

No. \_\_\_\_

**IN THE  
SUPREME COURT OF THE UNITED STATES**

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FIONA HAVLISH, et. al.,  
*Applicants,*

v.

THE TALIBAN, et al.,  
*Respondents.*

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

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To the Honorable Sonia Sotomayor, Associate Justice of the Supreme Court:

Pursuant to Supreme Court Rules 13.5, 22.3, and 30, Applicants Fiona Havlish and the other plaintiffs in the district court and appellants in each of seven consolidated and coordinated proceedings (Second Circuit Case Nos. 23-258, 23-263, 23-304, 23-346, 23-354, 23-444, 23-797) (identified in Appendix A) (“Applicants”), respectfully request an extension of 60 days to and including August 31, 2026, in which to petition for certiorari, seeking review of the decision of the U.S. Court of Appeals for the Second Circuit in *Havlish v. Taliban*, 152 F.4th 339 (2d Cir. 2025) (“Decision”). A copy of the Decision is attached as Exhibit 1.

On March 19, 2026, the Second Circuit denied Applicants’ Petition for Rehearing En Banc. *Havlish v. Taliban*, 170 F.4th 100 (2d Cir. 2026) (“En Banc Order”). A copy of the En Banc Order, including the concurring statement of Judge

Nardini (joined by Judge Lohier), the dissenting statements of Judge Sullivan (joined by Chief Judge Livingston and Judges Bianco and Park) and Judge Menashi, and the statement of Judges Cabranes and Calabrese, is attached as Exhibit 2.

On April 3, 2026, the Second Circuit denied Applicants' Petition for Panel Rehearing. A copy of the Amended Order is attached as Exhibit 3. The deadline to petition for certiorari is presently July 2, 2026. *See* Sup. Ct. R. 13(3). The basis for this Court's jurisdiction is 28 U.S.C. §1254(1).

An extension is warranted because of the need for the various Applicants' counsel in seven separate appeals to consult and coordinate with each other following the Second Circuit's decision, to evaluate whether certain parties will file separate petitions for certiorari, and to collaborate on one or more joint petitions.

### **DISCUSSION**

Applicants seek review of an important but erroneous Second Circuit decision that denies relief to thousands of victims of terrorist attacks.

The Federal Reserve Bank of New York ("FRBNY") is holding on account for Da Afghanistan Bank ("DAB") \$3.5 billion in frozen funds that are controlled by the Taliban, a judgment debtor in these cases. The Second Circuit, in interpreting the Foreign Sovereign Immunities Act (FSIA) and the Terrorism Risk Insurance Act of 2002 (TRIA) counter to their plain texts and in conflict with decisions of other circuits, made two erroneous holdings: (1) that the court lacked authority to independently determine that DAB—an instrumentality of the Taliban, which is a specially-designated global terrorist organization—is not protected by sovereign immunity

under the FSIA, *see* 152 F.4th at 351–53; and (2) that, notwithstanding TRIA’s mandate that the blocked assets of terrorist entities shall be available to satisfy judgments held by terror victims, the DAB funds were unreachable because they had been blocked before, rather than after, the Taliban seized control of DAB, *see id.* at 361–65.<sup>1</sup> Judge Sullivan dissented from the Panel Decision, writing that “[t]he majority’s interpretive gymnastics risk[s] upending a carefully constructed statutory scheme and may have unforeseen downstream consequences for future FSIA (and TRIA) cases.” *Id.* at 366.

Applicants filed a timely Petition for Rehearing and Rehearing En Banc on September 25, 2025. Panel rehearing was denied on April 3, 2026, over the dissent of Judge Sullivan. Two weeks earlier, on March 19, 2026, the Second Circuit had denied the petition for rehearing en banc over two dissenting statements by Judge Sullivan (joined by Chief Judge Livingston and Judges Bianco and Park), 170 F.4th 100, 101–07, and Judge Menashi, *id.* at 107–18. Mirroring his panel dissent, Judge Sullivan’s dissent from denial of rehearing en banc criticized the “panel opinion’s pretzel logic, disregard of precedent, and indifference to [the] text and purpose” of both statutes. *Id.* at 107. Judge Menashi dissented at length on the TRIA interpretation issue, concluding that “the panel opinion ignored the statutory command that sovereign immunity and the execution of judgments must reflect current political realities” by “pretend[ing]” that DAB is an instrumentality of Afghanistan rather than the Taliban. *Id.* at 117–18.

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<sup>1</sup> This latter holding is factually wrong as well as legally incorrect.

As noted, the requested extension is necessary to enable Applicants' counsel to properly coordinate with each other on how best to present the arguments for this Court's review. The Second Circuit's decision resolved seven appeals that had been consolidated or considered in tandem by the court, and this application is filed jointly by all the appellants in those seven cases. The *Havlish* and *Smith* plaintiffs in two of the seven appeals are estates and family members of Americans killed on 9/11. The *Federal Insurance* parties are insurance companies that incurred billions of dollars in losses by paying claims arising from the 9/11 attacks. The *Doe* plaintiffs are civilian contractors injured in a 2016 suicide bomb attack in Afghanistan committed by the Taliban and others. These groups filed suit against the Taliban and hold final judgments for compensatory damages totaling some \$17 billion. The *Ashton* plaintiffs, though also having litigated for years, did not yet have judgments against the Taliban in 2021, and sought pre-judgment attachments of the DAB assets. The *Owens* plaintiffs have litigated against the Taliban for years based on its role in the East Africa embassy bombings of August 7, 1998. Like the *Ashton* plaintiffs, they did not yet have judgments against the Taliban in 2021 and so sought pre-judgment attachments of the DAB assets.

### **CONCLUSION**

For the foregoing reasons, Applicants respectfully request that an extension of time to file a petition for certiorari be granted to and including August 31, 2026.

June 8, 2026

Respectfully submitted,

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