No. _____

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 2022, or the Next Term

WARREN HAVENS, Petitioner

v.

ARNOLD LEONG, Respondent

and

SUSAN UECKER,
Alleged Nominal-Entities Respondent, as Court Receiver

Before the California Superior, Appeal, and Supreme Courts

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

To Honorable Elena Kagan, Circuit Justice to the Ninth Circuit region.

1. MOTION. 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. April 27, 2022: The date the California Supreme Court issued and filed a dispostive Order in Arnold Leong et al. v Warren Havens (the "CA Supreme Court Order") of a Petition for Review I timely filed from two orders (in consolidated cases) of the California

Court of Appeal for the First District (in San Francisco, CA) (a "First CA COA Order, and a "Second CA COA Order, on Rehearing").

- Exhibit A hereto is the Order.
- Exhibit B-1 hereto is the First CA COA Order.
- Exhibit B-2 is the Second CA COA Order, on Rehearing.
- Exhibit C hereto is my Petition for Review provided, in addition to attaching B-1 and B-2 above, because it shows substance of why I submit this Motion for An Extension of Time and seek to file a Petition for a Writ of Certiorari to this Court as outlined below.

b. July 26, 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. September 26, 2022: The deadline date for me to file the petition for writ of certiorari if this 60-day extension request is granted. (Saturday, September 24, 2022, is the 60th day, and September 26 is the first business day thereafter.)

2. REASONS - INTRODUCTION. The reasons why an extension of time is justified are the following. This case involves issues of nationwide importance for individual and corporate-entity defendants, including nonprofits entities, to threshold due process of law at trial and appellate courts when accused of being "fugitives" or "constructive fugitives" under *civil disentitlement law.*

There is a lack of consistency and clarity on these issues in the lower courts, causing several lines of Circuit Court splits and overall deep confusion. This is further shown below.

This case is a good vehicle for this Court to review and rule on these splits and confusion. This also is further shown below

3. BACKGROUND

IN SUM. The case noted here, subject of my planned petition for a writ of certiorari, is, by assertions and decisions of the California Court of Appeal (Exhs. B-1 and B-2) based solely on "civil disentitlement" alleging that I was a "fugitive" from (failed to follow) orders of the trial court, the Superior Court.

However, all of my oppositions of Superior Court orders were based on asserting manifestly clear federal law rights, and where those preempted the alleged California law and jurisdiction involved, and were to attempt to stop, or mitigate, manifest unconscionable injustice, not only to me, but to a nonprofit involved (Skybridge Spectrum Foundation- see below) and to three persons incapacitated to act on these matters, where I acted as their "next friend" (at no cost and no conflict).

Civil disentitlement, as applied here, cuts off due process threshold access to justice in the courts involved and is an extreme sanction,[1] and as I plan to show in my writ petition, one that must be

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[1] From *United States v. Bescond*, 24 F.4th 759, 767-68 (2d Cir. 2021)

> Disentitlement is a sanction "most severe." *Degen v. United States,* 517 U.S. 820, 828, 116 S.Ct. 1777, 135 L.Ed.2d 102 (1996). In *Degen*, the Supreme Court considered a district court's inherent power to disentitle a claimant in a civil forfeiture suit. See id. at 821, 116 S.Ct. 1777. At stake was the "right to a hearing to contest the forfeiture of ... property, a right secured by the Due Process Clause." Id. at 822, 116 S.Ct. 1777. The Court cautioned against "the harsh sanction of absolute disentitlement." Id. at 827, 116 S.Ct. 1777. *A fortiori* the sanction is harsh when the due process right at stake is to defend liberty; so the issue is important.

But the California courts are self-entitled to use and use civil disentitlement in cavalier manner as reflected herein, as least to persons like me that challenged the court themselves. That, for good cause, tends to cause the "constructive" or actual "fugitive" actions from those courts that they seek so prevent. It is rational "flee" from any such court action. I don't as the records show, but it is rational for a party put in that position do so.

far more clearly defined and narrowed, and should not apply at all in my case.

