

Petition for Writ of Certiorari

In the Supreme Court of the United States
No. _____

Allison Barton Rice, Petitioner
v.
City and County of San Francisco, et al., Respondents

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

Petition for Writ of Certiorari

Mr. Allison Barton Rice
13809 Research Blvd, Suite 500 PMB 90978
Austin TX 78750
(415) 579-8208
allisonbartonrice@mac.com

Question Presented

Whether a Fair Housing Act judgment may stand where a disabled homeowner alleges that a municipal housing-program administrator and its counsel maintained a misleading local affordable-housing-agreement compliance narrative that displaced his federal reasonable-accommodation and interference claims under 42 U.S.C. §§ 3604(f)(3)(B) and 3617, so that the jury was never asked to decide those claims under the governing FHA framework.

List of Parties

Petitioner is Mr. Allison Barton Rice, plaintiff-appellant below.

Respondents are the City and County of San Francisco, et al.

Related Cases

• Rice v. City and County of San Francisco, No. 23-16013, United States Court of Appeals for the Ninth Circuit. Memorandum entered June 2, 2026. Petition for panel rehearing and rehearing en banc denied July 6, 2026. Mandate entered July 16, 2026.

- Rice v. City and County of San Francisco, No. 3:19-cv-04250-LB, United States District Court for the Northern District of California. Final judgment entered June 26, 2023.

- Rice v. City and County of San Francisco, No. 24-2217, United States Court of Appeals for the Ninth Circuit, concerns the district court's post-judgment costs award and is separate from the FHA merits issues presented here.

- Rice v. City and County of San Francisco, No. 26-5308, United States Court of Appeals for the Ninth Circuit, concerns the denial of Rule 60(b)(6) and Rule 60(d)(3) relief and is separate from this petition.

Table of Contents

- Opinions Below
- Jurisdiction
- Constitutional and Statutory Provisions Involved
- Statement of the Case
- Reasons for Granting the Petition
- Conclusion
- Appendices

Index to Appendices

- Appendix A: Ninth Circuit memorandum disposition, No. 23-16013, Dkt. No. 73-1, filed June 2, 2026.

- Appendix B: Ninth Circuit order denying panel rehearing and rehearing en banc, No. 23-16013, Dkt. No. 85, filed July 6, 2026.

- Appendix C: District court final judgment, ECF No. 225, entered June 26, 2023.

Table of Authorities Cited

Cases

- *Dupree v. Younger*, 143 S. Ct. 1382, 1391 (2023).
- *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982).
- *Nitco Holding Corp. v. Boujikian*, 491 F.3d 1086 (9th Cir. 2007).

Statutes and Rules

- 28 U.S.C. § 1254(1).
- 42 U.S.C. § 3604(f)(3)(B).
- 42 U.S.C. § 3617.
- Federal Rule of Civil Procedure 50(b).
- Supreme Court Rule 13.3.

Petition for Writ of Certiorari

Petitioner Rice respectfully prays that a writ of certiorari issue to review the judgment below.

Opinions Below

For this federal-court case, the opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished. The Ninth Circuit's order denying panel rehearing and rehearing en banc appears at Appendix B. The district court entered final judgment on June 26, 2023, and that judgment appears at Appendix C.

Jurisdiction

The United States Court of Appeals for the Ninth Circuit entered judgment on June 2, 2026. Petitioner timely sought panel rehearing and rehearing en banc. The Ninth Circuit denied rehearing on July 6, 2026, and a copy of the rehearing-denial order appears at Appendix B.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

Constitutional and Statutory Provisions Involved

42 U.S.C. § 3604(f)(3)(B) provides that discrimination includes:

a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling.

42 U.S.C. § 3617 provides:

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by section 3603, 3604, 3605, or 3606 of this title.

