IN THE SUPREME COURT

OF THE

REPUBLIC OF THE MARSHALL ISLANDS

Supreme Court Case No. 2026-00001

In re PACIFIC TRADING & DEV., INC., by CEO Susanne Kayser, Appellant/Petitioner, v. Hon. Witten Philippo, Associate Justice of the High Court, Appellee/Respondent.	**ORDER DENYING PETITION FOR WRIT OF PROHIBITION WITHOUT PREJUDICE**

BEFORE: CADRA, C.J, SEABRIGHT, A.J.,[1] SEEBORG, A.J.[2]

PER CURIAM

I. INTRODUCTION

On July 6, 2026, Susanne Kayser, *pro se* ("Petitioner"), filed an "extraordinary petition for a writ of prohibition" on behalf of Appellant-Petitioner, PACIFIC TRADING & DEV., INC., ("PT&D, Inc.") directed against the Honorable Witten Philippo, Associate Justice of the High Court, Appellee-Respondent ("Respondent").

PT&D, Inc. is represented by local counsel, Divine Waiti, in the case of *Chutaro v. Pacific Trading & Development, Inc.,* High Court Case No. 2026-00001. Petitioner is PT&D, Inc.'s CEO and majority shareholder. She claims she is filing the petition *pro se* because the corporation's local counsel "is unable to assist possibly due to judicial intimidation and personal conflicts."

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[1] J. Michael Seabright, United States District Judge, District of Hawaii, sitting by assignment of the Cabinet.
[2] Richard Seeborg, United States District Judge, District of Northern California, sitting by assignment of the Cabinet.

The petition alleges that Respondent has an "unresolvable family conflict" which disqualifies him from presiding over the underlying case(s) and has exhibited actual bias against Susanne Kayser by a series of allegedly unconstitutional rulings and actions in High Court Case No. 2026-0001, High Court Case No. 2024-01583 and High Court Case No. 2025-207.

The petition seeks orders from this Court (1) disqualifying Respondent "from all matters, past and present, involving Petitioner, including High Court Case No. 2026-00001"; (2) staying all further High Court proceedings in High Court Case No. 2026-0001; (3) vacating the dismissal of an October 2025 Declaratory Judgment action in High Court Case No. 2025-207 "which lacked a legal basis;" and (4) removal of jurisdiction "over both pending January 26 motions for an order to arbitrate in Case No. 2026-00001, and transfer the file to a judge without conflicts, with instructions to grant Petitioner's request for the American Arbitration Association (AAA)."

For the reasons set forth below, Petitioner's *pro se* petition is procedurally improper and is therefore DENIED WITHOUT PREJUDICE to its refiling by counsel of record subject to the requirements of Marshall Islands Rule of Civil Procedure (MIRCP) Rule 11.

II. FACTUAL ALLEGATIONS OF PETITION

To provide context for this order we summarize Petitioner's allegations in her *pro se* petition and accompanying affidavit. We do not, however, comment upon or make any findings regarding the veracity of those allegations and express no opinion on the merits of the petition other than noting there are numerous procedural deficiencies which require its dismissal without prejudice.

The underlying High Court case (*Chutaro v. PT&D, Inc.*, H.Ct. Case No. 2026-0001) arises out of a 2006 "Land Lease for Bikendrik Island Majuro, Republic of the Marshall Islands" between Robbie Martin Chutaro, lessor, and PT&D, Inc., lessee.[3] Respondent is the assigned judge to that case. Susanne Kayser is not a party to that case and has not sought to intervene as a party. The corporate defendant, PT&D, Inc., is represented by counsel Divine Waiti.

