

No. _____

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

SERAFIM GEORGIOS KATERGARIS,

Applicant,

v.

CITY OF NEW YORK,

Respondent.

**Application for an Extension of Time to File Petition for a Writ of
Certiorari to the United States Court of Appeals for the Second Circuit**

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To the Honorable Sonia Sotomayor, as Circuit Justice for the United States Court of Appeals for the Second Circuit:

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicant Serafim Katergaris respectfully requests that this Court extend the time to file his petition for a writ of certiorari by **30 days**, up to and including **Wednesday, August 13, 2025**. The Court of Appeals issued its opinion on April 15, 2025. *See* Appendix A. Absent an extension of time, the petition would be due on July 14, 2025. This application is being filed more than ten days before the petition is due. The jurisdiction of this Court would be based on 28 U.S.C. § 1254(1).

Background

This case presents the important question of when the government can trigger the presumption of receipt that arises under the federal common law mailbox rule and what evidence a litigant may use to rebut that presumption. A party triggers the mailbox rule when he or she produces testimony by someone with personal knowledge of the established office procedure of the entity that mailed the notice. That leads to a rebuttable presumption of fact that the mailing was successfully delivered. However, the circuits disagree as to what evidence of non-receipt suffices to rebut that presumption. In the Second Circuit, a sworn denial of non-receipt is per se insufficient to defeat the presumption and raise a triable question of fact. This conflicts with federal courts in the First, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, and Tenth Circuits—all of which agree that a sworn statement of non-receipt raises a triable question of fact.

Applicant Serafim Katergaris seeks to challenge New York City's system of unreviewable fines that its Department of Buildings imposes on property owners for supposed failures to file an annual inspection report regarding the property's boiler. The City issued Mr. Katergaris a notice of violation and accompanying \$1,000 fine for failing to file a boiler report for the 2013 calendar year. Mr. Katergaris did not

purchase the property until November 2014, and it never had a boiler the entire time that he owned it because the previous owner had removed it. The City asserts that the notice of violation was mailed in March 2015, but Mr. Katergaris testified that he never received it. He only learned of the violation and fine when he attempted to sell the property in 2021. He filed suit to challenge the constitutionality of the system the next year.

The courts below determined that the mailbox rule meant that Mr. Katergaris's complaint was untimely. To arrive at this conclusion, the district court credited the City's assertions that a third-party vendor's third-party vendor purportedly mailed the notice without the testimony of anyone with personal knowledge of either the mailing itself or the mailing policies of the vendor that did the mailing. Mr. Katergaris denied receipt in a declaration executed pursuant to 28 U.S.C. § 1746. This denial would raise a triable question of fact in nine other Circuits. Yet it is insufficient in the Second Circuit, which relies on New York state law to govern the issue, and does so in way that conflicts with Federal Rule of Evidence 301. The Second Circuit affirmed the district court's decision and, in doing so, reaffirmed its outlier status among the federal courts.

Reasons Why an Extension of Time Is Warranted

Good cause exists for an extension of time to prepare a petition for a writ of certiorari in this case because counsel have conflicting obligations during the relevant time period:

- *Davis v. City of Chicago*, No. 25-1910 (7th Cir.) (opening brief due July 7, 2025);
- *Brown v. Transportation Security Administration*, No. 20-cv-00064 (W.D. Pa.) (summary judgment brief due July 2, 2025);
- *Sandersville Railroad Co. v. Robert Donald Garrett, Sr.*, Case Nos. S25A1168 and S25X1169 (Ga. Supreme Court) (cross appeals) (response brief due July 7, 2025, and reply brief due July 17).

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court extend the time to file a Petition for a Writ of Certiorari in this matter by 30 days, up to and including August 13, 2025.

June 23, 2025.

Respectfully submitted,



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