

IN THE  
**Supreme Court of the United States**

---

DANIEL CONCEPCION, ALDEMAR BURGOS, AND  
SIDNEY DUPREY CONDE, INDIVIDUALLY AND ON  
BEHALF OF ALL THOSE SIMILARLY SITUATED,

*Petitioners,*

*v.*

OFFICE OF THE COMMISSIONER  
OF BASEBALL, DBA MLB, *et al.*,

*Respondents.*

---

ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

---

**PETITION FOR REHEARING**

---

BRIAN DAVID  
LAW OFFICES OF  
BRIAN DAVID  
1329 N. Dearborn, #1  
Chicago, IL 60610  
(847) 778-7528  
bdbriandavid@gmail.com

SAMUEL KORNHAUSER  
*Counsel of Record*  
LAW OFFICES OF  
SAMUEL KORNHAUSER  
155 Jackson Street, Suite 1807  
San Francisco, CA 94111  
(415) 981-6281  
samuel.kornhauser@gmail.com

*Counsel for Petitioners*

**TABLE OF CONTENTS**

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES .....	ii
PETITION FOR REHEARING .....	1
NEED FOR REHEARING IN LIGHT OF THE <i>CANGREJEROS</i> PETITION FOR CERTIORARI ...	1
CERTIORARI SHOULD BE GRANTED TO OVERTURN THE CURT FLOOD ACT.....	3
CONCLUSION .....	4
CERTIFICATE OF COUNSEL .....	6

## TABLE OF CITED AUTHORITIES

	<i>Page</i>
<b>Cases</b>	
<i>Cangrejeros de Santurce Baseball Club, LLC et al. v. Liga de Beisbol Profesional de Puerto Rico, Inc., et al., (Supreme Court Case No. 25-416) . . . . .</i>	1-3, 4, 6
<i>Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs, 259 U.S. 200 (1922) . . . . .</i>	1
<i>Flood v. Kuhn 407 U.S. 258 (1972) . . . . .</i>	1
<i>MLB Players, Inc. v. DraftKings, Inc. 2025 WL 1462547 . . . . .</i>	2
<i>City of San Jose v. Commissioner of Major League Baseball, cert. denied, 577 U.S. 816 . . . . .</i>	2
<i>Wyckoff v. Office of Commissioner of Baseball, cert. denied, 584 U.S. 1041 . . . . .</i>	2
<i>Miranda v. Selig, cert. denied, 583 U.S. 1013, rehearing denied, 583 U.S. 1151 . . . . .</i>	2
<i>Right Field Rooftops, LLC v. Chicago Baseball Holdings, LLC, cert. denied, 584 U.S. 1032 . . . . .</i>	2

*Cited Authorities*

	<i>Page</i>
<i>Tri-City ValleyCats v.</i> <i>Office of Commissioner of Baseball,</i> <i>cert. petition withdrawn, 144 S. Ct. 389. . . . .</i>	1-4, 6
<i>Charles O. Finley &amp; Co. v. Kuhn,</i> <i>cert. denied, 439 U.S. 876 . . . . .</i>	1, 2
<i>Salerno v. American League</i> <i>of Professional Baseball Clubs,</i> <i>cert. denied, 91 S. Ct. 462 . . . . .</i>	2
<i>Fleer Corporation v. Topps Chewing Gum, Inc.,</i> <i>cert. denied, 102 S. Ct. 1715 . . . . .</i>	2
<i>Twin City Sportservice, Inc. v.</i> <i>Charles O. Finley &amp; Co., Inc.,</i> <i>cert. denied, 103 S. Ct. 364 . . . . .</i>	2

**Statutes**

Curt Flood Act, 15 U.S.C. §26b . . . . .	3, 4
--	------

**Rules**

Sup. Ct. R. 44.2 . . . . .	1, 6
----------------------------	------

## PETITION FOR REHEARING

Pursuant to Supreme Court Rule 44.2, Petitioners, Daniel Concepcion, Aldemar Burgos, and Sidney Duprey Conde (collectively “Concepcion Petitioners”), individually and on behalf of the class they represent, file this Petition for Rehearing of the denial of their Petition for Writ of Certiorari, to review and overturn this Court’s 103-year-old error in *Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs* 259 U.S. 200 (1922), which judicially created an exemption from the antitrust laws for the “business of baseball”.

### NEED FOR REHEARING IN LIGHT OF THE *CANGREJEROS* PETITION FOR CERTIORARI

The *Concepcion* Petition for Writ of Certiorari was denied on October 6, 2025. Three days earlier, on October 3, 2025 (after the *Concepcion* petition had gone to conference), a petition for writ of certiorari was filed in *Cangrejeros de Santurce Baseball Club, LLC et. al. v. Liga de Beisbol Profesional de Puerto Rico, Inc., et. al.* (Supreme Court Case No. 25-416) (“*Cangrejeros*”), likewise petitioning this Court to overturn the business of baseball antitrust exemption. The pending *Cangrejeros* petition and this petition make clear that the issue of the validity of the “business of baseball” exemption is an ongoing problem that is not going away and will continue to vex the courts until this Court grants certiorari and overturns the entirety of the exemption it created. *Flood v. Kuhn* 407 U.S. 258, 286 (J. Douglas dissent).

Since the *Flood v. Kuhn* 407 U.S. 258 (1972) decision, there have been numerous petitions for certiorari filed in this Court to have all, or at least various aspects of, the all-encompassing business of baseball exemption overturned<sup>1</sup>. This Court has declined to grant certiorari in all of them, leading to more confusion, and more lawsuits constantly attempting to find a way around the binding effect of this Court's judicially created antitrust exemption on the lower courts, which virtually none of them believe is correct, but which they are powerless to overturn. The *Concepcion*, *Cangrejeros* and *MLB Players, Inc. v. DraftKings, Inc.* 2025 WL 1462547 cases are the most recent in the pipeline which are, or will likely be, seeking to have review by this Court to overturn the business of baseball exemption.

