

IN THE SUPREME COURT OF THE UNITED STATES

---

No. A- \_\_\_\_\_

RIGHT FIELD ROOFTOPS, LLC, ET AL.,

*Petitioners,*

v.

CHICAGO CUBS BASEBALL CLUB, LLC, ET AL.,

*Respondents.*

**APPLICATION FOR EXTENSION OF TIME TO FILE A PETITION FOR A WRIT OF  
CERTIORARI TO THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT**

---

To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Seventh Circuit.

Petitioners Right Field Rooftops LLC, et al. respectfully request that the time to file a Petition for Writ of Certiorari in this matter be extended for 13 days to and including January 29, 2018. The court of appeals issued its denial of petition for rehearing and rehearing *en banc* on October 17, 2017. *See* App. At 1a, *infra*. Absent an extension of time, the petition would be due on January 16, 2018. Petitioners are filing this application for extension at least ten days before the date. *See* S. Ct. R. 13.5. This Court would have jurisdiction over the judgment under 28 U.S.C. 1254(1).

**Background**

At issue in this case is the validity and scope of the baseball's exemption from antitrust laws. Petitioners are owners of rooftop businesses who brought suit against the Chicago Cubs Baseball Club, LLC ("Cubs") and their owners and related entities after the owners of the Cubs acquired certain rooftop businesses and engaged in efforts to monopolize all such businesses, including by

erecting a barrier obstructing Petitioners' views. Petitioners allege that this attempted monopolization of surrounding businesses is in violation of the Sherman Act. The district court dismissed the Sherman Act counts for failure to state a claim, holding, among other things, that respondents were exempt from the antitrust laws. *Right Field Rooftops, LLC v. Chi. Cubs Baseball Club, LLC*, 870 F.3d 682, 687-688 (2017). The court of appeals affirmed the dismissal of the antitrust claim holding that the Cubs conduct of purchasing businesses outside the park was "part and parcel of the business providing public baseball games for profit," and was thus exempted from antitrust law. *Id.* at 689.

### **Reasons for Granting an Extension of Time**

The time to file a Petition for Writ of Certiorari should be extended for thirteen days for these reasons:

Petitioners only decided to go forward with this petition within the past two weeks. Before deciding to go forward, Petitioners and their counsel carefully considered the merits and appropriateness of filing this petition to ask the Court to reexamine its own longstanding precedent and determine the appropriate scope of the baseball antitrust exemption. Special care will be needed in having to address this Court's longstanding precedent with regard to the antitrust exemption. This Court has held that *Toolson v New York Yankees, Inc.*, 346 U.S. 356 (1953) and its progeny are narrow applications of the rule of stare decisis, yet the decision of the court of appeals expands the baseball antitrust exemption. *Radovich v. Nat'l Football League*, 352 U.S. 445, 451 (1957). Having decided to petition this Court to determine such issues, the petitioners need additional time to write and brief this Court on the important issues and its precedent.

In addition, another case which also addresses the scope of the baseball antitrust exemption and its continuing validity is pending before the Court. Petitioners in *Wykoff v. Office of the Comm'r of Baseball*, 211 F. Supp. 3d 615, 627 (S.D.N.Y. 2016) will be filing a Petition for Writ of Certiorari on

January 29, 2018. Due to the similar nature of the issues and the longstanding precedent they address, petitioners believe it would benefit this Court for the petitions to be filed at substantially the same time, and that the parties would benefit from the ability to consult with each other before filing.

No meaningful prejudice to the Respondents would arise from the extension of time. Respondents will continue to benefit from the lower court's dismissal of the action. Petitioners would greatly benefit from the extra time devoted to writing and time conferring with the *Wyckoff* petitioners.

### Conclusion

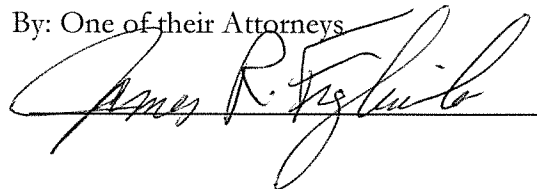
For the foregoing reasons, the time to file a Petition for Writ of Certiorari in this matter should be extended fourteen days to and including January 29, 2018.

Date: December 27, 2017

Respectfully Submitted,

Right Field Rooftops, LLC, d/b/a Skybox on  
Sheffield, Right Field Properties, LLC, 3633  
Rooftop Management, LLC, d/b/a Lakeview  
Baseball Club, and Rooftop Acquisition, LLC

By: One of their Attorneys

A handwritten signature in dark ink, appearing to read "James R. Figliulo", written over a horizontal line.

James R. Figliulo (#6183947)  
Stephanie D. Jones (#6220362)  
Figliulo & Silverman, P.C.  
10 South LaSalle Street, Suite 3600  
Chicago, IL 60603  
T: (312) 251-4600  
F: (312) 251-4610  
jfigliulo@fslegal.com  
sjones@fslegal.com