

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

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

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OMAN FASTENERS, LLC,

*Petitioner,*

v.

UNITED STATES, ET AL.,

*Respondents.*

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**Application for an Extension of Time  
to File a Petition for a Writ of Certiorari**

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### **Corporate Disclosure Statement**

Applicant Oman Fasteners, LLC is an Omani manufacturer of steel fasteners (primarily nails) that it imports to the United States. Under Supreme Court Rule 29.6, applicant states that Guerrero International LLC is Oman Fasteners' parent company and no other publicly held company owns 10% or more interest in Oman Fasteners.

### **Parties to the Proceeding**

Applicant Petitioner Oman Fasteners, LLC was the plaintiff in the Court of International Trade and the appellee in the court of appeals. Other plaintiffs-appellants in the court of appeals were PrimeSource Building Products, Inc., Huttig Building Products, Inc., and Huttig, Inc.

Respondents, the defendants-appellees in the court of appeals, are the United States; Joseph R. Biden, Jr., President of the United States; United States Customs and Border Protection; Christopher Magnus, Commissioner of U.S. Customs and Border Protection; Department of Commerce; and Gina M. Raimondo, Secretary of Commerce.

### **Related Proceedings**

U.S. Court of International Trade:

*Oman Fasteners, LLC v. United States*, No. 20-00037 (June 10, 2021).

United States Court of Appeals (Fed. Cir.):

*PrimeSource Building Products, Inc. v. United States*, Nos. 2021-2066, 2021-2252 (Feb. 7, 2023).

Supreme Court of the United States

*PrimeSource Building Products, Inc., v. United States*, No. 23-69 (July 25, 2023) (pending petition for writ of certiorari).

To the Honorable John G. Roberts, Chief Justice of the United States and Circuit Justice for the United States Court of Appeals for the Federal Circuit:

1. Under Supreme Court Rule 13.5, Petitioner Oman Fasteners, LLC respectfully applies for a 30-day extension of time, to and including Friday, October 20, 2023, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Federal Circuit issued its opinion in this case on February 7, 2023. A copy of that opinion is attached as Exhibit A. The Federal Circuit denied Petitioner's timely rehearing petition in an order issued on June 22, 2023. A copy of that order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

Absent an extension, Oman Fasteners' petition for a writ of certiorari would be due on September 20, 2023. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

2. The question presented by Oman Fasteners' forthcoming petition concerns the express statutory limits that Congress placed on the President's power to impose tariffs on international trade. In the decision below, the Federal Circuit applied a unique and judicially created deference doctrine to uphold the President's tariffs on steel products even though the President did not comply with the constraints that Congress specifically enacted on the procedure for imposing those tariffs. As relevant here, the President imposed various tariffs on the import of steel and aluminum in 2018. In 2020, the President then issued new tariffs on products made from steel—like nails—without complying with the statutory requirements that Congress established for his delegated authority to impose those tariffs. Despite the President's failure to honor the statute's procedural terms, the Federal Circuit deferred to the President and upheld the 2020 tariffs.

This case is vitally important because the Federal Circuit's atextual deference rule dramatically increases the President powers over foreign commerce—a legislative power that Congress delegated to the President but also expressly limited. Under the Federal Circuit's decision, the President can impose tariffs at any time on the import of any article of

commerce that he previously regulated, or any product made from those articles—or even ban those articles or products completely—all contrary to the Tariff Act’s plain language.

3. Petitioner has good cause for the extension of time requested in this application. Petitioner recently engaged Michael R. Huston as counsel of record to prepare and file the petition for a writ of certiorari. Mr. Huston was not involved in the case at any prior stage. A 30-day extension would enable him to fully examine the case record, research and analyze the issues presented, and prepare the petition for filing.

Additionally, counsel has a number of other pending matters with pressing due dates that would interfere with his ability to file the petition on or before Sept. 20, 2023:

- Mr. Huston is counsel of record for Uber Technologies, Inc. in *Gustavo Mejia v. Linares et al.*, No. 2022-03158, in the New York Supreme Court Appellate Division, First Department. Mr. Huston delivered oral argument for Uber in that appeal on September 7, 2023.

- Mr. Huston is counsel of record for petitioner Hunt Refining Company in *Hunt Refining Company v. EPA*, No. 23-12347, in the United States Court of Appeals for the Eleventh Circuit. He is currently preparing a motion to that court to stay the EPA’s administrative action pending judicial review. Counsel anticipates filing that motion during or before the week of September 11, 2023.

- Relatedly, Mr. Huston is counsel of record for petitioners Calumet Shreveport Refining, LLC and The San Antonio Refinery, LLC in *San Antonio Refinery v. EPA*, No. 23-60399, in the United States Court of Appeals for the Fifth Circuit. He is similarly preparing a motion to that court to stay the EPA’s administrative action pending judicial review. Counsel anticipates filing that motion during or before the week of September 11, 2023.

- Also related, Mr. Huston is counsel of record for petitioners Calumet Montana Refining, LLC in *Calumet Montana Refining v. EPA*, No. 23-1194, in the United States Court of Appeals for the District of Columbia Circuit. He is currently preparing a motion to that court to stay the EPA’s administrative action pending judicial review. Counsel anticipates filing that motion during or before the week of September 11, 2023.

- Mr. Huston is counsel of record for The Boeing Company in *Laura Smith v. The Boeing Company, et al.*, Nos. 23-2358 and 23-2359, in the United States Court of Appeals for the Seventh Circuit. Mr. Huston is currently preparing Boeing's response brief in that case, which is due on September 20, 2023.

- Mr. Huston is counsel to Uber in *Christine White v. Lamarion Wright et al.*, No. 2022-L-010746, in the Illinois Appellate Court, First District. Mr. Huston is currently preparing Uber's appellate brief, which is due no later than September 21, 2023.

- Mr. Huston is counsel of record for multiple petitioners in *Calumet Shreveport v. EPA*, No. 22-60266 in the United States Court of Appeals for the Fifth Circuit. He is preparing to deliver oral argument in that consolidated action on behalf of several petitioners on October 2, 2023.

- Mr. Huston is counsel to The Boeing Company in *AAA Max 1 Limited et al. v. The Boeing Company, et al.*, No. 23-cv-01356, in the United States District Court for the Western District of Washington. Mr. Huston is currently preparing Boeing's motion to dismiss for failure to state a claim for relief, which is due on October 2, 2023.

For these reasons, petitioner respectfully requests that this Court extend the time to file a petition for a writ of certiorari to and including Friday, Oct. 20, 2023.

September 8, 2023

Respectfully Submitted,

*s/ Michael R. Huston*

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