

No. _____

In the Supreme Court of the United States

UBER TECHNOLOGIES, INC., ET AL.,
Applicants,

v.

AMIE DRAMMEH, ET AL.,
Respondents.

**Application for Extension of Time
to File Petition for a Writ of Certiorari**

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Corporate Disclosure Statement

Under Supreme Court Rule 29.6, Applicants state that Uber Technologies, Inc. is a publicly held corporation with no parent company. Raiser, LLC is a wholly owned subsidiary of Uber. Applicants are unaware of any entities or persons with an ownership interest of 10% or more of Uber's stock.

Parties to the Proceeding

Applicants Uber and Raiser were defendants in this action in the United States District Court for the Western District of Washington. Applicants were appellees in the United States Court of Appeals for the Ninth Circuit.

Respondents, the plaintiffs-appellants in the court of appeals, are Aime Drammeh; Yusupha Ceesay; and Maram Ceesay, as the representative of the estate of Chernon Ceesay.

Related Proceedings

U.S. District Court (W.D. Wash.):

Drammeh v. Uber Techs. Inc., No. 21-cv-202 (Dec. 19, 2022)

United States Court of Appeals (9th Cir.):

Drammeh v. Uber Techs. Inc., No. 22-36038 (Aug. 30, 2024)

To the Honorable Elena Kagan, Associate Justice of the Supreme Court of the United States and Circuit Justice for the United States Court of Appeals for the Ninth Circuit:

1. Under Supreme Court Rule 13.5, Applicants Uber and Raiser respectfully apply for a 58-day extension of time, to and including Friday, March 21, 2025, within which to file a petition for a writ of certiorari. The United States Court of Appeals for the Ninth Circuit issued its opinion in this case on August 30, 2024. A copy of that opinion is attached as Exhibit A. The Ninth Circuit denied applicants' timely petition for rehearing in an order issued on October 24, 2024. A copy of that order is attached as Exhibit B. This Court's jurisdiction would be invoked under 28 U.S.C. § 1254(1).

Absent an extension, applicants' petition for a writ of certiorari would be due on January 22, 2025. This application is being filed more than 10 days in advance of that date, and no prior application has been made in this case.

2. Applicants presently intend to prepare and file a petition for a writ of certiorari in this important matter. The question presented by applicants' forthcoming petition would concern the proper application of *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938), when a federal court of appeals must apply state law and the state's highest court has declined the federal court's attempt to certify the state-law question. The Ninth Circuit's holdings in the decision below about *Erie* procedure conflict with multiple decisions of this Court and other federal courts of appeals.

This case arises from the tragic, deliberate murder of Cherno Ceesay by third-party criminals while Mr. Ceesay was working as an independent driver using the Uber platform. Mr. Ceesay's family filed suit against Uber in federal court in Washington, asserting a theory of negligence under Washington state law. The district court granted summary judgment to Uber because state precedent holds that Washington law generally does not permit liability for allegedly failing to prevent premeditated third-party criminal conduct.

Plaintiffs appealed to the Ninth Circuit. The panel, apparently recognizing that existing Washington law would not support Plaintiffs’ theory of liability, certified two state-law questions to the Washington Supreme Court. The Washington Supreme Court *declined* certification. Yet despite that strong signal that the Washington Supreme Court saw no defect in the district court’s judgment, the panel issued a split decision reversing the district court and recognizing a novel legal duty under Washington law that no Washington court has ever accepted.

