

No. 25-A \_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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JOHN NAWARA,

*Plaintiff,*

v.

COUNTY OF COOK and THOMAS J. DART, in his official capacity as  
head of the Cook County Sheriff's Office

*Defendants-Petitioners.*

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

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of Cook and Thomas J. Dart,  
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Cook County Sheriff's Office*

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County of Cook and Thomas J. Dart,  
in his official capacity as head of the  
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Statement of Compliance With Supreme Court Rule 29.6

There are no nongovernmental parties to this application, and Defendants-Petitioners therefore make no Rule 29.6 disclosures here.

**TO THE HONORABLE AMY V. CONEY BARRETT, ASSOCIATE JUSTICE  
OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT  
JUSTICE FOR THE SEVENTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, the Defendants-Petitioners (“Defendants”) respectfully request a 30-day extension of time, up to and including September 12, 2025, to file a petition for writ of certiorari to review the decision in *Nawara v. Cnty. of Cook*, 132 F.4th 1031 (7th Cir. 2025) (attached as Exhibit A). The Seventh Circuit denied Defendants’ petition for rehearing in an order entered on May 15, 2025 (attached as Exhibit B). Under Supreme Court Rule 13.3, the time to file a petition began to run on May 15 and will expire on August 13, 2025 unless this application is granted. Defendants intend to petition for a writ of certiorari invoking the jurisdiction of this Court under 28 U.S.C. § 1254(1) and respectfully request a 30-day extension of the deadline for good cause shown. This application is timely because it is being filed more than ten days prior to the petition deadline.

In support of the application, Defendants state as follows:

1. This case presents a substantial and important question of federal law: Whether employers may be deemed liable for “discrimination” under 42 U.S.C. § 12112(d) of the Americans with Disabilities Act (“ADA”) for making medical inquiries of employees who are not disabled or perceived as disabled. In the case below, recognizing its importance, the Seventh Circuit allowed intervention by the United States as an amicus on behalf of Plaintiff-Respondent Nawara (“Plaintiff”). As United States counsel wrote at the time: “This case presents an important question regarding the availability of back pay for violations of [the ADA’s] prohibition against subjecting

incumbent employees to unjustified medical exams or disability-related inquiries, 42 U.S.C. § 12112(d)(4), committed against employees without disabilities.” United States 7th Cir. Amicus Brief (attached as Exhibit C).

2. The Seventh Circuit sided with the United States and with Plaintiff, reversing a trial court ruling on which Defendants had prevailed below: *Nawara v. Cnty. of Cook*, 570 F. Supp. 3d 594 (N.D. Ill. 2021) (attached as Exhibit D). The Seventh Circuit opinion cited and quoted *Bates v. Dura Auto. Sys., Inc.*, 767 F.3d 566, 575-577 (6th Cir. 2014), a Sixth Circuit opinion that the United States argued should be followed as persuasive authority. See 132 F.4th at 1038 (citing *Bates*).

3. Defendants respectfully submit that the *Nawara* opinion has widened a circuit split about the meaning of “discrimination” under § 12112(d) of the ADA. The Sixth Circuit and Seventh Circuits stand on one side of the split and allow employees without actual or perceived disabilities to recover for “discrimination” under § 12112(d). On the other side of the split are the Second, Third, Fifth and Tenth Circuits, which apply an approach more consistent with the common meaning of the word “discrimination.” Compare *Nawara* and *Bates* with *Kosiba v. Cath. Health Sys. of Long Island, Inc.*, Case No. 23-6, 2024 WL 3024652, at \* 3 n.1 (2d Cir. Jun. 17, 2024); *Tice v. Ctr. Area Transp. Auth.*, 247 F.3d 506, 514-16 (3d Cir. 2001); *Armstrong v. Turner Indus., Inc.*, 141 F.3d 554, 561 (5th Cir. 1998); and *Griffin v Steeltek, Inc.*, 261 F.3d 1026, 1028 (10th Cir. 2001) (“*Griffin II*”). Indeed, the district court’s now-reversed opinion below applied Fifth and Tenth Circuit case law that it found

persuasive. *See Nawara*, 570 F. Supp. 3d at 599-600 (following *Armstrong* and *Griffin II*), *rev'd by* 132 F.4th at 1031.

4. Defendants respectfully submit that the Second, Third, Fifth and Tenth Circuits, as well as the district court's now-overturned ruling and judgment below, are the better interpretative approach to the ADA. Defendants intend to petition this Court for certiorari on that basis. The petition is a substantial undertaking that will require extensive coordination among the two Petitioners and their counsel. That process will be facilitated by a 30-day extension.

5. In addition, the anticipated lead authors of the petition are Stephanie Scharf and George Sax of Scharf Banks Marmor LLC, who are counsel in more than 40 other active litigation matters in state and federal court in Illinois. In light of these lawyers' pressing deadlines in other matters, as well as anticipated travel to Canada for the American Bar Association's annual meeting in early August, a 30-day extension of the certiorari deadline is needed and requested to accommodate their schedules.

6. This application to extend the certiorari petition deadline by 30 days is not intended to and will not create undue delay. Defendants have not sought the full 60-day extension available to them under the Rules, and a 30-day extension should not unfairly prejudice the Plaintiff or the intervening amicus United States.

7. Accordingly, the petitioners respectfully request that an order be entered extending the time to file a petition for a writ of certiorari for a 30-day period up to and including September 12, 2025.

Dated: July 18, 2025

Respectfully Submitted,

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