

194274 **ORIGINAL**
IN THE SUPREME COURT OF THE UNITED STATES

GERALD NELSON, Plaintiff-Appellant,

V.

Supreme Court, U.S.
FILED
JUL 09 2019
OFFICE OF THE CLERK

**AMALGAMATED TRANSIT UNION LOCAL 1181-1061, AFL-CIO MV.
TRANSPORTATION, INC, Jessica D. Ochs, Michalaire Phantor,**

Defendants-Appellees

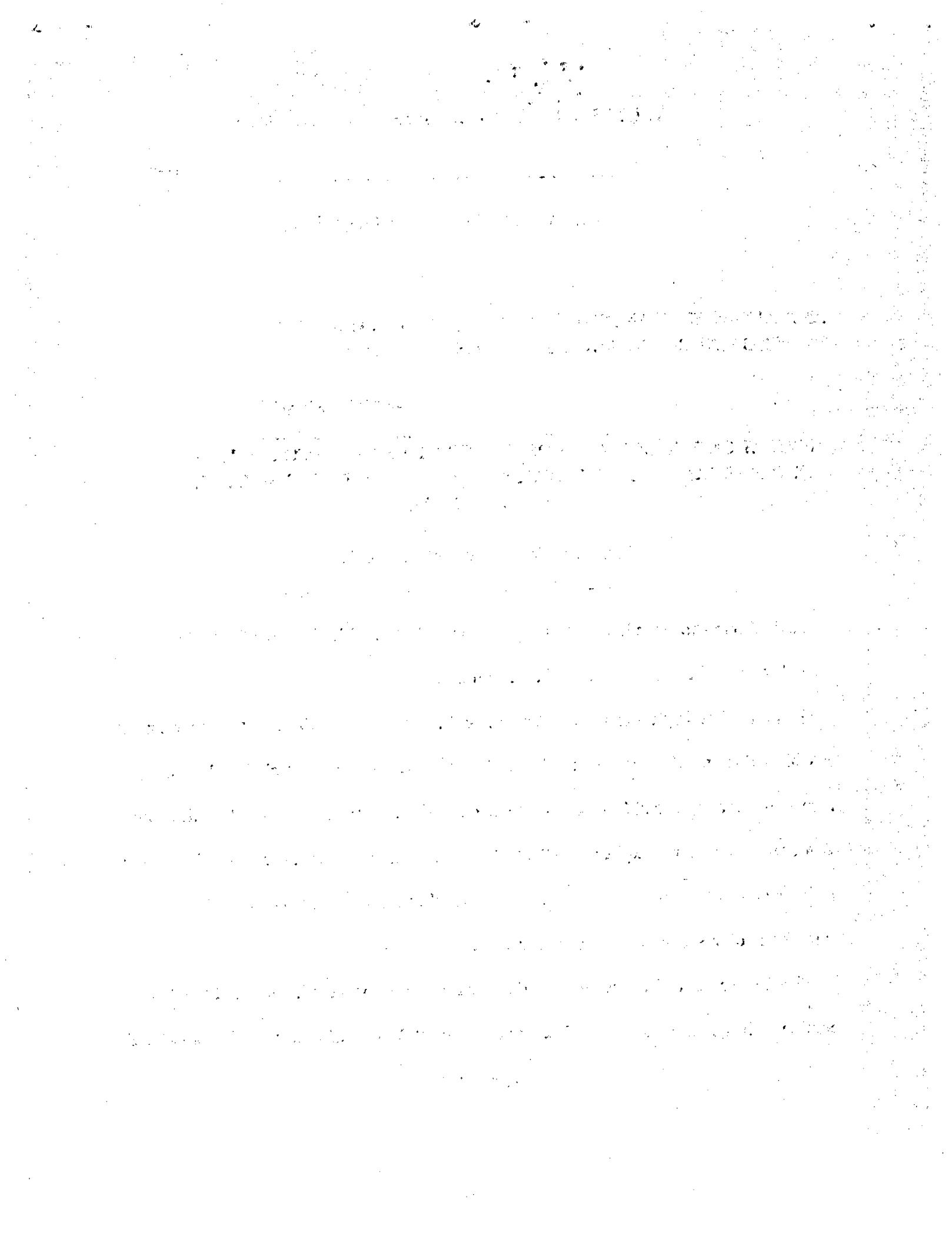
**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF
CERTIORARI TO THE UNITED STATES SUPREME COURT OF APPEALS FOR
THE SECOND CIRCUIT**

