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20-5922

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

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IN THE  
SUPREME COURT OF THE UNITED STATES

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MARY JULIA HOOK, PETITIONER

VS.

LVN CORPORATION, UNITED STATES OF AMERICA, *ET AL.*  
RESPONDENTS

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ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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PETITION FOR WRIT OF CERTIORARI

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## QUESTION PRESENTED FOR REVIEW

The question presented for review is whether the United States Court of Appeals for the Tenth Circuit has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by the United States District Court for the District of Colorado, as to call for an exercise of the Supreme Court's supervisory power under Supreme Court Rule 10(a). Specifically, the Tenth Circuit grossly abused its inherent power by imposing the sanction of appeal dismissal against Hook based on its false and defamatory finding that her appeal in Case No. 19-1131 was "frivolous." This harsh and unjustified sanction arbitrarily deprived Hook of her right to appeal and receive meaningful appellate review under 28 U.S.C. § 1291, and arbitrarily deprived her of her First Amendment right to access to the courts and her Fifth Amendment right to due process of law; created the *appearance* of extreme judicial hostility to and bias against Hook, in violation of her Fifth Amendment due process right to a fair and impartial decision-maker on appeal; damaged or destroyed Hook's personal and professional reputations (Hook is an attorney), and unjustly opened her up to attorney disciplinary proceedings by courts and bar authorities, further chilling her First Amendment right to access to the courts and her Fifth Amendment right to due process of law; and sanctioned the unlawful judicial taking in the United States District Court for the District of Colorado of Hook and Smith's home and personal

property and their substantial equity therein without due process of law or just compensation, in violation of the Due Process Clause and the Takings Clause of the Fifth Amendment to the Constitution of the United States.

## **PARTIES TO THE PROCEEDING (LIST OF PARTIES)**

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

LNV Corporation

United States of America

The Prudential Home Mortgage Company, Inc.

Saint Luke's Lofts Homeowner Assoc., Inc.

Debra Johnson in her official capacity as the Public Trustee of the  
City and County of Denver, Colorado

## **PROCEEDINGS IN STATE AND FEDERAL TRIAL AND APPELLATE COURTS (RELATED CASES)**

United States Court of Appeals for the Tenth Circuit; No. 17-1094, Emergency Petition for a Writ of Mandamus or Prohibition; Dismissed, Procedural termination without judicial action, April 12, 2017.

United States Court of Appeals for the Tenth Circuit; No. 18-1110, Motion to Stay Proceedings Pending Appeal; Jurisdictional Defect, Procedural termination after other judicial action, May 18, 2018.

United States Court of Appeals for the Tenth Circuit; No. 18-1271, Appeal of district court order granting Plaintiff LNV Corporation's "Clarifying Information in Support of Motion for Partial Summary Judgment and Request for Entry of Summary Judgment on Remaining Issues"; Jurisdictional Defect, Procedural termination after other judicial action, August 28, 2018.

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## **PETITION FOR A WRIT OF CERTIORARI**

Petitioner respectfully seeks a writ of certiorari to review the judgment/orders of the United States Court of Appeals for the Tenth Circuit.

### **CITATIONS OF THE OFFICIAL AND UNOFFICIAL REPORTS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE**

The judgments, opinions and orders below are unpublished, and are contained in the Appendix to this Petition for a Writ of Certiorari.

### **STATEMENT OF THE BASIS FOR JURISDICTION IN THE SUPREME COURT**

The judgment/orders sought to be reviewed were entered by the United States Court of Appeal for the Tenth Circuit on June 2, 2020.

The June 13, 2020 petition for rehearing *en banc* was denied on June 30, 2020.

The United States of America was a party to the proceedings in the United States Court of Appeals for the Tenth Circuit.

Jurisdiction is conferred on this Court to review on certiorari the judgment/order entered by the United States Court of Appeals for the Tenth Circuit because that Court so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by the United States District Court for the District of Colorado, as to call for an exercise of the Supreme Court's supervisory power under Supreme Court Rule 10(a).



**CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES,  
ORDINANCES, AND REGULATIONS INVOLVED IN THE CASE**

Article III to the Constitution to the United States.

First Amendment to the Constitution of the United States (right to access to the courts).

Due Process Clause of the Fifth Amendment to the Constitution of the United States.

Takings Clause of the Fifth Amendment to the Constitution of the United States.

Seventh Amendment to the Constitution to the United States (right to jury trial).

11 U.S.C. § 362

11 U.S.C. § 522

11 U.S.C. § 524(a)(1) & (a)(2)

11 U.S.C. § 727

15 U.S.C. § 1648

26 U.S.C. § 6334

26 U.S.C. § 7403(a), (b) & (c)

28 U.S.C. § 1291

28 U.S.C. § 1334(e)

28 U.S.C. § 1444

28 U.S.C. § 1915

28 U.S.C. §§ 2001& 2002

28 U.S.C. § 2106

28 U.S.C. §§ 3202 & 3203

Sup. Ct. Rule 10(a)

Fed. R. App. P. 24

Fed. R. Civ. P. 56(a)

Colo. Rev. Stat. §§ 13-54-102 & 38-41-201 *et seq.*

### **STATEMENT OF THE CASE**

On April 3, 2014, the United States of America removed the case filed by LNV Corporation (“LNV”) against Mary Julia Hook (“Hook”) from the District Court in and for the City and County of Denver, Colorado to the United States District Court for the District of Colorado. The removed case was designated as Civil Action No. 14-cv-00955-RM.

In its federal court complaint, as amended, LNV pled five claims for relief against Hook under Colorado law, including a claim or cause of action for judicial foreclosure of Hook and Smith’s<sup>1</sup> home in Denver, Colorado based on Hook’s alleged liability to LNV on the promissory note on Hook and Smith’s home. LNV alleged that the United States District Court for the District of Colorado had subject matter jurisdiction under 28 U.S.C. § 1444, despite the fact that Section 1444 is a procedural statute rather than a jurisdictional statute, and despite the fact

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<sup>1</sup>Smith is David Lee Smith, Hook’s husband.

that LNV lacked Article III standing to file suit against Hook and Smith in the United States District Court for the District of Colorado because LNV did not have possession of the promissory note on Hook and Smith's home. LNV joined Smith and the United States into the lawsuit as party Defendants.

In their verified answer to LNV's amended complaint, Hook and Smith denied LNV's allegations and pled affirmative defenses and compulsory counterclaims against LNV, including LNV's lack of Article III standing to file suit against Hook and Smith in the United States District Court for the District of Colorado, and a continuing conspiracy by LNV and others (including LNV's attorneys) to deprive Hook and Smith of their home and other property without due process of law or just compensation, in violation of the Due Process Clause and the Takings Clause of the Fifth Amendment to the Constitution of the United States, and demanded a Seventh Amendment jury trial of all issues so triable. Hook and Smith requested United States District Judge Raymond P. Moore to dismiss LNV's amended complaint for lack of subject matter jurisdiction, but he arbitrarily refused to do so, despite the fact that LNV failed to plead a federal statute conferring subject matter jurisdiction on the United States District Court for the District of Colorado, and failed to plead or establish its Article III standing to file suit against Hook and Smith in the United States District Court for the District of Colorado.

In its answer to LNV's amended complaint, the United States pled cross claims against Hook, including a "claim for proceeds" against Hook to collect federal income taxes allegedly owed by Hook and Smith to the Internal Revenue Service by judicially foreclosing on allegedly valid tax liens on Hook and Smith's home and other property. The United States alleged that the United States District Court for the District of Colorado had subject matter jurisdiction under 28 U.S.C. § 1444, despite the fact that Section 1444 is a procedural statute rather than a jurisdictional statute, and despite the fact that the United States failed to plead or establish its Article III standing to file its "claim for proceeds" against Hook in the United States District Court for the District of Colorado.

