

No. 21-6066

IN THE
SUPREME COURT OF THE UNITED STATES

R. Susan Woods,

Petitioner

vs.

Joseph B. Collins, Trustee in Bankruptcy of R. Susan Woods

And

Alina's Real Estate, LLC,

Respondents

On Petition for Writ of Certiorari to

The United States Court of Appeals for the First Circuit

BRIEF OF RESPONDENT, JOSPEH B. COLLINS, TRUSTEE, IN OPPOSITION TO

PETITION FOR WRIT OF CERTIORARI

AND

MOTION TO PROCEED *IN FORMA PAUPERIS*

November 18, 2021

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Counter-Statement of Questions Presented

Whether the First Circuit Court of Appeals erred in affirming a decision of the United States District Court that dismissed the appeal of an Order of the United States Bankruptcy Court that denied R. Susan Woods (“Petitioner” or “Debtor”) a discharge in bankruptcy pursuant to Section 727(a)(6)(A) of the Bankruptcy Code?

Whether the First Circuit Court of Appeals erred in affirming a decision of the United States District Court that dismissed the appeal of an Order of the United States Bankruptcy Court that denied the Debtor’s Motion to Void the Sale of the 70 Russell Street Property (“Motion to Void Sale”)?

Whether the First Circuit Court of Appeals erred in affirming a decision of the United States District Court that dismissed the appeal of an Order of the United States Bankruptcy Court that fixed an amount of damages for the violation of Section 362 of the Bankruptcy Code as against the Respondent, Alina’s Real Estate, LLC?

Whether the Debtor, having been found by the First Circuit Court of Appeals to have taken her appeals for an improper purpose and having been motivated by subjective bad faith, is entitled to proceed in this Court as an *In Forma Pauperis* Petitioner?

Table of Contents

Counter-Statement of Questions Presented	i
Table of Contents	ii
Parties to the Proceeding	iii
Rule 14.1(b)(iii) Statement	iv
Table of Authorities	vii
Statutory Provisions and Procedural Rules Involved	viii
 Brief of Respondent	 1.
a. The Order Denying the Debtor a Discharge in Bankruptcy	1.
b. The Order Denying the Debtor's Motion to Void Sale	2.
c. The Order Awarding Damages on Account of a Violation of the Automatic Stay	3.
d. The Debtor's Vexatious Litigation and Motion to Proceed <i>In Forma Pauperis</i>	4.
e. False Statement of Facts in Debtor's Petition for Writ of Certiorari	5.
f. Reasons for denying Debtor's Petition for Writ of Certiorari	6.
g. Request for Award of Damages	7.
h. Conclusion and Requests for Relief	10.

Parties to the Proceeding

R. Susan Woods (the “Petitioner” or “Debtor”) is the Debtor in a Bankruptcy Case pending before the United States Bankruptcy Court for the District of Massachusetts, Western Division identified a Docket No. 18-30549-EDK. The Debtor is also the Petitioner in each of the three separate proceedings that are the subject of her Petition for Writ of Certiorari.

Joseph B. Collins, Trustee in Bankruptcy of R. Susan Woods (“Respondent” or “Trustee”) is the duly appointed Trustee in Bankruptcy of the Petitioner and is one of the Respondents in the Petitioner’s Petition for Writ of Certiorari.

Alina’s Real Estate, LLC (“Respondent” or “Alina’s”) is one of the Respondents in the Petitioner’s Petition for Writ of Certiorari, but only with respect to Case No. 20-1991.

Rule 14.1(b)(iii) Statement

Pursuant to Rule 14.1(b)(iii), the following proceedings are related to this case:

