

No. 25A-____

IN THE
Supreme Court of the United States

VELTOR UNDERGROUND, LLC,

Applicant,

v.

UNITED STATES SMALL BUSINESS ADMINISTRATION,
KELLY LOEFFLER, in her official official capacity as
Administrator of the United States Small Business Administration, SCOTT
BESSENT, in his official capacity as Secretary of the United States
Department of the Treasury

Respondents.

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

To the Honorable Brett M. Kavanaugh, Associate Justice of the Supreme Court and
Circuit Justice for the Sixth Circuit:

Pursuant to Supreme Court Rules 13.5, 22, and 30, Applicant Veltor Underground, LLC, respectfully requests a 60-day extension of time, up to and including February 9, 2026, to file a petition for a writ of certiorari to the United States Court of Appeals for the Sixth Circuit, seeking review of that court's decision in *Veltor Underground, LLC v. U.S. Small Bus. Admin.*, 143 F.4th 727 (6th Cir. 2025).

1. The Sixth Circuit issued its decision on July 11, 2025, and denied a timely rehearing petition on September 12, 2025. Dkt. 24, 27-1. These decisions are attached as Appendix A and Appendix B, respectively. The jurisdiction of this Court will be invoked

under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will otherwise expire on December 11, 2025. This Application for Extension of Time is timely because it has been filed on December 1, 2025, at least ten days prior to the date on which the time for filing the petition is to expire.

2. The issue in this case is whether the term “payroll costs” in 15 U.S.C. §636(a)(36)(E)(i)(I)(aa)(AA), which is part of the CARES Act, includes payments to independent contractors as well as to employees. Despite the statute’s express language that “payroll costs” includes “the sum of payments of any compensation with respect to employees... *and* the sum of payments of any compensation to or income of a sole proprietor or independent contractor,” the Sixth Circuit held below that the term only encompasses payments to employees—and, accordingly, upheld the SBA’s refusal to forgive a loan secured by Veltor to pay its workforce of exclusively independent contractors. *Veltor*, 143 F.4th at 738.

3. The courts are in conflict on the proper construction of this provision of the CARES Act. The Fifth Circuit in *Seville Indus., L.L.C. v. United States Small Bus. Admin.* upheld an SBA decision denying loan forgiveness for payments to independent contractors, using *Veltor*’s exact logic, 144 F.4th 740 (5th Cir. 2025). However, the Middle District of Pennsylvania, in *Essintial Enterprise Solutions*, held the opposite, reasoning that “the decision of the SBA to deny full forgiveness of the Loan on the ground that plaintiff included the independent contractor expenses in its calculation of payroll costs was an error of law and thus arbitrary and capricious.” No. 1:22CV1507, 2024 WL 5248242, at *9 (M.D. Pa. Dec. 30, 2024). *Essintial Enterprise* is currently pending before the Third Circuit. *Essintial Enterprise Solutions LLC v. SBA*, et al, 25-1367.

4. This conflict is important to resolve because of the interests at stake: It is estimated that one in ten American businesses permanently closed as a result of the Pandemic. There are tens of thousands of Paycheck Protection Act loans outstanding and the vast majority of American businesses—29.8 million out of 35.7 million (83%) as of 2022¹—do not have any employees. The questions presented in these cases thus implicate broad financial interests and countless livelihoods.

5. There is good cause for an extension of time. Applicant is represented by Lawrence D. Rosenberg, who is the director of the West Virginia University College of Law's Supreme Court Clinic. Students in the Clinic will be heavily involved in the drafting of Applicant's petition for a writ of certiorari. Mr. Rosenberg and the Clinic students were extensively occupied drafting the petition for a writ of certiorari in *United States v. Lora*, No. 25-519, which was filed on October 24, 2025, and is currently pending before this Court. They are also drafting the opening brief in *United States v. Travis Ramseur*, No. 24-7202 (4th Cir.), which is due on December 19, 2025, and which has occupied a great deal of time over the past few months. The Clinic students have also had extensive academic and personal commitments during the past several weeks, including their Thanksgiving Break and upcoming final papers and examinations to be followed by their winter break. The students will not be able to meaningfully assist in drafting the petition for a writ of certiorari in this matter without the requested extension.

Additionally, Mr. Rosenberg has had recently, and will have in the coming weeks, significant professional commitments that would also make completing the petition

¹ U.S. Census Bureau, Census Bureau Releases Demographic Characteristics of Nonemployer Business Owners, Press Release No. CB25-TPS.32 (May 8, 2025).

extremely difficult without the requested extension. In addition to his work with the Clinic described above, Mr. Rosenberg is lead counsel for JP Morgan Chase in two related matters pending in the Southern District of New York, No. 1:22-mc-00348, and the Southern District of Florida, No. 1:23-mc-24326, that have required extensive work recently. He is also lead counsel in several matters for Lufthansa that have also required extensive work recently: *In the Matter of the Application of Lufthansa Technik AG, Petitioner, for an Order Pursuant to 28 U.S.C. § 1782 to Take Discovery Pursuant to the Federal Rules of Civil Procedure, of Respondent Thales Avionics, Inc. For Use in Foreign Proceedings* (No. 8:22-mc-00034-JVS-KES, C.D. Cal.) and *In the Matter of the Application of Lufthansa Technik AG, Petitioner, for an Order Pursuant to 28 U.S.C. § 1782 to Take Discovery, Pursuant to the Federal Rules of Civil Procedure, of Respondent Panasonic Avionics Corporation for Use in Foreign Proceedings* (No. 2:17-cv-1453-JCC, W.D. Wash.). He is also lead counsel in several new matters that have recently required and will require substantial work in the next several weeks. Mr. Rosenberg is also the Chair of the American Bar Association's Amicus Curiae Briefs Committee and an Executive Officer of the ABA's Litigation Section. He attended an out-of-town ABA leadership meeting from October 9-14, 2025, and will attend an out-of-town Litigation Section Meeting from December 4-7, 2025. Moreover, other members of the legal team have additional conflicting professional and personal commitments over the holidays.

WHEREFORE, Applicant respectfully requests that an order be entered extending the time to file a petition for a writ of certiorari for 60 days, up to and including February 9, 2026.

Dated: December 1, 2025

Respectfully submitted,

/s/ Lawrence D. Rosenberg

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