

In the Supreme Court of the United States

IRON BAR HOLDINGS, LLC,
Applicant,

v.

BRADLEY H. CAPE, ET AL.

**APPLICATION FOR AN EXTENSION OF TIME TO FILE
A PETITION FOR A WRIT OF CERTIORARI**

To the Honorable Neil M. Gorsuch, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Tenth Circuit:

1. Pursuant to Supreme Court Rule 13.5, Applicant Iron Bar Holdings, LLC respectfully requests a 30-day extension of time, to and including July 16, 2025, within which to file a petition for a writ of certiorari. The U.S. Court of Appeals for the Tenth Circuit issued an opinion on March 18, 2025. A copy of that opinion is attached as Exhibit A. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on June 16, 2025. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

3. This case seeks review of one of the broadest abrogations of private property rights in American history. In the 1820s, Congress devised a peculiar land-grant scheme

that resulted in much of the American West being divided into millions of alternating squares of public and private land in a checkerboard pattern. For over half a century, the law appeared settled that moving diagonally from the corner of one public parcel in the checkerboard to another—known as “corner crossing”—constituted an unlawful trespass through the private landowner’s property. The decision below unsettled that understanding.

4. Iron Bar owns roughly 22,000 acres of private land on Elk Mountain in Carbon County, Wyoming, in the checkerboard’s heartland. In 2020 and 2021, a group of hunters planned and embarked on hunting trips at Elk Mountain on land accessible only by trespassing over Iron Bar’s property. On both trips, the hunters ignored “no trespassing” signs and corner-crossed at several intersections of public and privately owned land. After the hunters disregarded repeated requests to leave, Iron Bar sued the hunters for civil trespass, seeking a declaratory judgment that corner crossing was unlawful and an order restraining the defendants from future trespasses.

5. The district court granted summary judgment to the hunters, concluding that the private landowner’s property rights must cede to the public’s right to access public land. The Tenth Circuit affirmed, though on different grounds. While the Tenth Circuit agreed with Iron Bar that the hunters had trespassed under Wyoming law, the court held that an 1885 federal statute governing physical enclosures like fences—the Unlawful Inclosures Act—preempted Wyoming law and precluded Iron Bar from exercising its right to exclude. The court explained that, even though Iron Bar had erected no fences, Iron Bar’s lawful trespass action to enforce its property right constituted a “nuisance” that Congress had

implicitly preempted in the Unlawful Inclosures Act. The panel relied on Circuit precedent to distinguish this Court’s holding in *Leo Sheep Co. v. United States*, 440 U.S. 668 (1979), that the United States (and, by extension, the public as its licensees) had no implied rights of way across private land in the checkerboard. In so doing, however, Judge Tymkovich invited this Court to “reconsider the scope of *Leo Sheep* as it applies to this case.” Slip op. at 49.

6. This case raises exceptionally important issues at the intersection of private property rights and public access that warrant this Court’s review. Principally, this case addresses the scope of a landowner’s right to exclude—here, whether a private landowner’s lawful trespass action to exclude a corner crosser from his property is preempted implicitly by the federal Unlawful Inclosures Act. The Tenth Circuit’s decision has vast reach, covering a huge portion of the roughly 300 million acres of checkerboard land and affecting landowners throughout the American West.

7. This case presents an ideal vehicle to clarify the scope of the Unlawful Inclosures Act and its restrictions, if any, on a landowner’s right to exclude trespassers. The Tenth Circuit’s decision upended decades of accepted understanding—shared by federal and state officials—that corner-crossing is unlawful, and the opinion below has caused confusion about the limits of its holding. This area of confusion and disagreement must be resolved to provide clarity to landowners and hunters alike.

8. Applicant respectfully requests an extension of time to file a petition for a writ of certiorari. A 30-day extension would allow counsel sufficient time to fully prepare the petition for filing. Additionally, the undersigned counsel has a number of other pending

matters that will interfere with counsel's ability to file the petition on or before June 16, 2025.

Wherefore, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including July 16, 2025.

Dated: May 21, 2025

Respectfully submitted,



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Iron Bar Holdings, LLC

CORPORATE DISCLOSURE STATEMENT

Iron Bar Holdings, LLC is a single-member LLC, of which Fred Eshelman personally is the sole member and manager. It is not a publicly held corporation, and no publicly held corporation has any interest in it.

Dated: May 21, 2025



Robert Reeves Anderson

*Counsel for Applicant
Iron Bar Holdings, LLC*