

No. 06-1 JUN 28 2006

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

AVERILL PARK CENTRAL SCHOOL DISTRICT,
AVERILL PARK CENTRAL SCHOOL DISTRICT BOARD
OF EDUCATION, and AVERILL PARK HIGH SCHOOL,

Petitioners,

v.

LOUIS J. CIOFFI, III,

Respondent.

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

PETITION FOR A WRIT OF CERTIORARI

BETH A. BOURASSA
Counsel of Record
JOHN P. CALARESO, JR.
WHITEMAN OSTERMAN
& HANNA LLP
One Commerce Plaza
Albany, New York 12260
(518) 487-7600

Attorneys for Petitioners



QUESTIONS PRESENTED

On April 4, 2006, the United States Court of Appeals for the Second Circuit reversed the District Court's decision that the Averill Park Central School District had not violated the First Amendment rights of its former Athletic Director Louis Cioffi, and remanded Cioffi's First Amendment claim for jury trial. In so doing, the Second Circuit concluded that Cioffi's speech touched on matters of public concern and was accordingly protected under the First Amendment. Eight weeks later, on May 30, 2006, this Court decided *Garcetti v. Ceballos*, 126 S. Ct. 1951 (2006), holding that the First Amendment does not protect statements made by public employees pursuant to their professional duties. The Second Circuit, in attempting to anticipate this Court's then-pending decision, incorrectly assumed that a public employee's speech would remain protected, even when made within the scope of his or her official duties, so long as it touched on a matter of public concern. This Court's decision in *Garcetti* calls into question the decision of the Second Circuit, and necessitates this petition for review on the following questions:

1. Whether the United States Court of Appeals for the Second Circuit has extended First Amendment protection to any speech by a public employee which touches on a matter of public concern, without due regard for whether the employee spoke within the scope of his official duties, and inconsistent with this Court's recent decision in *Garcetti v. Ceballos*?

No. 06-2 JUN 29 2006

IN THE OFFICE OF THE CLERK
Supreme Court of the United States

AUTHENTIC HANSOM CABS, LTD., PETITIONER

v.

