

**ORIGINAL**

No. \_\_\_\_\_

IN THE SUPREME COURT OF THE UNITED STATES

**FILED**  
**FEB 06 2023**  
OFFICE OF THE CLERK  
SUPREME COURT, U.S.

\*\*\*\*\*

**KIMBERLEY SUE ELKINS, PETITIONER**

**V.**

**KATHY MILLER, RESPONDENT**

\*\*\*\*\*

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

\*\*\*\*\*

TO THE HONORABLE NEIL M. GORSUCH, ASSOCIATE JUSTICE OF THE UNITED STATES SUPREME COURT, AND CIRCUIT JUSTICE FOR THE TENTH CIRCUIT:

NOW COMES Petitioner, Kimberley Sue Elkins, pursuant to Supreme Court Rule 13.5, and respectfully requests a sixty-day extension of time for filing a petition for a Writ of Certiorari to the Supreme Court of New Mexico, such extension to include Saturday, April 15, 2023; due by Monday April 17, 2023. This application is submitted in the time and manner allowed by Rules 21, 22, 30, and 33.2, The original scheduled filing date for the petition is February 14, 2023. The New Mexico Supreme Court denied a timely-filed Motion for Rehearing on November 16, 2022. In support of this application, Petitioner states:

## **BACKGROUND:**

Housing as a Basic Human Right, is a fundamental precept in a civilized society, and should be treated as such in adjudicating these matters before the courts. Malicious, forced homelessness is a violation of these rights, and, moreover, is unlawful on its face. Our Constitutional Rights are held to be sacrosanct, and should be protected in every step of the judicial system, including for disenfranchised litigants in civil cases, such as this. Violations of these rights can have a huge, devastating, and long term impact on the targeted individuals, such as the Petitioner, and society at large; and, should never be taken lightly.

This case began as a Tenant-Landlord dispute in Magistrate Court, in Otero County New Mexico, that was created by predatory landlords [Respondent(s)], who engaged in numerous, long term activities detrimental to the health, welfare, and financial stability of this Petitioner, including, but not limited to: Wage Theft, Breach of Contract, Breach of Promise, and Fiduciary Mismanagement. In January of 2018, the opposing party(ies) entered into an official agreement with this Petitioner to bring her account up to date by May, 1, 2018, or face eviction. This Petitioner honored the agreement and offered payment in full by the due date. The opposing party(ies) violated the agreement, and refused payment, thus breaching contract, and fraudulently moved to evict Petitioner for nonpayment.

Petitioner was immediately thrust into the prospect of imminent, forced homelessness, and was forced to defend herself in court. From the beginning, and through today, this case has had a grave effect on Petitioner's health and financial status.

This case has significant application to society at large, considering the current homelessness & poverty issues, growing nationwide. Merits of the case, to be presented to the Supreme Court of the United States include, but are not limited to the following serious Constitutional & Court System issues: (1). Attorney Errors; (2). Court Clerk Errors; (3). Judicial Errors; (4). Evidentiary Procedure Errors; (5). Numerous Due Process violations; (6). Judicial Bias, beginning in Otero County Magistrate Court; (7). Severe narrowing of parameters for analysis of multiple Excusable Neglect Factors (NM-COA); (8). Arbitrary time limits for NMCOA deadlines; (9). Inappropriate JPEC (New Mexico's "Judicial Performance Evaluation Commission" Tool) influence, which has morphed into a glorified internal popularity contest that disenfranchises citizens; and, (10). (Secret) Advisory Committee Bias; members of which are connected to the Court System in Otero (and Lincoln) County, New Mexico, and beyond.

**REASONS FOR GRANTING APPLICATION FOR EXTENSION OF TIME:**

**Legal:**

As I am not a lawyer, the extreme financial difficulties I'm currently

contending with (see below), have prevented me from being able to afford legal representation and advice. Looking for pro bono assistance has also been, and continues to be, very time consuming. This stage of the case, being at the doors of the United States Supreme Court, requires a level of expertise that I do not possess. In order for this very important document to appropriately represent, delineate and defend my interests, I will need much more time to navigate and prepare for the complexities of filing documents with the U. S. Supreme Court.

