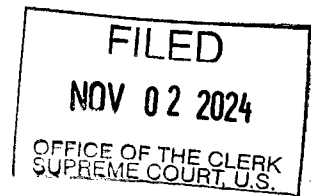


24-6367



No.

**ORIGINAL**

In The

Supreme Court of the United States

Petitioner:

Nyah Sekel

V.

Respondents:

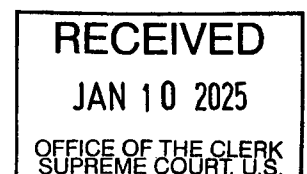
CH MF BTH II Alexandria Old Town LLC, et, al.

**On Petition for Writ of Certiorari**

To the 4<sup>th</sup> Circuit Court of Appeals Richmond, VA

**Petition For Writ of Certiorari**

Nyah Sekel  
Post Office Box 96  
Katy, Texas 77492  
903-880-7280



## **Questions Presented**

### **Category 1: Procedural Default and Compliance**

1. Is the defense still in default because they failed to physically serve the Plaintiff in compliance with the Rules of Civil Procedure? If the Defendants have no proof of service, what prevents any court from issuing a default judgment on this basis?
2. Did the Defendants intentionally mislead the court and Plaintiff by submitting conflicting certificates of service to create the appearance of compliance with procedural deadlines?
3. Should the court consider the Defendants' failure to file or serve in compliance with Rule 12(a) as sufficient grounds to uphold a default judgment against them?
4. How has the Defendants' submission of conflicting certificates of service prejudiced the Plaintiff's ability to obtain timely relief, both emotionally and financially?

5. Is it within the judge's discretion under Rule 6(b) to grant an extension without a specified deadline, or does this omission constitute judicial oversight or negligence?
6. Does the failure of the court to retroactively apply the extension order to cure the Defendants' default status under Rule 12(a) render the Defendants' filings procedurally invalid, and should this oversight result in the reinstatement of the Plaintiff's default judgment motion?

### **Category 3: Extrinsic Fraud**

7. Did the conflicting dates on two certificates of service—one dated June 23, 2023, and another dated June 26, 2023—constitute extrinsic fraud by the Defendants, as they imply misrepresentation of compliance with filing and service deadlines?
8. Should the submission of conflicting certificates of service be viewed as obstruction of justice, given its impact on the Plaintiff's ability to obtain a fair hearing?
9. Does the lack of a specific deadline in the extension order create an environment that facilitates extrinsic fraud by

allowing the Defendants to delay filings indefinitely without accountability?

#### **Category 4: Ethical and Legal Violations**

10. Did the Defendants' actions violate **Federal Rule of Civil Procedure 11(b)** by submitting certificates of service that misrepresented compliance with procedural requirements?
11. Does the submission of knowingly false certificates of service by the Defendants' counsel constitute perjury?
12. Did the Defendants' counsel violate their ethical obligation to act with candor toward the tribunal by submitting conflicting procedural filings?
13. Should the court impose sanctions on the Defendants or their counsel for engaging in bad faith conduct and procedural abuse?
14. Does the judge's omission of a deadline in the extension order deviate from the procedural requirements of Rule 6(b), and does this deviation undermine the fairness and efficiency of judicial proceedings?

#### **Category 5: Broader Impact on Judicial Integrity**

15. How does the submission of fraudulent procedural documents undermine trust in the judicial process and the fair administration of justice?
16. Should the court establish stricter consequences for procedural fraud to prevent erosion of procedural standards and ensure equitable treatment of all litigants?
17. Was the submission of conflicting certificates of service a deliberate strategy by the Defendants to buy time and delay resolution of the case?
18. Were the conflicting certificates submitted to confuse the record and obstruct the Plaintiff's ability to effectively challenge the Defendants' procedural failures?
19. Does granting an extension without a deadline create a precedent that undermines judicial efficiency, trust, and fairness by allowing procedural ambiguity to remain unaddressed?

### **List of All Parties**

1. **Petitioner:** Nyah Sekel, representing herself (Pro Se).
2. **Respondents:**
  - CH MF BTH II/Alexandria Old Town LLC, et al.
  - Bozzuto Management Company
  - Alexan Florence
  - Gallagher Eveliys & Jones LLP

Case Reference: **Sekel v. CH MF II, Alexandria Old Town LLC, et al.**, No. 24-1914, U.S. Court of Appeals for the Fourth Circuit, judgment entered October 24, 2024.

