

IN THE SUPREME COURT OF THE UNITED STATES

RALPH PETERSON, M.D., Petitioner,

v.

SUTTER MEDICAL FOUNDATION, ET AL., Respondents.
Ninth Cir. Appeal No. 23-2911

**APPLICATION TO THE HONORABLE ELENA KAGAN,
ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE
UNITED STATES, AND CIRCUIT JUSTICE FOR THE NINTH
CIRCUIT, FOR AN EXTENSION OF TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI.**

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Counsel for Petitioner Ralph Peterson, M.D

Petitioner RALPH PETERSON, M.D., by undersigned counsel,
respectfully submits this Motion for Extension of Time to File Petition for

Writ of Certiorari pursuant to Supreme Court Rule 13.5 and 28 U.S.C. § 2101(d). This motion is based upon the accompanying declaration, this memorandum, the order denying petition for rehearing en banc filed November 5, 2025, and the record in this matter.

I. INTRODUCTION

Petitioner seeks a 60-day extension of time within which to file his Petition for Writ of Certiorari, extending the deadline from February 5, 2026 to April 6, 2026. This extension is warranted by extraordinary circumstances arising from counsel's unavoidable professional obligations and the concentration of critical trial deadlines in January and February 2026, creating impossibly competing demands on counsel's time and resources.

II. STATEMENT OF FACTS

A. Current Circumstances in Peterson Case

The Ninth Circuit Court of Appeals denied Petitioner's petition for rehearing and petition for rehearing en banc on November 5, 2025. Petitioner now faces the deadline to file a Petition for Writ of Certiorari with this Court. The standard deadline is ninety (90) days from the date of the Ninth Circuit's order, or such extended time as this Court may authorize.

B. Counsel's Unavoidable Professional Obligations

Counsel respectfully request a 60-day extension of time to file the petition for a writ of certiorari due to extraordinary but good-faith workload constraints and health-related limitations in a very small practice. The Mirch Law Firm consists of only two attorneys, Kevin J. Mirch and Marie C. Mirch, and has no paralegals, law clerks, or other support staff to whom significant drafting or research tasks can be delegated.

These professional obligations are compounded by the structure and health circumstances of counsel's two-lawyer firm. Kevin J. Mirch suffered a stroke years ago that permanently slowed his reading speed and requires him to devote substantially more time than a typical attorney to carefully review case records, appellate opinions, and authorities, particularly in a complex civil-rights and antitrust-type case such as Peterson. Marie C. Mirch is responsible for drafting most substantive briefs, with Mr. Mirch providing analysis and strategic input, but she has ongoing limitations from prior stomach surgery that restrict the number of hours she can sit and work at a stretch, often forcing her into shorter and irregular workdays. Together, these conditions do not prevent counsel from effectively representing their clients, but they do materially reduce the number of hours per week that can be

devoted to concentrated legal writing on top of fixed trial and motion obligations.

Most significantly, counsel is committed to try a civil jury trial in Los Angeles Superior Court, *Ould Rouis v. Regents of the University of California*, Case No. 18STCV07984, beginning February 17, 2026 and running through March 13, 2026—a matter set for approximately 3-4 weeks of trial. This case was filed in 2018, a defense summary judgment was reversed by the California Court of Appeal in 2024, and the case has already been continued twice since remand.

C. Critical January and February 2026 Deadlines

In addition to trial preparation for the Los Angeles jury trial scheduled for mid-February through mid-March, counsel has managed and continues to manage the following critical deadlines in Petitioner's California state court litigation:

1. **January 8, 2026:** Opposition deadline in *Ammerman v. Canyon Heights Condominium Owners Association*, Riverside Superior Court, Case No. CVPS2401868, in response to defendants' Motion for Summary Judgment. This matter involved complex factual disputes requiring detailed separate statement preparation and substantive briefing.

