

No. 22-5578

In the Supreme Court of the United States

CYNTHIA S. WILLS,
PETITIONER,

v.

FIRST REPUBLIC BANK,
RESPONDENT.

*ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT*

PETITION FOR REHEARING

Cynthia S. Wills
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Carmel-By-The-Sea, CA 93921
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Pro Se Petitioner

December 09, 2022

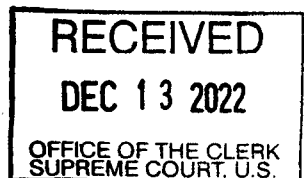


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--- **PETITION FOR REHEARING**

Pursuant to Rule 44 of this Court, the Petitioner, Cynthia S. Wills, hereby respectfully petitions for a rehearing of the denial of a writ of certiorari to review the judgement of the United States Court of Appeals for the Ninth Circuit in this case before a full nine-Member Court.

1. The Defendant in this case, First Republic Bank is an American full-service bank and wealth management company with revenue for the twelve months ending September 30, 2022 of **\$6.205 billion dollars** and a net income for the twelve months ending September 30, 2022 of **\$1.529 billion dollars, with full legal representation.**

2. The Plaintiff in this case, Cynthia S. Wills, **Defendant's customer**, on the brink of a devastating housing crisis, **homeless and without legal representation** presented her claims to a United States Federal Court whom dismissed with prejudice all claims against Defendant pursuant to Federal Rule of Civil Procedure 12(b) (6), Motion to Dismiss citing *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

3. Plaintiff asks this Court to ensure our justice system is fair to all classes of society, protecting principles granted by our forefathers to all Americans rich and poor. This case presents issues of importance beyond the particular facts and parties involved; detrimentally and imperatively impacting the most vulnerable Americans.

EQUAL JUSTICE UNDER LAW

I. [“This Nation was founded on the ideal of equal justice under the law. Everyone in this country should be able to vindicate their rights and avail themselves of the protections that our laws afford on equal footing. Whether we realize this ideal hinges on the extent to which everyone in the United States has meaningful access to our legal system. Legal services are crucial to the fair and effective administration of our laws and public programs, and the stability of our society. (Section 1. Policy). My administration is committed to ensuring that all persons in this country enjoy the protections and benefits of our legal system. Accordingly, I direct as follows: (b)(ii) increase availability of meaningful access to justice for individuals and families, regardless of wealth or status: (Section 3).”] *President, Joseph R. Biden Jr. Memorandum on Restoring the Department of Justice’s Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable. May 18, 2021.*

UNITED STATES SUPREME COURT

II. The Supreme Court protects the American people with the promise of “equal justice under law”, and serves as final arbiter, constitutional interpreter, and guardian. The Supreme Court is charged with absolute final appellate powers and ultimate judicial review of law at the height of the federal judiciary system and over all state courts. This Court has the authority to validate or invalidate statutory laws which uphold or violate provisions of the United States Constitution.

ASHCROFT V. IQBAL, 556 U.S. 662 (2009) – ROE V. WADE, 410 U.S. 113 (1973)

III. On June 24, 2022, the United States Supreme Court overturned *Roe v. Wade (1973)* in an unprecedented reversal of fifty years of women’s abortion rights, thereby allowing individual states to substantially limit or deny alternative rights to unwanted pregnancy that women have relied upon since 1973. *Dobb’s v. Jackson Women’s Health Organization* is a landmark decision in which the U.S. Supreme Court held that the Constitution does not provide a right to abortion. This decision allows individual states absolute power to control all provisions of abortion unprotected under federal laws.

“As Harvard University Medical School professor

Micheline Matthews-Ross testified before a 1981 U.S. Senate Judiciary Committee, "It is scientifically correct to say that an individual human life begins at conception ... and that this developing human always is a member of our species in all stages of life" (*New York Times*, April 26, 1981). The Supreme Court is responsible for the rights of two individuals under this concept. The function of this Court is continuous constitutional interpretation as our knowledge evolves. Each case has complexities which only the Supreme Court has the authoritative powers to decide. The Supreme Court's revisitation of their own decision speaks to the honorable and humble inherent infrastructure of this Court.

