

22A238  
No. ~~22A77~~

Supreme Court, U.S.  
FILED

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In The  
Supreme Court of the United States

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Shahrouz Jahanshahi,

*Petitioner,*

*v.*

Corey Evan Parker,

*Respondent.*

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APPLICATION FOR STAY PENDING DISPOSITION OF  
PETITION FOR A WRIT OF CERTIORARI

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APPLICATION TO THE HONORABLE JUSTICE ELENA KAGAN  
AS CIRCUIT JUSTICE

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## **PARTIES TO THE PROCEEDINGS**

Petitioner or Applicant in this Court is Shahrouz Jahanshahi, an individual.

Respondent in this Court is Corey Evan Parker, an individual, and defendant in the proceedings leading to this application.

## TABLE OF CONTENTS

	Page
PARTIES TO THE PROCEEDINGS.....	i
TABLE OF AUTHORITIES.....	iii
INTRODUCTION.....	1
STATEMENT OF JURISDICTION.....	5
STATEMENT OF THE CASE.....	5
QUESTION PRESENTED.....	7
ARGUMENT.....	7
I. THIS COURT IS LIKELY TO GRANT CERTIORARI.....	7
II. THE COURT SHOULD GRANT CERTIORARI BECAUSE THE ISSUE PRESENTED WILL NOT RESOLVE ON ITS OWN, THE QUESTION PRESENTED IS IMPORTANT, AND REQUIRES COURT'S INTERVENTION DUE TO ITS CONSTITUTIONAL IMPLICATIONS .....	8
III. ABSENT A STAY, JAHANSHAH WILL INCUR IRREPARABLE HARM. ....	11
IV. TO AVOID MOOTNESS, THE COURT SHOULD HEAR THE CASE EARLY NEXT TERM. ....	12
CONCLUSION.....	13
PROOF OF SERVICE.....	14

### Appendix

Order of Superior Court	App.1
California Court of Appeal Order Denying Petition	App.10
Supreme Court of California En Bank Order Denying Petition	App.11

**TABLE OF AUTHORITIES**

CASES

*Conkright v. Frommert*,  
556 U.S. 1401, 1402 (2009) ----- 8

*Henry Schein, Inc. v. Archer and White Sales, Inc.*  
138 S.Ct. 1185 (2018)----- 13

*Henry Schein, Inc. v. Archer and White Sales, Inc.*  
140 S.Ct. 951 (2020) ----- 12

*Levin v. Alms and Associates, Inc.*,  
634 F.3d 260, 265 (4th Cir. 2011) ----- 12

*Maryland v. King*,  
567 U.S. 1301, 1302 (2012) ----- 8

*Nken v. Holder*,  
556 U.S. 418 (2009) ----- 5, 13

*Samuel K. Porter v. United Parcel Service, Inc., et al.*  
(C.D. Cal., May 3, 2022, No. CV 21-5349-GW-MARX) 2022 WL 3127911, at \*3 ---- 9

STATUTES

28 U.S.C. § 1651 ----- 1

California Code of Civil Procedure § 2025.010----- 6, 10

California Code of Civil Procedure § 2025.310----- 10

California Government Code § 68630----- 1, 6, 9

Code of Civil Procedure § 2025.310----- 3

California Code of Civil Procedure § 2025.420 ----- 10

Government Code § 68630 ----- 4

Section 2017.010----- 10

Section 2019.010----- 10  
Section 8201 of the Government Code.----- 11  
Sections 2093 ----- 11

RULES

California Rules of Court, rule 3.56 ----- 11  
Supreme Court Rule 23 ----- 1

CONSTITUTIONAL PROVISIONS

Fourteenth Amendment to the United States Constitution----- 3

TO THE HONORABLE ELENA KAGAN, ASSOCIATE JUSTICE OF THE  
SUPREME COURT AND CIRCUIT JUSTICE FOR THE NINTH CIRCUIT:

INTRODUCTION

Pursuant to 28 U.S.C. § 1651 and Supreme Court Rule 23, Applicant Shahrouz Jahanshahi, (“Jahanshahi”) respectfully requests that this Court stay all superior court of California proceedings in *Jahanshahi v. Parker*, No. 20STCV28899, pending disposition of Jahanshahi’s petition for certiorari, which Jahanshahi will file by September 17, 2022, or alternatively treat this Application for Stay as a petition for certiorari.