Petitioner alleges that Respondent has an "unresolvable conflict of interest" and should be disqualified for that conflict as well as a series of actions demonstrating actual bias. Petitioner alleges Respondent admitted that he had a conflict of interest in representing PT&D, Inc., in 2007 when, as a private attorney, he refused to represent Petitioner and her husband in their corporate matters explaining he was related to Robbie Chutaro.[4] Since that time, Petitioner believes that Respondent "has a bias against me that has increased manifold since I am now dealing with some other of his extended family members."[5]

Petitioner alleges that in 2020, despite having a valid Foreign Investment Business License and having no need or legal obligation to apply for a work permit, Mercyba Balos, the Director of Immigration and a relative of Respondent's extended family, began "an extrajudicial campaign" to force Petitioner to apply for work permits and visas which were not legally required.[6] Additionally, Petitioner claimed that Ms. Balos "forced" her to undergo HIV/AIDS testing and obtain a police clearance from Majuro.[7] For four years Petitioner "endured" having to apply every year for a "non-applicable business visa because Ms. Balos would not issue a visa."[8] Apparently, however, Petitioner was eventually issued a visa.; albeit, according to Petitioner, a "false" one.

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[3] Said Land Lease is attached to the petition as Exhibit A.
[4] *See* Petition, p. 3 "**Statement of Facts,**" items 1-3; Affidavit, p. 11, para. 2..
[5] Affidavit, p. 11, para 2.
[6] Petition, pp. 3-4, para. 4 -6, **The 2020 Director Appointment and Coerced Visa Scheme.**
[7] Id.
[8] Affidavit, p. 11, para. 3.

Upon expiration of the "false visa" in 2024, Assistant Attorney General Jonathan Kawasaki, also a relative of Respondent, "drafted a summary removal order" forcing Petitioner to leave and vacate her home and investment on Bikendrik within 14 days.[9] In response, Petitioner filed High Court Case No. 2024-01853 seeking a stay of the removal order.[10] Petitioner's local counsel, Mr. Waiti, who did not want to handle the case because he was a good friend of Ms. Balos, filed a motion for the *pro hac vice* appearance of Petitioner's Austrian lawyer, which Respondent denied.[11] Petitioner also alleges that Respondent "blocked" her from filing evidentiary affidavits in an attempt "to bury the illegal application of statutes."[12] Petitioner and Mr. Waiti was then "forced" by Respondent into a "mutual dismissal" and "Settlement Agreement" with the Attorney General ("AG") which required Petitioner to continue to apply for unnecessary work permit(s) and an inapplicable business visa.[13]

In 2025, after reading in the Marshall Islands Journal about an interview in which the AG stated that the removal order was still in effect, Mr. Waiti filed a "petition for declaratory judgment" in High Court Case No. 025-207.[14] Mr. Waiti sought the recusal of Respondent for actual bias, which was orally denied by Respondent and resulted in "deliberately refusing to issue a written order blocking Petitioner from appealing Respondent's bias to the Supreme Court."[15] Eight months later, Respondent summarily dismissed Case No. 2025-207 for lack of jurisdiction under MIRCP Rule 12(1) without addressing "Section 148" of the Labor Statute or "Section 134" of the Business Visa Statute adding that Petitioner was relitigating the statutory

[9] Affidavit, p. 11-12, para. 4; Petition, p. 4, para. 8-11, **The October 2024 Plot to Force Foreign Investor Property Abandonment**
[10] Affidavit, p. 12, para. 5; Petition, p. 4-5, **The High Court Sabotage and Coerced "Mutual Dismissal."**
[11] Affidavit, p. 12, para 5-6.
[12] Petition, pp. 4-5, para 13 ; Affidavit, p. 12-13, para. 7
[13] Affidavit, p. 13, para. 8..
[14] Affidavit, p. 13, para. 9-10.
[15] Affidavit, p. 13, para. 11; Petition, p. 5. **The October 2025 Case 2025-207 Dismissal and Complete Statutory Erasure.**

provisions.[16] Petitioner contends "He (respondent) permanently buried the statutory text used by Immigration and the Office of the Attorney General in their attempt to divest me of my home and my 18 years of investment."[17]

