

No. _____

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 2022

WARREN HAVENS, Petitioner

v.

ARNOLD LEONG, Respondent

and

SUSAN UECKER,

Alleged Nominal-Entity Respondent

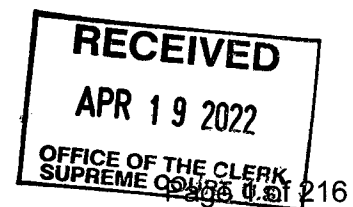
MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI PURSUANT TO
RULE 13(5)

To the Honorable Samuel Anthony Alito, Jr., Circuit Justice to the
Third Circuit:

1. I Petitioner, Warren Havens, pro se, pursuant to Rule 13(5), Rules of the Supreme Court, respectfully seeks a sixty (60) day extension of time within which to file his petition for writ of certiorari in this Court. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257 and is further discussed below. This application is submitted more than ten (10) days prior to the scheduled filing date for the Petition.

The pertinent dates are:

a. February 7, 2022: The date the Delaware Supreme Court issued and filed an Order in WARREN HAVENS v. ARNOLD LEONG, and SKYBRIDGE SPECTRUM FOUNDATION (nominal respondent)



(the "Order") of an appeal I timely filed¹ from two orders of the Delaware Chancery Court with the same name.

- Exhibit A hereto is the Order.
- Exhibit B hereto are the two Chancery Court decision.
- Exhibit C hereto is my Notice of Appeal provided since it attaches, in addition to two Chancery Court decisions, other documents needed to understand the Chancery Court orders, why I alleged those decisions were appealable, and the Issues posed below as reasons the extension request is justified.

b. May 8, 2022: The deadline date for me to file a petition for writ of certiorari in the United States Supreme Court, generally described herein, unless extended as requested herein.

c. July 7, 2022: The deadline date for me to file the petition for writ of certiorari if this 60-day extension request is granted.

2. The reasons why an extension of time is justified are the following. This case involves the following important issues for the legal profession, for corporate entities nationwide, for nonprofits entities and for-profit entities, all of which are formed and governed by the law of one state or another.

Background. The Delaware Supreme Court Order (Exhibit A) upheld the two appealed decisions (Exhibit B) that granted in part motions to dismiss the case I filed in the Chancery Court under Section

¹ I filed one notice of appeal of the two underlying decisions as an permitted interlocutory appeal (permitted as I asserted) and another notice of appeal with similar principal content of the two underlying decisions as final decisions for all practical purposes. This is briefly described below. The Delaware Supreme Court Order appears meant to disposes of both of my appeals. But in any case, it is a final order from the Delaware State Court system that I strongly disagree with and seek to submit to this Court under a petition for a writ of certiorari. I believe the petition will present issues suitable for this court to review and decide on a nationwide basis.

273 of the Delaware General Corporate Law for a dissolution of Skybridge Spectrum Foundation ("Skybridge") a nonprofit nonstock charitable Delaware Corporation that is IRS tax-exempt under Section 501(c)(3) of the Internal Revenue Code. Review of Exhibit C is needed to understand Exhibits A and B for purposes herein. I formed and provided the majority of the donations to Skybridge and served, and still serve, it as its sole Member (a protective position) and Officer. Leong, the respondent, alleged and still alleges to hold for his private-purpose ownership and effective or de facto control of Skybridge.

The Chancery Court case and its two decisions (Exhibit B), and the appeal to the Delaware Supreme Court and its Order (Exhibit A), were based on my efforts to have Skybridge dissolved since under both IRS regulations, Internal Revenue Code ("IRC") statutes, and Delaware Statutes, neither Leong nor any private person or private-profit entity, can hold ownership or control including de facto control over an IRC Sec. 501(c)(3) nonprofit organization, including Skybridge, and Leong's doing so caused the loss of the vast majority of Skybridge's assets, certain nationwide FCC licenses for providing radio signaling and communications for the nation's Intelligent Transportation Systems, as defined in FCC rules, at 47 CFR Sec. 90.350 et seq. and related purposes of high public interest to governmental agencies in the US and the general public, for transportation safety and efficiency.

Leong asserts a right to liquate Skybridge for his personal inurement and profit, using a California State Court receivership he obtained over Skybridge asserting such rights. The subject California State Court (the Superior Court for Alameda County in Oakland) for reasons never explained, allows this contrary to clear law, by form of judicial activism. For four decades living in Northern California, I have opposed this sort of pseudo-liberalism in court and other public arenas. That position I take is known and is disfavored by the northern California state courts as it challenges judges and justices, and some local agencies, who practice that. Now, by this Case, the Delaware State courts, including its Supreme court, backstop the Northern California court in this sort of unwarranted judicial liberalism, and avoid the mandates in Delaware statutes, and that undermines the foundations of law, trust in the law, and the social contract built on law.