Statement of the Case

Petitioner's disability-related accommodation request

Petitioner Allison Barton Rice is a disabled homeowner who lived in a limited-equity affordable-home-ownership housing unit administered by the San Francisco Mayor's Office of Housing and Community Development. The program did not categorically prohibit rent-paying roommates; Rice contends that rent-paying roommates were allowed in an undeterminable number of situations, including, but not limited to, primarily financial-hardship situations and work-related-relocation situations. Rice's disability-related housing need included the ability to have a rent-paying roommate as a reasonable accommodation. Rice contends that this accommodation was necessary for him to use and enjoy his dwelling and remain housed because it ameliorated the symptoms and issues of his severe mental disability and, in contrast, there was no other accommodation that accomplished or satisfied that necessary element.

During the relevant period, Rice's physician submitted a letter recommending that Rice be allowed roommates and travel for mental-health reasons. And, in litigation and at trial, Rice's physician clarified and maintained her recommendation was for "rent-paying" roommates and that "non-rent-paying" roommates did not ameliorate Rice's symptoms and issues. The City received the physician's letter and admitted that it understood Rice was requesting an accommodation. The City also admitted that its own rules required an inquiry, but that it did not conduct that inquiry before rejecting or acting against the requested accommodation. Rice contends that the City nevertheless did not process the request through the FHA accommodation framework, did not meaningfully inquire into the disability-related need, did not

engage in an accommodation inquiry, and did not truthfully explain or apply his FHA rights. Instead, the City responded with an “Action Required” letter that was entirely void of any fair housing information, acknowledgement of Rice’s disability and his request for accommodation, and his physician’s recommendation.

The relevant state and local framework also pointed toward an accommodation inquiry, not away from one. San Francisco Planning Code § 305.1 identified a local reasonable-modification in regulations, policies, practices and procedures process for disability-related residential requests, and California fair-housing law recognized accommodation and interactive-process obligations in housing. Rice contends that those state and local frameworks reinforced, rather than displaced, the federal FHA accommodation inquiry. Yet the City did not route his request through an accommodation framework and instead treated the matter as affordable-home-ownership-housing-program compliance.

The City treated the matter as affordable-housing-agreement compliance

Instead of treating Rice’s request as an FHA accommodation request, the City treated the matter as a local affordable-housing-agreement compliance dispute. The City’s position was that Rice had violated, or had to comply with, affordable-home-ownership-housing rules concerning renting, roommates, occupancy, or refinancing. Rice contends that this local compliance frame displaced the federal FHA questions that should have governed his disability-related request.

That displacement matters because the FHA does not ask only whether a local housing rule exists. Section 3604(f)(3)(B) asks whether a reasonable accommodation in rules, policies, practices, or services may be necessary to ameliorate the symptoms or issues of a person’s disability and, thus, afford a person with a disability an equal opportunity to use and enjoy a dwelling. Section 3617 separately prohibits coercion, intimidation, threats, or interference with the exercise or enjoyment of FHA-protected rights.

Rice contends that the misleading local-compliance frame originated with the City’s “Action Required” letter and continued through the litigation. In Rice’s view, the City’s approach supplied a practical method for avoiding the FHA: never acknowledge or apply disability-rights and fair-housing-rights principles, discuss only local program rules, and then litigate the case as if the disabled person’s accommodation request were ordinary rule noncompliance. Rice argued that this narrative diverted the district court and jury from the FHA accommodation and interference framework and amounted to fraud on the district court.

The wrong frame reached the jury through the jury-facing claim description

The displacement occurred through the jury-facing claim frame. Rice contends that, in violation of his express written instructions, his own court-appointed counsel joined opposing counsel in placing the City's affordable-housing-agreement compliance theory before the jury as if it were Rice's § 3617 interference claim, even though Rice's § 3617 claim concerned interference with his FHA-protected accommodation rights, not whether he complied with the City's affordable-housing agreement.

“Plaintiff Allison Rice brings this lawsuit against the Defendant City and County of San Francisco. Plaintiff brings two claims against the City under the Fair Housing Act. First, Plaintiff Allison Rice alleges that the City discriminated against him on the basis of his disability when it denied his request for a rent-paying roommate. Second, Plaintiff Allison Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance **until he complied with the terms of his affordable housing agreement.**” (ECF No. 189 at 5:8-15) (emphasis added)

The district court later characterized that displacement as counsel's strategic choice. Rice's position is that the problem is more fundamental. The issue is not ordinary disagreement with trial tactics, ordinary sufficiency review, or dissatisfaction with an adverse verdict. The issue is whether the jury was ever asked to decide Rice's FHA reasonable-accommodation and interference claims under the governing federal framework at all.