As in this case, only this Court can overturn the business of baseball exemption. Therefore, the Court should not deny the *Concepcion* Petition for Certiorari. It should re-hear this petition, especially in light of the subsequently filed *Cangrejeros* pending petition for

---

1. *City of San Jose v. Commissioner of Major League Baseball*, cert. denied, 577 U.S. 816; *Wyckoff v. Office of Commissioner of Baseball*, cert. denied 584 U.S. 1041; *Miranda v. Selig*, cert. denied 583 U.S. 1013, rehearing denied 583 U.S. 1151; *Right Field Rooftops, LLC v. Chicago Baseball Holdings, LLC*, cert. denied 584 U.S. 1032; *Tri-City ValleyCats v. Office of Commissioner of Baseball*, cert. petition withdrawn 144 S. Ct. 389; *Charles O. Finley & Co. v. Kuhn*, cert. denied 439 U.S. 876; *Salerno v. American League of Professional Baseball Clubs*, cert. denied 91 S. Ct. 462; *Fleer Corporation v. Topps Chewing Gum, Inc.*, cert. denied 102 S. Ct. 1715; *Twin City Sportservice, Inc. v. Charles O. Finley & Co., Inc.*, cert. denied 103 S. Ct. 364

certiorari and the pending *DualKings* case. It should grant certiorari in *Concepcion* and consolidate this case with the *Cangrejeros* petition so that all aspects of the business of baseball exemption (wage fixing of Minor League players' compensation, franchise relocation, umpires' salaries, scouts' salaries, manufactured baseball bat logos, name, image and likeness compensation, seating concessions, etc.) can be overturned, so that the protections of the antitrust laws can be applied equally to the entirety of all aspects of the business of professional baseball.

### **CERTIORARI SHOULD BE GRANTED TO OVERTURN THE CURT FLOOD ACT**

The *Concepcion* petition should also be re-heard and granted, so that the issue of first impression raised by *Concepcion* as to the unconstitutionality of The Curt Flood Act, 15 U.S.C. §26b, can be resolved. No other case has presented the issue of whether section 26b of The Curt Flood Act is unconstitutional, in denying equal protection of the antitrust laws to professional Minor League baseball players. The Curt Flood Act creates an exemption from the wage-fixing protections of the antitrust laws for professional Minor League baseball players, while providing those very same antitrust protections to Major League baseball players, i.e., allowing the Major League owners to wage fix, at below competitive levels, the salaries of professional Minor League baseball players, while prohibiting the wage fixing of Major League baseball players' salaries. There is no rational basis for this discrimination against Minor League players. The *Concepcion* petition should be reheard and granted so that the concomitant, unconstitutional Curt Flood Act can be

abrogated, along with the business of baseball antitrust exemption.

This petition and the *Cangrejeros* petition both seek to overturn the business of baseball exemption. The *Concepcion* petition also raises the intertwined issue of the unconstitutionality of The Curt Flood Act and should therefore be reheard and granted and consolidated with *Cangrejeros* so that all aspects of the business of baseball antitrust exemption can be overturned. Overturning the court-created business of baseball exemption without abrogating Section 26b of the Curt Flood Act would result in continuing to unconstitutionally deny antitrust law protection and compensation to thousands of Minor League baseball players from past and possible future wage-fixing violations.

A rehearing and grant of the *Concepcion* petition would avoid the possibility of overturning the business of baseball exemption, while leaving in place the Curt Flood Act exemption, thereby creating an intolerable conflict as to the application of the antitrust laws to Minor League baseball players.

## CONCLUSION

This petition should be reheard and granted, as should the *Cangrejeros* petition, and the two cases should then be consolidated, since together, both petitions seek to overturn in its entirety the 103-year-old erroneous business of baseball antitrust exemption, which has harmed tens of thousands of Minor League baseball players, and continues to deprive them, along with



affiliated teams and others in the baseball business, of the protections of the antitrust laws.

Respectfully submitted,

BRIAN DAVID  
LAW OFFICES OF  
BRIAN DAVID  
1329 N. Dearborn, #1  
Chicago, IL 60610  
(847) 778-7528  
bdbriandavid@gmail.com

SAMUEL KORNHAUSER  
*Counsel of Record*  
LAW OFFICES OF  
SAMUEL KORNHAUSER  
155 Jackson Street, Suite 1807  
San Francisco, CA 94111  
(415) 981-6281  
samuel.kornhauser@gmail.com

*Counsel for Petitioners*

**CERTIFICATE OF COUNSEL**

I, Samuel Kornhauser, lead attorney for the petitioners in this case, certify that this petition for rehearing is made by me in my good faith belief that it is meritorious, especially in light of the October 3, 2025 Petition for Certiorari in the *Cangrejeros de Santurce Baseball Club, LLC et. al. v. Liga de Beisbol Profesional de Puerto Rico, Inc., et. al.* (Supreme Court Case No. 25-416) case, which was filed after this case had been sent to conference.

The undersigned hereby further certifies that this Petition for Rehearing is presented in good faith, restricted to the grounds set forth in Rule 44.2 and is not presented for the purpose of delay.

Respectfully submitted,

/s/ Samuel Kornhauser

SAMUEL KORNHAUSER

*Counsel of Record*

LAW OFFICES OF

SAMUEL KORNHAUSER

155 Jackson Street, Suite 1807

San Francisco, CA 94111

(415) 981-6281

samuel.kornhauser@gmail.com

Dated: October 31, 2025