

No. 19A _____

IN THE SUPREME COURT OF THE UNITED STATES

JOY DENBY-PETERSON,
Petitioner

v.

NU2U AUTO WORLD AND PINE
VALLEY MOTORS

***APPLICATION FOR AN EXTENSION OF TIME IN WHICH TO FILE
A PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT***

To the Honorable Samuel A. Alito, Jr., Associate Justice and Circuit Justice for the Third Circuit: Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.2 of this Court, Joy Denby-Peterson respectfully requests a 30-day extension of time, to and including Wednesday, February 26, 2020, in which to file a petition for a writ of certiorari in this Court. The Court of Appeals for the Third Circuit entered judgment on October 28, 2019. See *In Re: Joy Denby-Peterson*, 941 F.3d 115 (3rd Cir. 2019). (A copy of the Third Circuit's opinion is attached as Exhibit 1.) Ms. Denby-Peterson's time to file a petition for certiorari in this Court will currently expire on January 27, 2020. This application is being filed more than 10 days before that date.

The case presents an important issue of federal bankruptcy law over which the courts of appeals have deeply split: Does a creditor violate the Bankruptcy Code's automatic stay provision, 11 U.S.C. § 362, when it fails to return estate property to the debtor and thereby forces her to seek a court order compelling the property's return under the Bankruptcy Code's turnover provision, *id.* § 542(a). Five federal courts of appeals have held that a creditor's failure to return such property violates the provision while three have held that it does not. *Compare In re Weber*, 719 F.3d 72, 81 (2d Cir. 2013) ("We * * * join the majority of other Circuits to have addressed this issue and conclude that [the automatic stay provision] requires a creditor in possession of property seized as security—but subject to a state-law-based residual equitable interest in the debtor—to deliver that property to the trustee or debtor-in-possession promptly after the debtor has filed a petition in bankruptcy under Chapter 13."); *Thompson v. General Motors Acceptance Corp.*, 566 F.3d 699, 703 (7th Cir. 2009) (similar); *In re Rozier*, 376 F.3d 1323, 1324 (11th Cir. 2004) (per curiam) (similar); *In re Del Mission Ltd.*, 98 F.3d 1147, 1151 (9th Cir. 1996) (similar); *In re Knaus*, 889 F.2d 773, 775 (8th Cir. 1989) (similar) *with In re Denby-Peterson*, 941 F.3d 115, 125-126 (3rd Cir. 2019) ("[The automatic stay provision] requires a post-petition affirmative act to exercise control over property of the estate"); *In re Cowan*, 849 F.3d 943, 949-950 (10th Cir. 2017) (similar); *United States v. Inslaw, Inc.*, 932 F.2d 1467, 1474 (D.C. Cir. 1991) (similar). On December 18, 2019, this Court granted the petition for a writ of certiorari in *City of Chicago v. Fulton*, No. 19-357, to decide this issue.

Petitioner has engaged the University of Virginia School of Law’s Supreme Court Litigation Clinic to file *pro bono* a petition for certiorari. The clinic is working diligently, but respectfully submits that the additional time requested is necessary to prepare Ms. Denby-Peterson’s petition. Substantial work remains to master the full record of the case and to prepare the petition and appendix for filing.

In addition to this case, the clinic is handling several other cases before this Court. It recently finished briefing and argued for petitioner in *Georgia v. Public.Resource.Org., Inc.*, No. 18-1150; has filed cert petitions in *Phoenix v. Region Bank*, No. 19-815, and *Hannah P v. Maguire*, No. 19-549, and a cert-stage amicus brief in *Morris v. Mekdессie*, No. 19-266; and is currently preparing cert petitions in two other cases.

On January 7, 2020, Petitioner’s counsel emailed counsel for Respondents asking whether they would consent to an extension of time for 30 days. On January 12, 2020, Respondents’ counsel replied that they “do not take a position either way.”

Wherefore, Petitioner respectfully requests that an order be entered extending the time to file a petition for writ of certiorari up to and including February 26, 2020.

Respectfully submitted,

DANIEL R. ORTIZ
Counsel of Record
UNIVERSITY OF VIRGINIA SCHOOL OF
LAW SUPREME COURT LITIGATION
CLINIC
580 Massie Road
Charlottesville, VA 22903-1738
(434) 924-3127
dortiz@law.virginia.edu

January 14, 2020