The petition for certiorari seeks review of the order of the superior court of California ordering Jahanshahi, an indigent litigant who is granted and proceeding in the action *in forma pauperis* pursuant to California Government Code § 68630 to conduct deposition via remote means that is not supported under California law nor federal law.

Petitioner timely filed a petition for writ of mandate with the California Court of Appel which denied the petition summarily. Thereafter, petitioner filed a petition for writ of mandate with the Supreme Court of California, and the aforesaid court summarily denied the petition prompting petitioner to seek certiorari thru this Court and applying for an order staying the proceedings in the superior court of California pending review of the petition for certiorari.

The aforesaid order of the superior court of California and the summarily denial of the petition for writ of mandate by the California Supreme Court, essentially denies and strips Jahanshahi of his fundamental Constitutional right of access to the courts. The superior court has acted in excess of its jurisdiction as its order is not supported under any federal nor state law. The holding of the court will have a severe, adverse impact on indigent litigants and their Constitutional right to access to the courts, where the said order literally denies the litigants access to the court by not being able to conduct discovery and have a fair, impartial adjudication of the causes of action before the court.

Jahanshahi now faces open-ended, costly, and burdensome litigation in the superior court – where he will be forced to go to trial without the ability to conduct discovery based on court's order to conduct deposition via remote means and his inability to pay for the costs of remote deposition which many have refused to offer it to a pro se litigant.

Jahanshahi's petition for certiorari seeks review of the Supreme Court of California's orders denying Jahanshahi's requested stay in this case. This application seeks to stay superior court proceedings pending disposition of Jahanshahi's petition for certiorari. Because the Court is likely to grant certiorari and reverse the court's order and to grant the petition, and because a stay pending petition for certiorari is necessary to avoid imminent and irreparable harm to Jahanshahi, the Court should grant this stay Application.

The Court is likely to grant certiorari because there is a longstanding, deep,

and acknowledged Constitutional right to access to courts and the order of the superior court of California denies that fundamental right of access to courts guaranteed under the Fourteenth Amendment to the United States Constitution by restraining and limiting indigent litigant to conduct discovery.

Unless a party satisfies the traditional, exacting discretionary test for a stay, litigation will proceed. That is precisely what happened here. Jahanshahi moved to compel deposition of Parker, and Parker moved for a protective order solely on the basis of discretionary right for the deposition to be conducted remotely. The superior court acknowledged Jahanshahi's right to discovery and taking deposition of Parker. However, ordered the deposition to be taken via remote means. There is nothing in the State Constitution nor statute that mandates deposition via remote means. Thus, the court not only has exceeded its jurisdiction by ordering Jahanshahi to conduct deposition via remote means but it also has infringed upon and violated fundamental right of *pro se*, indigent litigant access to court as Jahanshahi does not have the financial means to pay for the extra costs associated with conducting deposition online, nor has the ability and knowledge to do so<sup>1</sup>.

The question presented by Jahanshahi's joint petition is important as it goes to the heart of an indigent litigant's fundamental guaranteed right of equal access to courts. The question presented is a matter of public interest and affects every case in

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<sup>1</sup> Petitioner never asked nor is seeking the waiver of costs of conducting deposition as an indigent litigant. But was not expecting the court to burdening him by ordering to conduct deposition via remote means that is not only costly but it is not supported under the California law. See, Code of Civil Procedure § 2025.310.



which an indigent litigant allowed to appear in *forma pauperis*. The challenged ruling under California law, Government Code § 68630, will deny indigent litigant's right to conduct deposition in traditional face to face setting, and prevent and hinder petitioner's ability to conduct discovery based on his financial status. Furthermore, this is important for this Court to consider as not every indigent litigant has the knowledge, expertise, nor the resources (i.e. online access, computer) of "how to" conduct depositions via remote means (online).

Jahanshahi will also suffer irreparable harm if its stay application is denied. Absent a stay, Jahanshahi will be forced to litigate a legal malpractice action without any ability to conduct discovery and oppose any dispositive motion or present credible evidence to the jury. This harm has already begun: Respondents propounded deposition on Jahanshahi on September 6, 2022 and the current case schedule requires the discovery to be completed by September 11, 2022 (discovery cutoff date), which Jahanshahi will not be able to meet based on the conditions set by the court order.