United States Court of Appeals No. 18-3275

To the Honorable Ruth Bader Ginsberg, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Second Circuit.

Petitioner Gerald Nelson (hereinafter "Nelson"), is asking for a 60 day extension of time to file his petition for Certiorari in this Court. The final Order Motion (March 14,2019) and panel rehearing order in Second Circuit was entered on April 22, 2019, Nelson time to petition for Certiorari , in this Court expires July 21,2019. This application is being filed more than 10 days before that date. Copies of Motion order and Panel rehearing are attached hereto. The Jurisdiction of this Court is invoked under 28 U.S.C 1254 (1).

The issue here are 1). Whether United States Court of Appeal for the Second Circuit is in conflict with applicable decision of the United States of America.(Neitze v. Williams 490 U.S.



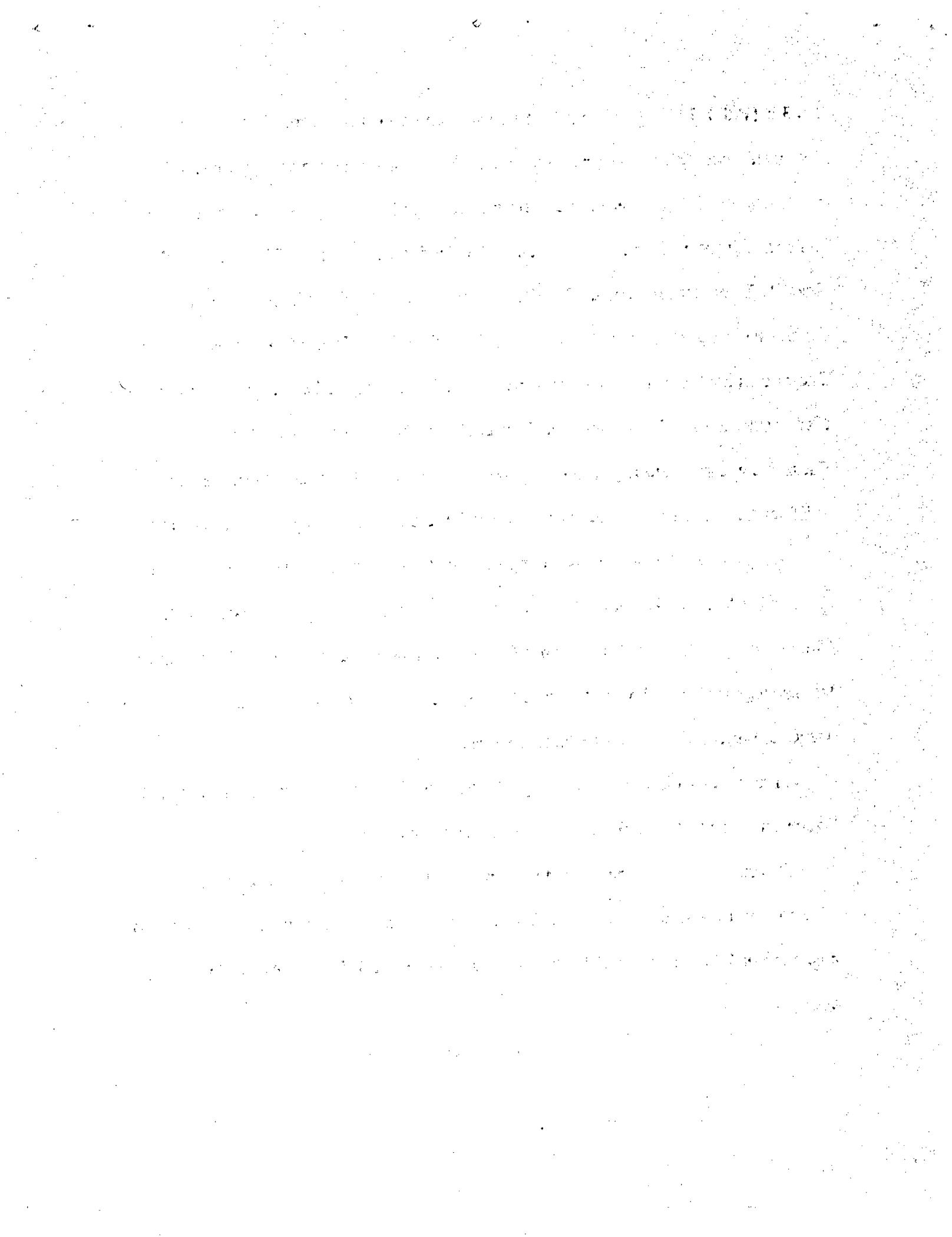
319,325 (1989) ,28 U.S.C. 1915 (e). 2) Whether respondents were properly joined on removal from state Court. (3). Whether case should have been remanded on motion by Nelson (Federal).

