

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PETER KLEIDMAN

Petitioner,

vs.

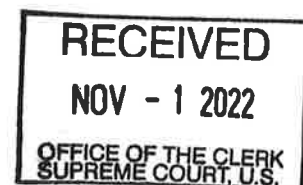
CALIFORNIA COURT OF APPEAL FOR
THE SECOND APPELLATE DISTRICT, et al.,

Respondents.

On Petition for Writ of Certiorari to the
Ninth Circuit Court of Appeals

**APPLICATION FOR AN EXTENSION OF TIME
TO FILE PETITION FOR CERTIORARI**

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To the Honorable Elena Kagan, Associate Justice of the Supreme Court,
Circuit Justice for the Ninth Circuit Court of Appeals:

I, petitioner Peter Kleidman, *pro se*, hereby apply for a 61-day extension in which to file my petition for writ of certiorari, pursuant to Rule 13.5, in connection with the federal case captioned, *Kleidman v. California Court of Appeal for the Second Appellate District, et al.*, 20-56256, 2022 WL 1153932 (9th Cir. Apr. 19, 2022) (*Kleidman v. DCA2*). This action was originally filed in the U.S. District Court, Central District of California, captioned *Kleidman v. Willhite*. 2:20-cv-02365-PSG-JDE.

No opposition or prejudice. I contacted opposing counsel, apprising him of this application and asking whether he opposed the request. He responded that he did not oppose the 61-day extension.

Basis for Jurisdiction. I am seeking review in this Court of the decision in the Ninth Circuit Court of Appeals in case 20-56256. The Ninth Circuit's Memorandum was filed and entered on April 19, 2022, and Mandate issued on September 8, 2022. There is jurisdiction therefore under 28 USC §1254. My petition is due on December 7, 2022, and therefore this application for an extension is timely.

Judgment sought to be reviewed: The judgment sought to be reviewed is the Memorandum filed and entered on April 19, 2022, put into effect by the Mandate issued on September 8, 2022. The Memorandum and Mandate are attached hereto. Accordingly, the deadline in which to petition for certiorari is December 7, 2022.

However, for reasons set forth below, I cannot make this deadline, and I therefore request a 61-day extension under Rule 13.5.

Parties for whom an extension is sought. An extension is sought only for petitioner Peter Kleidman.

Respondents. The respondents are two justices from the California Court of Appeal for the Second Appellate District (DCA2), and six justices from the California Supreme Court. (The action against all entity defendants is barred by the Eleventh Amendment.)

This case might be of interest to this Court because the Ninth Circuit applies the *Rooker-Feldman* jurisdictional bar more aggressively and broadly than most of the other Circuits. Consequently, the Circuits are split in their interpretations of the *Rooker-Feldman* doctrine. The concurring opinion of the Honorable Jeffrey F. Sutton, Chief Judge of the Sixth District Court of Appeals, provides a highly enlightening discussion on the subject in *VanderKodde v. Mary Jane M. Elliott, PC*, 951 F.3d 397, 404-409 (6th Cir. 2020), concurring opinion of Sutton, J; *Id.*, 405 (despite *Exxon*,¹ “*Rooker-Feldman* is back to its old tricks of interfering with efforts to vindicate federal rights and misleading federal courts into thinking they have no jurisdiction over cases Congress empowered them to decide. In our circuit alone, there have been dozens of post-*Exxon Mobil* cases tangling with the doctrine: by my count, at least 80”); *Ibid* (“*Rooker-Feldman* continues to wreak havoc across the country,” collecting cases); *Id.*, 407 (“*Rooker-Feldman* harasses

¹ *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 US 280 (2005) attempted to reign in the lower courts’ overly-expansive applications of *Rooker-Feldman* which erroneously “extend[ed] [*Rooker-Feldman*] far beyond the contours of the *Rooker* and *Feldman* cases.” *Id.*, 283.