October 24, 2024

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Richmond, VA Case No. 1:23-cv-00706-RDA-WEF Judgment Filed  
October 23, 2023.

Appendix B- Decision of the U. S. Court of Appeals 4th Circuit  
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Appendix C- Notice of Appeal Filed July 12, 2023 U. S. District  
Court Eastern District of Virginia Case No.  
1:23-cv-00706-RDA-WEF.

Appendix D- Writ of Mandamus U.S. Court of Appeals 4th Circuit  
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Appendix H- Order dated July 11<sup>th</sup>, 2023. Case No. 1:23-cv-706 RDA/WEF. U. S. District Court Eastern District of Virginia.

Appendix I- Summons Case No. 1:23-cv-706 RDA/WEF. U. S. District Court Eastern District of Virginia.

Appendix J- Writ of Mandamus Unpublished Opinion dated, October 24, 2024 Case No. 24-1914 4<sup>th</sup> Circuit Court of Appeals Richmond, Virginia.

Appendix K- Appeal for extension of Time Unpublished Opinion dated October 23, 2023. Case No. 1:23-cv-706 RDA/WEF. U. S. District Court Eastern District of Virginia.

Appendix L -Plaintiff's 2<sup>nd</sup> Motion for Summary Judgment. Case No. 1:23-cv-706 RDA/WEF. U. S. District Court Eastern District of Virginia.

Appendix M- Order on 1<sup>st</sup> Motion of Summary Judgment Case No. 1:23-cv-706 RDA/WEF. U. S. District Court Eastern District of Virginia.

### **Table of Authorities**

- Federal Rules of Civil Procedure 6(b)(1)(B), 12(a), 11(b) and 5(b)(2)
- Pioneer Investment Services Co. v. Brunswick Associates Ltd. Partnership, 507 U.S. 380 (1993)
- Robinson v. Wix Filtration Corp., 599 F.3d 403 (4th Cir. 2010)
- United States ex rel. Rahman v. Oncology Assocs., P.C., 198 F.3d 502 (4th Cir. 1999)
- In re Arnold, 474 F. App'x 178 (4th Cir. 2012)

### **Opinions Below**

The opinions from the United States Court of Appeals appears at Appendix A & B to the petition and is unpublished. These decisions are located in the docket for case number **24-1914**. Opinion(s) of the courts were unpublished.

## **Jurisdiction**

The jurisdiction of the United States Supreme Court is invoked under 28 U.S.C. § 1254(1), as this petition seeks review of judgments from the Fourth Circuit Court of Appeals Order dated October, 24, 2024 in case number 24- 1914 and an Order dated October 11, 2023 from the U. S. District Court Eastern District of Virginia in case number 1:23-cv-706 RDA/ WEF.

October 24, 2024

### **Constitutional and Statutory Provisions Involved**

1. **Federal Rule of Civil Procedure 6(b)(1)(B):** Allows the court to extend deadlines by no more than one day for excusable neglect, provided there is good reason and minimal delay.
2. **Federal Rule of Civil Procedure 12(a):** Requires defendants to file an answer within 21 days of service to avoid default.
3. **Federal Rule of Civil Procedure 5(b)(2):** Governs the requirements for serving pleadings and other papers, ensuring compliance with proper service procedures.
4. **Federal Rule of Civil Procedure 11(b)** Imposes a duty of truthfulness and reasonableness on attorneys and parties filing papers with the court.

## Statement of the Case

1. On **May 31, 2023**, the Plaintiff, Nyah Sekel, filed a complaint under the **Fair Housing Amendments Act**, alleging violations including the denial of housing, discriminatory conditions, and harassment based on sex. Under **Federal Rule of Civil Procedure 12(a)**, the Defendants were required to respond within 21 days. The Defendants failed to meet this deadline, and their default status was established, warranting judgment in favor of the Plaintiff.
2. On **June 26, 2023**, the Defendants filed a motion for an extension under **Rule 6(b)(1)(B)**, citing excusable neglect due to their failure to renew CM/ECF authorization. This explanation highlights their lack of diligence, as they had prior authorization and should have been fully aware of the renewal requirements. The motion was accompanied by conflicting certificates of service—one dated June 23 and another dated June 26. The June 23 certificate is fraudulent, as the Defendants could not have served the Plaintiff while simultaneously requesting an extension.

