

No. A- _____

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 2023

KAREN E. ELLINGSTAD AND CLIFFORD W. TAGABAN,

Petitioners,

v.

KAKE TRIBAL CORPORATION, INC. [KTC], ET AL.

Respondents.

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

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

Pursuant to this Court's Rules 13.5, 22, 30.2, and 30.3, the petitioners Karen E. Ellingstad and Clifford W. Tagaban request an enlargement of time of sixty days within which they may file their petition for certiorari in this Court, such extension being until and including 17 June 2024 – or to such other date as the Court may allow or permit.

FRED W. TRIEM
Attorney at Law
Box 129
Petersburg, Alaska
99833-0129

(907) 772-3911
triemlaw@alaska.net

(1) The case below and the jurisdictional basis for review in

This Court: The U.S. Court of Appeals for the Ninth Circuit rendered its decision on 11 December 2023, and denied petitioners’ timely petition for rehearing on 18 January 2024. Thus, petitioners’ time to petition for certiorari in this Court currently expires on 18 April 2024, which is ninety days after the lower court’s denial of rehearing. This application for extension is being filed by mailing twelve days before the due date.

Reference is made to the opinion below and to the order of the Court of Appeals that denied rehearing, copies of which are attached.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1257.

(2) An overview and brief summary of the issues that are

present for review: This is a case about the right of plaintiffs-appellants to oral argument, before the district court and later, before the court of appeals. Both courts refused timely, reasoned requests for oral argument. The court of appeals initially granted 10 minutes but later withdrew the grant, shortly before the scheduled argument in Seattle.

The district court determined there is federal question jurisdiction. The district court granted the defendants’ motion to dismiss without hearing argument, entered judgment for KTC, and later imposed a large monetary sanction against the plaintiffs’ attorney—but no oral argument.

The plaintiffs (*here*: petitioners) appealed to the Ninth Circuit, which affirmed the district court in an unpublished opinion. The court of appeals later denied rehearing. Neither court would hear oral argument.

FRED W. TRIEM
Attorney at Law
Box 129
Petersburg, Alaska
99833-0129

(907) 772-3911
triemlaw@alaska.net

The appellants now wish to petition for certiorari, and submit this application to request an enlargement of time for filing their petition.

Unlike the other courts of appeals, the Ninth Circuit hears oral argument only sparingly: on the day this case was decided, the panel heard argument on only one of the five cases before it for review.

The Ninth Circuit is stingy in its appellate decision making. Other circuits routinely hear argument, even if only for 10 or 15 minutes. But in the Ninth Circuit, the time frequently allowed for argument is *ZERO*. Oral argument is a party's *Day in Court*. The Ninth Circuit's policy routinely to deny oral argument violates the First and Fifth Amendments.

(3) Grounds for seeking an enlargement of time:

Petitioners respectfully request an extension of time for two reasons:

◆ *First*, because the undersigned counsel is a solo practitioner in Petersburg, Alaska, an isolated little town without a law library or other facilities. My office and home are located in a fishing village on Mitkof Island, a small island in Southeast Alaska. The nearest law library is situated in Juneau, which is more than 100 miles away. There is no road link to Juneau; travel by ferry on the Alaska Marine Highway requires a nine hour trip (or longer if via Sitka). To prepare a certiorari petition, I need to spend a lot of time in a law library. For example, to consult treatises about Supreme Court practice, about certiorari procedures, and similar topics about appellate advocacy. *Please see* information about my hometown of Petersburg, Alaska, which can be found at *petersburg.org*.

FRED W. TRIEM
Attorney at Law
Box 129
Petersburg, Alaska
99833-0129

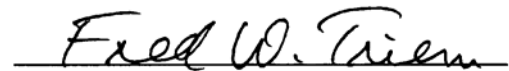
(907) 772-3911
triemlaw@alaska.net

◆ *Second*, I seek the advice of experienced Supreme Court counsel in the hopes of obtaining assistance to refine the issues for clear and effective presentation to This Court. Because of my distance from any law school and from Washington, D.C. (the obvious location of many experienced Supreme Court advocates) the process of obtaining such assistance and counsel cannot be done quickly — especially so because I am a solo practitioner who resides in a distant, remote area with no law school or legal learning center in this entire state.

(4) Conclusion — Requesting a modest extension of time, without prejudice to the respondent: If an extension of time is granted, there will be no prejudice to KTC, the respondent, because the corporation has not changed any corporate practice, procedure, or policy as a result of this litigation, and therefore it will not be affected by a delay in This Court’s review, such as that being requested herein.

Wherefore, petitioners respectfully request that an order be entered extending their time to petition for certiorari to and including 17 June 2024, or until such time as the Court deems appropriate.

Respectfully submitted,



Fred W. Triem
Alaska Bar, U.S. Supreme Court Bar
Box 129
Petersburg, Alaska 99833-0129
(907) 772-3911 or (907) 586-5050
triemlaw@alaska.net
Counsel for Petitioners

FRED W. TRIEM
Attorney at Law
Box 129
Petersburg, Alaska
99833-0129

(907) 772-3911
triemlaw@alaska.net


6 April 2024

CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April 2024 I mailed a copy of the foregoing application for extension to:

Herbert H. Ray, Jr. Esq. and Andrew P. March, Esq.
SCHWABE, WILLIAMSON & WYATT, P.C.
420 L Street, Suite 400
Anchorage, AK 99501-1971

counsel for Kake Tribal Corp. [KTC], et al., the respondents herein.



Fred W. Triem

FRED W. TRIEM

Attorney at Law
Box 129
Petersburg, Alaska
99833-0129

(907) 772-3911
triemlaw@alaska.net