The United States also failed to allege or establish the statutory prerequisites for filing suit against Hook in the United States District Court for the District of Colorado under 26 U.S.C. § 7403. Specifically, the United States failed to allege or establish that the Attorney General or his delegate, at the request of the Secretary of the Treasury, had directed a civil action to be filed in the United States District Court for the District of Colorado to enforce the lien of the United States under Title 26 with respect to such tax or liability or to subject any property of Hook, of whatever nature, or in which she had any right, title, or interest, to the payment of such tax or liability, as required by 26 U.S.C. § 7403(a). The United States failed to allege or establish that all persons having liens upon or claiming

any interest in the property involved in such action had been made parties thereto, as required by 26 U.S.C. § 7403(b). Significantly, the United States failed to allege or establish that Smith—the co-owner with Hook of their home and other property and the joint obligor with Hook on the alleged tax judgments/liens/liabilities which were the subject of the United States’ “claim for proceeds” against Hook—had been made a party to its “claim for proceeds” against Hook. The United States failed to allege or establish that it was seeking the “adjudication and decree” provided for in 26 U.S.C. § 7403(c) rather than “judicial foreclosure” under Colorado law—a non-existent claim or cause of action alleged by LNV in its amended federal court complaint. In the absence of proof of the statutory prerequisites for filing suit in the United States District Court for the District of Colorado, Judge Moore lacked jurisdiction to proceed with the United States’ “claim for proceeds” against Hook in the United States District Court for the District of Colorado.

In her verified answer to the United States’ cross claims, Hook denied the United States’ allegations and pled affirmative defenses and compulsory counterclaims against the United States, and demanded a Seventh Amendment jury trial of all issues so triable. Hook requested Judge Moore to dismiss the United States’ cross claims against her for lack of subject matter jurisdiction, but he arbitrarily refused to do so, despite the fact that 28 U.S.C. § 1444 is a procedural

statute rather than a jurisdictional statute, and despite the fact that the United States failed to plead or establish its Article III standing to file its “claim for proceeds” against Hook in the United States District Court for the District of Colorado..

On July 11, 2017, Hook and Smith filed their voluntary petition for Chapter 7 bankruptcy in the United States Bankruptcy Court for the District of Colorado in Case No. 17-16354-TBM, establishing exclusive jurisdiction in the Bankruptcy Court over the property of the estate, including Hook and Smith’s home and other property. *See* 28 U.S.C. § 1334(e). The automatic stay under 11 U.S.C. § 362 also went into effect on July 11, 2017 as to further or continued litigation by Hook and Smith’s alleged creditors including LNV and the United States in other courts, including the United States District Court for the District of Colorado.

On October 4, 2017, the United States filed its Proof of Claim (Claim 5) in Hook and Smith’s Chapter 7 bankruptcy case alleging that Hook and Smith owed the Internal Revenue Service \$1,056,958.35 for “[t]axes or penalties owed to governmental units”—of which \$743,301.00 was secured by a lien on “all of debtor(s) right, title and interest to property,” including “debtor’s principle residence.”

On October 19, 2017, United States Bankruptcy Judge Thomas B. McNamara held a preliminary (non-evidentiary) hearing and granted—over Hook and Smith’s objection—the motion of LNV and its counsel, Duncan E. Barber, to

lift the automatic stay in Hook and Smith’s Chapter 7 bankruptcy case with respect to LNV’s five claims for relief against Hook and Smith in Civil Action No. 14-cv-00955-RM. The United States received prior notice of, but did not appear at or participate in, this preliminary hearing; and Judge McNamara did not lift the automatic stay in Hook and Smith’s Chapter 7 bankruptcy case with respect to the United States’ “claim for proceeds” against Hook in Civil Action No. 14-cv-00955-RM.

