

CASE

In The

SUPREME COURT OF THE UNITED STATES

October Term 2022

Gary S. Pisner,
Applicant/Petitioner,

v.

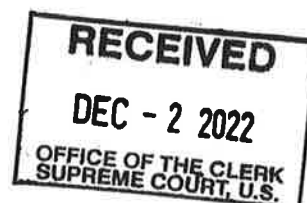
Marla
Rubinstein,
Respondent.

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
Fourth Circuit Court of Appeals**

**APPLICATION TO THE HONORABLE CHIEF
JOHN G. ROBERTS AS CIRCUIT JUSTICE**

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APPLICATION FOR AN EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Gary Pisner, Pro Se and a member of this Court's bar, hereby requests a 60-day extension of the time to file his petition for certiorari in this case, which would be due on Monday January 16, 2023 (without extension) within which to file a petition for a writ of certiorari up to and including Friday, March 17, 2023.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The Motion to Dismiss Opinion for which review is sought is *Pisner v. Rubinstein*, No. 22-1294 (August 25, 2022,) (attached as Exhibit 1). The fourth Circuit Court of Appeals denied Applicant's Petitions for Rehearing on October 18, 2022 (attached as Exhibit 2).

JURISDICTION

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Gary Pisner, Pro Se (hereinafter "Applicant Pisner") and a member of this Court's bar, hereby requests a 60-day extension of time to file his petition for certiorari in this case, which would be due on Monday January 16, 2023 (without extension) within which to file a Petition for a Writ of Certiorari up to and including Friday, March 17, 2023.

REASONS JUSTIFYING AN EXTENSION OF TIME

Applicant respectfully requests a 60-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the Federal Court of Appeals for the Fourth Circuit, in this case, up to and including March 17, 2023.

A. Summary

Applicant, who, although is a member of this bar and who has been a practitioner before appellate courts, is representing himself Pro Se and there is an absolute need to file a Petition for Certiorari, but there is a disconnect between the record and the August 25, 2022 opinion of the Fourth Circuit Court of Appeals; the underlying source of the problem is unclear because the Court opinion's lack of content.

B. A Court Opinion that Does not Explain Anything.

The opinion issued by the Fourth Circuit Court of Appeals is unusual given that it offers absolutely no explanation beyond that "there was "no reversible error." This opinion is unusual, if not exceptional in its form; its form makes the 4th Circuit Court's opinion difficult to analyze, difficult to correct, difficult to fix using Petitions to Rehear and difficult to appeal via a Petition for Certiorari to the United States Supreme Court.¹

This void adds to the complexity of any Petition for Certiorari and thus the petition will require additional time to prepare because we must rely fully on the District Court Memorandum, which is rambling, inconsistent, full of massive amounts of factual, legal errors and that is why the additional 60 days are required.

¹ Pisner is a member of the U.S. Supreme Court Bar

C. The Source of the one sentence alleged fact statement is unknown.

The Fourth Circuit may or may not have made a rudimentary review of the first few paragraphs of the District Court's opinion memorandum: Those first few paragraphs had no basis in the record; in fact, the record contradicts them.

The source of those false first few paragraphs comes from somewhere within three hundred pages of cherry-picked documents from a case that Respondent Marla Rubinstein (hereinafter "Respondent Rubinstein") was not a party and were submitted without complying with the Federal rules of Evidence and Applicant Pisner can only speculate as to the source of the District Court's reasoning.

The one paragraph opinion by the Fourth Circuit Court of Appeals already reveals that the Court based its opinions on incorrect fact pattern's such as the Appellate Court states, in its opinion, that "[his complaint] in which he raised various state law claims related to completed state court litigation between Marla Rubenstein and Pisner concerning a trust": which is wholly contradicted by both the complaint and all attachments improperly submitted to the District Court by the Defendants/Appellees and exhibits and complaint submitted by Pisner. To exacerbate things there were no oral arguments,

Because the Appellate Court does not identify the source of its comment, we are left to speculate; this makes the preparation of the Petition for Certiorari more complex and time-consuming, and this is an additional reason this court should grant a 60 days' extension to file a Petition for Certiorari.

D. The 4th Circuit Court of Appeals has rejected Twenty-four cited errors and we do not know why.

The Court's August 25, 2022 opinion is also an impediment given that, as stated in Applicant Pisner's briefs and the objections filed with the District Court, the District Court's opinion was riddled with errors that contradict black letter standards of reviews (we are talking about around 24 assignable errors) by the District Court, such as a defamation doctrine that appears to deviate from all existing case law and the disregarding of the original case, which was in the District of Columbia Superior Court and where the same motion to dismiss was filed by Respondent Rubinstein and rejected by the District of Columbia Superior Court (before the honorable Florence Y. Pan now on the U.S Court of Appeals for the District of Columbia) and upheld by the District of Columbia Court of Appeals.