**Financial:**

I have been unable to find work for over a year due to the Covid Vaccine Mandate for Healthcare Workers (I'm a Registered Nurse and am medically contraindicated under 2-3 categories), particularly stringent in the part of the country I'm currently in (Upper Eastcoast). I've worked diligently, nearly everyday, making contacts with Nurse Recruiters by Text, Email and Phone. Recruiters are looking for facilities and units in the region that accept Covid Vaccine Waivers in my Specialty. I've also been looking for other work and training opportunities, including a local "senior" work program (as I am  $\geq$  55 yoa).

In the last 3 years, this Petitioner has lost in excess of \$200,000 in income, due to interference by this case, the Covid Pandemic, and subsequent Covid Vaccine Mandate for Healthcare Practitioners. These losses started in the Fall of 2019, as

a result of interference with this case by the Millers, beginning with the denial of a Continuance I requested from the 12th District Court in Otero County, New Mexico, prior to beginning a Travel Nurse Contract in the Austin, Texas area. The Millers had inappropriately complained about my continuance request, by misleading the court to believe I had engaged in a "pattern of delay", which was untrue. I was never allowed to defend these spurious accusations at the time, the effects of which, continue to plague this case.

Furthermore, I lost another contract in Dallas, Texas in 2020, as a result of a Covid-Related Reduction in Force. After travelling to the Upper East Coast in 2021 for another contract, subsequent contracts were not possible once the Covid Vaccine Mandate for Healthcare Workers went into official, widespread enforcement, in January 2022. This devastating loss of income compounds the difficulties of rebounding financially, and directly effects my ability to defend my interests in this case, to this day. Petitioner's resources are exhausted.

**Lost Time:**

From November 16, 2022, to December 19, 2022, Petitioner lost 33 days of preparation while striving to obtain basic information on how to proceed with this case into the federal court system. During much of this time, neither the NMSC, nor the NMCOA would provide Petitioner even the simplest of Information, such as names and/or designation numbers of applicable, or

related statutes or rules regarding advancement of the case, even though this type of information does not constitute “legal advice”, and is allowed by the court system. During this period, I lost valuable time petitioning the NMSC for a Second Motion for a Rehearing, because of the time I had already lost. My second request was not passed onto the Judges for their review, but was decided by a clerk; and, I was told the case was closed. What little information I managed to eventually glean from clerks was conflicting, in that, both NMSC and NMCOA offices each stated at one point, I had to pursue information from the other court. I made numerous and exhaustive calls and emails up to, and beyond December 19, 2022, attempting to find organizations and attorneys in both New Mexico and the DelMarVa region (where I'm currently living), for assistance and advice on how to proceed.

By the time I finally discovered some information, I then lost even more time writing and submitting a Stay of Mandate to the NMCOA on December 19, 2022, More time was lost awaiting their answer, which I received on or about Jan 6, 2023, by email; losing an additional 18 days. More time has been lost since then, researching how to write a Petition for Writ of Certiorari to SCOTUS.

**Additional Interference:**

My phone went out on January 3, 2023 due to the global 4G transition, and I wasn't able to get a new phone and service I could afford, until last week on

February 1, 2023, at which time, I immediately called the SCOTUS clerk office for information on filing an extension, as I had lost 29 days of preparation due to the 4G phone situation, over which, I had no control whatsoever. During those 29 days I did by best to do more research online to familiarize myself with the SCOTUS Certiorari process, including compiling information on rules of procedure, forms, and examples of documents. I am currently preparing this request to be mailed on February 6, 2023; thus leaving me only 8 days to complete the Petition for Writ of Certiorari, sans much needed legal advice and assistance. A 60 day extension will provide valuable time needed to follow up on, and obtain assistance to submit an appropriate and precise Petition of this significant social importance. Additionally, I do not have a computer, and am using a tablet, with limited capabilities, as the company who developed the “free” Office Suite word processor program attached to the tablet, high-jacked the program about a month ago, and I wasn't able to buy my way back into the program to begin this request, until approximately 2 days ago.

