

21-7688
No.

IN THE
SUPREME COURT OF THE UNITED STATES

RALEIGH ROGERS

v.

WELLS FARGO

FILED
APR 01 2022
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

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SUPREME COURT, U.S.

QUESTION PRESENTED

1. Can the court disregard: **one**, that Wells Fargo promised to provide the “next steps to be taken regarding [Plaintiff-Appellant’s] unauthorized account openings”; however, that Wells Fargo never provided the next steps to be taken to Plaintiff-Appellant; **two**, that Rule 23 stipulates individual notice must be given to all members who can be identified through reasonable effort, including an opportunity to opt out; however, that despite the fact that Plaintiff-Appellant had been identified, individual notice, including an opportunity to opt out, was never given to Plaintiff-Appellant; **three**, that United States District Judge VINCE CHHABRIA listed notifications and forms, including an opt-out form, that must be provided to class members in order to satisfy Rule 23 and due process; however, that no notifications or forms designated by Judge VINCE CHHABRIA were ever provided to Plaintiff-Appellant; and **four**, that Title II of the ADA mandates disabled parties be issued the same notifications and options issued to other class members; however, that the notifications and options issued to other class members were never issued to disabled Plaintiff-Appellant, Raleigh Rogers?

PARTIES TO THE PROCEEDINGS

Raleigh Rogers, Petitioner

Wells Fargo, Respondent

CORPORATE DISCLOSURE STATEMENT

Raleigh Rogers does not own any stock in Wells Fargo.

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OPINIONS BELOW

The opinion on the U.S. District Court for Western North Carolina, Statesville Division (Judge Robert Conrad), is included as Appendix 1.

The ruling of the Court of Appeals for the 4th Circuit is included as Appendix 2.

JURISDICTION

This Court has jurisdiction of this petition to review the decision of the District Court of Appeals for the 4th Circuit pursuant to 28 USC 1291.

The District Court had jurisdiction under 18 USC 3231. The court entered final judgement on 19 November 2021. The Enbanc opinion was filed 11 January 2022.) Raleigh Rogers filed a timely notice of appeal on 1 April 2022. The District Court of Appeals for the 4th Circuit had jurisdiction pursuant to 28 USC 1291.

STATEMENT OF THE CASE

Wells Fargo opened a fraudulent account in Plaintiff-Appellant's name on **17 December 2013**, while Plaintiff-Appellant was struggling to adjust his life to accommodate a medical diagnosis

of Multiple Sclerosis. When Plaintiff-Appellant refused to pay accumulating unauthorized fees charged to the fake account, Wells Fargo turned the fraudulent debt over to a collection agency. Plaintiff-Appellant repeatedly contacted Wells Fargo in person, by phone, and by mail; however, Wells Fargo stonewalled, sending letters that promised: one, “[w]e will respond to you within ten business days” (see Appendix 3 at 12 ¶2, 22 December 2016); two, “[y]ou will receive written correspondence within 60 calendar days regarding the outcome and next steps to be taken regarding your unauthorized account openings” (see Appendix 4 at 14 ¶3, 20 March 2017); and three, “[w]e will respond to you within ten business days” (see Appendix 5 at 16 ¶2, 4 April 2017). However, Wells Fargo never followed through with any of its promises of information.

After talking with doctors, lawyers, Medicaid, Medicare, Social Security Disability, and the National Multiple Sclerosis Society (which explained it would provide MS

medication to anyone who had no healthcare and no property), Plaintiff-Appellant dropped the healthcare he had carried for decades, and gifted his property to his brother, SSgt. Jonathan Rogers, USMC (in order to qualify for expensive (150k+) and medically necessary MS medication). (And to further protect my family, I moved into a homeless shelter and waited for the SSDI hearing. After a successful SSDI hearing, I moved into housing for the disabled. Now, taxpayers pay more than 150k a year for my medications and welfare, which bothers me; because I should not have to live on charity, and taxpayers should not have to pay for Wells Fargo's crimes against me.)

REASONS FOR GRANTING THE PETITION

1. WELLS FARGO'S BROKEN PROMISE

Wells Fargo promised to provide Plaintiff-Appellant with the "next steps to be taken regarding your unauthorized account

openings.” (See Appendix 4 at 14 ¶3, 20 March 2017.) However, Wells Fargo never kept its promise.

