

No. 21-825

In the
Supreme Court of the United States

PERSEPHONE JOHNSON SHON,
Petitioner,

V.

BOGDAN RADU,
Respondent.

*On Petition for a Writ of Certiorari to the
United States Court of Appeals for the Ninth Circuit*

**MOTION TO SCHEDULE PARALLEL ORAL ARGUMENT AND BRIEFING
WITH *GOLAN v. SAADA* OR, IN THE ALTERNATIVE, TO DEFER
CONSIDERATION OF PETITION UNTIL CONCLUSION OF *GOLAN v.
SAADA***

SHAUN P. KENNEY
THE KENNEY LAW FIRM, P.L.C.
485 South Main Avenue
Building 3
Tucson, Arizona 85701
(520) 884-7575

STEPHEN J. CULLEN
Counsel of Record
KELLY A. POWERS
MILES & STOCKBRIDGE P.C.
1201 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004
(202) 465-8374
scullen@milesstockbridge.com

December 27, 2021

**MOTION TO SCHEDULE PARALLEL ORAL ARGUMENT AND BRIEFING
WITH *GOLAN v. SAADA* OR, IN THE ALTERNATIVE, TO DEFER
CONSIDERATION OF PETITION UNTIL CONCLUSION OF *GOLAN v.
SAADA***

The Petitioner, Persephone Johnson Shon, through her counsel, files this Motion and in support thereof states as follows:

1. The first question presented in the Petition for a Writ of Certiorari in this case is the same as the question presented in *Golan v. Saada*: In a case brought under the Hague Convention on the Civil Aspects of International Child Abduction, is a district court required to consider ameliorative measures after a finding that a return would expose the child to a grave risk of harm? *See Golan v. Saada*, No. 20-1544.

2. The Court granted the Petition for a Writ of Certiorari in *Golan* on December 10, 2021. *Id.* The *Golan* case has not yet been scheduled for oral argument. *Id.*

3. The second question presented in the Petition for a Writ of Certiorari in this case—which party has the burden to prove ameliorative measures if such measures are considered—is not presented in *Golan*. The second question is the important companion issue to the first issue. If the Court decides that consideration of ameliorative measures is either discretionary or mandatory, litigants and courts need direction on which party has the burden of proof.

4. Granting certiorari in this case and scheduling oral argument for the same date as *Golan* provides an efficient mechanism for the Court to address both issues at the same time.

5. Scheduling oral argument in this case for the same date as *Golan* may require expedited merits briefing in this case. If so, such an approach is supported by the Hague Convention, and by this Court's Hague Convention jurisprudence. *See, e.g.*, Convention, art. 11; *Monasky v. Taglieri*, 140 S. Ct. 719, 724 (2020) (Contracting States to the Convention must "use the most expeditious procedures available"); *Chafin v. Chafin*, 568 U.S. 165, 182 (2013) (Ginsburg, J. concurring) (emphasizing "the need for both speed and certainty in Convention decision-making").

6. In the alternative, if the Court chooses not to proceed as set forth above, the Court's decision in *Golan* will aid or control the determination of this case. The Petitioner therefore requests that if the Court does not proceed as set forth above, then her Petition for a Writ of Certiorari be held for consideration until after the Court's decision in *Golan*. *See, e.g., Keney v. New York*, 388 U.S. 440 (1967) (granting certiorari and ordering a summary reversal after holding consideration until decision in *Redrup v. State of New York*, 386 U.S. 767 (1967)).

WHEREFORE, the Petitioner, Persephone Johnson Shon, respectfully requests:

A. That the Petitioner's Petition for a Writ of Certiorari filed on November 29, 2021 be granted; and


B. That this case be scheduled for oral argument on the same date as *Golan v. Saada*; and

C. That an expedited briefing schedule be ordered in this case as is needed;
or

D. In the alternative, that the Petitioner's Petition for a Writ of Certiorari be held for consideration until after the Court's decision in *Golan*.

Respectfully submitted,

SHAUN P. KENNEY
THE KENNEY LAW FIRM, P.L.C.
485 South Main Avenue
Building 3
Tucson, Arizona 85701
(520) 884-7575


STEPHEN J. CULLEN
Counsel of Record
KELLY A. POWERS
MILES & STOCKBRIDGE P.C.
1201 Pennsylvania Avenue, N.W.
Suite 900
Washington, D.C. 20004
(202) 465-8374
scullen@milesstockbridge.com

CERTIFICATE OF SERVICE


I, Stephen J. Cullen, a member of the Supreme Court Bar, hereby certify that an original and 10 copies of the foregoing "Motion to Schedule Parallel Oral Argument and Briefing with *Golan v. Saada* or, in the Alternative, to Defer Consideration of Petition Until Conclusion of *Golan v. Saada*" in *Persephone Johnson Shon v. Bogdan Radu* were sent via Federal Express Priority Overnight to the Supreme Court of the United States, that 1 copy was served on the parties listed below by email and Federal Express Priority Overnight:

Todd Richard Gregorian
Rina Plotkin
Fenwick & West LLP
555 California Street
12th Floor
San Francisco, CA 94101
(415) 875-2300
tgregorian@fenwick.com
rplotkin@fenwick.com

Michelle Erika Irwin
Fenwick & West LLP
1191 Second Avenue
10th Floor
Seattle, WA 98101
(732) 718-9801
mirwin@fenwick.com

Counsel for Respondent

I hereby further certify that 1 courtesy copy was also sent via email and Federal Express Priority Overnight to Counsel of Record for the Petitioner and Counsel of Record for the Respondent in *Golan v. Saada*.



STEPHEN J. CULLEN
Counsel of Record