The FHA frame was not fairly adjudicated at trial

Rice's theory was not merely that the City applied its affordable-home-ownership-housing rules incorrectly. His theory was that the City's use of those rules, without applying the FHA accommodation framework, denied or interfered with his federal fair-housing rights. Rice also argued that the City's framing misdirected the litigation away from the FHA accommodation and interference issues and toward local program compliance.

The case proceeded to a jury trial. The jury returned a verdict for the City. Judgment was entered on June 26, 2023.

On appeal, Rice argued pro se that the litigation and trial had been diverted from the FHA framework into an affordable-housing-agreement compliance frame. He

argued that the jury was never fairly asked to decide whether the City violated § 3604(f)(3)(B) or § 3617 under the correct federal standards.

The Ninth Circuit affirmed on procedural and deferential grounds

The Ninth Circuit affirmed in an unpublished memorandum disposition. The court held that Rice waived any challenge to the sufficiency of the evidence by failing to file a post-verdict Rule 50(b) motion. During the post-verdict period, Rice still had court-appointed pro bono counsel, and Rice contends that counsel remained silent about any post-verdict or post-judgment motions he should consider. Rice terminated his relationship with court-appointed counsel after judgment was entered. The court also stated that Rice failed to identify plain error in the district court's jury instructions. It rejected an evidentiary issue as harmless because the jury found no FHA violation. It rejected Rice's unfair-trial contentions as unsupported by the record or as barred by the general rule that civil litigants have no right to effective assistance of counsel.

Rice sought panel rehearing and rehearing en banc. He explained that his appeal was not merely a sufficiency-of-the-evidence challenge, not merely an ordinary jury-instruction challenge, and not merely a request to reweigh the evidence. Rather, Rice argued that the appeal presented an antecedent legal-framework question: whether the case was adjudicated under the correct FHA accommodation and interference standards at all. Rice also argued that Appellees' litigation conduct created and maintained a misleading affordable-housing-program narrative that diverted the district court and jury from the FHA accommodation and interference framework, and he characterized that conduct as fraud on the district court. The Ninth Circuit did not separately address that argument. The Ninth Circuit denied rehearing on July 6, 2026.

This petition follows.

Reasons for Granting the Petition

The petition presents an important Fair Housing Act framework question

This case presents an important question about the administration of disability accommodations in public and taxpayer-supported housing programs. The FHA applies to housing programs and protects disabled persons from discrimination, including the refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford equal opportunity to use and enjoy a dwelling. The FHA also separately protects persons from coercion, intimidation, threats, and interference with the exercise or enjoyment of FHA-protected rights.

The question here is whether a government housing-program administrator may avoid the FHA accommodation and interference framework by treating a disability-related request as ordinary program noncompliance and maintaining that frame through litigation and trial. If that is allowed, then the federal accommodation inquiry may disappear precisely when it is most needed. A disabled person's request can be reclassified as a local compliance problem, and the jury may never fairly decide whether federal law required accommodation or whether the administrator interfered with FHA-protected rights.

That problem is especially significant in public or federally supported housing programs. Residents and program participants in such programs often depend on the administering agency for accurate information, fair processing, and access to the correct legal framework. When a public administrator uses local program rules to displace federal disability protections, the harm is not limited to a single tenancy or ownership dispute. The integrity of federal fair-housing enforcement is affected.

Rice's concern is not limited to this case. If a public housing administrator may respond to a disability-related accommodation request by never acknowledging fair-housing rights, never applying the FHA accommodation framework, and discussing only local program rules, then the judgment below supplies a practical roadmap for avoiding the FHA: recast the disabled person's request as ordinary rule noncompliance and litigate the case on that substituted frame.

The decision below allowed the FHA framework to be displaced by a misleading local-compliance narrative

Rice's case should have been adjudicated under the FHA accommodation and interference framework. The central questions were whether Rice requested a disability-related accommodation, whether the accommodation may have been necessary to afford equal opportunity to use and enjoy his dwelling, whether the City refused, delayed, or failed to properly consider that request, and whether the City threatened or interfered with Rice's exercise or enjoyment of FHA rights.

