

No. _____

In the Supreme Court of the United States

REGINA NACHAEL HOWELL FOSTER,

Petitioner,

vs.

AREYA HOLDER, INDIVIDUALLY,
MICHELLE SHIRIO, INDIVIDUALLY,
TODD HOODENPLYE,, INDIVIDUALLY,
SINGER LEVICK, INC, AS RESPONDENT SUPERIOR,

Respondents.

APPLICATION FOR AN EXTENSION OF TIME
WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE FIFTH COURT OF APPEALS

Regina Nachael Howell Foster
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TO THE HONORABLE SAMUEL A. ALITO, JR., Associate Justice of the
Supreme Court of the United States, and Circuit Justice for the Fifth Circuit:

The Petitioner, Regina Nachael Howell Foster , pro se, pursuant to 28 U.S.C. § 2101 and Supreme Court Rules 13.5 and 30.2, respectfully requests an extension of sixty (60) days to file his Petition for Writ of Certiorari in this Court.

Regina Nachael Howell Foster invokes the jurisdiction of this Court pursuant to 28 U.S.C. § 1254 and authority under 28 U.S. Code § 2101(c).

Because the 5th Court of Appeals affirmed the lower court's judgment on January 3, 2023, the time to file a Petition for Writ of Certiorari in this Court will expire on April 3, 2023. Regina Nachael Howell Foster makes this application for an extension more than ten (10) days before the petition's original due date. This is his first request for an extension of time. Counsel for Regina Nachael Howell Foster asks the Court to extend the deadline due to Petitioner's serious health issues and the complex issues of comity and feudalism in connection with the split between the lower federal appellate courts concerning the Constitutional extent of a bankruptcy court's related to subject matter jurisdiction, when a final judgment is entered on a trustee's claim of fraudulent conveyance, and filed in a state's property records as a constitutionally valid final judgment, which will affect the title of the property in the states property record system.

Regina Nachael Howell Foster underwent a complex surgery to repair a shattered left hip and femur on or about December 18, 2022. As a result of the complex hip

surgery and the resulting complication from Regina Nachael Howell Foster's prior experiences with thee (3) CVA strokes, the hospital did not release Regina Nachael Howell Foster until December 24, 2022, with ninety (90)restrictions on sitting, standing, or walking, for more than fifteen (15) minutes at a time, which expired on March 24, 2023, although tri-weekly rehabilitation will extend to April 13, 2023, with neurological MRI's to be conducted on March 31, 2023¹.

Regina Nachael Howell Foster filed for chapter 7 bankruptcy in and around July of 2012, Regina Nachael Howell Foster listed three income producing properties, under her non-filing spouse's sole management and control, on her schedules as community property that could have been found to be property of the estate to the extent such community property, and the income received from such properties during the marriage, could be liable under Texas law for community debts, incurred by both the debtor and the debtor's non-filing spouse. Areya Holder, was appointed as the chapter 7 trustee, and employed Singer Levick to assist her in the representation of the creditors of the estate of Regina Nachael Howell Foster. Areya Holder, as the chapter 7 trustee, by and through the employees of the law firm of Singer Levick, initiated two (2) adversarial proceedings against the debtor's non-filing spouse, Carlos Foster, alleging that all rental income received and all property purchased during a marriage in Texas become property of the estate, despite the plain meaning of 11 UCS 541(a)(2)(B)². In and around June of 2017, the two adversarial proceeding

¹ Exhibit B, Petitioner's Sworn Affidavit attached and incorporated in its entirety

² The statue provides in relevant part that:

against the debtor's non-filing spouse were combined and the bankruptcy court entered a final judgment on the Chapter 7 trustee's claims for fraudulent conveyance, on behalf of the creditors of the bankruptcy estate of Regina Nachael Howell Foster, against Carlos Foster, the debtor's non-filing spouse. Although this Court had previously held that bankruptcy courts had no subject matter jurisdiction to enter a final judgment on a claim of fraudulent conveyance, Areya Holder, as the chapter 7 trustee, filed the purported final judgment, for fraudulent conveyance against the debtor's non-filing spouse, Carlos Foster, in the county property records of Tarrant County, Texas, as a validly binding judgment affecting the ownership interests of the property within the state of Texas.

