

IN THE  
**Supreme Court of the United States**

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CYNTHIA FOSS,

*Petitioner,*

v.

EASTERN STATES EXPOSITION,

*Respondent.*

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APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR WRIT  
OF CERTIORARI FROM FEBRUARY 17, 2026, TO APRIL 18, 2026

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**To the Honorable KETANJI BROWN JACKSON,**  
**Circuit Justice for the First Circuit:**

Pursuant to 28 U.S.C. § 2101(c) and to Supreme Court Rules 13.5, 22, and 30.3, Petitioner<sup>1</sup>—Cynthia Foss—hereby respectfully requests that the time to file a petition for a writ of certiorari be extended by 60 days, from February 17, 2026, to April 18, 2026.

The U.S. Court of Appeals issued its opinion on August 21, 2025. 1a, *infra*. It denied rehearing on November 19, 2025. 31a. Without extension, the cert petition is due February 17, 2026. This Application is not being filed at least 10 days prior, but an extension it is submitted that an extension is still warranted. See Sup. Ct. R. 13.5. The jurisdiction of this Honorable Court would be invoked under 28 U.S.C. § 1254(1).

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<sup>1</sup> Petitioner is a natural person.

For the reasons stated herein, the timeframe to submit a cert petition should be extended by 60 days.

### **Legal & Procedural Background**

1. The basic question presented is whether copyright's mandatory administrative-exhaustion requirement of copyright registration, see 17 U.S.C. § 411(a), affects the accrual of claims and limitations period under the Copyright Act, see 17 U.S.C. 507(b) (civil limitations period).

2. Respondent Eastern States Exposition infringed Ms. Foss' copyright. Yet, when Ms. Foss initially tried to sue, the District Court held that she did not have a registration yet. She had filed at a time when the Circuits were split between an application rule (administrative exhaustion achieved merely by submitting the registration request with the Copyright Office) and a registration rule (administrative exhaustion only achieved by getting a decision from the Copyright Office on registration). At the time she initially sued, the First Circuit had not taken a position between the two rules. Yet, during the pendency of the initial suit, the Supreme Court decided in favor of the registration rule. Fourth Est. Pub. Benefit Corp. v. Wall-Street.com, LLC, 586 U.S. 296, 296 (2019). Accordingly, Ms. Foss' initial suit was dismissed because she did not have a registration decision at the time of filing her initial suit in the District Court.

3. Later, *after* Ms. Foss obtained a registration decision, Respondent argued that the limitations period had run. In response, Ms. Foss argued that the claim did not accrue until she was able to come to the Court, and the District Court

did not address the question of how administrative exhaustion affected claim accrual of claims and limitations, and dismissed the case on limitations grounds. 30a.

4. On appeal, the Court of Appeals addressed the issue, 14a-18a, and affirmed. The Court of Appeals then denied rehearing. 31a. Petitioner's counsel has identified what he believes is a Circuit split.

5. Petitioner intends to petition this Honorable Court for review.

### **Reasons for Granting an Extension of Time**

6. Several reasons establish good cause and justify an extension of time to petition for cert, even within the 10-day window.

7. The central reason for the need for an extension is that the Petitioner had not intended to file a petition, given extraordinary turmoil in her life, so it was understood that although there is a Circuit split, further review would not be sought. Yet, Petitioner has very recently instructed that she would like to seek further review because she does not want what happened to her below to happen to other creators and artists, effectively denying their rights.

8. The undersigned counsel, moreover, was not available to work on the matter without assistance and the only other counsel fathomably able to assist on the matter was no longer in a position to take any more work and is no longer regularly practicing law due to childcare responsibilities to his first-born son and to support his wife. However, the undersigned has just been in touch with another counsel who seems to be willing and able to assist with the preparation of a petition on a *pro bono* basis, which would make a petition possible.

9. Moreover, the undersigned believes it would be a strong petition. The First Circuit's logic permits copyright claims to "accrue" and then expire before it's even possible to assert such claims in court. The Supreme Court, has characterized that interpretation of a statute of limitations as "highly doubtful": "highly doubtful" that Congress intended a time limit on pursuing a claim to expire before the claim arose" and "declining to countenance the 'odd result' that a federal cause of action and statute of limitations arise at different times "absen[t] . . . any such indication in the statute"). Graham Cty. Soil & Water Conservation Dist. v. United States ex rel. Wilson, 545 U.S. 409, 418-422 (2005). In other words, the Supreme Court has characterized the type of result reached by Court of Appeals below as **highly doubtful** and **an odd result**. And, notably, the Court of Appeals not only failed to undergird its odd conclusion in the statute, but it fails to consider or interpret the statutory text whatsoever.

10. But-for a change in Petitioner's circumstances and the ability to find another *pro bono* counsel willing to assist in the preparation of the petition, a petition would not be possible. Both of those possibilities just arose after it had appeared that the petition would not be possible, so, accordingly, Petitioner's counsel respectfully requests the 60-day extension of time.

### **Conclusion**

For the foregoing reasons, the deadline to file a cert petition should be extended by 60 days.

Respectfully submitted,

/s/ Andrew Grimm

Andrew Grimm

*Counsel of Record*

DIGITAL JUSTICE FOUNDATION

15287 Pepperwood Drive

Omaha, Nebraska 68154

(531) 210-2381

[Andrew.B.Grimm@Gmail.com](mailto:Andrew.B.Grimm@Gmail.com)