

No. \_\_\_\_\_

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

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DAVID W. MURPHY, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE FOR THE  
ESTATE OF KATHLEEN J. MURPHY,

*Applicant,*

v.

MEDICAL ONCOLOGY ASSOCIATES, P.S., A WASHINGTON CORPORATION,  
ARVIND CHAUDHRY, M.D., Ph.D., AND BRUCE CUTTER, M.D.

*Respondents.*

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To the Honorable Elena Kagan,  
Associate Justice of the United States and  
Circuit Justice for the Ninth Circuit

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**APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR WRIT  
OF *CERTIORARI* TO THE COURT OF APPEALS OF THE STATE OF  
WASHINGTON**

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**RULE 29.6 STATEMENT**

The Applicant, in both his personal and representative capacities, is a natural person without parent companies or stock.

**APPLICATION TO EXTEND THE TIME TO FILE A PETITION  
FOR WRIT OF *CERTIORARI* TO THE COURT OF APPEALS OF  
THE STATE OF WASHINGTON**

To the Honorable Associate Justice Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to Supreme Court Rule 13.5, David W. Murphy, individually and as Personal Representative for the Estate of Kathleen J. Murphy (“Applicant”), hereby respectfully applies for a 59-day extension of the time within which to petition for a writ of *certiorari* in this matter—to and including Friday, May 31, 2024.

The current deadline for filing a petition for writ of *certiorari* is Tuesday, April 2, 2024.<sup>1</sup> Applicant files this application more than ten days prior to the current deadline. Sup. Ct. R. 30.2. No previous extension of time to file a petition for *certiorari* has been sought or granted.

In support of this request, Applicant states as follows:

1. The Washington Supreme Court issued its Order denying discretionary review on January 3, 2024. App. 1a. The judgment sought to be reviewed is the Unpublished Opinion issued by the Court of Appeals of the State of Washington on June 29, 2023, App. 4a, as revised by the Order Correcting Opinion and Otherwise Denying Motion for Reconsideration issued by the Court of Appeals of the State of Washington on August 17, 2023, App. 2a. The Superior Court of the State of Washington in and for the County of Spokane entered its judgment on March 20,

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<sup>1</sup> Ninety days after entry of the Washington Supreme Court’s order denying discretionary review will fall on Tuesday, April 2, 2024.

2020, after a jury trial. App. 38a. This Court has jurisdiction to review federal questions arising below under 28 U.S.C. § 1257(a).

2. Applicant's counsel, a solo practitioner, has had competing professional obligations during the 90-day period provided by Rule 13.5 that have affected the ability to complete the petition for a writ of *certiorari* by the current deadline. These include: (1) counsel's participation as co-lead counsel in a four-week federal trial conducted in the Northern District of Georgia from January 9 to February 2, 2024, which required additional non-delegable work through March 1, 2024, on voluminous post-trial submissions; (2) counsel's ongoing preparation of a different petition for *certiorari* pending submission to this Court for a matter in the Tenth Circuit; (3) counsel's ongoing preparation of an appellate merits brief for the Colorado Court of Appeals, plus related motions practice; (4) counsel's preparations for an April 5th evidentiary hearing in a Colorado state-court matter. Because the nature of a solo practice means that counsel has been unable to delegate work on any of these matters to other attorneys, counsel needs additional time to prepare the Applicant's petition for *certiorari*.

3. This case presents important federal questions, including whether and to what extent a plaintiff's Fourteenth Amendment right to a fundamentally fair civil trial requires that bias be presumed in jurors and prospective jurors whose close family members are current or former patients of a defendant medical doctor. Additionally, this case presents the question of whether a defendant doctor's care for and private, asymmetrical knowledge of multiple prospective jurors' close family

members creates a fundamentally unfair jury-selection process that violates the Fourteenth Amendment's guarantee of due process. These constitutional questions were raised by the Applicant below. An extension of time that would permit these and other important questions to be adequately presented to this Court is warranted by the significance of the constitutional interests at stake.

4. The requested 59-day extension will not prejudice the respondents.

5. For all the foregoing reasons, good cause exists to grant the requested 59-day extension of time for Applicant to file a petition for *certiorari*.

### **CONCLUSION**

WHEREFORE, Applicant respectfully requests a 59-day extension of the time within which Applicant may file a petition for a writ of *certiorari* in this matter to and including Friday, May 31, 2024.

Dated March 13, 2024.

Respectfully submitted,



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