- In re Woods, Chapter 7 bankruptcy case pending in the United States Bankruptcy Court for the District of Massachusetts, Western Division , as Docket No. 18-30549-EDK.
- In re Woods, Order dated February 14, 2019, Bankruptcy Court Document No. 260 (the “Sale Order”).
- In re Woods, Order dated February 15, 2019, Bankruptcy Court Document No. 267 (the “Order to Surrender”).
- In re Woods, Order dated February 26, 2019, Bankruptcy Court Document No. 303 (the “First Contempt Order”).
- In re Woods, Order dated February 28, 2019, Bankruptcy Court Document No. 312 (the “Second Contempt Order”).
- Woods v. Collins, Trustee, United States District Court for the District of Massachusetts, Docket No 1:19-cv-10321-DJC, Judgment dated June 7, 2019, Document No. 38 (Affirmation of the Sale Order).
- Woods v. Collins, Trustee, United States District Court for the District of Massachusetts, Docket No. 19-cv-10323, Judgement dated June 7, 2019, ECF No. 17. (Affirmation of the Order to Surrender).
- Woods v. Collins, Trustee, United States District Court for the District Of Massachusetts, Docket No. 3:19-cv-30028-DJC, Judgment dated June 7, 2019, Document No. 18 (Affirmation of the First Contempt Order).
- Woods v. Collins, Trustee, United States District Court for the District of Massachusetts, Docket No. 3:19-cv-30030-DJC, Judgment Dated June 7, 2019, Document No. 15 (Affirmation of the Second Contempt Order).
- Woods v. Collins, Trustee, First Circuit Court of Appeals, Docket No. 19-1698, Judgment dated February 11, 2020, Document No. 00117549770 (Affirmation of the Sale Order).

- Woods v. Collins, Trustee, First Circuit Court of Appeals, Docket Nos. 19-1702, 19-1703 and 19-1704, Judgments dated February 10, 2020, Document No. 0117549385. (Affirmation of the Order to Surrender, the First Contempt Order, and the Second Contempt Order).
- In re Woods, Order dated April 8, 2020, Bankruptcy Court Document No. 481 (Order Denying Motion to Void Sale).
- In re Woods, United States District Court for the District of Massachusetts, Docket No. 20-30060-LTS, Judgment and Order on Bankruptcy Appeals dated September 29, 2020, Document Nos. 44 and 43 (Affirmation of the Order Denying Motion to Void Sale).
- In re Woods, First Circuit Court of Appeals, Docket No. 20-1993, Judgment dated April 27, 2021, Document No. 00117733632 (Affirmation of the Order Denying Motion to Void Sale).
- Collins, Trustee v. Woods, Bankruptcy Court Adversary Proceeding No. 19-03012, Judgement and Order dated February 28, 2020, Document Nos. 57 and 56 (Denial of Debtor's Discharge).
- Woods v. Collins, Trustee, United States District Court, Docket No. 3:20-cv-30047-LTS, Judgment and Order on Bankruptcy Appeals dated September 29, 2021, Document Nos. 30 and 29 (Affirmation of Denial of Debtor's Discharge).
- Woods v. Collins, Trustee, First Circuit Court of Appeals, Docket No. 20-1992, Judgment dated April 27, 2021, Document No. 00117733623 (Affirmation of Order Denying Debtor's Discharge).
- Woods v. Alina's Real Estate, LLC, Bankruptcy Court Adversary Proceeding No. 18-3019-EDK, Judgement dated February 4, 2020, Document No. 120 (Judgment Fixing award for Violation of Automatic Stay).
- Woods v. Alina's Real Estate, LLC, United States District Court Docket No 20-30026-LTS, Judgment and Order of the Court dated September 29, 2020, Document Nos. 42 and 41 (Affirmation of Judgment Fixing Award for Violation of Automatic Stay).
- Woods v. Alina's Real Estate LLC, First Circuit Court of Appeals, Docket No 20-1991, Judgment, dated April 27, 2021, Document No. 00117733635 (Affirmation of Judgment Fixing Award for Violation of Automatic Stay)

- In re Woods, United States District Court, Docket Nos. 20-30026-LTS, 20- 30047-LTS and 20-30060-LTS, Order on Motions Pursuant to Fed. R. App. P. 24(a)(3)(A), dated October 22, 2020, Document Nos. 48, 36 and 50 (Order Terminating Debtor's *In Forma Pauperis* Status).
- In re Woods, United States Bankruptcy Court, Docket No. 18-30549-EDK, Order and Memorandum of Decision, dated March 11, 2021, Document Nos. 572 and 571 (Order Finding Debtor to be a Vexatious Litigant).

Table of Authorities

<u>Leblanc v. Salem, (In re: Mailman Steam Carpet Cleaning Corp.),</u> 196 F. 3 rd 1 (1 st Cir. 1999)	1.
<u>Maness v. Meyers,</u> 419 U.S. 449 (1975)	1.
<u>In re: Stadium Mgmt.,</u> 895 F 2 nd 845 (1 st Cir. 1990)	3.

