

No. \_\_\_\_\_  
IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 2021

---

ALEXANDER MOSKOVITS

vs.

BANK OF AMERICA MERRILL LYNCH, CALVIN B. GRIGSBY,  
RAIMUNDO COLOMBO, AND JORGE SIEGA

---

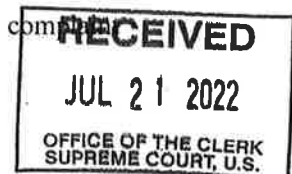
***UNOPPOSED MOTION FOR A 60-DAY EXTENSION OF TIME TO FILE  
PETITION FOR WRIT OF CERTIORARI FROM THE N.Y. COURT OF APPEALS  
INVOLVING UNPRECEDENTED SEALED “STAR CHAMBER” PROCEEDINGS***

---

*To the Honorable Sonia Sotomayor, Justice of the United States Supreme Court  
and Circuit Justice to the Second Circuit:*

*Pro Se* Petitioner, Alexander Moskovits, under Rule 13(5) of the Supreme Court, respectfully seeks a sixty (60) day extension of time within which to file his petition for a writ of *certiorari* from the N.Y. Court of Appeals denying his motion for leave to appeal.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a) (“Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of *certiorari* ... where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States”) as to the N.Y. Court of Appeals decision in *Moskovits vs. Bank of America Merrill Lynch, et al.*, S.Ct. Index 650617/2019, 2022 WL 1261590 (denying motion for leave to appeal). ***This application is filed more than ten (10) days before the current filing deadlines for the petition from the state case.*** The pertinent dates related to the case are: **a. April 28, 2022:** Issuance of order of N.Y. Court of Appeals denying motion for leave to appeal the First Department order affirming dismissal of the state complaint.



and maintaining seal of entire commercial civil case. Copies of the appellate court orders are attached hereto as Exhibits A (First Department) and B (N.Y. Court of Appeals).

**b. July 28, 2022:** Expiration of time to file petition for a writ of *certiorari* in this Court, unless extended.<sup>1</sup>

Petitioner never had the privilege of attending a U.S. law school, and he has never filed a petition for writ of *certiorari* in a civil case. As the related state and federal cases now ripe for Supreme Court *certiorari* review involve the same unique, unprecedented state court commercial proceedings sealed in their entirety in violation of rights protected under the U.S. Constitution and international human rights law, petitioner will have to address complex questions, including but not limited to whether he should file only one petition and one appendix consolidating both cases. Petitioner earns subsistence income and his work commitments render him unable to dedicate the necessary time to draft and file the petition(s) meeting the current filing deadlines. After receiving notification of this motion for a 60-day extension of time to file, the parties failed to respond and therefore were *not opposed* to the motion.<sup>2</sup>

WHEREFORE, for the foregoing reasons, Petitioner requests a 60-day extension of time to file his petition for a writ of *certiorari* from the denial of his motion for leave to appeal to the N.Y. Court of Appeals.



Alexander Moskovits  
1050 Grand Boulevard  
Deer Park, New York 11792  
Tel: +55(48)98465-9211  
Email: [alexander.moskovits@hotmail.com](mailto:alexander.moskovits@hotmail.com)

---

<sup>1</sup> This motion was first **filed on July 5, 2022, more than 10 days before July 28, 2022**, but it was returned by a Court Clerk because the motion also sought an extension of time to file petition on the related federal civil rights case ripe for review. See Exhibit C (letter from Supreme Court of the United States dated July 6, 2022 returning original motion without citing any Court rule that proscribes consolidating total of two related cases, one state and the other federal, described by the clerk as “several” state and federal cases).

<sup>2</sup> Ms. Kaufman and Ms. Larizza, as counsel for Bank of America Merrill Lynch in the state case, did not respond. Likewise, Calvin B. Grigsby did not respond.

EXHIBIT A – FIRST DEPARTMENT DECISION AND ORDER (12/21/2021)

Appellate Division, First Judicial Department

Renwick, J.P., Oing, Singh, Scarpulla, Pitt, JJ.

14899- ALEXANDER MOSKOVITS,  
14899A- Plaintiff-Appellant,  
14899B

Index No. 650617/19  
Case No. 2021-01543

-against-

BANK OF AMERICA MERRILL LYNCH et al.,  
Defendants-Respondents,

RAIMUNDO COLOMBO et al.,  
Defendants.

---

Alexander Moskovits, appellant pro se.

Schoeman Updike Kaufman & Gerber LLP, New York (Beth L. Kaufman of counsel), for Bank of America, N.A. improperly sued herein as Bank of America Merrill Lynch, respondent.

