

App. No. \_\_\_\_\_

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In the  
Supreme Court of the United States

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James Owens, et al., *Petitioners*,

v.

Republic of Sudan, Ministry of External Affairs and  
Ministry of the Interior of the Republic of Sudan,  
*Respondents*.

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APPLICATION TO EXTEND TIME TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE  
DISTRICT OF COLUMBIA CIRCUIT

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*Counsel for Petitioners* James Owens, et al.,  
*Petitioners*

December 22, 2017

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To the Honorable John G. Roberts, Jr., Chief Justice of the United States and Circuit Justice for  
the District of Columbia Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30.3, Petitioners, the Plaintiffs in the  
United States District Court for the District of Columbia who are the victims and family  
members of victims of the August 1998 bombings of the U.S. Embassies in Kenya and Tanzania  
(collectively “James Owens et al.”) respectfully request that the time within which James Owens  
et al. may file a Petition for a Writ of Certiorari in this matter be extended 57 days, until Friday,  
March 2, 2018.

The United States Court of Appeals for the District of Columbia Circuit issued its  
decision on July 28, 2017 (attached as Exhibit A). The Court of Appeals denied James Owens et

al.'s petition for rehearing *en banc* on October 3, 2017 (order attached as Exhibit B). Absent an extension of time, the Petition for a Writ of Certiorari would be due on January 2, 2018 (because the 90-day period for filing a Petition ends on January 1, a federal holiday, the Petition would be due the following day). Petitioners are filing this Application at least ten days before that date (see Sup. Ct. R. 13.5). The jurisdiction of this Court will be invoked under 28 U.S.C. § 1254(1).

### **BACKGROUND**

On July 28, 2017 the United States Court of Appeals for the District of Columbia Circuit upheld multi-billion-dollar judgments on most grounds issued against the Republic of Sudan, Ministry of External Affairs and Ministry of the Interior of the Republic of Sudan (“Sudan”) in seven consolidated actions for claims of material support of terrorism arising under 28 U.S.C. § 1605A, the terrorism exception to sovereign immunity under the Foreign Sovereign Immunities Act of 1976, as amended (“FSIA”). Sudan had timely appealed the judgments and moved to vacate the judgments in the district court. The district court denied vacatur and Sudan appealed. The Court of Appeals consolidated Sudan’s appeal of its vacatur motions with Sudan’s direct appeal of the default judgments.

Petitioners and Plaintiffs in the consolidated actions are the victims and family members of victims of the August 1998 bombings of the U.S. Embassies in Kenya and Tanzania, which were materially supported by Sudan and the Islamic Republic of Iran.

While the Court of Appeals overwhelmingly upheld the judgments, it also vacated the award of punitive damages to the victims in this case, which conflicts with the U.S. Supreme Court’s decision and clear direction in *Republic of Austria v. Altmann*, 541 U.S. 677 (2004) that the Foreign Sovereign Immunities Act (“FSIA”) applies retroactively.

The Court of Appeals also certified a question of District of Columbia law to the District of Columbia Court of Appeals, which remains pending.

### **REASONS JUSTIFYING AN EXTENSION OF TIME**

In support of its application for an extension of time to file its Petition, James Owens et al. states as follows:

1. The decision of the Court of Appeals conflicts with this Court's controlling precedent, in addition to decisions from other Circuit Courts. Consideration by the Court is necessary to secure and maintain uniformity of the Court's decisions and to address the questions of "exceptional importance" raised in this proceeding which concerns Sudan's well-established responsibility for the August 7, 1998 bombings of the United States Embassies in Nairobi, Kenya and Dar-es-Salaam, Tanzania and premeditated murder and injury of more than 200 U.S. Government employees and more than 4,500 persons in total.

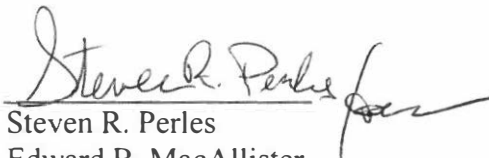
2. Counsel is seeking assistance from counsel well-experienced in Supreme Court practice. There are several consolidated cases, the first of which was filed in 2001. The issues are of international importance and the record is lengthy and complex, new counsel needs additional time to properly assess the case and give advice.

3. Counsel is extremely busy with different ongoing matters and the holiday season has made coordinating with potential new counsel more difficult.

4. Counsel for Sudan consented today to an extension for Petitioners. An extension of time to file the Petition will not prejudice any of the parties because, regardless of whether the extension is granted, the case would not be heard until the next Term.

### CONCLUSION

For the foregoing reasons, James Owens et al. respectfully requests that this Court grant it a 57-day extension of time, to and including March 2, 2018, within which to file its Petition for a Writ of Certiorari.



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