

No. 20-\_\_\_\_\_

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

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JUDITH KERNS; MARCIA NALLEY; AND SANDRA STEWART;  
ON BEHALF OF THE CLASS,  
APPLICANTS/PETITIONERS,  
v.

CATERPILLAR, INC.,  
RESPONDENT.

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

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**APPLICATION TO THE HONORABLE  
JUSTICE SONIA SOTOMAYOR AS CIRCUIT JUSTICE**

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February 20, 2020

## **Second Application for Extension of Time**

Pursuant to Rule 13.5 of the Rules of this Court, Applicants/Class Representatives/Plaintiffs Judith Kerns, Marcia Nalley and Sandra Stewart, on behalf of all class members, hereby request a 34-day extension of time within which to file a petition for a writ of certiorari up to and including Tuesday April 21, 2020.

## **Judgment for Which Review is Sought**

The judgment for which review is sought is *Kerns, et al. v. Caterpillar, Inc.*, Sixth Circuit case no. 18-5384 (November 13, 2019) (attached as Exhibit 1). Unless extended, the time to file a petition for a writ of certiorari will expire on March 18, 2020. In accordance with Rule 13.5, this application is being filed more than 10 days in advance of the filing date for the petition. The jurisdiction of this Court will be invoked under 28 U.S.C. §1254(1).

## **Reasons Justifying an Extension of Time**

Applicants respectfully request this additional 34-day extension of time and submit that it is supported by good cause. Class counsel has been working diligently on the petition and related tasks, but has had a significant intervening medical surgery arise that requires additional time.

1. On February 20, 2020, this Court granted a first, 36-day extension of time from February 11, 2020 to March 18, 2020.
2. Unknown to class counsel at that time, and arising since then, class counsel must undergo an additional major surgery, inpatient at Beaumont Hospital on February 26, 2020, which will require several weeks off work.
3. This case involves a complex class action of over 554 surviving spouses of Caterpillar UAW retirees in their claims for collectively-bargained, vested, lifetime health care benefits

without premiums under the Labor Management Relations Act, 29 U.S.C. §185, and the Employee Retirement Security Act of 1974, 29 U.S.C. §1132. Class counsel has handled this case since its inception in 2006 and is the one most familiar with the issues and proceedings.

### **Conclusion**

For the foregoing reasons, Applicants respectfully request that this Court grant an extension of an additional 34 days, up to and including April 21, 2020, within which to file a petition for a writ of certiorari in this case.

Respectfully submitted,

McKNIGHT, CANZANO, SMITH  
RADTKE & BRAULT, P.C.

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