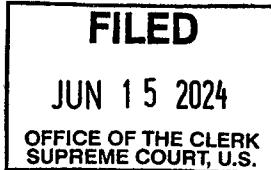


No. _____ **ORIGINAL**
24-5876

IN THE
SUPREME COURT OF THE UNITED STATES



Norma Ortiz Fernandez-Petitioner

Vs.

La Clinica-Respondent

ON PETITION FOR A WRIT OF CERTIORARI TO
THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, FIRST
APPELLATE DISTRICT, DIVISION TWO,
SOLANO COUNTY SUPERIOR COURT

PETITION FOR WRIT OF CERTIORARI

Norma Ortiz Fernandez,
Petitioner, Appellant, In Pro Per
2108 Garnet Circle
Vallejo, CA, 94591
(707) 624-5605

QUESTIONS PRESENTED

- 1) Whether the Due Process Clause applies to self-represented parties, which is a self-executing constitutional right and needs no enforcement statute?**

- 2) Whether the Court of Appeal erred as a matter of law in infringing a self-represented party of a federal constitutional right under the 14th amendment to a fair hearing?**

PETITION FOR A WRIT OF CERTIORARI

Norma Ortiz Fernandez respectfully petitions for a writ of certiorari to review the judgment of the Court of Appeal of the State of California, First Appellate District, Division Two and The Solano Superior Court.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover letter.

Appellant, Petitioner: Norma Ortiz Fernandez

Respondent, Defendant: La Clinica

CASES INVOLVED:

- *Christopher v. Harbury* (2002) 536 U.S. 403, 415, fn. 12 [153 L.Ed.2d 413, 122 S.Ct. 2179].
- *Jersey v. John Muir Medical Center* (2002) 97 Cal.App.4th 814, 821 [118 Cal. Rptr. 2d 807].
- *Nuño v. California State University, Bakersfield* (2020) 47 Cal.App.5th 799, 810-811 [261 Cal.Rptr.3d 210].

RELATED CASES

Access to justice is a broad concept that provides the foundation for a discussion of what constitutes "fair" treatment of a civil litigant. "Access to justice is a fundamental and essential right in a democratic society. It is the responsibility of government to ensure that all people enjoy this right." The United States Supreme Court has "grounded the right of access to courts in the Article IV Privileges and Immunities Clause, the First Amendment Petition Clause, the Fifth Amendment Due Process Clause, and the Fourteenth Amendment Equal Protection and Due Process Clauses." (*Christopher v. Harbury* (2002) 536 U.S. 403, 415, fn. 12 [153 L.Ed.2d 413, 122 S.Ct. 2179].)

At the state level, the right of access to courts arises from the right to "petition the government for redress of grievances" contained in article I, section 3, subdivision (a) of the California Constitution. (*Jersey v. John Muir Medical Center* (2002) 97 Cal.App.4th 814, 821 [118 Cal. Rptr. 2d 807].). Thus, access to courts is "a right guaranteed to all persons by the federal and state Constitutions." (*Jersey, supra*, at p. 821.) Recognizing the fundamental nature of the right, the California Rules of Court state: "Providing access to justice for self-represented litigants is a priority for California courts." (Rule 10.960(b) [eff. Jan. 1, 2008].) (*Nuño v. California State University, Bakersfield* (2020) 47 Cal.App.5th 799, 810-811 [261 Cal.Rptr.3d 210].)

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APPENDIX A-Supreme Court of California, Case Number: **S283027**, January 17th, 2024, Order Denying of Petition for Review.

APPENDIX B- Court of Appeal, Case Number: **A162542**, October 11th, 2023, Opinion, pages 1-19.

APPENDIX C-Court of Appeal, Case Number: **A162542**, Order denying appellant's petition for rehearing, as filed on October 26, 2023, are denied. Appellant's supplemental petition for rehearing, filed with permission on November 3, 2023, is also denied.

APPENDIX D- Court of Appeal, Case Number: **A162542**, Order denying appellant's petition for rehearing #2, November 13th, 2023 is granted. Appellant's supplemental late petition for rehearing #2 is denied."

APPENDIX E- Trial Court, Superior Court of California, County of Solano, Case Number: **FCS039298**, April 30th, 2020, Order, "Due to COVID-19 health crisis jury trials are being not set at this time. The parties shall meet and confer regarding mediation and possible court trial."

APPENDIX F- Trial Court, Superior Court of California, County of Solano, Case Number: **FCS039298**, October 15th, 2020, Order, "Plaintiff states she is in process of obtaining counsel and plans to discuss trial setting, the court directs plaintiff to discuss with her attorney the possibility of a court trial or jury trial in this matter."

APPENDIX G-. An extension of time to file the petition for a writ of certiorari was granted by honorable Justice Elena Kagan to and including **June 15th, 2024** on April 19th, 2024 in **Application No. 23A940**. The order/letter-Supreme Court of the United States Office of the Clerk, Washington, D. C. is dated on **April 22nd, 2024**.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

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

OPINIONS BELOW

[] For cases from **state courts**:

The opinion of the appeal state court to review the merits appears at **Appendix**

B to the petition and

[] is unpublished.