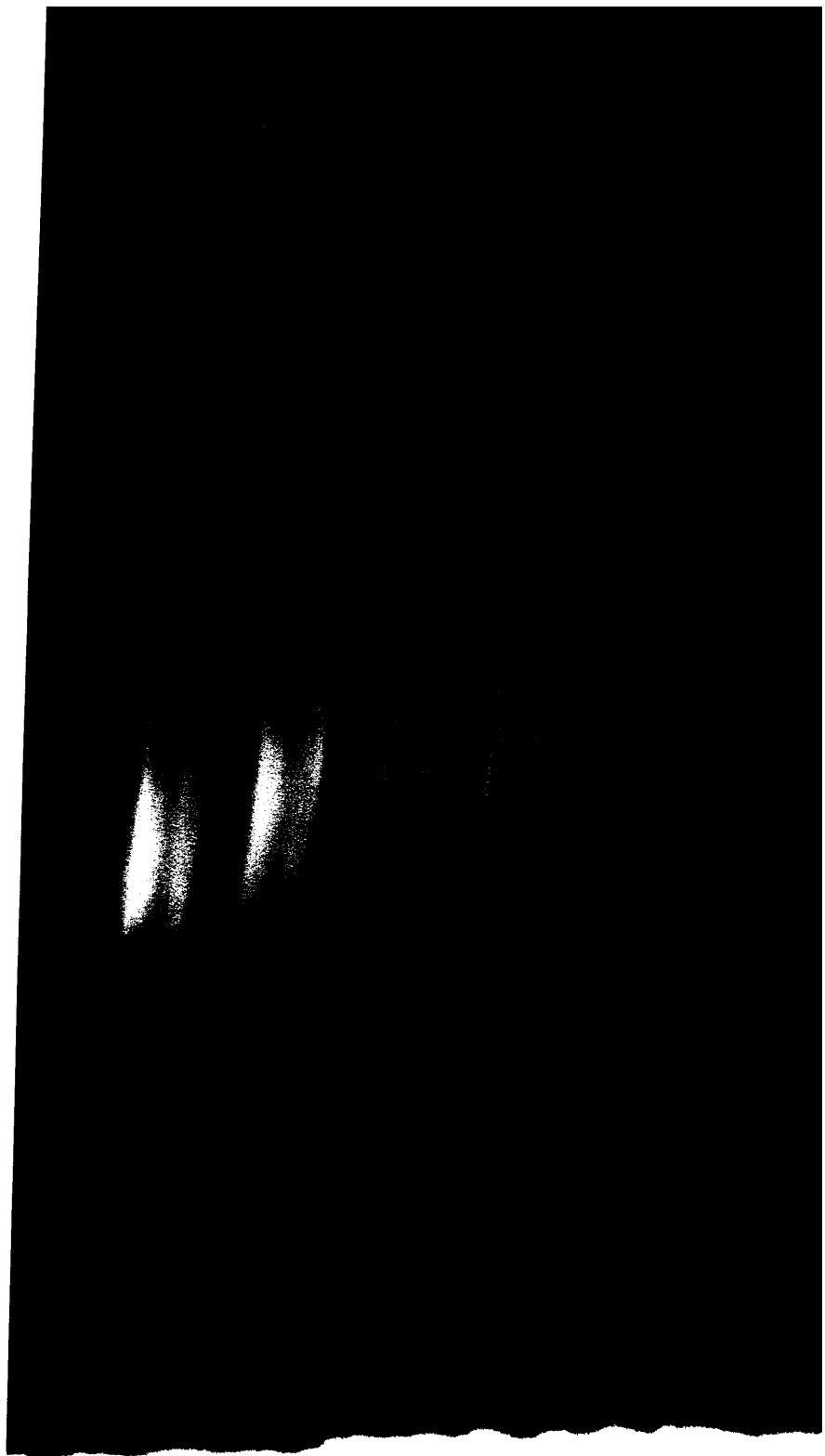
ALAN NISSELSON, TRUSTEE FOR THE
CHAPTER 11 ESTATE OF JOHN FAYOLLE AND
RIVERBANK LANDSCAPE, LTD., FRANK
SINATRA, TRUSTEE FOR THE CHAPTER 11
ESTATE OF ARISTOCRATIC COACH CORP.,
ANCHOR PAPER STOCK CO., INC., AND 504
WEST 38 L.L.C.,

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

PETITION FOR WRIT OF CERTIORARI

Richard J. Pilson Esq. Berliner & Pilson 3 New York Plaza 18th Floor New York , NY , 10004 (212)425-8500	Marina Tramontozzi <i>Counsel of Record</i> 40 Country Club Road North Reading, MA 01864 (978) 664-1671
---	---

Attorneys for Petitioner



2

QUESTION PRESENTED

After *Jones v. Flowers*, 126 S.Ct. 1708 (2006), is the procedure set forth in *Rule 7004(b)*, *Federal Rules of Bankruptcy Procedure* unconstitutional because it does not require a court-appointed Trustee to affirmatively take any additional efforts when a mailed notice is returned undelivered before taking the property in deviation with the rules of civil procedure thereby liberalizing the requirement of notice under the due process clause?



No. _____

06-3 JUL 2 - 2006

~~OFFICE OF THE CLERK~~

In The
Supreme Court of the United States

—◆—
PAYLESS SHOESOURCE, INC.,

Petitioner,

v.

ADIDAS AMERICA, INC. and ADIDAS-SALOMON AG,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit**

—◆—
PETITION FOR A WRIT OF CERTIORARI
—◆—

ALAN UNTEREINER
ROBBINS, RUSSELL, ENGLERT,
ORSECK & UNTEREINER LLP
1801 K Street, N.W.
Suite 411
Washington, D.C. 20006
(202) 775-4500

WILLIAM R. HANSEN
WILLIAM A. RUDY*
ALOK AHUJA
LATHROP & GAGE L.C.
2345 Grand Blvd.
Kansas City, MO 64108
(816) 292-2000

* *Counsel of Record*

Counsel for Petitioner

QUESTIONS PRESENTED

1. Whether a district court, under Fed. R. Civ. P. 54(b), may properly enter a partial final judgment (subject to immediate appeal) resolving some – but not all – of a plaintiff’s legal theories, where the purportedly separate and certifiable “claims for relief” arise from substantially the same facts as the unresolved claims, are subject to the same defense as the unresolved claims, seek substantially overlapping relief as the unresolved claims, and arise from facts that also form the basis of unresolved counterclaims.

