

No. 22A818

In the  
Supreme Court of the United States

Sergei Vinkov,  
Petitioner,

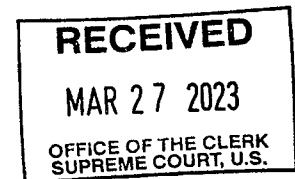
v.

Brotherhood Mutual Insurance Company, an Indiana corporation, Respondent

**RE-APPLICATION TO**  
**ASSOCIATE JUSTICE KETANJI BROWN JACKSON**  
**TO FILE A PETITION FOR WRIT OF CERTIORARI**  
**IN EXCESS OF WORD LIMIT**  
to the United States Court of Appeals for the Ninth Circuit

(No. 21-55857)

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## RE-APPLICATION TO FILE PETITION IN EXCESS OF WORD LIMIT

Pursuant to 28 U.S.C. § 2101(f), Sup. Ct. Rule 22, and 33, Sergei Vinkov ("Applicant") re-submits his application to Associate Justice Hon. Ketanji Brown Jackson after denial of Associate Justice Hon. Elena Kagan for relief in the form to leave to submit a petition for writ of certiorari in excess of words limits from 9,000 words up to 13,000 words calculated in Microsoft Office. Applicant expects to file a petition for a writ of certiorari to review the order of the 9th Circuit before or on Tuesday, April 25, 2023, according to 28 U.S.C. § 1254(1). Enlargement of the word limits is necessary to supply the premises with citations of the records from the courts of the lower jurisdiction, indicating essential authorities, and assigning errors of law in support of arguments to grant a review (**Excerpts of the Current Draft is attached as Exhibit 1**). In support of a good cause appearing, the Applicant alleges the following:

1. Enlargement is necessary to fulfill a Petitioner's obligation "to present with accuracy, brevity, and clarity whatever is essential to a ready and adequate understanding of the points requiring consideration" *Sup. Ct. R. 14*. As it was shown early, Petitioner has discovered numerous errors in law and judicial debates on Article III jurisprudence, the approaches of calculation of diversity amounts, the scope of power of the federal courts to intervene the parallel the pending state proceedings, fairness of the judicial process and ethical conduct of parties (See Application No. 22A718 for stay addressed to Justice Alito and referred to the Court, pending, distributed for Conference of 3/3/2023 is denied on 3/06/2023, *Vinkov v BMIC*). So, in the course to preclude waiver and forfeiture of arguments on the following briefing on the merits, the


extensions of word limits are needed to cover numerous errors and split of authorities on the controversy involved in this case. Accordingly, the volume of mistakes requires extending the word limitation.

2. This case is a perfect vehicle to overrule the *Lemon test* (*Lemon v. Kurtzman*, 403 U.S. 602), which Petitioner relied on during the litigation, and lower courts declined to apply it, allowing to adjudicate the scope of religious duties and approved the examination the scope of religious beliefs like in the Salem witch trials (1693). However, the overruling *Lemon test* is not the primary question in the upcoming petition. Still, instead, it is a sub-question. It is necessary to resolve the main questions in the upcoming filing embedded in Article III jurisprudence, wherein equity is mixed with common law claims.

3. Allegations of compliance of the lower court officers (including attorneys for Insurer) with provisions of ethical codes and federal, state statutes form an integral part of the petition. Thus, mandatory citation of the numerous statutes and description of the scope of claimed violations demand enlargement of the size of the petition.

### CONCLUSION

Applicant asks permission to submit an oversized petition for certiorari with an excess of words limits from 9,000 words up to 13,000 words before or on Tuesday, April 25, 2023.

Respectfully submitted, Sergei Vinkov, *Pro Se* 

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March 21, 2023.

**CERTIFICATE OF COMPLIANCE WITH RULE 33**

I, Sergei Vinkov, the Applicant *Pro Se*, hereby certify that the foregoing application for extension contains 533 words and does not exceed the 9,000 words limitations set in *Sup. Ct. Rule 33*.



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March 21, 2023.

# **Exhibit 1. Excerpts of the Current Draft**

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

In the  
Supreme Court of the United States

Sergei Vinkov, a Congregational Council Member of the  
Trinity Lutheran Church in Hemet, California, ELCA  
(2018-2019),  
Petitioner,

v.