Regina Nachael Howell Foster filed suit in the district court of Tarrant County, Texas, alleging civil conspiracy by and between Carlos Foster, SAI Reed Properties, Inc., the purported purchaser of the income producing community property, the law firm of Singer Levick, as respondent superior, Areya Holder, individually, Michelle Shirio, individually, and Todd Hoodenplye,, individually, to encumber \$1.2 million of income producing community property to satisfy \$4,000 in allowed community

All interests of the debtor and the debtor's spouse in community property as of the commencement of the case that is—

- (A) under the *sole, equal, or joint management and control of the debtor*; or
- (B) **liable for an allowable claim** against the debtor, or for both an allowable claim against the debtor **and** an allowable claim against the debtor's spouse, to the extent that such interest is so liable.

11 U.S.C. 541(a)(2) (emphasis added).

claims, asserted in the Petitioner's personal bankruptcy, for which both the Petitioner/debtor and her non-filing spouse were both liable under Texas law, and to quiet the cloud on the title of the real property that had been subject to the purported Final Bankruptcy Court Judgment, on the trustee's claims of fraudulent conveyance against the debtor's non-filing spouse, Carlos Foster.

Thirty-two (32) days, after an authorized Texas agent deposited and transmitted both the summons and complaint, simultaneously, through the United States Postal Service, to each of the respected defendant's usual place of business and/or registered address, respectively, the Defendants, Singer Levick, Areya Holder, Michelle Shire, and Todd Hoodenplye,(hereinafter the "Removing Defendants") filed a joint notice of removal directly to the bankruptcy court, based on the court's purported related to jurisdiction. Regina Nachael Howell Foster then filed two motions to remand, one based on timeliness of removal and the other based on subject matter jurisdiction. The Removing Defendants objected to both motions and filed a motion to dismiss. The bankruptcy court denied the timeliness motion, denied the jurisdictional motion as to the Removing Defendants, and remanded the lawsuit against Carlos Foster and SAI to state court based on a lack of jurisdiction. The bankruptcy court also dismissed the complaint as to the Removing Defendants.

Regina Nachael Howell Foster timely appealed the bankruptcy court's judgment as to the timeliness motion, the jurisdictional motion, and the motion to dismiss, to the district court. The district court affirmed the bankruptcy court's judgments. Foster timely

appealed the district court's judgments to the fifth Circuit Court of Appeals, which had jurisdiction under 28 U.S.C. § 158(d). The Fifth Circuit affirmed the district court's judgments on January 3, 2023. The fifth circuit based its holding on a finding that Foster's claims to collaterally attack a Final Judgment entered by a bankruptcy Court, on claims of fraudulent conveyance, by the Chapter 7 Trustee, against the debtor's non-filing spouse, Carlos Foster, as part of a pure state law claim of civil conspiracy in filing a Final Judgment entered by a federal bankruptcy court in the county property records of Tarrant County, Texas, "could not arise outside of the bankruptcy context³".

Due to Petitioner's health challenges, Petitioner requires additional time to consult with other Supreme Court advocates about the issues raised in the petition. While this Court has recognized that a bankruptcy court's "related to" jurisdiction cannot be limitless,⁴ this Court has never settled the split in the lower court as to the Constitutional extent of such related to jurisdiction. For example, as in the instant case, has Congress authorized removal of state court collateral attack of a final judgment entered by a bankruptcy court, on claims of fraudulent conveyance, in an adversarial proceeding, which was filed in a state's county property records, and the removal of the state court collateral attack action was based on a defense or anticipated defense that is related to the bankruptcy case. Other important national legal concerns naturally flow from the question as to whether or not claims asserted

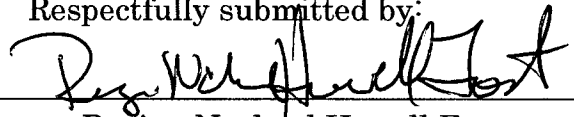
³ Exhibit A page 6

⁴ *Celotex Corp. v. Edwards*, 514 US 300, 307-308 - Supreme Court 1995 Citing *Pacor, Inc. v. Higgins*, 743 F. 2d 984, 994 (1984) cf. *Board of Governors, FRS v. MCorp Financial, Inc.*, 502 U. S. 32, 40 (1991) (stating that Congress has vested "limited authority" in bankruptcy courts)

under the exception to the Barton Doctrine, for ultra vires acts done under the color of law but outside the scope of statutorily defined duties, are so related to the bankruptcy proceeding so as to require prior authorization from the bankruptcy court before a claim of right may be asserted, or face summary dismissal upon removal of such excepted claims for ultra vires acts based on a federal defense of absolute immunity.

CONCLUSION Regina Nachael Howell Foster asks this Court to extend the deadline to file the Petition for Writ of Certiorari by sixty (60) days, or until Friday June 2, 2023, for good cause shown.

Respectfully submitted by:



Regina Nachael Howell Foster

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