No: _____

_____

In The

SUPREME COURT of the UNITED STATES

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KAREN GAIL BRAINEN KLEINMAN,

Petitioner,

v.

THE HONORABLE CYNTHIA A. NORTON, U.S. BANKRUPTCY JUDGE FOR THE WESTERN DISTRICT OF MISSOURI & RICHARD V. FINK, CHAPTER 13 TRUSTEE,

Respondents.

On Petition for Writ of Certiorari and/or Mandamus to the U.S. Court of Appeals for the Eighth Circuit

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APPLICATION FOR 60-day EXTENSION OF TIME TO FILE PETITION FOR WRIT of CERTIORARI and/or MANDAMUS; REQUEST for "IFP" RELIEF & APPOINTMENT of COUNSEL

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To the Honorable Brett M. Kavanaugh, Justice of the Supreme Court of the United States designated for the Eighth Circuit

COMES NOW, Petitioner, Karen Gail Brainen Kleinman, Chapter 13 debtor, appearing *pro se*, in accordance with SCOTUS Rules 13.1 and 13.5, respectfully requests a **60-day extension of time** from her current deadline of Sunday, October 30, 2022 (*automatically extended to Monday*, **October 31, 2022**), until and including Thursday, **December 29, 2022**, within which to file her Petition for Writ of Certiorari and/or Mandamus to the U.S. Court of Appeals for the Eighth Circuit, for good cause shown attributable to Petitioner's extraordinary and devastating personal life circumstances.

Petitioner also respectfully requests **"in forma pauperis"** relief and in light of Respondents' overwhelming access to <u>*unlimited*</u> legal and financial resources, **"appointment of specialized counsel"** to assist her, as well as, the Court, with this herculean "*David v. Goliath*" endeavor, by leveling the playing field and ensuring the "public interest" issues herein will be presented with the highest integrity and professionalism warranted by this Court.

Finally, Petitioner also respectfully requests Justice Thomas and Justice Alito participate in this application for relief in light of their respective roles and contributions to this Court's precedential and controlling decision in **Taylor v. Freeland & Kronz**, 112 S.Ct. 1644 (1992), which *affirmed* the Third Circuit Court of Appeals @ 938 F.2d 420, and provides the background and "centerpiece" of the within controversy over Petitioner's "homestead" exempt property and upon which decision she has steadfastly relied to her detriment, due to its ***"unenforceability"*** within the 8th Circuit, where Members of the Judiciary have disparagingly labeled Petitioner and her legal arguments based thereon as ***"frivolous and meritless."***

REASONS FOR REQUESTING RELIEF

1. The extraordinary circumstances necessitating this requested 60-day extension of time in which to file a Petition for Writ of Certiorari and/or Mandamus are attributable to the heart-breaking and devastating recent death of Petitioner's dependent disabled daughter, after suffering through extensive exhausting and tragic hospitalizations in

Springfield and St. Louis, Missouri, during which time Petitioner never left her daughter's side. (A copy of her daughter's death certificate is annexed to Petitioner's application for "IFP" relief being forwarded simultaneously herewith).

2. After arranging for her daughter's autopsy and cremation and planning notifications to her international friends and family (as she was born in Buenos Aires, Argentina and also resided in Sao Paulo, Brazil, New York City, Princeton and San Diego) and future memorial services and "tributes" to her life, Petitioner has sought refuge in prayer and privacy during this difficult emotional period of bereavement. With the approach of Petitioner's upcoming 80th birthday in a few weeks, she is truly struggling to meet the challenges of her "new" life, without the loving companionship of her beloved only child and best friend.

3. Additionally, inasmuch as Petitioner's income over the past 20 years was derived from employment as her disabled daughter's daily "in-home" care attendant under Missouri's

CDS program, she is now experiencing severe financial hardship and is seeking solutions to her dilemma.

4. Finally, Petitioner continues battling lingering debilitating 'long-hauler' Covid-19 symptoms, in addition to *severe mobility difficulties* requiring double knee replacement surgery (which must be deferred until Petitioner regains possession of her controversial statutorily and constitutionally protected "homestead" exempt property to be assured of a safe, secure and comfortable environment in which to heal and recover). Petitioner must also remedy her *serious visual impairment* and arrange for double eye cataract surgery, also deferred for the past two years.

