

22-6685

IN THE

Supreme Court, U.S.

FILED

NOV 28 2022

OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

Warren Havens — PETITIONER

VS.

Arnold Leong — RESPONDENT(S)

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEAL FOR THE NINTH CIRCUIT
(CASE NO. 20-17481)
PETITION FOR WRIT OF CERTIORARI

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

California Supreme, Appeals, and Superior Courts- still pending. In various civil cases. Shown online.

Nevada Supreme and District (trial) courts- still pending. In various civil cases. Shown online.

Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

Petitioner's affidavit or declaration in support of this motion is attached hereto.

Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

The appointment was made under the following provision of law: _____, or _____

a copy of the order of appointment is appended.

126-2023


(Signature)

**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

^
^

I, Warren Havens, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

(I also state that if this application is denied, I will attempt to pay the filing fee since I don't want the petition rejected.)
 The major cost is not the filing fee, but cost to print and file booklets, if IFP status is not granted.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source *	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
I have no spouse- and leave this blank.				
Employment	\$ 0	\$	\$ 0	\$
Self-employment	\$ 0	\$	\$ 0	\$
Income from real property (such as rental income)	\$ 0	\$	\$ 0	\$
Interest and dividends	\$ 50	\$	\$ 50	\$
Gifts	\$ 0	\$	\$ 0	\$
Alimony	\$ 0	\$	\$ 0	\$
Child Support	\$ 0	\$	\$ 0	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$ 0	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$ 0	\$
Unemployment payments	\$ 0	\$	\$ 0	\$
Public-assistance (such as welfare)	\$ 20	\$	\$ 281	\$
Other (specify): *	\$ 0	\$	\$ 0	\$
Total monthly income:	\$ 70	\$	\$ 331	\$

* See attached Statement on this item 1.

^^ See attachment - "Applicant comments on the meaning and criteria of this court form".

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<input type="text" value="NONE"/>	_____	_____	\$_____
_____	_____	_____	\$_____
_____	_____	_____	\$_____

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
_____	_____	_____	\$_____
_____	_____	_____	\$_____
_____	_____	_____	\$_____

4. How much cash do you and your spouse have? \$_____
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
MONEY MARKET	\$ 1	\$_____
MONEY MARKET	\$ 1	\$_____
Bank account	\$ 1849	\$_____

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home
Value _____

Other real estate
Value _____

Motor Vehicle #1 4 stored Audi Wagons, not
Year, make & model registered and operable.
1998, 2001, 2001, 2002
Value If sold as is, after cost to get them operable,
approx. \$6,000. I cant sell them now practically.

Motor Vehicle #2 1996 Volvo 850 Wagon
Year, make & model Not registered and operable.
Value approx. \$1,000

Other assets
Description _____
Value _____

6. State every person, business, or organization owing you or your spouse money, and the amount owed. See Attachment on this item 6.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
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\$ _____	\$ _____
\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
No person, other than myself. I am 72 years old		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
I do not own a home. I pay for use of an apartment by providing services, some of which I incur costs I owe and pay as I can.	\$ 500	\$ _____
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 500	\$ _____
Are real estate taxes included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input type="checkbox"/> No		
I don't own a home or residence.		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 500	\$ _____
Home maintenance (repairs and upkeep)	\$ _____	\$ _____
I do not own a home.		
Food	\$ 400	\$ _____
Clothing	\$ 50	\$ _____
Laundry and dry-cleaning	\$ 20	\$ _____
Medical and dental expenses	\$ 50	\$ _____