litigants and courts to this day. Litigants continue to make expansive *Rooker-Feldman* arguments, ... [a]nd lower courts keep buying them. ... One empirical analysis suggests the doctrine proliferated *even more* after *Exxon Mobil's* attempt to limit it. ... That conclusion matches my anecdotal experience”); *Ibid.* (once invoked by the defendant, “*Rooker-Feldman's* many descendants and accordion-like verbal formulations must be confronted, sometimes spiked by federal judicial instincts to do less rather than more and to defer to state courts in the process”). This Court would provide an immense service to the legal community by further reigning in *Rooker-Feldman*, and clarifying its limitations. This Court’s unanimous decision in *Exxon*, which sought to circumscribe the overly-expansive applications of *Rooker-Feldman*, is apparently proving inadequate.

I maintain that the Respondents deprived me of my constitutional rights to a fair trial in their appellate courts. While I have no constitutional right to a correct decision, I do have a constitutional right to a fair trial. Assuming arguendo that a state-court judge/justice tortiously deprives a party of its constitutional right to a fair trial, can the aggrieved party maintain an original, federal action against the judge/justice to re-open the state-court proceedings so that a fair trial may be had? My position is that the answer is, “Yes,” and other circuits agree that *Rooker-Feldman* does not bar such an action. However, the Ninth Circuit holds that such an action is barred by *Rooker-Feldman*. I am hoping this Court will resolve the inter-Circuit conflict.

I request an extension because, as Your Honor is aware, I recently applied for an extension of time in US Supreme Court case 22A277 (“22A277 Application”).

The 22A277 Application was granted, so that my deadline to petition for certiorari in *Kleidman v. RFF Family Partnership, LP (Kleidman v. RFF)* was extended from October 11, 2022 to December 10, 2022. I have been diligently working on my petition in Case 22A277, which is taking up a significant amount of my time.

I mentioned in my 22A277 Application that I would be filing a second petition for certiorari. (See 22A277 App. at 5, n. 1.) This second petition to which I was then referring is the instant petition under consideration herein. The petition in 22A277 is due December 10, 2022, and the petition herein is currently due December 7, 2022. I do not have enough time to work diligently on both petitions to meet these December, 2022 deadlines. Therefore, I herein request more time in *Kleidman v. DCA2*, so that the deadline for my second petition is extended to February, 2023. That way, I will have enough time to adequately complete both petitions.

Furthermore, as I mentioned in my 22A277 Application, I am engaged in extensive litigation in connection with *Kleidman v. RFF*. My petition in 22A277 pertains to the manner in which certain attorney fees were adjudicated in *Kleidman v. RFF*. The case under consideration here, viz. *Kleidman v. DCA2*, involves another matter within *Kleidman v. RFF*. In particular, I suffered an adverse interlocutory judgment in *Kleidman v. RFF*, which I unsuccessfully appealed. However, I allege that the Respondents violated my constitutional rights to a fair trial in the state-court appellate proceedings. I therefore sued Respondents in federal district court to compel the state-court justices to provide

me with a fair trial in the state-court appellate proceedings.

There is *yet another* federal action involving *Kleidman v. RFF*, where, once again, I maintain that *further* state-court appellate proceedings *again* deprived me of my constitutional rights to a fair trial. *Kleidman v. Collins*, 2:22-cv-03263-CJC-JDE, currently pending in the US District Court for the Central District of California. This action, too, is taking up my time.

Moreover, as I mentioned in my 22A277 Application, I have been dealing with numerous family and personal issues which have substantially impaired my ability to work on my petitions. Two members of my immediate family are incapable of caring for themselves, and I am the sole person with ultimate responsibility for their welfares. (22A277 App., at 4.)

Given my personal issues, and the extensive litigation pertaining to *Kleidman v. RFF* in which I am involved (including the instant action), I believe I have good cause for obtaining the 61-day extension.²

Dated: October 27, 2022

Respectfully,


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² The attached Proof of Service does not include service on the Hon. Normal L. Epstein (Ret.). He was dismissed from the action, as he was no longer named as a defendant in the operative Second Amended Complaint (SAC). See SAC, Dist. Ct. Dock. #12, at p. 1, attached hereto after the Mandate.