My case is a clear and extreme case of the extreme sanction of civil disentitlement. It is thus is a good vehicle for this Court to make the much-needed resolution of the Circuit Court splits, and clarifications, narrowing, etc. Civil disentitlement has never been clear in court precedents, including those of this Court.

This allows "activist" states and their courts, here California[2] to quash First, Fifth, and Fourteenth Amendment rights, and rights and requirements of various federal acts, including as shown in my case, outlined here, the Federal Arbitration Act and the Federal Communications Act.

It allows this activism to make a mockery of the judicial branch and access to justice, and to act as tyrants.

DETAILS. The California Supreme Court Order (Exhibit A) denied review of two California Court of Appeal decisions (Exhibit B-1 and Exhibit B-2 on Rehearing of B-1) that granted motions to consolidate and dismiss appeals I had filed. The appeals were principally of three decision orders of the trial court, the California Superior Court for Alameda County, each entered on or about the same dates in mid year 2021. These are based on "civil disentitlement" as they show. See "In Sum" above.

(1) One Superior Court order granted a liquidating receivership over assets I obtained, owned and managed for over a decade, certain Federal Communication Commission ("FCC") licensee companies and their FCC licensees that under the Federal Communications Act, 47 USC 151 et seq., were exclusively for inter-state commerce licensed and

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[2] I note cultural matters here not political ones. I have lived in Northern California for four decades. Here "power to the people" often means the few people with the power and immunity, the super-rich and court judges, regardless of Constitutional law and purposes.

regulated by exclusively FCC, not for intra-state use and commerce for the State of California (or any other State) which have no jurisdiction over the subject FCC licensees and licenses.

(2) A second Superior Court order granted a motion by the named plaintiff (Arnold Leong, a resident of Nevada), for a judgement based on an alleged valid arbitration result regarding the FCC licenses for interstate commerce, and granting some claims against me for my employment work for the licensee companies and licenses that were solely, under FCC rules and orders, for interstate "intelligent" and advanced transportation on land and water, which is not arbitrable under the Federal Arbitration Act ("FAA"). See *Viking River Cruises, Inc. v. Moriana,* No. 20-1573, June 15, 2022, by this Court, and the earlier precedents it cites and explains regarding the exceptions in FAA 9 USC 1 for transportation workers.

Also, the FAA, in 9 USC 9, does not allow a State Court to hear and decide such a motion, where the arbitration agreement does not specify said state court to do so,[3] in which case the motion must be timely filed in US District Court. That applies here, and no such timely motion was filed.

(3) The third Superior Court order granted a motion by the putative receiver in the Leong v Havens et al. case, to terminate and

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[3] 9 USC 9 provides, in relevant part (italics added).

> If the parties *in their agreement have agreed* that a judgment of the court shall be entered upon the award made pursuant to the arbitration, *and shall specify the court*, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. *If no court is specified in the agreement of the parties, then such application may be made to the United States court* in and for the district within which such award was made.

approve final accounting and fees (for millions of dollars) of a first "receivership pendente lite" over the same FCC licensee companies and licensees describe above, which had at all times the same lack of jurisdiction as described above, and which was for the alleged purpose of the "lite" arbitration described above, which was not arbitrable under the FAA as described above.

These three California Superior Court Orders, the subject of my appeals to the Court of Appeal (Exhs. B-1 and B-2) and my Petition for Review to the California Supreme Court (Exh. A) are, as they state, interdependent.

