

No. _____

IN THE
Supreme Court of the United States

K. WENDELL LEWIS, ET AL.,

Petitioner,

v.

PENSION BENEFIT GUARANTY CORPORATION,

Respondent.

**Application for Extension of Time to File a Petition for a
Writ of Certiorari to the United States Court of Appeals
for the District of Columbia Circuit**

To the Honorable John G. Roberts, Chief Justice of the United States Supreme Court and Circuit Justice for the United States Court of Appeals for the District of Columbia Circuit:

Petitioners are approximately 1,700 retired pilots of Delta Airlines Inc. (“Delta”) or their heirs who participated in a now-terminated pension plan sponsored by Delta (“Plan”).¹ They intend to file a petition of certiorari in connection with a decision involving the Plan that was recently issued by the U.S. Court of Appeals for the District of Columbia Circuit. Pursuant to Supreme Court Rule 13.5, Petitioners respectfully request that the time to file a Petition for a Writ

¹ Petitioners are individually listed in Appendix D to this Application.

of Certiorari to the D.C. Circuit be extended fourteen days, to and including April 4, 2019. A Petition for a Writ of Certiorari is currently due in this Court on March 21, 2019. This Application is being filed ten days before that date.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

The judgment sought to be reviewed is the opinion of the D.C. Circuit in *Lewis, et al. v. Pension Benefit Guaranty Corporation*, No. 17-5068, decided August 21, 2018, and reissued on December 21, 2018, following a timely petition for panel rehearing and rehearing *en banc*. A copy of the opinion is attached (Appendix A), along with the order granting in part the petition for panel rehearing (Appendix B) and the order denying the petition for rehearing *en banc* (Appendix C).

Good cause exists for granting this application. The opinion for which review is sought deals with an important question regarding the scope of appropriate equitable relief available to retirees under Title IV of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1301-1461, in cases where the Pension Benefit Guaranty Corporation, in its fiduciary role as a statutory trustee, has breached its fiduciary duties to those retirees. Additionally, Petitioners' Counsel of Record, Anthony F. Shelley, has primary responsibility for the preparation of the Petition for Writ of Certiorari, and the press of other recent work-related matters in which Counsel has primary responsibility are such that, even with the assistance of other attorneys, he will not reasonably be able to complete the work necessary to prepare the Petition for Writ of Certiorari by the present due date (March 21, 2019). These matters include an opening brief in an appointed role before the D.C. Circuit,

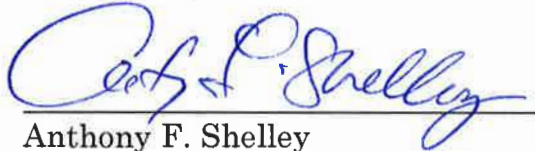
a rehearing petition before the U.S. Court of Appeals for the Ninth Circuit, and a hearing on motions for summary judgment before the U.S. District Court for the Eastern District of Michigan. In addition, Mr. Shelley today suffered a death in his family, requiring him to travel this week for funeral arrangements. These factors justify granting this application for an extension.

Petitioners make this request in good faith and believe that the requested extension of time is necessary. Counsel for Petitioners has exercised, and will continue to exercise, diligence regarding the preparation of the Petition for Writ of Certiorari.

Wherefore, Petitioners respectfully request that an order be entered extending the time to file a Petition for Writ of Certiorari to and including April 4, 2019.

March 11, 2019

Respectfully submitted,



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