Statutory Provisions and Procedural Rules Involved

11 U.S.C. Sec. 362	3.
11 U.S.C. Sec. 541	7.
11 U.S.C. Sec. 704	6.
11 U.S.C. Sec. 727(a)(b)(A)	1.
Federal Rules of Bankruptcy Procedure, Rule 9024	3.
Federal Rules of Appellate Procedure, Rule 24(a)(3)	4.
Rules of the Supreme Court of the United States, Rule 12(4)	7.
Rules of the Supreme Court of the United States, Rule 42	10.

Brief of Respondent

The Petitioner's Petition for Writ of Certiorari is replete with false statements, utterly without merit, and filed in bad faith for the purpose of pursuing the Petitioner's vendetta against the banks that foreclosed her real estate, the purchaser of one of her foreclosed parcels of real estate, and the Trustee in Bankruptcy.

The Petition seeks to consolidate three separate Judgments of the First Circuit Court of Appeals that arose during the bankruptcy case. The Judgments are substantially unrelated. The three Judgments are summarized below.

a. The Order Denying the Debtor a Discharge in Bankruptcy.

The First Circuit Judgment identified as Docket No. 20-1992 involves the First Circuit's affirmation of the District Court's dismissal of Petitioner's appeal of a Bankruptcy Court Judgment that denied the Petitioner's discharge in bankruptcy. The Debtor's discharge was denied, pursuant to 11 U.S.C. sec. 727(a)(6)(A), as a result of her refusal to obey four separate Bankruptcy Court Orders that required her to surrender possession of property of her bankruptcy estate. The Bankruptcy Court took judicial notice of facts on the docket of the Debtor's bankruptcy case which evidenced the fact that the Debtor refused to obey lawful Orders of the Bankruptcy Court. See LeBlanc v. Salem, (In re Mailman Steam Carpet Cleaning Corp.), 196 F.3rd 1, 8 (1st Cir. 1999). Although the Debtor apparently contends that the Bankruptcy Court orders were wrong, she was still obliged to comply with the court orders. See Maness v. Meyers, 419 U.S. 449, 458 (1975).

Each of the Orders that the Debtor refused to obey were separately appealed by the Debtor to the United State District Court and then to the First Circuit Court of Appeals. See: *In re Woods*, No. 19-cv-10321, ECF No. 37 (D. Mass. June 7, 2019), aff'd, No. 19-1698 (1st Cir. Feb. 11, 2020); *In re Woods*, No. 19-cv-30023, ECF No. 17 (D. Mass. June 7, 2019), aff'd, No. 19-1704 (1st Cir. Feb. 10, 2020); *In re Woods*, No. 19-cv-30028, ECF No. 17 (D. Mass. June 7, 2019), aff'd, No. 19-1702 (1st Cir. Feb. 10, 2020); *In re Woods*, No. 19-cv-30030, ECF No. 13 (D. Mass. June 7, 2019), aff'd, No. 19-1703 (1st Cir. Feb. 10, 2020). In each appeal, the Bankruptcy Court Orders that the Debtor refused to obey were affirmed by the District Court and the First Circuit Court of Appeals. The Debtor's present Petition to the Supreme Court is frivolous in that there is no dispute as to whether the Debtor refused to obey lawful Orders of the Bankruptcy Court.

b. The Order Denying the Debtor's Motion to Void Sale.

The First Circuit Judgment identified as Docket No. 20-1993 involves the First Circuit's affirmation of the District Court's dismissal of the Debtor's appeal of a Bankruptcy Court Order that denied her Motion to Void Sale. The sale that the Debtor seeks to avoid was approved by an Order of the Bankruptcy Court on February 14, 2019 (the "Sale Order"). The Sale Order authorized the Trustee to sell real estate located at 70 Russell Street, Hadley, Massachusetts ("70 Russell Street"). The Debtor's appeal of the Sale Order to the District Court was dismissed. The District Court's Order of dismissal was affirmed by the First Circuit Court of Appeals. See: *In re Woods*, No. 19-cv-10321, ECF No. 37 (D. Mass. June 7, 2019), aff'd, No. 19-1698 (1st Cir. Feb. 11, 2020). The validity of the Sale Order, therefore, has been resolved in earlier litigation through the Bankruptcy Court, the District Court and the First Circuit Court of Appeals.

On March 6, 2019, the Trustee sold 70 Russell Street to third parties pursuant to the Bankruptcy Court's Sale Order.

