Judge, Presiding

Submitted July 14, 2020**

Before: CANBY, FRIEDLAND, and R. NELSON, Circuit Judges.

June Johnson appeals pro se from the district court's order dismissing her diversity action alleging foreclosure-related claims. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal pursuant to Federal Rule of Civil Procedure 41(b). *Pagtalunan v. Galaza*, 291 F.3d 639, 640

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(9th Cir. 2002). We affirm.

The district court did not abuse its discretion by dismissing with prejudice Johnson's action because Johnson failed to comply with the district court's order to provide full and complete discovery responses, despite a warning that failure to comply would result in dismissal. *See id.* at 642 (discussing factors to be considered before dismissing an action for failure to comply with a court order).

AFFIRMED.

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EXHIBIT III



Your Tracking Information

English (US)

Status: DELIVERED
Delivery Date: Fri 7 Aug 2020
Delivery Location: SAN FRANCISCO, CA 94105
Carrier: US Postal Service
Service: Priority Mail
US Postal Service Tracking Number: 9405511899220717657736

Scan History:

Fri 7 Aug 2020	9:09 AM	Delivered, PO Box SAN FRANCISCO, CA 94105
	8:20 AM	Arrived at Post Office SAN FRANCISCO, CA 94105
Thu 6 Aug 2020	5:50 AM	Departed USPS Regional Destination Facility SAN FRANCISCO CA DISTRIBUTION CENTER,
Wed 5 Aug 2020	4:55 AM	Arrived at USPS Regional Facility SAN FRANCISCO CA DISTRIBUTION CENTER,
	4:27 AM	Departed USPS Regional Facility OAKLAND CA DISTRIBUTION CENTER,
	2:52 AM	Arrived at USPS Regional Facility OAKLAND CA DISTRIBUTION CENTER,
Sat 1 Aug 2020	11:08 PM	Departed USPS Regional Origin Facility PHOENIX AZ DISTRIBUTION CENTER ANNEX,
	11:08 PM	Arrived at USPS Regional Origin Facility PHOENIX AZ DISTRIBUTION CENTER ANNEX,
	6:59 PM	Departed Post Office PHOENIX, AZ 85028
	3:47 PM	USPS picked up item PHOENIX, AZ 85028
	1:06 AM	Shipping Label Created, USPS Awaiting Item PHOENIX, AZ 85028

NOTE: The times listed in the scan details are local time.

Done

Track Another Package

Carrier Tracking Number / iShip ID:

Submit

Tracking provided for


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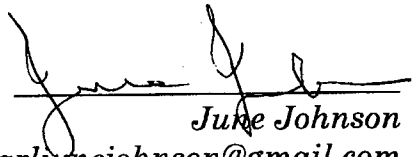
CERTIFICATE OF SERVICE

The undersigned Appellant, on the 23rd day of October, 2020 filed an Original with the Clerk of the Court and served a true and correct copy via US Mail to:

Attorneys for WELLS FARGO BANK N.A.

Gregory J. Marshall
gmarshal@swlaw.com

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Appendix ii

MARCH 2020 COVID-19 NOTICE

(ORDER LIST: 589 U.S.)

THURSDAY, MARCH 19, 2020

ORDER

In light of the ongoing public health concerns relating to COVID-19, the following shall apply to cases prior to a ruling on a petition for a writ of certiorari:

IT IS ORDERED that the deadline to file any petition for a writ of certiorari due on or after the date of this order is extended to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. See Rules 13.1 and 13.3.

IT IS FURTHER ORDERED that motions for extensions of time pursuant to Rule 30.4 will ordinarily be granted by the Clerk as a matter of course if the grounds for the application are difficulties relating to COVID-19 and if the length of the extension requested is reasonable under the circumstances. Such motions should indicate whether the opposing party has an objection.

IT IS FURTHER ORDERED that, notwithstanding Rules 15.5 and 15.6, the Clerk will entertain motions to delay distribution of a petition for writ of certiorari where the grounds for the motion are that the petitioner needs additional time to file a reply due to difficulties relating to COVID-19. Such motions will ordinarily be granted by the Clerk as a matter of course if the length of the extension requested is reasonable under the circumstances and if the motion is actually received by the Clerk at least two days prior to the relevant distribution date. Such motions should indicate whether the opposing party has an objection.

IT IS FURTHER ORDERED that these modifications to the Court's Rules and practices do not apply to cases in which certiorari has been granted or a direct appeal or original action has been set for argument.

These modifications will remain in effect until further order of the Court.

