

No. 23-A-_____

IN THE SUPREME COURT OF THE UNITED STATES

MARGARET RHEE-KARN,

Respondent -Plaintiff,

v.

SUSAN CHANA LASK, ESQ.

Petitioner-Defendant.

**APPLICATION FOR EXTENSION OF TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI**

SUSAN CHANA LASK, ESQ.

Counsel of Record

LAW OFFICES OF

SUSAN CHANA LASK

244 Fifth Avenue, #2369

New York, NY 10001

Telephone: (917) 300-1958

scl@appellate-brief.com

Counsel for Petitioner

Susan Chana Lask, Esq.

TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE SECOND CIRCUIT: ¹

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioner respectfully requests a 60-day extension of time, up to and including November 3, 2023, to file a petition for a writ of certiorari to review a Second Circuit order and decision, dated June 15, 2023, that granted a timely filed Rule 60(b) motion but denied its request to recall a mandate issued without jurisdiction. Exhibit A. Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on September 13, 2023. This application is timely because the filing date is the postmark of September 2, 2023 on this mailed petition, which is more than ten days before the date the petition is due.

1. This case raises important questions regarding established federal law that the Court of Appeals has jurisdiction under 28 U.S.C. §1291 only after a final judgment is entered that ends the litigation on the merits and leaves nothing to do but execute the judgment. *Ray Haluch Gravel Co. v. Cent. Pension Fund of Int'l Union of Operating Eng'rs*, 571 U.S. 177, 183, 134 S.Ct. 773, 187 L.Ed.2d 669 (2014). However, the Second Circuit in this case assumed jurisdiction, without a final judgment, then provided two conflicting opinions to claim it had jurisdiction.

2. The first decision was its mandate finding that a summary judgment

¹ Pursuant to Rule 29.6, notice is given that no party hereto is a publicly traded corporation.

was the “final judgment”. After petitioner filed a Rule 60(b) motion showing that by law the summary judgment did not terminate the case and is not a final judgment, then on July 16, 2023 the court issued an order and decision to state that the court could rely on a different order as the final judgment. Exh A. That was an April 6, 2020 order of the District Court limited to admonishing plaintiff’s attorney for failing to file an appearance by directing the clerk to “close” the case. It was an administrative termination. The Second Circuit found that order is arguably a final judgment, despite the District Court later correcting that order by reopening the case to continue the litigation and scheduled it for a jury trial. Notably, the April 6, 2020 order is not the order stated in the Circuit opinion that the court used as conferring jurisdiction to it.

3. The Second Circuit creates a split with every circuit in this country that follows precedent that only a final judgment provides jurisdiction under 28 U.S.C. 1291. Not one circuit court decision could be found under the search of “is an administrative closing of a case a “final judgment”” that holds an administrative termination is a final judgment for appeal purposes. In fact, the cases hold that circuit courts do not have jurisdiction when a case is “closed” in this manner. The Second Circuit’s decision here needs review and correction. Just as this court in *Kemp v. United States*, No. 21-5726 (June 13, 2022) recently clarified definitions in Rule 60(b) motions, this case needs clarity as to how far jurisdiction stretches to the Circuit, if at all, with an administrative closing order. Finally, this case should have precedential value as it will establish whether a

circuit court can claim that an order closing a case can arguably be the same as a final judgment, when that order is actually an administrative closing based on the court awaiting an attorney's notice of appearance, and as such can not show any intent by the District Court to be a final judgment for appeal.

4. To address this important issue of jurisdiction, the time to file the petition for certiorari should be extended. Although I am admitted to this court, I am the petitioner and prefer to have established Supreme Court counsel on this important matter. The past few months I interviewed various prominent Supreme Court counsel. The counsel I prefer is interested, but he was out of the country during the summer vacation, with limited availability. He now returned, so adequate time is needed to review with him. Next, the press of other matters necessitates an extension as I am a solo practitioner handling other appeals and matters in state and federal court that can not be extended - which is another reason why I need counsel on this matter. Additionally, the full 60 days for an extension is required considering the Jewish high holidays during the majority of September into October. An extension would not prejudice any party as there was no opposition the Rule 60(b) motion relevant to this petition.

* * * * *

Petitioner respectfully requests an order extending the time to file a petition for a writ of certiorari for 60 days, up to and including November 3, 2023.

Dated: September 2, 2023

Respectfully Submitted,



SUSAN CHANA LASK, ESQ.

Counsel of Record

LAW OFFICES OF SUSAN CHANA LASK

244 Fifth Avenue, #2369

New York, NY 10001

Telephone: (917) 300-1958

scl@appellate-brief.com

Counsel for Petitioner

Susan Chana Lask, Esq.

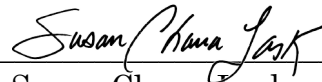
CERTIFICATE OF SERVICE

Pursuant to Rules 29.3 and 29.5 of the Rules of this Court, I am, admitted to the United State Supreme court and certify that all parties required to be served have been served. On September 1, 2023, I caused a copy of the foregoing Application for Extension of Time Within Which to File a Petition for a Writ of Certiorari to be served by first class mail on the below named counsel:

Lauren Weinberger, Esq 1315 Cornet St, Henderson, NV 89052-6503

Dated: September 2, 2023

LAW OFFICES OF
SUSAN CHANA LASK



Susan Chana Lask
Counsel of Record
244 Fifth Avenue, #2369
New York, NY 10001
Telephone: (917) 300-1958

EXHIBIT A

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

At a Stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 15th day of June, two thousand twenty-three.

Before: Robert D. Sack,
Raymond J. Lohier, Jr.,
Circuit Judges,
John P. Cronan,
*District Judge.**

Margaret Rhee-Karn,

Plaintiff - Appellee - Cross Appellant,

v.

Susan Chana Lask, Esq.,

Defendant - Appellant - Cross Appellee.

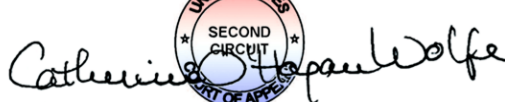

ORDER

Docket Nos. 20-1577(L),
20-1580(XAP)

Appellant-Cross-Appellee Susan Chana Lask (“Lask”) moves to recall the mandate. Lask argues, *inter alia*, that this Court lacked jurisdiction to decide the appeal because the district court never issued a final judgment under 28 U.S.C. § 1291.

IT IS HEREBY ORDERED that the motion is DENIED. On a motion to recall a mandate, this Court considers whether there was a “total want of jurisdiction and no arguable basis on which the court could have rested a finding that it had jurisdiction.” *S.E.C. v. Romeril*, 15 F.4th 166, 171 (2d Cir. 2021) (citation omitted) (alteration adopted). The order dated April 6, 2020, pursuant to which the district court directed the district clerk of court to close the case, provides at least an arguable basis on which this Court may find that it had jurisdiction to decide this appeal. *See Vona v. Cnty. of Niagara, N.Y.*, 119 F.3d 201, 206 (2d Cir. 1997) (“[W]e conclude that there was a final judgment in the present case, for purposes of appealability under 28 U.S.C. § 1291, because the case was marked ‘closed,’ presumably on order of the district court.”).

For the Court:
Catherine O’Hagan Wolfe,
Clerk of Court

* Judge John P. Cronan, of the United States District Court for the Southern District of New York, sitting by designation.