

Dale Sundby
5282 W. Arid Canyon Dr., Marana, Arizona 85658

September 14, 2026

By FedEx 8771 5738 7520

Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR A WRIT OF CERTIORARI

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Pursuant to Rules 13.5, 22, 30.2, and 30.3 of this Court, Petitioners Dale Sundby and Edith Sundby respectfully request a 60-day extension of time, from September 15, 2026 to and including November 16, 2026, within which to file a petition for a writ of certiorari to review the February 19, 2026 judgment of the United States Court of Appeals for the Ninth Circuit in *Sundby v. Landau*, No. 25-4180. The Ninth Circuit denied Petitioners' timely petition for rehearing and rehearing en banc on June 17, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1). Copies of the Ninth Circuit's memorandum disposition and order denying rehearing are attached.

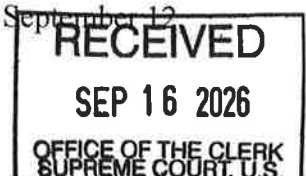
TIMELINESS OF THE APPLICATION

Applicants timely submitted their original application for an extension of time on September 1, 2026, fourteen days before the September 15, 2026 deadline for filing the petition. As confirmed by the Clerk's September 8, 2026 letter, the original application was postmarked September 1, 2026 and received by the Court on September 3, 2026. The Clerk returned the application because, although the application sought an extension for both Applicants proceeding pro se, it had been signed only by Applicant Dale Sundby.

Applicants were away from home beginning September 5 because of a death in the family and did not receive the Clerk's September 8 letter until after 10:00 p.m. on Saturday, September 12, upon returning home. Applicants acted immediately to correct the identified deficiency. Both Applicants have now signed this corrected application, and a copy has been served on opposing counsel as directed by the Clerk.

Accordingly, this corrected application cures the Rule 33.2 signature deficiency in the application timely submitted on September 1, 2026. Applicants respectfully request that it be treated as the correction of that timely application.

Alternatively, if the corrected application is deemed filed on the date of resubmission, extraordinary circumstances warrant its consideration under Rule 13.5. Applicants timely sought the extension fourteen days before the petition deadline, and the Court received the application before that deadline. The present timing results from the Clerk's return of that timely application for correction of a signature deficiency, Applicants' absence from home because of a death in the family, their receipt of the Clerk's letter only after 10:00 p.m. on Saturday, September 12, and their immediate correction of the deficiency upon learning of it.



BACKGROUND

The petition arises from a district court order dismissing Claims One through Six, asserted among three plaintiffs, without leave to amend, while granting leave to amend only Claim Seven, asserted by a single plaintiff. The district court stated that if Claim Seven was not amended, it would enter an appealable judgment. After Claim Seven was not amended, the court dismissed the entire action under Federal Rule of Civil Procedure 41(b). The Ninth Circuit affirmed that dismissal and, relying on its rule that interlocutory orders do not merge into a sanction dismissal, declined to review the antecedent dismissal rulings.

The petition presents three related questions: (1) whether claims already dismissed without leave to amend remain reviewable after a later Rule 41(b) dismissal based solely on the failure to amend a different plaintiff's different claim; (2) whether a district court may require a trust to obtain counsel before determining whether its trustee, as the asserted sole beneficial owner of the interests at issue, may conduct his own case personally under 28 U.S.C. § 1654; and (3) whether Rule 17(a)(3) permits a court to deny ratification, joinder, and substitution as unnecessary and then dismiss based upon its assumed resolution of the disputed ownership question those procedures were invoked to resolve.

The Ninth Circuit resolved the appeal in an unpublished memorandum. It affirmed the Rule 41(b) dismissal and declined to review the antecedent rulings, while describing the district court's earlier order as "granting defendants' motions to dismiss with leave to amend." The district court's order, however, expressly dismissed Claims One through Six "without prejudice but without leave to amend."

GROUND FOR EXTENSION

First, the petition presents three distinct and substantial questions of federal procedure concerning Federal Rule of Civil Procedure 41(b), 28 U.S.C. § 1654, and Federal Rule of Civil Procedure 17(a)(3). The first requires examination of the circumstances in which antecedent rulings merge into a final judgment following a Rule 41(b) dismissal, including differing approaches among the courts of appeals and the scope of the Ninth Circuit's sanction-forfeiture rule. The remaining questions concern the relationship between a trustee's asserted sole beneficial ownership and the requirement of counsel, and the procedures required by Rule 17(a)(3) when ownership and real-party-in-interest status are disputed. The issues arise from an extensive procedural record spanning related federal proceedings and require careful presentation within this Court's rules.

Second, Petitioners are proceeding pro se, and Dale Sundby is simultaneously litigating several related federal matters involving overlapping parties, facts, and procedural issues. During the period for preparing this petition, Petitioners are facing substantial briefing and other litigation obligations in those proceedings. Additional time is necessary to permit Petitioners to complete the legal research, record review, appendix preparation, and final editing required to present the questions to this Court accurately and concisely.

Third, the requested extension will not prejudice Respondents. The proceedings below have concluded, the Ninth Circuit denied rehearing on June 17, 2026, and the requested extension

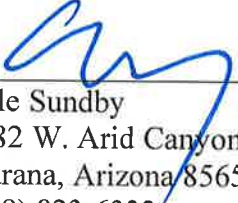
concerns only the time for seeking this Court's discretionary review. No presently scheduled proceeding in the case will be delayed by the requested extension.

CONCLUSION

For the foregoing reasons, Petitioners respectfully request a 60-day extension of time, to and including November 16, 2026, within which to file a petition for a writ of certiorari.

Thank you for your consideration.

