

MAR 09 2022

OFFICE OF THE CLERK

No. 22-A-_____

IN THE SUPREME COURT OF THE UNITED STATES

ARVIND GUPTA, *pro se*

Petitioner-Appellant,

v.

MARTY WALSH, in his official capacity as
Secretary of the U. S. Department of Labor,

and,

Compunnel Software Group, Inc.

Respondents-Appellees.

APPLICATION FOR EXTENSION OF TIME TO FILE A
PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

ARVIND GUPTA, *pro se*
209 W 29th St. #6227
New York, NY 10001
Tel: (917) 675-2439
E: arvgup@gmail.com

RECEIVED

MAR 15 2022

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

**TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE
JUSTICE OF THE SUPREME COURT OF THE UNITED STATES
AND CIRCUIT JUSTICE FOR THE SECOND CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, petitioner Gupta respectfully request a 60-day extension of time, up to and including May 20, 2022, to file a petition for a writ of certiorari to the United States Court of Appeals for the Second Circuit to review that court's decision in *Compunnel Software Group, Inc. v. Gupta*, No. 19-1761-cv (2d Cir. Sept. 20, 2021) and order denying petition for rehearing dated December 21, 2021 (attached as Exhibits A and B). The Second Circuit issued its mandate on January 24, 2022.

The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on March 21, 2022. 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.

This case arises under the H-1B nonimmigrant work authorization provisions of the Immigration and Nationality Act (INA) and presents a substantial and important question of federal law: Whether H-1B employers can have legally enforceable private

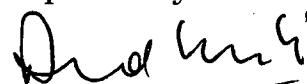
agreements with the nonimmigrant worker to pay less than the wages required under the H-1B provisions of the INA. Below, the Second Circuit held that a private settlement agreement that is contrary to the required wage obligations under the H-1B provisions of the INA and labor condition application attestations of the employer can be approved and enforced by the office of the Administrative Law Judges (ALJ) and Administrative Review Board (ARB). In so doing, it created a circuit split with the Sixth Circuit and Seventh Circuit. *See Patel v. Boghra*, 369 Fed. Appx. 722, 724 (7th Cir. 2010) (Illinois does not enforce agreements to violate federal or state law; it leaves the parties where it found them.); *Kutty v. DOL*, 2011 WL 3664476 at *9 (E. D. Tenn. August 19, 2011) (“Regardless of the private contracts, Dr. Kutty [H 1B employer] had to pay the “required wage,” as set forth in the INA.”) (*aff’d*, 764 F.3d 540 (6th Cir. 2014)) The Second Circuit decision effectively affirming the ARB decision is contrary to the Supreme Court decision in *Hoffman Plastic Compounds, Inc. v. NLRB*, 535 U. S. 137, 147 (2002) (“... where the Board’s chosen remedy trenches upon a federal statute or policy outside the Board’s competence to administer, the Board’s remedy may be required to yield.”)

Petitioner Gupta is proceeding *pro se* and he needs sufficient time to familiarize himself with the relevant rules of the Supreme Court and to prepare, print and file a petition of certiorari in this case. Petitioner is also plaintiff in another case in Southern District of New York *Gupta v. Headstrong*, No. 1:17-cv-05286 (RA) where he recently filed a Rule 60(b)(4)-(5) motion for relief from judgment on February 23, 2022. To research the relevant legal issues in this complex case and to prepare and file his cert petition, Gupta who is proceeding *pro se*, needs additional time. An extension of time would better enable preparation of a petition that would be most helpful to the Court.

Accordingly, petitioner Gupta 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 May 20, 2022.

Dated: March 9, 2022

Respectfully Submitted,



ARVIND GUPTA, *pro se*
209 W 29th St. #6227
New York, NY 10001
Tel: (917) 675-2439
E: arvgup@gmail.com