

No. \_\_\_\_\_

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

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TANISHIA HUBBARD, an individual;  
*Petitioner-Applicant,*

v.

SERVICE EMPLOYEES INTERNATIONAL UNION  
LOCAL 2015, a labor organization; MALIA M.  
COHEN, in her official capacity as State Controller of  
the State of California; and ROB BONTA, in his  
official capacity as Attorney general of California,  
*Respondents.*

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**Application to the Hon. Justice Elena Kagan for  
an Extension of Time Within Which to File a  
Petition for a Writ of Certiorari to The United  
States Court of Appeals for The Ninth Circuit**

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Applicant*

Pursuant to Supreme Court Rule 13(5), the above-captioned Petitioner-Applicant hereby moves for an extension of time of 60 days, up to and including May 10, 2024, for the filing of a petition for a Writ of Certiorari.

In support of this request, Petitioner-Applicant Tanishia Hubbard (“Hubbard”) states as follows:

1. The United States Court of Appeals for the Ninth Circuit issued its opinion on October 23, 2023 (Exhibit 1); and issued its order denying rehearing en banc on December 12, 2023 (Exhibit 2). The mandate issued on December 20, 2023. Unless an extension is granted, the deadline for filing a petition for certiorari will be March 11, 2024. Applicant is filing this application at least ten days before that date, in accordance with Supreme Court Rule 13.5. This Court has jurisdiction under 28 U.S.C. §1254(1).

2. Hubbard was never a union member and never signed any agreement with the union in her job as an in-home healthcare worker. Despite this fact, the

union, Service Employees International Union Local 2015, which negotiated on her behalf, and her public employer, took money from her wages for over a year without her consent. Additionally, the statute pursuant to which Hubbard's employer and union took her money placed no obligation on the union to actually possess her consent, nor is it disputed that the union had no consent.

3. This Ninth Circuit panels' decision presents an issue of exceptional importance as to whether public employees suffering compelled speech injuries related to nonconsensual union dues deductions can seek relief pursuant to 28 U.S.C. § 1983. This case addresses the difference between the Oregon statute in *Wright v. Serv. Emps. Int'l Union Loc. 503*, 48 F.4th 1112 (9th Cir. 2022), (citing, ORS 243.806(2)) and the California statute in a significant way: the California statutes (California Government Code § 1157.12 and § 1153) do not obligate the union to actually possess employee consent when it transmits the names of

employees to the state. The entire onus is on the state to “rely” on whatever the union says, whether the union actually possesses the employees’ consent for dues deduction or not. The Ninth Circuit Panel did not address this difference at all. *See* Exhibit 1.

4. The Ninth Circuit’s decision also conflicts with Supreme Court precedent and Seventh Circuit case law with respect to the issue of state action in the context of nonconsensual union dues. In *Janus*, the Supreme Court made clear both government officials and unions operating under state deduction systems and without contractual authorization or affirmative consent are state actors under Section 1983 when they take and spend a public employee’s lawfully earned wages on objectionable political speech. *Janus v. Am. Fed’n of State, Cnty., & Mun. Emps., Council 31*, 138 S. Ct. 2448, 2486 (2018).

5. Petitioner’s Counsel of Record, Ms. Shella Alcabes, has been on maternity leave since December 25, 2023, and will not be returning to work until April

15, 2024, which is more than one month after the original due date of this pending Petition. Ms. Alcabas also has substantial argument and briefing obligations when she returns from maternity leave, including two other petitions for Writs of Certiorari in *Kant, et al., v. Service Employees International, et al.*, No. 22-55904 (9th Cir. 2024) (Due March 11, 2024), and *Jimenez v. Service Employees International Union, Local 2015, et al.*, No. 22-55331 (9th Cir. 2024) (due March 11, 2024),<sup>1</sup> oral argument in *Parde v. Service Employees International, 721, et al.*, No. 22-03320 (C.D. Cal. 2023), *appeal docketed*, No. 23-55021 (9th Cir. Jan. 11, 2023) (pending May or June 2024 date), oral argument in *Freedom Foundation v. DCAS*, No. 152725/22 (NY Sup. Dec. 6, 2022), *appeal docketed*, No. 2023-01154 (NY App Div. Mar. 6, 2023) (scheduled April 16, 2024), and oral argument in

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<sup>1</sup> Requests for extensions will also be filed in *Hubbard v. Service Employees International Union, Local 2015, et al.*, No. 21-16408 (9th Cir. 2024) (due March 11, 2024) and *Kant, et al., v. Service Employees International, et al.*, No. 22-55904 (9th Cir. 2024) (Due March 11, 2024).

