

No. 24A_____

In the Supreme Court of the United States

GAZUL PRODUCCIONES SL UNIPERSONAL,
Applicant,

v.

SHEDDF2-FL5 LLC,
Respondent.

**APPLICATION FOR AN EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE DISTRICT
COURT OF APPEAL OF FLORIDA, THIRD DISTRICT**

DWAYNE A. ROBINSON
Counsel of Record
KOZYAK TROPIN &
THROCKMORTON LLP
2525 Ponce de Leon Blvd.,
9th Floor
Miami, FL 33134
(305) 372-1800

Counsel for Applicant

April 26, 2024

APPLICATION

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Pursuant to this Court's Rule 13.5 and 28 U.S.C. § 2101(c), Applicant Gazul Producciones SL Unipersonal respectfully requests a 30-day extension of time, to and including June 6, 2024, within which to file a petition for a writ of certiorari to review the judgment of the District Court of Appeal of Florida, Third District, in this case.

1. The Third District Court of Appeal issued its initial opinion on August 30, 2023. *See Gazul Producciones SL Unipersonal v. SHEDDF2-FL5 LLC*, 2023 WL 5597315 (Fla. Dist. Ct. App. Aug. 30, 2023), App.5a–6a The Florida appellate court denied rehearing and rehearing en banc and issued a superseding opinion on February 7, 2024. *See Gazul Producciones SL Unipersonal v. SHEDDF2-FL5 LLC*, — So. 3d —, 2024 WL 468785 (Fla. Dist. Ct. App. Feb. 7, 2024), App.1a–2a (superseding opinion on denial of rehearing); App.3a–4a (order denying rehearing en banc). Unless extended, the time to file a petition for a writ of certiorari will expire on May 7, 2024. This application is

being filed at least 10 days before a petition would be due. *See* Sup. Ct. R. 13.5. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1257(a).

2. Petitioner Gazul Producciones SL Unipersonal is a Spanish limited liability company that represents the interest of Grammy Award-winning Spanish musician Alejandro Sanz. This case involves a \$7,000,000 loan undertaken by Gazul. The loan is secured by certain real property owned by Gazul in Miami-Dade County, Florida.

3. Respondent SHEDDF2-FL5, LLC holds the rights to the loan and the mortgage that secures the loan. After Gazul defaulted on the loan, Respondent filed suit against Gazul in the Circuit Court for Miami-Dade County, Florida seeking, among other things, to foreclose on the property and obtain a deficiency judgment. The trial court ultimately entered judgments foreclosing on the property and awarding Respondent a deficiency.

4. The trial court concluded, and Respondent has not challenged, that Gazul—a limited liability company located in Spain and not doing business in Florida—was not properly served with process.

5. Yet, when Gazul moved to set aside the deficiency judgment

due to lack of service of process, the trial court concluded that Gazul waived service. In the trial court’s view, the appearance by an attorney not representing Gazul at a virtual hearing over Zoom more than two years earlier amounted to a waiver of service of process. App.7a–8a.

6. Gazul appealed the trial court’s denial of the motion for relief from the deficiency judgment. The Third District Court of Appeal affirmed in a one sentence *per curiam* opinion that simply stated “Affirmed” and included a string cite to three Florida cases. App.5a–6a.

7. Gazul moved for rehearing and rehearing en banc, explaining the none of the three cited cases supported a waiver service of process based on a non-representing attorney’s appearance at a hearing. The Florida appellate court denied the motion and substituted its *per curiam* opinion for one that said only “Affirmed” but without citation to any cases at all. App.1a–2a.

8. The Florida appellate court’s opinion clashes with basic due process principles. This Court’s foundational due process cases—as well as cases issued by federal and state appellate courts—plainly establish that service of process cannot be waived when an attorney did not voluntarily appear, did not file a notice of appearance, did not represent

any party in the litigation, had not filed any paper or requested any affirmative relief, and informed the trial court that he could not take a position on the issue before the court in a hearing because he had not been retained for the litigation and had not filed a notice of appearance.

9. However, because the Florida district court of appeal affirmed without a written opinion, the Florida Supreme Court lacks jurisdiction to hear this case. *See* Fla. Const., Art. V, §3(b)(3); *Wells v. State*, 132 So. 3d 1110, 1112–13 (Fla. 2014); *see also Ibanez v. Fla. Dep’t of Bus. & Pro. Regul., Bd. of Accountancy*, 512 U.S. 136, 142 (1993); *Palmore v. Sidoti*, 466 U.S. 429, 431 (1984). This Court is therefore the only court that can address the important due process question presented by the decisions below.