3. On **July 11, 2023**, the lower court granted the motion for extension but failed to specify a new deadline, creating procedural ambiguity. Without retroactive application of the extension to cure the default, the Defendants' filings remain procedurally invalid. The omission of a deadline also enabled the Defendants to exploit this ambiguity to further delay proceedings, demonstrating bad faith and undermining the judicial process.
4. The Defendants' conduct, combined with the court's procedural oversights, has significantly prejudiced the Plaintiff, delayed justice and increasing emotional and financial hardship.

## **Reasons for Granting the Writ**

### **Introduction**

The Defendants remain in default according to the Federal Rules of Civil Procedure. Their failure to comply with Rule 12(a)'s 21-day deadline, compounded by procedural violations, fraudulent actions, and bad faith conduct, demonstrates that no legitimate grounds exist to excuse their default status. The court's extension order failed to cure this default due to procedural ambiguities, such as the omission of a specific deadline and lack of retroactive application. The defense's actions, including submitting conflicting certificates of service, further undermine judicial integrity and prejudice the Plaintiff's ability to seek timely relief. For these reasons, the Plaintiff's default judgment motion should be upheld.

### **Category 1: Procedural Default and Compliance**

#### **1. Failure to Serve the Plaintiff**

The Defendants failed to comply with **Federal Rule of Civil Procedure 5(b)(2)**, which mandates proper service of pleadings and motions. The defense has not provided proof of service of their initial filings, leaving their response procedurally invalid. Without valid service, the Defendants remain in default under Rule 12(a), as the procedural prerequisites to contest the Plaintiff's claims were never satisfied.

## **2. Conflicting Certificates of Service**

The Defendants submitted two conflicting certificates of service: one dated June 23, 2023, the deadline they missed, and another dated June 26, 2023, the date they requested an extension. The June 23 certificate is fraudulent, as the Defendants could not have served the Plaintiff while simultaneously requesting excusable neglect on the same day. This fraudulent action further invalidates their filings and perpetuates their default status.

## **3. No Retroactive Application of Extension**

The court's order granting the extension on July 11, 2023, did not retroactively cure the Defendants' default status. Rule 12(a) establishes a 21-day deadline for filing responses, and the extension order's failure to explicitly address retroactive application leaves the Defendants in technical default.

## **4. No Deadline in the Extension Order**

The omission of a specific deadline in the court's order granting the extension introduced procedural ambiguity, violating the clear intent of **Rule 6(b)**. Without a set deadline, the Defendants

could delay their filings indefinitely, effectively prolonging their default and prejudicing the Plaintiff.

#### **5. Implications of Procedural Ambiguity**

The lack of clarity in the extension order raises serious procedural concerns. Rule 6(b) allows for extensions “for a specified time,” but the court’s failure to set a deadline creates procedural chaos and denies the Plaintiff the certainty required to enforce deadlines. The Defendants’ default status, therefore, remains unaffected by this flawed order.

### **Category 2: Bad Faith and Lack of Credibility**

#### **6. Pattern of Bad Faith**

The Defendants’ submission of conflicting certificates of service and reliance on an extension order without a deadline demonstrate bad faith. These actions suggest a deliberate strategy to manipulate procedural rules, evade default, and delay the resolution of the case.

#### **7. Erosion of Credibility**

The defense’s credibility has been eroded by their conflicting and fraudulent filings. The court should view their claims and

actions skeptically, as their conduct demonstrates a willingness to misrepresent facts and procedural compliance.

#### **8. Exploitation of Procedural Ambiguity**

By exploiting the court's failure to include a deadline in the extension order, the Defendants further delayed proceedings.

This bad faith conduct should disqualify them from receiving the benefits of excusable neglect under Rule 6(b).

### **Category 3: Extrinsic Fraud**

#### **9. Fraudulent Certificates of Service**

The conflicting certificates of service—one of which is demonstrably false—constitute extrinsic fraud. These fraudulent filings misrepresent compliance with procedural deadlines, obstruct the Plaintiff's ability to secure justice, and undermine the integrity of the judicial process.

