

NO. 17-8350

In the
Supreme Court of the United States

MASOUMEH MOHAJER,

Petitioner,

v.

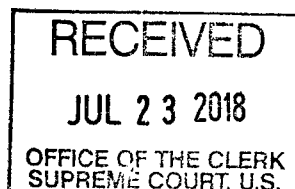
JP MORGAN CHASE BANK, N.A. et al.,

Respondents.

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

PETITION FOR REHEARING en banc

July 18, 2018



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Masoumeh Mohajer Petitioner in Pro Se

Rules

Fed. R. Civ. P. 4(m)..... passim

Sup. Ct. R. 44 1

The **Federal Tort Claims Act** June 25, 1948, ch. 646, Title IV, 62 Stat. 982, 28 U.S.C. Pt. VI Ch.

171 and 28 U.S.C. §1346(b) is a 1948

28 U.S.C. §2674.

Cases

Mabry v. Superior Court (2010) 185 Cal.App.4th 208.

(Miles v. Deutsche Bank National Trust Co. (2015) 236 Cal.App.4th 394, 408.)

(West v. JPMorgan Chase Bank, N.A. (2013) 214 Cal.App.4th 780, 792.)”

Zapata v. City of New York, 502 F.3d 192, 196-97 (2d Cir. 2007);

Petrucelli v. Bohringer & Ratzinger, GMBH, 46 F.3d 1298, 1305 (3d Cir. 1995);

Thompson v. Brown, 91 F.3d 20, 21 (5th Cir. 1996);

Panaras v. Liquid Carbonic Indus. Corp., 94 F.3d 338, 340-41 (7th Cir. 1996); In re Sheehan, 253

F.3d 507, 513 (9th Cir. 2001);

Espinoza v. United States, 52 F.3d 838, 840-41 (10th Cir. 1995);

Horenkamp v. Van Winkle & Co., 402 F.3d 1129, 1131-32 (11th Cir. 2005),

with Mendez, 45 F.3d at 78-79;

Malibu Media, LLC v. Doe, No. 14-cv-288, 2014 WL 7507259, at 4 (D. Md. Dec. 24, 2014).

Halbert v. Michigan, 545 U.S. 605, 621 (2005); see also, e.g.,

Erickson v. Pardus, 551 U.S. 89, 94 (2007)

Estelle v. Gamble, 429 U.S. 97, 106 (1976) (same);

Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (same).

PETITION FOR REHEARING en banc

Pursuant to Supreme Court Rule 44, petitioner respectfully petition to this Court for rehearing of its June 04, 2018 order dismissing the writ of certiorari in this case. Petitioner's pro se petition for certiorari to resolve an open and acknowledged ninth circuit split that still persists regarding the proper interpretation of Federal Rule of Civil Procedure 4(m).

Petition for Rehearing from a judgment of the Federal District Court of California, and Ninth Circuit Court. In addition Judgment of the Superior Court of Los Angeles, Second Appellate Court of the State of California. Thus Petitioner is seeking US Supreme Court to consider petitioner's legal Rights.

The complaint suffers from the fundamental defect of none judicial foreclosure cases.

The **Federal Tort Claims Act** June 25, 1948, ch. 646, Title IV, 62 Stat. 982, 28 U.S.C. Pt. VI Ch. 171 and 28 U.S.C. §1346(b) is a 1948 federal statute that permits private parties to have recovery in this case. Under the FTCA "the United States is liable in the same manner and to the same extent as a private individual under like circumstances, but is not liable for interest prior to judgment or for punitive damages." 28 U.S.C. §2674.

Similarly, in *Mary v. Superior Court* (2010) 185 Cal.App.4th 208.

(*Miles v. Deutsche Bank National Trust Co.* (2015) 236 Cal.App.4th 394, 408.)

(*West v. JPMorgan Chase Bank, N.A.* (2013) 214 Cal.App.4th 780, 792.)"

FACTUAL & PROCEDURAL BACKGROUND

On April 22, 2014 Petitioner filed a pro se complaint in the U.S. Central District Court of California. Regardless of the last case Plaintiff did not have opportunity for trial in the Federal District Court; furthermore in District Court or Superior Court Plaintiff legal Right had been

taken. Petitioner filed a timely notice of appeal, and the Ninth Circuit summarily affirmed in an unpublished per curiam opinion that adopted the District Court's reasoning in its entirety.

Pet.App.1a. Petitioner filed a timely petition for rehearing en banc, which the Ninth Circuit denied.

Proceedings Before This Court

Still proceeding pro se, petitioner timely filed a petition for a writ of certiorari.

Petitioner promptly contacted the Supreme Court Clerk's Office, which informed the Clerk that petitioner could file a petition for rehearing of the Court's dismissal order.

