

24-5390

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

Supreme Court, U.S.  
FILED

AUG - 3 2024

OFFICE OF THE CLERK

Paulina Buhagiar — PETITIONER  
(Your Name)

vs.

Wells Fargo Bank, N.A. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals  
For the Ninth Circuit

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Paulina Buhagiar  
(Your Name)

215 West Sego Lily #708151  
(Address)

Sandy UT 84070  
(City, State, Zip Code)

310-437-3184  
(Phone Number)

RECEIVED

AUG 14 2024

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

In the Supreme Court of the United States

**Paulina Buhagiar, Petitioner,**

**-versus-**

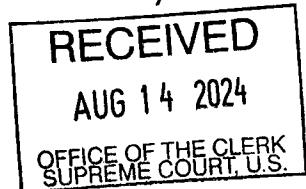
**Wells Fargo Bank, N.A., Respondent.**

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

**PETITION FOR A WRIT OF CERTIORARI**

**I. QUESTIONS PRESENTED**

1. Whether the Ninth Circuit erred in affirming the district court's grant of summary judgment in favor of Wells Fargo on Buhagiar's claims of discrimination and retaliation under Title VII, § 1981, and the ADA, despite evidence suggesting she was performing according to the employer's legitimate expectations and had engaged in protected activities.
2. Whether the Ninth Circuit erred in rejecting Buhagiar's claim of ineffective assistance of counsel in a civil case, despite alleged mishandling by her previous attorney that may have impacted the outcome.
3. Whether the Ninth Circuit erred in affirming summary judgment on Buhagiar's claim for intentional infliction of emotional distress under Arizona law, given the alleged extreme and outrageous conduct by Wells Fargo.



2 ✓  
LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:



mailed  
08/19/2024

RELATED CASES

TO: Wells Fargo Bank, N.A

Lori Ayseguel Garner  
Fisher & Phillips LLP  
3200 N. Central Ave.

Phoenix, AZ 85012

mailed  
8/19/2024

TO: Office of the Clerk

Supreme Court of the United States

1 First St. North East Washington  
DC 20543

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix \_\_\_\_\_ to the petition and is

reported at July 01, 2021; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the United States district court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

reported at July 20, 2021; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

reported at \_\_\_\_\_; or,  
 has been designated for publication but is not yet reported; or,  
 is unpublished.

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 11, 2024.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: July 5, 2024, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.  
 An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was July 20, 2022.  
A copy of that decision appears at Appendix \_\_\_\_\_.

A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.  
 An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. A \_\_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## **II. STATEMENT OF THE CASE**

Plaintiff-Appellant Paulina Buhagiar, proceeding pro se, appealed from the district court's order granting summary judgment to Wells Fargo Bank, N.A. on her claims of discrimination and retaliation pursuant to Title VII, § 1981, and the ADA, as well as her claim of intentional infliction of emotional distress (IIED). The district court's decision was affirmed by the Ninth Circuit.

Buhagiar, who was hired in May 2016, an Operations Processor II then November of 2018 hired as Operation Processor III at Wells Fargo, alleged that she faced discrimination based on her race and disability, and was retaliated against for engaging in protected activities. Additionally, she claimed that her previous lawyer's ineffective assistance negatively impacted her case.

## **III. REASONS FOR GRANTING THE WRIT**

### **Discrimination Claims Under Title VII and § 1981:**

Buhagiar presented evidence suggesting she was performing according to Wells Fargo's legitimate expectations. But, her advancement from Operations Processor 2 to 3 and the absence of poor performance write-ups in her previous role were overlooked by the court.

The Court referred to the McDonnell Douglas burden-shifting framework, yet, it was not properly applied as Buhagiar's evidence of satisfactory performance was not given due consideration. Instead, the Court heavily sided with the report of the defendant that she allegedly made substantial errors and failed to improve with instruction in her position as Operations Processor 3. Badon's log should not be given much weight as it is self-serving and should be expected to favor Wells Fargo's claims that Buhagiar acted poorly in her role and below Wells Fargo's legitimate

expectations. Assuming that Wells Fargo's action is warranted, the same could be explained since Buhagiar is suffering from a mental health issue.

### **ADA Discrimination Claim:**

The district court erred in concluding that Buhagiar did not establish a *prima facie* case of ADA discrimination. Evidence indicating Wells Fargo's awareness of her hospitalization and subsequent condition was sufficient to suggest a perceived disability. Although Buhagiar indicated that she was given a Return to Work Release, she also relayed to her supervisor that she was "still sick" which means that she is not completely well, but still managed to work for Wells Fargo.

In addition, labor laws prohibit employers from discriminating against employees based on certain protected characteristics, including race, color, national origin, religion or sex. The records show and with all due respect, Wells Fargo is guilty of discrimination.

