

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

DALE SUNDBY, TRUSTEE

Petitioner,

v.

MARQUEE FUDING GROUP, INC., et al,

Respondent.

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE NINTH CIRCUIT**

**PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR A WRIT OF CERTIORARI**

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Petitioner, Plaintiff, Appellant, and Cross-Appellee in Pro Se

**PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Ninth Circuit:

Petitioner, Dale Sundby, respectfully applies to this Court for an order extending the time in which to file his petition for writ of certiorari from February 8, 2023 until March 31, 2023, a period of fifty-eight (58) days. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Petitioner states:

1. On October 3, 2022, the United States Court of Appeals for the Ninth Circuit issued an order with dissent ("Order) in Case No. No. 21-55582 (attached), wherein the Court vacated and remanded without deciding the appeal of judgment of the United States District Court for the Southern District of California in Case No. 3:19-cv-00390, "to afford the trust an opportunity to obtain legal representation", even though Petitioner, a non-lawyer trustee representing his family trust, had prevailed on merit. The representation issue was not raised during the more than two years in the District Court, but was raised for the first time on appeal, challenging representation *as to the appeal*, not as to the underlying case. One and one-half years after the notice of appeal, the Court of Appeal decided sua sponte to vacate and remand without deciding the appeal.

2. On November 10, 2022, the Court of Appeals issued an order (also attached), wherein the Court denied a petition for panel rehearing and petition for rehearing *en banc*.

3. Petitioner's case raises important questions regarding due process, *non bis in idem*, and the principle of party presentation pursuant to this Court's unanimous finding in *United States v. Sineneng-Smith*, 590 U.S. 1575 (2020). The divided panel's decision also conflicts with no less than thirty-seven Ninth Circuit decisions, and with similar decisions in *every one* of the other circuits.

2. Petitioner now seeks a writ of certiorari for the United States Court of Appeals for the Ninth Circuit with respect to the Order and petitions for rehearing.

3. According to Supreme Court Rule 13.3, a petition for writ of certiorari is due on or before February 6, 2023. See Supreme Court Rule 13.3 ("the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment"). However, the time granted by Supreme Court Rule 13 will be insufficient to allow Petitioner to do justice to the issues at hand, which are significant. Therefore, Petitioner seeks an extension of fifty-eight (58) days in which to file his petition for a writ of certiorari. See Supreme Court Rule 13.5 ("[A] Justice may extend the time to file a petition for writ of certiorari for a period not exceeding 60 days").

4. In accordance with Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date. Further, the requested extension is made in good faith and not for the purposes of delay. Indeed, the requested extension is made because the case at issue spawned four other cases, two federal and two state, that are also being prosecuted by Petitioner. The Court of Appeals decision not to decide the appeal has aggravated proceedings in those cases.

5. Therefore, in light of Petitioner's current obligations and the importance of the issues that will be presented in this case, Petitioner submits that a fifty-eight (58) day extension is necessary and appropriate in order to effectively prepare the petition for certiorari.

Wherefore, in the interest of justice and for good cause shown, Petitioner respectfully requests that this Court extend the current February 8, 2023 deadline until March 31, 2023.

Respectfully submitted,



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