

No. 25-473

ORIGINAL  
PETITION

In the Supreme Court of the United States

ANGELA W. DEBOSE, PETITIONER

v.

FILED  
JUL 26 2025  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

FLORIDA POLYTECHNIC UNIVERSITY  
BOARD OF TRUSTEES, RESPONDENT

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

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**PETITION FOR WRIT OF CERTIORARI**

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Tampa, Florida 33604

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July 25, 2025

## **QUESTIONS PRESENTED**

1. Whether a federal district court's refusal to enter a clerk's default and default judgment against a defendant who has failed to file a responsive pleading, having only filed a motion for an extension of time, constitutes such a departure from the accepted and usual course of judicial proceedings as to warrant the exercise of this Court's supervisory power?
2. Whether a motion for an extension of time to answer a complaint constitutes a responsive paper for the purpose of preventing a default, especially where the defendant has still not filed an answer or other responsive pleading even after the extension has been granted?
3. Whether a direct appeal to this Court is necessary due to the lack of certiorari jurisdiction in the Eleventh Circuit Court of Appeals for this specific issue, particularly in a case involving a universally applied injunction where the defaulted defendant is not a named party or qualifying party under Rule 65 of the Federal Rules of Civil Procedure?

## **PARTIES TO THE PROCEEDING**

Angela DeBose, plaintiff-petitioner below.

Florida Polytechnic University Board of Trustees, defendant-respondent.

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## INTRODUCTION

A refusal to enter a clerk's default and/or default judgment by a district court against a defendant who has failed to answer or otherwise defend a verified complaint, even after filing a motion for an extension of time, presents grounds for seeking a writ of certiorari before the Supreme Court. While motions for an extension of time are generally not considered responsive pleadings, they do not inherently stop the deadline for filing a response, even if granted. Thus, if a defendant is granted an extension but still fails to serve an answer or other pleading beyond the extension request itself, a plaintiff may argue that the district court's refusal to enter default was improper.

Such a case may warrant direct appeal to the Supreme Court, bypassing the Eleventh Circuit, if the case involves a "universally applied injunction" and the defendant is not a named or qualifying party under Rule 65 of the Federal Rules of Civil Procedure. According to the Legal Information Institute (LII) at Cornell Law School, Rule 65(d)(2) specifies that an injunction binds the parties to the lawsuit, their officers, agents, servants, employees, and attorneys, as well as those in active concert or participation with them. If the injunction's application extends beyond these defined categories and is truly "universal" in scope, it could present an issue for the Supreme Court to review, particularly given the Court's recent restrictions on the issuance of such broad injunctions.

The Supreme Court's criteria for granting a petition for writ of certiorari, outlined in Rule 10, include instances where a federal court of appeals has departed significantly from accepted judicial procedures or decided an important federal question in a manner conflicting with state court decisions or Supreme Court

precedent. The refusal to enter default in the face of a defendant's failure to respond, especially when an extension has been granted but not acted upon, could be construed as such a departure from accepted procedures. Review by the Supreme Court is notably discretionary, not a matter of right. The Court will only grant a writ of certiorari for "compelling reasons." Universal injunctions grant relief to individuals not directly involved in the litigation, potentially overstepping the bounds of the case. Such injunctions raise concerns about individual rights, court access, due process, and protected speech, extending beyond their impact recognized by the Court on the Executive branch.

Universal injunctions, though intended to provide relief, can create unintended consequences for the legal system and individual liberties. These injunctions may erode and weaken the principle of standing; create the potential for abuse where parties strategically seek injunctions to bypass the normal litigation process; deprive individuals and entities not party to the case of their due process rights by preemptively curtailing their ability to challenge or access the courts; create a chilling effect on speech and advocacy. The significant impact universal injunctions have on individual rights highlights the need for courts to carefully balance the need for relief with the potential for overbreadth and unintended consequences.

The Supreme Court has recently addressed the issue of universal injunctions, ruling that courts should limit the scope of injunctions to the specific plaintiffs in a case. This case will help harmonize that injunctions are binding only on the parties involved and those who receive actual notice of the order by personal service or otherwise and that it cannot be used to bypass the

normal litigation process or to weaken or erode the principle of standing.

Petitioner Angela DeBose respectfully prays that a writ of certiorari issue to review the order of the United States District Court for the Middle District of Florida, entered on May 7, 2025, refusing to enter Clerk's Default and Default Judgment against the Respondent.

## OPINIONS BELOW

The July 21, 2025 dismissal from the Eleventh Circuit Court of Appeals is attached as Appendix A10-11.

## JURISDICTION

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1) and § 1257(a) of the order on 7/21/2025.

## CONSTITUTIONAL PROVISIONS

### 1. Fifth and Fourteenth Amendments – Due Process Clauses:

**Procedural Due Process:** The Fifth Amendment states that "No person shall...be deprived of life, liberty, or property, without due process of law," and the Fourteenth Amendment extends this to state action, stating, "nor shall any State deprive any person of life, liberty, or property, without due process of law". The petitioner argues that the District Court's refusal to enter default, despite the respondent's failure to plead or otherwise defend, constitutes a departure from accepted judicial procedures and undermines the fundamental principles of due process. This relates to the right to a fair process, including notice and an opportunity to

be heard, as well as the proper application of established rules like Federal Rule of Civil Procedure 55 governing defaults.

