

17-6865 ORIGINAL

No. _____

Supreme Court, U.S.
FILED

NOV 13 2017

OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

BABUBHAI PATEL, and
PATEL PHARMACIES,

— PETITIONER

(Your Name)

vs.

MCKESSON CORPORATION

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Sixth Circuit Court Of Appeals

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

PETITION FOR WRIT OF CERTIORARI

Babubhai Patel #46049-039

(Your Name)

Federal Correctional Institution
P.O.Box 1000

(Address)

Milan, Michigan. 48160

(City, State, Zip Code)

PRISONER

(Phone Number)

SECRET (S) PRESENTED

There are 100,000 to 150,000 people in the United States who are in the process of being assimilated into the American way of life. This is a very large number of people, and it is a very important part of the American population. The process of assimilation is a very complex one, and it is a process that is going on all the time. It is a process that is going on in all parts of the country, and it is a process that is going on in all walks of life. The process of assimilation is a process that is going on in all parts of the country, and it is a process that is going on in all walks of life. The process of assimilation is a process that is going on in all parts of the country, and it is a process that is going on in all walks of life.

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:

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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 judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

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

☐ reported at _____; 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☒ is unpublished.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☐ is unpublished.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 _____; 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.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was June 29, 2017.

☐ 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: October 6, 2017, and a copy of the order denying rehearing appears at Appendix A.

☐ 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 _____.
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).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

STATEMENT OF THE CASE

Babubhai Patel is the sole owner-operator of an unregistered, unincorporated business entity in the State of Michigan. Patel Pharmacies is not a "Community Pharmacy" that provides prescription pharmaceuticals and medications to the public. Patel Pharmacies provides Inventory Control Services to community pharmacies owned and operated by other parties. Babubhai Patel and Patel Pharmacies do not own or operate any community pharmacies. There are no Pharmacies in Michigan or elsewhere that show Babubhai Patel or Patel Pharmacies are registered or unregistered owners. Babubhai Patel (referred to as Patel hereinafter) has been operating Patel Pharmacies since 2004, without any violations of criminal law.

In 2012, Patel was convicted of participating in a health care fraud conspiracy in violation 18 U.S.C. §1349, in the Eastern District of Michigan in Detroit Michigan. During Patel's trial the Department of Justice, Office Of Public Affairs revealed via Justice News Letter, dated Thursday, April, 2012, that McKesson Corporation had agreed to pay the United States more than \$190 million to resolve claims McKesson violated the False Claims Act by reporting inflated pricing information for a large number of prescription drugs, causing Medicaid to overpay for those drugs. It was then that Patel discovered that the McKesson Corporation had been fraudulantly overcharging his business "Patel Pharmacies" for drugs, medications and pharmaceutical products for over nine-years for a loss to his business of millions of dollars just like McKesson defrauded

the government's Medicaid program.

March 28, 2014, Patel filed a civil Complaint against the McKesson Corporation to recover the loss of millions of dollars to his unincorporated business entity Patel Pharmacies based on McKesson's criminal acts of fraudulantly reporting inflated information in violation of the False Claims Act.

On April 8, 2014, Patel filed an Amended Complaint naming both himself and his business Patel Pharmacies as parties in the Complaint. (See Appendix ^E ~~C~~, Amended Complaint).

On May 22, 2014, the district court entered an Order to show cause. McKesson Corporation failed to Respond to Patel's Amended Complaint.

On June 5, 2014, Patel filed a REQUEST FOR CLERK TO ENTER DEFAULT.

On June 5, 2014, the Clerk entered DEFAULT as to *McKesson Corporation*.

On December 29, 2014, the Defendant McKesson Corporation filed a Motion To Dismiss Pursuant To Fed. R. Civ. 12(b)(6), alleging that Patel does not have standing because he did not name his business entity Patel Pharmacies as a party in the caption of the complaint.

On January 15, 2015, the district court entered a judgment Granting Defendant's Motion To Dismiss With Prejudice.

After challenging the district court's judgment dismissing his complaint for lack of standing Patel through Rule 59(e) and Rule 60(b) Fed. R. Civ. P., Patel appealed the district court's judgment dismissing his complaint for lack of standing.

REASONS FOR GRANTING THE PETITION

The Sixth Circuit Court of Appeals and district court both erroneously determined that Patel does not have "standing" to sue the Defendant McKesson Corporation on behalf of his solely owned, "unincorporated" business entity Patel Pharmacies because Patel did not name Patel Pharmacies as a party of interest in the "caption" of his Complaint.

Patel did not name Patel Pharmacies in his original Complaint filed on 03/28/2014. (Docket Entry # 1). But Patel file an Amended Complaint on 04/08/2014, that named both Babubhai Patel and Patel Pharmacies in the Caption and body of the Complaint. (Docket Entry #3)(See Appendix E, Amended Complaint).

The error made by the district court and sixth circuit is they both misconstrued Patel's "Patel Pharmacies" as community pharmacies not named in Patel's Complaint. See Patel's Petition For Panel Rehearing and Rehearing En Banc (Appendix B) and PRO SE APPEAL BRIEF (Appendix D) that explains that Patel Pharmacies does not consist of numerous individual community pharmacies that are sueing McKesson Corporation but is a solely-owned unincorporated private business entity that Patel has operated since 2004 in the Michigan State area.

Pursuant to Rule 10 Form Of Pleadings, Fed. R. Civ. P., Every pleading must have a caption with the court's name, a title a file number, and a Rule 7(a) designation. The title of the complaint must name all parties; A reading of Patel's Amended Complaint Caption (APPENDIX E) clearly show all parties to the law suit, BABUBHAI PATEL, and PATEL PHARMACIES. Plaintiffs.

In Patel's Pro Se Appellant's Brief at Footnote 1, Patel explains the following:

"Patel Pharmacies is not a Pharmacy that dispenses pharmaceuticals to the public. Patel Pharmacies is a privately owned "unincorporated" business entity that provides pharmaceuticals to various Pharmacies purchased from McKesson Corporation and other Pharmaceutical Company's. Patel Pharmacies was never a defendant in any criminal case. The United States never seized any of Patel Pharmacies assets." (Footnote 1).

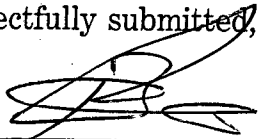
Rule 9(a)(1)(A) Fed. R. Civ. P., provides, "a pleading need not allege: (A) a party's capacity to sue or be sued. In the instant case it is clear that Patel has satisfied the requirements of Rule 10(a)'s requirement that "The title of the complaint must name all parties". See Amended Complaint Appendix E.

Patel respectfully requests the Supreme Court Of The United States grant his Petition For A Writ of Certiorari and reverse the Judgment of the Sixth Circuit Court of Appeals and remand the case for further proceeding to reinstate Patel's Amended Complaint in the district court because it satisfies the requirements of Rule 10(a) that all parties be named in the caption.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Babubhai Patel, Petitioner

Date: 11/07/2017