

No. _____

**IN THE
SUPREME COURT OF THE UNITED STATES**

KATHY ALLEN, JAY ALLEN

Petitioners,

v.

L3HARRIS TECHNOLOGIES, INC.

Respondent.

**Application for an Extension of Time Within
Which to File a Petition for a Writ of Certiorari to the
Fourth Circuit Court of Appeals**

APPLICATION TO THE HONORABLE CHIEF JUSTICE
JOHN ROBERTS AS CIRCUIT JUSTICE

Kathy Allen, Jay Allen (pro se)
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November 30, 2023

**PETITIONER'S APPLICATION FOR EXTENSION OF TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI**

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

Petitioners, Kathy and Jay Allen, pursuant to Rule 13.5 of the Rules of this Court, respectfully apply to this Court for an order extending the time in which to file her petition for writ of certiorari from December 24, 2023, until February 22, 2024, a period of sixty (60) days. This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254. In support of this Application, Petitioners states as follows:

Petitioners filed an action in North Carolina Superior Court against the Respondents alleging that they had improperly refused to honor payment on a life insurance policy, in violation of ERISA. The case was removed to federal court and ultimately dismissed by the District Court for the Eastern District of North Carolina (5:21-CV-174-D). The lower court also denied the Petitioner's Rule 60 motion. (5:21-CV-174-D). The Petitioners appealed these rulings to the Fourth Circuit Court of Appeals. On July 27, 2023 the panel affirmed the rulings of the District Court (Exhibit 1; 22-1528). On September 25, 2023, the Fourth Circuit denied the Petitioner's petition for rehearing and rehearing en banc (Exhibit 2; 22-1528). The appellate decisions provided no explanation for affirming the denial of

the Petitioners' Rule 60 motion.

Petitioners' case raises important questions pertaining to their due process rights, including the right to be apprised of the basis for the courts' rulings, and laws pertaining to ERISA.

Petitioners now seek a writ of certiorari for the Fourth Circuit Court of Appeals with respect to their decisions. This Court's jurisdiction to grant the same arises pursuant to 28 U.S.C. § 1254.

According to Supreme Court Rule 13.3, a petition for writ of certiorari is due on or before December 24, 2023, which is 90 days after the Fourth Circuit Court of Appeals denied the Petitioner's petition for rehearing. *See* Supreme Court Rule 13.3 ("the time to file the petition for a writ of certiorari . . . runs from the date of the denial of rehearing or, if rehearing is granted, the subsequent entry of judgment").

However, the time granted by Supreme Court Rule 13 will be insufficient to allow Petitioners to prepare their Petition, because the Petitioners are *pro se* and are attempting to work with this Court's rules pertaining to, *e.g.*, the formatting of a Petition for Writ of Certiorari to be filed with this Court.

Petitioners therefore seek an extension of sixty (60) days in which to file their petition for a writ of certiorari. *See* Supreme Court Rule 13.5 ("[A] Justice may extend the time to file a petition for writ of certiorari for a period not

exceeding 60 days”).

Pursuant to Supreme Court Rule 13.5, this Application is submitted at least ten (10) days prior to the present due date.

Wherefore, in the interest of justice and for good cause shown, Petitioners respectfully request that this Court extend the current December 24, 2023 deadline until February 22, 2024, or at least for thirty (30) days until January 23, 2024.

Respectfully submitted,



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Respondents.

CERTIFICATE OF SERVICE

We, Kathy Allen and Jay Allen, Petitioners in this matter, hereby certify that on this 30th day of November, 2023, caused a copy of this Petition to be served on the following counsel:

Michael D. McKnight
Ogletree Deakins
8529 Six Forks Rd., Forum IV, Ste. 600
Raleigh, NC 27615
For L3Harris Technologies, Inc.

We further certify that all parties required to be served have been served.



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Exhibit 1

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1528

KATHY R. ALLEN; JAY K. ALLEN,

Plaintiffs - Appellants,

v.

L3HARRIS TECHNOLOGIES, INC.,

Defendant - Appellee,

and

METLIFE; MERCER HEALTH BENEFITS ADMINISTRATION, LLC;
LINCOLN HERITAGE LIFE INSURANCE CO.,

Defendants.

Appeal from the United States District Court for the Eastern District of North Carolina, at
Raleigh. James C. Dever III, District Judge. (5:21-cv-00174-D)

Submitted: July 25, 2023

Decided: July 27, 2023

Before WYNN and HEYTENS, Circuit Judges, and FLOYD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Kathy R. Allen, Jay K. Allen, Appellants Pro Se. Michael Douglas McKnight, Savannah
Trimmer, OGLETREE DEAKINS NASH SMOAK & STEWART, PC, Raleigh, North

Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Kathy R. Allen and Jay K. Allen (collectively, Appellants) appeal the district court's orders dismissing their civil complaint and denying their motion for reconsideration. Because the notice of appeal was filed more than 30 days after the court entered the order dismissing the complaint, that order is not properly before this court. *See* Fed. R. App. P. 4(a)(1)(A). With respect to the court's order denying Appellants' postjudgment motion, we have reviewed the record and find no reversible error. Accordingly, we affirm the district court's postjudgment order. We also deny all pending motions. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

Exhibit 2

FILED: September 25, 2023

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-1528
(5:21-cv-00174-D)

KATHY R. ALLEN; JAY K. ALLEN

Plaintiffs - Appellants

v.

L3HARRIS TECHNOLOGIES, INC.

Defendant - Appellee

and

METLIFE; MERCER HEALTH BENEFITS ADMINISTRATION, LLC; LINCOLN
HERITAGE LIFE INSURANCE CO.

Defendants

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Wynn, Judge Heytens, and Senior Judge Floyd.

For the Court

/s/ Nwamaka Anowi, Clerk