The harm from this ongoing litigation cannot be undone in the future, as Jahanshahi cannot recoup its right to conduct discovery nor oppose Respondent's motion for summary judgment set for January 30, 2023. As in several recent cases in which this Court has granted stays pending appeals from lower court denials of motions to compel arbitration, a stay here would safeguard against Jahanshahi forever losing out on its right to resolve this case through litigation according to the rule of the law.

Should the Court grant its stay application, Jahanshahi respectfully requests that the Court ensure that this case is heard expeditiously. Accordingly, Jahanshahi requests that the Court construe this stay application as a petition for certiorari, grant the stay application, grant certiorari, issue an expedited briefing schedule, and schedule the case for argument at the earliest opportunity. That was the path taken in *Nken v. Holder*, 556 U.S. 418 (2009), which also concerned the appropriate legal standard for stays pending appeal, there in the context of removal orders of noncitizens. Should the Court take that path here, Jahanshahi would dismiss the petition for certiorari it has separately and contemporaneously will be filing. If the Court declines to treat this stay application as a petition for certiorari, however, Jahanshahi asks that the Court grant its separately-filed motion to expedite consideration of its petition for certiorari.

#### **STATEMENT OF JURISDICTION**

The date on which the Supreme Court of California decided or denied the case was on April 20, 2022. See App. 11.

Petitioner filed for an extension with Court under application number 22A77. On July 28, 2022, the Court granted extension for the petition for writ of certiorari to be filed by September 17, 2022.

The Court's jurisdiction is invoked pursuant to 28 U.S.C. § 1257(a).

#### **STATEMENT OF THE CASE**

Jahanshahi has brought a civil action for breach of contract and legal

malpractice against his former attorney Corey Evan Parker (“Parker”) in the superior court of California. Jahanshahi has appeared *pro se* in this action and the court has granted his application to appear in forma pauperis pursuant to California Government Code § 68630. Jahanshahi served a notice of deposition on Parker to take his deposition within the county of Los Angeles and in compliance with California Code of Civil Procedure § 2025.010.

Parker moved for protective order seeking solely for an order to be deposed via remote means. Jahanshahi moved the court to compel deposition of the Parker. On January 14, 2022, the superior court of California after hearing the oral arguments in the matter granted Parker’s motion for protective order, and granted Jahanshahi’s motion to compel deposition of Parker. However, the court ordered Jahanshahi to conduct deposition via remote means. As there is nothing in the California statute mandating deposition via remote means, Jahanshahi thought intervention of the California Court of Appeal to review the order of the superior court by filing petition for writ of mandate.

On March 30, 2022, the California Court of Appeal summarily denied the petition for writ of mandate. On April 1, 2022, petitioner filed a timely petition for writ of mandate with the Supreme Court of California. On April 20, 2022, the Supreme Court of California summarily denied the aforesaid petition. Thereafter, on July 19 2022, petitioner filed a motion with this Court seeking extension to file petition for certiorari. On July 28, 2022, the Court granted extension to file petition for certiorari by September 17, 2022.

## QUESTION PRESENTED

The question presented by this case is whether a court could order an indigent litigant who is proceeding *in forma pauperis* to conduct deposition via remote means that is more costly than the traditional means of conducting deposition?

## ARGUMENT

### I. THIS COURT IS LIKELY TO GRANT CERTIORARI

Jahanshahi is entitled to an automatic stay of superior court proceedings pending Jahanshahi's outcome of petition for certiorari of superior court's order of indigent litigant appearing *in forma pauperis* to conduct deposition via remote means that is not supported under the state nor United States Constitution, but it also infringes and strips the right of indigent litigants of equal access to justice and access to courts. Jahanshahi's position is unequivocally supported by the Due Process Clause of the Fourteenth Amendment, and in line with the Supreme Court Rules affording indigent litigants to file petitions that differ in form and format from other filers. Thus, Jahanshahi is entitled to a stay as of right of superior court proceedings.

Separately, Jahanshahi respectfully submits that it meets this Court's traditional test for a discretionary stay pending "disposition" of a "petition for certiorari." *Maryland v. King*, 567 U.S. 1301, 1302 (2012) (Roberts, C.J., in chambers). Under that traditional test, a stay is called for when there is "(1) a reasonable probability that this court will grant certiorari, (2) a fair prospect that the Court will then reverse the decision below, and (3) a likelihood that irreparable harm [will] result from the denial of a stay." *Id.* (quoting *Conkright v. Frommert*, 556 U.S.