The motions and motion grants of these interdependent Orders were in violation of the bankruptcy automatic stay, 11 USC 362, in the chapter 11 case *In re Skybridge Spectrum Foundation (et al.),* No. 21-bk-5-ELG in the US Bankruptcy Court, District of Columbia (aspects of which are now pending on appeal in the US District Court, District of Columbia, No. 21-cv-01551-TSC). All of the Skybridge property (including vested capital and profits member interests membership affiliated LLCs), were sought and granted by the plaintiff in the Superior Court case, by these motions and Orders. The automatic stay violations render the motions and grants void (and sanctionable). Neither the California Superior Court nor the California Court of Appeals, nor the California Supreme Court would address this matter of violation of the threshold bankruptcy code protection, the automatic stay and the results shown in case law, that these matters are void.

In addition, the above-noted "receivership pendent lite" where the noted arbitration was the official "lite" or litigation was asked for and granted not to protect the assets involved (the official purpose) but, first to review and overturn decisions of the arbitrators, to deny adding of new parties and claims, and second, to conduct and decide claims in the arbitration, both of which violate the Federal Arbitration Act as well as California receivership law.

In addition, under this Court's holdings, for 150 years,[4] California State Court and a California Court receivership have no jurisdiction over assets and legal actions outside of the State of California, and not ancillary receiverships in any other State was sought or obtained.

These three Orders and the underlying receiverships (the first pendent lite one, and the second liquidation one) involve, as the principal target - Skybridge Spectrum Foundation. Skybridge had the most assets and claims, when these actions began, of all of the legal entities put into these receiverships. Also, Skybridge took actions that were the sole reason that the assets of their other legal entities in the receiverships exist at all- certain actions before the FCC under specific rules).

Skybridge is an tax-exempt foundation, granted tax exception by the IRS under IRC 501(c)(3) in a grant letter that provided, as all such grants do, that none of the assets can be used for private inurement or profit, but must he kept in the effective charitable trust for the IRS approved public-benefit purposes, which for Skybridge was to support and advance safe and efficient transportation nationwide on land and water, and to monitor and protect the environment, and to pursue related charitable public benefit work. These three Orders and these two receiverships, directly violated this IRS grant, law, and restriction. They also violated statutes of the State of Delaware (where Skybridge was formed, is domiciled, and governed) and California that parallel the IRS law and prohibitions just described.

The aspects of my case outlined above (and others not in the above outline) make create a highly extreme case of application of the subject civil disentitlement doctrine to bar due process law, threshold access to justice, where the doctrine to begin with is extreme (see footnote 1 above).

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[4] See *Booth v. Clark*, 58 U.S. (17 How.) 322 (1855) and following cases.

4. ISSUES POSED[5]

Issue One. What are valid purposes of "civil disentitlement" doctrine under California law, or any State's law, and what are valid requirements and procedures to invoke and apply said civil disentitlement, an extreme remedy?

Issue Two. Can state law civil disentitlement be invoked and applied if the alleged civil fugitive act or acts are based on seeking protections under Constitutional rights and other federal law?

Issue Three. Can state law civil disentitlement be invoked and applied against an individual nature person (here myself) who acts, as next friend, for others including a nonprofit IRC 501(c)(3) legal entity (here Skybridge) whose assets are in charitable trust beyond the reach of the state court action involved solely for private-party inurement and gain?

Issue Four. Can state law civil disentitlement be invoked and applied where no reason is given, in the court of appeal final decision (here, the order on rehearing, Exh. B-2) in violation of the State's Constitution[6] and proper justice as to an order against a pro se party (here myself).

Issue Five. Should *National Union v. Arnold*, 348 U.S. 37 (1954) be overturned, or clarified and narrowed - and should the dissent in *National Union* by Justices Black and Doulas further explained and set as controlling precedent?

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[5] In the planned cert petition, I expect to pose fewer questions than in the issues roughly outlined here. Some issues here may be recast as background.

[6] The order on rehearing, Exh. B-2, did not have an opinion as described in the requirements of the California Constitution, Art. VI § 14. See Exh. C, p. 8.

