

No. A18-

---

IN THE  
**Supreme Court of the United States**

---

MARCUS & MILLICHAP REAL ESTATE INVESTMENT  
SERVICES, INC., AND  
MARCUS & MILLICHAP CAPITAL CORPORATION,  
*Applicants,*

v.

RAE WEILER,  
*Respondent.*

---

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

---

**Directed to the Honorable Elena Kagan,  
Associate Justice of the Supreme Court of the  
United States and Circuit Justice for the United  
States Court of Appeals for the  
Ninth Circuit**

---

ALEXANDER DUSHKU  
*Counsel of Record*  
R. SHAWN GUNNARSON  
KIRTON MCCONKIE  
Key Bank Tower  
36 South State Street, Suite 1900  
Salt Lake City, Utah 84111  
(801) 328-3600  
adushku@kmclaw.com

*Counsel for Applicants Marcus & Millichap*

**To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:**

Pursuant to Supreme Court Rule 13(5), Marcus & Millichap (“the Applicants”) respectfully request a 30-day extension of the deadline for filing their petition for a writ of certiorari. A panel of the California Court of Appeal ruled against the Applicants, reversing summary judgement on April 30, 2018 (App. A), and the California Supreme Court denied review on August 15, 2018 (App. B). The petition is currently due on November 13, 2018. The Applicants respectfully request a 30-day extension to December 13, 2018. This Court has jurisdiction under 28 U.S.C. § 1257(a).

In support of this request, Applicants state as follows:

1. The case presents important legal questions arising out of the Federal Arbitration Act and whether the public policy concern of “justice for all” can override the Act’s plain language. The decision below potentially affects tens of thousands of arbitration clauses in an economy that would be ranked fifth in the world if California were a country,<sup>1</sup> making federal arbitration law in the nation’s largest state diverge from the rest of the country.

2. Applicants’ counsel was just retained on October 24, 2018—only twenty days before the petition is due. Because counsel is new to the case, he must familiarize himself with both the record and the complexities of arbitration in order to understand the nuances and

---

<sup>1</sup> See Kieran Corcoran, *California’s Economy is Now the 5th-biggest in the World, and has Overtaken the United Kingdom*, BUSINESS INSIDER (May 5, 2018), <https://www.businessinsider.com/california-economy-ranks-5th-in-the-world-beating-the-uk-2018-5>.

far-reaching impact of the case. Additionally, co-counsel is out of the country until the beginning of November.

3. Applicants request this modest extension for counsel to adequately prepare a petition that fully addresses the issues raised by the decision below and that frames those issues in a manner that will be most helpful to the Court.

WHEREFORE, for the foregoing reasons, Applicants request that an extension of time to and including December 13, 2018, be granted within which Applicants may file a petition for a writ of certiorari.

Respectfully submitted,



ALEXANDER DUSHKU

*Counsel of Record*

R. SHAWN GUNNARSON

KIRTON MCCONKIE

Key Bank Tower

36 South State Street, Suite 1900

Salt Lake City, Utah 84111

(801) 328-3600

adushku@kmclaw.com

*Counsel for Applicant*

October 26, 2018