In January 2026, Robbie Chutaro's counsel filed a petition (H.Ct. Case No. 2026-00001) to arbitrate a dispute over non-payment of rent pursuant to the Arbitration Clause in the 2006 lease agreement between Chutaro and PT&D, Inc.[18] Petitioner also filed a petition seeking to arbitrate before the AAA but "had to file it [herself] (*pro se*) because counsel was dragging."[19] Petitioner alleges "[k]nowing that an international AAA panel would easily discover his (Chutaro's) contract forgeries and cargo theft, Appellee Judge Philippo refused to issue a written order within the last 6 months and attempted to force a trial upon me."[20]

Petitioner alleges that in April 2026, Respondent "intercepted" a proposed status conference order that had already been filed and "with his own hand . . . physically scratched out the printed words 'Status Conference' and overwrote them by hand to read 'Pre-Trial Conference' directly on the public record, thereby attempting to trap me into a trial."[21] Mr. Waiti attended a "forced" pre-trial conference without Petitioner's consent and without objecting to the changed pre-trial conference.[22] Petitioner also alleges Mr. Waiti has not filed a motion to correct the changed status conference notice but is monitoring the file to ensure the case does not go to trial.[23] Petitioner disagrees with Mr. Waiti's decision to not file a motion to correct the notice and

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[16] Affidavit, p. 13, para. 12.
[17] Affidavit, p. 13, para. 12.
[18] We take judicial notice of the High Court record. The "petition" alleges PT&D, Inc. has not paid rent since May 1, 2006
[19] Affidavit, p. 14, para. 13-14; Petition, p. 6, para. 19-24 **The Case No. 2026-00001 Pre-Trial Conference "Trap" to Avoid the AAA.**
[20] Affidavit, p. 14, para 14.
[21] Affidavit, p. 14, para. 15. Exhibit C.
[22] Affidavit, p. 14, para 16.
[23] Affidavit, p. 14, para. 16.

alleges "[t]his is not what I read in case law about it"[24] (apparently referring to the purported legal significance of a document being captioned a "pretrial order" rather than a "status conference.")

Petitioner further alleges that Respondent has refused to issue a written order on the arbitration file but informed Petitioner's local counsel that he will deny the request for the AAA and will "instead hand the arbitration over to his High Court colleague, Associate Justice Anne Bodley, keeping the fraud hidden within his own court system."[25]

Petitioner claims Mr. Waiti has a "conflict of interest" and that she lacks an alternative remedy (other than to file the instant petition for writ of prohibition) due to "judicial extortion and conflict of counsel."[26] She alleges that "[b]y making the appellant's local attorney's work difficult in other cases, Appellee Judge Philippo has pressured the attorney more or less into silence. Along with the attorney's friendship with Director Balos and the judge's partiality for one side and bias against the Appellant on the other, the Appellant has no other way to seek relief except through this extraordinary writ."[27] Petitioner further claims that Mr. Waiti "has abandoned his duty of zealous advocacy, is actively protecting the respondent, and has left the Appellant entirely defenseless in the lower court."[28] In support of her claims that Mr. Waiti is not actively protecting her and has abandoned his duty of zealous advocacy, an attorney-client communication consisting of an e-mail from Mr. Waiti to Petitioner is attached as Exhibit E.

III. DISCUSSION

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[24] Id.
[25] Affidavit, p. 14, para. 17. Petition, p. 7, para. 25-26, **The Backdoor Avoidance of the AAA and the Hand-Off Tactic.**
[26] Petition, p. 8, para. 4 **Judicial Extortion and Conflict of Counsel.**
[27] Id.
[28] Affidavit, p. 15, para. 18.

A. Petitioner Lacks Standing to File the Instant Petition Because She Is Not a Party to H.Ct. Case No. 2026-00001 and Has Not Been Allowed Intervention.