On August 17, 2018, Nelson filed a poor person Application to prosecute this case in New York State Supreme Court. The poor person Application was approved. Then Nelson Filed an Order To Show Cause on August 28, 2019. Before the Case could be heard, one of the Defendants removed the case to Eastern District Federal Court. Justice Cogan then sua sponte The case without Nelson having a chance to respond in anyway. In fact a complaint had not been filed in state court, only a summons and notice. Before the return date of the Order To Show Cause, Defendant's Attorney Richard Burton wrote a letter and told Justice Loren Baily Shiffman he would not be attending on the date the respondent were ordered to be in court.

Nelson then filed an appeal and poor person application with the United States Court of Appeals for the Second Circuit. ("Second Circuit"). His appeal was then dismissed by Second Circuit stating in the order "the motion is DENIED and the appeal is DISMISSED because it lacks an arguable basis either in law or in fact". These decisions and order never gave Nelson a chance to file a complaint or respond to anything.

On rehearing Nelson raise the sua sponte issue and the improper removal based on case law, To substantiate why he should be able to proceed with his appeal.

This case warrants a grant of certiorari because it presents important question under *Nietze v. Williams* ,490 U.S. 319 , which states " To the extent that a complaint filed in forma pauperis which fails to state a claim lacks even an arguable basis in law, Fed. R. Civ. P. 12 (b) (6) and



28 U.S.C.S. 1915(d) both counsel dismissal. But the considerable common ground between these standards does not mean that the one invariable encompasses the other. When the complaint raises an arguable question of law, which the district court ultimately finds is correctly resolved ·Against the plaintiff, dismissal on Fed. R. Civ. P 12 (b) (6) ground is appropriate, but dismissal on the basis of frivolousness is not". Nelson point is the Federal Court never had Jurisdiction, indeed this is an arguable claim.

Gerald Nelson is a Pro se litigant , has been injured on the job. Nelson is at a disadvantage in this litigation. Gerald Nelson request additional time to try and properly frame and present The issues in the petition for a Writ of Certiorari Gerald Nelson has been unable to contact Defendant-Appellees to find out if they oppose this motion.

Wherefore, Gerald Nelson respectfully request an order be entered extending his time to October 1,2019 to file his Writ of Certiorari.

Dated July 9 2019

Respectfully Submitted,

Gerald Nelson
Gerald Nelson
293 Ralph Avenue
Brooklyn, New York 11233
Tel 347-737-2217

Classie Duckery
CLASSIE DUCKERY
COMMISSIONER OF DEEDS
City of New York - No. 212903
Qualified in Kings County
Commission Expires December 1, 2020
July 9, 2019