*Freedom Foundation v. Jefferson*, No. EF2022-00002775 (NY Sup. Jan. 20, 2023) *appeal docketed*, No. CA-23-00339 (NY App Div. Feb. 24, 2023) (scheduled April 17, 2024).

6. WHEREFORE, for the foregoing reasons, and in order to cogently prepare for the pending Petition, Petitioner-Applicant requests an extension of time up to and including May 10, 2024, be granted within which Petitioner-Applicant may file a Petition for a Writ of Certiorari.

Dated: February 20, 2024

Respectfully submitted,



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v.

SERVICE EMPLOYEES INTERNATIONAL UNION  
LOCAL 2015, a labor organization; MALIA M.  
COHEN, in her official capacity as State Controller  
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*Respondents.*

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**Certificate of Service**

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I declare under penalty of perjury under the laws of the Supreme Court of the United States that on February 20, 2024, I, Shella Alcabes, a member of the Supreme Court Bar, electronically filed with the Supreme Court of the United States the foregoing document, Application for Extension of Time to File Petition for Writ of Certiorari, and caused a true and correct copy of the same to be delivered via email to the following:

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Shella Alcabes



**EXHIBIT 1**

FILED

OCT 23 2023

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

TANISHIA HUBBARD,

Plaintiff-Appellant,

v.

SERVICE EMPLOYEES  
INTERNATIONAL UNION LOCAL  
2015; et al.,

Defendants-Appellees.

No. 21-16408

D.C. No.  
2:20-cv-00670-KJM-JDP

MEMORANDUM\*

Appeal from the United States District Court  
for the Eastern District of California  
Kimberly J. Mueller, Chief District Judge, Presiding

Submitted October 19, 2023\*\*  
San Francisco, California

Before: W. FLETCHER, NGUYEN, and R. NELSON, Circuit Judges.

Appellant Tanishia Hubbard is an in-home supportive services provider in California. Until late 2019, she paid union dues to Appellee SEIU Local 2015.

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Hubbard brings several federal claims under 42 U.S.C. § 1983 against SEIU Local 2015 and two California state officials, as well as six state-law claims against SEIU Local 2015. The district court granted Appellees' motions to dismiss Hubbard's federal claims and declined to exercise supplemental jurisdiction over her state law claims. We have jurisdiction under 28 U.S.C. § 1291 and we affirm.

1. The § 1983 claims against SEIU Local 2015 fail for lack of state action. *See Belgau v. Inslee*, 975 F.3d 940, 946–49 (9th Cir. 2020); *Wright v. Serv. Emps. Int'l Union Loc. 503*, 48 F.4th 1112, 1121–25 (9th Cir. 2022).

2. Hubbard lacks standing to seek prospective relief against the California officials. Her dues deductions stopped before she filed suit, and the district court did not err in finding that Hubbard has not shown that future injury is sufficiently likely to warrant prospective relief.

**AFFIRMED.**

**EXHIBIT 2**

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

**FILED**

DEC 12 2023

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

TANISHIA HUBBARD,

Plaintiff-Appellant,

v.

SERVICE EMPLOYEES  
INTERNATIONAL UNION LOCAL 2015;  
et al.,

Defendants-Appellees.

No. 21-16408

D.C. No.

2:20-cv-00670-KJM-JDP

Eastern District of California,  
Sacramento

ORDER

Before: W. FLETCHER, NGUYEN, and R. NELSON, Circuit Judges.

The panel has voted to deny the petition for rehearing en banc (Dkt. No. 53) and Judge W. Fletcher has so recommended.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. Fed. R. App. P. 35.

The petition for rehearing en banc is denied.