Brotherhood Mutual Insurance Company, an Indiana  
corporation, Respondent

**PETITION FOR WRIT OF CERTIORARI**  
to the United States Court of Appeals for the Ninth  
Circuit  
(No. 21-55857)

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March \_\_, 2023

### QUESTIONS PRESENTED

1) Has the United States Court of Appeals for the Ninth Circuit (9th Circuit) correctly determined jurisdictional power of the federal court over Insurer's claims and denial of affirmative relief for a *pro se* party in duty-to-defend proceedings on the directly related pending state action under Article III requirements and jurisdictional statutes of US Congress?

2) Whether Insurer properly obtained a judgment in the federal court against a *pro se* volunteer director of religious federal tax-exempt corporation from the pending state proceedings in the light of US Constitution (Article III, First Amendment, Due Process Laws) and Acts of US Congress, especially under restrictions of 26 U.S.C. § 7428, 28 U.S.C. § 1332, and 28 U.S.C. § 2283?

## **PARTIES TO THE PROCEEDINGS**

Sergei Vinkov, a Russian and American citizen (since April 2021), was the sole defendant, counterclaimant, and appellant (Petitioner) below. Petitioner submits his petition as an alien with a lawful permanent residency on US soil and an individual in his official capacity as a Congregational Council member of Trinity Lutheran Church of Hemet (The Evangelical Lutheran Church in America) (a board director), a California non-for-profit religious corporation under federal tax exemption, voluntarily in January 2018 – August 2019, who became a naturalized US citizen in April 2021 during the pending civil proceedings against him in the state and federal courts. Trinity Lutheran Church of Hemet incorporated as non-profit organization in 1921.

Respondent Brotherhood Mutual Insurance Company, an Indiana corporation, was the sole plaintiff, counter-defendant, and appellee below-issued insurance contract for Petitioner's entity on the period of his membership ("Insurer") (Dkt. No.76 (Policy).)

## **LIST OF ALL RELATED ACTIONS**

With Petitioner's Participation

SCOTUS

1. Application No. 22A818 to file petition for a writ of certiorari in excess of word limits, submitted to Justice Kagan is denied, March 15, 2023 (*Vinkov v. Bhd. Mut. Ins. Co.*).

2. Petition No. 22-792 for writ of certiorari to the Court of Appeal of California, Fourth Appellate District, Division Two, filed February 22, 2023 (*Vinkov v. Superior Court of California, Riverside County, et al.*).

3. Application No. 22A718 for stay addressed to Justice Alito and referred to the Court denied, March 6, 2023 *Vinkov v. Bhd. Mut. Ins. Co.*, No. 22A718, 2023 WL 2357301, at \*1 (U.S. Mar. 6, 2023)

4. Application No. 22A487 to extend the time to file a petition for a writ of certiorari from December 13, 2022 to February 3, 2023, submitted to Justice Kagan is granted, December 02, 2022 (*Vinkov v. Superior Court of California, Riverside County, et al.*);



5. Application No. 22A487 to extend the time to file a petition for a writ of certiorari from December 13, 2022 to February 3, 2023, submitted to Justice Kagan is granted, December 02, 2022 (*Vinkov v. Superior Court of California, Riverside County, et al.*);

6. Petition No. 21-191 for writ of certiorari to the United States Court of Appeals for the Ninth Circuit denied, October 12, 2021, (*Vinkov v. United States Dist. Court*, 142 S. Ct. 342 (2021));

7. Application No. 20A156 for stay addressed to Justice Barrett and referred to the Court denied, May 17, 2021 (*Vinkov v. United States Dist. Court*, 141 S. Ct. 2618 (2021));

8. The application No. 20A97 for stay addressed to Justice Thomas and referred to the Court is denied January 11, 2021 (*Vinkov v. United States Dist. Court*, 141 S. Ct. 1040 (2021));

9. Petition No. 20-506 for writ of certiorari to the Court of Appeal of California, Fourth Appellate District, Division Two denied, January 11, 2021 (*Vinkov v. Smith*, 141 S. Ct. 1058 (2021)).

#### 9<sup>TH</sup> CIRCUIT

10. Bhd. Mut. Ins. Co. v. Vinkov, No. 21-55857, 2022 U.S. App. LEXIS 27542 (9th Cir. Oct. 3, 2022) (*en banc* petition filed on 10/09/2022 is denied on 01/25/2023) (Associate Justices: J. Clifford Wallace, Ferdinand F. Fernandez, Barry G. Silverman, *further as Senior Judges Wallace, Fernandez, and Silverman* individually and collectively);

11. *Vinkov v. United States Dist. Court. (In re Vinkov)*, No. 21-70559, 2021 U.S. App. LEXIS 7223 (9th Cir. Mar. 11, 2021) (Associate Justices: Milan D. Smith, Jr., Bridget S. Bade, Patrick J. Bumatay);

