

No. \_\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

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Thomas ("Leroy") A. Spitzer and Craig J. Spitzer,

Petitioners,

v.

Trisha A. Aljoe, et al.

Respondents

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Case No. 16-16680, in the Court of Appeals for the 9<sup>th</sup> Circuit

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**ON APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR  
WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

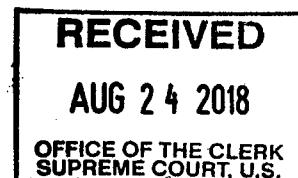
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**PETITIONERS' APPLICATION TO EXTEND TIME TO FILE A PETITION  
FOR A WRIT OF CERTIORARI**

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Thomas A. Spitzer  
P.O. Box 1861  
Oakland, CA 94604  
Plaintiff-Petitioner in pro se

Craig J. Spitzer  
4812 San Pablo Dam Rd., No. 4  
El Sobrante, CA 94803  
Plaintiff-Petitioner in pro se



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To the Honorable John G. Roberts, Jr., Chief Justice, as Circuit Justice for the Ninth Circuit Court of Appeals:

Pursuant to Supreme Court Rule 30, Petitioners Thomas A. Spitzer and Craig J. Spitzer, in pro se, request that the time to file their Petition for Writ of Certiorari be extended for 60 days to 11/22/2018. The order of the Court of Appeals affirming the judgment was entered on 5/10/2018. Petitioners filed a timely Petition for Rehearing, and the Order denying Petitioner's Petition for Rehearing was entered on 6/25/2018. Absent an extension of time, the Petition for Certiorari would be due on 9/23/2018. Petitioner is filing this Application more than ten days before that date. This Court would have jurisdiction over the judgment under 28 U.S.C. 1254(1).

## **Summary Statement of the Issues for a Writ of Certiorari**

This case arises from a state court receivership of the Spitzer's home. Petitioner Thomas Spitzer purchased his home new in 1967, and lived in it continuously until the receivership was imposed and he was barred from his home. Petitioner Craig J. Spitzer is his son and was a non-resident co-tenant. The mortgage on the home was paid in full, a significant reason why the receivership was filed, and it was never rented. The receivership lasted over five years, and resulted in the Spitzer's loss of their home which was sold to pay the exorbitant costs of the receivership including the fees of multiple attorneys. Thomas Spitzer who is now 77 years old and has congestive heart failure has been homeless since the receivership was granted and remains homeless.

The circumstances that bring the Spitzers to this Court involve misconduct by both the receiver and government attorneys. That misconduct prejudiced the Spitzers in the state receivership court, causing the exorbitant cost of the receivership and giving rise to the claims of constitutional violations; and prejudiced Spitzers in the district court, as well, because material emails were withheld from discovery by City of Pleasanton's Special Counsel Aljoe. These are issues that are not solely personal to the Spitzers but are also matters of public concern in regard to the fairness of state and federal court proceedings, and of state court receiverships of the homes of the elderly.

It was discovered by Petitioners, only belatedly and only through investigation by volunteer help, that the receiver had been removed for cause in ten contemporaneous receivership cases and had judgements against him in four of those cases totaling over \$74,000. In those cases, it is documented that the receiver failed to follow court orders, failed to file monthly reports, failed to appear at hearings, and was the cause of delays and other misconduct contributing to the costs of the receiverships. Before learning of these facts, Petitioners had moved to remove the

receiver in the receivership court for persistent and egregious misconduct including the foregoing misconduct, but the City of Pleasanton and their Special Counsel Aljoe vigorously opposed the receiver's removal, and the state court, therefore, refused to remove him. It was again only belatedly discovered, and then only serendipitously, that Aljoe had withheld her numerous emails to the receiver demonstrating her knowledge of the receiver's misconduct and her and City of Pleasanton's collusion in it during discovery in the federal case.

The summary Orders of the Court of Appeals, attached hereto, don't do justice to the foregoing misconduct, and other issues presented in Petitioners' Appellants' Brief, Reply, and Petition for Rehearing, and instead lets official misconduct escape review to be repeated to the prejudice of other vulnerable litigants. It is on this basis that Petitioners wish to file a Writ of Certiorari.

The planned questions Petitioners wish to present to this court are the following:

In re to City of Pleasanton Defendant-Respondents, Trisha A. Aljoe, et al.:

1. Does a district court have a duty under FRCP 26(g)(3) to sanction government attorneys for deliberately withholding material documents before settlement?
2. Does the abuse of discretion standard of review require a court of appeals to review the whole record when warranted?
3. On the facts before it, did the district court abuse its discretion?

In re to Receiver: The receiver was dismissed due to the *Barton* doctrine.

The question is:

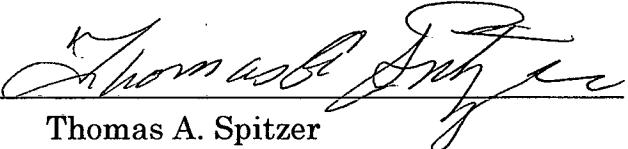
Does the *Barton* Doctrine apply to state court receivers sued in their personal capacity under 42 U.S.C. § 1983?

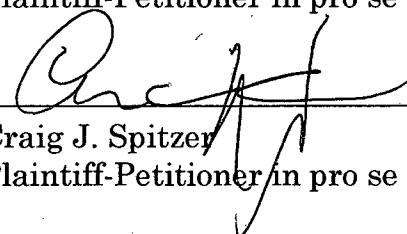
#### **Petitioner's Reasons for Requesting More Time**

Petitioners by necessity must file the Writ of Certiorari in pro se. They are

dependent on volunteer pro bono legal assistance, and cannot do it without help. Their volunteer pro bono assistant is 71 years old, has chronic health problems, and has another current case he is working on pro bono. The reason he is working on Petitioner's case is because it involves official misconduct which is his volunteer advocacy interest. He is very diligent, but overworked, and his health is suffering. Without more time, he cannot help Petitioners file a Writ of Certiorari.

Petitioners, therefore, pray that the requested extension of time to 11/23/2018 be granted.

Date: 8-19-2018, By:   
Thomas A. Spitzer  
Plaintiff-Petitioner in pro se

Date: 8/20/18, By:   
Craig J. Spitzer  
Plaintiff-Petitioner in pro se