**CONCLUSION:**

Petitioner will suffer irreparable harm absent a 60 day extension, pending preparation of the Petition for Writ of Certiorari to the United States Supreme Court. It would be cruel and unusual to expect a financially destitute pro se

litigant to be forced to write the Petition for Writ of Certiorari to the United States Supreme Court in the remaining 8 days. The stress, and consumption and monopolization of time, and dwindling resources (as outlined here) would be overwhelming. The Opposing Party-Respondents will not suffer irreparable harm if the Extension of Time is granted. They do not respond to any documents or communication from any place, except directly from the 12th District Court in Otero County, New Mexico. And, have refused and returned (unopened) all court-required documentation from me.

Any argument from, or on behalf of the Opposing Party(ies), claiming they have waited long enough for the money in dispute, is a manipulative ploy, and patently absurd. The Opposing Party(ies) have had ample opportunity to receive said money before this case began, and in the first 2 months of this case, prior to the Petitioner vacating the rental property, under threat of fraudulent eviction. At that time, the Petitioner was still recovering from a Knee Injury from the of Fall 2017; and an acute illness from January, 2018; making moving quickly, an extremely difficult task, and also causing significant financial loss.

As of my last assessment, from available resources and personal knowledge, the Opposing Party(ies) are quite wealthy, and possess the following assets (to the best of my knowledge): (1). Six cars; (2). A large home, worth approximately

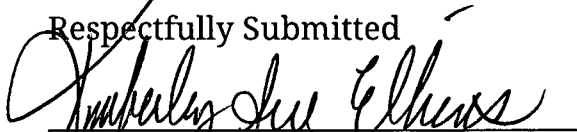


\$250,000; (3). 200 acres of land, containing rental homes and a working Ranch; (4). Kathy Miller's 20-year Retirement, with substitute-teaching opportunities; (5). Jerry Miller's (Kathy Miller's husband) Construction Company; (6). Kathy Miller's inheritance from her family grocery store chain; (7). Jerry Miller's inheritance from his mother's recent passing; (8). An apartment building in Cloudcroft, NM; (9). The following Rental Properties in Alamogordo, NM: (a). 1 small Cottage, attached to (b). A 2-Bedroom House; and (c). Another 2 Bedroom House; (9). Unknown amounts of money in Checking, Savings, & Retirement.

Thank you for your time and attention to this matter.

WHEREFORE, Petitioner respectfully requests that an order be entered extending the time for filing a Petition for a Writ of Certiorari in this matter to and including Saturday, April 15, 2023 (Monday, April 17, 2023).

Respectfully Submitted



Kimberley Sue Elkins,  
Petitioner, Pro Se  
Email: [kse2468@hotmail.com](mailto:kse2468@hotmail.com)  
Phone#: 302-342-9271  
Mail: 774 Via Lanza  
El Paso, Texas 79912

February 6, 2023.

**LIST OF EXHIBITS:**

Denial of Timely Filed Motion for Rehearing in  
The New Mexico Supreme Court.....Exhibit A

No. \_\_\_\_\_

\_\_\_\_\_  
IN THE  
SUPREME COURT OF THE UNITED STATES  
\_\_\_\_\_

KIMBERLEY SUE ELKINS - PETITIONER

vs.

KATHY MILLER - RESPONDENT(S)

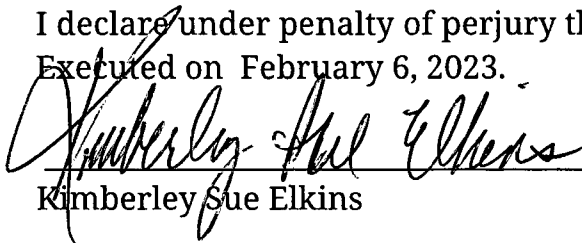
PROOF OF SERVICE

I, Kimberley Sue Elkins, do swear or declare that on this date, February 6, 2023, as required by U.S. Supreme Court Rule 29, I have served the enclosed APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION FOR WRIT OF CERTIORARI on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail properly addressed to each of them and with first-class postage prepaid, or by delivery to a third-party commercial carrier for delivery within 3 calendar days.

The names and addresses of those served are as follows:

Kathy Miller, (Pro Se Respondent)  
P. O. Box 102  
Mayhill, N.M. 88339

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on February 6, 2023.

  
\_\_\_\_\_  
Kimberley Sue Elkins

**EXHIBIT A**