

No. 19-\_\_\_\_\_

**In the Supreme Court of the United States**

\_\_\_\_\_  
**EDWARD A. WEINHAUS, PETITIONER**

v.

**The STATE OF ILLINOIS, et. al.<sup>1,2</sup>**

**RESPONDENTS**

\_\_\_\_\_  
**APPLICATION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF  
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH  
CIRCUIT**

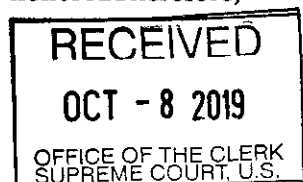
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**TO THE HONORABLE BRETT KAVANAUGH, ASSOCIATE JUSTICE OF THE  
SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE  
SEVENTH CIRCUIT:**

Pursuant to this Court's Rules 13.5 and 30.2, Applicant prays for a 60-day extension, or until December 13, 2019 to file his petition for a writ of certiorari in this Court.

1. Timeliness, Jurisdiction, and Opinion Below. On July 16, 2019, the United States Court of Appeals for the Seventh Circuit issued a decision denying Applicant's federal civil rights claims for violations of his Right to Travel. The district court's judgment is contained in Appendix A, and the Seventh Circuit's decision is contained in Appendix B. A petition for writ of certiorari would be due, pursuant to this Court's rules 13.1, 13.3, and 30.1 on or before October 14, 2019. This application is being filed more than ten days before that date. See Rule 30.2. The jurisdiction of this Court is to be invoked under 28 U.S.C. § 1254(1).

<sup>1</sup> The named Defendants in the Seventh Circuit who may also be named here include Barry Chernawsky and Steven Cohen.

<sup>2</sup> The named Defendants in the Seventh Circuit who will not be named here are Natalie Cohen and Adrienne Chernawsky. The Applicant swore to the state court on April 11, 2019 (and in the Seventh Circuit in April) that he would drop any claims against Natalie Cohen after it required he pay her fees in the lower courts. Subsequently on June 9, 2019, Natalie Cohen and the Applicant agreed, with the approval of the state court via state court order, that the Applicant would be the primary residential parent for minor child M.W. On or about August 6, 2019, the Applicant came to an agreement with Adrienne Chernawsky for allowing her to see M.W. which they have continued to honored. Therefore, Applicant brings no claims against either party to this Court.



## 2. Reasons for Granting the Extension.

### a. Procedural History.

The Applicant is a custodial father of five children. He filed a civil rights complaint for violations of his Right to Travel under the Privileges and Immunities Clause of the Article IV § 2, the Privileges or Immunities Clause of the Fourteenth Amendment of the Constitution, 42 U.S.C. § 1983 and §1985(3) against the State of Illinois and four individual defendants on April 6, 2018 in the Northern District of Illinois.

The complaint alleged that the State of Illinois violated his Right to Travel and further his due process by threatening, then ordering (subject to pending modification), then enforcing a banishment of Applicant from Illinois as a condition of seeing his Illinois-based children for six time periods throughout each calendar year. The complaint further alleged that the individual defendants violated his civil rights by restricting his Right to Travel before the State of Illinois' banishment order, after the banishment order during the six banishment periods, and during other time periods where no banishment was ordered.

Both the individual defendants and the State of Illinois filed motions to dismiss to which Applicant responded and requested leave to amend. On September 14, 2018, the district court issued a judgment granting the motions to dismiss without leave to amend on both jurisdictional and non-jurisdictional grounds.

Applicant filed a timely appeal to the Seventh Circuit. On July 16, 2019, the Seventh Circuit entered a non-precedential judgment affirming the jurisdictional grounds for dismissal and amending the district court's judgment to remove all non-jurisdictional grounds for dismissal. Upon motion by the individual defendants (and not the State of Illinois), the Seventh Circuit granted sanctions against Applicant under Federal Rule of Appellate Procedure Rule 38 for a frivolous appeal on the jurisdictional issues. On September 23, 2019, the Seventh Circuit ruled that no further fees<sup>3</sup> would be levied against Applicant and the Court would notify the California Bar, where Applicant seeks entry, of the sanctions.<sup>4</sup>

<sup>3</sup> The Defendant State of Illinois had ordered that Applicant should pay the fees of the State of Illinois' co-defendants in the matter below in its state court on April 8, 2019 - before any sanction motions had been filed.

<sup>4</sup> The sanction fee calculation ruling is attached as Appendix C.

b. Grounds for Certiorari Exist.

In Applicant's opinion, who has recently attained a law degree and passed a state bar exam, this case presents three issues worthy of presentation to this court in a petition for writ of certiorari:

- i) Whether a domestic relations exception to diversity jurisdiction bars federal court jurisdiction when the issue is a federal question?
- ii) Whether the *Rooker-Feldman* doctrine bars federal court jurisdiction of a case that is not final based on the "practical finality approach," or is otherwise not related to a court order at all? *See Malhan, infra*.
- iii) Whether Rule 38 Sanctions for a frivolous appeal are appropriate when there is a split in authority among the different circuits on the issues for which the sanctions were entered?

3. The need for an extension of time.

The petition is currently due October 14, 2019. More than two months after the Seventh Circuit's ruling (leaving less than a month to prepare), the Third Circuit entered a precedential opinion creating a circuit split with the Seventh Circuit's logic as applied in the matter below regarding the application of the *Rooker-Feldman* doctrine.<sup>5</sup> *Malhan v. Sec'y United States Dep't of State*, 2019 U.S. App. LEXIS 28047 Cause No. 18-3373 (3rd Cir. 2019). During the time from the Third Circuit's ruling until now, the Jewish High Holidays period of religious observance<sup>6</sup> has begun as well as Applicant's quarter beginning teaching in Los Angeles at the University California Los Angeles while engaged in doctoral legal research at Washington University in St. Louis, leaving not enough time to file a fully vetted petition to this Court by the October 14, 2019 deadline.

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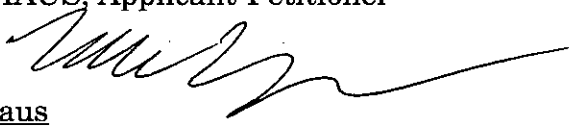
<sup>5</sup> A prior circuit split on the domestic relations exception for a federal question has existed for many years. The recent precedential Third Circuit ruling relating to *Rooker Feldman* necessitated the request for this extension, preparing a petition for consideration.

<sup>6</sup> The period of observance includes approximately four weeks of holidays including Rosh Hashannah, Yom Kippur, Sukkot, Simchat Torah and Shemini Atzeret, ending approximately on October 22, 2019.

WHEREFORE, the Applicant-Petitioner requests that an Order be entered extending by 60 days the time within which he may petition this Court for certiorari, to and including December 13, 2019.

Respectfully  
submitted,

EDWARD A. WEINHAUS, Applicant-Petitioner



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October 1, 2019