#### **10. Obstruction of Justice**

The fraudulent certificates of service and other procedural abuses by the Defendants have created unnecessary delays and

confusion. This obstruction of justice warrants judicial intervention to restore fairness and accountability.

#### **11. Facilitating Fraud Through Ambiguity**

The lack of a specific deadline in the extension order created an environment that allowed the Defendants to exploit procedural ambiguities and perpetuate fraudulent actions. Courts must address such ambiguities to prevent further harm to the Plaintiff and the judicial process.

#### **12. Judicial Responsibility to Address Extrinsic Fraud**

Extrinsic fraud undermines the foundation of judicial proceedings by denying parties a fair opportunity to present their case. The court must rectify the Defendants' fraudulent actions and procedural violations to preserve the integrity of the judicial system.

### **Category 4: Ethical and Legal Violations**

#### **13. Violation of Rule 11(b)**

The Defendants' conflicting certificates of service violated **Federal Rule of Civil Procedure 11(b)**, which requires attorneys to certify that their filings are not presented for an improper purpose and are

factually accurate. The fraudulent filings demonstrate a breach of this rule, warranting sanctions.

#### **14. Perjury by Counsel**

Submitting knowingly false certificates of service constitutes perjury. This serious ethical violation should result in disciplinary action against the Defendants' counsel to deter similar misconduct.

#### **15. Breach of Ethical Obligations**

The Defendants' counsel failed to act with candor toward the tribunal, a fundamental ethical obligation. Their actions have harmed the Plaintiff and undermined the judicial process, necessitating corrective measures.

#### **16. Judicial Oversight in Extension Order**

The court's omission of a deadline in the extension order deviated from the procedural requirements of Rule 6(b). This oversight has allowed the Defendants to continue their procedural abuses unchecked, further prejudicing the Plaintiff.

### **Category 5: Broader Impact on Judicial Integrity**

#### **17. Undermining Trust in the Judicial Process**

The Defendants' fraudulent actions and procedural abuses

undermine trust in the judicial process. Courts must enforce procedural rules consistently to maintain the integrity of judicial proceedings.

#### **18. Establishing Consequences for Procedural Fraud**

The court should establish stricter consequences for procedural fraud to prevent erosion of procedural standards and ensure equitable treatment of all litigants. Failure to address the Defendants' misconduct risks setting a dangerous precedent.

#### **19. Strategic Delay Through Fraudulent Filings**

The submission of conflicting certificates of service appears to be a deliberate strategy to delay the resolution of the case. Courts must recognize and penalize such tactics to protect the integrity of judicial proceedings.

#### **20. Confusion of the Record**

The Defendants' fraudulent filings have confused the record, obstructing the Plaintiff's ability to effectively challenge procedural violations. This deliberate confusion must be addressed to ensure fairness.

#### **21. Precedent of Ambiguous Extension Orders**

Granting an extension without a deadline creates a precedent

that undermines judicial efficiency, trust, and fairness. Courts must ensure that procedural extensions are clear and enforceable to maintain procedural integrity.

## Conclusion

For the reasons outlines above, the petitioner respectfully requests that the Supreme Court grant a Writ of Certiorari to review the decisions of the lower court regarding the procedural misapplication of Rule 6(b)(1)(B) and Rule 12(a).

Clarification is necessary to uphold procedural standards for extensions and excusable neglect, ensuring that courts consistently and fairly administer deadlines without prejudicing parties through irregular extensions and does the following:

Review the Decision: Review the lower court's decision regarding the improper granting of an extension for the defendants based upon the reason filed in the MOTION TO EXTEND TIME TO FILE MOTTION TO DISMISS.

Reinstate Default Judgment: Reinstatement of the default judgment against the defendants due to their failure to comply with the 21-day response requirement.

Set Precedent: Establish clearer guidelines for future case regarding one day rule as when it occurs over the weekend.

*Nyiah Likel*

**Certificate of Compliance**

No.

Petitioner:

Nyah Sekel

V.

CH MF BTH II Alexandria Old Town LLC, et, al.

As required by the Supreme Court Rule 22.1(h), I certify that the petition for a writ of certiorari contains 2500 words, excluding the parts of the petition that are exempted by the Supreme Court Rule 33.1 (d).

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

Executed on Dec. 31<sup>st</sup>, 2024.