On November 8, 2017, Judge McNamara issued his Order of Discharge discharging Hook and Smith’s debts under 11 U.S.C. § 727, including Hook and Smith’s alleged debts to LNV and the United States. The Order of Discharge states that “[c]reditors cannot collect discharged debts” and “[t]his order means that no one may make any attempt to collect a discharged debt from the debtors personally.” *See also* 11 U.S.C. § 524(a)(1) & 524(a)(2), creating a discharge injunction and voiding “any judgment at any time obtained, to the extent that such judgment is a determination of the personal liability of the debtor with respect to any debt discharged under section 727” of Title 11, United States Code.

On November 20, 2017, Judge Moore granted Mr. Barber’s motion to “reactivate” Civil Action No. 14-cv-00955-RM—over Hook and Smith’s objection—so that LNV could proceed with its five claims for relief against Hook and Smith in Civil Action No. 14-cv-00955-RM. However, Judge Moore did not

give LNV or Mr. Barber permission to attempt to collect any discharged debts from Hook and Smith *personally*, in violation of Judge McNamara's Order of Discharge in Hook and Smith's Chapter 7 bankruptcy case. Nor did Judge Moore give the United States or its counsel permission to proceed with its "claim for proceeds" against Hook in Civil Action No. 14-cv-00955-RM, in violation of the automatic stay in Hook and Smith's Chapter 7 bankruptcy case; and did not give the United States or its counsel permission to attempt to collect any discharged debts from Hook and Smith *personally*, in violation of Judge McNamara's Order of Discharge in Hook and Smith's Chapter 7 bankruptcy case.

On December 26, 2017, LNV and its counsel, Mr. Barber, filed LNV's Proof of Claim (Claim 16) in Hook and Smith's Chapter 7 bankruptcy case alleging that Hook and Smith owed LNV \$1,245,095.76 based on "Promissory Note, Deed of Trust and Assignments" and secured by a lien on "debtor's principle residence."

On February 20, 2018, Judge Moore issued his Order arbitrarily denying Hook and Smith's motion to supplement/amend their Proposed Pre-Trial Order to add claims and defenses against LNV and the United States for willful and malicious violations of Judge McNamara's November 8, 2017 Order of Discharge in Hook and Smith's Chapter 7 bankruptcy case and willful and malicious violations of the discharge injunction under 11 U.S.C. § 524(a)(2), by continuing



to litigate their claims for relief against Hook and Smith in Civil Action No. 14-cv-00955-RM. Judge Moore's February 20, 2018 Order deprived Hook and Smith of their First Amendment right to access to the courts and their Fifth Amendment due process right to litigate these claims and defenses in a Seventh Amendment jury trial.

On March 1, 2018, Judge Moore issued his Order Setting Case for Trial, setting Civil Action No. 14-cv-00955-RM for a three-day jury trial to commence on July 23, 2018.

On June 21, 2018, Judge Moore arbitrarily vacated his March 1, 2018 Order Setting Case for Trial without any statement of reasons.

More than eight months later, on March 5, 2019, Judge Moore issued his Order arbitrarily granting LNV's "third" motion for summary judgment and awarding attorney's fees and costs to LNV of more than \$239,000.00 against Hook *personally* on LNV's Fifth Claim for Relief (Money Judgment on Note Against Hook). The attorney's fees and costs awarded to LNV by Judge Moore were unproven in the Seventh Amendment jury trial demanded by Hook and Smith in their verified pleadings in Civil Action No. 14-cv-00955-RM; and were grossly excessive—smacking of unwarranted punitive sanctions being imposed against Hook by Judge Moore without Fifth Amendment due process of law.

