

IN THE SUPREME COURT OF THE UNITED STATES

Application No.

LEXON INSURANCE COMPANY, INC.,

Applicant,

v.

CHEVRON U.S.A., INC., et al.,

Respondents.

**UNOPPOSED APPLICATION TO THE HON.
SAMUEL A. ALITO, JR. FOR AN EXTENSION OF
TIME WITHIN WHICH TO FILE A PETITION FOR
WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE FIFTH CIRCUIT**

Pursuant to Rule 13(5) of the Rules of this Court, applicant Lexon Insurance Company, Inc. hereby moves for an extension of time of 30 days, to July 1, 2026, within which to file a petition for writ of certiorari. This Court has jurisdiction to consider the application, and will have jurisdiction to review a timely petition for writ of certiorari, under 28 U.S.C. § 1254(1). Unless an extension is granted, the deadline for filing the petition will be June 1, 2026.

1. I, Brian D. Ginsberg, am a partner in the law firm Harris Beach Murtha Cullina PLLC and counsel of record for applicant Lexon Insurance Company, Inc. in this case. I am a member of the bar of this Court, as well as the bars of the State of New York and the District of Columbia.

2. The United States Court of Appeals for the Fifth Circuit issued its panel decision in this case on August 19, 2025. (*See* Exhibit 1.)

3. That court denied a timely petition for rehearing *en banc* on March 2, 2026. (*See* Exhibit 2.)

4. On behalf of Lexon, I respectfully submit this unopposed application for an extension of time of 30 days, to July 1, 2026, within which to file a petition for writ of certiorari.

5. The unopposed application is supported by good cause.

6. This case presents a question of exceptional importance, worthy of review by this Court: whether established federal common law, including the established federal common law of equitable subrogation, is part of the “laws . . . of the United States” that are extended to the Outer Continental Shelf under Section 4 of the Outer Continental Shelf Lands Act (“OCSLA”), 43 U.S.C. § 1333(a)(1)(A).

OCSLA extends the “laws . . . of the United States” to the Outer Continental Shelf. Where federal law speaks to an issue, that federal law controls. But where federal law leaves a gap, OCSLA directs that it be filled by using state law as surrogate federal law. It is undisputed that OCSLA does not permit federal courts to create new federal common law to fill in gaps in federal law. The principal question presented by this case concerns what it means for there to be a gap where existing federal common law addresses an issue.

This case involves a paying surety’s equitable subrogation right—its right to seek reimbursement by stepping into the shoes of the obligee. More than 60 years ago, this Court noted that “there are few doctrines better established than that a surety who pays the debt of another is entitled to all the rights of the person he paid to enforce his right to be reimbursed.” *Pearlman v. Reliance Ins. Co.*, 371 U.S. 132, 136-137 (1962). The existence and scope of a surety’s equitable subrogation rights under federal common law is well established through innumerable judicial decisions, including those of this Court.

The Fifth Circuit’s decision in this case holds that even well-established, pre-OCSLA federal common law is not part of the “laws . . .

of the United States” extended to the Outer Continental Shelf. As a result, the Fifth Circuit held that common-law principles of equitable subrogation articulated in *Pearlman* were inapplicable here. Having thus concluded that there was a “gap” in federal law to be filled, the Fifth Circuit looked to the Louisiana Civil Code to determine the scope of a paying surety’s subrogation rights. Applying Louisiana law, the Fifth Circuit construed those rights to be narrower than under federal common law—a difference that was dispositive to the petitioner’s claims here.

7. Lexon’s forthcoming petition for certiorari will ask this Court to consider whether Congress intended, by adopting OCSLA, to discard even well-established federal common law rights in favor of inconsistent state law. As discussed below, this case is worthy of review for two reasons. First, the Fifth Circuit’s decision conflicts with multiple decisions of this Court, both as to the interpretation of OCSLA and as to the extent of a paying surety’s equitable subrogation rights. Second, the Fifth Circuit’s decision upsets decades of reliance by sureties as to the scope of their equitable subrogation rights under federal common law as articulated in *Pearlman*, which will lead to uncertainty in future suretyship transactions involving the Outer Continental Shelf.

8. When Lexon's petition for certiorari is filed, the Court should grant it, hear this case, and consider the important question of statutory interpretation presented.

9. Having substantively handled this matter only since the Fifth Circuit stage, I require the requested additional time in order to further familiarize myself with the relevant legal issues and factual record in a manner necessary to prepare a petition for writ of certiorari that is sufficiently comprehensive to explain to the Court the urgency with which its intervention is needed.

10. Further, substantial additional professional obligations, including the preparation of appellate briefs to be filed and oral arguments to be presented in federal and state appellate courts, make me unable to prepare the petition for writ of certiorari by the deadline currently in force.

11. Those obligations include, among other things:

- a. on May 4, 2026, filing a principal brief in *Mitchell v. Bruckner* (N.Y. App. Div. Case No. 2025-04412),

- b. on May 8, 2026, presenting oral argument in *Breuning v. Safety-Kleen Systems, Inc.* (Cal. Ct. App. Case No. B331176),
- c. by June 9, 2026, filing a principal brief in *Salter v. Meta Platforms, Inc.* (N.Y. Ct. App. Case No. APL-2025-00170),
- d. by June 9, 2026, filing a principal brief in *Patterson v. Meta Platforms, Inc.* (N.Y. Ct. App. Case No. APL-2025-00158),
- e. by June 10, 2026, filing a principal brief in *Lexon Insurance Company, Inc. v. Borough of Union Beach* (U.S. Ct. App. 3d Cir. Case No. 26-1051),
- f. and on June 10, 2026, presenting oral argument in *Torres v. Petro-Source Investments, Inc.* (Cal. Ct. App. Case No. D085444).

12. I have consulted with counsel for respondents, who advise me that respondents do not oppose this application.

WHEREFORE, Lexon Insurance Company respectfully requests that its unopposed application for an extension of time to July 1, 2026 in which to file a petition for writ of certiorari be granted.

Respectfully submitted,



May 21, 2026

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CORPORATE DISCLOSURE STATEMENT

All parent corporations of Lexon Insurance Company, Inc. are as follows: Endurance U.S. Holdings Corp. (direct parent), Endurance Specialty Insurance Ltd. (indirect parent), Sompo International Holdings Ltd. (indirect parent), Sompo Japan Insurance Inc. (indirect parent), and Sompo Holdings, Inc. (ultimate indirect parent).

Sompo Holdings, Inc. is a publicly-traded company that indirectly, through the entities identified above, owns 100 percent of Lexon.