

No. _____

25-7006

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES

DONNAHUE GEORGE,
Petitioner,

v.

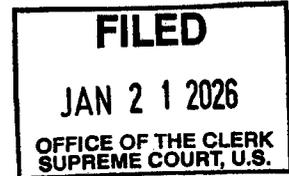
KEN GRIFFIN; CITADEL SECURITIES LLC;
CITADEL LLC; CITADEL CONNECT;
FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA);
DEPOSITORY TRUST & CLEARING CORPORATION (DTCC);
ROBINHOOD MARKETS, INC.,

Respondents.

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

Donnahue George
1012 NW 2nd Street
Fort Lauderdale, FL 33311
(347) 216-5257
DonnahueGeorge@gmail.com

Petitioner Pro Se



QUESTIONS PRESENTED

1. Whether Federal Rule of Civil Procedure 6(b)(1)(B) — which requires a motion and a showing of “excusable neglect” to consider a filing after a deadline — may be bypassed without motion or findings, thereby nullifying its mandatory gatekeeping function.
 2. Whether a federal appellate court may allow Rule 12 dispositive motions to proceed despite being untimely under Rule 12(a), without requiring defendants to move under Rule 6(b) or show cause, effectively making the deadlines discretionary.
 3. Whether permitting such silent deadline forgiveness introduces non-uniformity across federal courts, undermining the purpose of the Federal Rules of Civil Procedure and inviting widespread procedural abuse.
 4. Whether a decision like this, published and indexed on **govinfo.gov** and **PACER**, has nationwide persuasive authority and institutional impact, regardless of its “unpublished” designation, warranting this Court’s intervention.
-

PARTIES TO THE PROCEEDING

- **Petitioner:** Donnahue George
- **Respondents:**
 - Ken Griffin
 - Citadel Securities Market Maker
 - Citadel Connect Dark Pool
 - Citadel LLC Hedge Fund
 - Robinhood, LLC
 - Depository Trust & Clearing Corporation (DTCC)
 - Financial Industry Regulatory Authority (FINRA)

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TABLE OF AUTHORITIES

Cases

- *Ashcroft v. Iqbal*, 556 U.S. 662 (2009)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)
- *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353 (11th Cir. 1997)
- *Hanna v. Plumer*, 380 U.S. 460 (1965)
- *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P'ship*, 507 U.S. 380 (1993)
- *Smith v. Psychiatric Solutions, Inc.*, 750 F.3d 1253 (11th Cir. 2014)
- *Torres v. Oakland Scavenger Co.*, 487 U.S. 312 (1988)

Rules and Statutes

- 28 U.S.C. § 1254(1)
- Fed. R. Civ. P. 6(b)(1)(B)
- Fed. R. Civ. P. 12(a)(1)(A)(i)
- Fed. R. Civ. P. 15(a)(1)(B)
- Supreme Court Rule 10
- Supreme Court Rule 39

PART 3 — OPINIONS BELOW, JURISDICTION, AND PROVISIONS INVOLVED

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is unpublished but publicly accessible and indexed:

- *George v. Griffin*, No. 24-13718 (11th Cir. Nov. 13, 2025)

The district court's order dismissing the Second Amended Complaint was entered by the United States District Court for the Southern District of Florida in Case No. 0:21-cv-61719-KMM.

JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit was entered on **November 13, 2025**. And Motion for Rehearing and En banc rehearing was denied on **December 31, 2025**.

Petitioner invokes this Court's jurisdiction under **28 U.S.C. § 1254(1)**.

This petition is timely filed within 90 days of the entry of judgment, in accordance with **Supreme Court Rule 13.1**.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Relevant provisions include:

- **Federal Rule of Civil Procedure 6(b)(1)(B)**

“When an act may or must be done within a specified time, the court may, for good cause, extend the time ... on motion made after the time has expired if the party failed to act because of excusable neglect.”

- **Federal Rule of Civil Procedure 12(a)(1)(A)(i)**

“A defendant must serve an answer ... within 21 days after being served with the summons and complaint.”

- **Federal Rule of Civil Procedure 15(a)(1)(B)**

“A party may amend its pleading once as a matter of course within ... 21 days after service of a motion under Rule 12(b).”

- **28 U.S.C. § 1254(1)**

“Cases in the courts of appeals may be reviewed by the Supreme Court by ... writ of certiorari granted upon the petition of any party to any civil or criminal case.”

- **Supreme Court Rule 10**

(Guidance on considerations governing review on certiorari, including circuit conflict and departure from accepted rules of procedure.)

These provisions are reproduced in the Appendix.

PART 4 — STATEMENT OF THE CASE

This case asks whether federal courts may disregard **Rule 12(a) deadlines** and allow dispositive motions to proceed **years late**, without a **Rule 6(b) motion**, without a finding of **excusable neglect**, and even **after a trial and mediation scheduling order has been entered** — thus nullifying the mandatory structure of federal civil procedure an unintentionally creating a tolling doctrine not found in federal laws or statutes

I. Original Complaint, Amendment, and Service

On **August 17, 2021**, Petitioner **Donnahue George** filed a civil action in the Southern District of Florida against **Ken Griffin, Citadel Securities, Citadel Connect, Citadel LLC, Robinhood, DTCC, and FINRA**.