2. Whether a Rule 54(b) judgment may be upheld, despite the substantial factual and legal overlap between adjudicated and unadjudicated causes of action, defenses, and requested remedies, on the grounds that (a) an immediate appeal might eliminate the possibility of two trials in the event of an appellate reversal, (b) the underlying litigation is not “routine” (*Wood v. GCC Bend, LLC*, 422 F.3d 873, 882 (9th Cir. 2005)), or (c) the appeal “revolves around a single issue” purportedly distinct from the remaining claims.

No. 06-4 Supreme Court of the United States JUN 29 2006

In the OFFICE OF THE CLERK
Supreme Court of the United States

WASHINGTON INTERNATIONAL INSURANCE COMPANY,
Petitioner,

v.

UNITED STATES,
Respondent.

On Petition for a Writ of Certiorari to the United
States Court of Appeals for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

EDWARD M. JOFFE
Counsel of Record
GILBERT LEE SANDLER
THE WATERFORD - SUITE 600
5200 BLUE LAGOON DRIVE
MIAMI, FL 33126
(305) 267-9200

Counsel for Petitioner

June 29, 2006

4

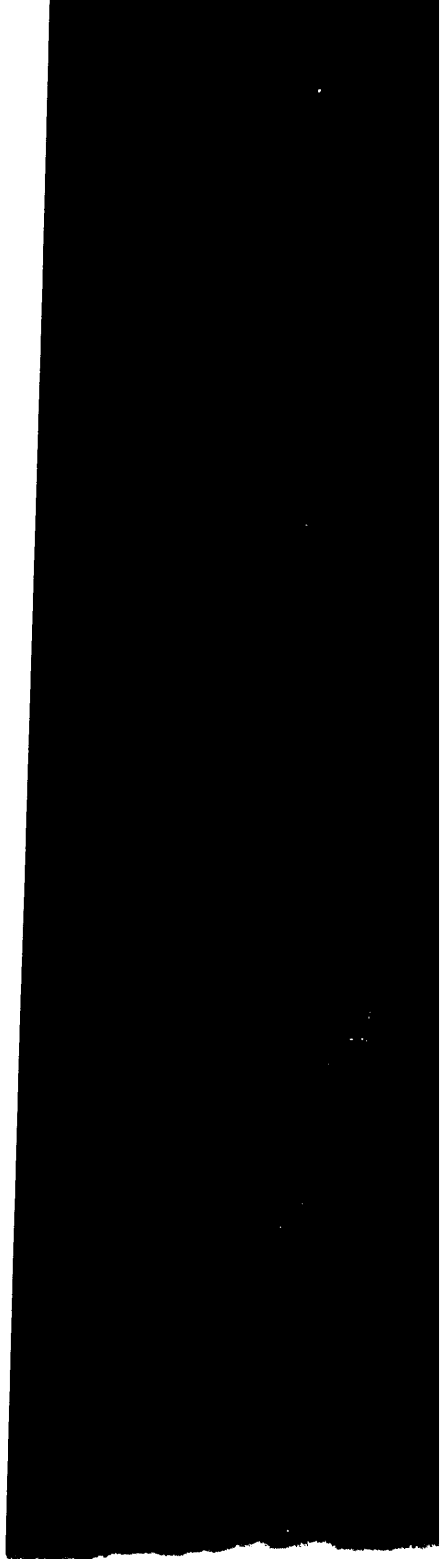
QUESTIONS PRESENTED

The presence of 19 packages of cocaine on the M/V FRIENDLY EXPRESS in the Port of Miami, Florida, on July 2, 1998, resulted in two separate actions of the Government -- the filing of an *in personam* civil penalty action against the obligors of a \$50,000 international transportation bond and the filing of an *in rem* forfeiture action against the vessel. While both actions are authorized by law, a significant federal issue exists as to whether Supreme Court precedent on *res judicata* was ignored or improperly limited, where the Eleventh Circuit held that the settlement of the forfeiture case did not preclude seeking civil penalties against a party not involved in the forfeiture action or its settlement.

