

No. 18-A-\_\_\_\_

**IN THE SUPREME COURT OF THE UNITED STATES**

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VILLAGE OF LINCOLNSHIRE, *et al.*,

*Petitioners-Defendants,*

v.

INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 399, *et al.*,

*Respondent.*

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**APPLICATION FOR EXTENSION OF TIME TO  
FILE A PETITION FOR A WRIT OF CERTIORARI**

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## Rule 29.6 Statement

1. Petitioners in this case are The Village of Lincolnshire, Illinois, the Village's Mayor Barbra Mastandrea; and its Chief of Police Elizabeth Brandt.
2. Respondents in this case are the International Union Of Operating Engineers Local 399, International Union Of Operating Engineers, Local 150, AFL-CIO, Construction And General Laborers District Council Of Chicago And Vicinity, Laborers International Union Of North America, AFL-CIO, Chicago Regional Council Of Carpenters, and the United Brotherhood Of Carpenters And Joiners Of America.
3. Because no petitioner is a nongovernmental corporation, a corporate disclosure statement is not required under Supreme Court Rule 29.6.

**TO THE HONORABLE BRETT M. KAVANAUGH, ASSOCIATE JUSTICE OF  
THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE  
FOR THE SEVENTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioners respectfully request a 60-day extension of time, up to and including February 25, 2019, to file a petition for writ of certiorari to the United States Court of Appeals for the Seventh Circuit to review that court's decision in *Int'l Union of Operating Eng'rs Local 399 v. Vill. of Lincolnshire*, 905 F.3d 995, 1008 (7th Cir. 2018) (attached as Exhibit A). That court issued its judgement and opinion on September 28, 2018. The petitioners intend to file a petition seeking review of this judgement under 28 U.S.C. § 1254(1) and without an extension the time to file a petition for a writ of certiorari will expire on December 27, 2018. This application is timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

1. This case presents a substantial and important question of federal law. The Village of Lincolnshire has passed an ordinance that protects the rights of workers within its jurisdiction who do not wish to join or support a union, ensuring that those workers have the right not to pay any fee to a union on penalty of losing their job. The Respondent Union claims this ordinance is a violation of the federal National Labor Relations Act. The Seventh Circuit sided with the union, holding that the NLRA does not permit the Village to pass this ordinance.

2. The question as to whether the NLRA permits local municipalities to pass ordinances that outlaw “union-security clauses” has divided the courts below. It is undisputed that section 14(b) of the NLRA, 29 U.S.C. § 164(b), allows states to ban contract provisions that force nonmember employees to financially support the union. The Sixth Circuit has held that 14(b) also empowers local governments to ban these clauses as well. *United Automobile, Aerospace & Agricultural Implement Workers of America Local 3047 v. Hardin County, Kentucky*, 842 F.3d 407 (6th Cir. 2016). However Kentucky’s highest court disagrees, holding that the authority provided by 14(b) is reserved to the states alone. *Kentucky State AFL-CIO v. Puckett*, 391 S.W. 2d 360 (Ky. Ct. App. 1965).<sup>1</sup> The Seventh Circuit in this case expressly recognized this division, explaining in its opinion that it was disagreeing with the Sixth Circuit and siding with the state court decision from Kentucky. *Int’l Union of Operating Eng’rs*, 905 F. 3d at 998. This disagreement among the lower courts represents a strong basis for granting a writ of certiorari under Supreme Court Rule 10(a).
3. Jeffrey M. Schwab is counsel to the petitioners in this case, and represented them in the courts below. He currently has to numerous other commitments in cases around the country, including another petition to file with this court in *Ill. Liberty PAC v. Madigan*, 904 F.3d 463, 466 (7th Cir. 2018), due to be

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<sup>1</sup> Prior to 1976, the highest court in Kentucky was the Court of Appeals of Kentucky. The state’s court system has since be reorganized such that the highest court is now the Supreme Court of Kentucky.

filed by December 12, 2018, and multiple appeals pending in the Seventh Circuit, and Illinois Appellate courts.

4. Given these prior commitments, and the complex and important nature of this case, he is currently negotiating with outside counsel, with experience before the Court, who will represent petitioners before the Supreme Court. This outside counsel will require time to review the proceedings below and familiarize themselves with the case in order to prepare the petition. This process is made more difficult by the impending holidays which will interrupt preparations immediately prior to the deadline for the petition on December 27, 2018.

Accordingly, the petitioners respectfully request that an order be entered extending the time to file a petition for a writ of certiorari for 60 days, up to and including February 25, 2019.

Dated: December 6, 2018

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