JURISDICTION

5. This Honorable Court has jurisdiction over this case pursuant to 28 U.S.C. § 1254 (1), in addition to its "supervisory" capacity under the All Writs Statute pursuant to 28 U.S.C. § 1651, to protect the integrity, sanctity, honor, respect and adherence by all members of the judiciary in the lower Courts (pursuant to their sworn sacred

judicial "oaths" of office) to this Court's decisions embodied within its jurisprudence, **obedience to which is mandated by the principles of "stare decisis" and the "rule of law."**

6. Of equal importance is this Court's power, authority and responsibility to instill, assure, ensure and/or restore confidence in all citizens appearing before any/all Federal and/or State Courts, of the "***irrefutable* enforceability"** of their inalienable rights under the United States Constitution and *inter alia*, the guarantees and protections to "procedural and substantive due process" and the "equal protection of the law" enshrined within the 5th and 14th Amendments.

7. At bar, this Court in its appellate and supervisory capacities as final interpreter and arbiter of the Law and Constitution, has the power, authority and opportunity to clarify, reinforce and compel performance by the Bankruptcy and lower appellate Courts of their **"non-discretionary ministerial acts" and/or mandatory duties of obedience to effectuate the U.S. Bankruptcy Code's fundamental "self-executing" statutory provisions and**

protections pursuant to 11 U.S.C. § 522(b)(3), § 522(l) (Schedule "C" Exemptions), Fed.R.Bankr.P. 4003(b), 9006(b)(3); 11 U.S.C. § 524 (a)(2) (The Permanent Federal Discharge Injunction); the principles of "res judicata" and/or "collateral estoppel;" and compliance with Congressional intent and goals of providing a *single* forum in which honest debtors can *expeditiously* and *cost efficiently* resolve their financial affairs with their *legitimate* creditors and thereafter enjoy the fundamental benefits of the Code's rehabilitative "fresh start" policy.

JUDGMENTS BELOW

8. The United States Court of Appeals for the Eighth Circuit's final judgments dated August 1, 2022 in related **Cases #22-1953 and #22-2051**, *without addressing* the Bankruptcy and District Courts' prejudicial obstructionism and denials of "in forma pauperis" relief aimed at preventing appellate review, ***granted*** **Petitioner "IFP" status** but *denied* her Pacer waiver requests and ***summarily affirmed*** the final orders and judgments of the U.S. District Court

for the Western District of Missouri, which *inter alia,* ***dismissed*** **the appeals on the alleged grounds of "judicial immunity"** citing **Stump v. Sparkman, 435 U.S. 349, 354 (1978).**

9. ***Note: For the convenience of the Court, copies of the above-referenced decisions/orders/judgments and the underlying orders of the Bankruptcy Court, Petitioner's relevant Chapter 7 & 13 Schedules, the subject "Cross-Motion" for relief, Response in Opposition & Stipulation for "Certification" to Respondent Norton's initial grounds for denial of relief based upon the Rooker-Feldman Doctrine, subsequently substituted for "failure to state a cause," subsequently substituted for the defense of "judicial immunity" & previously submitted voluminous motions for relief focusing on the subject "homestead" exemption, "Taylor," the Court's lack of subject matter jurisdiction over Petitioner's exempt property, the doctrines of "nemo dat" and "fraud on the Court" - are annexed hereto and made a part hereof and arranged as follows:***

APPENDIX A: Court of Appeals
APPENDIX B: District Court
APPENDIX C: Bankruptcy Court
APPENDIX D: ***Petitioner's Documentation***

QUESTION PRESENTED

10. ***Is it Time for this Court to "revisit, modify and/or overturn" Stump v. Sparkman, 435 U.S. 349, 354 (1978) in that this extremely criticized controversial decision is not only widely discussed and disputed as wrongly decided amongst members of the Bar, the Circuit Courts of Appeal and legal scholars, but also at odds with Congressional policy and legislative intent as evidenced by its enactment of §1983 of the Civil Rights Act under Title 42, wherein it proclaimed that "no person is above the law," logically including those clothed in Black Robes ?***

