

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

IN THE SUPREME COURT OF THE UNITED STATES

Philip A. Bralich, Ph.D.

Petitioner,

v.

Gayner et al,

Respondents.

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

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PETITIONER'S MOTION TO DIRECT AN OUT OF TIME PETITION FOR A  
WRIT OF CERTIORARI

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Philip A. Bralich, Ph.D.  
*Pro Se Petitioner*  
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Boulder, CO 80302  
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PETITIONER'S MOTION TO DIRECT AN OUT OF TIME PETITION FOR A  
WRIT OF CERTIORARI

(With especial appeal to the Honorable Neil Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Tenth Circuit concerning United States Supreme Court Rule 13.5.)

Petitioner, Philip A. Bralich, Ph.D., respectfully makes Motion to this Court and especially to the Honorable Justice Neil Gorsuch, Circuit Justice for the 10<sup>th</sup> Circuit, for an order to Direct an Out of Time Petition for Writ of Certiorari. This Court has jurisdiction under 28 U.S.C. §1257. In support of this Application, Dr. Bralich states as follows:

Dr. Bralich is the Pro Se Appellant in Bralich v. Gayner, et al Case No. 0:2021cv01416 (See Exhibit) in the United States Court of Appeals for the Tenth Circuit wherein the Court of Appeals affirmed the Judgment of the lower court, the United States District Court for the District of Colorado, in the case of the same name, Case No. 1:20-CV-03800-RMR-STV.

1. Bralich's case raises important questions regarding constitutional issues, novel legal issues, conflicts between the States, and clearly established federal law. Specifically, a) four Constitutional issues arising from Twombly-Iqbal dismissals, b) *Pseudo-Sua Sponte* Dismissals and disagreements among the states concerning them, c) the novel and as at yet undecided issue of the growing problem of Workplace and Academic Mobbing and Bullying which might be called, "Equal Opportunity Bigotry," and d) an unaddressed problem concerning the abuse of Pro

Se litigants through Rule 16 status conferences held even before a Responsive Pleading has been filed.

2. Dr. Bralich now seeks a Writ of Certiorari for the United States Court of Appeals for the 10<sup>th</sup> Circuit with respect to the three-judge decision in that Circuit. This Court's jurisdiction to grant the same arises pursuant to 28 U.S. C. § 1254 (1).

3. According to Supreme Court Rule 13.3, a petition for writ of certiorari to was due on or before December 26, 2021 (where a 90 day deadline is approved for Pro Se Petitioners). 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, serious health issues prevented the Petitioner from completing the Petition before the deadline. Therefore, the Petitioner seeks an Order to Direct and Out of Time Petition. 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. This Motion is submitted in accordance with Supreme Court Rule 13.5. but as an "Out of Time" Petition. Further, the requested extension is made in good faith and not for the purposes of delay. Indeed, the requested extension is made because of the vital importance associated with the issues at hand – the right to equal access to the courts and to a fair trial, even for the Pro Se.. Thus, it is

necessary that Dr. Bralich be granted additional time to prepare his petition with the care demanded of such cases.

5. Illness, specifically, a heart condition requiring two surgical interventions with first the placement of an emergency temporary pacemaker and then a second surgery to implant a permanent pacemaker, and then a third hospitalization of yet another 6 days due to an accumulation of fluid on the lungs due to a mitral valve impairment and the concomitant debilitation of a few weeks before and after these incidents due to the newly discovered heart conditions and their remediation has precluded Dr. Bralich from being able to direct adequate time and attention to the preparation of the petition for writ of certiorari in this matter. Therefore, in light of the time lost due to illness and the importance of the constitutional issues and novel legal issues that will be presented in this case, Dr. Bralich submits that a sixty (60) day extension is necessary and appropriate in order for Dr. Bralich to effectively prepare the petition for certiorari.

6. In addition, two recent Court decisions that may impact on this matter indicate the decisions of the 10<sup>th</sup> Circuit and the District of Colorado may not be consistent with other states and remain in doubt. Specifically, in the related matter of Bralich v. Bell, et al, 1:2022cv01896 (Exhibit "A"), where the same torts and crimes are alleged to have spread from the religious community described in Bralich v. Gayner, et al have spread into the local community remains undecided but under consideration by the Court, and in Bralich v Brown, et al; Hfx. 518063 (Exhibit "B"),