Petitioner honestly with good faith declare that this nine years cases raised from irreversible damages to my rest of life. It is easy to used the world dismissed or denied. But remember petitioner strongly believed that US Supreme Court is an advocacy for an individual Appellate Advocacy. The 5 Boxes of evidence which was 4 boxes returned to me showed some of the suffering and expenses that Petitioner gone through within last nine years.

REASONS FOR GRANTING THE PETITION FOR REHEARING

This Court Granted the Petition For Rehearing to resolve an acknowledged Ninth Circuit split on whether a district court has discretion under Rule 4(m) it is showing of good cause. Compare *Zapata v. City of New York*, 502 F.3d 192, 196-97 (2d Cir. 2007); *Petrucelli v. Bohringer & Ratzinger, GMBH*, 46 F.3d 1298, 1305 (3d Cir. 1995); *Thompson v. Brown*, 91 F.3d 20, 21 (5th Cir. 1996); *Panaras v. Liquid Carbonic Indus. Corp.*, 94 F.3d 338, 340-41 (7th Cir. 1996); *In re Sheehan*, 253 F.3d 507, 513 (9th Cir. 2001); *Espinoza v. United States*, 52 F.3d 838, 840-41 (10th Cir. 1995); *Horenkamp v. Van Winkle & Co.*, 402 F.3d 1129, 1131-32 (11th Cir. 2005), with *Mendez*, 45 F.3d at 78-79; Pet.App.1a. That circuit split still persists and continues to have real

consequences for litigants. See *Malibu Media, LLC v. Doe*, No. 14-cv-288, 2014 WL 7507259, at 4 (D. Md. Dec. 24, 2014).

In the face of such overwhelming authority against petitioner in nine years, now Mohajer offers a new justification for finding recovery for expenses on the cases during nine years.

The none judicial foreclosure cases that led to the dismissal of this ideal for resolving that ninth circuit split should not prevent the Court from reinstating this case and answering the question on which it previously denied in the writ of certiorari. That is both understandable and excusable under the circumstances at hand. As an unsophisticated pro se litigant who had never before been involved in proceedings in this Court, petitioner was unaware of details such as how to check the Court's online docket or its schedule for when his petition would be distributed for conference.

Petitioner also did not anticipate a need to have her mail forwarded because she did not expect to be in California for as long as petitioner was. Moreover, Particularly given the leniency typically afforded pro se litigants, that unfortunate series of events should not deprive petitioner of her day in this Court. As the Court has recognized on several occasions, "navigating the appellate process without a lawyer's assistance is a perilous endeavor for a layperson." *Halbert v. Michigan*, 545 U.S. 605, 621 (2005); see also, e.g., *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (emphasizing that "[a] document filed pro se is 'to be liberally construed'"); *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (same); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (same). That is no less true of the process before this Court. Accordingly, this Court can and should excuse inadvertent failures to comply with the Court's rules when they result from the difficulties inherent in proceeding pro se. Cf. *Schacht v. United States*, 398 U.S. 58, 64 (1970) ("The

procedural rules adopted by the Court for the orderly transaction of its business ... can be relaxed by the Court in the exercise of its discretion when the ends of justice so require.”).

And there is no reason not to do so here. Any concerns the Court may have about petitioner’s ability to comply with its rules in the future should be obviated by the retention of experienced Supreme Court counsel. So, too, should any concerns the Court may have about communicating with petitioner going forward, as all communications may now be directed to petitioner.

Respondents will suffer no prejudice from reinstatement of a case that the Court already determined worthy of consideration on the merits. And the Court need not worry that excusing petitioner’s inadvertent failure to comply with its rules will set any kind of precedent for future cases, as the unusual events that led to that failure are exceedingly unlikely to repeat themselves.

In short, there is no reason not to reinstate this case and every reason to do so. Convincing this Court to review a case is no mean feat for any petitioner, let alone for a petitioner proceeding pro se. It would be both unfortunate and inequitable to deny one of the few petitioners who managed to do so the rare opportunity to have his case heard by the Supreme Court of the United States.

CONCLUSION

For the foregoing reasons, this Court should grant the petition for rehearing, vacate the order dismissing the writ of certiorari, and restore this case to its merits docket.

July 18, 2018

Respectfully submitted,

CERTIFICATE OF MASOUMEH MOHAJER

Petitioner Pro Se

I, Masoumeh Mohajer am petitioner in Pro Se in this case. I hereby certify that this petition for rehearing is presented in good faith and not for delay.

Petitioner submits the following corporate disclosure pursuant to Federal Rule 44.6 and as much as possible.

masoumeh mohajer

7/18/18