2. **January 7–January 28, 2026:** Deposition schedule and discovery management in the Ammerman and Ould Rouis matters, requiring counsel's direct participation and review time.
3. **February 2026:** Ongoing pre-trial deadlines and trial preparation in the Ould Rouis matter, including significant number of documents to be filed with the court prior to a February 5, 2026 final status conference before trial
4. **February 17–March 13, 2026:** Full-time, in-court jury trial engagement in the Los Angeles matter, during which counsel will be unavailable for substantive legal work on other matters.
5. **Post-Trial** motion work, and closing procedures in the Los Angeles jury trial.

D. Holiday Closures and Health-Related Constraints

During the 90-day period following the Ninth Circuit's November 5, 2025 order denying rehearing and rehearing en banc in this case, counsel's already heavy workload was further compressed by pre-planned family obligations and the intervening holidays, including Thanksgiving, Christmas, New Year's Day, Martin Luther King Jr. Day, and Presidents' Day. As a result, several days that otherwise could have been used for concentrated work on the certiorari petition were unavailable for professional work.

The January-February period encompasses significant federal holidays that reduce available working time:

- New Year's Day (January 1, 2026): Federal holiday
- Martin Luther King, Jr. Day (January 19, 2026): Federal holiday
- Presidents' Day (February 16, 2026): Federal holiday

These holidays compress the already-limited window between the Peterson petition deadline and the competing trial obligations, making it physically impossible to conduct the necessary legal research, analysis, and writing required for a petition of the complexity warranted by this matter.

E. Nature and Complexity of Petitioner's Claims

The underlying Peterson matter concerns not routine employment issues but the property rights of a physician in his hospital privileges and alleges racial discrimination, unfair business practices, monopolistic conduct by a dominant hospital and its preferred medical groups, and the scope of immunity claimed by medical board members and related decisionmakers. Preparing a petition that accurately and efficiently frames these intertwined constitutional, antitrust, and civil-rights questions requires careful review of a substantial record and numerous authorities. The matter warrants thorough briefing to present Petitioner's case effectively to this Court. Counsel cannot adequately prepare this petition while simultaneously:

- Managing active discovery and witness preparation in Ammerman and Ould Rouis
- Preparing opposition briefing due January 8, 2026
- Conducting jury trial in Los Angeles from February 17 through March 13, 2026
- Preparing post-trial motions and final trial procedures

Any attempt to draft a Petition for Writ of Certiorari under such time constraints would necessarily compromise the quality and completeness of Petitioner's submission to this Court.

II. LEGAL STANDARD

A. Supreme Court Rule 13.5

Supreme Court Rule 13.5 provides that an extension of time to file a Petition for Writ of Certiorari may be granted by this Court upon a showing of good cause. The rule recognizes that circumstances may arise warranting relief from the standard ninety-day deadline established in 28 U.S.C. § 2101(d).

B. Applicable Standards for Extension

Extensions for filing certiorari petitions are appropriate when counsel demonstrates:

1. Specific, identifiable conflicts with other court-imposed obligations;

2. Diligence in managing those obligations and seeking relief;
3. Absence of any attempt to delay the merits;
4. Assurance that the extension will not prejudice the opposing party; and
5. The necessity of additional time to provide adequate briefing.

Competing trial and briefing obligations, particularly multi-week jury trials, constitute good cause for extension.

IV. ARGUMENT

A. Good Cause Exists for a 60-Day Extension

Supreme Court Rule 13.5 authorizes a Justice to extend the time to file a petition for a writ of certiorari “for good cause” for up to 60 days, and such applications may be granted where counsel demonstrates specific, unavoidable conflicts and diligence in seeking relief. Counsel respectfully submits that extraordinary circumstances warrant a 60-day extension of time. This extension would move the Petition deadline to April 6, 2026, which falls after the conclusion of the Los Angeles jury trial and provides counsel the necessary time to:

1. Complete trial preparation and final preparation for the February 17–March 13 jury trial in *Ould Rouis v. Regents of the University of California*;

2. Conduct the jury trial through its conclusion on or about March 13, 2026;
3. Complete any necessary post-trial motions, jury instructions, and closing procedures;
4. Allow counsel adequate time to return to substantive legal work on matters not requiring immediate trial attention;
5. Conduct thorough legal research and analysis necessary to draft a petition of the caliber this matter deserves;
6. Prepare a petition brief that fully and fairly presents Petitioner's legal theories without the handicap of competing full-time trial obligations; and
7. Provide this Court with a complete record and thorough analysis.