1401, 1402 (2009) (Ginsburg, J., in chambers)). Jahanshahi satisfies each of these factors. There is a reasonable probability that the Court will grant certiorari to resolve a Constitutionality of the superior court order denying access to the court for indigent litigant who has appeared *in forma pauperis*, and the fact that the order hinders Jahanshahi's ability to conduct discovery; essentially preventing him from equal access to the courts and losing his meritorious case for lack of his ability to properly conduct discovery and litigate the action. There is a fair prospect that this Court will reverse the order of the court. Lastly, if a stay were denied, Jahanshahi would suffer the irreparable harm of being compelled to litigate in court without the opportunity to conduct discovery and lose his case in violation of the Due Process clause of the law.

**II. THE COURT SHOULD GRANT CERTIORARI BECAUSE THE ISSUE PRESENTED WILL NOT RESOLVE ON ITS OWN, THE QUESTION PRESENTED IS IMPORTANT, AND REQUIRES COURT'S INTERVENTION DUE TO ITS CONSTITUTIONAL IMPLICATIONS**

This case merits this Court's review, for multiple reasons.

First, there is a clean, longstanding, deep, and acknowledged Constitutional right of access to courts.

Second, the question presented is important. It arises in each and every case involving an indigent litigant and their right of access to courts which in California that is a right as opposed to privilege, pursuant to California Government Code § 68630. The aforesaid statute states:

“The Legislature finds and declares all of the following:

(a) That our legal system cannot provide “equal justice under law” unless all persons have access to the courts without regard to their economic means. California law and court procedures should ensure that court fees are not a barrier to court access for those with insufficient economic means to pay those fees.

(b) That fiscal responsibility should be tempered with concern for litigants' rights to access the justice system. The procedure for allowing the poor to use court services without paying ordinary fees must be one that applies rules fairly to similarly situated persons, is accessible to those with limited knowledge of court processes, and does not delay access to court services. The procedure for determining if a litigant may file a lawsuit without paying a fee must not interfere with court access for those without the financial means to do so.

(c) That those who are able to pay court fees should do so, and that courts should be allowed to recover previously waived fees if a litigant has obtained a judgment or substantial settlement.”

“Nevertheless, the California legislature has recognized that “equal justice under the law” requires that persons without economic means should be allowed to bring actions and that court fees should not be a barrier to access to the courts.”

*Samuel K. Porter v. United Parcel Service, Inc., et al.* (C.D. Cal., May 3, 2022, No. CV 21-5349-GW-MARX) 2022 WL 3127911, at \*3

Jahanshahi moved the superior court to compel deposition of respondent Parker pursuant to California Code of Civil Procedure § 2025.010 which states:

“Any party may obtain discovery within the scope delimited by Chapter 2 (commencing with Section 2017.010), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.”

Parker moved the court for protective order pursuant to California Code of Civil Procedure § 2025.420, *solely* based on conduction deposition via remote means pursuant to California Code of Civil Procedure § 2025.310 state:

“(a) At the election of the deponent or the deposing party, the deposition officer may attend the deposition at a different location than the deponent via remote means. A deponent is not required to be physically present with the deposition officer when being sworn in at the time of the deposition.

(b) Subject to Section 2025.420, any party or attorney of record may, but is not required to, be physically present at the deposition at the location of the deponent.

(c) The procedures to implement this section shall be established by court order in the specific action or proceeding or by the California Rules of Court.

(d) An exercise of the authority granted by subdivision (a) or (b) does not waive any other provision of this title, including, but not limited to, provisions regarding the time, place, or manner in which a deposition shall be conducted.

(e) This section does not alter or amend who may lawfully serve as a deposition officer pursuant to this title or who otherwise may administer oaths pursuant to Sections 2093 and 2094 of this code or Section 8201 of the Government Code.”

California Rules of Court, rule 3.56 states as follows:

“Necessary court fees and costs that may be waived upon granting an application, include:

- (1) Jury fees and expenses;
- (2) Court-appointed interpreter's fees for witnesses;
- (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or defense of the case;
- (4) Witness fees of court-appointed experts; and
- (5) Other fees or expenses as itemized in the application.”

There is no ambiguity on the language of the statutes and the rules as cited, and it does not support the ruling of the superior court ordering Jahanshahi to conduct deposition via remote means, let alone an indigent litigant.

