IN THE
SUPREME COURT OF THE UNITED STATES

No. 25A1228

DANIEL DEFENSE, LLC; FAB DEFENSE, INC.; FAB MANUFACTURING & IMPORT OF INDUSTRIAL EQUIPMENT LTD.; BRAVO COMPANY USA, INC.; LOYAL 9 MANUFACTURING, LLC; FOSTECH, INC.; HEARING PROTECTION, LLC; CENTURION ARMS, LLC; MAGPUL INDUSTRIES CORP.; FEDERAL CARTRIDGE COMPANY; FIOCCHI OF AMERICA, INC.; SUREFIRE, LLC; TORKMAG, INC.,

Applicants,

v.

KAREN LOWY, individually and as parent and next friend to N.T.; ANTONIO HARRIS,

Respondents.

APPLICATION TO THE HON. CHIEF JUSTICE JOHN G. ROBERTS, JR., FOR A FURTHER EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

Pursuant to Supreme Court Rule 13(5), Daniel Defense, LLC, Fab Defense, Inc., Fab Manufacturing & Import of Industrial Equipment Ltd., Bravo Company USA, Inc., Loyal 9 Manufacturing, LLC, Fostech, Inc., Hearing Protection, LLC, Centurion Arms, LLC, Magpul Industries Corp., Federal Cartridge Company, Fiocchi of America, Inc., Surefire, LLC, and Torkmag, Inc. (together, "Applicants"), hereby move for a second extension of time of 29 days, to and including July 10, 2026, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition will be June 10, 2026.

In support of this request, Applicants state as follows:

1. The United States Court of Appeals for the Fourth Circuit rendered its decision on February 11, 2026 (First App. for Extension, Exhibit A). This Court has jurisdiction under 28 U.S.C. §1254(1).

2. On May 1, 2026, undersigned counsel for Applicants, Erin E. Murphy, applied for an extension of time of 30 days, to and including Jube 10, 2026, for the filing of a petition for a writ of certiorari.

3. On May 11, 2026, the Chief Justice granted that application.

4. In support of the first application for an extension, counsel explained that this case involves a sprawling lawsuit seeking to hold manufacturers of legal and widely owned products responsible for the heinous criminal conduct of an individual whose sole connection with them is that he lawfully purchased their products. On April 22, 2022, Raymond Spencer opened fire from a high-rise-apartment window in the direction of a school in Washington, D.C. Four people were injured, but thankfully no one died (other than Spencer, who took his own life). First App. for Extension, Ex. A, at 4, 8. In the wake of that horrific event, plaintiffs sued more than a dozen manufacturers of legal and widely owned firearms and related products, alleging that they caused the shooter to perpetrate his heinous crime by "deceptively and unfairly" marketing their legal products. Lowy.D.Ct.Dkt.1 ¶7. According to plaintiffs, those marketing practices "are the beginning and pivotal links in a foreseeable and predictable chain of events resulting in many mass shootings in America each year." Lowy.D.Ct.Dkt.1 ¶9.

5. The district court had little trouble recognizing the basic Article III problems with plaintiffs' claims. As that court explained, given that Applicants did not actually cause plaintiffs' injuries, Article III required plaintiffs to show that Applicants' "conduct had a determinative or coercive effect upon the action of" the individual who actually caused them. *Lowy v. Daniel Def., LLC*, 2024 WL 3521508, at *2 (E.D. Va. July 24, 2024), *rev'd in part*, 167 F.4th 175 (4th Cir. 2026). But plaintiffs could not do so, because they failed to allege that the shooter had ever even seen the supposedly misleading advertisements and social media posts. *Id.* at *3. And even putting that aside, the court continued, plaintiffs failed to explain how seeing speech promoting legal products could have a "determinative or coercive effect" on the shooter's decision to commit a heinous crime, given that thousands of others saw the same speech but did not react criminally. *Id.* The district court accordingly dismissed plaintiffs' claims in relevant part for lack of standing.

6. A divided panel of the Fourth Circuit reversed in relevant part. The majority began by lowering the bar for the traceability prong of standing. Unlike the district court, the court stressed that the traceability demands of Article III are "relatively modest" even in cases where the defendants did not directly injure the plaintiff; according to the majority, plaintiffs here had to allege only that the challenged marketing practices had some kind of "predictable effect" on the shooter's actions. First App. for Extension, Ex. A, at 26-27. The majority acknowledged that this Court had long held that standing is significantly more difficult to establish when, as here, the plaintiff's injuries were caused by a third party not before the

court. But it relegated that precedent to the dustbin of history, claiming that "the Supreme Court has disavowed the more stringent and exclusive approach espoused by the district court." *Id.* at 27. According to the majority, if it is not completely outside the realm of possibility for someone to react to the defendants' complained-of conduct in the way that the third party who actually injured them did, then traceability is satisfied. And applying that watered-down version of traceability, the majority concluded that Applicants' speech was "at least in part responsible for" inducing the shooter to open fire on a school in broad daylight. *Id.* at 29. It did not matter to the majority that the complaint did not allege that the shooter even saw Applicants' speech; it was enough that Applicants allegedly "designed their advertisements to appeal to" young men, that young men "regularly commit mass shootings," and that Spencer was a young man who purchased Applicants' products (from third-party sellers). *Id.* at 29-30.