JURISDICTION

For cases from **state courts**:

The date on which the Supreme Court of California decided my case was on **January 17th, 2024**, Case Number: **S283027**, with the Denial of my Petition for Review. A copy of that decision appears at **Appendix "A"**.

The date on which the appeal state court decided my case was **October 11, 2023**. A copy of the opinion appears at **Appendix "B"**.

A timely petitioner for rehearing was thereafter denied on the following date: **November 3rd, 2023**, Case Number: **A162542**, and a copy of the order denying rehearing appears at **Appendix "C"**.

Note: Supplemental petitions for rehearing were also denied on the following date: **November 13th, 2023**, Case Number: **A162542**, and a copy of the order denying rehearing thereafter appears at **Appendix "D"**.

An extension of time to file the petition for a writ of certiorari was granted to and including June 15th, 2024 on April 19th, 2024 in **Application No. 23A940**. The order/letter-Supreme Court of the United States Office of the Clerk, Washington, D. C. is dated on **April 22nd, 2024**, and a copy granting the extension of time thereafter appears at **Appendix "G"**.

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

This court holds jurisdiction to act upon the present case.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

A Due Process Clause is found in both the ***Fifth*** and ***Fourteenth Amendments*** to the United States Constitution, which prohibit the deprivation of "life, liberty, or property" by the federal and state governments, respectively, without due process of law.

The U.S. Supreme Court interprets these clauses to guarantee a variety of protections: procedural due process in civil proceedings; substantive due process, a guarantee of some fundamental rights; a prohibition against vague laws; incorporation of the Bill of Rights to state governments; and equal protection under the laws of the federal government.

The clause in the ***Fifth Amendment*** to the United States Constitution provides:

No person shall be deprived of life, liberty, or property, without due process of law.

The clause in Section One of the ***Fourteenth Amendment*** to the United States Constitution provides: nor shall any State deprive any person of life, liberty, or property, without due process of law.

STATEMENT OF THE CASE

On February 5th, 2010, appellant's daughter, Norma Arlene Ortiz, and plaintiff went to La Clinica de la Raza, North Vallejo, located at 220 Hospital Drive, Vallejo, CA, 94589 for child's wellness visit. The chair gave out while appellant was holding infant at that time, both suffered injuries. An incident report was made on February 5th, 2010 at about 1:45 p.m. at that time by Monique Sims. The personal injury complaint was filed on February 3rd, 2012 by Law Offices of Stawicki and Maples, it was assigned to Honorable Judge Harry Kinnicutt, Department 3 (**1CT, p. 8**). Reasons: General Negligence, Premises Liability, and Product Liability (**1CT, p. 10**)....defendants and each of them, negligently owned, leased, maintained, controlled, managed and operated the premises located at 220 Hospital Drive, Vallejo, Solano County, California, so as to cause the premises to be in a state of despair and danger to the general public, including plaintiff. Defendant and each of them, did negligently and carelessly maintain, ta cause said premises to be in a dangerous condition....While visiting premises, plaintiff sustained several personal injuries as appellant sat on chair that was not fit to be exposed to the general public. The negligence of defendants, and each of them, thereby directly and proximity caused the damages... Defendants, and each of them, and/or defendant's agents, created the dangerous condition described herein (complaint)... (**1CT, p. 11**). Cause of action, fashion, Norma Ortiz-Fernandez, was sitting on a chair at la Clinica located at 220 Hospital Drive in Vallejo, California when the back of the chair gave out causing plaintiff to suffer from personal injuries (**1CT, p. 12**). Production Liability L-1: On or about February 5, 2010 plaintiff was injured by the following product: an unfit chair located at La Clinica, 220 Hospital Drive, Vallejo, CA (**1CT, p. 13**). Plaintiff's Counsel #1 filed a Motion to be Relieved as counsel on September 20th, 2012..., granted (**1CT, p. 14**). Minute Order of December 4th, 2013 at department 3 for Case Management Conference, continued to January 29th, 2014 for CMC/Trial Setting (**1CT, p. 20**). Plaintiff's Counsel #2, John Roach, Brady Law Group, filed Case Management Conference Statement, 5 pages (**1CT, pp. 22-26**). Moreover, plaintiff's Memorandum of Points and Authorities in Opposition to Compel Responses to Form Interrogatories, Special Interrogatories, and Demand for Identification and Inspection of Documents;