---

Order, Supreme Court, New York County (Barry R. Ostrager, J.), entered September 1, 2020, which denied plaintiff's motion for recusal, unanimously affirmed, with costs. Order, same court and Justice, entered on or about September 2, 2020, which sua sponte sealed the entire court file to everyone except the Court and the parties to this action and sealed one document except as to the Justice's chambers, unanimously affirmed, with costs. Order, same court and Justice, entered on or about November 12, 2020, which, to the extent appealed from as limited by the briefs, granted defendants' motions to dismiss the complaint, unanimously affirmed, with costs.

The sua sponte sealing order is not appealable as of right, nor did the order dismissing the action call the sealing order up for review (CPLR 5701; see *Sholes v*

*Meagher*, 100 NY2d 333, 335 [2003]). Nevertheless, we deem the notice of appeal to be a motion for leave to appeal, and, upon so deeming the notice of appeal, grant leave (see CPLR 5701[c]; *Ray v Chen*, 148 AD3d 568 [1st Dept 2017]).

As to the merits, the court's sealing order was appropriate given that plaintiff filed a report containing personal information about the Justice and his family members. This filing, consisting of over 60 pages, exposed the Justice to harassment, if not violence, and exposed personal information of the Justice's nonparty family members (see *Applehead Pictures LLC v Perelman*, 80 AD3d 181, 191-192 [1st Dept 2010]; *Mancheski v Gabelli Group Cap. Partners*, 39 AD3d 499, 502 [2d Dept 2007]).

Plaintiff advances no persuasive argument as to why his motion for recusal of the motion court, made before the court issued the sealing order, should have been granted. Plaintiff also contends that the sealing order gave rise to an appearance of impropriety and bias, and therefore, that the court was obliged to recuse itself. The law is well-settled, however, that the court's adjudicatory actions cannot give rise to bias justifying recusal (see *AQ Asset Mgt. LLC v Levine*, 128 AD3d 620, 623 [1st Dept 2015]).

Dismissal of the complaint was proper for the reasons stated by the motion court,

and the allegations are insufficient to support plaintiff's theory of ratification (see *Banque Arabe Et Internationale D'Investissement v Maryland Natl. Bank*, 850 F Supp 1199, 1213 [SD NY 1994]).

THIS CONSTITUTES THE DECISION AND ORDER  
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: December 21, 2021

A handwritten signature in black ink, appearing to read "Susanna M. Rojas". The signature is fluid and cursive, with the first name "Susanna" and the last name "Rojas" clearly distinguishable.

Susanna Molina Rojas  
Clerk of the Court

EXHIBIT B –  
N.Y. COURT OF APPEALS DENIAL OF MOTION FOR LEAVE TO APPEAL  
(4/28/2022)

April 28, 2022

38 N.Y.3d 1003

THIS DECISION IS UNCORRECTED AND SUBJECT TO REVISION BEFORE PUBLICATION IN THE NEW YORK REPORTS.

Court of Appeals of New York.

Alexander MOSKOVITS, Appellant,

v.

BANK OF AMERICA MERRILL LYNCH

et al., Respondents, et al., Defendants.

2022-92

1

**Opinion**

\*\*1 \*1004 Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed, insofar as appealed from, the November 2020 Supreme Court order, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution.

**All Citations**

--- N.E.3d ----, 38 N.Y.3d 1003, 2022 WL 1261590 (Mem), 2022 N.Y. Slip Op. 65106



EXHIBIT C –LETTER FROM SUPREME COURT OF THE UNITED STATES  
DATED JULY 6, 2022 RETURNING MOTIONS FOR EXTENSION OF TIME AND  
FOR REQUEST TO PRO BONO COUNSEL TO FILE FOR PETITIONER

**SUPREME COURT OF THE UNITED STATES  
OFFICE OF THE CLERK  
WASHINGTON, DC 20543-0001**

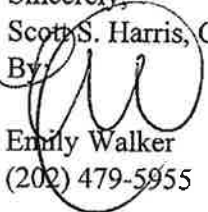
July 6, 2022

Alexander Moskovitz  
P.O. Box 530023  
Birmingham, AL 35253

Dear Mr. Moskovitz:

The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case was postmarked June 29, 2022 and received July 6, 2022. The application is returned for the following reason(s):

It is unclear precisely what is sought to be extended. The orders appended to the application are from the United States Court of Appeals for the Second Circuit, case No. 21-886. However, the application makes reference to several state and federal cases. If you wish to seek an extension on two different orders, you must do so in two separate applications.