Instead, Rice contends that the case was treated as an affordable-housing-agreement compliance dispute. That frame changed the inquiry. The jury was directed toward whether Rice complied with local program requirements, not whether the City had to reasonably modify rules, policies, practices, or services because of disability-related necessity, and not whether the City interfered with Rice's FHA-protected accommodation rights.

That is not a harmless shift in emphasis. In an FHA accommodation case, the existence of a neutral rule does not end the analysis. The statute specifically asks

whether a rule, policy, practice, or service must be accommodated. In an FHA interference case, conduct that threatens, burdens, misdirects, hampers, or obstructs the exercise of fair-housing rights may itself be unlawful. A misleading local-compliance frame can therefore eliminate the very federal questions Congress required courts to ask.

The Ninth Circuit’s Rule 50(b) reasoning does not answer the antecedent legal-framework question

The Ninth Circuit treated Rice’s appeal in part as barred by the absence of a post-verdict Rule 50(b) motion. Rice recognizes that Rule 50(b) limits appellate review of ordinary sufficiency-of-the-evidence challenges. But this petition does not ask this Court to reweigh evidence or direct judgment for Rice on factual sufficiency grounds.

This Court’s decision in *Dupree v. Younger*, 143 S. Ct. 1382, 1391 (2023), confirms that a purely legal issue is distinct from a factual-sufficiency challenge. Rice’s petition does not ask this Court to reweigh the trial evidence or enter judgment in his favor. It asks whether the jury was ever permitted to decide his FHA accommodation and interference claims under the correct federal framework at all.

The question presented is antecedent to sufficiency. It asks whether the jury was ever permitted to adjudicate Rice’s FHA accommodation and interference theories under the correct legal framework. A verdict is entitled to deference when the correct legal question was put to the jury. But deference to a verdict does not answer a claim that the case was submitted to the jury through the wrong legal frame.

The Ninth Circuit’s reliance on Rule 50(b) and *Nitco Holding Corp. v. Boujikian*, 491 F.3d 1086 (9th Cir. 2007), therefore illustrates why review is needed. Rule 50(b) may bar sufficiency review, but it should not permit a court of appeals to avoid the antecedent question whether federal civil-rights claims were adjudicated under the correct statutory framework. The certiorari question is not whether the evidence was sufficient. It is whether the FHA standards were ever fairly applied.

The FHA truthful-information issue supports review under *Havens Realty*

In *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982), this Court recognized that Congress conferred on all persons a legal right to truthful information about available housing. *Havens* involved false information about housing availability, but its reasoning reflects a broader point about the FHA: truthful housing information matters because false or misleading information can impair the exercise of fair-housing rights.

This case presents a related and important problem. When a disabled person seeks an accommodation in a housing program, truthful information about the applicable housing framework is essential. If the administrator gives or relies on a materially misleading frame, treating the request as ordinary program noncompliance rather than as an FHA accommodation request, the disabled person may be denied the practical ability to invoke and exercise FHA rights.

The Court should clarify whether the FHA's protection of truthful housing information extends to truthful and materially complete information about accommodation rights and housing-program rights when a disabled person's ability to use and enjoy housing depends on that information. At minimum, *Havens* supports the principle that the FHA is not indifferent to misleading housing-related information that impairs fair-housing rights.

The FHA accommodation-inquiry issue requires clarification

The FHA's reasonable-accommodation provision requires housing providers to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford equal housing opportunity. In many accommodation disputes, the practical mechanism for determining whether an accommodation is necessary, reasonable, or whether an alternative accommodation would suffice is an interactive process or accommodation inquiry.

Federal guidance recognizes the importance of this inquiry, particularly when a local government believes that an accommodation may impose a burden or require an alternative. But courts have not always clearly defined whether, when, and how the FHA requires an interactive process, or whether failure to engage in that process is independent evidence of a failure to accommodate.