Petitioner is not a party to High Court Case No. 2026-00001. She has not been named as a defendant (or respondent), has not been sued in her individual capacity and has not been granted intervention. The principle that a nonparty may not participate in a lawsuit absent intervention is well established. The U.S. Supreme Court in *United States ex rel. Eisenstein v. City of New York*, 556 U.S. 928, 933 (2009) explained the rule:

> A "party"' to litigation is "one by or against whom a lawsuit is brought." Black's Law Dictionary 1154 (8th ed. 2004). An individual may also become a "party" to a lawsuit by intervening in the action. *See id*, at 840 (defining "intervention" as "[t]he legal procedure by which . . . a third party is allowed to become a party to the litigation"). As the Court long ago explained, "when the term [to intervene] is used in reference to legal proceedings, it covers the right of one to interpose in, *or become a party to*, a proceeding already instituted." *Rocca v. Thompson*, 223 U.S. 317, 330 (1912)(emphasis added). The Court has further indicated that intervention is the requisite method for a nonparty to become a party to a lawsuit. See *Marino v. Ortiz*, 484 U.S. 301, 304 (1988)(*per curiam*)(holding that "when [a] nonparty has an interest that is affected by the trial court's judgment . . . the better practice is for such a nonparty *to seek intervention* for purposes of appeal" because "only parties to a lawsuit, or those that properly become parties, may appeal an adverse judgment" (internal quotation marks omitted; emphasis added)).

See also *Texas v. United States*, 679 F.App'x. 320, 323 (5th Cir. 2017); *Microsystems Software, Inc. v. Scandinavia Online AB*, 226 F.3d 35, 39 (1st Cir. 2000); *Sanchez v. Consol. Real Est. Inv.*, 420 So.3d 1097, 1099 (Fla. App. 2025)("[a] nonparty seeking to participate in a case must generally move to intervene in the proceedings.")

Petitioner has not alleged she has filed a motion for intervention which has either been granted or denied. She is not a party to the High Court proceeding and, thus, lacks standing to bring the instant petition on her own behalf or on behalf of PT&D, Inc.

It is elementary that a corporation is a legal "person" or entity separate from its shareholders, officers or directors. *See, e.g., Jerry Dickerson Presents, Inc. v. Concert S. Chasten*

Promotions, 579 S.E.2d 761, 770 (Ga. App. 2003)("A corporation is an artificial person created by law. The corporate identity is entirely separate from the identity of its officers and shareholders. A corporation and even sole owner are two separate and distinct persons. One person may own all the stock of a corporation, and still such individual shareholder and the corporation would, in law, be two separate and distinct persons.") A shareholder or officer of a corporation is not entitled to intervene as a party even if the corporation's defense is failing or the shareholder might suffer some financial loss because of the lawsuit. *See, e.g., Rigco, Inc. v. Rauscher Pierce Refsnes, Inc,* 110 F.R.D. 180, 183- 4 (N.D. Tex. 1986)("Under federal common law, Texas law and New Mexico law, only a corporation and not its shareholders, not even sole shareholders, can complain of an injury sustained by, or a wrong done to, the corporation. *United States v. Palmer*, 578 F.2d 144, 145- 46 (5th Cir. 1978)(applying federal common law); *McDonald v. Bennett*, 674 F.2d 1080, 1085 (5th Cir. 1982)(applying Texas law); *Bank of New Mexico v. Rice*, 78 N.M. 170, 429 P.2d 368, 374 (1967), *on appeal after remand*, 79 N.M. 115, 440 P.2d 790 (1968)(applying New Mexico law). Instead, Shareholders' interest is purely economic and a purely economic interest is insufficient to justify intervention under Rule 24(a)(2). *New Orleans Public Service*, 732 F.2d at 466.")

Because PT&D, Inc. is a legal "person" separate and distinct from Petitioner (its CEO and majority shareholder), because Petitioner has not been sued or named as a party in the underlying lawsuit/litigation, and because Petitioner has not been allowed intervention as a party, she lacks standing to file the instant petition for writ of prohibition either in her own capacity or on behalf of PT&D, Inc.

B. Petitioner Lacks Authority to Represent PT&D, Inc., (a) Because She Is Not an Attorney Licensed to Practice Before the Courts of the Marshall Islands and (b) Because PT&D, Inc. Is Represented by Counsel Who Has Not Withdrawn.