11. ***Is an Article I appointed Bankruptcy Judge entitled to "judicial immunity" for refusing to perform a mandatory "non-discretionary ministerial act" to effectuate a "self-executing" statutory provision of the Code, where neither judgment nor discretion are permitted ?***

12. ***And is Respondent Bankruptcy Judge Norton entitled to "judicial immunity" and/ or "reward" for her*** **criminal** ***"treasonous betrayal" of her judicial oath of office and sworn allegiance to uphold the U.S. Constitution and the U.S. Bankruptcy Code, and depriving Petitioner and the United States of her "honest" services, evidenced by her irrefutable abandonment, arrogant defiance and contumacious disregard for the precedential and controlling jurisprudence of the Supreme Court of the United States ?***

13. It should be noted that contrary to Respondents and U.S. District Judge Roseanne Ketchmark's "mysterious" conclusions reflected in the Orders/Judgments dated May 13th, September 27, 2022 and October 27, 2022, **Petitioner was never suing and/or seeking monetary damages from Respondents pursuant to 42 U.S.C. § 1983.**

14. Rather, in the subject Cross-Motion for relief filed March 18, 2022, Petitioner merely requested Respondent Bankruptcy Judge Norton perform a "**non-discretionary ministerial act**" (***involving***

neither judgment nor discretion), **i.e., to direct entry of a long overdue Order reflecting the "self-executing" statutory provisions and protections pursuant to Section 522(l) regarding Petitioner's "homestead" exempt property claimed 100% exempt on her Schedule C, as clearly indicated by her responses to questions #1, 2, and 3, to which no objections were filed as required by Fed.R.Bankr.P. 4003(b). As a result of the above, the subject "homestead" was Petitioner's to "KEEP" as of November 9, 2018 in the controlling Chapter 7 case and as of September 25, 2022 in the Chapter 13.**

15. SEE, **this Court's precedential and controlling decision in Taylor v. Freeland & Kronz, 112 S. Ct. 1644 (1992) (Thomas, J.)** ***affirming*** **the Third Circuit's decision @ 938 F.2d 420,** wherein in ***overturning*** **both the Bankruptcy and District Courts' erroneous decisions, the appellate panel which included Justice Alito, stated the following:**

> "We respectfully **disagree** with the conclusion reached by the courts below and by the **Courts of Appeals** for

the Sixth and **Eighth Circuits**. We will adhere to the clear and orderly scheme Congress enacted for property exemption determinations and hold that **in the absence of an objection filed within thirty days after the section 341(a) creditors' meeting** or the filing of an amendment to the exemption list, **property claimed as exempt by the debtor is exempt.**

Thus, where there is a date when the parties' rights can be finally determined – in this case, thirty days after the creditors' meeting, if no objection is filed – **the parties can proceed from that date knowing which property is property of the estate and *which property belongs to the debtor*. *The debtor from that day forward can treat exempted property as his or her own* and is not forced to wait until some unknown future date when the trustee or another party in interest might haul the debtor into court seeking that property."**

16. In ***affirming*** the Third Circuit's decision and **resolving a "split" amongst the Circuits, this Supreme Court in its precedential decision @ 112 S.Ct. 1644 (Thomas, J.) laid down the controlling relevant law as follows:**

> **"[U]nless a party in interest objects, the property claimed as exempt on such list is exempt."** **Rule 4003(b)** gives the trustee and creditors 30 days from the initial creditors' meeting to object. By negative implication, the rule indicates that creditors may not object after 30 days "unless, within such period, further time is granted by the court." The Bankruptcy Court did not extend the 30-day period. **Section 522(l) therefore has made the property exempt. Taylor cannot contest the exemption at this time *whether or not Davis had a colorable statutory basis for claiming it*."**

> **"DEADLINES may lead to unwelcome results, but they prompt parties to act and they produce FINALITY."**

17. *See also,* **Law v. Siegel, 571 U.S. 415, 134 S.Ct. 1188 (2014) (Scalia, J.) for the *unanimous* Court, *reversing*** the Ninth Circuit Court of Appeals and lower Courts, specifically addressing the **jurisdictional limitations and prohibitions of actions taken by**

the Bankruptcy Court which impermissibly infringe upon the debtor's "homestead" exemption in contravention of Section 522(l). *(Note: emphasis and underscoring throughout has been supplied)*