On April 5, 2019, Judge Moore issued his Final Judgment and Order in Civil Action No. 14-cv-00955-RM arbitrarily granting the motions for summary judgment of LNV and the United States,<sup>2</sup> and awarding them more than \$2,239,000.00 in damages, attorney's fees and costs against Hook *personally* on LNV's Fifth Claim for Relief (Money Judgment on Note Against Hook) and on the United States' "claim for proceeds" against Hook—despite the fact that LNV did not have possession of the promissory note on Hook and Smith's home. The damages, attorney's fees and costs awarded to LNV and the United States by Judge Moore were unproven in the Seventh Amendment jury trial demanded by Hook and Smith in their verified pleadings in Civil Action No. 14-cv-00955-RM, and were grossly excessive—smacking of unwarranted punitive sanctions being imposed against Hook by Judge Moore without Fifth Amendment due process of

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<sup>2</sup>Judge Moore grossly misapplied the burdens of production and proof of LNV and the United States on their motions for summary judgment under Fed. R. Civ. P. 56(a). *See Celotex Corp. v. Catrett*, 477 U.S. 317 (1986) and *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986). Judge Moore failed or refused to consider Hook and Smith's affirmative defenses and compulsory counterclaims on these motions for summary judgment; and failed or refused to consider their witnesses, exhibits and offers of proof made at the Preliminary Trial Preparation Conference on May 29, 2018. Judge Moore arbitrarily denied Hook's motions to compel production of crucially relevant documents from LNV and the United States by grossly misapplying the standards of review and the procedure for determining the discoverability of these documents under the crime/fraud exception to the attorney-client privilege rule, the attorney work product doctrine and other privileges asserted by LNV and the United States.. *See Wildearth Guardians v. U.S. Forest Service*, 713 Fed. Supp. 2d 1243 (D. Colo. April 10, 2010).

law. The Final Judgment and Order issued by Judge Moore on April 5, 2019 constituted a determination of the *personal* liability of Hook and Smith with respect to their alleged debts to LNV and the United States discharged in their Chapter 7 bankruptcy case, rendering Judge Moore's Final Judgment and Order void under 11 U.S.C. § 524(a)(1). Therefore, Judge Moore lacked jurisdiction to issue his Final Judgment and Order on April 5, 2019.

Judge Moore also lacked statutory jurisdiction or authority to issue his Order of Foreclosure and Judicial Sale [of Hook and Smith's home and other property] on April 5, 2019. In his Order of Foreclosure and Judicial Sale, Judge Moore said that he had statutory jurisdiction or authority under 28 U.S.C. §§ 2001 & 2002. However, these general statutes authorizing a federal judge to sell property did not give Judge Moore jurisdiction or authority to foreclose on and sell Hook and Smith's home and personal property without following 26 U.S.C. § 7403 and the other procedures in the Internal Revenue Code (Title 26, United States Code) for tax lien foreclosures and sales of property. *See also* 28 U.S.C. §§ 3202 & 3203 of the Federal Debt Collection Procedure (28 U.S.C. § 3001 *et seq.*) applicable in this case. 28 U.S.C. §§ 2001 & 2002 certainly did not give Judge Moore the jurisdiction or authority to evict Hook and Smith from their home, under threat of being arrested by the United States Marshal and/or being held in contempt of court by Judge Moore if they did not obey his order to vacate their

home within 15 days after entry of his April 5, 2019 Order of Foreclosure and Judicial Sale; or to seize and detain their personal property; or to sell their home and personal property as a means of collecting for LNV and the United States the damages, attorney's fees and costs of more than \$2,239,000.00 awarded by Judge Moore to LNV and the United States against Hook and Smith *personally* in his April 5, 2019 Final Judgment and Order in Civil Action No. 14-cv-00955-RM. In the absence of statutory jurisdiction or authority, these orders, judgments and actions by Judge Moore were unlawful judicial takings of Hook and Smith's home and personal property without due process of law or just compensation, in violation of the Due Process Clause and the Takings Clause of the Fifth Amendment to the Constitution of the United States. *See Stop the Beach Renourishment v. Florida Department of Environmental Protection*, 560 U.S. 702 (2010); *Knick v. Township of Scott*, 588 U.S. \_\_\_\_ (2019). Therefore, Judge Moore lacked statutory jurisdiction to issue what was a clearly unconstitutional Order of Foreclosure and Judicial Sale on April 5, 2019.