Even stranger, the District of Columbia Superior Court still maintains jurisdiction to assure that Pisner would not be prejudiced by a refile in the Maryland Federal District Court: This oversight was the result of an opinion of the District of Columbia Court of Appeals. Other errors include, but are not limited to:

- The District Court nullified the tort of defamation entirely.
- The District Court totally ignored Fed. R. Evid. 201, which made it impossible to respond to a motion to dismiss.
- Facts were always construed in favor of the defendant (the moving party in the Motion to Dismiss) rather than Applicant Pisner.
- The procedures were altered multiple times specifically to prejudice the Pro Se party (Applicant Pisner).
- There were instances when alleged facts were taken from unrelated cases, with different parties from unattested documents with factually false background sections.

Applicant cannot have this Court address all 24 errors, so those errors must be culled and condensed: this will take additional time so a 60-day extension is appropriate.

E. The Clerk's office November 18th explanation of what may have happened.

On November 18, 2022, Applicant Pisner contacted the Fourth Circuit Court of Appeals Clerks Office to confirm the procedures for serving parties for a Petition for a Writ of Mandamus. The assumption was that the Court's terse, uninformative opinion was a rare occurrence. Apparently, it is not. There appears to be a pre-screening process that, according to the Clerk's office, relegates 30 to 40% of the appeals to a process where the appeals are summarily disposed of.

The criteria used by the judges and their law clerks is not known by the Clerk's Office staff. The reasons for this practice was made clear by the Clerk's office, i.e., "we do not have the resources to completely

review and respond fully for all cases.”

This may or may not be correct, but if true, this could be raised as the first question in the Petition for Certiorari. The Fourth Circuit Court of Appeals is a court where the appeal is of right and this in-house procedure, if true, creates a de facto permissive appeal; moreover, what is the criteria for being placed in this limited review category?

Is it tilted against Pro Se parties? Is it tilted against certain categories such as “trust matters” (this was inferred in the opinion although the case had nothing to do with trusts)? Are there demerits for too much work by the Court? We do not know, but this could be a problem at a constitutional level. Objections have been preserved in Applicant Pisner’s Petitions to Rehear, but this could require the review of hundreds of cases.

This will require additional effort, because Applicant Pisner must identify what is in the process that created the opinion rather than an informative opinion; therefore, additional time will be required and a 60 days' extension is appropriate.

F. The Possibility of Ancillary Procedures.

Because of the lack of content, it may be necessary to take further actions to get clarification, such as a Petition for a Writ of Mandamus, with this Court: This would be a remote possibility, but an option, nevertheless.

There were also documents that were removed and excluded from the District Court, record, prior to the appeal that should be released by the District Court: This may require additional steps.

A 60-day extension might permit Applicant Pisner to use ancillary procedures, therefore, an additional 60-day extension would make these ancillary options plausible.

G. Applicant Pisner is Representing Himself.

Applicant Pisner has a law practice, and the Petition for Certiorari will be done in his off time and given the complexity of the case, a 60-day extension is appropriate.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 60 days, up to and including Friday, March 17, 2023, within which to file a petition for a writ of certiorari in this case.

Respectfully Submitted



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CERTIFICATE OF SERVICE

I hereby certify that on November 30, 2022, a copy of this application was served by first class mail on Counsel for respondent Marla Rubinstein who is Thomas Murphy, Esq. at Murphy & Mood, P.C. at the Adams Law Center, 31 Wood Lane, Rockville, MD 20850.



UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

EXHIBIT 1

No. 22-1294

GARY PISNER,

Plaintiff - Appellant,

v.

MARLA RUBENSTEIN; MARLA PISNER 2011 TRUST,

Defendants - Appellees.

Appeal from the United States District Court for the District of Maryland, at Greenbelt.
Theodore D. Chuang, District Judge. (8:21-cv-00020-TDC)

Submitted: August 23, 2022

Decided: August 25, 2022

Before GREGORY, Chief Judge, HEYTENS, Circuit Judge, and KEENAN, Senior Circuit
Judge.

Affirmed by unpublished per curiam opinion.

Gary Pisner, Appellant Pro Se. James A. Mood, Jr., Thomas D. Murphy, MURPHY &
MOOD, PC, Rockville, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gary Pisner appeals the district court's order dismissing his complaint, in which he raised various state law claims related to completed state court litigation between Marla Rubenstein and Pisner concerning a trust for which the two were cobeneficiaries. We have reviewed the record and find no reversible error. Accordingly, we affirm the district court's order. *Pisner v. Rubenstein*, No. 8:21-cv-00020-TDC (D. Md. filed Jan. 31, 2022 & entered Feb. 1, 2022). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: October 18, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**EXHIBIT 2**

No. 22-1294
(8:21-cv-00020-TDC)

GARY PISNER

Plaintiff - Appellant

v.

MARLA RUBENSTEIN; MARLA PISNER 2011 TRUST

Defendants - Appellees

ORDER

The court denies the petitions for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Chief Judge Gregory, Judge Heytens, and Senior Judge Keenan.

For the Court

/s/ Patricia S. Connor, Clerk