

IN THE SUPREME COURT OF THE UNITED STATES

No. ____

RICHARD STUART ROSS

v.

UNITED STATES OF AMERICA

**APPLICATION FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE A
PETITION FOR CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE SECOND CIRCUIT**

TO THE HONORABLE SONIA SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE
UNITED STATES AND CIRCUIT JUSTICE FOR THE SECOND CIRCUIT:

Pursuant to Rules 13.5, 22, and 30.2 of this Court, counsel for Applicant-Petitioner Richard Stuart Ross respectfully requests a 60-day extension of time, to and including July 17, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Second Circuit in this case. The Court of Appeals entered judgment on December 5, 2025, App., *infra*, 1a-45a, and denied a timely petition for rehearing on February 17, 2026, App. 46a. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1) and unless extended, the time for filing a petition for a writ of certiorari will expire on May 18, 2026. This application is therefore timely because it has been filed more than ten days prior to the date on which the time for filing the petition is to expire.

1. This case arises from the Second Circuit's judgement in *United States v. Richard Stuart Ross*, No. 24-1421 (2d Cir. 2025) and presents the question whether a civil forfeiture claimant substantially prevails and is therefore entitled to recover attorney's fees under 28 U.S.C.

§ 2465 when the government voluntarily dismisses a forfeiture action a year into the litigation, thereby returning every single dollar claimed by the claimant.

2. In the proceedings below, Ross argued that by recovering every dollar (\$1,213,113.11) that he asserted was wrongfully seized, he “substantially prevail[ed]” within the meaning of the Civil Asset Forfeiture Act. 28 U.S.C. § 2465(b)(1). In so doing, Ross explained that he did not need the formal judgment that is required for a plaintiff to be considered a prevailing party under this Court’s decision in *Buckhannon Care Home, Inc. v. W. Va. Dep’t of Health and Human Res.*, 532 U.S. 598 (2001). In addition, Ross argued that a contrary decision would contravene two of this Court’s precedents. One reason was this Court’s decision in *Hardt v. Reliance Standard Life Ins. Co.*, 560 U.S. 242 (2010), which explained that “prevailing party” is a term of art that should not be added to a statute from which it is conspicuously absent. *Id.* at 252 (“Because Congress failed to include in § 1132(g)(1) an express ‘prevailing party’ limit on the availability of attorney’s fees, the Court of Appeals’ decision adding that term of art to a fee-shifting statute from which it is conspicuously absent more closely resembles ‘invent[ing] a statute rather than interpret[ing] one.’”). And a second was this Court’s decision under *CRST Van Expedited, Inc. v. E.E.O.C.*, 578 U.S. 419 (2016), which explained that “[p]laintiffs and defendants come to court with different objectives.” *Id.* at 431. As a result, a defendant prevails “whenever the plaintiff’s challenge is rebuffed, irrespective of the precise reason for the court’s decision.” *Id.*; see also *Lackey v. Stinnie*, 604 U.S. 192, 204 n* (2025) (“A different body of caselaw addresses when a *defendant* is a ‘prevailing party’ for the purposes of other fee shifting statutes.”).

As will be presented in his forthcoming petition for a writ of certiorari and supported by a large coalition of Amici, Ross not only substantially, but in fact, completely prevailed against the government by recovering every single dollar that the government had seized from him in which

he asserted an interest. But by allowing the government to take a voluntary dismissal a year into a litigation and then holding that Ross needed a judgment to recover his fees under CAFRA, the Second Circuit completely rewrote CAFRA by adding a “prevailing party” standard that is nowhere in the statute. Worse yet, it struck “shall” from CAFRA’s mandatory fee provision by leaving fees in any future case subject to the discretion of the government and the district court notwithstanding CAFRA’s stated purpose of giving innocent owners “the means to . . . make themselves whole” when they are forced to litigate a forfeiture action. H.R. Rep. No. 106-192, at 11. This case accordingly presents significant legal issues that will affect the rights of property owners in every civil forfeiture action as well as an ideal vehicle to address a question that *Lackey* expressly “left open of whether a defendant must obtain a preclusive judgment in order to prevail.” *Lackey*, 604 U.S. at 204 n*.

3. With this background in mind, counsel for Ross respectfully requests a 60-day extension, to and including July 17, 2026, within which to file a petition for certiorari in this case. Ross’s lead counsel in this case just left government service in March as the first Solicitor General in the history of Pennsylvania. As a result, counsel is currently transitioning back to private practice and has several significant obligations in the weeks leading up to the deadline. And a 60-day extension in this case will merely afford counsel the usual 90 days to prepare a cert petition and coordinate amicus support in a case presenting the significant legal issues implicated by Ross’s forthcoming petition.

4. WHEREFORE, Ross respectfully requests that the time for filing a petition for writ of certiorari in this case be extended by 60 days, to and including July 17, 2026.

Respectfully submitted.



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