## **2. Article III of the U.S. Constitution (Implicitly related to Universal Injunctions):**

**Limits on Judicial Power and Standing:** While not explicitly cited as "Article III" in the brief's table of authorities, the discussion surrounding universal injunctions inherently relates to the constitutional limits on federal judicial power, as defined by Article III. The brief questions the necessity of a direct appeal to the Supreme Court due to the lack of certiorari jurisdiction in the Eleventh Circuit for cases involving "universally applied injunctions". The argument challenges the reach of judicial remedies, particularly when they extend beyond the parties directly involved in the lawsuit, raising questions of standing and the proper scope of equitable relief available to federal courts under the Constitution. The Supreme Court's recent decisions, such as *Trump v. CASA, Inc.*, have specifically addressed the limits on the power of federal courts to issue universal injunctions, grounding these limitations in the statutory authority granted by Congress and, by extension, the constitutional framework of judicial power under Article III.

## **STATUTORY PROVISIONS**

Federal Rule of Civil Procedure 12(a)(1)(A)(i): states that a defendant must serve an answer within 21 days after being served with the summons and complaint.

Federal Rule of Civil Procedure 55(a): states that a clerk must enter default when a party fails to plead or otherwise defend.

Federal Rule of Civil Procedure 55(b)(2): describes the process for obtaining a default judgment from the court.

Federal Rule of Civil Procedure 65: governs injunctions and restraining orders.

## **STATEMENT OF THE CASE**

This case arises from the District Court's refusal to enter Clerk's Default and Default Judgment against the Respondent, despite the Respondent's failure to file a responsive pleading or otherwise defend against the complaint. The Respondent was properly served with the complaint and summons on April 10, 2025. The deadline for filing a responsive pleading under Federal Rule of Civil Procedure 12(a)(1)(A)(i) was May 1, 2025. Prior to the deadline, Respondent filed a motion for an extension of time, which was granted by the District Court on May 19, 2025, extending the deadline indefinitely. The District granted a Second Motion for Extension of Time on June 4, 2025, ordering Respondent to Answer by June 30, 2025 or ten days after ruling on its Order to Show Cause ("OSC"). Notably, under Rule 55, the Respondent is not entitled to Answer or respond. In federal civil procedure, once a defendant has defaulted by failing to respond to a complaint by the deadline, they generally cannot file an answer or other responsive pleading. Instead, the defendant's only recourse is to either accept the consequences of default (which could include a default judgment) or file a motion to set aside the default. This is because the default signifies the defendant's failure to defend the lawsuit. That said, the Petitioner, having been granted an extension, responded to the OSC on

June 12, 2025.<sup>1</sup> The District Court has not ruled. The Respondent has not served any other pleading, aside from the aforementioned motions for an extension of time.

Despite the clear failure to plead or otherwise defend, the District Court has refused to enter the Clerk's default as mandated by Federal Rule of Civil Procedure 55(a), and subsequently, has not entered a Default Judgment under Rule 55(b)(2).

This case involves a universally applied injunction where the defaulted defendant is not a named party or qualifying party under Rule 65. Due to the lack of certiorari jurisdiction in the Eleventh Circuit Court of Appeals for this specific issue, a direct appeal to this Court is necessary for review.

## **REASONS FOR GRANTING THE PETITION**

The District Court's refusal to enter a clerk's default and default judgment in this case presents a compelling reason for this Court's review. The decision of the District Court departs significantly from the accepted and usual course of judicial proceedings and undermines the fundamental principles of due process and the enforcement of court orders.

Firstly, the District Court's refusal to enter default despite a clear failure to plead or otherwise defend, in contravention of Federal Rule of Civil Procedure 55(a), represents a disregard for the established procedural rules governing litigation. The rule is clear that if a defendant fails to plead or otherwise defend, the clerk *\*must\** enter default. This is a ministerial act, meaning

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<sup>1</sup> The District Court entered an erroneous order on June 6, 2025, implicating Federal Rule of Civil Procedure 60(b)(1) that Petitioner's Response to the OSC was "well overdue."

the clerk doesn't have discretion to refuse to enter the default if the failure to respond is evident. The clerk's action is based on the affidavit or other evidence showing the default.

Secondly, a motion for an extension of time, while it may toll the time to respond to a pleading, does not constitute a responsive pleading itself. Allowing a defendant to endlessly extend the deadline without ever filing a substantive defense would effectively negate the purpose of default judgments and hinder the administration of justice.<sup>2</sup>

Finally, the unique circumstances surrounding this case, including the involvement of a universally applied injunction and the inapplicability of the Eleventh Circuit's certiorari jurisdiction, further highlight the necessity of this Court's intervention. The district court that issued the injunction specifically determined it did not apply to the Defendant, and this determination was made to the clerk before the case was formally docketed.

This case presents an opportunity for this Court to clarify the proper application of default judgment procedures and the role of motions for extension of time in preventing default. Failure to address this issue could lead to inconsistent application of the Federal Rules of Civil Procedure across jurisdictions and prejudice plaintiffs seeking to enforce their rights.

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<sup>2</sup> The seminal Florida case clarifying that a Florida Rule of Civil Procedure 1.090 extension of time does not automatically toll the deadline to respond is *Koppel v. Ochoa*, 243 So. 3d 886 (Fla. 2018). *United States, Appellee, v. \$23,000 in United States Currency, Defendant, rené Rodríguez-barrientos, Claimant, Appellant*, 356 F.3d 157 (1st Cir. 2004) emphasized that an entry of default is an interlocutory order recognizing a defendant's failure to defend, while the entry of a default judgment is a final judgment.

## CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that a writ of certiorari issue to review the order of the United States District Court for the Middle District of Florida.

Respectfully submitted,

*Angela W. DeBose*  
Angela W. DeBose, Petitioner