Subtotal, this page, \$ 1520

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ 50	\$
Recreation, entertainment, newspapers, magazines, etc.	\$ 10	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or <u>renter's</u>	\$ 100	\$
Life	\$ 0	\$
Health	\$ 0	\$
Motor Vehicle (Cars in off street storage. I insure if they are vandalized)	\$ 50	\$
Other: <u>Umbrella</u>	\$ 90	\$
Taxes (not deducted from wages or included in mortgage payments) no monthly amounts. State of California asserts income (specify): taxes due. I allege none due but refunds due. A process is taking place to determine these. State indicated that if due, it appears uncollectible due to my financial situation.	\$ See left.	\$
Installment payments		
Motor Vehicle	\$ 0	\$
Credit card(s) No "installments" but I pay approx the following in interest	\$ 100	\$
Department store(s)	\$ 0	\$
Other: <u>some costs of printing, mailing, of legal filings, and some e-filing and e-access costs</u>	\$ 400	\$
Alimony, maintenance, and support paid to others	\$ 0	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$
Other (specify): <u>computer items, hardware and software</u>	\$ 50	\$
Total monthly expenses:	\$ 2,370	\$

Subtotal, this page, \$	850
Subtotal, preceding page, \$	1520
Total, both, pages, \$	2370

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes No If yes, describe on an attached sheet.

See Attachment on this item 9.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

Yes No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

See Attachment on this item 12.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 1-26-2023



(Signature)

ATTACHMENT TO:

WARREN HAVENS - COMPLETED COURT FORM:

"AFFIDAVIT OR DECLARATION IN SUPPORT OF MOTION
FOR LEAVE TO PROCEED IN FORMA PAUPERIS"

Applicant comments on the meaning and criteria of this court form

(1) I don't find any rule or case authority, that applies to this court, on the criteria applied to decide a motion to seal an In Forma Pauperis ("IFP") motion and its Affidavit or Declaration in support thereof. Thus, I do not submit such a motion to seal I had planned since there is no criteria under which I can prepare and give arguments for the motion, and I should not submit an unsupported motion or speculate on what the criteria may be. (Other courts such as California and Nevada state courts, by rule treat all IFP motions as confidential, for access only by the filing party and relevant court officers. But that does not apply in this court.)

This appears to be a defect in Rule 39 - that it does not state or suggest any such criteria. The result appears to be unintended unbridled discretion.

(2) I also don't find any rule or case authority that explains the criteria used to decide the subject In Forma Pauperis motion and its Affidavit or Declaration in support thereof, or any definition of the financial, accounting, and other substantive terms used in this Form I have completed and hereby submit.

This also appears to be a defect in Rule 39 - that it does not state or suggest any such criteria and any definitions of the substantive terms. The result appears to be unintended unbridled discretion.

I have completed the Form based on my good faith layman understanding (I am not an accounting professional or an attorney at law) of the common meaning of the substantive terms used. But since I don't know the criteria, I do not know what information, in explaining items on the Form, to provide. I give some good faith

explanations in text in the Form, and in the Statements below. If my responses are not sufficient, I request to be permitted to submit any information needed, if that is explained, in reasonably permitted time.

From item 1. Regarding Gross-Amounts Income -
Further Statement

Recently commenced State of California financial assistance.

Commencing at the end of year 2022, and continuing to this time, and likely to continue in this year 2023, I get State of California assistance for purchase of qualified basic foods from stores that participate in this State of California program, which is currently up to \$281 per month. This is listed in the table in item 1. I expect this to continue for some additional time period.

Expected Federal financial assistance. I expect to receive starting some month this year, but not in the next several months from the date of this application, (1) monthly social security cash payments, based on my age (72 currently) of, as the Social Security Agency estimates, about \$1,271 a month, and (2) Medicare benefits of up to some amounts, for covered medical care costs I may incur, in an amount I cannot currently estimate - I do not know how to estimate this, and no statement from SSA to me gives this information. In any case, since this was not obtained yet, and I do not expect it in the next month, it is not listed in the table in item 1.

Other irregular financial support that is not income. (1) On irregular basis over the past several years, I got personal loans from time to time, to help meet my basic needs, to be repaid as I can. Loans are not income and thus is not under this item 1. (Also, I cannot predict if this will continue in this year 2023. (2) Some persons provided to me service assistance with no debt incurred as favors. This is not income. (Also, I cannot predict if this will continue in this year 2023.) (3) Other not-predictable potential future irregular income is indicated in the next item below, on item 5.

