

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

Antero Ramos,¹

Petitioner,

v.

Firestone Building Products Company, L.LC.,

Respondent.

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

John G. Crabtree
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Counsel for Petitioner Antero Ramos

¹ Petitioner is a natural person and, thus, has no parent company and no publicly traded company owns 10% or more of the company's stock.

To the Honorable Clarence Thomas, Associate Justice of the Supreme Court of the United States and Circuit Justice for the Eleventh Circuit:

Petitioner Antero Ramos respectfully requests a 60-day extension of time, to and including February 3, 2018, within which to file a petition for a writ of certiorari to the U.S. Court of Appeals for the Eleventh Circuit. The Eleventh Circuit issued its decision on September 6, 2018, *Firestone Building Prods. Co., LLC v. Ramos*,---Fed. Appx. ---, No. 17-13070, 2018 WL 423276 (11th Cir. 2018), and Ramos filed no motion for rehearing. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1). Unless extended, the time within which to file a petition for a writ of certiorari will expire on December 5, 2018.

The Eleventh Circuit's decision is attached as Exhibit A.

This petition for a writ of certiorari will center on whether Petitioner was entitled to relief under either Rule 60(b)(1) or 60(b)(6) of the Federal Rules of Civil Procedure, in the circumstance where Petitioner's trial counsel was solely at fault for failing to meet the district court's deadline for the filing of a response to a motion for summary judgment. As a consequence, Petitioner lost all opportunity to establish the defendant's liability. Nevertheless, as demonstrated by the court of appeal's decision, Petitioner had no recourse in the Eleventh Circuit either to establish that such attorney neglect in failing to meet a deadline can be remedied under Rule 60(b)(1), or even under Rule 60(b)(6), as an incident of gross neglect by trial counsel. *Firestone Building Prods. Co., LLC v. Ramos*,---Fed. Appx. ---, No. 17-13070, 2018 WL 423276 at *5 (11th Cir. 2018).

The Eleventh Circuit's decision clarifies the circuit split with respect to the application of Rule 60(b)(6). Decisions of other circuits have readily concluded that the 'sins of the lawyer' should not be visited on the client where the gross negligence of counsel prevents the client from obtaining a decision on the merits. *See e.g.*, *Community Dental Servs. v. Tani*, 282 F.3d 1164, 1172 (9th Cir. 2002) ("Thus, relief under Rule 60(b)(6) may often constitute the only mechanism for affording a client actual and full relief from his counsel's gross negligence—that is, the opportunity to present his case on the merits."); *see also Fuller v. Quire*, 916 F.2d 358 (6th Cir. 1990) (attorney's inexcusable neglect addressed under Rule 60(b)(6) where he failed to attend a status conference and the case was dismissed after he told his client that a settlement was pending); *Boughner v. Sec'y of Health, Educ. & Welfare*, 572 F.2d 976, 977 (3d Cir. 1978) "The general purpose of Rule 60(b) ... is to strike a proper balance between the conflicting principles that litigation must be brought to an end and that justice must be done."

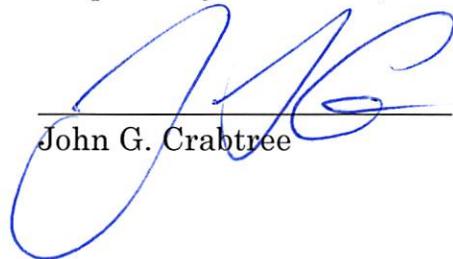
In addition to his regular appellate practice which occupies the majority of his time, undersigned counsel of record, John G. Crabtree, has been fully preoccupied with other matters including the following commitments:

1) acting as lead counsel in an ongoing, certified national class action in *Congdon v. Uber Technologies, Inc.*, 4:16-cv-02499-YGR (N.D. Cali.); deeply involved in extensive motion practice in the Ninth Circuit Court of Appeals in *Indirect Purchaser Plaintiffs, et al. v. Toshiba Corporation, et al.*, 16-16378 (9th Cir.); and, acting as co-lead counsel in a certified class action pending in Florida state court in *Solaris v.*

Brickell Bay Condominium Association v. LM Funding, LLC, Case No. 2014-20043-CA-40 (Fla. 11th Jud. Cir.). This list does not include multiple other appellate cases counsel is handling that are currently pending within Florida's appellate courts.

For these reasons, Ramos requests the time to file a petition for certiorari be extended by 60 days, up to and including Sunday, February 3, 2018.

Respectfully submitted,



John G. Crabtree

Date: November 21, 2018

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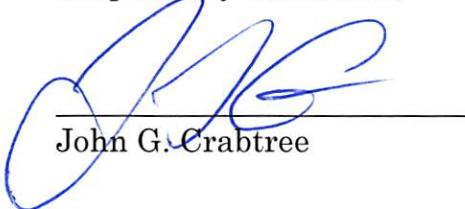
CERTIFICATE OF SERVICE

As required by Supreme Court Rule 29.5, I, John G. Crabtree, a member of the Supreme Court Bar, hereby certify that one copy of the attached Application was served on November 21, 2018 through electronic mail to:

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Respectfully submitted,



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Dated: November 21, 2018

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