

No. 25-_____

In the
Supreme Court of the United States

In the Matter of HOWARD MUSER, Petitioner, For the Appointment of a
Guarding of the Person and Property of J.B., an Incapacitated Person.

ESTATE OF J.B.; A.B.,

Petitioners,

versus

HOWARD MUSER; HARVEY E. CORN; IAN SHAINBROWN, IRA SALZMAN; JAMES S.
KAPLAN, JOSEPH RUOTOLO; KENNETH I. BAROCAS; LEWIS H. FISHLIN; LISA K.
FRIEDMAN; NICOLE HAZARD; *and* MENTAL HYGIENE LEGAL SERVICE,

Respondents.

Application for Extension of Time Within Which to File a
Petition for a Writ of Certiorari to the New York Court of Appeals

APPLICATION TO THE HONORABLE
JUSTICE SONIA SOTOMAYOR AS CIRCUIT JUDGE
FOR THE SECOND CIRCUIT

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APPLICATION FOR EXTENSION OF TIME

Pursuant to Rule 13.5 of the Rules of this Court, Applicants Estate of J.B. and A.B. hereby request a 30-day extension of time from the original deadline within which to file a petition for a writ of certiorari, up to and including Friday, September 12th, 2025.

JUDGMENT FOR WHICH REVIEW IS SOUGHT

The judgment for which review is sought is *In re Howard Muser* (App. Div. No. 2023-05051) and *In re Howard Muser* (App. Div. No. 2024-2318), both reported at 259 N.E.3d 1114 (N.Y., May 15, 2025) (Exh. 1).

JURISDICTION

This Court will have jurisdiction over any timely filed petition for certiorari in this case pursuant to 28 U.S.C. § 1254. Under Rules 13.1, 13.3, and 30.1 of the Rules of this Court, a petition for a writ of certiorari is due to be filed on or before August 13th, 2025. Granting this application would allow Petitioner to file a timely petition on or before September 12th, 2025.

REASONS JUSTIFYING THE EXTENSION

Applicants respectfully request a 30-day extension of time within which to file a petition for a writ of certiorari seeking review of the decision of the New York

Court of Appeals in this case, up to and including September 12th, 2025. This is Applicants' first and only such request.

The underlying case at issue involves Dr. Judith Brook, who was not present for the court proceeding during which she was declared incapacitated, despite her son, Dr. Adam Brook, testifying under oath that she wished to be present and asked that the hearing be postponed in order to attend. After she was declared incapacitated at that proceeding, her court-appointed guardian moved her into a nursing home against her will, and subsequently ignored calls and emails to be sent home or otherwise address the atrocious and hazardous conditions at the nursing home. She ultimately passed 71 days after the guardian was appointed. After her death, the court-appointed guardianship attorneys submitted requests for hundreds of thousands of dollars in fees.

Given the complexity and importance of the legal issues at hand, an extension of time will allow counsel to properly analyze the reasoning for the divergent decisions in various courts and thereby present a thorough and coherent petition.

The extension of time is also necessary for several other reasons. First, Petitioners' counsel are a two-attorney firm, and a significant portion of the work to complete the petition will be completed by Mr. Johnson. On July 29th, 2025, undersigned counsel Mr. Johnson's wife was scheduled to be induced for the birth of his second child on August 4th, 2025, and depending on the length of labor and health of the child and mother, he may not return to his home office for several

days. Relatedly, his home and home office have seen disruptions during the preparation for the birth, and Mr. Johnson will have a substantially increased childcare burden during the extension period.

Moreover, the firm has other pressing client business. Petitioners' counsel are also managing past and upcoming deadlines and other litigation activities in numerous cases, including:

Briefing due before the 5th Circuit in *Nwosu v. 1600 West Loop South, LLC*, No. 25-20079, *Allyn-Feuer v. Doe*, No. 25-40204, *Soto v. City of McAllen*, No. 25-20194, *Powells v. 1600 West Loop South, LLC*, No. 25-20026, and *Martin v. Burgess*, No. 24-20495 on July 30th, August 4th, August 6th, August 8th, 2025, and August 20th, 2025, respectively; motion work due before the 5th Circuit in *Rogers v. Espinoza*, No. 25-40367 on July 31st and August 4th, as well as participation in the 5th Circuit Mediation Program on August 1st in the same case; as well as other time-sensitive litigation documents in several cases in the District Courts, and have been preparing for and participating in various mediations, depositions, and other litigation activities.

CONCLUSION

For the foregoing reasons, Applicant respectfully requests that this Court grant an extension of 30 days from the original deadline, up to and including September 12th, 2025, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

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July 30th, 2025