

IN THE SUPREME COURT OF THE UNITED STATES

No. 23A_____

REV. FR. EMMANUEL LEMELSON, f/k/a GREGORY LEMELSON, and
LEMELSON CAPITAL MANAGEMENT, LLC,

Applicants,

v.

SECURITIES AND EXCHANGE COMMISSION,

Respondent.

**APPLICATION FOR AN EXTENSION OF TIME WITHIN
WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE U.S. COURT OF APPEALS FOR THE FIRST CIRCUIT**

**TO: The Honorable Associate Justice Ketanji Brown Jackson,
Circuit Justice for the First Circuit:**

Pursuant to Rules 13.5 and 30.2 of the Rules of this Court, Applicants Rev. Fr. Emmanuel Lemelson (f/k/a Gregory Lemelson) and Lemelson Capital Management, LLC respectfully request a 56-day extension of time, to and including Monday, July 31, 2023, within which to file a petition for a writ of certiorari.

JUDGMENT FROM WHICH REVIEW IS SOUGHT

Applicants anticipate seeking review of the judgment and attached opinion of the United States Court of Appeals for the First Circuit in *Securities and Exchange Commission v. Gregory Lemelson, et al.*, Docket No. 22-1630 (App.1–33). The opinion is also reported at 57 F.4th 17. The First Circuit denied Applicants’ petition for rehearing en banc on March 6, 2023 (App.34).

JURISDICTION

This Court would have jurisdiction to review the First Circuit’s judgment and opinion under 28 U.S.C. § 1254(1). Unless extended, Applicants’ deadline for filing a petition for a writ of certiorari would expire on June 5, 2023 (the 90th day, June 4, is a Sunday). This application is being filed more than 10 days before the expiration date. Applicants have not requested any prior extensions of the deadline.

REASONS JUSTIFYING EXTENSION OF TIME

This case raises important, novel, and complex issues regarding, among other things: (1) the extent to which the First Amendment protects a securities market participant from being prosecuted, penalized, and enjoined by the government for publishing unfavorable reports and engaging in other unfavorable public speech about a publicly traded corporation; and (2) the extent to which the government can prosecute, penalize, and enjoin a person under a statute that prohibits “any manipulative or deceptive device or contrivance” despite a jury verdict finding that the government failed to prove the person either intentionally or recklessly engaged in any “scheme to defraud, or any act, practice, or course of business which operates or would operate as a fraud or deceit.”

Applicants recently retained undersigned counsel from the New Civil Liberties Alliance as counsel of record to prepare their anticipated petition for a writ of certiorari. Having not participated in the proceedings below, counsel has been diligently attending to this matter but needs additional time to review and analyze the substantial record from the lower court proceedings, to research and analyze the

applicable legal principles and precedent, and to draft the anticipated petition for a writ of certiorari.

CONCLUSION

For the foregoing reasons, Applicants request that their deadline for filing their petition for a writ of certiorari be extended until and including Monday, July 31, 2023.

May 16, 2023

Respectfully submitted,

/s/ Russell G. Ryan

Russell G. Ryan (*Counsel of Record*)

New Civil Liberties Alliance

1225 19th Street, NW, Suite 450

Washington, DC 20036

(202) 869-5210

russ.ryan@ncla.legal

Counsel for Applicants