On April 10, 2019, Hook filed her Notice of Appeal from all final decisions of the United States District Court for the District of Colorado in Civil Action No. 14-cv-00955-RM. Appellate jurisdiction in the United States Court of Appeals for the Tenth Circuit was based on 28 U.S.C. § 1291, providing that “[t]he courts of appeal (other than the United States Court of Appeals for the Federal Circuit) shall

have jurisdiction of appeals of all final decisions of the district courts of the United States.” Hook’s appeal was docketed in the Tenth Circuit as Case No. 19-1131.

On April 11, 2019, Judge Moore issued his Order Denying Hook's April 10, 2019 Motion for Leave to Proceed on Appeal Pursuant to 28 U.S.C. § 1915 and Fed. R. App. P. 24 finding “that this appeal is not taken in good faith because Defendant M. Julia Hook has not shown the existence of a reasoned, nonfrivolous argument on the law and facts in support of the appeal.” Hook denies the truth of Judge Moore’s finding, which created the *appearance* of extreme judicial hostility to and bias against Hook.

On April 20, 2019, at 11:59 p.m. MDT, Hook and Smith vacated their home of 25 years in Denver, Colorado, leaving the key in the mailbox for Mr. Barber and/or the United States Marshal for the District of Colorado, as ordered by Judge Moore in his April 5, 2019 Order of Foreclosure and Judicial Sale. Hook and Smith were unable to remove all of their personal property from their home due to their financial circumstances and the shortness of time (15 days) to comply with Judge Moore's Order of Foreclosure and Judicial Sale. The status of the “Judicial Sale” of Hook and Smith’s home and personal property was unknown to them.

More than eight months later, on January 8, 2020, the United States Marshal, purporting to act "pursuant to law" and in compliance with Judge Moore’s April 5, 2019 Order of Foreclosure and Judicial Sale, offered Hook and

Smith's home in Denver, Colorado for sale. At the February 20, 2020 sale, the United States Marshal purportedly sold Hook and Smith's home and "all of the personal property located thereon"<sup>3</sup> to LNV for \$1,514,914.80.

On March 2, 2020, Judge Moore issued his Order Confirming Judicial Sale [of Hook and Smith's home and personal property], stating in part that the United States Marshal "properly conducted the sale of the real property"; and that Hook and Smith's home "was sold to LNV Corporation, being the highest credit bid." The March 2, 2020 Order confirmed the sale and ordered the United States Marshal to "execute and deliver to the purchaser a deed of judicial sale conveying the property to the purchaser." Judge Moore referenced the "record" in Civil Action No. 14-cv-00955-RM and the "facts and circumstances" of that case, as well as "the Court's Order of Foreclosure and Judicial Sale" and the "Notice of Sale [Aplt. App. at 207-209] & Certificate of Purchase [Aplt. App. at 220-238]" as being the basis for his March 2, 2020 Order Confirming Judicial Sale.

In issuing his March 2, 2020 Order Confirming Judicial Sale, Judge Moore failed or refused to follow 26 U.S.C. § 7403(c), providing as follows:

**(c) Adjudication and Decree**

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<sup>3</sup>Despite the United States Marshal's misrepresentation in the Certificate of Purchase, Hook and Smith's personal property was not offered for sale in the January 8, 2020 Notice of Sale. Nevertheless, Hook and Smith's real property and "*all of the personal property located thereon*" [emphasis added] was sold to LNV at the February 20, 2020 sale as if such personal property had in fact been included in the January 8, 2020 Notice of Sale.

The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters therein and finally determine the merits of all claims to and liens upon the property, and, in all cases, where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary directs.