B. The Unavoidable Nature of Counsel's Trial Commitment

Counsel's jury trial commitment in the Los Angeles matter is not a matter of preference or discretionary choice. Rather, it represents a 2018 case that has already been continued twice after remand and has been firmly set for trial for many months.

Counsel's two-attorney practice means that there is no alternative attorney to assume primary responsibility for the Petitioner matter during the trial period. Unlike large law firms with multiple attorneys, counsel cannot

allocate this work to another lawyer. Accordingly, any serious briefing work must necessarily be deferred until after trial concludes. Moreover, given the age of the case (filed in 2018), the appellate reversal in 2024, and the two prior continuances already granted, it is virtually certain that the state court will not grant any further continuance, making the trial dates effectively immovable.

C. No Prejudice to Respondents

A 60-day extension causes no prejudice to Respondents. The order denying the petition for rehearing en banc was entered on November 5, 2025. Respondents have already fully briefed their opposition to rehearing which would prepare them for potential certiorari review. An extension moving the Petitioner deadline to mid-April 2026 remains well within the contemplation of routine appellate practice.

Moreover, Supreme Court Rule 13.5 contemplates such extensions in circumstances like these. Respondents' interests are not prejudiced by permitting counsel adequate time to prepare a thorough petition.

D. Diligence in Seeking Relief

Counsel has not delayed in seeking this extension. This motion is filed promptly upon the entry of the Ninth Circuit's order denying rehearing en

banc and with full awareness of the approaching deadlines, and unsuccessful attempt to continue the Ammerman matter.


E. No Attempt to Delay the Merits

There is no suggestion of any attempt to delay consideration of the merits of Petitioner's claims or to circumvent this Court's docket management. Rather, counsel seeks only the additional time necessary to provide competent, thorough briefing in light of unavoidable professional obligations. A 60-day extension is reasonable and proportionate to the circumstances presented.

V. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that this Court grant his Motion for Extension of Time to File Petition for Writ of Certiorari for a period of 60 days, moving the deadline from February 5, 2026 to April 6, 2026.

Respectfully submitted January 20, 2026

BY 

Kevin Mirch
Mirch Law Firm, LLP
8895 Towne Centre Dr. #105-551
Counsel for Petitioner

**DECLARATION OF MARIE MIRCH IN SUPPORT OF MOTION
FOR EXTENSION OF TIME**

I, Marie Mirch, declare as follows:

1. I am an attorney duly licensed to practice before all courts of the State of California and before the United States Court of Appeals for the Ninth Circuit. I am counsel of record for Petitioner Ralph Peterson, M.D. in this matter. If called as a witness, I could and would competently testify to the facts set forth herein.
2. I am one of two attorneys at the Mirch Law Firm, LLP. The firm consists solely of myself and my husband, Kevin J. Mirch; we have no associates, paralegals, law clerks, or other support staff, and all substantive drafting, research, discovery, and trial work is performed by the two of us.
3. Kevin J. Mirch suffered a stroke that permanently slowed his reading speed, particularly with dense medical and legal materials, and requires him to devote significantly more time than an average attorney to carefully reviewing records and legal authorities. I draft most of the firm's substantive briefs with Kevin's input, but I have ongoing limitations resulting from prior stomach surgery that restrict

the number of hours I can sit and work on a continuous basis, often necessitating shorter workdays and frequent breaks.

4. I am currently engaged in managing civil litigation in multiple California state courts, with several matters requiring my active attention during the January and February 2026 period.
5. Most significantly, I am committed to try a jury trial in *Ould Rouis v. Regents of the University of California*, Case No. 18STCV07984, Los Angeles Superior Court, scheduled to begin on February 17, 2026 and continuing through approximately March 13, 2026. This is a 3-4 week civil jury trial requiring my full-time presence in the Los Angeles courthouse, my complete attention to trial strategy, witness examination, and jury management, and my preparation of jury instructions, proposed orders, and post-trial motions. This case was filed in 2018, a defense summary judgment was reversed by the California Court of Appeal in 2024, and the case has already been continued twice since remand. Given the age of the case, the appellate reversal, and prior continuances, it is virtually certain that the state court will not grant any further continuance, leaving trial preparation and trial dates effectively immovable.