12. *Vinkov v. United States Dist. Court for the Cent. Dist. of Cal. (In re Vinkov)*, No. 20-73264, 2020 U.S. App. LEXIS 36439, at \*1 (9th Cir. Nov. 19, 2020) (Associate Justices: Richard R. Clifton, Sandra S. Ikuta, Kenneth Kiyul Lee);

13. Bhd. Mut. Ins. Co. v. Vinkov, No. 20-55687, 2020 U.S. App. LEXIS 26435, at \*1 (9th Cir. Aug. 19, 2020) reconsideration is denied by Bhd. Mut. Ins. Co. v. Vinkov, No. 20-55687, 2020 U.S. App. LEXIS 34834, at \*1 (9th Cir. Nov. 3, 2020) (Associate Justices: M. Margaret McKeown, Daniel A. Bress, Barry G. Silverman);

14. Mark Smith, et al v. Sergei Vinkov, Case No. 20-55778, (9th Cir. Aug. 19, 2020) (Associate Justices: M. Margaret McKeown, Daniel A. Bress, Barry G. Silverman).

#### US DISTRICT COURT

15. Bhd. Mut. Ins. Co. v. Vinkov, No. EDCV 19-01821-CJC(SPx), 2019 U.S. Dist. LEXIS 231188 (C.D. Cal. 2019) (Judges Sheri Pym (*Magistrate Pym*), Stanley Blumenfeld Jr. (*Judge Blumenfeld*), Cormac J. Carney (*Judge Carney*));

16. Smith v. Vinkov, No. EDCV 20-01070-CJC(SPx), 2020 U.S. Dist. LEXIS 119999, at \*1 (C.D. Cal. 2020) (Judges: Jesus G Bernal, *Judge Carney*, *Magistrate Pym*).

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18. Vinkov v. Superior Court, No. S263745, 2020 Cal. LEXIS 6497, at \*1 (Sep. 16, 2020) (Associate Justices: );

19. Vinkov v. Superior Court, No. S261198, 2020 Cal. LEXIS 3397, at \*1 (May 13, 2020) (Associate Justices: );

20. Vinkov v. Superior Court, No. S261198, 2020 Cal. LEXIS 3066 (Apr. 30, 2020) (Associate Justices: ).

Hon. Ming W. Chin [retired on 08/31/2020], Hon. Joshua Groban; Hon. Leondra R. Kruger; Hon. Mariano-Florentino Cuellar; Hon. Goodwin H. Liu; Hon. Tani G. Cantil-Sakauye; Hon. Carol A. Corrigan; Hon. Frank J. Menetrez; Hon. Manuel A. Ramirez; Hon. Michael J. Raphael; Hon. Art W. McKinster, Hon. Douglas P. Miller; Hon. Richard T. Fields

#### California Court of Appeal

21. Case No. E079115, Sergei Vinkov v. The Superior Court; Mark Smith et al., 07/25/22 (Associate Justices: );

22. Case No. E075396, Sergei Vinkov v. The Superior Court; Mark Smith et al., 07/29/20 (Associate Justices: );
23. Case No. E074567, Sergei Vinkov v. The Superior Court; Mark Smith et al., 03/05/20 (Associate Justices: );
24. Case No. E074263, Mark Smith et al. v. Sergei Vinkov, was dismissed on 01/31/20 (Associate Justices: ).

California Superior Court

25. Smith v. Vinkov, MCC1900188, Superior Court, Riverside County – Southwest Justice Center, California, filed on 02/20/2019 (the full docket is available in Westlaw), Presiding Judge is Angel Manuel Bermudez.

With Related Questions or Sub-Questions Pending Before this Court

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27. No. 21-1333&No. 21-1496, Gonzalez v. Google LLC, 2 F.4th 871 (9th Cir. 2021), cert. granted, 143 S. Ct. 80 (2022), and cert. granted sub nom. Twitter, Inc. v. Taamneh, 143 S. Ct. 81 (2022) (230 immunity);

28. No. 22-741, Faith Bible Chapel International, Petitioner v. Gregory Tucker (The scope “ministerial exception” immunities);

29. No. 22-824, The Synod of Bishops of the Russian Orthodox Church Outside of Russia, et al., Petitioners v. Alexander Belya (The scope of “ministerial exception” to civil proceedings, including the discovery);

30. No. 22-662, Ramon K. Jusino, Petitioner v. Federation of Catholic Teachers, Inc. (Restrictions under First Amendment Religion Clauses entanglements);

31. No. 22-555, NetChoice, LLC, dba NetChoice, et al., Petitioners v. Ken Paxton, Attorney General of Texas (First Amendment interpretation).