QUESTIONS PRESENTED

18. ***In light of the "totality of the circumstances," should not this Court exercise its "sua sponte" authority and grant Petitioner relief regarding her "homestead" exempt property pursuant to Section 522(l) of the Code and this Court's controlling decisions in Taylor v. Freeland & Kronz, 112 S.Ct. 1644 and Law v. Siegel, 134 S.Ct. 1188 pursuant to her constitutional rights to the equal protection of the law, guaranteed and protected under the 5th and 14th Amendments?***

19. In support of Petitioner's serious allegations of what appears to be an alarming and rampant pandemic of ***"feigned and/or* gross *judicial incompetence, favortism, bias, discrimination,***

corruption, fraud and/or obstruction of the due administration of justice, evidenced by "decisions being rendered without regards to the merits" **by participating members of the judiciary, the Court is respectfully requested to "scrutinize" the recent related orders/judgments dated September 27, 2022 and October 27, 2022, wherein the learned Honorable U.S. District Judge Roseanne A. Ketchmark, an Article III "life-time" appointed Member of the Federal Judiciary** (who decided she will never grant Petitioner "IFP" relief because of the "frivolous and meritless" nature of her appeals) **has concluded the following on page 2 @footnote 5 of her Order dated September 27, 2022:**

> " . . .it appears **Appellant does not have standing to bring this appeal. Since chapter 7 debtors** are divested of all right, title, and interest in **nonexempt property** through the creation of the bankruptcy estate at the commencement of their cases, these debtors generally lack any pecuniary interest in the trustee's disposition of that property; it is generally the trustee alone who possesses standing under the 'persons aggrieved'

standard to appeal bankruptcy court orders concerning the sale of property of the estate." *In re Levitt*, 632 B.R. 527, 530 (B.A.P. 8th Cir. 2021)(numerous citations omitted). A debtor may still have standing if the debtor can show that one of two exceptions applies: (1) **there is a reasonable possibility – not just a theoretical chance** – that a successful appeal would entitle the debtor to the distribution of a surplus under **11 U.S.C.§726(a)(6);** or (2) the appealed order impacts the terms of the debtor's **bankruptcy discharge**. *Id.* (citation omitted). The appellant asserting standing to appeal bears the burden of proving the appellant qualifies as a **"person aggrieved."** *Id.* ***Here, Appellant as (has) not met her burden of establishing she has standing.*** *Pg 3 footnote.*

SCOTUS . . . we have a problem !

20. In truth and in fact Petitioner is a **Chapter 13 debtor**, challenging actions or inaction by **Respondent Richard V. Fink, Chapter 13 Trustee;** the focus of the controversy is **Petitioner's "homestead" exemption (i.e., "property of the debtor") not**

nonexempt property; there is no Sale or "property of the estate" involved and/or being "administered" by Trustee Fink who only administers "property of the estate" not "property of the debtor;" and Petitioner clearly has standing and has met her burden of proof.

21. This latest outrageous and inexcusable "blunder" demonstrates and confirms Petitioner's contentions (listed in ¶ 19) beyond a per adventure of doubt, *inter alia,* that *decisions are being rendered without regards to the merits. See,* U.S. Martin Manton, 107 F.2d 834 (1938) (former Chief Judge of the 2nd Circuit Court of Appeals, and first federal judge to be indicted, convicted and sentenced to jail, *inter alia,* for "selling his vote and rendering decisions without regards to the merits of the controversy" . . ; see also, "Operation Greylord," Cook County, Illinois.

22. In light of District Judge Ketchmark's irrefutable egregious judicial misconduct, not to mention Respondent

Bankruptcy Judge Cynthia A. Norton's similar judicial misconduct aimed at denying, depriving and defrauding Petitioner of her statutorily and constitutionally protected "homestead" exempt property during the past four years, Petitioner respectfully requests this Court's immediate intervention to ensure, *inter alia*, their immediate "recusals," "removals" and/or "resignations" from Petitioner's case, if not permanently from the "bench" !