Judge Moore failed or refused to “adjudicate all matters therein and finally determine the merits of all claims to and liens upon the property.” In fact, Judge Moore merely rubber-stamped the United States Marshal’s sale of Hook and Smith’s home and personal property and distributed \$1,514,914.80 from the sale to LNV without holding a Fifth Amendment due process hearing or making any findings “in respect to the interests of the parties and the United States,” as required by 26 U.S.C. § 7403(c). As a consequence of this rubber-stamp process, Judge Moore failed or refused to make any finding or determination of the total amount of the April 5, 2019 Final Judgment and Order in favor of LNV and the United States, leaving Hook and Smith without a clue as to which alleged debts to the United States and LNV have been collected and/or satisfied, and unjustly opening them up to further attempted collections by LNV and the United States.

Judge Moore also failed or refused to set off amounts owed by LNV to Hook and Smith against the \$1,514,914.80 distributed to LNV from the sale to LNV of

their home and personal property. Judge Moore failed or refused to determine the fair market value of Hook and Smith's home and personal property<sup>4</sup> or the amounts owed by LNV to Hook and Smith based on the affirmative defenses and compulsory counterclaims pled by Hook and Smith against LNV in Civil Action No. 14-cv-00955-RM. If Judge Moore had taken these affirmative defenses and compulsory counterclaims into consideration, Hook and Smith would not have owed \$1,514,914.80 or any amount to LNV. LNV would have owed Hook and Smith an amount to be determined by the jury in the Seventh Amendment jury trial demanded by them in their verified pleadings in Civil Action No. 14-cv-00955-RM.

Judge Moore also failed or refused to determine the amounts owed by the United States to Hook and Smith based on the affirmative defenses and compulsory counterclaims pled by Hook against the United States in Civil Action No. 14-cv-00955-RM. If Judge Moore had taken these affirmative defenses and compulsory counterclaims into consideration, Hook and Smith would not have owed any amount to the United States. The United States would have owed Hook

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<sup>4</sup>The \$1,514,914.80 distributed to LNV from the sale was the amount of LNV's "credit bid" to purchase Hook and Smith's home and personal property, not the fair market value of their home and personal property. This unauthorized use of a "credit bid" as a substitute for determining the fair market value of Hook and Smith's home and personal property as the basis for the sale constituted a fraud upon Hook and Smith, resulting in a theft in the United States District Court for the District of Colorado of their home and personal property and their substantial equity therein.



and Smith an amount to be determined by the jury in the Seventh Amendment jury trial demanded by them in their verified pleadings in Civil Action No. 14-cv-00955-RM.

Judge Moore also failed or refused to distribute to Hook and Smith the amount of their homestead and personal property exemptions under 26 U.S.C. § 6334, 11 U.S.C. § 522, and Colo. Rev. Stat. §§ 13-54-102 & 38-41-201 *et seq.* In fact, Judge Moore failed or refused to acknowledge that Hook and Smith's home and personal property were part of the bankruptcy estate in their Chapter 7 bankruptcy case or that Hook and Smith were entitled to homestead and personal property exemptions in the distribution of proceeds from the sale of their home and personal property in Civil Action No. 14-cv-00955-RM. Hook and Smith were thus deprived of their right to receive the amount of their homestead and personal property exemptions in the distribution of proceeds to provide the "fresh start" after bankruptcy intended by Congress in enacting the United States Bankruptcy Code (Title 11, United States Code).

Judge Moore also failed or refused to lift or remove the federal tax liens on their home so they could qualify for a reverse mortgage on their home under 15 U.S.C. § 1648. Hook challenged the validity and amounts of these federal tax liens in the affirmative defenses and compulsory counterclaims pled by her against the United States in Civil Action No. 14-cv-00955-RM. Judge Moore failed or refused

to acknowledge that Hook and Smith could qualify for a reverse mortgage on their home if he lifted or removed the federal tax liens on their home. Hook and Smith (aged 73 and 75, respectively) were thus arbitrarily deprived of their right to qualify for a reverse mortgage on their home.

Judge Moore also failed or refused to follow the procedures set forth in 28 U.S.C. §§ 3202 & 3203. These procedures are part of the Federal Debt Collection Procedure (28 U.S.C. § 3001 *et seq.*) applicable in this case.