a related case in the Supreme Court of Nova Scotia, Canada, the same allegations of failure to state claim and failure to state a cause of action, the Court found in favor of the Defendant, the Current Petitioner. This decision has yet to be published, but the fact that the Defendant's two, follow on Motions, a Motion for Default Judgment against one of the Defendants and a Motion for Reverse Summary Judgment against the Defendants were then scheduled to be heard on June 8, 2023 clearly indicate the decision in favor of the Plaintiff on these matters. The Petitioner has added the exhibit for the Bralich v. Bell, et al decision to this motion, and he will submit the Bralich v. Brown decision when it becomes available. He has attached them to this Motion rather than to the Petition for Writ of Certiorari in order to meet the requirement of the U.S. Supreme Court Clerk that new orders be appended as well as to avoid illegitimately submitting a Petition that was not identical to that previously submitted to the Court but rejected by the Clerk. Finally, in yet another related matter, which is pending before the United States Court of Appeals for the 10<sup>th</sup> Circuit concerning the Bankruptcy Drala Mountain Center, Bralich v. Drala Mountain Center 1:2022cv01433 (Exhibit "C") in which evidence and further details of the frauds described in Bralich v. Gayner is yet to be determined. This is also appended to this Motion rather than to the Petition for Writ of Certiorari to preserve the integrity of the original submission.

As for the consideration of Canadian law by U.S. Courts, in an article discussing the consideration of foreign law and state laws banning it, Eugene Volokh

of the UCLA School of Law, in an article in the Oklahoma Law Review (Vol. 66, Number 2, 2014) titled, "Foreign Law in American Courts" states

many such state laws are likely to interfere with the perfectly proper consideration of, for instance, foreign family law, contract law, tort law, and law of judgments, in those narrow contexts in which American law has long dictated that foreign law be considered.

Wherefore, in the interest of justice and for good causes shown, Dr. Bralich respectfully requests that this Court Direct this Out of Time Petition for Writ of Certiorari for consideration for hearing.

Dated, March 20<sup>th</sup>, 2023, Boulder Colorado.

Respectfully submitted,

  
[Redacted]  
[Redacted]

/s/ Philip A. Bralich, Ph.D.  
*Philip A. Bralich, Ph.D.*

*Pro Se Petitioner*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 22-cv-1896-GPG

PHILIP A. BRALICH, PH.D.,

Plaintiff,

v.

DAVID BELL, DIRECTOR OF HUMAN RESOURCES FOR THE CITY OF BOULDER,  
CO.,

DAVID FARNAN, DIRECTOR OF LIBRARY AND ARTS,  
BOULDER PUBLIC LIBRARY,

JANE SYKES WILSON,

STEVEN FROST,

SCOTT STEINBRECHER,

BENITA DURAN, and

SYLVIA WIRBA, BOULDER PUBLIC LIBRARY COMMISSIONERS,

Defendants.

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**ORDER GRANTING LEAVE TO PROCEED UNDER 28 U.S.C. § 1915**

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Plaintiff Philip A. Bralich, Ph.D., resides in Boulder, Colorado. On July 29, 2022, he filed *pro se* a Complaint (ECF No. 1)<sup>1</sup> and an Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 3). In response to the Court's Order to Show Cause (ECF No. 4), Plaintiff filed a Response to the Order to Show Cause (ECF No. 5) and another Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 6).

Upon review of the Response to Show Cause, Plaintiff will be granted leave to

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<sup>1</sup> "(ECF No. 1)" is an example of the convention the court uses to identify the docket number assigned to a specific paper by the court's case management and electronic filing system (CM/ECF). The court uses this convention throughout its orders.

*Exhibit 'A'*

proceed *in forma pauperis* under 28 U.S.C. § 1915 solely based on inability to prepay fees or give security therefor.

Accordingly, it is

ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 6) is granted. It is

FURTHER ORDERED that the court review Plaintiff's pleading pursuant to 28 U.S.C. § 1915(e)(2)(B). It is

FURTHER ORDERED that the Clerk of Court shall not issue process at this time.

It is

FURTHER ORDERED that the United States Marshals Service shall serve process on any remaining defendant(s) for whom personal service is required if the case is later drawn to a district judge or a magistrate judge under D.C.COLO.LCivR 8.1(c). It is

FURTHER ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs (Long Form) (ECF No. 3) is denied as moot. It is

FURTHER ORDERED that the Order to Show Cause (ECF No. 4) is discharged.

DATED August 9, 2022.

