

No. 22A139

**In The
SUPREME COURT OF THE UNITED STATES**

ORIGINAL

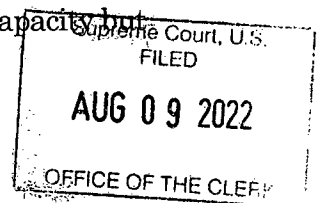
RENEE ANNA NAJDA,

Applicant/Petitioner,

v.

WILMINGTON TRUST, NATIONAL ASSOCIATION, not in its individual capacity, but
solely in its capacity as trustee of MFRA TRUST 2015-1,

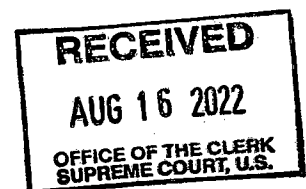
Respondent.



**Application for an Extension of Time
Within Which to File a Petition for a Writ of Certiorari
to the Massachusetts Supreme Judicial Court**

**Application to the Honorable Chief Justice
John G. Roberts, Jr., as Circuit Justice**

Dated: August 9, 2022



I. APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Renee Najda (“Najda”) respectfully requests a sixty (60) day extension of time within which to file a petition for a writ of certiorari up to and including Monday, October 31, 2022.

II. JUDGEMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought entered February 7, 2020. Addendum (“ADD”) 12. On November 2, 2021, the Massachusetts Appeals Court affirmed the Land Court judgment. ADD 9. On March 17, 2022, the Massachusetts Supreme Judicial Court denied Najda’s application for further appellate review. ADD 8. The Massachusetts Supreme Judicial Court denied Najda’s motion for reconsideration on June 3, 2022. *Id.*

III. JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1257(a). Pursuant to Rule 13.1 of the Rules of this Court, a petition for a writ of certiorari was due to be filed on or before September 1, 2022. In accordance with Rule 13.5, this application was filed more than ten days in advance of the filing date for the petition for a writ of certiorari.

IV. REASONS JUSTIFYING AN EXTENSION OF TIME

A. Important Question of Law

Najda requests the extension of time to complete her petition for a writ of certiorari that will raise the following important issue of law.

Whether a State Court violates due process and the right to petition when it blocks a party to a controlling Federal Court judgment from appearing and asserting res judicata in a related successive action.

“[This] Court has twice held that it is permissible to segregate an action”. *Lindsey v. Normet*, 405 U.S. 56, 67 (1972). The Massachusetts State Courts applied this precedent too broadly. Drawing on *HSBC Bank USA, N.A. v. Matt*, 464 Mass. 193 (Mass. 2013) (citing *Beaton v. Land Court*, 367 Mass. 385 (Mass. 1975) (citing *Lindsey*)), the Massachusetts Appeals Court affirmed the Massachusetts Land Court blocking Najda from appearing in *Wilmington Trust v. Najda*, No. 19 SM 006105 (Mass. Land Ct.) (“2019 State Action”).

Blocked from appearing, Najda could not move for dismissal under the doctrine of res judicata because there was a prior final judgment in *Citibank, N.A. v. Najda*, No. 14-13593-GAO (D. Mass.), Nos. 19-1434, 20-1057 (1st Cir.) (collectively, the “2014 Federal Action”), the privity of the parties in the 2014 Federal Action and 2019 State Action was identical, and both actions were founded upon the same transaction. Refined to bare essence, the application of claim preclusion to the 2019 State Action was warranted. As a matter of law, the 2019 State Action was barred.

It is settled law that “[d]ue process requires that there be an opportunity to present every available defense.” *American Surety Co. v. Baldwin*, 287 U.S. 156, 168 (1932). In conflict with this principle, the Massachusetts State Courts – by rejecting Najda’s timely appearance – deprived Najda of the only avenue to petition a Court to apply her affirmative defense of res judicata. *Aronovitz v. Fafard*, 78 Mass. App. Ct.

1, 8 (Mass. App. Ct. 2010) (citing *Sharon v. Newton*, 437 Mass. 99, 102 (Mass. 2002)) (“Affirmative defenses are waived when they are not raised in the first responsive pleading”). Entered without due process, the judgment in the 2019 State Action is void. *Bowers v. Bd. of Appeals*, 16 Mass. App. Ct. 29, 32 (Mass. App. Ct. 1983) (“A judgment is void if the court from which it issues ... failed to provide due process of law.”) (citing *United States v. 119.67 Acres of Land*, 663 F.2d 1328, 1331 (1981)).

Against this backdrop, the Massachusetts State Courts decided an important question of federal law incorrectly. This Court should settle whether a State Court violates due process and the right of petition when it blocks a party to a controlling Federal Court judgment from appearing and asserting *res judicata* in a related successive action.

B. Najda’s Self Represented Status

With this framework in place, an extension of time will permit Najda, who is *pro se*, the time necessary to complete a cogent and well-researched petition. As a self-represented litigant, Najda requires a longer period of time to complete her research of the relevant constitutional law. Najda minimizes her time in public settings due to COVID-19. As such, she uses remote research, which is more time consuming, in place of in-person law library access. Hence, Najda seeks additional time to file her petition for a writ of certiorari.

V. CONCLUSION

For the forgoing reasons, Najda respectfully requests this Court grant an extension of sixty (60) days, or until Monday, October 31, 2022, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

Renee Najda
/s/ Renee Najda

71 Flint Road,
Concord, MA 01742

Date: August 9, 2022

VI. CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing document to be served by first class mail, upon counsel listed below.

Christine Kingston
Nelson Mullins Riley & Scarborough LLP
One Financial Center, 35th Floor
Boston, MA 02111

Renee Najda
/s/ Renee Najda

Date: August 9, 2022