Issue Six. Is state law, or federal court, civil disentitlement law and its application a per se violation of Fifth Amendment and Fourteenth Amendment due process of law,[7] where other means are well established, more narrowly tailored, and available to curb abuse that is the purpose of said disentitlement law, such as a show-cause proceeding, state law equivalents to FRCP 11, etc.?

Issue Seven. Can state civil disinterment authority, based on essentially "blank-check" "*inherent power*" of state courts not established by state legislatures in the state's statutes, be used to deprive or hinder Constitutional rights in the US and the State's Constitutions and in the subject State and relevant federal statues?

Issue Eight. Where state civil disentitlement law is applied to disable and withhold due process under the Fifth and Fourteenth Amendments, is the subject of the disentitlement in state "custody" allowing habeas corpus remedies." Without due process of law, liberties cannot be protected or even believed. Thus, where a state deprives a person of due process by civil disentitlement, does the person have habeas corpus rights to challenge it, as where the person is subject deprivation of liberty by confinement in a jail or prison, or in release with restraints on parole?

Issue Nine. Can a state court find that a party engaged in a fugitive act that calls for disentitlement to prosecute the party's case in an appeal, or in the trial court, where the alleged act is in a state court action that has been fully terminated? That applies in my case- the alleged fugitive acts were in the receivership pendente lite case, terminated in mid 2021, before the Court of Appeal considered and granted the motion for disentitlement. This further shows the extreme nature of my case on disentitlement.

THE CIRCUIT COURT SPLITS AND CONFUSION ON CIVIL DISENTITLEMENT LAW, GOING ON FOR DECADES, CALL FOR DECISION BY THIS COURT

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[7] U.S. Const., Amend. XIV, § 1.

By addressing the Issues above to any substantial extent (see footnote 5 above), this Court will provide guidance and clarity called for.

The case I present is an extreme case of suppression of basic liberties grounded in due process of law by vague state law and state court civil disentitlement action and is thus a good vehicle for this purpose. Said state law in many cases, like mine, must follow federal disentitlement law, as discussed below.

Starting decades ago, and continuing to this day, three are several lines of splits in the federal circuit courts on the fundamentals of civil disentitlement law. Said federal court civil disentitlement law applies in many state court disentitlement cases including my case.[8]

(A) One line of split is summarized in a year 2021 article in the New York Law Journal,[9] quoted here (underlining added):

[p 1] In this article, we discuss the Second Circuit's recent decision in *United States v. Bescond,* 7 F.4th 127 [24 F.4th 759] (2d Cir. 2021)[10] which held that the defendant, Muriel

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[8] State courts applying disentitlement law against a defendant, or defendant-appellant, as in my case -- who is alleged to be a "fugitive" for defending with federal Constitutional rights and protections, or federal statutory rights and protections, in federal court actions or federal agency actions, or in other state courts -- must apply federal disentitlement law as is applied by federal district courts and circuit courts of appeal in cased under federal subject matter jurisdiction.

[9] The New York Law Journal, Nov. 3, 2022, "Who Is a Fugitive? The Second Circuit Interprets the Fugitive Disentitlement Doctrine" by Elkan Abramowitz, a former chief of the criminal division in the U.S. Attorney's Office for the S.D. N.Y. and Jonathan S. Sack, a former chief of the criminal division in the U.S. Attorney's Office for the E.D. N.Y. Copy at https://www.maglaw.com/media/publications/articles/2021-11-03-who-is-a-fugitive-the-second-circuit-interprets-the-fugitive-disentitlement-doctrine

[10] *Bescond* is founded on civil disentitlement law including holdings by this Supreme Court. See footnote 1 above.

> Bescond, a French citizen charged with commodities fraud, was not a "fugitive."
>
> [....]
>
> On appeal, a divided panel of the Second Circuit held that disentitlement was an appealable "collateral order" ....
>
> [....]
>
> [p 3] In *Bescond*, the Second Circuit's holding departs from decisions in the Sixth and Eleventh Circuits, which held that appeals from application of the fugitive-disentitlement doctrine were not appealable as collateral orders. If the split on appellate jurisdiction remains, the Supreme Court may ultimately have to decide the issue.

