No. 26A469

In the Supreme Court of the United States

ACUTE, INC.,

Applicant,

v.

ECI PHARMACEUTICALS, LLC.

ON APPLICATION FOR AN EXTENSION OF THE TIME
TO FILE A PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

FOR THE ELEVENTH CIRCUIT, JUSTICE CLARENCE THOMAS, PRESIDING

SECOND APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

Corey J. Biazzo
Counsel of Record
BIAZZO LAW, PLLC
9801 Lakeview Ln.
Parkland, FL 33076
(703) 297-5777
corey@biazzolaw.com

Attorney for Applicant

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SECOND APPLICATION TO EXTEND THE TIME TO FILE A PETITION FOR A WRIT OF CERTIORARI

For the Eleventh Circuit, JUSTICE CLARENCE THOMAS, Presiding

Under 28 U. S. C. §2101(c) and this Court's Rules 13.5, 22, and 30, applicant Acute, Inc. (Acute) respectfully requests a further extension of thirty days, from November 4, 2026, to and including December 4, 2026, of the time to file a petition for a writ of certiorari to review the July 7, 2026, judgment of the United States Court of Appeals for the Eleventh Circuit in No. 25–12829. The requested date is sixty days after the original deadline of October 5, 2026, and therefore within the limit of 28 U. S. C. §2101(c) and Rule 13.5. Acute is the only applicant. This application seeks additional filing time only.

RULE 29.6 STATEMENT

Acute, Inc. has no parent corporation, and no publicly held company owns 10% or more of its stock.

THE INITIAL APPLICATION

Acute's initial application, filed October 5, 2026, requested sixty days, to December 4, 2026. On October 14, 2026, JUSTICE THOMAS extended the time to file until November 4, 2026. Acute acknowledges that the full period was not granted and that, under Rule 30.3, an application that has been denied may not be renewed. Acute submits this application because of circumstances that arose after the first application was filed, which are described below, and respectfully asks that it be considered on that basis. If further time is not granted, Acute will file its petition by November 4, 2026.

JURISDICTION AND TIME FOR PETITIONING

The Eleventh Circuit's opinion and judgment, entered July 7, 2026, are reproduced in Appendix A. The unextended deadline was October 5, 2026. See this Court's Rule 13.1. JUSTICE THOMAS extended the time to petition until November 4, 2026. Because this Court is closed on Sunday, October 25, 2026—the date ten days before the deadline to petition for certiorari—this application is filed on October 26, 2026, nine days before that deadline. See Rule 30.2.

REASONS FOR THE SECOND EXTENSION

An emergency in the related state-court case arose after the first application. The Eleventh Circuit judgment arises from the debtors' Chapter 11 case, in which the bankruptcy court approved the sale of the debtors' business assets to Acute. A related action concerning Acute's companion purchase of the debtors' premises from their non-debtor affiliate is pending in the Circuit Court for Broward County, Florida, No. CACE–24–015522. On October 11, 2026, after the first application was filed, that court entered an order dismissing all of Acute's claims with prejudice and entering a default against Acute on the counterclaim. On October 20, 2026, the counterclaimant moved for a default final judgment of $420,000 plus interest. Acute engaged undersigned counsel with respect to that action on October 16, 2026. Counsel appeared on October 22, 2026, filed an opposition to the motion for default final judgment, and prepared a motion for rehearing and to set aside the default, which Florida law required to be served within fifteen days of the October 11 order, by October 26, 2026. Fla. Rule

Civ. Proc. 1.530(b). Counsel filed that motion at 8:48 p. m. on October 26, 2026 (Filing No. 260037550). It is 57 pages, is supported by two sworn declarations and an appendix of exhibits, and was accompanied by a motion for leave to exceed the page limit. Preparing it required review of the state-court docket and the transcripts of four hearings; research and verification of more than 80 reported decisions and the governing procedural rules; preservation of federal due process claims for any further review; and repeated coordination with Acute's representatives in New York, on short deadlines, to prepare and finalize their sworn declarations. That emergency work occupied the same period in which a further application would ordinarily have been prepared, and it was necessary to protect Acute from a final money judgment. The state-court proceedings are not otherwise the subject of this application, and Acute does not seek to supplement the record before this Court.

Counsel's other obligations during the extended period. In addition, counsel had the following fixed obligations in unrelated matters during the first extension and the remaining period: a mediation in the United States Court of Appeals for the Eleventh Circuit on October 21, 2026; an appendix due in the Eleventh Circuit on October 26, 2026; a potential appeal to a Florida district court of appeal with a deadline of October 29, 2026; a discovery production due October 30, 2026, and a hearing on October 30, 2026, in other pending matters; and a reply brief due November 6, 2026, in the North Carolina Court of Appeals.

The work remaining on the petition. Counsel was retained on October 5, 2026, and had no prior involvement in the case. Counsel's initial review of the case during the first extension showed that the related state-court default, which was unknown when the first application was filed, threatened Acute's interests in the same underlying transaction and required immediate action. The record is substantial. In the court of appeals alone, Acute's appendix comprised ten volumes and 663 pages, with a 103-page supplemental appendix, and respondent filed a 229-page supplemental appendix (CA11 ECF Nos. 20, 21, 26), in addition to the bankruptcy and district-court records. The work that remains includes reviewing the notice and plan-modification record underlying the confirmation order; analyzing the court of appeals' holdings that the confirmation challenges were forfeited and the sale-order challenges abandoned, which a petition must address directly; researching controlling and adverse authority, including *Harrington* v. *Purdue Pharma L. P.*, 603 U. S. 204 (2024), and *United Student Aid Funds, Inc.* v. *Espinosa*, 559 U. S. 260 (2010); formulating concise questions presented under Rule 14.1(a); and preparing the appendix. With the additional thirty days, counsel will complete the record review by November 4, 2026, circulate a draft petition by November 15, 2026, and file by December 4, 2026.

Good faith and lack of prejudice. This application is made in good faith to permit an accurate and focused petition, not for delay. It does not seek a stay or affect any order of another court. Counsel requested respondent's position

by e-mail on October 26, 2026, and had not received a response when this application was filed.

CONCLUSION

Acute prays that this Court extend the time to petition for certiorari to and including December 4, 2026.

Respectfully submitted.

Corey J. Biazzo, Esq.
Counsel of Record
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Parkland, FL 33076
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corey@biazzolaw.com

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Attorney for Applicant