10. Dwayne A. Robinson of Kozyak Tropin & Throckmorton LLP, a Miami, Florida based law firm, is the only attorney representing Gazul before this Court. Over the next several weeks, counsel is occupied with briefing deadlines and argument in a variety of matters, including an oral argument before the U.S. Court of Appeals for the Second Circuit on May 1, 2024 in *Pujol Moriera et al. v. Société Générale, S.A., et al.*, Nos. 23-394 et al.

11. Counsel requests a 30-day extension of time to permit him to fully research the relevant legal and factual issues and to prepare and print a petition for certiorari that fully addresses the important questions raised by the proceedings below.

12. For these reasons, Applicant respectfully requests that an order be entered extending the time to file a petition for certiorari to and including June 6, 2024.

Dated: April 26, 2024

Respectfully submitted,

DWAYNE A. ROBINSON
Counsel of Record
KOZYAK TROPIN &
THROCKMORTON LLP
2525 Ponce de Leon Blvd.,
9th Floor
Miami, FL 33134
(305) 372-1800

Counsel for Applicant

APPENDIX

TABLE OF CONTENTS

	<u>Page</u>
Appendix A: Superseding Opinion on Denial of Rehearing (Fla. Dist. Ct. App. Feb. 7, 2024)	1a
Appendix B: Order Denying Rehearing En Banc (Fla. Dist. Ct. App. Feb. 7, 2024)	3a
Appendix C: Initial Panel Opinion (Fla. Dist. Ct. App. Aug. 30, 2023)	5a
Appendix D: Order Denying Relief from Deficiency Judgment (Fla. 11th Cir. Ct. May 12, 2022)	7a

Third District Court of Appeal

State of Florida

Opinion filed February 7, 2024.

No. 3D22-878
Lower Tribunal No. 19-35002

Gazul Producciones SL Unipersonal, etc.,
Appellant,

vs.

SHEDDF2-FL5 LLC, etc.,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Alan Fine, Judge.

Burr & Forman LLP, Laurence S. Litow and Andrew T. Sarangoulis (Fort Lauderdale); Burr & Forman LLP, and Peter C. Vilmos (Orlando); The Ferraro Law Firm, P.A., Leslie B. Rothenberg and Mathew D. Gutierrez, for appellant.

Agentis PLLC | Lynx Law PLLC, and Christopher B. Spuches, for appellee.

Before LOGUE, C.J., and HENDON and GORDO, JJ.

PER CURIAM.

ON MOTION FOR REHEARING

We deny appellant's motion for rehearing, clarification, written opinion and certification. We withdraw our original opinion, and substitute the following opinion in its stead:

Affirmed.

IN THE DISTRICT COURT OF
APPEAL
OF FLORIDA
THIRD DISTRICT

February 7, 2024

Gazul Producciones SL
Unipersonal, etc.,
Appellant(s),
v.

3D2022-0878

Trial Court Case No. 19-35002

SHEDDF2-FL5 LLC,
Appellee(s).

Upon consideration, Appellants' Motion for Rehearing En Banc
is hereby denied.

LOGUE, C.J., and HENDON and GORDO, JJ., concur.

A True Copy
ATTEST

Mercedes M. Prieto
3D2022-0878-2-7-24
Mercedes M. Prieto, Clerk
District Court of Appeal
Third District



CC: Mathew Daniel Gutierrez
Laurence Stephan Litow
Leslie Rothenberg
Andrew Todd Sarangoulis

Christopher B. Spuches
Peter Charles Vilmos

LA

Third District Court of Appeal

State of Florida

Opinion filed August 30, 2023.
Not final until disposition of timely filed motion for rehearing.

No. 3D22-878
Lower Tribunal No. 19-35002

Gazul Producciones SL Unipersonal, etc.,
Appellant,

vs.

SHEDDF2-FL5 LLC, etc.,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Alan Fine, Judge.

Burr & Forman LLP, Laurence S. Litow and Andrew T. Sarangoulis (Fort Lauderdale); Burr & Forman LLP, and Peter C. Vilmos (Orlando); The Ferraro Law Firm, P.A., Leslie B. Rothenberg and Mathew D. Gutierrez, for appellant.

Agentis PLLC | Lynx Law PLLC, and Christopher B. Spuches, for appellee.