Declaration of John Roach with exhibits/attachments containing plaintiff's responses to defendants form interrogatories-set one, plaintiff's responses to request for production of documents set one, plaintiff's responses to special interrogatories-set one, with proof of service were also filed (**1CT, pp. 29-61**). Plaintiff's 2nd attorney filed a Motion to be Relieved as Counsel on February 6th, 2015, hearing scheduled on March 3rd, 2015, with an Ex Parte Request, both granted (**1CT, pp. 65-67**). Parties appeared at the Trail Management Conference, September 29th, 2016, Jury Trial had been set for October 11th, 2016 at 10:00 a.m., estimated 5-day length, (**1CT, p. 73**). Plaintiff's multiple subpoenas of medical experts to appear at Trial for Hearing, with proof of services (**1CT, pp. 74-116, 119-121**). Sanctions were imposed by the court, case was dismissed at Trial Management Conference, September 29th, 2016, with prejudice (**1CT, p. 118**). Plaintiff objected to order imposing terminating sanctions, prepared by opposing counsel. (**1CT, pp. 122-126**). The dismissal order-Honorable Judge Harry Kinnicutt was filed on October 24th, 2016 (**1CT, pp. 130-131**). Plaintiff filed Reconsideration Motion and 2 supplemental Motions with exhibits/attachments, scheduled on January 26th, 2017 (**1CT, pp. 136-151, 156-159**). Letter of character from Maria Guadalupe Juarez dated January 24th, 2017 (**1CT, pp. 149,151**). Plaintiff filed 2 Notices of Appeal, on February 24th, 2017 and April 20th, 2017, respectively (**1CT, pp. 162-163, 164-165**). Plaintiff's dismissal was reversed with **appeal A151141**, Honorable Justice Stewart wrote the opinion, and both Presiding Judge Honorable Justice Kline and Honorable Justice Miller concurred with further instructions consistent with such opinion (**1CT, pp. 169-184**). The Notice of Trial Setting was set for April 30th, 2020 in Department 22 with Honorable Judge Alisia Jones (**1CT, pp. 204-206**). Opposing counsel, filed a Motion Requesting Dismissal. Plaintiff's Memorandum of Points and Authorities in Support of Plaintiff's Opposition, filed on January 22nd, 2021 (**1, CT, pp. 214-223**). Plaintiff's Case Management Statement filed on January 27th, 2021 with attachments (**1CT, pp. 224-237**). Plaintiff's Declaration filed on February 5th, 2021 (**Volume 1CT, pp. 238-246**). Plaintiff's Declaration in Support of Reply to Opposition to Dismissal with exhibits filed February 8th, 2021 (**1CT, pp. 247-300**), continued (**2CT, pp. 302-346**). Plaintiff's Objection, Disapproval of Defense

Counsel's Proposed Judgment of Dismissal and Proposed Order Granting Motion to Dismiss (**2CT, pp. 353-423**). Plaintiff's Notice of Motion and Motion for Reconsideration of Dismissal Order Derived from the Minute Order of February 9th, 2021 (**2CT, pp. 424-569**). Plaintiff's 3rd Notice of Appeal, Unlimited Case, filed April 23rd, 2021-appeal **A162542** (**2CT, p. 575**). Objection, Disapproval of Defense Counsel's Proposed Order of Dismissal of Plaintiff's Reconsideration Motion, Hearing on April 20th, 2021, filed April 29th, 2021 (**3CT, pp. 588-611**). Appellant is appealing final dismissal judgment signed by Honorable Judge Alesia Jones, Solano Superior Court of California, Department 22, of **February 24th, 2021**, filed on **February 26th, 2021**, causing extreme prejudice and damage, due to the Standards of Abuse of Discretion, Prejudicial Errors in the Law, De Novo, and based on the Merits of the Case. The findings that are part of the clerk's and reporter's transcript are inconsistent with the findings to support the dismissal judgment as will elaborate from the extracts of the record that appellant argued which I also confirm here again. The trial court erred in not considering appellant's diligence to prosecute her case to trial within the statutory deadline, which caused extreme prejudice and harmful error.

Appellant timely appealed, Court of Appeal of the State of California, First Appellate District, Division Two, **Case Number: A162542**. The appeal reached a decision/opinion on October 11th, 2023. Appellant requested rehearing, first one was timely, and subsequent ones were all denied, which are part of the record.

Appellant requested petition for review at the Supreme Court of California, **Case Number: S283027**, which was denied on January 17th, 2024, which is part of the record.

Appellant is now requesting **Petition of Certiorari** to this highest court in our country. Due process safeguards a litigant's right to a full/fair opportunity for such judicial resolution. Where there's concern for fairness the goal of efficient judicial administration should win out over the desire for substantive efficiency. When there's doubt, the court should decline to invoke the rule in a manner that would bar litigant of matters not clear safeguarding a party's right to a full/fair hearing.

REASONS FOR GRANTING THE PETITION

The federal courts of appeals and state appeal courts are split over the questions of due process, self-represented parties. Only this Court can resolve this entrenched and widespread disagreement. This Court should grant review and hold, consistent with its precedents. Furthermore, the present question presented is of public interest, state and national level. This highest court should intervene and make sure that also all self-represented parties get a fair and impartial treatment in all stages of the proceedings. Ensure that adequate measures are taken so all fundamental rights during formal proceedings are fully understood by all parties. The dismissal of this case causes Appellant harmful prejudice. Appellant respectfully requests that this court using its judicial power, jurisdiction and intervention, please grant writ of certiorari.

CONCLUSION

For the foregoing reasons the petition for a writ of certiorari should be granted in
the interest of justice and public interest.

Respectfully submitted,



Norma Ortiz Fernandez,

Date: August 21st, 2024