Relative to the decision in *Ashcroft v. Iqbal*, 556 U.S. 662 (2009): "It is one of the five most cited Supreme Court decisions of all time." (*Subrin, Stephen (2020). Civil Procedure; doctrine, practice, and context*). "As of 2017, it had been cited over 85,000 times, mostly in lower courts." (*Sinnar, Shirin (2017-01-17). The Lost Story of Iqbal. Georgetown Law Journal.*) The constitutionality of the *Roe v. Wade* decision in 1973 does not confer its constitutionality today. The constitutionality of the *Dobb's v. Jackson Women's Health Organization* decision today does not confer future constitutionality. *Roe v. Wade* and *Dobb's v. Jackson Women's Health Organization* cannot be fairly applied to every single abortion related case. *Ashcroft v. Iqbal* cannot be fairly applied to every single related or unrelated case not in 2009 and not today. The Supreme Court remanded *Ashcroft v. Iqbal* to the Second Circuit which then remanded the case to the district court. The parties' settlement ended the lawsuit not the Courts ruling. The decision in *Ashcroft v. Iqbal* does not require review, it is the *application of the decision* which warrants review. This Court has final appellate powers to rule if application of this case provides "equal justice under law."

INTERVENING CIRCUMSTANCES OF A SUBSTANTIAL OR CONTROLLING EFFECT

IV. The Supreme Court's intervention in this circumstance; (as in *Roe v. Wade*), by entering a decision or ruling substantially regulating and/or ending the application of *Ashcroft v. Iqbal* as a pleading standard and as judiciary means to dismiss a case; would definitively be expected to affect the following societal class

immediately in a positive and meaningful way: the homeless, those without legal representation, those with inadequate legal assistance, and those living with low income or in poverty.

A substantial or controlling effect can only be achieved by the U.S. Supreme Court in its authoritative absolute and final appellate powers of judicial review. *Ashcroft v. Iqbal* needs constitutional interpretation *in its application* and this Court as arbiter is charged to guard the provisions of our Constitution. As one of the five most cited cases, 85,000 times since 2017 and likely today estimated at 140,000 times or greater, the application of *Ashcroft v. Iqbal* has caused unimaginable collateral damage. This Court's intervention in the application of *Ashcroft v. Iqbal* and subsequent substantial control will effectively restore justice to a deeply ignored societal class.

OTHER SUBSTANTIAL GROUNDS NOT PREVIOUSLY PRESENTED

V. The First Congress passed the "equal right principle" as U.S. law. Justices are required to swear and affirm they will "do equal right to the poor and rich". The application of *Ashcroft v. Iqbal* results in a plutocratic society which is ultimately controlled by individuals of substantial income, wealth, and status. Although the justice system is founded upon the concept that poor and rich are treated equally, our justice system today is ruled by an individual's ability to pay for legal assistance. The application of *Ashcroft v. Iqbal* is not equal justice under the law and reason suggests the impact of the application of this decision is far from trivial or tenuous. Substantial grounds thus exist for this Court to act relative to this issue.

ISSUES OF IMPORTANCE BEYOND THE PARTICULAR FACTS AND PARTIES INVOLVED

VI. "Justice is the ethical, philosophical idea that people are to be treated impartially, fairly, properly, and reasonably by the law and by arbiters of the law, that laws are to ensure that no harm befalls another, and that, where harm is alleged, a remedial action is taken – both the accuser and the accused receive a morally right consequence merited by their actions." (*Cornell Law Edu.*

June 2020). "Ours is a government of liberty, by, through and under the law. No man is above it, and no man is below it." (*President Theodore Roosevelt, 1903*). Law ensures our rights as citizens against abuses by other people, organizations, and government. The rule of law governs that each citizen is protected by the same laws through an equal and just judicial process. Justice is clear sighted and virtuous and therefore should be unbiased.

THE IMPORTANCE OF THE ISSUE TO THE PUBLIC

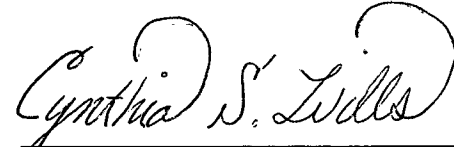
VII. The widespread application of *Ashcroft v. Iqbal* (2009) directly and indirectly impacts the interests of all citizens. The Supreme Court's potential for ruling on this issue is of real worth and importance not only to a vulnerable class of society but all society. [*Iqbal* has been and continues to be harmful to the enforcement of individual rights and socially beneficial litigation." "*Iqbal* predictably denies many plaintiffs with meritorious claims access to federal courts." "This has hindered the enforcement of civil rights, antitrust, consumer protection, employment discrimination, and other laws that benefit the public." (*Harvard Law and Policy Review. Assessing Iqbal. Roger M. Michalski 2009*).

CONCLUSION

This Court therefore should grant Petition for Rehearing of the denial of a writ of certiorari to review the judgement of the United States Court of Appeals for the Ninth Circuit in this case before a full nine-Member Court so as not to leave in place a nationally applied decision of such significance.

