

No. 26-_____

IN THE
SUPREME COURT OF THE UNITED STATES

MYER'S LAWN CARE SERVICES, INC.

Petitioner

v.

ROBERT L. PRYOR, TRUSTEE and RUSSELL FRAGALA

Respondents

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Second Circuit

MOTION TO DIRECT THE CLERK TO FILE
PETITION FOR WRIT OF CERTIORARI OUT OF TIME

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Counsel for Petitioner

Petitioner, Myer's Lawn care Services, Inc. (Petitioner), by and through the undersigned counsel, respectfully moves this Court for an order directing the clerk to file the accompanying Petition for a Writ of Certiorari, which is 28 days out of time.

REASONS FOR THE MOTION

1. The pertinent judgment of the lower court was entered on October 30, 2025. A petition was due on January 28, 2026.
2. Petitioner submitted its Petition for Writ of Certiorari (Petition), electronically, on January 27, 2026, in 8 1/2 by 11 inch Paper Format. Based on Petitioner's experiences in the lower courts, it believed that the Petition was filed timely when it was filed electronically.
3. After electronically submitting the Petition, Petitioner attempted to produce 40 copies of the of the Petition to be filed with the Court that is in booklet format pursuant to Rules of the Supreme Court of the United States Rule 33. 1. (Booklet Format).
4. However, Petitioner was unable to find a printer that could produce 40 copies in Booklet Format, so, on January 29, 2026, Petitioner contacted the Clerk's office for assistance to find a printer and was advised that filing the Petition electronically does not meet the requirements of a timely filing and that it must be filed with the Court.
5. Petitioner was advised to file one unbound copy of the Petition in Paper Format and the Clerk would send Petitioner a letter stating that the filing was deficient and would be given a time period to file the required copies in Booklet Format. On Friday, January 30, 2026, Petitioner mailed, via U.S.P.O. Express Mail, the Paper Format copy to the Clerk's office. Tracking confirmed that it was delivered on Monday, February 2, 2026, at 7:50 am.
6. On February 20, 2026, Petitioner received a letter from the Clerk's office stating the filing was untimely.
7. On February 23, 2026, Petitioner telephoned the Clerk's office and left a voice mail message asking why it had received said letter.
8. On February 24, 2026, Petitioner received a phone call in response to the voice mail from Ms. Emily Walker (Ms. Walker) who advised Petitioner that it should have been advised to file a Motion to Direct the Clerk to File Petition for Writ of Certiorari Out of Time with the one copy in Paper Format. Ms. Walker apologized for the error and advised Petitioner to refile the one copy of the Petition in Paper Format, which Petitioner is doing with

the instant Motion to Direct the Clerk to File Petition for Writ of Certiorari Out of Time.

9. Petitioner has located a printer that can produce 40 copies of the Petition in Booklet Format, but has been advised that it will take six days to do so.
10. The delay was not willful and does not prejudice the Respondant.

WHEREFORE, Petitioner respectfully requests that this Motion be granted and that the Clerk be directed to file the Petition.

Respectfully submitted,

_____/s/_____
Robert G. Fiore
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Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned certifies that on February 26, 2026, a copy of **MOTION TO DIRECT THE CLERK TO FILE PETITION FOR WRIT OF CERTIORARI OUT OF TIME** was served by depositing same, enclosed in a properly addressed postage-paid envelope, in an official depository under the exclusive care and custody of the United States Postal service within the State of Maryland, upon; Mark E. Cohen, Esq., C/O Pryor & Mandelup, L.L.P., 675 Old Country Road, Westbury, New York 11590 and Russell Fragala , 28 Arbor Field Way, Lake Grove, NY 11755.

Respectfully submitted,

_____/s/_____
Robert G. Fiore
Robert G. Fiore

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

February 20, 2026

COPY

Robert Graham Fiore
108 Upnor Rd.
Baltimore, MD 21212

RE: Myers Lawn Care Services, Inc. v. Pryor
USAP2 No. 24-2345

Dear Mr. Fiore:

The above-entitled petition for a writ of certiorari was postmarked January 30, 2026 and received February 3, 2026. The papers are returned for the following reason(s):

The petition is out-of-time. The date of the lower court judgment or order denying a timely petition for rehearing was October 30, 2025. Therefore, the petition was due on or before January 28, 2026. Rules 13.1, 29.2 and 30.1. When the time to file a petition for a writ of certiorari in a civil case (habeas action included) has expired, the Court no longer has the power to review the petition.

Your check in the amount of \$300.00 is returned herein.

Sincerely,
Scott S. Harris, Clerk

By: **COPY**

Emily Walker
(202) 479-5955

Enclosures