The *In Rem* Forfeiture Action. The Government filed an action against the vessel on September 30, 1999. Ameritrade Terminals, Inc. (Ameritrade), as agent of the vessel owner, filed an answer and verified claim asserting a maritime lien claim for agency fees, crew advances, penalties and fines furnished for the vessel in the amount of \$571,300.

On June 7, 2000, the United States and Ameritrade entered into a settlement agreement of the *in rem* forfeiture action. Under that agreement, the vessel was forfeited to the government. The government paid Ameritrade \$5,306.83 in satisfaction of its claims and allowed it to file an out-of-time administrative petition for relief within thirty (30) days of the agreement contesting the civil penalty. On June 27, 2000, the District Court granted the government's motion for default judgment of forfeiture against the vessel and approved and adopted the settlement agreement.

The Civil Penalty Case. The obligors under the bond were the ship's agent, Ameritrade, as principal



06-51 JUN 29 2006

No. 06-

~~OFFICE OF THE CLERK~~

IN THE
Supreme Court of the United States

DOREL INDUSTRIES, INC.,

Petitioner,

v.

SUPERIOR COURT OF SANTA CLARA COUNTY,
CALIFORNIA,

Respondent.

(Jonathan Jackson III, by and through his Guardian ad Litem,
Jocelyn Sullivan, and Jocelyn Sullivan, Real Parties in Interest)

ON PETITION FOR A WRIT OF CERTIORARI TO THE
COURT OF APPEAL OF CALIFORNIA, SIXTH DISTRICT

PETITION FOR A WRIT OF CERTIORARI

CATHERINE M. MASTERS
Counsel of Record
CAROL R. PRYGROSKY
JONATHAN JUDGE
SCHIFF HARDIN LLP
6600 Sears Tower
Chicago, Illinois 60606
(312) 258-5500

Attorneys for Petitioner



QUESTION PRESENTED

The Constitution forbids courts from exercising jurisdiction over a foreign defendant unless the defendant has minimum contacts with the forum. The California courts have adopted a "representative services doctrine," attributing to foreign parent corporations the contacts of their subsidiaries, when the subsidiaries perform a function assisting the parents' business. The court below applied this doctrine to exercise jurisdiction over a Canadian defendant whose indirect Indiana subsidiary sold products in California, only because the parent purchased *different* products from the subsidiary *outside* California. Is California's doctrine, which conflicts with every federal Circuit that has considered the issue, constitutionally permissible?

ICE OF THE CLERK In The
Supreme Court of the United States

—◆—
CAN-AM INTERNATIONAL, L.L.C.,

Petitioner,

v.

THE REPUBLIC OF TRINIDAD AND TOBAGO;
THE TOBAGO HOUSE OF ASSEMBLY,

Respondents.

—◆—
**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Fifth Circuit**

—◆—
PETITION FOR A WRIT OF CERTIORARI

—◆—
ALICE OLIVER-PARROTT
Counsel of Record for Petitioner
MARIA TERESA ARGUINDEGUI
Attorney for Petitioner
SHARI GOLDSBERRY
Of Counsel
BURROW & PARROTT, L.L.P.
1301 McKinney Street
Suite 3500
Houston, Texas 77010-3092
(713) 222-6333

6

QUESTIONS PRESENTED

Did the foreign defendants waive the right to assert sovereign immunity under 28 U.S.C. §1605(a)(1) of the Foreign Sovereign Immunity Act where they expressly waived such immunity?

Did the foreign defendants waive the right to assert sovereign immunity under 28 U.S.C. §1605(a)(2) where the plaintiff acted as the defendant's agent-in-fact while conducting commercial activity in the United States and was directly affected?



06-7 JUN 29 2006

No. _____ OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

CLEMENTON BOARD OF EDUCATION,

Petitioner,

v.

P.N., an infant, individually and by his parent and legal
guardian, M.W.,

Respondents.