MONUMENTAL IMPORTANCE OF THIS CASE

23. This case presents questions of monumental national jurisprudential importance regarding fundamental procedural and substantive Constitutional, Judicial, Jurisdictional and Bankruptcy Code controversies, evidencing **a compete "systemic failure" within our entire judicial system**. Once resolved by this Court and given "teeth," its important controlling decisions will impact and improve the entire judicial system, including all Members of the Judiciary, Chapter Trustees, U.S. Trustees and Members of the Bar, as well as, all citizens appearing before any/all Federal and/or State

Courts wherein "Lady Justice" and the U.S. Constitution guarantee all litigants, including those appearing *pro se*, "**a fair trial before a fair and impartial tribunal.**" [**Offutt v. United States,** 348 U.S. 11 (1954); **In re Murchison**, 349 U.S.133 (1955)].

24. In addition to "a fair trial before a fair and impartial tribunal," another fundamental, crucial and essential component of "due process" is that a Judge is imputed with "knowledge of the law" regarding the subject matter and facts of the controversy before the Court.

25. At bar, Respondent Bankruptcy Judge Norton has demonstrated an incredible lack of knowledge of the most basic important provisions and protections of the Bankruptcy Code. She has, not only, ignored Petitioner's repeated assertions (both in motions and throughout hearings as verified by the Transcripts) regarding the "iron-clad" nature of her "homestead" exemption, but also, arrogantly disregarded her mandatory duty to examine the "threshold" issue of the Court's subject matter jurisdiction, or lack thereof

(as Petitioner contends) over the subject "exempt" property at all stages of the proceedings.

26. Moreover, Petitioner has routinely raised the insurmountable "jurisdictional" defects in the related Chapter 7 and Chapter 13 cases over the past four years in *all* of the lower Courts – only to receive an inexcusable "deafening SILENCE." Yet the learned Article I Respondent Judge Norton claims she could find "no basis" upon which to grant Petitioner relief.

27. So as to refute Respondent Norton's allegations, once and for all, in the interests of judicial economy this Court is respectfully referred to Appendix D wherein Petitioner has included an "*abundance*" of documentation evidencing her efforts to enforce the Code's fundamental self-executing statutory provisions and protections under Section 522(l) and as mandated by this Court's precedential and controlling decision in Taylor v. Freeland & Kronz, *supra*, only to be labeled "*frivolous and meritless.*"

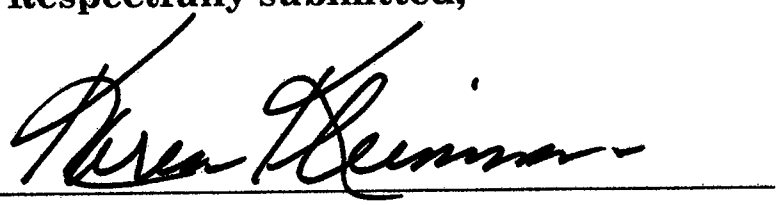
28. No party can claim any prejudice by this requested relief. Petitioner has consulted with opposing counsel AUSA Jeffrey P. Ray, representing Respondent Bankruptcy Judge Norton, who voiced no objections and Attorney Dana Michelle Estes, representing Chapter 13 Trustee Fink, who reserved any objections until receiving her copy of this application.

29. WHEREFORE, good cause having been shown justifying the within requested relief for an extension of time due to Petitioner's extraordinary personal circumstances including the recent death of her daughter and ensuing emotional, financial and medically related hardships, and considering the monumental and meritorious "public interest" issues to be presented for review, Petitioner respectfully prays this Court grant her requested relief for a 60-day extension of time, from October 31, 2022 until and including December 29, 2022, to file a Petition for Writ of Certiorari and/or Mandamus to the Eighth Circuit Court of Appeals; grant her "IFP relief and

"appointment of specialized counsel" in light of Respondents' overwhelming access to unlimited legal and financial resources to assist Petitioner, as well as, the Court, with this herculean *"David v. Goliath"* endeavor, by leveling the playing field and ensuring the "public interest" issues herein will be presented with the highest integrity and professionalism warranted by this Court and for such other, further, and/or different *sua sponte* relief as the Court may deem just and proper in the premises.

Dated: October 31, 2022

Respectfully submitted,



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