It is well settled that a corporation must be represented in court by an attorney licensed or otherwise authorized to practice before the court. *See, e.g., Rowland v. Cal. Men's Colony, Unit II Men's Advisory Council,* 506 U.S. 194, 201-02 (1993)("It has been the law for the better part of two centuries . . . that a corporation may appear in the federal courts only through licensed counsel."); *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973 - 4 (9th Cir. 2004)("It is a long-standing rule that '[c]orporations and unincorporated associations must appear in court through an attorney.'"); *see also, In re America West Airlines*, 40 F.3 1058, 1059 (9th Cir. 1994)(gathering cases).

This rule applies even when the individual seeking to represent the corporation is its president and sole shareholder. *See, e.g., United States v. High Country Broad Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993)(holding that a corporation's president and sole shareholder could not make an "end run" around the counsel requirement by intervening *pro se* rather than retaining counsel to represent the corporation). The rule that corporations must be represented in court by counsel is uniformly recognized by state courts as well as the federal courts. *See, generally,* Fletcher Cyclopedia of the Law of Corporations, Sec. 4463, (and cases cited thereat.) We apply this rule in the Republic of the Marshall Islands ("Republic") as well.

We take judicial notice that Petitioner is not an attorney licensed to practice law in the Republic. Because PT&D, Inc. is a legal "person" or entity separate and distinct from Petitioner, because a corporation must appear through counsel, and because Petitioner is not a licensed attorney in the Republic, the petition must be dismissed. Petitioner may not file pleadings, petitions or motions on behalf of PT&D, Inc.

Further, PT&D, Inc., is represented by counsel admitted in the Republic (Divine Waiti). It is well-established that a party who is represented by counsel of record cannot simultaneously appear *pro se* – a practice known as "hybrid representation" – in a legal proceeding. *See, e.g., Watson v. Gibson Capital, L.L.C.*, 187 P.3d 735, 738 (Ok. 2008)("We are committed to the common law norms of interactions by an attorney with a client and the duties each owes to the other. As a general rule a party who is represented by counsel of record stands deprived of power to act as his own attorney in the litigation. While a party may, at his own election, appear either in person or by counsel of record, no litigant may do both by acting as a party and a lawyer while having a counsel of record in the litigated case.")(emphasis and footnotes omitted.)

Filings made *pro se* while counsel remains of record have no legal effect and are generally considered a nullity. *See, e.g., United States v. Gwiazdzinski*, 141 F.3d 784, 787 (7th Cir. 1998)("A defendant does not have an affirmative right to submit a *pro se* brief when represented by counsel . . . in the absence of such a right, we decline to accept Gwiazdzinski's *pro se* motion or brief. The motion and brief are stricken as improperly before the court."); *Commonwealth v. Williams*, 241 A.3d 353, 355 (Pa. 2020)([*P*]*ro se* filings submitted by counseled defendants are generally treated as legal nullities.") It is recognized that allowing hybrid-representation "has [a] great potential for chaos." *See, e.g., Figueroa v. State*, 250 S.W.3d 490, 515 (Tx. App. 2008).

Counsel of record remains counsel until a formal motion to withdraw is granted by the court, and until that occurs, only that attorney may appear before the court. *See, e.g., Lady Kelly, Inc. v. United States Sec'y of Agric.*, 414 F.Supp.2d 1298 (C.I.T. 2006). Courts will not recognize a represented party to act *pro se* before counsel stands discharged and that act appears of record. *See, e.g., Watson v. Gibson Cap., L.L.C., supra.; Mitchell v. Senkowski*, 489 F.Supp.2d 147, 149 (N.D.N.Y. 2006). The record reveals that Mr. Waiti remains counsel of record for PT&D, Inc., in the pending case. Because PT&D, Inc. is represented by counsel, all filings including the instant petition for a writ of prohibition must come through its attorney and all *pro se* filings stricken or denied without prejudice to refiling by licensed counsel.

