

No. _____

IN THE
Supreme Court of the United States

MACHELLE JOSEPH,

Applicant,

v.

BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA,
GEORGIA TECH ATHLETIC ASSOCIATION,

Respondents.

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

LISA J. BANKS
CAROLYN WHEELER
COLLEEN E. COVENEY
KATZ BANKS & KUMIN LLP
11 Dupont Circle NW
Suite 600
Washington, DC 20036
(202) 299-1140

GREGORY J. DUBINSKY
Counsel of Record
BRIAN T. GOLDMAN
HOLWELL SHUSTER
& GOLDBERG LLP
425 Lexington Avenue
New York, NY 10017
(646) 837-5120
gdubinsky@hsgllp.com

Counsel for Applicant

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

To: Honorable Associate Justice Clarence Thomas, Circuit Justice for
the United States Court of Appeals for the Eleventh Circuit:

Under this Court’s Rules 13.5 and 22, Applicant MaChelle Joseph (“Applicant”) respectfully requests an extension of forty-five (45) days to file a petition for a writ of certiorari. The petition will seek review of the decision of the Eleventh Circuit in *Joseph v. Board of Regents*, 121 F.4th 855 (11th Cir. 2024), a copy of which is attached to this application. In support of this application, Applicant states the following:

1. The Eleventh Circuit issued a published opinion on November 7, 2024, in which it held that Title IX does not provide an implied right of action for sex discrimination in employment. *Id.* at 864. The Eleventh Circuit acknowledged that Title IX provides implied rights of action for students who complain of sex discrimination, and for employees who complain of retaliation for a complaint about discrimination against students. *Id.* at 866 (citing *Cannon v. Univ. of Chicago*, 441 U.S. 677 (1979); *Jackson v. Birmingham Bd. of Educ.*, 544 U.S. 167 (2005)). It also acknowledged that its “sister circuits ... have allowed claims of sex discrimination in employment under Title IX to proceed.” *Id.* at 867. Nevertheless, the Eleventh Circuit split with its sister circuits and found that because Title IX’s intent to protect employees from sex discrimination was “less obvious” than its intent to protect students from the same, the implied right of

action did not extend to employees complaining of sex discrimination. *Id.* at 865, 868; compare *Doe v. Mercy Cath. Med. Ctr.*, 850 F.3d 545, 560 (3d Cir. 2017); *Vengalattore v. Cornell Univ.*, 36 F.4th 87, 106 (2d Cir. 2022); *Hiatt v. Colo. Seminary*, 858 F.3d 1307, 1316–17 (10th Cir. 2017); *Campbell v. Haw. Dep't of Educ.*, 892 F.3d 1005, 1023 (9th Cir. 2018).

2. On April 8, 2025, the Eleventh Circuit issued a decision denying rehearing *en banc*. See *Joseph v. Board of Regents*, 2025 WL 1039699 (11th Cir. 2025). Judge Rosenbaum, joined by three judges, dissented from the denial of rehearing *en banc*, emphasizing that the panel opinion “fail[ed] to comply with controlling Supreme Court precedent” and noting that “in the two decades since *Jackson*, every one of our sister circuits that has considered whether a teacher may sue under Title IX has found they may—the opposite conclusion of our Court.” 2025 WL 1039699 at *3–4.

3. Without an extension, the petition for a writ of certiorari will be due July 7, 2025. With the requested extension of forty-five (45) days, the petition would be due on August 21, 2025. Consistent with Rule 13.5, the instant application is filed more than ten (10) days before the petition for certiorari is currently due. This Court’s jurisdiction will be based on 28 U.S.C. § 1254(1).

4. Applicant has recently retained the undersigned to act as counsel of record in the Supreme Court. The requested extension is needed to permit the undersigned counsel to fully investigate the complex legal issues involved in the

case, and to prepare a petition for certiorari crystalizing and addressing those issues worthy of the Court's consideration.

5. In addition, because the undersigned have multiple professional engagements between now and July 7, 2025 (including briefing on another petition for certiorari in this Court, a trial scheduled to commence on June 23 in Delaware state court, preparation for a major antitrust trial later in 2025, and multiple depositions), a short extension is sought, and no further extension is anticipated to be required.

6. This application should be granted, and the deadline for Applicant to file her petition for a writ of certiorari should be extended to August 21, 2025.

7. Applicant notified counsel for Respondents of its intent to file this motion, and counsel for Respondents stated that it does not oppose the Motion.

Respectfully submitted,

s/ Gregory J. Dubinsky
Gregory J. Dubinsky
Counsel of Record
Brian T. Goldman
HOLWELL SHUSTER
& GOLDBERG LLP
425 Lexington Avenue
New York, NY 10017
(646) 837-5120
gdubinsky@hsgllp.com

Lisa J. Banks
Carolyn Wheeler
Colleen E. Coveney
Katz Banks Kumin
11 Dupont Circle NW
Suite 600
Washington, DC 20036
(202) 299-1140

Dated: May 5, 2025