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Appendix iii

*NOVEMBER 2020
COVID-19 NOTICE*

**SUPREME COURT OF THE UNITED STATES OFFICE OF THE CLERK
WASHINGTON, D. C. 20543-0001**

November 13, 2020

SCOTT S. HARRIS
CLERK OF THE COURT

AREA CODE 202
479-3011

GUIDANCE CONCERNING CLERK'S OFFICE OPERATIONS

In light of the ongoing COVID-19 pandemic, the Clerk's Office is providing guidance on potential impacts of the virus on operations. This guidance provides updates to a similar document that was issued on April 17, 2020. It will be updated again as new information becomes available.

Modification to Paper Filing Requirements

On April 15, 2020, the Court ordered that for any document filed in a case prior to a ruling on a petition for a writ of certiorari or for an extraordinary writ, or prior to a decision to set a direct appeal for argument, a single paper copy of the document may be submitted on 8½ x 11 inch paper. The filer may choose to format the document under the standards set forth in Rule 33.2 (in which case the page limits of Rule 33.2 apply), or under the standards set forth in Rule 33.1 but printed on 8½ x 11 inch paper (in which case the word limits of Rule 33.1 apply). A single copy of cert-stage *amicus* briefs and petitions for rehearing may also be filed on 8½ x 11 inch paper as outlined above. This order does not alter the requirements for filings in original cases, or in other cases after a petition for a writ of certiorari has been granted or a direct appeal has been set for argument.

The Court's order of April 15, 2020, also identifies certain categories of documents that, if filed through the Court's electronic filing system, need not be submitted in paper form at all. Those categories are: (1) motions for an extension of time under Rule 30.4; (2) waivers of the right to respond to a petition under Rule 15.5; (3) blanket consents to the filing of *amicus* briefs under Rules 37.2(a) and 37.3(a); and (4) motions to delay distribution of a cert petition under the Court's

Order of March 19, 2020. These types of filings should be filed electronically in cases governed by Rule 34.6, although other types of documents in those cases should still be filed in paper form only. Filers not authorized to file documents through the Court's electronic filing system should continue to send a single copy of such documents to the Clerk's Office.

The Court's order of April 15, 2020, also encourages parties to reach agreement among each other to serve filings through electronic means only, eliminating the need for paper service.

Filing Deadlines

On March 19, 2020, the Court extended the deadline to file petitions for writs of certiorari in all cases due on or after the date of that order to 150 days from the date of the lower court judgment, order denying discretionary review, or order denying a timely petition for rehearing. This is the maximum extension allowed by statute and rule, so the Court will not docket extension requests with respect to cert petitions covered by this order.

The Court's order of March 19, 2020, also addresses other types of extension requests in existing cert-stage cases, noting that they will ordinarily be granted by the Clerk's Office where the request is reasonable and based upon difficulties relating to COVID-19. The order also authorizes the filing of motions to delay distribution of a cert petition to allow the petitioner time to file a reply brief; such motions are not contemplated by the Court's Rules because Rules 15.5 and 15.6 provide that distribution and consideration of the petition will not be deferred pending receipt of a reply. Motions to defer distribution of a cert petition in these circumstances may be presented in the form of a letter to the Clerk under Rule 30.4. At this time, the Clerk's Office will not send letters to the parties reflecting the result of such Rule 30.4 extension requests, but the results will be reflected on the public docket for the case in question.

While the Court building is closed to the public in light of COVID-19, this closure does not itself affect filing deadlines under Rule 30.1.

Case Distribution and Conference Schedules

The Court is continuing to consider cert petitions and other documents at its regularly scheduled conferences, and order lists addressing the results of those conferences are also being issued. The schedule for the distribution of petitions for conference consideration is also unaffected.

Delivery of Documents to the Clerk's Office

Filings to be hand-delivered to the Supreme Court Building may be directed to the North Drive on Second Street. Until further notice, all such filings are being directed first offsite for screening before being delivered to the Clerk's Office. In light of health concerns relating to COVID-19, the Court is temporarily suspending its practice of allowing filings delivered to the North Drive in an open container before 2:00 p.m. to be sent to the Clerk's Office on the same day as delivery. It may take up to two days for documents arriving at the North Drive to be physically delivered to the Clerk's Office. Parties are strongly encouraged to send filings by mail or commercial carrier rather than by hand-delivery. In unusual circumstances where especially fast docketing of a particular document is needed, contact the Clerk's Office.

Clerk's Office Staffing

While the Clerk's Office remains in operation, staffing in the building is substantially reduced in order to protect the health and safety of employees. If you need to speak to someone in the Clerk's Office, please leave a detailed voicemail at 202-479-3011; every effort will be made to return calls and emails promptly.

CERTIFICATE OF COMPLIANCE

I certify that the attached brief uses proportionately spaced type of 14 points or more, is double spaced using a Roman font, and is 1082 words. As required by Supreme Court Rule 33.1(h).

I declare under penalty of perjury that the foregoing is true and Correct.

Date: May 7, 2021

June Johnson
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Scottsdale, Arizona 85266

**Additional material
from this filing is
available in the
Clerk's Office.**