

No. 25A\_\_\_\_\_

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IN THE  
SUPREME COURT OF THE UNITED STATES

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JOHN A. AMSTER AND ROBERT H. HEATH,  
*Applicants,*

v.

SECURITIES AND EXCHANGE COMMISSION AND LEE MICHAEL PEDERSON,  
*Respondents.*

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

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January 16, 2026

## **PARTIES TO THE PROCEEDINGS**

Applicants John A. Amster and Robert H. Heath were claimants before the Securities and Exchange Commission and petitioners in the court of appeals proceedings in No. 24-2526.

Respondent Securities and Exchange Commission was the respondent in the court of appeals proceedings in both No. 24-2330 and No. 24-2526.

Respondent Lee Michael Pederson was a claimant before the Securities and Exchange Commission and the petitioner in the court of appeals proceedings in No. 24-2330 (consolidated with No. 24-2526).

## RELATED CASES

### Decisions Under Review

*In re Claims for an Award in connection with SEC v. Honig, et al., No. 18-cv-08175 (ER) (S.D.N.Y. Sept. 7, 2018) (Notice of Covered Action 2019-033), Whistleblower Award Proceeding File No. 2024-19, Release No. 100252 (SEC May 31, 2024)*

*Pederson, et al. v. SEC*, 153 F.4th 624 (8th Cir. Aug. 22, 2025) (Nos. 24-2330 & 24-2526) (denying petitions for review of SEC order and denying motion to compel)

*Pederson v. SEC*, 2025 WL 3039948 (8th Cir. Oct. 31, 2025) (No. 24-2330) (denying petition for rehearing)

### Related Cases

*SEC v. Honig, et al.*, No. 18-cv-8175 (ER) (S.D.N.Y.)

*Amster, et al. v. SEC*, No. 24-4108 (9th Cir.) (initial petition for review prior to transfer to Eighth Circuit)

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

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 22, and 30.3 of the Rules of this Court, applicants John A. Amster and Robert H. Heath respectfully request a 60-day extension of time, up to and including March 30, 2026, within which to file a petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Eighth Circuit.

The court of appeals entered its judgment and issued an opinion on August 22, 2025 and denied rehearing on October 31, 2025. The court of appeals' opinion is reported at 153 F.4th 624 and attached hereto as Exhibit A; the court of appeals' order denying rehearing is attached hereto as Exhibit B. The order of the Securities and Exchange Commission denying applicants' whistleblower award claims is attached hereto as Exhibit C.\* The petition would be due on January 29, 2026, and this application is made at least 10 days before that date. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

1. This case presents an important question regarding whether the Securities and Exchange Commission (SEC) is entitled to reinterpret its own regulations contrary to their plain text and expressly stated intention.

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\* Because the SEC never has provided applicants with an unredacted version of its Final Order, applicants attach the redacted version of the Final Order as it was provided to them and as filed in the courts below.

**a.** Pursuant to the Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010), the SEC has developed a program under which whistleblowers may report securities law violations to the SEC. *See* 17 C.F.R. § 240.21F-1 *et seq.* The SEC’s regulations establishing that program provide that, if a whistleblower’s tip “leads to” a successful enforcement action, the whistleblower is entitled to a share of the proceeds the SEC recovers. *Id.* § 240.21F-3(a). The regulations expressly define a tip that “led to” a successful enforcement action with an objective test: the tip must be “sufficiently specific, credible, and timely to cause the staff to commence an examination, open an investigation, reopen an investigation that the Commission had closed, or to inquire concerning different conduct as part of a current examination or investigation.” *Id.* § 240.21F-4(c)(1). When it promulgated that regulation, the SEC expressly confirmed that it was setting forth an objective test, with language “intended to describe generally the *type* of information that *would* cause our staff to open an investigation or examination” that intentionally departed from the subjective test the SEC had initially proposed in its rulemaking. Final Rule, Securities Whistleblower Incentives and Protections, 76 Fed. Reg. 34,300, 34,324-25 (June 13, 2011) (emphases added).

**b.** In October 2013, applicants John A. Amster and Robert H. Heath submitted a tip to the SEC under that whistleblower program, alerting the SEC to an ongoing fraudulent scheme orchestrated by Barry Honig and his associates. Their information was specific, credible, and timely. In 2015, the SEC opened an investigation into Honig and his associates’ conduct and ultimately brought a successful enforcement action. Amster and Heath accordingly applied for a

whistleblower award. But the SEC denied it. In a Final Order dated May 31, 2024, the SEC reasoned that, despite receiving Amster and Heath’s timely and high-quality tip, its staff had opened the Honig investigation for other reasons, so on a subjective standard, Amster and Heath’s tip did not “lead to” the successful enforcement action.

Amster and Heath sought review in the Eighth Circuit. The Eighth Circuit affirmed. Endorsing the SEC’s reinterpretation of its regulations, the Eighth Circuit concluded that 17 C.F.R. § 240.21F-4(c) creates a subjective rather than an objective standard. The Eighth Circuit did not address the SEC’s own comments in the Federal Register that explained it was attempting to implement an objective standard.

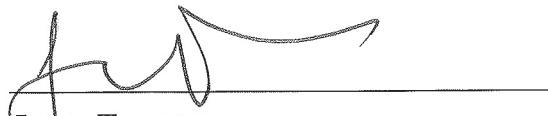
**c.** This Court’s intervention is essential. The SEC’s Final Order effectively endorses an expansive view of agency authority in which agencies are free to disregard or rewrite regulations passed through notice-and-comment rulemaking through the informal channel of individual adjudications. That is contrary to the Administrative Procedure Act’s command, recently emphasized by this Court, “that ‘the reviewing court’—not the agency whose action it reviews—is to ‘decide *all* relevant questions of law.’” *Loper-Bright Enters. v. Raimondo*, 603 U.S. 369, 398 (2024) (quoting 5 U.S.C. § 706). And the Eighth Circuit’s endorsement of the SEC’s interpretation of the regulation as creating a subjective standard notwithstanding its plain text contravenes long-settled principles of legal interpretation. *See, e.g., Kisor v. Wilkie*, 588 U.S. 558, 581 (2019) (plurality) (“[A]

court must apply all traditional methods of interpretation to any [agency] rule, and must enforce the plain meaning those methods uncover.”).

2. The 60-day extension to file a certiorari petition is necessary because undersigned counsel needs the additional time to review the record and prepare the petition and appendix in light of other, previously engaged matters in this and other courts, including: (1) a prehearing conference and multi-day hearing before the International Trade Commission in *Certain Glass Substrates for Liquid Crystal Glass Displays*, Inv. No. 337-TA-1433 (scheduled for Feb. 9-19, 2026); (2) responses to multiple *Daubert* motions and summary judgment briefing in the U.S. District Court for the District of Columbia in *Fotobom Media, Inc. v. Google LLC*, No. 1:22-cv-00712-APM (due Feb. 26, 2026); (3) a response to summary judgment briefing in the U.S. District Court for the Southern District of New York in *In re Google Digital Advertising Antitrust Litigation*, No. 21-md-3010 (PKC) (due Mar. 6, 2026); and (4) a post-hearing brief and post-hearing reply brief before the International Trade Commission in *Certain Glass Substrates for Liquid Crystal Glass Displays*, Inv. No. 337-TA-1433 (due Mar. 6, 2026 and Mar. 20, 2026).

For all these reasons, there is good cause for a 60-day extension of time, up to and including March 30, 2026, within which to file a certiorari petition in this case to review the judgment of the United States Court of Appeals for the Eighth Circuit.

Respectfully submitted,



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