

No. ____

IN THE SUPREME COURT OF THE UNITED STATES

LEDA HEALTH CORP.,

PETITIONER,

V.

GOVERNOR JAY INSLEE AND ATTORNEY GENERAL ROBERT FERGUSON,

RESPONDENTS.

**LEDA HEALTH CORP.'S APPLICATION TO EXTEND
DEADLINE TO FILE WRIT OF CERTIORARI IN MATTER 2:24-
cv-00871-DGE (WD-WA.)/24-6659 (9th. Cir.)**

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October 16, 2025

To the Honorable Elena Kagan, as Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

Pursuant to this Court's Rules 13.5, 22, 30.2, 30.3, and 33.2, Petitioner Leda Health Corp. ("Leda Health") respectfully requests that the time to file its Petition for Writ of Certiorari in this matter be extended for sixty (60) days, up to and including December 26, 2025. The Court of Appeals issued its opinion affirming the district court on July 29, 2025.

Absent an extension of time, the Petition for Writ of Certiorari would be due on October 27, 2025. Petitioner is filing this Application more than ten days before that date. *See* S. Ct. R. 13.5.

This Court would have jurisdiction over the judgment under 28 U.S.C. § 1254(1).

PARTIES TO THE PROCEEDING AND RELATED PROCEEDINGS

Petitioner is Leda Health Corporation, a Delaware corporation. Respondents are Jay Inslee, Governor of Washington, and Robert Ferguson, Attorney General of Washington, sued in their official capacities. The proceedings below were *Leda Health Corporation v. Inslee*

and Ferguson, Case No. 2:24-cv-00871-DGE (W.D. Wash.) and No. 24-6659 (9th Cir.).

JURISDICTION

For good cause shown in an application, a Justice may extend the time to file a petition for a writ of certiorari for a period not exceeding sixty (60) days. S. Ct. R. 13.5. This Court has jurisdiction over this application pursuant to 28 U.S.C. § 1254(1), as Petitioner seeks review of a decision made by a panel of the United States Court of Appeals for the Ninth Circuit.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the scope, interpretation, and enforcement of the First Amendment to the Constitution of the United States, specifically regarding content- and viewpoint-based restrictions on speech.

The Washington State statute at issue is codified at Wash. Rev. Code § 5.70.070, which prohibits the sale or offer for sale of sexual assault kits if they are “marketed” as “at-home” or “self-collected.” Petitioner contends the statute burdens speech. The Court of Appeals held it does not.

BACKGROUND

Leda Health Corporation developed “Early Evidence Kits” (EEKs) to provide sexual assault survivors—many of whom do not report or seek hospital care—with a less intrusive, private option to self-collect evidence for potential future use. The items in the EEKs are common, legal products.

The Washington Attorney General issued a cease-and-desist letter in October 2022, claiming that the marketing of “at-home” use of the kits violated the Consumer Protection Act. Leda Health ceased sales in Washington. Subsequently, the Washington Legislature enacted House Bill 1564 (codified as Wash. Rev. Code § 5.70.070), which makes the sale or offer for sale of a sexual assault kit illegal if it is “marketed or otherwise presented” as “over-the-counter, at-home, or self-collected” (Section 2(a)), or if the seller intends or knows it will be used for self-collection (Section 2(b)). Leda Health argued that this effectively bans truthful speech about the legal use of legal items and constitutes a bill of attainder targeting the company.

The District Court dismissed Leda Health’s complaint on October 21, 2024, holding that HB 1564 regulates non-expressive conduct, not

speech, and that the Bill of Attainder claim failed because the law did not name Leda Health specifically and did not inflict legislative punishment. The Ninth Circuit affirmed this judgment on July 29, 2025, concluding that the statute did not burden speech in anyway and, even if it did, only banned speech about “illegal activities.”

REASONS FOR GRANTING THE APPLICATION

While acknowledging that applications to extend a party’s deadline to file a writ of certiorari are disfavored, the unique procedural posture and the compelling public interest in reviewing the Ninth Circuit’s decision constitute good cause for this Court to grant the application.

