

No. 22A\_\_

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

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FERNANDO M. SMITH; JAMIE CRABTREE; PRISTINE PRE-OWNED AUTOS INC.,  
A WEST VIRGINIA CORPORATION,

*Applicants,*

v.

MICHAEL LEE TRAVELPIECE, SUED IN HIS INDIVIDUAL CAPACITY  
AS A WEST VIRGINIA STATE POLICE OFFICER,

*Respondent.*

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

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To the Honorable John G. Roberts Jr., Chief Justice of the Supreme Court of  
the United States and Circuit Justice for the Fourth Circuit:

1. Under Supreme Court Rules 13.5, 22, and 30, petitioners Fernando M. Smith, Jamie Crabtree and Pristine Pre-Owned Autos, Inc.<sup>1</sup>, through counsel, respectfully request a 60-day extension of time, up to and including Friday, October 14, 2022, to file a petition for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit to review *Smith, et al. v. Travelpiece*, No. 20-1418. The United States Court of Appeals issued its decision on April 20, 2022. Appendix A. The United States Court of Appeals denied rehearing and rehearing en banc on

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<sup>1</sup> Pristine Pre-Owned Autos, Inc. does not issue stock and has no corporate parent.

May 17, 2022. Appendix B. The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254. The time to file a petition for a writ of certiorari will otherwise expire on August 15, 2022. The application is timely because it has been filed on or before 10 days before the date on which the petition is otherwise due.

2. The decision of the Fourth Circuit presents important and recurring questions about when the limitations period commences for bringing a Section 1983 action to challenge an unconstitutional search and seizure that leads to a criminal prosecution, which is ultimately dismissed because of the unlawful search. Several federal circuit courts of appeals are in conflict regarding this, with some, like the Fourth Circuit below, holding that the limitations period commences at the time of the search, but with others holding that the limitations period commences at the time the criminal prosecution is dismissed.

3. Good cause exists for this motion. Undersigned counsel, Lawrence D. Rosenberg of Jones Day, directs the West Virginia University College of Law's Supreme Court Litigation Clinic, which is co-counsel in this case. Students in the Clinic are on their summer break, and will begin classes on August 17, 2022. The requested extension will allow them to perform substantial work on the petition, including researching the relevant issues and assisting in preparing an effective petition for a writ of certiorari.

4. Mr. Rosenberg's ability to complete the petition without an extension has also been made extremely difficult by two recent bouts of Covid-19, one in late

June 2022, and then a rebound infection after taking Paxlovid in early-to-mid July 2022.

5. Mr. Rosenberg also has had recently, and will have in the coming weeks, significant professional commitments that would also make it extremely difficult to complete the petition without an extension. Mr. Rosenberg is lead counsel in this Court in *Owl Creek Asia I L.P., et al. v. United States*, No. 22-97, in which a petition for a writ of certiorari was filed on July 22, 2022, and in which a reply is currently expected to be filed by September 21, 2022, *Efrain Lora v. United States*, No. 22-49, in which a petition for a writ of certiorari was filed on July 15, 2022, and in which a reply is currently expected to be filed by September 12, 2022, and *Campbell-Martin v. United States*, No. 21-1344, in which a reply in support of a petition for a writ of certiorari was filed on July 26, 2022. Mr. Rosenberg is also lead counsel in *Citigroup Inc., et al. v. Villar*, No. 2:19-cv-05310-GW (C.D. Cal.), in which he had to file pleadings on June 21, 2022, June 27, 2022, and June 29, 2022, and in which he had to participate in a hearing on July 1, 2022, and will have an upcoming hearing in August, 2022; he is also lead counsel in a related arbitration in which he had to file summary judgment briefs on July 15, 2022, and August 1, 2022, and in which he has a reply brief due on August 12, 2022, and a hearing on August 31, 2022. He is also lead counsel in *Lufthansa Technik v. Panasonic Avionics Corp.*, No. 2:17-cv-01453-JCC (W.D. Wash.), in which he is coordinating simultaneous document discovery from several parties, and in which he will be conducting one or more additional depositions in Seattle, Washington, in late August 2022 and/or

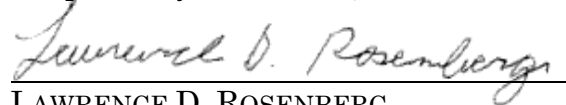
early September 2022. Mr. Rosenberg is also lead counsel in *Antero Resources Corp. v. Irby*, Nos. Nos. 22-0048, 22-0049, 22-0050, 22-0051, 22-0052, and 22-0144 (W. Va.), in which he filed a reply brief in the West Virginia Supreme Court on August 1, 2022, and is lead counsel in *United States v. Wilkerson*, No. 20-6010 (6th Cir.), in which he has a petition for rehearing and/or rehearing en banc due on August 8, 2022.

6. Mr. Rosenberg also has other obligations that would make it extremely difficult to complete the petition without an extension. He is out of town attending the American Bar Association Annual Meeting on August 4-5, 2022. He will also be out of town on a prepaid family trip from August 6-14, 2022.

WHEREFORE, petitioners respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari for 60 days, up to and including October 14, 2022.

Dated: August 4, 2022

Respectfully submitted,



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