Despite the fact that the validity of the Sale Order was affirmed by the First Circuit Court of Appeals, and notwithstanding the fact that 70 Russell Street was sold to third parties more than a year before, the Debtor, on March 25, 2020, filed the Motion to Void Sale.

The Debtor's Motion to Void Sale is a transparent attempt to re-litigate the validity of the Sale Order. Rule 9024 of the Rules of Bankruptcy Procedure requires that a motion seeking relief from a court order must be filed within a reasonable time and, in most instances, within one year after the entry of the Order. The Debtor's Motion to Void Sale was filed more than a year after the entry of the Sale Order. Also, any challenge to a sale that has been consummated by a good faith purchaser can be dismissed as moot. See In re: Stadium Mgmt., 895 F. 2nd 845, 847 (1st Cir. 1990). The validity of the Sale Order has already been resolved through earlier litigation and it is also moot. The Debtor's Motion to Void Sale, upon which the Petition to this Court is based is, therefore, frivolous.

c. The Order Awarding Damages on Account of a Violation of the Automatic Stay.

The First Circuit Judgment identified as Docket No. 20-1991 involves the First Circuit's affirmation of the District Court's dismissal of the Debtor's appeal of a Bankruptcy Court Order that awarded damages to the Debtor on account of a violation of the automatic stay (11 U.S.C. sec. 362) by a creditor. In that matter, the Debtor's appeal was dismissed by the District Court as a result of her failure to file a timely brief. In the District Court's Order dismissing the Debtor's appeal, the Court noted that the time for the Debtor to file her brief had been extended and that, as a result of her substantial experience as a *pro se* litigant, she was (or reasonably should have

been) aware that the failure to file a timely brief could be case dispositive. The Debtor's appeal of the Bankruptcy Court Order, therefore, is frivolous due to the fact that the dismissal of the appeal is a direct result of the Debtor's failure to comply with rules of procedure.

d. The Debtor's Vexatious Litigation and Motion for Leave to Proceed *In Forma Pauperis*.

The District Court and the First Circuit Court of Appeals entered Orders finding that the Debtor to is proceeding in bad faith in each of the three proceedings that are the subject of the Debtor's Petition for Writ of Certiorari.

On March 11, 2021, the Bankruptcy Court also entered a separate Order finding the Debtor to be a frivolous and vexatious litigant. See In re Woods, Docket No. 18-30549-EDK, ECF Nos. 572 and 571. The Bankruptcy Court also placed limited restrictions on the manner in which the Debtor could file pleadings with the Bankruptcy Court. The Debtor, predictably, has appealed that Order and her appeal of that Order is now pending in the District Court.

In each of the three matters that the Debtor's Petition for Writ of Certiorari seeks to consolidate, Motions were filed in the District Court, pursuant to Rule 24(a)(3) of the Federal Rules of Appellate Procedure, seeking to deny the Debtor's attempt to proceed *in forma pauperis* as a result of her vexatious and frivolous appeals. In response to these Motions, the District Court found that the Debtor's appeals were frivolous, not taken in good faith, and that the Debtor was proceeding with subjectively improper motives.

On April 21, 2021, the First Circuit Court of Appeals agreed with the District Court determination that the Debtor's appeals were lacking in good faith, and that the her appeals did not raise any non-frivolous issue.

e. False Statements of Facts in Debtor's Petition for Writ of Certiorari.

The Debtor's Petition for Writ of Certiorari ("Petition") contains multiple false statements that appear to be designed to justify her contempt for Orders entered by the Bankruptcy Court and to cast aspersions upon the Trustee. The following false statements are noted:

- There were no "illegalities by the Trustee"; none are cited in the Debtor's Petition. Petition Page 11.
- The Trustee did not use "his own funds" to purchase the property located at 70 Russell Street, Hadley Massachusetts ("70 Russell Street"). Petition Page 11. The property at 70 Russell Street was transferred to the Trustee, for the benefit of the bankruptcy estate, for no consideration.
- The Trustee did not remove the tenants at 70 Russell Street by "threatening Woods' tenants". Petition Page 11. In order to effect a sale of 70 Russell Street free of tenants, the Trustee negotiated as settlement with the existing tenants that, among other things, terminated their tenancy. The settlement was accepted by the tenants and approved by an Order of the Bankruptcy Court.
- The Trustee did not "constructively evict" the Debtor from 70 Russell Street. Petition Page 11. The Debtor, after the existing tenants surrendered 70 Russell Street, unlawfully seized and took possession of this property of the bankruptcy estate. Only after the Debtor refused to comply with four lawful Orders of the Bankruptcy Court that required her to surrender this property of the estate, did the Trustee take possession of the property. The actions taken by the Trustee were specifically authorized by the Bankruptcy Court's February 26, 2019 Order.