For the foregoing reasons, the petition for rehearing should be granted.

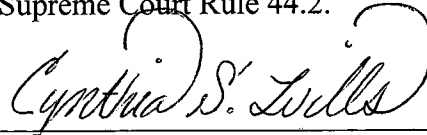
Respectfully,


CYNTHIA S. WILLS,
Petitioner

December 07, 2022

CERTIFICATE OF COUNSEL

I hereby certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

A handwritten signature in cursive script, reading "Cynthia S. Wills", written over a horizontal line.

CYNTHIA S. WILLS,
Petitioner

December 07, 2022

CERTIFICATE OF COMPLIANCE

No. 22-5578

CYNTHIA S. WILLS,
Petitioner,

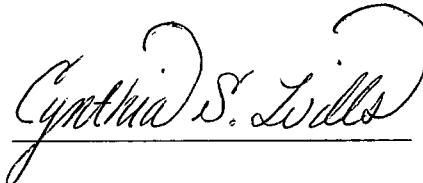
v.

FIRST REPUBLIC BANK,
Respondent.

As required by Supreme Court Rule 33.1(h), I certify that the petition for rehearing contains less than three thousand (3000) words, excluding the parts of the petition that are exempted by Supreme Court Rule 33.1(d).

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

Executed on, December 07, 2022.

A handwritten signature in cursive script, reading "Cynthia S. Wills", written over a horizontal line.

Cynthia S. Wills

ADDENDUM

February 15, 2019 Wills filed the operative complaint in Superior Court of California, County of Monterey. On April 04, 2019 the Defendants moved this case to the United States District Court, Northern District of California. This case involves First Republic Bank's "broken gratuitous promises" to its customer, Cynthia S. Wills, "to secure timely delivery of a check as payment to her creditor" and "a second check sent directly to Ms. Wills for payment to another creditor." Regardless of the facts in September 2019 the district court dismissed Wills complaint against the bank for failure to state a claim citing *Ashcroft v. Iqbal*, (2009), and refused to grant leave to amend those claims on grounds of futility.

On appeal to the United States Court of Appeals for the Ninth Circuit, Wills argued reversal and subsequent leave to amend is required for a pro se complaint "unless it is absolutely clear that the deficiencies of the complaint could not be cured by amendment." "Even if this Court were to find that Wills did not sufficiently plead the elements of her claims, remand would still be required to provide her a meaningful opportunity to cure any deficiencies that may be identified for the first time on appeal." *Appellant's Reply Brief, 19-17001, 12/06/2021*. The Judgment of the Court of Appeals was entered on February 18, 2022; **"instead, Wills did what *Twombly* and *Iqbal* forbid"**: she recited the elements of breach-of-contract and negligence and concluded that First Republic harmed her, without providing supporting factual allegations." *Order, Ninth Circuit, 19-17001*. The Court denied Petitioner's timely Petition for Panel Rehearing and Petition for Rehearing En Banc on June 02, 2022.

August 24, 2022, Wills petitioned for Writ of Certiorari docketed September 13, 2022, and distributed for conference on November 10, 2022. Wills petition was denied on November 14, 2022. Pursuant to Rule 44 of this Court, the Petitioner Cynthia S. Wills hereby respectfully petitions for re-hearing of this case before a full nine-Member Court.

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CYNTHIA S. WILLS,
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PROOF OF SERVICE

I Cynthia S. Wills, do swear or declare that on this date December 08, 2022, as required by Supreme Court Rule 29, and Rule 33.2 NOTICE IS HEREBY GIVEN THAT A PETITION FOR REHEARING was filed on December 08, 2022. I have served the enclosed on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days. This Proof of Service is accompanied by a declaration in compliance with 28 U. S. C. § 1746. Rule 29.5(c).

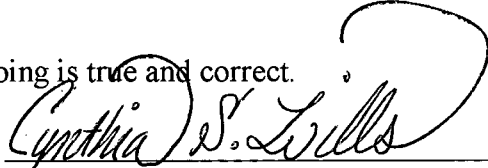
The names and addresses and telephone numbers of those served are as follows:

Supreme Court of the United States, 1 First Street, NE, Washington, D.C. 20543 (202-479-3011)

Mirman, Bubman & Nahimas, LLP 21860 Burbank Boulevard Suite 360 Woodland Hills, CA 91367 (818) 451-4600.

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

Executed on December 08, 2022


Cynthia S. Wills, Petitioner
Signature