

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 2023

PLUMBERS LOCAL 290 PENSION TRUST FUND, Individually and on Behalf Of All Others
Similarly Situated,

Petitioner,

vs.

ROOT, INC.; ALEXANDER TIMM; DANIEL ROSENTHAL; MEGAN BINKLEY;
CHRISTOPHER OLSEN; DOUG ULMAN; ELLIOT GEIDT; JERRI DEVARD; LARRY
HILSHEIMER; LUIS VON AHN; NANCY KRAMER; NICK SHALEK; SCOTT MAW;
BARCLAYS CAPITAL INC.; GOLDMAN SACHS & COMPANY, LLC; MORGAN
STANLEY & COMPANY, LLC; WELLS FARGO SECURITIES, LLC,

Respondents.

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Sixth Circuit

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

ROBBINS GELLER RUDMAN
& DOWD LLP
STEVEN F. HUBACHEK
(Counsel of Record)
shubachek@rgrdlaw.com
JONAH H. GOLDSTEIN
HARINI P. RAGHUPATHI
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058

ROBBINS GELLER RUDMAN
& DOWD LLP
MICHAEL G. CAPECI
58 South Service Road, Suite 200
Melville, NY 11747
Telephone: 631/367-7100

Counsel for Petitioner

PARTIES

Petitioner Plumbers Local 290 Pension Trust Fund, individually and on behalf of all others similarly situated, was plaintiff-appellant in the court of appeals proceeding.

Root, Inc.; Alexander Timm; Daniel Rosenthal; Megan Binkley; Christopher Olsen; Doug Ulman; Elliot Geidt; Jerri Devard; Larry Hilsheimer; Luis Von Ahn; Nancy Kramer; Nick Shalek; Scott Maw; Barclays Capital Inc.; Goldman Sachs & Company, LLC; Morgan Stanley & Company, LLC; Wells Fargo Securities, LLC, were listed as defendants-appellees below, and are respondents in the proceedings before this Court.

APPLICATION FOR EXTENSION OF TIME

To the Honorable Brett M. Kavanaugh, as Circuit Justice for the United States Court of Appeals for the Sixth Circuit:

Pursuant to Rule 13.5, Petitioner Plumbers Local 290 Pension Trust Fund (“Petitioner”), individually and on behalf of all others similarly situated, respectfully requests that the time to file a Petition for a Writ of Certiorari in this matter be extended by 30 days to and including August 28, 2024. In support of this application, Petitioner states:

1. The underlying case alleges strict liability and negligence-based claims under §§ 11, 12(a)(2), and 15 of the Securities Act of 1933 against Respondents on behalf of all those who invested in Root, Inc.’s Initial Public Offering on or about October 28, 2020. The district court dismissed Petitioner’s claims.

2. The United States Court of Appeals for the Sixth Circuit affirmed the dismissal in a Published Opinion, dated April 29, 2024.

3. Absent an extension of time, the Petition for a Writ of Certiorari would therefore be due on July 29, 2024. *See* Supreme Court Rule 13.3.

4. Petitioners are filing this application more than ten days before that date. *See* Supreme Court Rules 13.5, 30.3.

5. This Court has jurisdiction under 28 U.S.C. § 1254(1).

6. Attached to this application as Exhibit A is a copy of the Published Opinion of the United States Court of Appeals for the Sixth Circuit affirming dismissal of Petitioner’s claims, dated April 29, 2024, which is available as *Kolominsky v. Root, Inc.*, 100 F.4th 675 (6th Cir. 2024).

7. Petitioner presents this application because other commitments have made it impossible for Steven F. Hubachek, the attorney who was primarily responsible for prosecuting the appeal in the Sixth Circuit, and who is also responsible for preparing the Petition for a Writ of Certiorari on Petitioner’s behalf, to complete an adequate Petition by July 29, 2024.

8. Mr. Hubachek's recent responsibilities have included writing and filing, on June 24, 2024, Respondent's Answer to a Petition for Permission to Appeal Under 28 U.S.C. §1292(b) in *HP Inc. v. Maryland Elec. Indus. Pension Fund*, 9th Cir. No. 24-3710 ("HP Answer"), a complex securities case.

9. Subsequent to filing the HP Answer, Mr. Hubachek was on personal leave for over two weeks on a pre-paid, non-refundable family vacation.

10. Mr. Hubachek is currently preparing the opening brief in *Corpus Christi Firefighter's Ret. Sys. v. Macellum Cap. Mgmt.*, No. 24AP-269, in the Ohio Court of Appeals, 10th Appellate District, due on July 24, 2024.

11. Mr. Hubachek is also preparing the Reply Brief in *Boilermaker Blacksmith Nat'l Pension Tr. v. Maiden Holdings, Ltd.*, 3d Cir. No. 24-1118, due August 12, 2024.

12. Petitioner and Counsel believe this case presents an important issue warranting a carefully prepared Petition, as the Sixth Circuit's Published Opinion holds that it is not misleading to warn that a business risk *may* arise without disclosing that that risk has already materialized. The question of whether it is misleading to warn of a risk without disclosing that it has already materialized is currently pending before the Court in *Facebook, Inc. v. Amalgamated Bank*, No. 23-980. That petition was granted on June 10, 2024.

13. Petitioner believes that a 30-day extension will be sufficient time to prepare and finalize a Petition for filing in this Court.

For the foregoing reasons, Petitioner respectfully submits that the time to file a Petition for Writ of Certiorari in this matter should be extended 30 days to and including August 28, 2024.

DATED: July 16, 2024

Respectfully submitted,

ROBBINS GELLER RUDMAN
& DOWD LLP
STEVEN F. HUBACHEK
(Counsel of Record)
shubachek@rgrdlaw.com
JONAH H. GOLDSTEIN
HARINI P. RAGHUPATHI

s/Steven F. Hubachek
STEVEN F. HUBACHEK

655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)

ROBBINS GELLER RUDMAN
& DOWD LLP
MICHAEL G. CAPECI
58 South Service Road, Suite 200
Melville, NY 11747
Telephone: 631/367-7100
631/367-1173 (fax)

Attorneys for *Petitioner*

RULE 29.6 CORPORATE DISCLOSURE STATEMENT

Under Rule 29.6, applicants make the following disclosure:

Petitioner Plumbers Local 290 Pension Trust Fund is not a corporation.