App No. ____

In The
Supreme Court of the United States

GOPHER MEDIA LLC, *et al.*,

Petitioners,

v.

ANDREW MELONE, *et al.*,

Respondents.

On Application for an Extension of Time to File Petition for a Writ of Certiorari to the United States Court of Appeals for The Ninth Circuit

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DECEMBER 9, 2025

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Applicant Gopher Media LLC states that it has no parent corporation and that no publicly held company owns 10% or more of Applicant's stock.

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

In accordance with this Court's Rules 13.5, 22, 30.2, and 30.3, Applicants Gopher Media LLC and Ajay Thakore respectfully request that the time to file their petition for a writ of certiorari be extended for 60 days, up to and including Monday, March 9, 2026. The Court of Appeals issued its opinion on October 9, 2025 (Exhibit A). Absent an extension of time, the petition would be due on January 7, 2026. The jurisdiction of this Court is based on 28 U.S.C. 1254(1). Respondents do not oppose a 30-day extension but oppose the requested 60-day extension.

Background

The case presents an important question, which has now divided the circuit courts 3-3, on the application of the collateral order doctrine: Whether an order denying statutory state-law privilege is immediately appealable in federal court where state law defines the privilege as an immunity from trial.

Under 28 U.S.C. § 1291, the courts of appeals "have jurisdiction of appeals from all final decisions of the district courts." This Court has held that certain orders—including orders adjudicating state-conferred rights—are immediately appealable under Section 1291 even though they do not terminate the litigation. *See Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546-47 (1949). Such "collateral orders" include orders denying claims of absolute immunity and qualified immunity.

In the decision below, the en banc panel of the Ninth Circuit Court of Appeals reversed its own decades-old precedent to side with two other circuit courts holding that orders denying statutory state-law privilege of immunity from trial under the so-called anti-SLAPP statutes[1] do not qualify as collateral orders and thus are not immediately appealable. Three other circuit courts disagree. This case thus involves important questions at the intersection of federal appellate jurisdiction and state-created rights that have continued to vex the courts of appeals.

The underlying facts have no bearing on the legal question decided by the en banc Ninth Circuit. By way of background, however, Applicants' invocation of state anti-SLAPP rights arose from a war of words with a local restaurant. After Thakore sued for discrimination, respondents counterclaimed for trade libel and defamation based on online reviews and social media commentary criticizing their practices. Applicants challenged those counterclaims under California's anti-SLAPP law, arguing that the internet reviews and other comments constituted public speech in relation to a public issue, and were therefore entitled to protection and First-Amendment screening under the anti-SLAPP law. After the district court denied the motion, Applicants challenged that denial in an interlocutory appeal to the Ninth Circuit, as permitted under that Court's decades-old precedent in *Batzel v. Smith*, 333 F.3d 1018 (9th Cir.

[1] "SLAPP" suits are strategic lawsuits against public participation that halt public discussion by ""su[ing] [speakers] into silence." George W. Pring, *SLAPPs: Strategic Lawsuits Against Public Participation*, 7 PACE EVT'L L. REV. 3, 3 (1989).

2003).

After hearing oral argument on the anti-SLAPP appeal, a three-judge panel of the Ninth Circuit refrained from issuing a decision and instead directed the parties to file supplemental briefs addressing whether the case should be heard en banc to reconsider, *inter alia*, whether the denial of a motion to strike under California's anti-SLAPP statute is immediately appealable under the collateral order doctrine.

A majority of the non-recused active judges agreed that the case should be heard en banc. On October 9, 2025, the Ninth Circuit issued its en banc decision reversing *Batzel* and rejecting immediate appealability of SLAPP denials.

Reasons For Granting an Extension of Time

This extension is not sought for delay, and no party will be prejudiced if it is granted. Applicants request the extension because the undersigned counsel have been diligently working on several litigation matters with significant briefing and other deadlines throughout November, December, January, and February, including:

- Briefing multiple case-dispositive motions and concluding fact and expert discovery in *Canoo Technologies, Inc. v. Harbinger Motors, Inc.*, C.D. Cal. Case No. 22-cv-09309. Counsel prepared and filed one brief in opposition to a dispositive motion on November 3, 2025, and has two more briefs in opposition to separate dispositive motions due on December 12, 2025, and February 6, 2026. Fact discovery closed on November 14, 2025, and expert discovery closes on January 30, 2026, necessitating the undersigned counsel's assistance with preparation for dozens of depositions and development of highly technical expert discovery;

- An opening brief in the California Court of Appeals for the Second District in *Michelson v. Ayzenberg*, Case No. B347913, due on January 2, 2026;

- An opening brief in the California Court of Appeals for the Second District in *Michelson v. Ayzenberg*, Case No. B349408, due on January 5, 2026;

- An opening brief in the California Court of Appeals for the Fourth District in *Romero v. Gopher Media LLC*, Case No. D086508, due on January 12, 2026; and

- Post-jury verdict motion practice in *MFR7 LLC v. City Chevrolet of San Diego*, San Diego Superior Court Case No. 37-2022-00032013-CU-BC-CTL. Jury verdict rendered on November 6, 2025, and judgment is to be entered shortly, triggering immediate post-judgment briefing.

In addition, counsel have long-planned, family vacations scheduled during the holiday season. Accordingly, additional time will allow counsel to prepare a thorough and helpful petition.

Conclusion

Applicants request that the time to file a writ of certiorari in the above-captioned matter be extended 60 days to and including March 9, 2026.

Dated this 9th day of December, 2025.

Respectfully submitted,

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