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

PETITION FOR A WRIT OF CERTIORARI

JAMES F. SCHWERIN
(counsel of record)
PARKER McCAY
1009 Lenox Drive
Bldg. 4 East, Suite 102A
Lawrenceville, NJ 08648
(609) 896-4222

Attorneys for Petitioner

QUESTIONS PRESENTED

The Third Circuit reversed the United States District Court for the District of New Jersey, which had dismissed an action for attorney's fees pursuant to the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §1400, et seq. The parties to the dispute - a local educational agency ("LEA") under the IDEA and a student eligible for services there under - had settled a due process matter that had been filed by the family, without a hearing having taken place. Attorney's fees were then sought in the District Court. Although rejecting the LEA's position that the Consent Orders entered by the Administrative Law Judge ("ALJ") failed to satisfy the standards enunciated by this Court in *Buckhannon Board & Care Home, Inc. v. West Virginia Department of Health & Human Resources*, 532 U.S. 598 (2001), the District Court nonetheless dismissed the Complaint on the grounds that the relief obtained was *de minimis*.

The Third Circuit reversed. While agreeing with the District Court that the *Buckhannon* standard was satisfied, in disagreement with at least one other circuit (the Eighth), the Third Circuit found that reimbursement of \$425 plus restoration of the status quo existing before the filing of the due process petition was enough to justify award of a fee.

No. _____

In The
Supreme Court of the United States

UNITED RETIRED PILOTS BENEFIT
PROTECTION ASSOCIATION, et al.,

Petitioners,

v.

UNITED AIR LINES, INC., et al.,

Respondents.

**On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Seventh Circuit**

PETITION FOR A WRIT OF CERTIORARI

JACK J. CARRIGLIO
Counsel of Record

ERIC E. NEWMAN
JAMES G. ARGIONIS
JENNIFER J. POMARANSKI
MECKLER BULGER &
TILSON LLP
123 N. Wacker Drive,
Suite 1800
Chicago, IL 60606
(312) 474-7900

FRANK CUMMINGS
LEBOEUF, LAMB, GREENE &
MACRAE LLP
1875 Connecticut Avenue, NW
Washington, DC 20009
(202) 986-8000

Counsel for Petitioners

QUESTIONS PRESENTED

If the collective-bargaining agreement that is in existence on the date a union employee retires provides to that employee the right to receive pension benefits for the rest of his or her life, those benefits become contractually vested on his or her retirement date. Under well-established law, after that employee retires, his or her former employer may not modify or terminate the retiree's contractually vested benefits without the actual consent of the retiree. The questions presented are:

- (1) Is an employer who is reorganizing under Chapter 11 of the Bankruptcy Code obligated to satisfy the requirements of 11 U.S.C. § 1113 and negotiate in good faith with an authorized representative for retired employees who have contractually vested pension rights before the employer modifies or terminates the pension benefits?
- (2) If a bankruptcy court approves an agreement between a Chapter 11 debtor and a union that only represents active employees, and the agreement modifies the pension benefits of the debtor's retired employees, including non-tax-qualified pension benefits that are not insured by the Pension Benefit Guaranty Corporation, even though the debtor failed to negotiate with an authorized representative for retired employees or comply with the other requirements of 11 U.S.C. § 1113 with respect to its retirees, should a reviewing court vacate the order approving the agreement and require the debtor to comply with 11 U.S.C. § 1113?

06-9 JUN 30 2006

OFFICE OF THE CLERK

IN THE
Supreme Court of the United States

DONALD M. HEAVRIN, PETITIONER

v.

J. BAXTER SCHILLING, Trustee

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

PETITION FOR WRIT OF CERTIORARI

Bill V. Seiller
Counsel of Record
Seiller Waterman LLC
Meidinger Tower, 22nd Floor
462 South Fourth Street
Louisville, KY 40202
Phone: (502) 584-7400

QUESTIONS PRESENTED

- 1) Where the Bankruptcy Court, acting as the trial court, fails to make a finding of fact on a critical issue, should the Appellate Courts remand the case to the Bankruptcy Court to make that finding of fact?
- 2) Is a fully assigned life insurance policy part of a bankrupt corporation's estate?