Where a decision applying disentitlement law allows an appeal, then there is no disentitlement-disallowance of the appeal, unlike in my case. Reviewing these Second, Sixth and Eleventh Circuit cases cited above at this time, there is no change in the stated split in the article above. This is shown as follows.

(1) The Second Circuit *Bescond* decision has not been changed but is cited as still good law. See next footnote.[11]

(2) The Sixth Circuit case indicated in the quoted article above (and cited in *Bescond*) is *United States v. Martirossian* (*In re Martirossian*), 917 F.3d 883 (6th Cir. 2019). The holdings in this case, finding no collateral order appeal right in a fugitive disentitlement

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[11] See: (1) *Tucker v. Faith Bible Chapel Int'l*, No. 20-1230 (10th Cir. June 7, 2022), at 67 ("*see also United States v. Bescond* , 7 F.4th 127, 131 (2d Cir. 2021) (applying the collateral-order doctrine in permitting an interlocutory appeal by a private party on the issue of fugitive status).") This at least indicates that the Tenth Circuit agrees with the Second Circuit on the Bescond holdings, which would add weight to the circuit split noted in the above quoted article. (2) *United States v. Cornelson,* 15 Cr. 516 (JGK) (S.D.N.Y. Mar. 31, 2022) also cites and follows *Beccond.*

decision, also has not changed and is cited as still good law. See next footnote.[12]

(3) The Eleventh Circuit case indicated in the quoted article above (and cited in Bescond) is *United States v. Shalhoub*, 855 F.3d 1255 (11th Cir. 2017). The holdings in this case, finding no collateral order appeal right in a fugitive disentitlement decision, also has not changed and is cited as still good law. See next footnote.[13]

I have found no decision from this Supreme Court to resolve the above summarized splits and confusion. It would have shown up in the research that led to the cases footnoted in footnotes 10, 11, and 12 (which are very recent, as shown) or in other research.

In addition, each of these cases, and many others in federal and state courts, show confusion and other "splits" on civil disentitling law and its application for almost obvious reasons: said law based on vague "inherent authority" of the courts, with its extreme power and effects (see footnote 1 above) pitted against the most protected rights commencing with due process of law, breeds confusion and a variety of results, some of which are punishments which is not a valid purpose of civil disentitlement to begin with, as in my case. "Power tends to corrupt; absolute power corrupts absolutely" (first attributed to Lord Aton, 1887).

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[12] See *United States v. Elsea,* 2:20-CR-00074-1-JRG-CRW (E.D. Tenn. June 16, 2022) at 1 (" "Without the final order rule, cases might bounce back and forth between the trial and appellate courts, as disgruntled litigants seek to reverse each and every ruling, no matter how minor." *United States v. Martirossian* , 917 F.3d 883, 886 (6th Cir. 2019).")

[13] *See United States v. Moran*, No. 21-11083 (11th Cir. May 2, 2022) at 3 ("The district court denied Saab Moran's motion to vacate his fugitive status and to specially appear due to the fugitive disentitlement doctrine..." *United States v. Shalhoub* , 855 F.3d 1255, 1259 (11th Cir. 2017)....")

(B) Other lines of splits, and other confusion in the Circuit Courts in civil disentitlement law (other than under '(A)' above) are explained in the following "Sword and Shield" article. While this article is about 15 years old, it shows these problems were deep and persistent at that time, and the above shows they continue.

I have found no decision from this Supreme Court to resolve these other splits and confusion, either.

For the planned cert petition, I intend to review the status of the splits described below and add that to the above demonstrated current split.