From item 5. "Statement of Other Assets and Value" -
Further Statement

My principal assets are, and for years have been, the following.

(1) Direct and some indirect Member interest shares in 6 for-profit Delaware Limited Liability Companies ("LLCs") named Verde Systems LLC (formerly called Telesaurus VPC LLC), Telesaurus Holdings GB LLC, Environmentel LLC (formerly called AMTS Consortium LLC), Environmentel-2 LLC, Intelligent Transportation & Monitoring Wireless LLC, V2G LLC. (These 6 were assisted, for common accounting and payments functions, by ATLIS Wireless LLC, a not-for-profit entity, in which a form of membership I obtained has no distributions or other income potential to me.)

These LLC's have been and remain in California state court receiverships (under case no. 2002-070640 in the Alameda County Superior Court, styled for short *Leong v Havens*) I oppose as unlawful and void since the first one began in year 2015 to when it ended in 2001, and since the second one began in 2021 which continues to this time, with no projected end date.

These court receiverships have not paid to me any actual or "pass through" distributions over my objections, or filed tax returns that show the actual financial operations and results, also over my objections. I allege that large sums due to me are. The same applies to indemnity, salary, and other sums I have alleged are due to me from these LLCs.

I have no information from this current receivership (or any other source) to reasonably estimate if and when I will receive from the current receivership, or after any termination of it, or from the terminated first receivership, past-due distributions, indemnity and other sums due to me that I claim, or other things of economic value. A stated objective of this receivership is to prohibit me from obtaining financial benefits from these LLCs or from the "partnership" alleged to control them at least for an indeterminate

period of time based on unknown events described in receivership orders and actions I opposed - see below.

Thus, no income is listed from these LLCs in item 1.

Regarding the preceding: In a US Tax Court case, I act as the Tax Matters Partner in the case of *Warren Havens, Tax Matter Partner, Intelligent Transportation & Monitoring Wireless LLC vs. Commissioner* (the IRS), Docket No. 19514-17. This LLC is one of the 6 LLCs listed above. In this US Tax Court case, after discovery exchanges, the IRS legal counsel and I filed similar briefs, citing the same US Tax Court case authority (that I first identified, See *Jimastowlow Oil, LLC v. Commissioner*, T.C. Memo. 2013-195)¹, based on these LLCs being subject to a joint-undertaking

partnership by the receivership real party and de facto controller, Arnold Leong. Leong alleged, to get and carry out the two receiverships, a perpetual "oral" partnership with me (the founder and majority or sole owner member of each of the LLCs) in which he has veto or greater control over major actions, that encompasses or controls these LLCs, along with a nonprofit foundation, Skybridge Spectrum Foundation, related to the LLCs (the foundation received charitable grants of assets from the LLCs, parts of FCC licenses, shown in FCC public records).

However, Leong and his affiliates and agents, have not filed with the IRS or any State tax authority any partnership tax returns or statements for the Leong alleged and carried out partnership. If they had, they would have had to list me as the other "partner"

¹ This involves a motion for the respondent Commissioner (of the IRS) by the IRS counsel dated 9-22-2022, Doc. No. 81, that includes:

4. On March 4, 2022, respondent became aware of a potential jurisdictional issue in this case, namely whether the FPAAs issued were valid. Specifically, during the years at issue, (1) whether there was a joint undertaking by petitioner and other related LLCs which created a separate entity for federal tax purposes under Treas. Reg. § 301.7701-1(a)(2) and (2) if a separate entity was created, whether the adjustments asserted in the FPAAs are flow-through adjustments which stem from the separate entity. See *Jimastowlow Oil, LLC v. Commissioner*, T.C. Memo. 2013-195.

Leong alleges, and issued to me forms K1 from the returns as a partner, and given to me a copy of the returns.

