

**In the Supreme Court of the United States**

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PAULE McKENNA,

*Petitioner,*

v.

SONY PICTURES ENTERTAINMENT, INC., et al,

*Respondents.*

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**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO  
PETITION FOR A WRIT OF CERTIORARI TO THE CALIFORNIA  
COURT OF APPEAL  
SECOND APPELLATE DISTRICT, DIVISION FIVE**

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Application to the Honorable Elena Kagan, as Circuit Justice for the Ninth  
Circuit, California

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Pursuant to Supreme Court Rule 13.5, Applicant Paule McKenna requests a forty-day extension of time, to and including September 5, 2023,<sup>1</sup> within which to file a petition for a writ of certiorari.

1. The decision below is *McKenna v. Sony Pictures Entertainment, Inc.*, California Court of Appeal case nos. B304256 and B310814 and California Supreme Court No. S279159. The California Court of Appeal issued its opinion on February 15, 2023 (App. A) and the California Supreme Court issued its denial of petition for review on April 26, 2023 (App. B). Unless extended, Applicant's time to seek certiorari in this Court expires July

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<sup>1</sup> The forty-day mark falls on Sunday, September 3; September 5 is the next business day.

25, 2023. Applicant is filing this application at least ten days before that date. S. Ct. R. 13.5. This Court's jurisdiction would be invoked under 28 U.S.C. § 1257(a). Respondent does not object to this extension request.

2. Applicant has an interest in the likeness of 1960s actor Christopher Jones and sued Respondent for unauthorized usage of his likeness for commercial purposes in the 2019 movie *Once Upon a Time . . . in Hollywood*, inter alia, for trademark infringement under the federal Lanham Act. Following the striking of Applicant's complaint under California's anti-SLAPP statute, the California Court of Appeal held that usage of Jones's likeness was protected under the First Amendment and Applicant was properly denied the ability to bring suit.

3. Good cause exists for a forty-day extension within which to file a petition.

a. California's anti-SLAPP statute uses this Court's interpretation of the First Amendment as a basis for determining what speech is protected and what speech is open to lawsuit at the intersection of First Amendment and federal trademark law. This case involves clarifying the competing interests of those complex federal issues, an important and recurring issue. An extension of time will help to ensure that the petition thoroughly presents the important federal issues raised by the California courts.

b. An extension is further warranted because undersigned counsel has only recently been retained to represent Applicant in this matter. Additional time is necessary for counsel to become fully familiar with the issues, the decision below, the record, and the relevant case law.

c. The request is further justified by counsel's press of business on other pending matters that was worsened by the recent passing of counsel's father and setting up his newly widowed mother with care. In addition to a

full California state appellate practice, Counsel has seven petitions for rehearing in the Ninth Circuit due before the end of the month and an opening brief in a complex trademark infringement case due mid-August.

The requested 40-day extension would cause no prejudice to Respondent, whose counsel has advised that there is no objection to the extension.

Respectfully submitted,

/s/ David Zarmi

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