Sincerely,  
Scott S. Harris, Clerk  
By:   
Emily Walker  
(202) 479-5955

Enclosures

**AFFIDAVIT OF SERVICE**

Pursuant to 28 U.S.C. § 1746, the undersigned certifies under penalty of perjury under the laws of the United States of America that a true and correct copy of the motion for extension was served on July 17, 2022 on counsel for Bank of America Merrill Lynch and on counsel for its agent Calvin B. Grigsby in the state court proceedings via e-mail ([bkaufman@schoeman.com](mailto:bkaufman@schoeman.com), [slarizza@schoeman.com](mailto:slarizza@schoeman.com), [rbernstein@rjblaw.com](mailto:rbernstein@rjblaw.com), and [cgrigsby@grigsbyinc.com](mailto:cgrigsby@grigsbyinc.com)), on the Brazilian defendants sued in the state court, Raimundo Colombo and Jorge Siega, via e-mail ([raimundocolombo1955@gmail.com](mailto:raimundocolombo1955@gmail.com) and [jorge@gsurf.net](mailto:jorge@gsurf.net)), and counsel for defendants in the related federal court case via e-mail ([noprey@schoeman.com](mailto:noprey@schoeman.com), [bscher@kdylaw.com](mailto:bscher@kdylaw.com), [david.lawrence111@ag.ny.gov](mailto:david.lawrence111@ag.ny.gov), [rbernstein@rjblaw.com](mailto:rbernstein@rjblaw.com)), as previously agreed by all counsel of record.

Executed on this 17th day of July 2022.



Alexander Moskovits  
1050 Grand Boulevard  
Deer Park, New York 11729  
Tel.: +55(48)98465-9211  
Email: [alexander.moskovits@hotmail.com](mailto:alexander.moskovits@hotmail.com)

N.Y. Supreme Court, Index No. 650617/2019: *Alexander Moskovits v. Bank of America Merrill Lynch, Calvin B. Grigsby, Raimundo Colombo, and Jorge Siega*

Beth L. Kaufman ([bkaufman@schoeman.com](mailto:bkaufman@schoeman.com))  
Silvia Larizza ([slarizza@schoeman.com](mailto:slarizza@schoeman.com))  
Schoeman Updike Kaufman & Gerber LLP  
551 Fifth Avenue, 12th Floor  
New York, New York 10176  
Phone: (212) 661-5030  
Attorney for Bank of America Merrill Lynch

Roger J. Bernstein ([rbernstein@rjblaw.com](mailto:rbernstein@rjblaw.com))  
535 Fifth Avenue, 23rd Floor  
New York, NY 10017  
Phone: (212) 748-4800  
Attorney for Calvin B. Grigsby ([cgrigsby@grigsbyinc.com](mailto:cgrigsby@grigsbyinc.com))

U.S. District Court (S.D.N.Y.), 20-cv-10537(LLS), 2d Cir. 21-886: *Alexander Moskovits v. Bank of America N.A., Schoeman Updike & Kaufman, Beth L. Kaufman, Silvia Larizza, Calvin B. Grigsby, Roger J. Bernstein, Barry R. Ostrager, in his individual capacity and as Judge, and Does 1-10 (including "Court Administration" referenced in sealing order).*

Patricia O'Prey ([poprey@schoeman.com](mailto:poprey@schoeman.com))  
Schoeman Updike Kaufman & Gerber LLP  
551 Fifth Avenue, 12th Floor  
New York, New York 10176  
Phone: (212) 661-5030  
Attorney for Bank of America, N.A.

David Lawrence III ([david.lawrenceIII@ag.ny.gov](mailto:david.lawrenceIII@ag.ny.gov))  
Assistant Solicitor General  
28 Liberty St., 23rd Floor  
New York, NY 10005  
(212) 416-8023  
Attorney for Barry R. Ostrager

Brett Scher ([bscher@kdvlaw.com](mailto:bscher@kdvlaw.com))  
Kaufman Dolowich & Voluck, LLP  
40 Exchange Place, 20th Floor  
New York, New York 10005  
(516) 283-8705  
Attorney for Beth Kaufman, Silvia Larizza, Schoeman Updike Kaufman & Gerber LLP

Roger J. Bernstein, *Pro Se* ([rbernstein@rjblaw.com](mailto:rbernstein@rjblaw.com))  
535 Fifth Avenue, 23rd Floor  
New York, NY 10017  
Phone: (212) 748-4800

Calvin B. Grigsby, *Pro Se* ([cgrigsby@grigsbyinc.com](mailto:cgrigsby@grigsbyinc.com))  
2406 Saddleback Ct, Blackhawk, CA 94506  
Phone: (415)860-6446