I. Counsel’s Substantial and Overlapping Litigation Commitments Require Additional Time.

Petitioner’s counsel has critical, multi-week trial commitments that directly conflict with preparing and filing the Petition for Certiorari:

1. *United States v. Nevin Shetty*, No. 2:23-cr-00084-TL (W.D. Wash.): Multi-week trial in a complex fraud case scheduled to commence on October 24, 2025, with an expected duration extending into November 2025.

2. *United States v. Ryan Bloom*, No. 5:24-cr-00266-J (W.D. Okla.): Trial in a complex fraud case scheduled to commence on December 2, 2025, with an expected duration of one week.
3. *State of Tennessee v. Brian Cole*, Case No. 24-647-I (Madison County): Trial in an aggravated perjury case scheduled to commence on December 4, 2025, with an expected duration of several days.

The current deadline of October 27, 2025, falls directly within the preparation period for these trials. The requested 60-day extension, moving the deadline to December 26, 2025, is necessary to allow counsel to devote the requisite attention to drafting a petition that fully articulates the significant constitutional questions presented, particularly the Ninth Circuit's acceptance of a statute that Leda Health contends is a content-based restriction on truthful speech and an unconstitutional bill of attainder.

Furthermore, Leda Health's limited resources have been focused on resolving a separate, multi-year lawsuit it brought against the Pennsylvania Attorney General, for which the undersigned has served as lead counsel. Leda Health sued the Pennsylvania Attorney General after

she threatened to prosecute the company for its truthful marketing of EEKs. The matter was thoroughly litigated in the Western District of Pennsylvania (Case No. 2:24-cv-00879) and Court of Appeals for the Third Circuit (Case No. 25-1236). After nearly six months of negotiations, Leda Health recently agreed to settle its claims against the Pennsylvania Attorney General in that case and filed a stipulation of voluntary dismissal pursuant to Fed. R. App. P. 42 on October 14, 2025.

II. The Statute Presents Issues of Exceptional National Importance Warranting Supreme Court Review.

The Ninth Circuit’s affirmation of the statute presents a profound question regarding the First Amendment: (i) whether a state can ban the sale of legal items based exclusively on the seller’s truthful speech about the legal uses of those items and (ii) whether such a ban is a content-based regulation of speech that must satisfy strict scrutiny.

The statute here punishes a business based on how it markets sexual assault kits. A business can market a kit for use by nurses in a hospital but faces prosecution under the statute if it markets the exact same kit for use by the sexual assault survivor at home. In this way, the statute is a content-based restriction on truthful speech about the legal use of legal products, which Leda Health contends should trigger strict

scrutiny, a standard the Ninth Circuit declined to apply, instead finding the law regulated non-expressive conduct or, alternatively, speech about “illegal activity.” The conflict between the Ninth Circuit’s application of *Central Hudson Gas & Electric Corp. v. Public Service Comm’n*, 447 U.S. 557 (1980) to this unique statute and the principles outlined in cases like *Sorrell v. IMS Health Inc.*, 564 U.S. 552 (2011) and *44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484 (1996) warrants this Court’s intervention.

III. There Is No Prejudice to Respondents.

Granting this extension will not prejudice Respondents. The issues presented are of paramount public importance regarding free speech. Given the timeline for briefing and argument, an extension until December 26, 2025, will not delay ultimate resolution beyond the Court’s standard term schedule.

CONCLUSION

For the foregoing reasons, Applicant Leda Health Corp. respectfully requests that the application be granted and the deadline to file a petition for writ of certiorari in this matter be extended by sixty (60) days, up to and including December 26, 2025.

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/s/ J. Alex Little

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to Supreme Court Rules 22.2 and 29, that on October 16, 2025, the foregoing was electronically filed with the Clerk of the Court. Pursuant to Supreme Court Rule 22, paper copies were transmitted to the Clerk on or about October 16, 2025.

I further certify that counsel of record in the District Court and the Appellate Court in this matter were served via electronic mail. I further certify that paper copies of this application were mailed to the Mailing Address of the Solicitor General, as included in the Rules of the Supreme Court of the United States.

/s/ J. Alex Little
J. Alex Little