No current value can be estimated - the receivership froze years ago all operations, and does not pay any distributions, or give me tax return information, or Forms K-1 showing my shares of financial results, etc. The subject 9th Cir. decisions under this petition for writ of certiorari served to allow, by upholding remands to the receivership state court, aspects of these receiverships I allege are unlawful under the federal Constitution and federal statutes, and has illegally taken my LLC interests, hidden the LLC assets, etc. I do pro se legal work to attempt remedies and recoveries.

(2) Legal-claim assets. I have filed claims in litigation against the defendant in the court actions below, Arnold Leong, and his agents and co-actors, and against the LLCs noted above that he took over by the receivership and otherwise. The claims are for substantial sums, but I cannot currently estimate the chances of success and value of these claims at this time.

(3) Several companies, not related to the litigation described above, appear to owe refunds to me, of modest sums (relative to my monthly expenses stated on the Form) which are apparently held by State of California for me to attempt to collect, if I submit the needed verified information, or pay a company to do so (some are in business, apparently licensed by the State, to do this). A rough estimate is \$1,500.

(4) I had a 401k employee retirement fund, in a company I worked for in early 1990s. The fund administrator used to mail me statements, and the value was in the range of \$13,000. I have not received statements for about 5 years. I emailed the company head person a few years ago but did not get a response. I don't know if the fund still exists and if so, its balance and how to access it. I plan to try again.

(5) I have informed the IRS that, per my tax filings related to one year, I am owed a refund of paid taxes. I obtained tax counsel

advice from a bar association pro bono program, at the end of December 2022, on additional filings I should submit to attempt to secure the refund. I estimate that if successful, the refund will be substantial for me, relative to my monthly expenses. The IRS is very slow to respond to tax return filings for past years, of a special nature as I plan to file. I cannot estimate when I will prepare and submit the planned filings and thereafter then the IRS will process them.

From item 6. ("State every person, business, or organization owing you or your spouse money, and the amount owed.") - Statement

If "owing" in this item 6 means an admitted debt, or a debt established by a legal authority order or finding, then my claims do not involve debt currently "owing" to me. However, I state the following.

I describe in the above statement on item 5 money I claim is owed to me, and why I cannot currently estimate when I may obtain payments under the claims, or the amounts.

The following are the persons that owe me the vast majority of the total under my claims. My claims are formally stated in the above described California state court receiverships.

Arnold Leong of Reno, Nevada, identified above, *and* his agents, assigns, partners, co-actors, and other related persons and entities. This includes Cheryl Choy of Sacramento, California.

Susan Uecker, the receiver for Arnold Leong, indicated above, as agent of Leong and of the subject California state receivership court, *and* Uecker's agents, assigns, partners, co-actors, and other related persons and entities.

The 6 for-profit Delaware LLCs named above.

From item 9. ("Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?") - Statement

- (1) For the next 12 months, I currently do not have reasonably predictable information to expect that, as to expenses. But changes are more likely to result in increases in monthly expenses than decreases.
- (2) For the next 12 months, I currently (a) expect that my income may improve, and (b) my assets may improve, but (c) I do not expect my liabilities to decrease but liabilities are more likely to increase due to my need to continue legal actions to seek remedies and recoveries under my claims described above.

From item 12. ("Provide any other information that will help explain why you cannot pay the costs of this case") - Statement

- (1) See the above statements.
- (2) The "costs of this case" are the filing fee, but the far larger costs are the fees I would have to pay a commercial Supreme-Court press company to format, and print the booklets, and file and serve them, which is in range of ten times, or more, the filing fee.

Note on potential motion. Thus, if my IFP application is denied, as to the filing fee, I may request in a motion, along with payment of the filing fee (for which I may use a credit card or other funds I may secure) permission to file the petition and appendixes, and other associated filings, *in 8.5 x 11-inch format.*

This document is attached to and under the declaration by me on the completed form.



Warren Havens