

filed by [unclear] and return

24A281

SUPREME COURT OF THE UNITED STATES

ORIGINAL

James L. Martin, petitioner : No.  
v. :  
David H. Nixon, respondent :

Supreme Court, U.S.  
SEP 14 2024  
OFFICE OF THE CLERK

Petitioner's Rule 30 Application to Justice Sotomayor (Justice Alito is ineligible) for Extension of Time to file Petition for a Writ of Certiorari to the Supreme Court of Delaware

I, James L. Martin, apply for an extension of time to file a Petition for a Writ of Certiorari to the Supreme Court of Delaware this 13th day of September 2024, and certify these statements to be true and correct based on my personal knowledge in accord with 28 USC Sec. 1746:

1. The jurisdiction to review the case is at 28 USC Sec. 1257(a).
2. The judgment to be reviewed was issued on 6-21-2024, at Ex-1a to 2a.
- 2a. The petition for rehearing *en banc* was denied on 7-9-2024, at Ex-3a.
3. The 90-day period for filing a petition for a writ of certiorari expires on 10-7-2024. An 60-day extension of time, until 10-7-2024 is requested, in light of the subrogation claim against the petitioner from the Centers for Medicare and Medicaid Services (CMS) after the Reply Brief was filed on 3-4-2024 in the appeals court below. The subrogation demand

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is based on medical treatment Dr. Getz prescribed for petitioner Martin following shoulder reconstruction surgery, for a complete separation, that resulted from the crash respondent motorist Nixon caused on 10-10-2015.

Dr. Getz updated his report dated 9-8-2021, to specify:

I previously summarized his surgery and postop rehab around the time of his initial injury. I would like to clarify that two MRIs did not show any interval change to the patient's rotator cuff between 2015 and 2019 and his residual shoulder dysfunction is a result of his initial injury and the inherent damage associated with it.

Dr. Getz testified during a videotaped trial deposition that all treatment he prescribed was casually related to the crash in 2015, consistent with his prior report referenced above:

Q [to Dr. Getz]: Is \$3,751.56 [the] reasonably accurate billed amount for the medical services you provided and prescribed after December 6<sup>th</sup>, 2016, to the present time [1-10-2022]?

A It is.

Although Nixon decided not to conduct an independent medical evaluation of Martin, and although Nixon offered no testimony or evidence to contradict Dr. Getz's testimony, the trial judge disregarded the testimony from Dr. Getz on this point, and excluded treatment after 2016 as if it were unrelated to the crash on 10-10-2015. He further excluded Dr. Getz's testimony about traumatic brain injury, permanent disability, and other properly admissible trial testimony.

4. The additional time will provide CMS an opportunity to determine whether to join petitioner's efforts for a new trial in view of the recited abuses. The subrogation demand is valid based on all the available evidence and testimony, but the trial court proceedings were so flawed that the jury could not award, and did not award, the damages Martin documented during the trial deposition of Dr. Getz, whose questions followed a *pro forma* format.

5 Justice Alito is disqualified in view of the fifteen-page Application to Associate Justice Samuel Alito for Recusal and for Disqualification, filed at No. 06-55, in *Martin v. United States Court of International Trade*, and incorporated herein by reference.

WHEREFORE, this Application should be granted to allow for a sixty-day extension for filing a certiorari petition, until 12-6-2024.

A handwritten signature in cursive script that reads "James L. Martin". The signature is written in black ink and is positioned above a horizontal line.

James L. Martin; petitioner; 805 W. 21st St.; Wilmington, DE 19802-3818  
(302) 652-3957 e-mail MARTINJIML@aol.com



IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES L. MARTIN,	§
	§
Plaintiff Below,	§ No. 440, 2023
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
DAVID H. NIXON,	§ C.A. No. N17C-08-152
	§
Defendant Below,	§
Appellee.	§

Submitted: April 19, 2024  
Decided: June 21, 2024

Before VALIHURA, TRAYNOR, and LEGROW, Justices.

**ORDER**

After consideration of the parties' briefs and the record on appeal, we find it evident that the judgment below should be affirmed on the basis of and for the reasons cited by the Superior Court in its October 31, 2023 order denying the appellant's supplemental amended renewed motion for judgment as a matter of law, the appellant's amended motion to alter or amend the judgment, and the appellant's motion to reopen the judgment.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be AFFIRMED.

BY THE COURT:

/s/ Gary F. Traynor  
Justice



IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES L. MARTIN,

Plaintiff Below,  
Appellant,

v.

DAVID H. NIXON,

Defendant Below,  
Appellee.

§  
§  
§ No. 440, 2023  
§  
§ Court Below—Superior Court  
§ of the State of Delaware  
§  
§ C.A. No. N17C-08-152  
§  
§  
§

Submitted: July 8, 2024

Decided: July 9, 2024

Before SEITZ, Chief Justice; VALIHURA, TRAYNOR, LeGROW, and GRIFFITHS, Justices, constituting the Court *en banc*.

**ORDER**

This 9<sup>th</sup> day of July, 2024, the Court has considered the motion for rehearing *en banc* filed by appellant, and it appears that the motion is without merit and should be denied.

NOW, THEREFORE, IT IS ORDERED that the motion for rehearing *en banc* is DENIED.

BY THE COURT:

/s/ Gary F. Traynor  
Justice

SUPREME COURT OF THE UNITED STATES

James L. Martin, petitioner : No.

v. :

David H. Nixon, respondent :

Certificate of Service

I, James L. Martin, certify that I served a copy of the Petitioner's Rule 30 Application to Justice Sotomayor (Justice Alito is ineligible) for Extension of Time to file Petition for a Writ of Certiorari to the Supreme Court of Delaware with decisions at issue attached, upon counsel of record for the party in the underlying case at the following address:

Edward Kafader, Esq.  
Ferry Joseph, PA  
1521 Concord Pike, Ste 202  
Wilmington, DE 19803

by pre-paid, first-class mail this 14th day of September 2024.

BY: James L. Martin  
James L. Martin, petitioner  
805 W. 21<sup>st</sup> St.  
Wilmington, DE 19802  
(302) 652-3957