

No.

In the
Supreme Court of the United States

AMERICAN MEDICAL EQUIPMENT,
INC.,

PETITIONER,

v.

UNITED STATES OF AMERICA,
RESPONDENT.

**On Petition for a Writ of Certiorari to the
United States Courts of Appeals for the Federal
Circuit**

**APPLICATION FOR EXTENSION OF TIME TO
FILE PETITION FOR A WRIT OF CERTIORARI**

Robert L. Sirianni, Jr., Esquire
Counsel of Record
BROWNSTONE, P.A.
P.O. Box 2047
Winter Park, Florida 32790-2047
robertsirianni@brownstonelaw.com
(o) 407-388-1900
(f) 407-622-1511
Counsel for Petitioner

To The Honorable Justices of the Supreme Court of the United States

Pursuant to Rule 30.3 of this Court, Petitioner respectfully requests a 60-day extension of time, to and including February 27, 2025, within which to file a petition for writ of certiorari to review the judgment of the United States Court of Appeals for the Federal Circuit an extension, Petitioner's petition would be due 90-days from the Final Judgment, which is December 29, 2024.

Basis for Jurisdiction in the Supreme Court

This Court has jurisdiction to grant an application for a writ of certiorari in this case pursuant to Art. III, Sec. 2, Clause 2, as Petitioner seeks review of the judgment of the United States Court of Appeals for the Federal Circuit.

Opinion and Order

On September 30, 2024, the United States Court of Appeals for the Federal Circuit affirmed the lower court's adjudication. Thereafter, post-judgment pleadings were filed, however, it is uncertain whether such filings will toll the time to file for Certiorari relief in this honorable Court.

Judgment Sought to be Reviewed

The Court's review is warranted to resolve significant issues of law on which the decision below departs from this Court's precedents and conflicts with other Circuits.

The Panel misapplied the summary judgment standard creating a conflict of jurisprudence. Relatedly, is the issue of excusable delay in the context of third-party

providers, foreseeable circumstances, scope of use and admission of bill of lading, pre-award characteristics, dealing in good faith and the impact of the Coronavirus. The tangential impacts of the pandemic are rearing its head, and this nation will be faced with an abundance of COVID and contract related cases. Guidance from the highest Court is required as to ensure swift adjudication of these claims.

Lastly, the issue of supplementing the record on appeal. The decision on whether an appellate record should be supplemented under the particular circumstances of a case is a matter left to the discretion of the federal courts of appeals. *Singleton v. Wulff*, 428 U.S. 106 (1976) (issues raised for the first time on appeal). While federal appellate courts do not often supplement the record on appeal with evidence not reviewed by the court below, it is clear that the authority to do so exists. See, e.g., *Erkins v. Bryan*, 663 F.2d 1048, 1052 n.1 (11th Cir., 1981); *United States v. Aulet*, 618 F.2d 182, 187 (2d Cir. 1980); *Turk v. United States*, 429 F.2d 1327, 1329 (8th Cir. 1970); *Gatewood v. United States*, 209 F.2d 789, 792-93 (D.C.Cir.1953). Here, Petitioner will ask this Court to resolve the ambiguity and limitations of Federal Rule of Appellate Procedure 10(e).

Reasons for Extension of Time

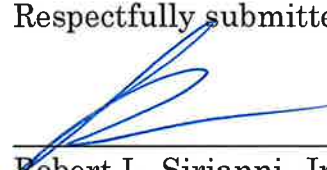
The additional time is warranted due to significant professional obligations in pending appellate matters, the resolution of the post-judgment filings below, and the need to consult and obtain documentary evidence. The legal issues in the case require coordination between counsel and Petitioner.

Petitioner believes an extension will result in no prejudice to Respondent.

CONCLUSION

Petitioner's request is intended to ensure that Petitioner and counsel have adequate opportunity to discuss the merits of their claim, retrieve and review all appellate documents, and provide complete and effective assistance of counsel. As such, Petitioner respectfully prays that this Court grant an extension of time up to and including February 27, 2025.

Respectfully submitted,



Robert L. Sirianni, Jr., Esquire
Counsel of Record
BROWNSTONE, P.A.
P.O. Box 2047
Winter Park, Florida 32790-2047
(o) 407-388-1900
robertsirianni@brownstonelaw.com
Counsel for Petitioner

Dated: December 26, 2024.


CERTIFICATE OF SERVICE

I, Robert L. Sirianni, Jr., hereby certify that an original and 2 copies of the foregoing Application for Extension of Time for the matter of *American Medical Equipment, Inc., v. United States*, were sent via Next Day Service to the U.S. Supreme Court, and 1 copy was sent Next Day Service and email to the following parties listed below, this 26th day December.

Kelly Geddes, Trial Attorney
Direct: 202-307-2867
Email: kelly.geddes2@usdoj.gov
United States Department of Justice Commercial Litigation Branch, Civil Division
PO Box 480
Ben Franklin Station Washington, DC 20044

Patricia M. McCarthy, Assistant Director
Email: patricia.mccarthy@usdoj.gov
United States Department of Justice Commercial Litigation Branch, Civil Division
PO Box 480
Ben Franklin Station Washington, DC 20044

Brian M. Boynton, Acting Assistant Attorney General
United States Department of Justice Commercial Litigation Branch, Civil Division
PO Box 480
Ben Franklin Station Washington, DC 20044



Robert L. Sirianni, Jr., Esquire