Respectfully submitted,



Dale Sundby
5282 W. Arid Canyon Dr.
Marana, Arizona 85658
(619) 823-6333
dale@sundby.email



Edith Sundby
5282 W. Arid Canyon Dr.
Marana, Arizona 85658
(858) 775-6322
ediesundby@gmail.com

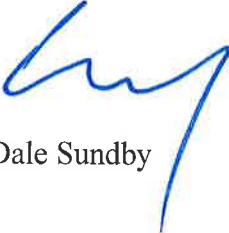
CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2026, a copy of the foregoing Application for Extension of Time to File Petition for Certiorari was served by U.S. mail, postage prepaid, on opposing counsel:

Troy H. Slome, Esq.
Meylan Davitt Jain Arevian & Kim LLP
444 South Flower Street, Suite 3675
Los Angeles, California 90071

Lewis R. Landau (State Bar No. 143391)
22287 Mulholland Hwy., # 318
Calabasas, California 91302

Dated: September 14, 2026



Dale Sundby

EXHIBIT A

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

FEB 19 2026

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DALE SUNDBY, individually and as sole
beneficiary and sole TRUSTEE of Decl. of
Trust, Trust No. 1989-1, Dated: January 26,
1989; EDITH SUNDBY,

Plaintiffs - Appellants,

and

STEFANIE SUNDBY,

Plaintiff,

v.

LEWIS LANDAU; JEFFREY MYERS;
KATHLEEN MYERS; TROY SLOME;
ANDRES SALSIDO, Trustee; STEVEN M.
COBIN; CHRISTOPHER MYERS;
VICKIE McCARTY; TODD B. COBIN,
Trustee; BARBARA A. COBIN, Trustee;
DOLORES THOMPSON; KIMBERLY
GILL RABINOFF; DOROTHY FASACK;
BENNING MANAGEMENT GROUP;
MARQUEE FUNDING GROUP, INC.;
PLATINUM LOAN SERVICING, INC.;
SCOT FINE; RYAN JOE R.J. SOLOVY;
DOES, I-X,

No. 25-4180

D.C. No. 2:24-cv-07276-MCS-BFM

MEMORANDUM*

* This disposition is not appropriate for publication and is not precedent
except as provided by Ninth Circuit Rule 36-3.

Defendants - Appellees,
and
S.B.S. TRUST DEED NETWORK,
Defendant.

Appeal from the United States District Court
for the Central District of California
Mark C. Scarsi, District Judge, Presiding

Submitted February 18, 2026**

Before: CALLAHAN, FRIEDLAND, and BRESS, Circuit Judges.

Dale Sundby, in his individual capacity and as trustee of the Dale H. Sundby and Edith Littlefield Sundby Trust No. 1989-1 dated January 26, 1989, and Edith Sundby appeal pro se from the district court's judgment dismissing their foreclosure-related action. We have jurisdiction under 28 U.S.C. § 1291. We review for an abuse of discretion a dismissal under Federal Rule of Civil Procedure 41(b). *Applied Underwriters, Inc. v. Lichtenegger*, 913 F.3d 884, 890 (9th Cir. 2019). We affirm.

The district court did not abuse its discretion in dismissing plaintiffs' action because plaintiffs failed to comply with the district court's order requiring them to

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

file an amended complaint or provide notice to the court that they would not amend. *See* Fed. R. Civ. P. 41(b) (permitting dismissal “[i]f the plaintiff fails to prosecute or to comply with . . . a court order”); *Edwards v. Marin Park, Inc.*, 356 F.3d 1058, 1065 (9th Cir. 2004) (“The failure of the plaintiff eventually to respond to the court’s ultimatum—either by amending the complaint or by indicating to the court that it will not do so—is properly met with the sanction of a Rule 41(b) dismissal.”); *Pagtalunan v. Galaza*, 291 F.3d 639, 640-43 (9th Cir. 2002) (discussing factors to be considered before dismissing a case for failure to comply with a court order); *see also Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) (explaining that a district court may dismiss sua sponte under Rule 41(b)).

The district court did not abuse its discretion by denying plaintiffs’ post-judgment motion for reconsideration because plaintiffs failed to demonstrate any basis for such relief. *See Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1262-63 (9th Cir. 1993) (setting forth standard of review and grounds for relief under Fed. R. Civ. P. 59(e) and 60(b)); *see also* C.D. Cal. R. 7-18 (setting forth grounds for reconsideration under local rules); *Hinton v. Pac. Enters.*, 5 F.3d 391, 395 (9th Cir. 1993) (setting forth standard of review for compliance with local rules).

In light of our disposition, we do not consider plaintiffs’ challenges to the

district court's orders granting defendants' motions to dismiss with leave to amend and denying plaintiffs' first motion for reconsideration. *See Al-Torki v. Kaempfen*, 78 F.3d 1381, 1386 (9th Cir. 1996) (holding that where dismissal was a sanction, interlocutory orders are not appealable).

AFFIRMED.

EXHIBIT B

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JUN 17 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DALE SUNDBY, individually and as sole
beneficiary and sole TRUSTEE of Decl. of
Trust, Trust No. 1989-1, Dated: January 26,
1989; EDITH SUNDBY,

Plaintiffs - Appellants,

and

STEFANIE SUNDBY,

Plaintiff,

v.

LEWIS LANDAU; et al.,

Defendants - Appellees,

and

S.B.S. TRUST DEED NETWORK,

Defendant.

No. 25-4180

D.C. No. 2:24-cv-07276-MCS-BFM
Central District of California,
Los Angeles

ORDER

Before: CALLAHAN, FRIEDLAND, and BRESS, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no
judge has requested a vote on whether to rehear the matter en banc. *See Fed. R.*
App. P. 40.

The petition for panel rehearing and petition for rehearing en banc (Docket Entry No. 33) are denied.

This court will not entertain any further filings in this closed case.