BY THE COURT:

s/ Gordon P. Gallagher  
United States Magistrate Judge

*Exhibit 74*

**Docket - Website****Halifax Supreme Court****Thursday, March 9, 2023**

Court Room	Time	Case	Event Name Day Of
301 Courtroom	9:30 AM	SN-509902 - Colboume Chrysler Dodge Ram Limited Vs. Jim MacDonald, Chris MacDonald, Mark MacDonald, Ron MacDonald, Winifred (The Estate of)d MacDonald, Jim MacDonald Family Trust , Chris MacDonald Family Trust , Mark MacDonald Family Trust , Ron MacDonald Family Trust , MacDonald Auto Holdings Limited , Rodney Colbourne, Steve MacDougall, Matt Denny	WL - Motion
302 Courtroom	9:00 AM		Crownside - Crownside
304 Courtroom	9:30 AM	SH-518063 - Philip A. Bralich, Ph.D Vs. David Brown, Secretary to Sakyong Mipham Rinpoche , Inc. Shambhala Canada , Shambhala International , Inc. Sakyong Potrang, Inc. Front Range Shambhala, Inc., Global Shambhala Services Inc.	WL - Motion
701 Courtroom	9:30 AM	SH-461292 - Canadian Imperial Bank of Commerce Vs. Terry E. Taylor "AKA" Terry Edward Taylor	WL - Motion
702 Courtroom	9:30 AM		Ch - General Chambers Day 4 of 5
702 Courtroom	11:00 AM	SH-521491 - Conseil Scolaire Acadien Provincial Vs. Nova Scotia Teachers Union , Sacha Morisset, Arbitrator	Ch - Motion for Directions
702 Courtroom	2:00 PM	SH-514361 - L.L. Fisheries Limited, a body corporate Vs. Richard S. Atkinson	SP Ch - Special Time Chambers
703 Courtroom	9:30 AM	SH-492026 - Mandy J. Lewis, Barbara Raftus as Litigation Guardian of Stacey Birkbeck Vs. Clarence Joseph Davie	WL - Trial Day 4 of 6

General Docket  
Tenth Circuit Court of Appeals

**Court of Appeals Docket #:** 22-1433 **Docketed:** 12/15/2022  
Bralich v. Drala Mountain Center  
**Appeal From:** Bankruptcy Appellate Panel - Colorado - Denver  
**Fee Status:** Fee Paid

**Case Type Information:**

- 1) Bankruptcy appeal
- 2) Bankruptcy Appellate Panel
- 3) -

**Originating Court Information:**

**District:** 1082-1 : 22-15-CO

**Trial Judge:** Janice D. Loyd, -, U.S. Bankruptcy Judge

**Trial Judge:** Terrence L. Michael, -, Chief U.S. Bankruptcy Judge

**Trial Judge:** Casey Parker, -, U.S. Bankruptcy Judge

**Date Filed:** 09/14/2022

**Date NOA Filed:**

12/15/2022

**Date Rec'd COA:**

12/15/2022

**Prior Cases:**

21-1416 **Date Filed:** 11/30/2021 **Date**

**Disposed:** 09/02/2022 **Disposition:** Affirmed

**Current Cases:**

None

**Panel Assignment:** Not available

In the Matter of: DRALA MOUNTAIN  
CENTER

Debtor - Debtor

-----  
PHILIP A. BRALICH  
Appellant

Philip A. Bralich  
Direct: 831-641-9610  
Email: pbralich@earthlink.net  
[NTC Pro Se]  
Firm: 831/641-9610

2525 Arapahoe Avenue, Unit E4-163  
Boulder, CO 80302

v.

**DRALA MOUNTAIN CENTER**  
Appellee

Patricia I. Chen  
Direct: 617-951-7000  
Email: patricia.chen@ropesgray.com  
[COR NTC Retained]  
Ropes & Gray  
Prudential Tower  
Firm: 617/951-7000  
800 Boylston Street  
Boston, MA 02199-3600

In re: DRALA MOUNTAIN CENTER,

Debtor.

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PHILIP A. BRALICH,

Appellant,

v.

DRALA MOUNTAIN CENTER,

Appellee.

12/15/2022	 	48 pg, 1.82 MB	[10962890] Civil case docketed. Preliminary record filed. DATE RECEIVED: 12/15/2022 Notice of appearance due on 01/17/2023 for Philip A. Bralich. Notice of appearance and disclosure statement due on 12/29/2022 for Drala Mountain Center. Record on appeal due BAP 01/05/2023 [22-1433] [Entered: 12/15/2022 02:50 PM]
12/19/2022	 	2 pg, 121.73 KB	[10963340] Jurisdictional review complete. Fee or ifp forms, notice of appearance, and opening brief due by 01/30/2023 for Philip A. Bralich. [22-1433] [Entered: 12/19/2022 09:29 AM]
12/29/2022	 	84 pg, 3.48 MB	[10965977] Record on appeal filed. No. of Volumes: 1, Comments: Volume I - Pleadings. [22-1433] [Entered: 12/29/2022 11:55 AM]
12/29/2022	 		[10966044] Entry of appearance submitted by Patricia Chen for Appellee Drala Mountain Center for court review. Certificate of Interested Parties: No. Served on 12/29/2022. Manner of Service: email. [22-1433]--[Edited 12/29/2022 by LG to remove PDF from