2. RULE 23’S BROKEN STIPULATION

Rule 23 stipulates: “For any class certified under Rule 23(b)(3), the court must direct to class members the best notice that is practical under the circumstances, including individual notice to all members who can be identified through reasonable effort.”¹

(Emphasis added.) “The ultimate goal of giving notice is to enable class members to make informed decisions about whether to opt out or, in instances where a proposed settlement is involved, to object or to make claims.”² (Emphasis added.)

However, despite the fact that Plaintiff-Appellant had already been identified (see Appendix 3-5), Plaintiff-Appellant was never notified or given an opportunity to opt out.

¹ Federal Rules of Civil Procedure Class Action 23(b)(3)

² Committee Notes on Rule—2018 Amendment

3. JABBARI'S BROKEN RULING

United States District Judge VINCE CHHABRIA listed notifications and forms necessary to satisfy Rule 23 and due process (see Appendix 6 at 28), including the opt-out form in his Jabbari ruling.³ However, Plaintiff-Appellant was never sent any of the notifications or forms specified by Judge CHHABRIA, including the opt-out form. In other words, Rule 23 and due process were never satisfied respecting disabled Plaintiff-Appellant.

4. THE ADA'S BROKEN STIPULATION

Title II of the Americans with Disabilities Act prohibits discrimination against persons with disabilities “with respect to services, programs, or activities of [any] public entity.”⁴ Courts are a public entity. The Ninth Circuit listed notifications and

³ Case No. 15-cv-02159-VC (N.D. Cal. Jul. 8 2017) at 11

⁴ 28 C.F.R. 35.130(a); 42 U.S.C. 12132

forms that must be provided to satisfy Rule 23 and due process.

However, disabled Plaintiff-Appellant was never sent the notifications or forms (specified by Judge CHHABRIA) to file claims or to opt out of Jabbari, although other Wells Fargo victims were sent notifications and forms. (See Appendix 7 at 36-50.)

5. ARBITRARY AND CAPRICIOUS

Over one thousand Wells Fargo victims, who were notified pursuant to Rule 23(b)(3), opted out. (See Appendix 7 at 36-50.)

The deadline for opting out was 14 May 2018. (See Appendix 7 at 47.) It is arbitrary and capricious for some Jabbari class members (who had been identified) to be notified they could opt out but not others.

CONCLUSION

Judge Rehnquist concluded: “a violation of due process occurs only when a person is actually denied the constitutional right to access a judicial proceeding.” The Honorable Judge Robert J. Conrad ruled Plaintiff-Appellant was a Jabbari class member. The United States Court of Appeals for the Fourth Circuit confirmed Judge Conrad’s ruling. Because notifications and forms stipulated by Rule 23 were not provided to Plaintiff-Appellant (a Jabbari class member), Plaintiff-Appellant was not allowed to participate in or to opt out of Jabbari. Because notifications and forms listed by United States Judge VINCE CHHABRIA were not provided to Plaintiff-Appellant (a Jabbari class member), Plaintiff-Appellant was not allowed to participate in or to opt out of Jabbari. Because Plaintiff-Appellant (a Jabbari class member) was not allowed to participate in or to opt out of Jabbari, Plaintiff-Appellant was denied the constitutional right to access Jabbari. Because

Plaintiff-Appellant (a Jabbari class member) was denied the constitutional right to access Jabbari, the Court should grant Plaintiff-Appellant an opportunity to opt out of Jabbari, which Plaintiff-Appellant would accept.

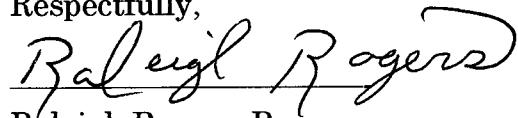
Judge Rehnquist also averred: “any move to weaken judicial independence between federal and state courts would only serve to undermine the effectiveness of the federal courts.” Accordingly, Plaintiff-Appellant hopes that if he proves (with this petition) that the federal courts shirk its duty to allow Plaintiff-Appellant to access Jabbari, state courts will be inspired to fill the void of due process thereby created.

The alternative is that courts are sending a message to financial Goliaths (subject to Rule 23(b)(3) class actions) that they can thwart Rule 23, due process, the ADA, and any inconvenient ruling by a district court judge, by ignoring all of the above.

ORAL ARGUMENT

Plaintiff-Appellant, a graduate of Woodberry Forest School, Harvard College, and Georgetown Law Center, requests to participate in oral argument.

Respectfully,

A handwritten signature in black ink that reads "Raleigh Rogers". The signature is fluid and cursive, with "Raleigh" on the top line and "Rogers" on the bottom line, though the lines are not explicitly drawn.

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