- The Trustee did not need “to increase the creditor claims against the estate” in order to justify the sale of 70 Russell Street. Petition Page 11. Section 704 of the Bankruptcy Code requires a trustee in bankruptcy to liquidate property of the estate expeditiously and without regard to the amount of creditor claims.
 - Woods’ seizure of 70 Russell Street was not under “color of law”. Petition Page 12. The property at 70 Russell Street was property of the bankruptcy estate. The Debtor was not in possession of 70 Russell Street at the time that her bankruptcy case was commenced. The Debtor holds no exemption in 70 Russell Street. Neither the Trustee nor the Bankruptcy Court authorized the Debtor to enter 70 Russell Street. At the time that she seized 70 Russell Street, the Debtor had no interest of any kind in that property.
 - The Trustee did not fabricate or inflate claims to justify the sale of 70 Russell Street. Petition Page 12. The Trustee was obliged by Section 704 of the Bankruptcy Code to sell the property.
 - The Trustee did not conspire with the principals of the Respondent, Alina’s Real Estate, LLC, to establish a false or unjust claim. Petition Page 12. Rather, the Trustee objected to the claim filed by Alina’s Real Estate, LLC. The Trustee’s objection resulted in a substantial reduction in the amount of the claim. The reduction in the amount of the claim was approved by an Order of the Bankruptcy Court. The Debtor’s appeal of that Order was dismissed.
- f. Reasons for Denying Debtor’s Petition for Writ of Certiorari.

There are no compelling reasons for granting a Writ of Certiorari in this case. The Debtor has not cited a conflict among Circuit Courts, has not identified an important federal question that conflicts with a decision by a state court, and has not identified a departure from usual

proceedings that would call for the exercise of the court's supervisory power. Also, the Debtor has not identified an important question of federal law that should be settled by this Court.

The Debtor's Petition for Writ of Certiorari does not involve identical or closely related questions and her attempt to consolidate three separate proceeding into a single Petition does not, therefore, suffice. See: Supreme Court Rule 12(4).

The Debtor' Petition for Writ of Certiorari also seeks to have this Court review and determine factual findings upon which the challenged Orders of the Bankruptcy Court were based.

The Debtor's Petition for Writ of Certiorari seeks relief for her exclusive benefit. She apparently believes, incorrectly, that if the sale of 70 Russell Street is avoided, she will become the owner of the property. She refuses to understand that even if the sale of the property was avoided, the real estate will still be property of her bankruptcy estate pursuant to Section 541 of the Bankruptcy Code. She also seeks to overturn the denial of her bankruptcy discharge so that she will not have to pay her creditors whose claims have not been discharged. Finally, her challenge to the award that she received for a violation of the Automatic Stay seems to be for the purpose of increasing the recovery that she will receive. In short, the Debtor is using the Petition for Writ of Certiorari to advance her personal goals. Her Petition is not at all important to the general public.

g. Request for Award of Damages.

The Debtor has appealed thirteen Orders of the Bankruptcy Court since the commencement of her bankruptcy case. With the exception of the appeals that are the subject of the Petition for

Writ of Certiorari and a recent appeal filed on April 23, 2021, all of her other appeals have been denied, dismissed or withdrawn.¹

The Debtor was found to be proceeding in bad faith by the District Court and the First Circuit Court of Appeals in each of the three appeals that she is now attempting to consolidate.

The Debtor's bad faith can also be detected in the Petition for Certiorari that she has filed with this Court. For example, the caption of the Petition states that the Trustee is a party to the litigation in his official capacity and his "Individual Capacity". The Trustee has never been a party to any litigation with the Debtor in his individual capacity. The Debtor's contention that