6. This trial commitment has been set for several months and is not subject to continuance or modification at this stage of the proceedings.
7. Concurrent with trial preparation for the Los Angeles matter, I have been managing the following deadlines in California state court litigation:
 - a. *Ammerman v. Canyon Heights Condominium Owners Association*, Riverside Superior Court, Case No. CVPS2401868: depositions, summary judgment briefing and summary judgment hearing.
 - b. *Ould Rouis v. Regents*, including depositions, pretrial motions, pretrial preparation of witnesses, exhibits, jury instructions, verdict forms, motions in limine and
8. I must prepare for and engage in trial in Los Angeles. This trial will occupy my complete working hours from February 17 through March 13, 2026, and will require additional preparation time beginning in early February.
9. The January-February 2026 period is further constrained by the following federal holidays:
 - New Year's Day (January 1, 2026)
 - Martin Luther King, Jr. Day (January 19, 2026)
 - Presidents' Day (February 16, 2026)

10. These holidays compress the available working time between the state court deadlines and the trial commencement.

11. As a consequence of these concurrent obligations, I will not have meaningful time to conduct the legal research, analysis, and writing necessary to prepare a Petition for Writ of Certiorari of adequate quality until after the Los Angeles jury trial concludes in mid-March 2026.

12. The Peterson matter concerns not routine employment issues but Dr. Peterson's property rights in his hospital privileges and involves claims of racial discrimination, unfair business practices and monopolistic conduct by the hospital and preferred medical practices, as well as immunity issues related to acts of medical board members and similar decisionmakers. Preparing a certiorari petition that adequately presents these complex intertwined constitutional, antitrust, and civil-rights issues requires additional time beyond what has been available within the standard 90-day period, in light of our current caseload and health-related limitations.

13. A 60-day extension of time, moving the Peterson petition deadline to April 6, 2026, would provide counsel adequate time to:

- Complete the Los Angeles jury trial and post-trial motion practice
- Return to substantive legal work on the Peterson matter
- Conduct thorough legal research on the salient issues
- Draft a comprehensive petition that fully presents Petitioner's legal theories
- Prepare any necessary supplemental briefing

14. This extension is necessary to provide Petitioner with competent legal representation and to ensure this Court receives a thorough, well-researched petition.

15. No prejudice would result to Respondents from a 60-day extension. Respondents have already fully briefed their opposition to Petitioner's petition for rehearing and remain prepared for certiorari review. The extended deadline remains well within normal appellate practice.

16. I am filing this motion and declaration promptly upon denial of a continuance of the Ammerman matter after entry of the Ninth Circuit's order denying rehearing en banc and with full awareness of the approaching deadlines and the inability to move the same.

Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on January 20, 2026



Marie Mirch
Attorney for Petitioner
Ralph Peterson

CERTIFICATE OF SERVICE

I, Marie Mirch declare as follows:

I am employed in the County of San Diego, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 8895 Towne Centre Drive #105-551, San Diego, CA 92122.

On January 20, 2026, I served the foregoing MOTION FOR EXTENSION OF TIME TO FILE PETITION FOR WRIT OF CERTIORARI and accompanying DECLARATION by :

By Overnight Mail to the following counsel of record at their addresses on file:

For Respondent Sutter Medical Foundation, et al.:

By Email to:

BARTKO LLP
Michael D. Abraham
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Attorneys for SUTTER BAY MEDICAL FOUNDATION, SUTTER BAY HOSPITALS (d.b.a. Alta Bates Summit Medical Center), NEIL STOLLMAN, ROD PERRY, and PHILIP RICH

By Hand Delivery at

Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed on January 20, 2026 at San Diego, California.



Marie Mirch
CA SBN 200833