The Delaware Supreme Court Order (Exhibit A) agreed with the Chancery Court that the Chancery Court's two orders on appeal (Exhibit B) were interlocutory in nature and not subject to review by the appeal I filed. I argued that the two Chancery Court orders allowed Leong to complete a liquidation of Skybridge for his private benefit and must be seen as final. These two orders in fact allowed that but issued a "stay" to allow Leong and the California State Court receiver Susan Uecker, the agent of Leong, to reappear in the Delaware Chancery court to seek post-liquidation action in Delaware to terminate Skybridge's existence as a Delaware nonprofit nonstock charitable corporation (essentially to pronounce the entity dead in Delaware records.)

A "stay" of a legal action, so that another legal action can fully liquidate the entity at issue, is specious and meaningless and does not make the subject orders interlocutory. But even interlocutory orders, in Delaware of this kind are appealable since some issues in the case were finally decided.²

The preceding relates to the jurisdiction of this court, stated on page 1 above.³ In this regard, as indicated above, I strongly asserted in

² I am a pro se party, in this case for essentially involuntary reasons. I find that courts, including the Delaware Chancery Court and Supreme Court, rule as they like regarding pro se parties, and that is often to proceed to get rid of the case one way or another. However, that is contrary to law.

³ The following generally applies. To be reviewable by this Court, a state court judgment "must be the final word of a final court." *Jefferson v. City of Tarrant*, 522 U.S. 75, 81 (1997) (internal quotation marks omitted). Ordinarily, to invoke this Court's jurisdiction, a petitioner must demonstrate that a state court judgment is not subject to "further review or correction" and does not constitute a "merely interlocutory or intermediate step[]" in the litigation. *Id.* (internal quotation marks omitted). This finality rule "is not one of those technicalities to be easily scorned. It is an important factor in the smooth working of our federal system." *Radio Station WOW, Inc. v. Johnson*, 326 U.S. 120, 124, 65 S.

the Delaware Chancery Court and Supreme Court that the two decisions of the Chancery Court must be deemed final, and not interlocutory, since they clearly permitted full liquidation dissolution and windup of the entity involved, Skybridge, such that it would have not further assets and may even have remaining liabilities (and the language gave *sua sponte suggestions* on how the California Court receivership may do also). I asserted, that is as "final" as it gets - it is ultimate corporate finality. The Delaware Chancery Court and Supreme Court avoided any direct response to this challenge I submitted.

Issues Posed.

Issue One. Limits of a trial court labelling a decision interlocutory to bar an appeal that actually decides the control and finality of the corporate entity, the purpose of the complaint. This Issue One follows the preceding text. This Issue One is one of nationwide importance since appeal rights should not be blocked by a judge artificially designating its order or judgment that imposes or allow said ultimate corporate finality, or any other gravamen subject of the Complaint, by labelling them "interlocutory" to escape challenge of the judge's decision in an appeal.

Issue Two. Critical corporate law- can a State, other than of the State of a legal entity's formation and domicile, dissolve and wind up the entity engaged in interstate commerce? This is a major issue in dispute of my case in this Delaware State Court action. The issue is subject to differing answers by courts of many States, including Delaware (which forgetfully or cleverly goes both ways).

Ct. 1475, 1478, 89 L. Ed. 569 (1945). The case I present meets these standard as I summarily describe herein, since the Delaware court decisions- orders impose ultimate corporate finality, regardless of the label as interlocutory, which was place by avoiding the manifest ultimate finality imposed.

This is a major issue of critical nationwide importance since the nation is primarily based on legal entities, engaged interstate commerce, and there is a split in State Court decisions on this issue, as discussed in a paper published by the American Bar Association, Section of Business Law, *The Business Lawyer*, Volume 70, Number 4, Fall 2015, entitled: "*Judicial Dissolution: Are the Courts of the State that Brought You In the Only Courts that Can Take You Out?*" Copy at <https://www.morrisjames.com/newsroom-articles-588.html>

This issue has further importance since Delaware, as it often advertises, is the home (the state of incorporation or formation and domicile) for more legal entities in total value than any other State, sometimes said to encompass a majority or near majority of all for-profit entities being Delaware entities based on total capitalization value.

Thus, this case creates a precedent that Delaware, the dominate State for forming and domiciling legal entities, by its Chancery Court and Supreme Court, under my case will allow another State by its courts to fully liquidate, dissolve and wind up, a Delaware legal entity, even a nonprofit charitable Delaware entity, leaving nothing for Delaware but to pronounce its entity dead by its Secretary of State which keeps legal-entity records.