¹ Woods has appealed thirteen Orders rendered by the Bankruptcy Court during her Chapter 7 case. Her most recent appeal was filed on April 23, 2021. That appeal seeks to consolidate appeals of two separate Orders of the Bankruptcy Court. The appeal is pending before the United States District Court for the District of Massachusetts as Docket No 1:21-cv-10754-MGM. An earlier appeal was dismissed by the Bankruptcy Appellate Panel on April 1, 2021. *In re Woods*, No. 21-006 (B.A.P. April 1, 2021). Three other appeals from Bankruptcy Court Orders were affirmed by Judge Sorokin on September 29, 2020. Subsequently, the First Circuit Court of Appeals entered Judgments affirming the District Court due to the fact that the appeals did not present a "substantial question". *In re Woods*, 20-cv-30047, ECF No. 30 (D. Mass. September 29, 2020), *aff'd* No. 20-1992 (1st Cir. April 27, 2021); *In re Woods*, 20-cv-30060 ECF No. 44 (D. Mass. September 29, 2020), *aff'd* No. 20-1993 (1st Cir. April 27, 2021); *In re Woods*, 20-cv-30026, ECF No. 42 (D. Mass. September 29, 2020), *aff'd* No. 20-1991 (1st Cir. April 27, 2021). These three Judgements of the First Circuit Court of Appeals are the subject of the Petition for Writ of Certiorari. Four earlier appeals were dismissed by Judge Casper on June 7, 2019. The First Circuit affirmed the District Court's dismissal orders on February 11, 2020. *In re Woods*, No. 19-cv-10321, ECF No. 37 (D. Mass. June 7, 2019), *aff'd*, No. 19-1698 (1st Cir. Feb. 11, 2020); *In re Woods*, No. 19-cv-30023, ECF No. 17 (D. Mass. June 7, 2019), *aff'd*, No. 19-1704 (1st Cir. Feb. 10, 2020); *In re Woods*, No. 19-cv-30028, ECF No. 17 (D. Mass. June 7, 2019), *aff'd*, No. 19-1702 (1st Cir. Feb. 10, 2020); *In re Woods*, No. 19-cv-30030, ECF No. 13 (D. Mass. June 7, 2019), *aff'd*, No. 19-1703 (1st Cir. Feb. 10, 2020). An additional appeal was also dismissed by Judge Casper on December 13, 2019; a decision which Woods did not appeal further. *Woods v. Collins*, No. 19-cv-11379, ECF No. 13 (D. Mass. Dec. 13, 2019). Two others appeals that Woods filed with the United States Bankruptcy Appellate Panel for the First Circuit, also were dismissed. One of these appeals was untimely, and one related to an unappealable interlocutory order. *In re Woods*, No. 19-052 (B.A.P. 1st Cir. Nov. 12, 2019); *In re Woods*, No. 19-038 (B.A.P. 1st Cir. Sept. 23, 2019).

she is proceeding against the Trustee in his individual capacity evidences her bad faith attempt to harass and intimidate the Trustee.

The Debtor has been found to be a frivolous and vexatious litigant by the United States Bankruptcy Court. In a March 11, 2021, Memorandum of Decision, the Bankruptcy Court determined that the Debtor had evidenced a propensity to file repeated pleadings of a “frivolous or vexatious nature”. See In re Woods, 18-30549-EDK, ECF Nos. 571 and 572. Predictably, the Debtor has appealed that Bankruptcy Court Order. That appeal is pending before the United States District Court as Docket No. 1:21-cv-10754-MGM.

The Petition that the Debtor has filed with this Court hints at her undeterred intention to continue to pursue frivolous and vexatious litigation. On page 1 of her Petition for Writ of Certiorari, the Debtor writes:

Woods hereby notifies the Court that there may be further related and/or associated cases coming before this Court, for which she may seek deferred consideration.

That sentence suggests to the Trustee that the Debtor’s bad faith is unabated and that further frivolous, vexatious and harassing litigation will follow.

The Trustee says that the Bankruptcy Estate has incurred substantial legal expense in defending against the Debtor’s frivolous litigation, all to the prejudice of the Debtor’s general unsecured creditors. The imposition of an award of damages against the Debtor may deter her continuing and unrelenting harassment.

h. Conclusion and Requests for Relief.

For the foregoing reasons, the Trustee:

1. Requests that the Debtor's Motion to Proceed *In Forma Pauperis* be denied;
2. Requests that the Debtor's Petition for Writ of Certiorari be denied;
3. Requests that just damages be awarded to the Trustee pursuant to Supreme Court Rule 42; and
4. For such other and further relief as is just and proper.

JOSEPH B. COLLINS, TRUSTEE IN
BANKRUPTCY OF R. SUSAN WOODS

Dated: November 18, 2021

By:



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