On **September 7, 2021**, he filed a **First Amended Complaint**.

Defendants were served or waived service as follows:

- **FINRA** — Waived service; Rule 12(a)(1)(A)(ii) response due: **November 8, 2021**
- **Robinhood** — Waived service; response due: **November 22, 2021**
- **DTCC** — Waived service; response due: **November 29, 2021**
- **Citadel** — Filed a motion requesting an extension to respond by **November 22, 2021**, but **the court never ruled on it**, so **no extension was granted** and **no response was timely filed**.

No defendant filed a Rule 12(b)(6) motion by the applicable deadline.

II. District Court Dismissal (October 2021)

On **October 29, 2021**, the district court **sua sponte dismissed** the case for failure to file a joint scheduling report under Rule 26(f). This occurred **before** any Rule 12 motions had been filed and **before** the Rule 12(a) deadlines had expired.

Petitioner filed a **Second Amended Complaint** on **November 4, 2021**, but did not move to reopen. Instead, he filed an interlocutory appeal.

III. Eleventh Circuit Reversal and Remand (January 2024)

On **January 31, 2024**, the Eleventh Circuit issued a **limited remand**, holding that the dismissal was improper and that the district court should consider reopening the case. See *George v. Griffin*, No. 21-14208, 2024 WL 366388 (11th Cir. Jan. 31, 2024).

IV. Case Reopened and Scheduling Order Issued (April 2024)

On **April 2, 2024**, the district court **reopened the case**.

Shortly thereafter, the court issued a **new scheduling order**, which:

- Directed the parties to attend **mediation**,(ECF 100)
- Set a **trial calendar** (,ECF 99)

This made clear that the court viewed the matter as proceeding toward **trial** — not back to the pleading stage.

V. Untimely Rule 12 Motions Filed — No Rule 6(b) Motion

On **April 12, 2024**, all defendants filed **Rule 12(b)(6) motions to dismiss** — years after their original Rule 12(a) deadlines had expired.

Critically:

- **No defendant filed a Rule 6(b)(1)(B) motion** requesting leave to file late.
- **No finding of excusable neglect** was made.
- **No motion to vacate the scheduling order** was filed.
- The trial and mediation schedule remained active and unmodified.
- Plaintiff Donnahue George argued that the motion was untimely
- The district court said **nothing** about the missed deadlines and instead **granted the motions** on the merits.

This allowed Rule 12 to be **used as a last-minute weapon** — not as a responsive pleading governed by strict deadlines.

VI. Eleventh Circuit Affirmance Without Addressing Procedural Collapse

On **November 13, 2025**, the Eleventh Circuit **affirmed** the dismissal. See *George v. Griffin*, No. 24-13718 (11th Cir. Nov. 13, 2025).

The panel stated that the Rule 12(b)(6) motions were “timely because the case had been reopened,” but:

- **Did not cite Rule 6(b),**
- **Did not analyze excusable neglect,**
- **Did not explain how reopening revived expired deadlines, and**
- **Did not address the scheduling order that placed the case on a trial track.**

The court offered **no analysis of why the Rule 12(a) and 6(b) procedures no longer applied,** leaving the question open and dangerous.

VII. A Structural Procedural Breakdown with National Implications

This is not a dispute over facts or merits. It is a challenge to a systemic procedural breakdown now **memorialized in the federal record.**

Because the Eleventh Circuit decision is indexed on **PACER** and **govinfo.gov**, it now holds **persuasive authority** across jurisdictions. It invites:

- Strategic delay of responsive pleadings,
- Circumvention of trial schedules,
- Ambush dispositive motions,
- And routine violation of Rule 12(a) and Rule 6(b), all without accountability.

Only this Court can resolve whether such discretionary disregard of mandatory rules is permissible under the Federal Rules of Civil Procedure.

PART 5 — REASONS FOR GRANTING THE WRIT

I. The Eleventh Circuit's Decision Effectively Nullifies Rule 6(b)

Under **Federal Rule of Civil Procedure 6(b)(1)(B)**, a court may enlarge time **after a deadline has passed** only if:

1. The party **files a motion**, and
2. Shows **excusable neglect**.

These are **not optional requirements**. They are jurisdictional thresholds to be satisfied **before** a court may consider untimely filings.

Here, **no party filed a Rule 6(b) motion**. No defendant made any showing — formal or informal — of excusable neglect. No hearing or order addressed the lateness of the motions at all.

Yet the district court **considered and granted Rule 12(b)(6) motions** filed years after the **Rule 12(a) deadlines had expired**, and the Eleventh Circuit affirmed without citation or discussion of Rule 6(b). That silence functionally eliminates the rule.