On June 2, 2020, a three-judge panel of the Tenth Circuit (composed of Circuit Judges Briscoe, Lucero and Hartz} issued its Order and Judgment in Case No. 19-1131 imposing the sanction of appeal dismissal against Hook based on its false and defamatory finding that the appeal was “frivolous.” As a further sanction, the panel denied Hook’s Motion to Proceed *In Forma Pauperis* on Appeal and ordered her to pay the filing fee for her appeal.

### **ARGUMENT**

In her briefs on appeal in Case No. 19-1131, Hook made the following arguments: (1) Judge Moore has been proceeding without or in excess of his jurisdiction in Civil Action No. 14-cv-00955-RM since the United States removed the case from the District Court in and for the City and County of Denver, Colorado to the United States District Court for the District of Colorado on April 3, 2014; (2) Judge Moore’s final judgments and orders in Civil Action No. 14-cv-

00955-RM were premised on jurisdictional errors and due process violations, rendering them void under *United Student Aid Funds Inc. v. Espinosa*, 559 U.S. 260 (2010); (3) Judge Moore’s final judgments and orders in Civil Action No. 14-cv-00955-RM constituted determinations of Hook and Smith’s *personal* liability with respect to their alleged debts to LNV and the United States discharged in their Chapter 7 bankruptcy case, rendering them void under 11 U.S.C. § 524(a)(1); (4) Judge Moore’s final judgments and orders in Civil Action No. 14-cv-00955-RM constituted unlawful judicial takings of Hook and Smith’s home and personal property without due process of law or just compensation, in violation of the Due Process Clause and the Takings Clause of the Fifth Amendment to the Constitution of the United States. See *Stop the Beach Renourishment v. Florida Department of Environmental Protection*, 560 U.S. 702 (2010); *Knick v. Township of Scott*, 588 U.S. \_\_\_\_ (2019).

The Tenth Circuit panel grossly abused its power by imposing the sanction of appeal dismissal against Hook based on its false and defamatory finding that her appeal in Case No. 19-1131 was “frivolous.” This harsh and unjustified sanction arbitrarily deprived Hook of her right to appeal and receive meaningful appellate review under 28 U.S.C. § 1291, and arbitrarily deprived her of her First Amendment right to access to the courts and her Fifth Amendment right to due process of law; created the *appearance* of extreme judicial hostility to and bias

against Hook, in violation of her Fifth Amendment due process right to a fair and impartial decision-maker on appeal; damaged or destroyed Hook's personal and professional reputations (Hook is an attorney), and unjustly opened her up to attorney discipline proceedings by courts and bar authorities, further chilling her First Amendment right to access to the courts and her Fifth Amendment right to due process of law; and sanctioned the unlawful judicial taking in the United States District Court for the District of Colorado of Hook and Smith's home and personal property and their substantial equity therein without due process of law or just compensation, in violation of the Due Process Clause and the Takings Clause of the Fifth Amendment to the Constitution of the United States.

Based on the foregoing, the United States Court of Appeals for the Tenth Circuit has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by the United States District Court for the District of Colorado, as to call for an exercise of the Supreme Court's supervisory power under Supreme Court Rule 10(a).

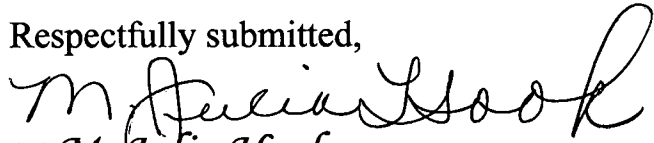
### **CONCLUSION**

Hook respectfully requests the Supreme Court to grant her Petition for a Writ of Certiorari, and to grant such other and further relief as may be just under the circumstances, including an order vacating, setting aside, or reversing the

Tenth Circuit panel's June 2, 2020 Order and Judgment in No. 19-1131 under 28 U.S.C. § 2106 providing for such relief.

Dated this 28<sup>th</sup> day of September, 2020.

Respectfully submitted,



/s/ M. Julia Hook

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