From: Martha B. Stolley, "Sword or Shield: Due Process and the Fugitive Disentitlement Doctrine," 87 J. Crim. L. & Criminology 751 (1996-1997) (copy online by "googling") (underlining added):

[753] By contrast, dismissal of a criminal fugitive's civil claim or the exercise of the disentitlement power in a civil setting is inherently more complex and conceptually elusive. Hence, the federal courts of appeal have split on the issue, with a bare majority holding that the doctrine is applicable in civil forfeiture actions. 21/ | 21/ See infra notes 43-92 and accompanying text.

[....]

[755-56] C. DISENTITLEMENT IN THE CIVIL CONTEXT.

The Supreme Court has not extended *Molinaro* to civil matters relating to a criminal fugitive. However, the Court's decision in *Molinaro* did not indicate whether application of the disentitlement doctrine should be restricted to criminal cases. In fact, many federal appellate courts have claimed that the doctrine should apply with greater force in civil cases where an individual's liberty is not jeopardized. 47/ Some Circuit Courts of Appeals have extended the doctrine to bar a fugitive in a separate but related criminal case from seeking affirmative relief from the court in a civil

proceeding.48/ Still others have invoked the rule in civil in rem proceedings.49/

47/ See, e.g., *Conforte v. Commissioner*, 692 F.2d 587, 589 (9th Cir. 1982).

48/ Id. at 589-90 (barring taxpayer from contesting...); *Broadway v. City of Montgomery*, 530 F.2d 657, 659 (5th Cir. 1976) (refusing to hear fugitive's appeal seeking d...); *Doyle v. United States Dep't. of Justice,* 494 F. Supp. 842, 845 (D.D.C. 1980) (per curiam), afftd, 668 F.2d 1365 (D.C. Cir. 1981) ("...the courts may invoke their inherent equitable powers to refuse... fugitives... under the Freedom of Information Act.").

49/ See, e.g., *United States v. Eng*, 951 F.2d 461 (2d Cir. 1991); 7707 S.W. 74th Lane, 868 F.2d at 1214; *United States v. Pole No. 3172*, 852 F.2d 636 (1st Cir. 1988); *United States v. $129,374 in United States Currency*, 769 F.2d 583 (9th Cir. 1985); *United States v. $83,320 in United States Currency*, 682 F.2d 573 (6th Cir. 1982).

5. REASONS I SEEK THE EXTENSION

(A) This Issues 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).[14] These are special and complex areas of law, and I am a pro se party that, while an educated layman in some areas of law, need the requested additional time to properly complete research and drafting of the planned cert petition in these special and complex areas of law.

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[14] 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

(B) In addition, I have substantial ongoing health and financial hardships,[15] 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.

6. RE NON-OBJECTION FROM OPPOSING COUNSEL

Legal counsel to the opposing parties, Arnold Leong and Susan Uecker and their affiliates, have regularly refused to meet and confer with me on procedural and substantive issues in the above-described California court actions. It is futile to seek their non-objection here, but I do so by copying them on this Motion.

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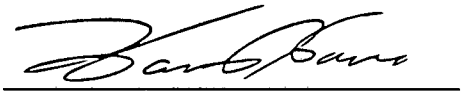
[15] In brief. (1) I earlier had melanoma cancer, survived it, and since then I have been on certain doctors- prescribed health protection practices. The condition and the practice take up a lot of my time and adds costs. I have substantial dental problems causing flareups, and medication, and currently 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 noted above, my life savings were used up in legal defense costs, while I could afford legal counsel, and fund due to me are tied up in the receivership and will not be released to me. This imposed and continues to impose 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 and time extensions based on my declarations with details (some confidentially submitted) of these hardships.

CONCLUSION

For the above reasons, I respectfully pray that this Court grant an extension of sixty (60) days to and including September 26, 2022, within which I may file the petition for writ of certiorari described above.

Respectfully submitted,



June 28, 2021

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The Exhibits follow.

cc by email:

Legal counsel to Arnold Leong, a potential respondent
Legal counsel to Susan Uecker, a potential respondent