This case presents the question in a concrete context. Rice contends that the City did not meaningfully inquire into his disability-related need, did not evaluate whether a rent-paying roommate may have been necessary or reasonable, and did not engage him under the FHA accommodation framework before refusing, delaying, or reframing his request. Instead, the City treated the matter as local program compliance.

This case is also a concrete vehicle for clarification because the requested accommodation arose in a setting where multiple legal frameworks pointed toward an accommodation inquiry. The FHA required consideration of reasonable accommodation; California fair-housing law recognized accommodation and interactive-process obligations; and San Francisco's own Planning Code identified a local reasonable-modification in regulations, policies, practices and procedures

process. The City nevertheless treated Rice's request as ordinary program noncompliance.

The Court should clarify that a housing provider or public housing-program administrator may not avoid the FHA accommodation inquiry by declining to engage the disability-related question and recasting the matter as ordinary program enforcement. Whether described as an interactive process, an accommodation inquiry, a duty to evaluate disability-related need, or entitlement to an accommodation process, the FHA requires more than ignoring the federal accommodation framework. The conflict between the accommodation frameworks and the compliance frame is precisely why clarification is needed.

The independent § 3617 interference issue should not be collapsed into the accommodation claim

Section 3617 separately prohibits coercion, intimidation, threats, or interference with the exercise or enjoyment of FHA rights. Rice's § 3617 theory was not merely duplicative of his § 3604(f)(3)(B) accommodation theory. He contended that the City's conduct threatened, burdened, misdirected, obstructed, and hampered his effort to exercise FHA accommodation rights.

If a public entity can avoid § 3617 review simply by characterizing its conduct as local program enforcement, then the interference provision loses practical force in precisely the setting where interference may be most effective. A disabled person may be told that the matter is not an FHA accommodation issue at all, that the only relevant issue is program compliance, and that enforcement consequences will follow unless the person abandons the accommodation effort.

The Court should clarify that § 3617 remains independently available when local housing-program actions burden, obstruct, interfere, or hamper a disabled person's exercise or enjoyment of FHA rights, even if the public entity characterizes its conduct as enforcement of local program rules.

This case is a suitable vehicle despite the procedural posture

Respondents may argue that this case is a poor vehicle because the Ninth Circuit invoked Rule 50(b), plain-error jury-instruction review, harmless error, and the absence of a civil right to effective assistance of counsel. Those procedural features do not defeat the petition because the question presented is not factual sufficiency, attorney effectiveness, or mere dissatisfaction with the jury verdict.

The question is whether the governing FHA framework was applied at all. Rice raised that issue in his pro se rehearing petition, explaining that the appeal

challenged the legal frame of the trial, not merely the sufficiency of the evidence. The Ninth Circuit did not address whether the City's affordable-housing-agreement compliance frame was legally sufficient to displace or replace the FHA accommodation and interference inquiry.

That omission makes this case a useful vehicle. The record presents a concrete example of a disabled person's accommodation request in a public housing-program setting being treated as local program noncompliance, with the federal FHA framework allegedly displaced throughout the litigation. The legal question is recurring, important, and capable of review without reweighing the trial evidence.

Review is necessary to protect disabled persons in public and federally supported housing programs

This case matters beyond the parties. Public and federally supported housing programs are often administered through detailed local rules. Those rules may be important, but they cannot displace federal civil-rights protections. The FHA specifically contemplates that rules, policies, practices, and services may need to be reasonably accommodated because of disability.

If lower courts allow public housing-program administrators to convert disability-accommodation disputes into ordinary compliance disputes, disabled persons may lose the practical benefit of federal law. They may be denied truthful information about their rights, denied an accommodation inquiry, and denied adjudication of independent interference claims. This Court's review is warranted to prevent local administrative frames from swallowing federal FHA protections.

Conclusion

For the reasons and explanations stated above, the petition for a writ of certiorari should be granted.

DATED: October 1, 2026

Respectfully submitted,

/s/ Allison Barton Rice

Allison Barton Rice

Petitioner, pro se

13809 Research Blvd, Suite 500 PMB 90978
Austin TX 78750

(415) 579-8208
allisonbartonrice@mac.com