This Court has made clear that procedural rules must be followed. In *Torres v. Oakland Scavenger Co.*, 487 U.S. 312 (1988), the Court rejected arguments that “harmless procedural mistakes” should be overlooked where a **jurisdictional rule** was not met.

By permitting silent bypass of Rule 6(b), the courts below have **effectively repealed** it.

II. The Decision Renders Rule 12(a) Deadlines Advisory, Not Mandatory

Rule 12(a)(1)(A) requires defendants to respond:

- Within **21 days** of service (or 60 days if service is waived).

Those deadlines are not aspirational — they are compulsory, and their purpose is to protect plaintiffs from open-ended delay.

In this case, every defendant **missed the Rule 12(a) deadline**, including:

- Citadel — whose motion for extension was **never ruled upon**;
- DTCC, FINRA, Robinhood — whose deadlines expired in **November 2021**.

Despite that, the defendants were allowed to file dispositive motions in **April 2024**, nearly **2.5 years later**, with **no court order reviving the deadlines**, **no Rule 6(b) motion**, and **no judicial explanation**.

The Eleventh Circuit’s decision to treat these late filings as “timely” purely because the case had been reopened **breaks the structure** of the rules. It sends the message that Rule 12 deadlines are **discretionary suggestions** — not binding requirements.

That ruling cannot be squared with the text or purpose of the Federal Rules.

III. This Decision Undermines Pretrial Sequencing and Case Management

This case did not simply involve untimely motions — it involved motions filed **after the court issued a trial and mediation scheduling order**.

The district court:

- **Reopened the case in April 2024**, and
- Immediately issued a **Rule 16 scheduling order**, setting deadlines for:
 - Mediation,
 - Trial,
 - Discovery,
 - And dispositive motions on the merits.

By issuing that order, the court had already moved the case **past the pleadings stage** and into pretrial litigation.

Yet the defendants were permitted to file Rule 12(b)(6) motions — **designed to be filed at the outset of litigation** — at the very moment the case was heading toward trial.

No party moved to modify the scheduling order, and **no party sought leave to file out of time**.

The court, without addressing any of these conflicts, simply ruled on the merits.

If that is permissible, **there is no longer any structure or predictability to the timing of Rule 12 motions**. Parties may simply **wait until after trial is scheduled** to assert late-filed motions to dismiss — using them as an ambush strategy.

IV. The Decision Promotes Procedural Abuse and Increases Appeals

By treating missed deadlines as irrelevant:

- **Defendants** may now **weaponize silence** — delaying their Rule 12 defenses until strategically advantageous.
- **Plaintiffs** will object, leading to **routine procedural appeals**.
- **District courts** will split on whether Rule 6(b) must be invoked.
- **Pretrial scheduling orders** will lose force.

This Court has long warned against inconsistent enforcement of procedural rules. See *Hanna v. Plumer*, 380 U.S. 460 (1965) (emphasizing uniformity of federal procedure as essential to due process and equality of outcome).

This case exemplifies the **precise type of inconsistency and forum manipulation** *Hanna* sought to prevent.

V. The Danger Is National Because the Ruling Is Public and Indexed

Although the Eleventh Circuit's opinion is labeled "unpublished," it is:

- **Indexed on PACER,**
- **Searchable on govinfo.gov,** the government's official judicial database,
- And already **cited in Westlaw and LexisNexis.**

This gives the decision **practical nationwide effect**, especially in lower courts.

Future litigants will cite *George v. Griffin* to argue that:

- Rule 12 deadlines can be ignored if a case is ever dismissed and reopened;
- Courts may accept untimely motions without invoking Rule 6(b); and
- Scheduling orders may be disregarded without consequence.

This Court should grant certiorari to prevent these outcomes from spreading across the federal system.

PART 6 — CONCLUSION

This petition presents a narrow but urgent procedural question of federal importance:

Whether Rule 12(a) deadlines and Rule 6(b)'s excusable neglect standard are mandatory — or whether courts may allow dispositive motions years late, without motion, without findings, and even after entering trial schedules, simply by choosing not to enforce the rules.

The decision below did not merely overlook a procedural detail. It silently nullified key provisions of the Federal Rules of Civil Procedure, and in doing so, invited unpredictable and inconsistent practices that now endanger procedural fairness nationwide.

Because the Eleventh Circuit's ruling is:

- Publicly accessible and searchable on **PACER** and **govinfo.gov**,
- Already relied upon by parties in ongoing litigation,
- And expressly silent on Rules **12(a)** and **6(b)**,

it now functions as **persuasive precedent for procedural nullification** across jurisdictions.

This Court's intervention is warranted to resolve a **recurring and systemic question** that affects **every civil case** in federal court:

- Are Rule 12(a) and Rule 6(b) binding rules — or flexible suggestions?

Only this Court can restore clarity, consistency, and enforceability to these foundational provisions of federal procedure.

Respectfully submitted,

Donnahue George
Pro Se Petitioner
1012 NW 2nd street

Fort Lauderdale FL 33311

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