### **III. ABSENT A STAY, JAHANSHAHİ WILL INCUR IRREPARABLE HARM.**

A stay is necessary to protect Jahanshahi from irreparable harm. Absent a stay, Jahanshahi will be forced to litigate the action in superior court without any discovery that he is entitled to conduct. Moreover, absent a stay, Jahanshahi will be forced to endure burdensome litigation and lose his meritorious complaint for lack of discovery. Notably, this harm has already begun: On September 6, 2022, Respondents deposed Jahanshahi and are going to file a summary judgment motion to be heard on January 30, 2023. In contrast, Jahanshahi is stripped of his right to conduct deposition due to his financial status.

These harms cannot be undone after the fact. If this Court ultimately concludes that Jahanshahi's motion to compel should have been granted, "the parties will not be able to unring any bell rung by discovery, and they will be forced to endure the consequences of litigation discovery in the arbitration process." *Levin v. Alms and Associates, Inc.*, 634 F.3d 260, 265 (4th Cir. 2011).

Under these circumstances, a stay is plainly justified. There is a significant likelihood that, upon granting review, this Court will reverse the superior court; and, absent a stay, Jahanshahi will forever forfeit its contracted-for right to resolve its claims quickly, privately, and economically. This Court has recently granted similar



stay in matters involving appeals from lower court denials of motions to compel arbitration. See *Henry Schein, Inc. v. Archer and White Sales, Inc.* 140 S.Ct. 951 (2020) (granting stay pending final disposition of the petition for certiorari); *Henry Schein, Inc. v. Archer and White Sales, Inc.* 138 S.Ct. 1185 (2018) (same). Jahanshahi requests that this Court follow this same practice here and stay the superior court proceedings pending the disposition of Jahanshahi's petition for certiorari.

#### **IV. TO AVOID MOOTNESS, THE COURT SHOULD HEAR THE CASE EARLY NEXT TERM.**

Experience shows that the issue presented by this petition is particularly subject to mootness so as to prevent this Court from reaching the important question presented. Accordingly, if the Court agrees that this case warrants review, it should adopt a schedule to ensure that the case is decided expeditiously, before the divestiture question becomes moot. Jahanshahi respectfully submits that the following two pathways would permit expeditious review.

First, and preferably, the Court could treat this stay application as petitions for certiorari, grant the stay, grant certiorari, and set the case for argument on the earliest possible calendar. The Court took this approach in *Nken v. Holder*, 556 U.S. 418 (2009), where the applicant filed a stay application seeking review of a circuit split on the appropriate standard for stays pending appeal in cases involving the removal of noncitizens. The Court granted the stay application, treated it as a petition for certiorari, granted certiorari, and set an expedited briefing schedule to avoid mootness. Were the Court to proceed that way here, Jahanshahi would dismiss its

contemporaneously filed joint petition for certiorari and be prepared to brief this case on whatever expedited timeline this Court deems appropriate.

Second, and alternatively, the Court could grant this stay application and set an expedited briefing schedule on the joint petition for certiorari. To that end, Jahanshahi has simultaneously is filing a petition for certiorari.

### CONCLUSION

Jahanshahi respectfully requests his application for stay should be granted.

Dated: September 14, 2022

Respectfully submitted,

Shahrouz Jahanshahi  
Petitioner, *Pro Se*

## PROOF OF SERVICE

I, Amir Aslan Etezadzadeh, do swear or declare that on tyhis date, September 15, 2022, as required by Supreme Court Rule 29 I have served the enclosed APPLICATION FOR STAY on each party to the above proceedings 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.

The names and addresses of those served as follows:

John T. Lupton  
Attorney at Law  
KAUFMAN DOLOWICH & VOLUCK LLP  
11111 Santa Monica Blvd., Suite 850  
Los Angeles, CA 90025

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

Executed on September 15, 2022

---

AMIR ASLAN ETEZADZADEH

contemporaneously filed joint petition for certiorari and be prepared to brief this case on whatever expedited timeline this Court deems appropriate.

Second, and alternatively, the Court could grant this stay application and set an expedited briefing schedule on the joint petition for certiorari. To that end, Jahanshahi has simultaneously is filing a petition for certiorari.

**CONCLUSION**

Jahanshahi respectfully requests his application for stay should be granted.

Dated: September 14, 2022

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Shahrouz Jahanshahi', with a long horizontal flourish extending to the right.

Shahrouz Jahanshahi  
Petitioner, *Pro Se*