*Exhibit "E"*

entry, as pleading was filed on 12/29/2022] PIC [Entered: 12/29/2022 02:16 PM]

12/29/2022	 	2 pg, 231.5 KB	[10966045] Rule 26 Disclosure Statement filed by Drala Mountain Center. More than 50 parties disclosed: no. Served on 12/29/2022. Manner of Service: email. [22-1433] PIC [Entered: 12/29/2022 02:17 PM]
12/29/2022	 	1 pg, 407.44 KB	[10966054] Entry of appearance filed by Ms. Patricia I. Chen for Drala Mountain Center. CERT. OF INTERESTED PARTIES: n. Served on 12/29/2022. Manner of Service: email [22-1433] [Entered: 12/29/2022 02:34 PM]
01/30/2023	 	46 pg, 1.86 MB	[10973164] Appellant's brief filed by Philip A. Bralich. Original and 4 copies. Served on 01/30/2023 by email. Required 10th Cir. R. 28.2 Attachments Included? n. Appellee's brief due 03/01/2023 for Drala Mountain Center. [22-1433] [Entered: 01/30/2023 03:20 PM]
02/06/2023	 	3 pg, 419.44 KB	[10974835] Appellant's motion filed by Philip A. Bralich for permission to file electronically. Served on 02/03/2023. Manner of Service: US mail. [22-1433] [Entered: 02/06/2023 01:11 PM]
02/06/2023	 	2 pg, 103 KB	[10975000] Order filed by Clerk of the Court. This matter is before the court on appellant's motion to file via CM/ECF. Appellee's shall file a response. Response due on 02/09/2023 for Drala Mountain Center. Served on 02/06/2023. See order for details. [22-1433] [Entered: 02/06/2023 04:33 PM]
02/09/2023	 	3 pg, 12.42 KB	[10975840] Response filed by Drala Mountain Center to Appellant's Motion to File Via CM/ECF. Served on 02/09/2023. Manner of Service: email, US mail. This pleading complies with all required privacy and virus certifications: Yes. [22-1433] PIC [Entered: 02/09/2023 11:34 AM]
02/09/2023	 	3 pg, 110.62 KB	[10975939] Order filed by Clerk of the Court granting appellant's motion for permission to file electronically. Served on 02/09/2023. (See the attachment for the order.) [22-1433] [Entered: 02/09/2023 02:29 PM]
02/15/2023	 	2 pg, 100.17 KB	[10977141] Deficiency notice issued. Type of deficiency: Appellant's entry of appearance and Fee/IFP forms not filed. Fee or ifp forms and entry of appearance are now due for 10th Circuit by 02/22/2023 for Philip A. Bralich. [22-1433] [Entered: 02/15/2023 12:54 PM]
02/19/2023	 	2 pg, 96.7 KB	[10977893] Motion filed by Appellant Mr. Philip A. Bralich to extend time to pay filing fee until 02/21/2023. Served on: 02/19/2023. Manner of service: US mail. This pleading complies with all required privacy and virus certifications: Yes. [22-1433] PAB [Entered: 02/19/2023 11:16 AM]