Copy of Charge of Discrimination is hereto attached as Annex "A".

### **Retaliation Claims:**

It was found by the Court that the temporal proximity between Buhagiar's protected activities and adverse employment actions was sufficient to establish a *prima facie* case of retaliation. However, it still ruled that there was no retaliation because Wells Fargo had a legitimate, non-discriminatory reason for making such an adverse decision. This is simply not right. Even if it is granted that Buhagiar did perform poorly in some of her roles, the decision to assign her to mailroom duties – a task way below what she is able to do and could not supposedly help her to improve in her role as Operation Processor 3 – is nothing more than a retaliation from Wells Fargo because of her complaint to Richardson. This could even be taken as a way to humiliate her. The district court improperly dismissed this evidence

and failed to recognize the potential pretext in Wells Fargo's explanations. Taking the her situation deeply, the petitioner seemingly is a victim of constructive discharge. Constructive Discharge refers to a situation when an employer makes working conditions so difficult, unpleasant where the employee is forced to leave or quit his/her job. It can be because of one serious incident, collection of more incidents or changes in terms of employment that force the employee to resign.

It can be recalled that after she made a complaint of Mr. Richardson, she was assigned and demoted to a mere mail matter sorter. From an Operations Processor III at Wells Fargo, she was assigned to lower position.

The demeaning situation she was in, when objectively taken, will survive the test of common sense. The petitioner was singled out, after she made the complaint to Mr. Richardson.

She may not immediately feel and suffer the adverse psychological adverse effect of the demotion and discrimination but as the time went on and she pondered, and pitied herself, the effect worsens the situation. Clearly, it adversely affect the physical and well being of the petitioner.

It cannot be denied there is a cause-effect link. The labor discrimination committed by the employer, Wells Fargo, and the adversely affected well-being of the petitioner. Taking together the fear of losing the job, the shame of being of demoted had actually besieged the well-being of the petitioner.

The defense of Wells Fargo, is of no moment. It is the adverse effects of the demotion and discrimination suffered by the petitioner that matters.

Further, the act of Wells Fargo Bank, as covered employer, in discriminating me in the working environment, is considered unlawful employment practice. Needless to state, Arizona law prohibits employers from constructively discharging employees.

The respondent Wells Fargo Bank has failed to exercise fairness to the petitioner in fact respondent is guilty of discrimination thus liable and responsible for the damage suffered by herein petitioner. Thus, any person, including Wells Fargo, who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.

Because of the work-employee discrimination, the petitioner suffered severe anxiety symptoms. Wells Fargo be declared liable to pay the damages. Copy of Medical Report signed by Christina Thomas "B", Jason Capel Annex "C", Agnes Szpunar Annex "D", DR Mohammad R Hojati Annex "E", and Dr Moodabagil MD Nikkil , Annex "F" CPAPA and Oxygen PA-C, is hereto appended as Annex "B" to Annex "F".

### **Ineffective Assistance of Counsel:**

Although generally, there is no right to effective assistance of counsel in civil cases, the egregious mishandling of Buhagiar's case by her previous attorney warrants reconsideration, particularly given the potential impact on the case outcome as well as the issue of discrimination against race and disability is involved.

### **IIED Claim:**

The district court, with all due respect, improperly granted summary judgment to Wells Fargo regarding Buhagiar's IIED claim. The alleged conduct by Wells Fargo, including humiliation, discrimination, adverse

employment actions, and failure to provide proper accommodations, meet the threshold for extreme and outrageous conduct under Arizona law.

Wells Fargo, had failed, in the exercise of its rights and in the performance of its duties. Wells Fargo did not act with justice, give everyone my due, and it did not observe honesty and good faith. Moreover, Wells Fargo had done to me were contrary to law, and it negligently caused damage to me petitioner, thus it shall indemnify the latter for the damage.

The petitioner takes refuge at this Highest Court of the land to protect her right trampled by the respondent, Wells Fargo Bank. I implore to grant the writ so that may address and revisit the injustices committed by Wells Fargo Bank, and restore faith in our legal protections against workplace discrimination.

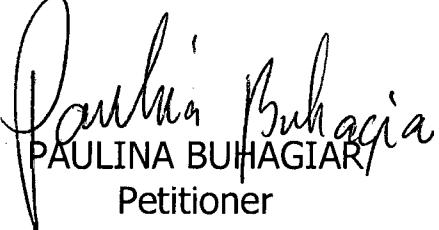
## **CONCLUSION**

For the reasons stated, the petition for a writ of certiorari should be granted.

It is prayed of this Supreme Court that monetary claims be awarded to herein petitioner.

Reliefs and remedies just and fair are also prayed of.

Respectfully submitted. August 1, 2024



PAULINA BUHAGIAR  
Petitioner

## **CONCLUSION**

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Paulina Balagian

Date: August 1, 2024