This case is important because the Ninth Circuit’s dramatic expansion of Washington tort law conflicts with this Court’s prohibition on using *Erie* to create one substantive rule of law for litigants in state court and another for litigants in federal court. See, e.g., *Fidelity Union Tr. Co. v. Field*, 311 U.S. 169, 179–180 (1940). Moreover, the Ninth Circuit ruling creates or deepens splits between the Ninth Circuit’s *Erie* precedent and that of other courts of appeals. At least five circuits hold that *Erie* prohibits federal courts from predicting future changes in state law—as opposed to applying existing law—without guidance from state courts or legislatures. See *Jeanty v. Big Bubba’s Bail Bonds*, 72 F.4th 116, 120 (5th Cir. 2023) (citing *Nicolaci v. Anapol*, 387 F.3d 21, 27 (1st Cir. 2004)); *Salinero v. Johnson & Johnson*, 995 F.3d 959, 968 (11th Cir. 2021); *Hollander v. Brown*, 457 F.3d 688, 692 (7th Cir. 2006); *City of Philadelphia v. Lead Indus. Ass’n, Inc.*, 994 F.2d 112, 115 (3d Cir. 1993). Here, the Ninth Circuit majority made such a prediction based on its view that state law did not categorically *preclude* respondents’ requested expansion of Washington tort law. And other circuits “defer to the most recent decisions of the state’s highest court,” as this Court’s precedent requires. *Sylvia v. Wisler*, 875 F.3d 1307, 1313 (10th Cir. 2017) (cleaned up); see also, e.g., *Johnson v. 3M Co.*, 55 F.4th 1304, 1312 (11th Cir. 2022) (“The Georgia Supreme Court’s latest word ... controls us”). But Ninth Circuit majority refused to analyze—much less follow—the Washington Supreme Court’s recent holdings on the very limited scope of Washington tort liability for third-party crimes.

3. Applicants have good cause for the extension of time requested in this application. Applicants have engaged Michael Huston as counsel to analyze a petition for a writ of certiorari and potentially to prepare and file a petition. In addition to family commitments over the recent Winter holidays, Mr. Huston is handling multiple other matters with pressing deadlines that would challenge his ability to file the petition on or before January 22, 2025. Those include:

- Mr. Huston is counsel of record in this Court for the respondents in *EPA v. Calumet Shreveport Refining, LLC, et al.*, No. 23-1229. Respondents' answering brief is due January 21, 2025.
- Mr. Huston is counsel of record for The Boeing Company in *In re Lion Air Flight JT 610 Crash*, 110 F.4th 1007 (7th Cir. 2024). The plaintiffs in that case have applied for and received an extension of time to file a petition for a writ of certiorari until February 5, 2025. If the plaintiffs file that petition, then Mr. Huston will be responsible for reviewing it and determining Boeing's response.
- Mr. Huston is counsel to SunCoke Energy Inc. in *American Coke and Coal Chemicals Institute, et al. v. EPA, et al.*, No. 24-1287, in the United States Court of Appeals for the District of Columbia Circuit. Mr. Huston is currently preparing SunCoke's opening brief.
- Mr. Huston is counsel to 683 Capital Partners, LP in *In re: Argentine GDP-Linked Securities Litigation*, No. 24-1209, in the United States Court of Appeals for the Second Circuit. Mr. Huston is currently preparing 683 Capital's reply brief, which is due January 10, 2025.
- Mr. Huston is counsel to Uber in *Soares v. Uber Technologies Inc.*, No. 24-3046, in the New York Appellate Division, First Department. Oral argument is scheduled for January 14, 2025.

- Mr. Huston is counsel to the defendant-respondents in *DMB Realco LLC, et al. v. Mariscal, Weeks, McIntyre & Friedlander, et al.*, No. 24-278, in the Arizona Court of Appeals. Mr. Huston is currently preparing the respondents' cross-reply brief, which is due January 14, 2025.
- Mr. Huston is counsel to Google LLC in *Republican National Committee v. Google Inc.*, No. 24-5358, in the United States Court of Appeals for the Ninth Circuit. Plaintiff's opening brief is currently due January 21, 2025, at which point Mr. Huston will be responsible for preparing Google's response brief.
- Mr. Huston is counsel to Reddit Inc. in *Patterson, et al. v. Meta Platforms, Inc. et al.*, No. 24-513 (and consolidated cases), in the New York Appellate Division, Fourth Department. Plaintiff's response brief is currently due January 21, 2025, at which point Mr. Huston will be responsible for preparing Reddit's reply brief.
- Mr. Huston is counsel to the defendant-respondents in *CTY Farms, LLC v. St. Lucie River Farm, LLC, et al.*, No. 4D2024-2016, in the Florida Fourth District Court of Appeals. Mr. Huston is currently preparing the respondents' answering and cross-opening brief, which is due February 17, 2025.

The requested 58-day extension of time for a petition for a writ of certiorari in this action will provide the additional time needed by counsel to prepare a petition that fully addresses the important issues raised by the decision below.

For these reasons, Applicants respectfully request that this Court extend the time to file a petition for a writ of certiorari by 58 days, to and including Friday, March 21, 2025.

January 6, 2025

Respectfully Submitted,

s/ Michael R. Huston

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