*Gabrielle C*

02/19/2023		[10977894] Entry of appearance submitted by Pro Se Appellant Philip A. Bralich, Ph.D. for Appellant Mr. Philip A. Bralich for court review. Certificate of Interested Parties: No. Served on 02/19/2023. Manner of Service: US mail. --[Edited 02/21/2023 by SDS to remove pdf from entry as the pleading has been filed] [22-1433] PAB [Entered: 02/19/2023 11:33 AM]
02/21/2023		[10977929] Entry of appearance filed by Mr. Philip A. Bralich. CERT. OF INTERESTED PARTIES: n. Served on 02/21/2023. Manner of Service: email. [22-1433] [Entered: 02/21/2023 07:45 AM]
02/22/2023		[10978628] Order filed by Clerk of the Court. Appellant's motion to extend time to pay fees is granted. Fee or motion for leave to proceed on appeal without prepayment of fees is due by 03/01/2023 for Philip A. Bralich. Served on 02/22/2023. [22-1433] [Entered: 02/22/2023 01:53 PM]
03/01/2023		<p>This entry has been removed from the docket. [JMN PDF removed corrected brief filed 3/8/23.]</p> <p>[10980314] Appellee/Respondent's brief filed by Drala Mountain Center. Served on: 03/01/2023. Manner of service: email, US mail. Oral argument requested? No. Word/page count: 3588. This pleading complies with all required privacy and virus certifications: Yes. [22-1433] PIC [Entered: 03/01/2023 05:55 PM]</p>
03/01/2023		<p>This entry has been removed from the docket. [JMN PDF removed corrected appendix filed 3/8/23.]</p> <p>[10980315] Supplemental appendix filed by Drala Mountain Center. Total number of volumes filed: 3. Served on 03/01/2023. Manner of Service: email, US mail. This pleading complies with all required privacy and virus certifications: Yes. --[Edited 03/02/2023 by SDS to remove duplicate pdfs from entry] [22-1433] PIC [Entered: 03/01/2023 06:33 PM]</p>
03/02/2023		[10980606] Fee paid. Date paid in the BAP court on 03/02/2023. [22-1433] [Entered: 03/02/2023 02:49 PM]
03/03/2023		<p>[10980883] Order filed by Clerk of the Court - Appellee's brief and supplemental appendix are deficient. Appellee's corrected brief and supplemental appendix due 03/08/2023 for Drala Mountain Center. See order for details. Served on 03/03/2023. [22-1433] [Entered: 03/03/2023 12:10 PM]</p>
03/05/2023		<p>[10981056] Appellant/Petitioner's reply brief filed by Mr. Philip A. Bralich. Served on 03/05/2023. Manner of Service: email, US mail. Word/page count: 3733. This pleading complies with all required privacy and virus certifications: Yes. [22-1433]--[Edited 03/06/2023 by JM to show this was received only.]--[Edited 03/08/2023 by JM]</p>

*Exhibit C*

		to show this was filed after appellee's filed corrected brief and appendix.] PAB [Entered: 03/05/2023 10:53 AM]
03/05/2023	 	8 pg, 199.51 KB [10981057] Certificate of service filed by Mr. Philip A. Bralich. Document served: Appellant's Sole Reply Brief. Served on 03/05/2023. Manner of Service: email, US mail. [22-1433] PAB [Entered: 03/05/2023 10:55 AM]
03/08/2023	 	This entry has been removed from the docket. [JMN PDF removed refiled.] [10982027] Appellee/Respondent's brief filed by Drala Mountain Center. Served on: 03/08/2023. Manner of service: email. Oral argument requested? No. Word/page count: 3588. This pleading complies with all required privacy and virus certifications: Yes. [22-1433] PIC [Entered: 03/08/2023 01:51 PM]
03/08/2023	 	456 pg, 31.28 MB [10982032] Supplemental appendix filed by Drala Mountain Center. Total number of volumes filed: 3. Served on 03/08/2023. Manner of Service: email, US mail. This pleading complies with all required privacy and virus certifications: Yes. [22-1433] PIC [Entered: 03/08/2023 02:00 PM]
03/08/2023	 	46 pg, 538.07 KB [10982090] Appellee/Respondent's brief filed by Drala Mountain Center. Served on: 03/08/2023. Manner of service: email, US mail. Oral argument requested? No. Word/page count: 3588. This pleading complies with all required privacy and virus certifications: Yes. [22-1433] PIC [Entered: 03/08/2023 03:52 PM]
03/08/2023	 	[10982143] Minute order filed - the brief (and appendix) submitted by appellee is accepted for filing. Paper copies shall now be filed with the court within 5 business days of this order. All copies must be exact replicas of the electronic filing(s), including all attachments and number of volumes filed (for appendices). Paper copies of appellee's brief due 03/15/2023 by Drala Mountain Center. (Text Only - No Attachment) [22-1433] [Entered: 03/08/2023 05:17 PM]
03/08/2023	 	[10982144] Minute order filed - the brief submitted by appellant is accepted for filing. Paper copies shall now be filed with the court within 5 business days of this order. All copies must be exact replicas of the electronic filing(s) Paper copies of appellant's reply brief due 03/15/2023 by Philip A. Bralich. (Text Only - No Attachment) [22-1433] [Entered: 03/08/2023 05:23 PM]
03/10/2023	 	[10982676] Paper copies of appellee's brief and supplemental appendix received from Drala Mountain Center. [22-1433] [Entered: 03/10/2023 01:59 PM]

*Exhibit E*



**Documents and Docket Summary**



**Documents Only**



**Include Page Numbers**

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*Exhibit C*