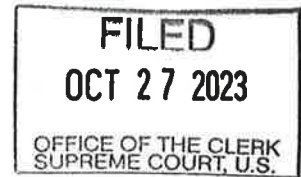


ORIGINAL

No. 22-1250



In the
Supreme Court of the United States

Michael Donatelli and Peter Chien,
Petitioners

versus

Scott E. Jarrett, Christopher Greenwood, Steven
Broy, Dana M. Kelley, Rod Belanger, Town of Old
Orchard Beach,
Respondents

**On Petition for Writ of Certiorari
to the Maine Supreme Judicial Court**

PETITION FOR REHEARING

Michael Donatelli &
Peter Chien

Pro Se

10 Dwight St, Unit 3
Boston, MA 02118
(646) 321-5294



Corporate Disclosure Statement

The corporate disclosure statement in the petition for a writ of certiorari remains unchanged.

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PETITION FOR REHEARING

In accordance with this Court's Rule 44.2, Petitioners Michael Donatelli and Peter Chien respectfully seek rehearing of this Court's October 2, 2023 Order denying their petition for writ of certiorari based on the intervening decision in *Osure Brown v. Transworld Systems, Inc., et al*, No. 22-35244 (9th Cir. July 14, 2023). The Ninth Circuit's ruling, just 23 days after the petition for writ of certiorari was filed, confirms that either a filing or a service action may constitute a triggering date for the statute of limitations for the Fair Debt Collection Practices Act (FDCPA), so that the plaintiff's claim was not time barred. This ruling highlights the importance of identifying a triggering event to establish a deadline, as is also implied in the Federal Rules of Civil Procedure 6(a)(1)(A) and in the analogous Maine Rules of Civil Procedure 6(a).

This case asks whether the Maine Judicial Supreme Court, in upholding a lower court decision to dismiss the case because a court order with instructions for the petitioners omitted a triggering date to establish a deadline for compliance, violates the petitioners' civil rights as described in the due process clause of the Fourteenth Amendment.

In the Ninth Circuit ruling, in order to reach the conclusion that the plaintiff's claim was not time barred, that court had to identify an event to start the one year statute of limitations for FDCPA. It determined that either service or filing in litigation acts would each constitute a triggering event for the statute of limitations. In contrast, the Maine

Judicial Supreme Court, in upholding the lower court's May 27th Order that failed to specify *any* triggering event or date, represent a departure from conventional jurisprudence that not even the Respondents should be able to justify in their opposition brief about how Maine courts should be able to operate differently than the rest of the United States' judicial standards. Indeed, as described in *American Jurisprudence* 2nd Edition, § 51. Form and requisites of order, "... the order of the court must be sufficiently clear and specific to allow a party to determine with reasonable certainty what it is required to do. ***The specificity of an order's terms generally is tested by the four corners of the order and by the express language of the terms themselves***, without depending upon clarification or interpretation at future hearings or otherwise [emphasis added]." See § 51. Form and requisites of order, 56 Am. Jur. 2d Motions, Rules, and Orders.

The Petitioners, having still attempted to comply with the defective May 27th Order in good faith, could also have argued for excusable neglect according to the test factors described in the opinion of *Pioneer Investment Services Company v. Brunswick Associates Limited Partnership*, but two of the factors describe a delay needing analysis, which again underscores how essential it is for an order to define a triggering event to establish a deadline from which to assess a delay.

The Petitioners have raised the federal question of due process, identified in the petition of writ for certiorari, and the Maine courts have passed on it. Therefore, this Court possesses jurisdiction to review

the Maine Judicial Supreme Court's decision. Furthermore, the recent Ninth Circuit ruling establishes how essential identifying a triggering event must be to reach a determination of whether a claim is time barred. The Ninth Court would agree that the Maine Judicial Supreme Court erred in affirming the lower court's order that failed to identify such a triggering event to calculate a deadline upon which to comply with an order. Motions, rules, orders, laws, and statutes bearing a time dependence must have an identified triggering event, including this very petition for rehearing pursuant to this Court's Rule 44.2. The departure from this convention by the Maine Judicial Supreme Court's affirmation to dismiss the case is erroneous, depriving the Petitioners of their civil right of due process.

In light of the Ninth Circuit ruling, petitioners have reached the issue of due process violation to be worthy of review by this Court, providing an opportunity for this Court to define a jurisprudential standard for court orders setting forth a deadline, and meriting the granting or a hold of this petition for rehearing.



CONCLUSION

For the foregoing reasons, the Petitioners respectfully request that the U.S. Supreme Court grant the petition for rehearing and the petition for writ of certiorari.

Respectfully submitted,

The image shows two handwritten signatures in black ink. The first signature on the left is for Michael Donatelli, and the second signature on the right is for Peter Chien. Both signatures are fluid and cursive.

Michael Donatelli and Peter Chien
Petitioners, Pro Se
10 Dwight St, Unit 3
Boston, MA 02118

Dated: October 27, 2023

**CERTIFICATE OF COUNSEL (OR PARTY
UNREPRESENTED BY COUNSEL)**

We hereby certify that this petition for rehearing is restricted to the grounds specified in Rule 44.2 and presented in good faith and not for delay.

We declare under penalty of perjury that the foregoing is true and correct.

Executed on October 27, 2023

Handwritten signatures of Michael Donatelli and Peter Chien. The signature on the left is 'MD' and the signature on the right is 'PChien'.

Michael Donatelli and Peter Chien
Petitioners, Pro Se

CERTIFICATE OF SERVICE

No. 22-1250

Michael Donatelli and Peter Chien,
Petitioners

v.

Scott E. Jarrett, Christopher Greenwood, Steven
Broy, Dana M. Kelley, Rod Belanger, Town of Old
Orchard Beach,
Respondents

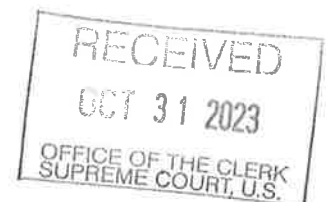
Per Supreme Court Rules 12.3 and 29.3, we certify that three copies of the petition for rehearing were served via United States Postal Service mail upon all parties required to be served, the Respondents Scott E. Jarrett, Christopher Greenwood, Steven Broy, Dana M. Kelley, Rod Belanger, Town of Old Orchard Beach, by way of their Counsel, all represented by John J. Wall, III of Monaghan Leahy, LLP
95 Exchange Street, P.O. Box 7046
Portland, Maine 04112-7046
(207) 774-3906

We declare under penalty of perjury that the foregoing is true and correct.

Executed on October 27, 2023




Michael Donatelli and Peter Chien, Petitioners



CERTIFICATE OF COMPLIANCE

No. 22-1250

Michael Donatelli and Peter Chien,
Petitioners

v.

Scott E. Jarrett, Christopher Greenwood, Steven
Broy, Dana M. Kelley, Rod Belanger, Town of Old
Orchard Beach,
Respondents

As required by Supreme Court Rule 33.1(h), we
certify that the Petitioners' petition for rehearing
contains 727 words, excluding the parts of the
petition that are exempted by Supreme Court Rule
33.1(d).

We declare under penalty of perjury that the
foregoing is true and correct.

Executed on October 27, 2023



Michael Donatelli and Peter Chien, *Petitioners*