

No. _____

IN THE
Supreme Court of the United States

UNITED STATES, EX REL. THOMAS A. BERG, TIMOTHY A. BERG, RYNE J.
LINEHAN, NAYER M. MAHMOUD, AND STANLEY E. SMITH

Applicants,

v.

HONEYWELL INTERNATIONAL, INC., AND HONEYWELL, INC.

Respondents.

APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A
PETITION FOR A WRIT OF CERTIORARI

To the Honorable Elena Kagan
Associate Justice of the
United States Supreme Court
and Circuit Justice for Ninth Circuit

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**To the Honorable Elena Kagan, Associate Justice of the United States and
Circuit Justice for the United States Court of Appeals for the Ninth Circuit.**

Applicants, Thomas A. Berg, Timothy A. Berg, Ryne J. Linehan, Nayer M. Mahmoud, and Stanley E. Smith, respectfully request a 30-day extension of time within which to file their petition for writ of certiorari. This request, if granted, would extend the due date from January 3, 2019 to February 2, 2019. The Applicants will be petitioning for review of a Memorandum Opinion of the United States Court of Appeals for the Ninth Circuit issued on July 3, 2018, in Case No. 17-35083, which affirmed the United States District Court for the District of Alaska's grant of summary judgment and Judgment in favor of Respondents (No. 3:07-cv-215-SLG). The Ninth Circuit denied rehearing and rehearing en banc on October 5, 2018. This Court's jurisdiction to review the Ninth Circuit's Memorandum Opinion is based upon 28 U.S.C. § 1254.

The Applicants request this extension of time for the following reasons:

The Applicants' lead counsel, Phillip Paul Weidner, resides in, and has his office in Anchorage, Alaska. Early in the morning on Friday, November 30, 2018, an earthquake measuring 7.0 on the Richter scale struck approximately seven miles north of Anchorage. There was damage in the Municipality of Anchorage, including structural damage to some homes, buildings and roadways, and damage to some offices and their furnishings. Service of utilities, such as electrical, heating, and telephone services, were also interrupted. The state and federal courts experienced disruption and closure as a result of the earthquake.

After the earthquake occurred, Mr. Weidner and his staff attended to their families and homes.


At the start of this week, some staff members were able to return to the office to help

clean and reorganize and tend to some damaged items. Some of these efforts are still ongoing as certain damaged items need to be safely collected and/or restored.

Counsel for the Applicants have been diligently engaged in substantial research and drafting necessary to complete preparation of the anticipated petition for writ of certiorari and intend to make every effort to finalize and file the petition as soon as possible. Indeed, given the January 3, 2019 due date for the petition for writ of certiorari, counsel had been endeavoring to complete the petition before Christmas in order to honor Mr. Weidner's longstanding practice of substantially closing his office and giving staff and associate attorneys a holiday break between Christmas Eve and New Year's Day. However, the unexpected occurrence of the November 30, 2018 earthquake has interrupted and/or will interrupt those efforts, as well as the additional interruptions caused by the holiday break. Accordingly, the requested extension of time is warranted in order to assure that the Applicants' procedural rights are not compromised. A thirty-day extension of time, from the current due date of January 3, 2019, to February 2, 2019, is reasonable under these circumstances.

For all these reasons and good cause shown, is it respectfully requested that the Application for Extension of Time to File a Writ for Petition for Certiorari be granted.

December 6, 2018


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