Before LOGUE, C.J., and HENDON and GORDO, JJ.

PER CURIAM.

Affirmed. See Starks v. Howard, 611 So. 2d 52, 53 (Fla. 3d DCA 1992) (“A party submits to the jurisdiction of the court and waives jurisdictional defects by taking a step in the proceeding amounting to an appearance.”); Laura M. Watson, P.A. v. Stewart Tilghman Fox & Bianchi, P.A., 162 So. 3d 102, 106 (Fla. 4th DCA 2014) (“Florida law is well established that service of process, and any defect in service of process, can be waived by the general appearance of a party before the trial court.”); Parra v. Raskin, 647 So. 2d 1010, 1011 (Fla. 3d DCA 1994) (“[W]hen a defendant waives an objection to insufficient service of process by failing to timely object, the defendant thereby consents to litigate the action and the court may not, either on the defendant’s motion or its own initiative, dismiss the suit for insufficient service of process.”).

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL
CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO: 2019-035002-CA-01
SECTION: CA20
JUDGE: Alan Fine

SHEDDF2-FL5 LLC

Plaintiff(s)

vs.

MUSIC ON WHEELS LLC et al

Defendant(s)

_____ /

**ORDER DENYING DEFENDANT'S, GAZUL PRODUCCIONES SL UNIPERSONAL,
MOTION FOR RELIEF FROM FINAL DEFICIENCY JUDGMENT**

Docket Index Number: **306**

THIS CAUSE came on to be heard before me, on April 26, 2022, upon Defendant's, Gazul Producciones SL Unipersonal, *Motion for Relief from Final Deficiency Judgment* (the "Motion") and the Plaintiff's *Response to Gazul's Motion for Relief from Final Deficiency Judgment* (the "Response"), and the Court having reviewed the file, the record evidence, hearing argument of counsel, and being otherwise fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED that the Motion be and the same is hereby DENIED for the reasons set forth in the transcript of the hearing that has been filed herein.

DONE and **ORDERED** in Chambers at Miami-Dade County, Florida on this 12th day of May, 2022.

2019-035002-CA-01 05-12-2022 1:41 PM


2019-035002-CA-01 05-12-2022 1:41 PM

Hon. Alan Fine

CIRCUIT COURT JUDGE

Electronically Signed

No Further Judicial Action Required on **THIS MOTION**

CLERK TO **RECLOSE** CASE IF POST JUDGMENT

Electronically Served:

Andrew R Herron, gservice@homerbonner.com
Andrew Sarangoulis, asarangoulis@burr.com
Andrew Sarangoulis, elisalopez@burr.com
Bruce E Bloch, bbloch@sblawfirmfl.com
Bruce E Bloch, general@sblawfirmfl.com
Camilo Mejia, camilo.mejia@bpi-gruposantander.com
Christopher B Spuches, cs@lynxesq.com
Christopher B Spuches, service@lynxesq.com
Christopher B Spuches, cbs@agentislaw.com
Christopher B Spuches, nmartinez@agentislaw.com
Christopher B Spuches, service@agentislaw.com
Diana Carolina de Flores, LegalDepartment@citynational.com
Diana Carolina de Flores, Diana.deFlores@citynational.com
Dwayne A. Robinson, drobinson@kttlaw.com
Dwayne A. Robinson, ems@kttlaw.com
Dwayne A. Robinson, fsr@kttlaw.com
Dwayne A. Robinson, drobinson@kttlaw.com
Dwayne A. Robinson, ycc@kttlaw.com
Ian Corp, imc@agentislaw.com
Ian Corp, sbalasquide@agentislaw.com
Isabel Maria Johnson, isabel.johnson@sabadellbank.com
Isabel Maria Johnson, isaguell@gmail.com
Javier Patricio Pagliery, javierpagliery@pagliery.com
Kimberly A. Cook, kcook@davisgoldman.com
Kimberly A. Cook, eservice@davisgoldman.com
Kimberly A. Cook, acrocker@davisgoldman.com
Laurence S. Litow, lslitow@burr.com
Laurence S. Litow, elisalopez@burr.com
Sergio A. Pagliery, SergioPagliery@Pagliery.com
Thomas Meeks, tmeeks@carltonfields.com
Thomas Meeks, dwasham@carltonfields.com
Thomas Meeks, miaecf@cfdom.net
Victor A de Diego, vdediego@pb-santander.com

Physically Served: