

In the Supreme Court of the United States of America

ROSARIO Y. MENDOZA,
INDIVIDUALLY AND ON BEHALF OF THE
ESTATE OF MARCOS A. HOYOS MARTINES,

Petitioner,

v.

RUSH TRUCK CENTERS OF TEXAS, L.P. d/b/a
RUSH ENTERPRISES, INC. a/k/a
RUSH TRUCK CENTER-EL PASO,

Respondent.

On Motion for Leave to File a Petition for a Writ of Certiorari
To the Court of Appeals of Texas, Eighth District

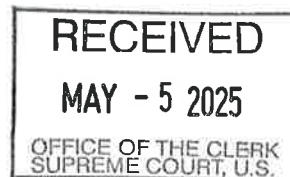
**RESPONSE IN OPPOSITION TO
MOTION TO DIRECT THE CLERK TO FILE
A PETITION FOR A WRIT OF CERTIORARI OUT OF TIME**

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May 1, 2025

Attorneys for Respondent



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CORPORATE DISCLOSURE STATEMENT

Respondent Rush Truck Centers of Texas, LP is owned 100% by Rush Enterprises, Inc. through two wholly owned subsidiaries. No public company owns 10% or more of Respondent or its parent company.

PROCEDURAL BACKGROUND

In this case, the Supreme Court of Texas issued its Order Denying Petition for Review on November 15, 2024. A petition for writ of certiorari in this Court would have been due 90 days later on February 13, 2025.

On February 7, 2025, Petitioner's counsel emailed Respondent's counsel stating that Petitioner was planning to file a petition for writ of certiorari and asked if Respondent had any opposition to such a motion. Petitioner's counsel stated that they would be asking for any extra 30 days from the due date of February 13, 2025. Petitioner's counsel failed to state that he had already missed the deadline for filing a motion to extend time.

On February 10, 2025, Petitioner electronically filed her Unopposed Application for an Extension of time Within Which to File Petition for Writ of Certiorari. Petitioner failed to submit paper copies of the Application to the Clerk.

On March 18, 2025, the Clerk's Office informed Petitioner's counsel via email that the paper filing is the official filing and submitting the filing electronically does

not alter the core requirement of filing in paper form. The Clerk's Office also informed Petitioner's counsel that the application is deemed out-of-time.

On April 14, 2025, Petitioner filed her Application for Leave to File Out-of-Time Petition for Writ of Certiorari.

On April 21, 2025, Respondent's counsel received two different Motions to Direct the Clerk to File Petition for Writ of Certiorari Out of time, which purportedly were filed on April 17, 2025.

ARGUMENT

The April 14, 2025 Application along with the original Application filed in February failed to comply with the Rules of this Court. Likewise, the Motions to Direct the Clerk to File Petition for Writ of Certiorari Out of Time failed to comply with the Rules of this Court. Pursuant to Rule 13.5 and 30.2 of the Rules of the Supreme Court of the United States, the application to extend time must be filed with the Clerk at least 10 days before the date the petition is due, except in the most extraordinary circumstances.

In this case, the Petition for Writ of Certiorari was due on February 13, 2025, and any application to extend time would have been due on February 3, 2025. In his request to Respondent's counsel, Petitioner's counsel failed to advise that he was requesting leave to file a motion for extension of time that was already passed the deadline to file. Since Petitioner never filed the paper copies of the Application, the application was and is untimely.

Petitioner has failed to establish good cause for the extension. An application to extend the time to file a petition for writ of certiorari is disfavored. Rule 13.6. Lack of knowledge regarding the Rules applicable to filing is not good cause. Additionally, relying on an Order relating to Covid-19 and applicable court procedures at that time is not good cause since the Order had been rescinded by a separate order on July 19, 2021. Applications to extend time filed less than 10 days before the final filing date will not be granted except in the most extraordinary circumstances. Rule 30.2. Petitioner has failed to show any extraordinary circumstances to warrant allowing an extension of time to file her Petition as required by Rule 13.5. and 30.2.

Despite Respondent's initial non-opposition, Respondent failed to timely request an extension, failed to file a motion for leave to file an out-of-time extension until approximately two months after the filing deadline, and failed to file the official paper copies. Any of these reasons, when taken alone or in combination with another show that Respondent's request should be denied. Since the Office of the Clerk has deemed the filing out of time for failing to file the original Application in accordance with the Rules, Respondent is opposed to this new application for leave to file an out-of-time petition and the Motions to Direct the Clerk to File Petition for Writ of Certiorari Out of Time.

Respectfully Submitted,

Date: May 1, 2025

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