Because Petitioner is not an attorney licensed to practice law in the Republic, her *pro se* petition is DENIED WITHOUT PREJUDICE. PT&D, Inc., may file its "petition for writ of prohibition" through its counsel of record or through another attorney licensed or otherwise permitted to appear before the courts of the Marshal Islands.

C. The Petition Must Be Denied Without Prejudice Because Remedies Have Not Been Exhausted Before the Trial Court.

1. Denial of a motion to recuse or disqualify a judge is a prerequisite for filing a petition for mandate or prohibition before the appellate court.

Federal and state courts have consistently held that a petition for a writ of prohibition (or mandamus) seeking to disqualify a judge presupposes that a motion to recuse was first filed and denied in the trial court. *See, e.g., In re Trierweiler*, 570 F.App'x. 766, 774 fn. 6 (10th Cir. 2014)("Generally, the filing of a petition for writ of mandamus presumes that a trial-court judge has previously denied a motion to recuse." (citing *Nichols v. Alley,* 71 F.3d 347, 350 (10th Cir. 1995) (per curiam); *see also Letterese v. Brody*, 985 So.2d 597, 598 (Fla. App. 2008)("Further, the Florida Supreme court has held that a district court errs in entering an order of prohibition without permitting the trial judge to ascertain whether to disqualify him or herself. *Kelly v. Scussel*, 167 So.2d 870 (Fla. 1964). *See also Johnson v. State*, 968 So.2d 61, 62 (Fla. 4th DCA 2007)(finding that a petition for writ of prohibition filed before the court has ruled on the motion to disqualify may be found 'premature.')").

Petitioner does not allege that a motion to recuse or disqualify Respondent was filed and denied by either Respondent or another judge to which such a motion was referred.[29] Our review

[29] The rules are silent but, while discouraged, a judge who is the subject of a motion to disqualify or recuse is generally permitted to refer the motion to another judge for decision, thereby avoiding any appearance of bias in

of the file in H.Ct. Case No. 2026-00001, likewise, fails to reveal any motion to disqualify or recuse Respondent from presiding over this case which was filed and denied.

Because the petition seeks disqualification or recusal of the respondent judge, because a motion to recuse or disqualify must be filed and denied as a prerequisite for filing the petition, and because no such motion was filed and denied, the petition for a writ of prohibition is denied without prejudice to its refiling by counsel once the prerequisite denial of a motion to recuse or disqualify has occurred.

2. A petition for writ of prohibition is an improper procedural device to reopen closed cases.

Petitioner seeks an order "vacating the October 25 dismissal of the Declaratory Judgement action (Case No. 2025-207) which lacked a legal basis." The requested relief of vacating the dismissal order is not available by way of petition for a writ of prohibition.

A petition for a writ of prohibition is not a proper procedural mechanism for vacating orders on closed cases or serving as an alternative to a proper appeal (which was not taken in that case). *See, e.g., Kidwell v. Kidwell*, 181 So.3d 1190(Fla. 2015)("The writ of prohibition 'is preventive and not corrective . . . Its purpose is to prevent the doing of something, not to compel the undoing of something already done. It cannot be used to revoke an order already entered.") The Marshall Islands Rules of Civil Procedure and Appellate Rules provide the procedure for appealing or setting aside, which rules we expect counsel to follow.

IV. CONCLUSION & ORDER

ruling on one's own disqualification. *See, e.g., U.S. v. Craig*, 853 F.Supp. 1413 (S.D.Fla. 1994); *Doddy v. Oxy USA, Inc.*, 101 F.3d 448, 458 (5th Cir. 1996)("If the issue of the judge recusing herself arises (either through a motion to recuse under Sec. 455, an affidavit of prejudice under 28 USC 144, or the judge's own motion), the judge may-at her option-transfer the matter to another judge for decision or determine it herself.)

As above noted, we do not comment on the merits of Petitioner's claims as set forth in her petition for a writ of prohibition. For the reasons set forth above, however, the petition is procedurally improper and is DENIED WITHOUT PREJUDICE.

Entered this 15th of July, 2026.