

No. _____

IN THE SUPREME COURT OF THE UNITED STATES

WEXFORD HEALTH SOURCES, INCORPORATED,

Applicant,

v.

LAUREN SPURLOCK, ET AL.,

Respondent.

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

To the Honorable John G. Roberts, Jr., Chief Justice of the United States and
Circuit Justice for the Fourth Circuit:

Pursuant to 28 U.S.C. § 2101(c) and Rule 13.5 of this Court, Wexford Health
Sources, Incorporated, respectfully requests a 60-day extension of time, to and includ-
ing October 30, 2026, in which to file a petition for a writ of certiorari in this Court.

Wexford seeks review of the judgment in *Spurlock v. Wexford Health Sources, Inc.*, 175 F.4th 232 (4th Cir. 2026), in which the United States Court of Appeals for the Fourth Circuit denied rehearing on June 1, 2026. A copy of the Fourth Circuit's

decision is attached as Exhibit 1, and a copy of the order denying rehearing is attached as Exhibit 2. The Petition for a Writ of Certiorari is currently due on August 31, 2026. This application for an extension of time is filed ten days in advance of that date, and no prior application has been made.

JUDGEMENT FOR WHICH REVIEW IS SOUGHT

The Fourth Circuit has joined an acknowledged circuit split on whether, consistent with Article III and Federal Rule of Civil Procedure 23(b), federal courts may certify a damages class action when the proposed class includes uninjured class members. In *Spurlock*, the Fourth Circuit affirmed certification of a nationwide prisoner class, encompassing thousands of prisoners and detainees seeking damages from a private healthcare company for alleged deliberate indifference in treating opioid use disorder. In doing so, the appeals court recognized that the class would sweep in prisoners with no Article III injury. *Spurlock*, 175 F.4th at 252. This was not an impediment to class certification because, in the Fourth Circuit’s view, so long as “a Named Plaintiff has standing to bring the claim that is the subject of the class action, Article III standing is satisfied at the class certification stage.” *Id.*

In affirming a damages class that includes uninjured members, the Fourth Circuit recognized the “growing split in the circuits” on the issue, *id.* at 251 n.6, citing this Court’s recent grant of certiorari in *Laboratory Corporation of America Holdings v. Davis*, 145 S. Ct. 1133, *cert. denied as improvidently granted*, 605 U.S. 327 (2025). Legal commentators have been tracking the circuit split as well. *See, e.g.*, 1 McLaughlin on Class Actions § 4:28 (22nd ed. Nov. 2025 Update) (“The circuit scorecard defies

neat groupings but broadly speaking the circuits have followed three distinct approaches in evaluating whether a district court must determine the extent of uninjured class members before certifying any class.”); William G. Beatty, *Winnowing the Wheat from the Chaff: The Continuing Controversy over Article III Standing and the Certification of Rule 23(b)(3) Damages Classes Containing “Uninjured” Members*, 17 Wm. & Mary Bus. L. Rev. 253 (2026). The Fourth Circuit and Ninth Circuit now occupy the most permissive end of the split, approving damages classes that include uninjured members with no feasible method of identifying the uninjured members short of mini-trials. *See Spurlock*, 175 F.4th at 250–52; *compare Painters & Allied Trades Dist. Council 82 Health Care Fund v. Takeda Pharm. Co. Ltd.*, 2025 WL 1683472, *4 (9th Cir. June 16, 2025), *cert. denied*, 146 S. Ct. 1817 (2026).

The Fourth Circuit’s decision is wrong. A damages class that includes both injured and uninjured members violates Rule 23’s commonality and predominance requirements. *See, e.g., Lab’y Corp.*, 605 U.S. at 328–34 (Kavanaugh, J., dissenting from order dismissing certiorari as improvidently granted). Certifying such a damages class without a means of separating the uninjured members at the outset, as the Fourth Circuit allowed here, also violates fundamental principles of Article III standing. “Every class member must have Article III standing in order to recover individual damages. Article III does not give federal courts the power to order relief to any uninjured plaintiff, class action or not.” *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021) (cleaned up). Under the Fourth Circuit’s decision, however, hundreds or thousands of claimants that lack standing will remain in the case and be used to leverage

a settlement. And, if no settlement is reached, the district court will end up adjudicating claims over which it has no jurisdiction.

This case presents an excellent vehicle for resolving the entrenched circuit split that this Court granted certiorari to resolve in *Laboratory Corporation of America Holdings*, *supra*.

REASONS FOR REQUESTING EXTENSION OF TIME

Undersigned counsel is working diligently but respectfully submits that additional time is necessary to complete preparation of a petition for a writ of certiorari. A 60-day extension would allow counsel to fully examine the decision below's consequences, research and analyze the issues presented, and prepare the petition for filing. Undersigned counsel has also faced numerous overlapping deadlines in other matters, including oral argument in *Horton v. Centurion of Tennessee, LLC*, No. 25-5608 (6th Cir.); appellate briefing in *Madison County, Miss. v. City of Madison*, No. 2025-CA-01021 (Miss. Sup. Ct.), *Starr Surplus Lines Ins. Co. v. CHC Investments, LLC*, No. 2025-CA-00143 (Miss. Ct. App.); attending a three-day bench trial in *Keohane v. Comeford*, No. 4:24-cv-434 (S.D. Fla.); and pre-trial motions and trial preparation in *Harris v. Bristlecone Group, LLC*, No. 3:25-cv-183 (N.D. Miss.). These matters are in addition to family travel and other professional and personal commitments during the relevant period.

Applicant respectfully requests that an order be entered extending its time to file a petition for writ of certiorari up to and including October 30, 2026.

Respectfully submitted.



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CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 of this Court, applicant Wexford Health Sources, Inc. states that it is private corporation organized under the laws of Florida. Wexford Health Sources, Inc. is a wholly owned subsidiary of The Bantry Group Corporation, which is also a private corporation organized under the laws of Florida. No publicly held company owns 10% or more of stock in The Bantry Group Corporation or Wexford Health Sources, Inc.



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