

No. _____

**In the Supreme Court of the
United States**

Nicholas Harding, *Petitioner, pro se*

v.

Google, LLC, *Respondent.*

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Eleventh Circuit

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

APPLICATION FOR EXTENSION OF TIME

To the Honorable Clarence Thomas, Associate Justice of the United States and Circuit Justice for the Eleventh Circuit:

Pursuant to Supreme Court Rules 13.5 and 30.2, I, Nicholas Harding, Petitioner *pro se* in the above-captioned case, respectfully request a 45-day extension of time, to and including February 1, 2024, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

The judgment was entered on September 5, 2023, and the petition for rehearing was denied on September 19, 2023. Therefore, the current deadline to file a petition for a writ of certiorari is December 18, 2023. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1). The denial of rehearing as well as the initial rejection of the appeal are unreported and are attached as Exhibits A and B, respectively.

The reason for this request is to ensure adequate time for the preparation of a comprehensive and well-structured petition, given the complexity and legal significance of the issues involved in this case.

1. This case is primarily concerning the current application of subject-matter diversity jurisdiction and how it conflicts with Article 3 Section 2 of the constitution as well as the 14th Amendment's "state wherein they reside clause.
2. The Petitioner brought a case against Google LLC in Florida's Fourth Judicial Circuit, the case was removed by Google to the Middle District of Florida. The Petitioner objected to the removal on the grounds that the Respondent was not a diverse party pursuant to the "state wherein they reside" provision of the 14th Amendment. The Middle District overruled, ordering that the case proceed to arbitration, staying and administratively closing the case.
3. Petitioner appealed to the Eleventh Circuit Court of Appeals on the grounds that the Middle District lacked jurisdiction to issue their order when diversity was analyzed with a constitutional approach instead of a

statutory approach. The Eleventh Circuit dismissed the appeal sua sponte for lack of jurisdiction on the grounds that an appeal may not be taken from an interlocutory order compelling arbitration pursuant to 9 U.S.C. § 16(b)(3). Petitioner moved for rehearing on the grounds that the order conclusively determined the disputed question and was entirely separable from the merits of the case, which made it appealable. *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546 (1949). The Eleventh Circuit dismissed the motion for rehearing without comment on September 19th, 2023.

4. This case is one which raises issues of great public importance, as the federal courts have been exercising jurisdiction over parties that are not diverse when their citizenship is analyzed under the 14th Amendment. Such an analysis has not been suggested previously as corporations and other artificial entities have sought to reap the benefits of rights extended under the 14th amendment, while simultaneously avoiding the provision of the same amendment which could serve to force them to be held accountable in state courts.

5. Petitioner had substantial time obligations during the 90-day period preceding the deadline as a law student and full-time employee at a nonprofit organization. The 45-day extension would serve to grant the petitioner additional time to ensure compliance with court rules and arrange for review of the petition.

Accordingly, there is good cause for this motion, and I respectfully request a 45-day extension for filing the petition for a writ of certiorari to and including February 1, 2024.

Respectfully submitted,

December 7, 2023



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Exhibit A

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-11974

NICHOLAS HARDING,

Plaintiff-Appellant,

versus

GOOGLE LLC,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:23-cv-00321-BJD-JBT

Before WILSON, JORDAN, and NEWSOM, Circuit Judges.

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Order of the Court

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PER CURIAM:

The Petition for Panel Rehearing filed by Nicholas Harding is DENIED.

Exhibit B

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 23-11974

Non-Argument Calendar

NICHOLAS HARDING,

Plaintiff-Appellant,

versus

GOOGLE LLC,

Defendant-Appellee.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 3:23-cv-00321-BJD-JBT

Before WILSON, JORDAN, and NEWSOM, Circuit Judges.

PER CURIAM:

This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. Nicholas Harding appeals from the district court's order granting Google LLC's motion to compel arbitration and staying the case pending the completion of arbitration. The order also directed the parties to routinely file reports on the status of the arbitration proceedings.

An appeal may not be taken from an interlocutory order that compels arbitration and stays, rather than dismisses, the action. 9 U.S.C. § 16(b)(1)-(3); *see Am. Express Fin. Advisors, Inc. v. Makarewicz*, 122 F.3d 936, 939 & n.4 (11th Cir. 1997) (dismissing for lack of jurisdiction appeal of an order compelling arbitration, staying proceedings, and administratively closing the case); *Green Tree Fin. Corp.-Ala. v. Randolph*, 531 U.S. 79, 87 n.2 (2000) (noting that if the district court had entered a stay, rather than a dismissal, the order would not have been appealable, per 9 U.S.C. § 16(b)(1)). The district court's order here stayed, rather than dismissed, the case and expressly contemplated further proceedings. *Cf. Martinez v. Carnival Corp.*, 744 F.3d 1240, 1244 (11th Cir. 2014) (noting that administratively closing a case is not the same as dismissing a case and finding that order compelling arbitration was immediately appealable where it "[n]otably . . . did not stay the proceedings, nor did it contemplate any further action on this case").

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Opinion of the Court

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All pending motions are DENIED as moot. No petition for rehearing may be filed unless it complies with the timing and other requirements of 11th Cir. R. 40-3 and all other applicable rules.

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Proof of Service

On December 7, 2023, I, Nicholas Harding, served the following counsel of record for respondent, Google LLC., a copy of the Application for Extension by United States Postal Service and by electronic mail pursuant to Rule 29.3:

Douglas Kilby
STEARNS WEAVER MILLER
WEISSLER ALHADEFF
& SITTERSON, P.A.
106 E. College Ave., Suite 700
Tallahassee, FL 32301
(850) 580-7200

Pursuant to Rule 29.5(c) of the Supreme court rules:

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

Executed on December 7, 2023.

Nick Harding

STATE OF FLORIDA
COUNTY OF DUVAL

Sworn to (or affirmed) and subscribed before me by means of physical presence or online notarization, this 7th day of December, 2023, by Nicholas Harding

(Signature of Notary Public - State of Florida)

Personally Known OR Produced Identification

Type of Identification Produced US FL DL

