

No. _____

IN THE
Supreme Court of the United States

LARRY J. WINGET AND THE LARRY J. WINGET LIVING TRUST,

Petitioners,

v.

ALTER DOMUS, LLC,

Respondent.

**APPLICATION TO THE HONORABLE BRETT M. KAVANAUGH FOR AN
EXTENSION OF TIME WITHIN WHICH TO FILE
A PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

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To the Honorable Brett M. Kavanaugh, as Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3, Petitioners Larry J. Winget and the Larry J. Winget Living Trust respectfully request that the time to file their Petition for Writ of Certiorari in this matter be extended 30 days, up to and including December 15, 2022. The Court of Appeals issued its opinion on July 1, 2022, and its order denying Petitioners request for rehearing on August 17, 2022. (Appendix ("App.")). Absent an extension of time, the Petition for Writ of Certiorari would be due on November 15, 2022. Petitioners file this Application more than 10 days before that date. See S. Ct. R. 13.5. This Court would have jurisdiction over the judgment under 28 U.S.C. 1254(1). Respondent, through its counsel, does not take a position on this 30-day extension request.

Background

Petitioners seek review of a 2-1 Sixth Circuit decision, issued on July 1, 2022, that *sua sponte* annulled the petitioner's revocable will-substitute trust, a commonly used estate-planning vehicle, and replaced it, retroactive to 2003, with an irrevocable trust. The holding is so startling that dissenting Judge Batchelder warned of the "damage to trust law" that will ensue if the majority's decision is not overturned. Despite contradicting the Uniform Trust Code adopted in 36 states and raising conflicts with published cases from this Court, five (5) other Circuit courts and the Sixth Circuit itself, the panel denied Petitioners' request that the decision

be published. The panel also denied Petitioners' request for rehearing on August 17, 2022.

The petition raises important questions about: (1) whether the Sixth Circuit had the jurisdictional power to annul a will-substitute trust; (2) whether a will-substitute trust is a separate legal entity from its settlor that can unilaterally strip the settlor of rights in the trust res, including the right to revoke, without the settlor's participation or approval; and (3) whether the Sixth Circuit's unfettered discretion to refuse to publish any of its decisions regardless of their content or import violates Article III of the Constitution.

Reasons for Granting an Extension of Time

The time within which to file a Petition for a Writ of Certiorari should be extended for 30 days because the issues created by the Sixth Circuit's *sua sponte* ruling are complex and require additional time to formulate a Petition that will be most helpful to the Court.

No meaningful prejudice would arise from granting the extension. The mandate has already issued, and it is not stayed. Moreover, counsel for Respondent takes no position on the 30-day extension.

Conclusion

For the foregoing reasons, Petitioners hereby request that an extension of time to and including December 15, 2022, be granted within which Petitioners may file a petition for a writ of certiorari.

Respectfully submitted,

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November 3, 2022

CERTIFICATE OF SERVICE

A copy of this application was served by email and U.S. mail to the counsel listed below in accordance with Supreme Court rule 22.2 and 29.3:

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Respectfully submitted,

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