

**IN THE
SUPREME COURT OF THE UNITED STATES**

No. _____

TREVER GUILBEAU,

Applicant,

v.

SCHLUMBERGER TECHNOLOGY COMPANY,

Respondent.

**APPLICATION TO THE HONORABLE SAMUEL ALITO,
JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND
CIRCUIT JUSTICE FOR THE FIFTH CIRCUIT FOR AN EXTENSION
OF TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI**

Pursuant to Rule 13.5 of the Rules of this Court, Applicant Trevor Guilbeau moves for an extension of sixty (60) days, up to and including December 18, 2026, for the filing of a petition for a writ of certiorari. Unless the Court grants the extension, the deadline for filing the petition for a writ of certiorari will be October 19, 2026. Applicant properly files this Application more than ten (10) days before the current deadline to file.

1. The United States Court of Appeals for the Fifth Circuit rendered its decision on June 12, 2026 (Exhibit 1) and denied a timely petition for rehearing on July 21, 2026 (Exhibit 2). This Court has jurisdiction under 28 U.S.C. § 1254(1).

2. This case presents an exceptionally important federal question that has divided the courts of appeals—specifically, whether economic realities still govern the federal Fair Labor Standards Act or whether an employer’s self-serving labels of its compensation structure control.

3. On February 22, 2023, this Court decided *Helix Energy Solutions Group, Inc. v. Hewitt*, 598 U.S. 39 (2023). *Helix* held that “daily-rate workers, of whatever income level, are paid on a salary basis only through the test set out in § 604(b).” *Id.* at 50. Since then, appellate courts have continued to grapple with the question of what constitutes payment on a “salary basis” under the federal regulations.

4. In applying *Helix*, the circuits have split in their interpretation of this Court’s precedent. Some courts properly recognize that the underlying nature of the compensation structure—the predictability of the compensation as a salary—controls the *Helix* analysis. *See, e.g., Kelly v. City of Alexandria*, 163 F.4th 95, 102 (4th Cir. 2025) (“But we don’t read *Helix* to hold that an hourly rate appearing on a paystub is enough to trigger the 604(b) test. For that would turn even the most assuredly ‘salaried’ employees into hourly-rate workers if their employer’s payroll software happened to convert their salary into an hourly rate.”); *Pickens v. Hamilton-Ryker IT Sols., LLC*, 133 F.4th 575, 585 (6th Cir. 2025) (“The Court left no room for a secret third option, in which an employer could evade the Act merely by calling the per-day rate an employee receives for his first day at work each week his ‘weekly salary.’”).

5. However, the Fifth Circuit (along with the Tenth Circuit¹) has taken the position that courts lack the ability to interrogate the fairness of pay structures where an employer pays any amount of compensation greater than the salary threshold as a minimum weekly guarantee, even if as much as eighty percent of the total compensation is paid in the form of day rate or non-guaranteed compensation. This directly conflicts with 29 C.F.R. § 541.604 and *Helix*'s admonition:

Some nurses working on a per-day or per-shift basis are likely to meet the general rule's duties test; and their employers would assure them \$455 per week in a heartbeat if doing so eliminated the need to pay overtime. And nurses, in the Government's view, are not alone: They "are just one of the many examples" of workers paid less than \$100,000 a year who would, if *Helix* prevailed, lose their entitlement to overtime compensation. Tr. of Oral Arg. 95–96. That consequence, unlike the ones *Helix* raises, is difficult, if not impossible, to reconcile with the FLSA's design.

Helix, 598 U.S. at 61. The Fifth Circuit's determination in *Guilbeau* even conflicts with its own prior opinion in *Gentry v. Hamilton-Ryker IT Solutions, LLC*, 102 F.4th 712 (5th Cir. 2024), where the court found payment of a similar weekly guarantee did not exonerate an employer from its failure to pay overtime premium compensation to workers paid over 80% of their total compensation on an hourly basis.

6. Accordingly, it is critical that the Court step in to address this circuit split and make clear once again that economic realities, rather than "ingenious mathematical manipulations" guide the courts interpreting the Fair Labor Standards Act. *Walling v. Helmerich & Payne, Inc.*, 323 U.S. 37, 41 (1944).

¹ See *Wilson v. Schlumberger Technology Corp.*, 80 F.4th 1170 (2023).

7. Applicant requests this extension to support the best presentation of this critical issue. Between now and the current due date of the petition, Applicant's counsel has substantial briefing obligations, including multiple responses for summary judgment in another case involving Schlumberger Technology Company pending in federal district court in Alaska, *Lowe v. Schlumberger Technology Company*, which are due on October 6, 2026. Furthermore, this is Applicant's counsel's first opportunity to present a writ of certiorari to this Court, and Applicant's counsel has sought input from counsel experienced with presentation of critical issues such as this to the Court. Accommodating those lawyers' schedules has been critical for the presentation of these important issues to the Court and has necessitated this request for additional time for final preparations.

8. Applicant requests this extension for good cause, and not for purposes of delay. This extension will permit Applicant's counsel to prepare a petition that clearly articulates the sharp circuit split that has emerged as appellate courts have applied, and potentially misapplied, this Court's precedent in *Helix*. The extension will permit Applicant's counsel to frame the dichotomy of appellate courts reaching proper conclusions reflecting the economic reality of applicable payment structures in contrast with the serious error of application of *Helix* that resulted in this matter.

For the foregoing reasons, Applicant hereby requests an extension of time to file his petition for a writ of certiorari up to and including December 18, 2026.

Dated: September 28, 2026.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ricardo J. Prieto", written over a horizontal line.

Ricardo J. Prieto

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CERTIFICATE OF SERVICE

I, Ricardo J. Prieto, a member of the Supreme Court Bar, hereby certify that three (3) copies of the attached Application to Honorable Samuel Alito for an Extension of Time to File a Petition for a Writ of Certiorari were served on:

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Service was made by first-class mail on September 28, 2026, with a courtesy copy served via electronic mail at the e-mail addresses provided above.

A handwritten signature in black ink, appearing to read "Ricardo J. Prieto", written over a horizontal line.

Ricardo J. Prieto

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