

In The Supreme Court Of The United States

No. 24A706

THE HERTZ CORPORATION, ET AL., APPLICANTS

v.

WELLS FARGO BANK, N.A., AS INDENTURE TRUSTEE, ET AL.

RESPONSE IN OPPOSITION TO APPLICATION FOR A FURTHER EXTENSION OF TIME WITHIN WHICH TO FILE A PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

Wells Fargo Bank, N.A., as Indenture Trustee (the Trustee) respectfully submits this response in opposition to the application for a further extension of time within which to file a petition for a writ of certiorari. The application should be denied for substantially the same reasons as set forth in the Trustee's response to applicants' original extension application.

As our prior response explained (at 3-9), the dynamics of this case differ markedly from the usual situation in which a party requests an extension of the deadline for seeking certiorari. In an ordinary case, an extension does not meaningfully prejudice a respondent because (in the absence of a stay of the court of appeals' mandate) the court of appeals' judgment will be implemented during the pendency of a certiorari petition. Here, by contrast, although applicants did not seek or obtain a stay of the court of appeals' mandate, applicants will not be required to

pay the hundreds of millions of dollars that they owe under the court of appeals' decision or to post a bond to secure payment until their forthcoming certiorari petition is denied. Under the terms of the Chapter 11 plan of reorganization at issue here, the noteholders whose interests the Trustee represents are effectively required to extend involuntary unsecured credit to Hertz in the interim, and the result of a further extension of the certiorari deadline would be to prolong the period during which the noteholders must continue to do so. That result would be particularly unfair given that the amounts at issue should have been paid more than three and a half years ago, and Hertz's creditworthiness has deteriorated significantly over that period. See Trustee's Response 5-8.

In short, a further extension of the certiorari deadline would cause concrete, real-world prejudice to the noteholders. In light of that important consideration and the weakness of applicants' arguments for certiorari (see Trustee's Response 8), the competing professional obligations of applicants' lead counsel do not demonstrate the "good cause" required for a further extension of time. Sup. Ct. R. 13.5. The application should accordingly be denied.

Respectfully submitted.

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