Issue Three. Critical nonprofit law- extending Issue Two. Issue Two above is even more critical to the nation's "third sector," the nonprofit entity sector that has, *even more than the for-profit sector*, a need of assurance of the State law of its governance, stability, and how it may be dissolved, wound up and terminated under well-known Cy Pre doctrine. When the "Cy Pres" doctrine is applied differently in some states versus others, it seriously undermines the nonprofit as to its use of assets and how they will be distributed upon dissolution. The doctrine requires the distribution to be to like nonprofits, or in cases to public government agencies, but in no case can the assets be distributed, before or upon liquidation, to a private party for its private use, inurement, or gain as codified in IRC statutes, and IRS regulations, and in Delaware statutes following the IRC and IRS rules. But that is the entire result of the subject Delaware case.

Issue Four, Limits of the legal profession in representation of an incapacitated person that differs among the States. Can an attorney represent an adult who is legal incapacitated, other than in emergencies? The States differ on this. For example, California says no in all circumstances. Other states have exceptions, but those are not clear or uniform. There are an increasing number of persons in the nation that become partly or fully incapacitated and unable to competently, or at all, hire and give consents to legal counsel. Thus, this is important issue in need of this court's instructions.

In the subject case, Mr. Leong was alleged as legally incapacitated before the case commenced and all during it. I raised the above issue in this case clearly and repeatedly, submitting memos on the law involved, and objections. With no analysis or explicit decision, the Chancery Court permitted the legal-counsel representation of Leong, a legally incapacitated person (per his attorneys) over my position and objections.

There was no guardian ad item for Leong who appeared in the case and applied for appointment by the court to be the guardian ad litem which is a position of "officer to the court." As some other courts have found, which is obvious, a legally incapacitated person cannot hire and give needed minimum approvals to an attorney. There was no emergency in this case and counsel for Leong was not appointed by the State to act as a type of guardian ad litem counsel. The sole reason that can be construed that legal counsel acted for him, using his name, is for their private commercial reasons, and not for any reason under the legal profession's profession of promoting justice or the like.

This Court should establish limits on this issue under principals that a party must be competent and active, and legal counsel cannot for their commercial interests, act for an incompetent person whose interests and positions in the case are not knowable, and where they somehow get paid by the person's caretaker who may have conflicts of interest with the incapacitated ward. A purpose of courts in requiring guardian ad litem to apply, and get appointed or rejected, is sort that out with competent evidence and experts. An attorney purporting to represent the incapacitated person cannot do that.

3. Reasons I seek the extension. (a) This Issued posed above are important for this Court to resolve and I have sufficient ability to present them in a petition for a writ of certiorari (and if that is granted, in merits briefing).⁴ (b) I have substantial ongoing health and financial hardships,⁵ and certain regular work to attempt to resolve the hardships and am unable to file the planned petition for a writ of certiorari with this court withing the 90-day period, and thus seek the 60-day extension which will provide sufficient time. It also takes me as a pro se party, more time than it takes legal counsel, to research, draft and submit a major legal pleading, and that applies to this planned petition for certiorari. I have been diligently working on the petition but need this additional time.

4. Non-objection from opposing counsel. Legal counsel to Susan Uecker, who purports to act for the nominal respondent legal entity, Skybridge Spectrum Foundation (as the receiver over Skybridge appointed by a California Superior Court) Sara Toscana, at the Morris, Nichols, Arsht & Tunnell LLP law firm in Wilmington Delaware does not object to this time extension request, without agreeing to any of the substance herein. I could not get a response from legal counsel for Mr. Leong, the respondent, David Holmes, at the Cross & Simon LLC law

⁴ If the Petition is granted, there is a reasonable chance that I can obtain legal counsel for merits briefing on pro bono basis, and in that case, I would support counsel

⁵ In brief. (1) I earlier had melanoma cancer, survived it, and since then I have been on certain doctors- prescribed health protection practices. The condition and the practice take up a lot of my time and adds costs. I have substantial dental problems causing flareups, and medication, and currently are not able to pay the high fees for multiple surgeries and restorative work needed and spend time each day on topical dental treatments to reduce these problems. (2) For reasons of the California receivership, at issue in this Delaware case, my life savings were used up in legal defense costs, while I could afford legal counsel, and fund due to me are tied up. This imposed financial hardships that cause me to act pro se in legal actions, and to do work I otherwise would pay persons to do or assist with. (3) I also need to spend time on steps to remedy these hardships. Courts have granted to me fee waivers based on my declarations with details as to these hardships.

firm in Wilmington Delaware if he does not object to this time extension request. But in the case below, if counsel to Susan Uecker took a position, then counsel to Mr. Leong took the same position, and vice versa. Thus, I reasonably assume that, if available, counsel to Mr. Leong would not object to this extension request.

Conclusion. For the foregoing reasons, I respectfully pray that this Court grant an extension of sixty (60) days to and including January 6, 2020, within which to file the petition for writ of certiorari described above.

Respectfully submitted, this the 15th day of April, 2022 (the mailing date).



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Exhibits A, B and C follow.

cc by email:

Counsel to Arnold Leong, respondent

Counsel to Susan Uecker (see caption page)