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### PETITION FOR A WRIT OF CERTIORARI

The 9<sup>th</sup> Circuit's and the District court's failure to sufficiently abide by the letter and spirit of the US Constitution, numerous provisions of the Acts of US Congress, and governing precedents of its own jurisdiction, and case law of this Court prompted a necessity to retain the correctional procedures to seek a petition for writ of certiorari before this Court. Petitioner is minded that correctional power of this Court is purely discretionary, however in further case when the Petitioner gets presidential nomination for judicial office these materials will evidence that he fulfilled his obligations to defend zealously the US Constitution and laws of this Nation retained through naturalization process passed in April 2021 (8 C.F.R. § 337.1(a) "I will support and defend the Constitution and laws of the United States of America"). Thus, this petition seeks a threshold number of votes to review the case and exam equity jurisdiction and equitable powers of the lower federal courts, particularly a final judgment of 9<sup>th</sup> Circuit in case Bhd. Mut. Ins. Co. v. Vinkov, No. 21-55857 and orders of the District Court led to injustice suffered by Petitioner. **Apps.A-C.**

### DECISIONS BELOW

The petition challenges the unpublished decision of 9<sup>th</sup> Circuit produced by Senior Judges Wallace, Fernandez, and Silverman in Bhd. Mut. Ins. Co. v. Vinkov, No. 21-55857, 2022 U.S. App. LEXIS 27542 (9<sup>th</sup> Cir. 2022-2023) (en banc petition filed on 10/09/2022 is denied on 01/25/2023) affirming denial of substantial rights of Appellant and disregarding the jurisdictional defects in Insurer's complaint (**Dkt. No. 253, Case Dispositive Order by Judge Blumenfeld**); perverting the judicial processes set up by U.S. Constitution and Acts of U.S. Congress. The Petitioner exhausted all measures to prevent further irreparable harm and to stop ongoing constitutional and statutory injuries to him personally and judicial assaults on the U.S. Constitution and Acts of U.S. Congress. (**See pages iii-v above**).

9th Circuit ruling was prompted by the final disposition of case *Bhd. Mut. Ins. Co. v. Vinkov*, No. EDCV 19-01821-CJC(SP<sub>x</sub>), 2019 U.S. Dist. LEXIS 231188 (C.D. Cal. Aug. 10, 2021) according to 28 U.S.C. § 1291. (App.C, 08/10/2021). Petitioner's Notice of Appeal of the judgment in the District Court filed on the same date (Dkt. No. 256). "An appeal from a final judgment draws in question all earlier, non-final orders and rulings which produced the judgment." See *Disabled Rights Action Comm. v. Las Vegas Events, Inc.*, 375 F.3d 861, 872 n.7 (9th Cir. 2004) (*Disabled Rights*).

### JURISDICTION

9<sup>th</sup> Circuit denied *en banc* petition on 01/25/2023 (App.A.) and issued an unpublished memorandum of disposition of the entire appeal on 10/03/2022 (App.B.). This petition is filed on or before April 25, 2023, according to 28 U.S.C. § 1254(1).

Additionally, the jurisdiction of this Court is warranted under 28 U.S.C. § 1651 to remedy a judicial departure from written laws and rules governing judicial conduct. Court's authority may be invoked under 28 U.S.C. § 2283 exceptions to aid its own jurisdiction, and to protect or effectuate its judgments. (*Leiter Minerals, Inc., v. United States*, 352 U.S. 220, 225 (1957)) (the underlying action is pending within this Court's jurisdiction, Case No. 22-792, docketed 02-22-2023). Judicial relief is authorized by 42 U.S.C. § 2000bb-1(c) and 42 U.S.C. § 2000cc(a). Due to the alienage status of Petitioner in the moment of filing of lawsuits against him and issuance of critical decisions abrogating his rights as a foreigner on US soil, this Court also may retain jurisdiction over the petition according to 28 U.S.C. § 1350. "[T]his jurisdictional statute does not create a cause of action, ...courts may exercise common-law authority under this statute to create private rights of action in very limited circumstances." *Nestle U.S. v. Doe*, 141 S. Ct. 1931, 1935 (2021). 28 U.S.C. § 1343(4) ("[t]o recover damages or to secure equitable or other relief under any Act of Congress").

Insurer attempted to invoke the District Court jurisdiction under federal diversity and declaratory relief