No. _____

In the Supreme Court of the United States

PHARMACEUTICAL RESEARCH AND MANUFACTURERS OF AMERICA,

Applicant,

v.

ANDREW STOLFI, IN HIS OFFICIAL CAPACITY AS DIRECTOR OF THE OREGON DEPARTMENT OF CONSUMER AND BUSINESS SERVICES.

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

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

1. Pursuant to Supreme Court Rule 13.5 and 28 U.S.C. § 2101(c), Applicant Pharmaceutical Research and Manufacturers of America (PhRMA) respectfully requests a 30-day extension of time, to and including February 20, 2026, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Ninth Circuit issued an opinion on August 26, 2025. A copy of the opinion is attached as Exhibit A. On October 23, 2025, the court of appeals denied PhRMA's timely petition for rehearing and rehearing en banc. A copy of that order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

2. Absent an extension, a petition for a writ of certiorari would be due on January 21, 2026. This application is being filed more than ten days before that date, and no prior application has been made in this case.

3. This case involves a constitutional challenge to Oregon's House Bill 4005, known as HB 4005). Oregon's law requires pharmaceutical manufacturers (and only those manufacturers) to create narrative justifications to defend the prices they have chosen for their products and to disclose certain confidential information about their products, including trade secrets. A state agency then must publish the narrative and reported information on its website—destroying the value of the trade secrets—if the agency deems publication to be in "[t]he public interest." ORS § 646A.689(2), (10)(a)(B).

4. PhRMA is a trade association whose members develop cutting-edge medicines depended upon by patients nationwide. PhRMA brought this suit challenging HB 4005 as unconstitutional under both the First Amendment and the Takings Clause of the Fifth Amendment. The district court granted partial summary judgment for PhRMA, holding that HB 4005's reporting requirement fails First Amendment scrutiny and its public-interest exception works an unlawful taking.

5. But a divided panel of the Ninth Circuit reversed, upholding HB 4005 against both claims. Judge Bea dissented as to the First Amendment.

6. On PhRMA's First Amendment claim, over Judge Bea's dissent, the court of appeals held that HB 4005 was subject to intermediate scrutiny—rather than strict scrutiny—because it was a "government reporting requirement[]" requiring the disclosure of "product-specific" information. Ex. A at 40-41. The court further held that an asserted

governmental interest in correcting "information asymmetries" was sufficient to sustain the law under intermediate scrutiny. *Id.* at 51.

7. On the Takings Clause claim, the court of appeals recognized that trade secrets are protected property and that public disclosure of a trade secret extinguishes that property right. But it held that drug manufacturers necessarily lack "reasonable investment-backed expectations" in the continued secrecy of their information—and thus can claim no protection under the Takings Clause—because they "choose" to operate in what the court characterized as a "highly regulated" industry. *Id.* at 70.

8. Both the First Amendment and Takings Clause holdings conflict with decisions of this Court and other courts of appeals, and they present questions of immense constitutional significance. This Court has made clear that compelled speech is presumptively subject to strict First Amendment scrutiny, and it has allowed reduced scrutiny only for narrow categories of "commercial speech"—which even the court below recognized were an "inapt" fit with Oregon's law. *Id.* at 34. Under the unduly lenient First Amendment framework adopted below, there will be "no end to the information that states could require manufacturers to disclose." *Am. Meat Inst.* v. *U.S. Dep't of Agric.*, 760 F.3d 18, 31-32 (D.C. Cir. 2014) (Kavanaugh J., concurring) (quoting *Int'l Dairy Foods Assoc.* v. *Amestoy*, 92 F.3d 67, 69 (2d Cir. 1996)).

9. Likewise, the Ninth Circuit's "highly regulated industry" exception to Takings Clause protection is irreconcilable with this Court's holdings that the government may not condition participation in commerce on the surrender of constitutional rights. See *Horne* v. *Dep't of Agriculture*, 576 U.S. 350, 366 (2015). And the exception has no logical

limit, threatening the end of takings protections for all kinds of businesses (not just drug companies) and for all kinds of property (not just trade secrets).

10. PhRMA respectfully requests an extension of time to file a petition for a writ of certiorari. A 30-day extension would allow counsel sufficient time to fully examine the decision's consequences, research and analyze the issues presented, and prepare the petition for filing. Additionally, the undersigned counsel has numerous other pending matters that would interfere with counsel's ability to file the petition on or before January 21, 2026.

11. *Wherefore*, PhRMA respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari to and including February 20, 2026.

Dated: January 8, 2026

Respectfully Submitted,

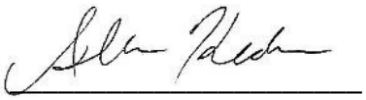
Allon Kedem
Counsel of Record
ARNOLD & PORTER KAYE SCHOLER LLP
601 Massachusetts Avenue, NW
Washington, DC 20001
(202) 942-5000
allon.kedem@arnoldporter.com

Counsel for Applicant

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant states that it has no parent corporations and no publicly held corporations own 10 percent or more of its stock.

Dated: January 8, 2026



Allon Kedem

Counsel for Applicant