7. Judge Quattlebaum dissented. Because plaintiffs' injuries were directly caused by the shooter, not any of the defendants they sued, Judge Quattlebaum explained that plaintiffs had a "high burden" to meet. *Id.* at 44, 51. Yet plaintiffs offered nothing but "[s]peculation" and "guesswork" to try to tie the shooter and his crime to the defendants. *Id.* at 44-45. For instance, "plaintiffs do not allege any facts explaining how the ads were the decisive factor in the shooter's decision to use defendants' products to try to kill people at a school or compelled him to do that." *Id.* at 54. Judge Quattlebaum also pointed out that plaintiffs "never alleged that the shooter saw any of" the ads included in the complaint. *Id.* at 57-58. Indeed, the

complaint does not allege that "the shooter ever visited any of defendants' websites." *Id.* at 58. Applying the correct standard for traceability—as the district court did—Judge Quattlebaum thus would have held that plaintiffs lack standing.

8. As noted in the previous extension application, Applicants intend to file a petition for certiorari demonstrating that the decision below not only is irreconcilable with this Court's precedents, but conflicts with the decisions of other courts of appeals.

9. The Fourth Circuit's decision creates a textbook circuit split on the appropriate traceability standard for cases in which a plaintiff's harm is immediately caused by a third party not before the court. As this Court has said time and again, standing is "'substantially more difficult' to establish" when the plaintiff's theory depends on "the decision of an independent third party." *California v. Texas*, 593 U.S. 659, 675 (2021); *see also Murthy v. Missouri*, 603 U.S. 43, 57 (2024) ("In keeping with this principle, we have been reluctant to endorse standing theories that require guesswork as to how independent decisionmakers will exercise their judgment."); *FDA v. All. for Hippocratic Med.*, 602 U.S. 367, 383 (2024) ("[T]he Court has said that plaintiffs attempting to show causation generally cannot 'rely on speculation about the unfettered choices made by independent actors not before the courts.'").

10. In line with those principles, multiple circuits hold that a plaintiff can establish traceability in an independent-party-injury case only if she can show that the defendants' conduct had an "determinative or coercive effect" on that independent party's actions. *See, e.g.*, *Berrocal v. Att'y Gen. United States*, 136 F.4th 1043, 1051

(11th Cir. 2025); *Inclusive Communities Project, Inc. v. Dep't of Treasury*, 946 F.3d 649, 655 (5th Cir. 2019). As the district court and Judge Quattlebaum rightly explained, this suit would have failed for lack of standing in those circuits.

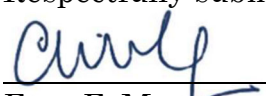
11. Straying from this Court's precedents, however, the court below and the Second Circuit have rejected the "determinative or coercive effect" standard, ostensibly because it "overstates the showing that is required." *Ateres Bais Yaakov Acad. of Rockland v. Town of Clarkstown*, 88 F.4th 344, 352 (2d Cir. 2023); *accord* Ex. A at 27-28 (rejecting standard and holding that plaintiffs' burden is "relatively modest"). These circuits apply a bare "predictable effect[s]" test, which is concededly not an "onerous standard." *Ateres Bais*, 88 F.4th at 352-53; *cf. Ctr. for Biological Diversity v. EPA*, 168 F.4th 1164, 1176 (9th Cir. 2026) (concluding that the "predictable effects" standard and the "determinative or coercive effect" standard are both valid). Indeed, this case makes all too clear just how low of a bar that standard imposes. The majority held that plaintiffs adequately alleged that their injuries were caused by manufacturers of legal and popular products, even though the shooter who actually caused their injuries may never have seen even a single one of the supposedly false or misleading statements. If that suffices for Article III standing, then it is hard to see what would not. Applicants' forthcoming petition will offer this Court an opportunity to clarify the law of standing and correct those erroneous decisions.

12. While counsel has been working diligently in preparing this petition, Ms. Murphy also has substantial briefing and argument obligations between now and June 11, 2026, including an opening brief in *Pharmaceutical Research and*

Manufacturers of America v. Skrmetti, No. 26-5275 (6th Cir.), due May 26, 2026; objections to a magistrate judge's report and recommendations in *Pharmaceutical Research and Manufacturers of America v. Weiser*, No. 1:25-cv-02437 (D. Colo.), due May 28, 2026; an opposition to a motion to dismiss in *Pharmaceutical Research and Manufacturers of America v. Pike*, No. 2:25-cv-00308 (D. Utah), due May 29, 2026; a reply in support of certiorari in *RMS of Georgia, LLC, dba Choice Refrigerants v. EPA*, No. 25-1079 (U.S.), to be filed by June 1, 2026; oral argument in *Pharmaceutical Research and Manufacturers of America v. Frey*, No. 26-1099 (1st Cir.), on June 2, 2026; oral argument in *Pharmaceutical Research and Manufacturers of America v. Neronha*, No. 26-1039 (1st Cir.), on June 3, 2026; a reply brief in *National Shooting Sports Foundation v. Brown*, No. 25-2404 (4th Cir.), due June 8, 2026; and oral argument in *NetChoice, LLC v. Griffin*, No. 25-1889 (8th Cir.), on June 10, 2026.

WHEREFORE, for the foregoing reasons, Applicants respectfully request that an extension of time to and including July 10, 2026, be granted within which Applicants may file a petition for a writ of certiorari.

Respectfully submitted,



ERIN E. MURPHY
Counsel of Record
CLEMENT & MURPHY, PLLC
706 Duke Street
Alexandria, VA 22314
(202) 742-8900
erin.murphy@clementmurphy.com
Counsel for Applicants

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