

[NOT YET SCHEDULED FOR ORAL ARGUMENT]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Citizens for Constitutional Integrity,

Plaintiff-Appellant,

v.

Census Bureau, et al.,

Defendants-Appellees.

No. 23-5140

JOINT MOTION TO MODIFY BRIEFING SCHEDULE

The parties jointly respectfully request that the Court modify the briefing schedule, such that the government's response brief is due December 22, 2023, and appellant Citizens for Constitutional Integrity's reply brief is due January 29, 2024.

1. The Court issued a briefing schedule in this case on September 19, 2023. Appellant filed its opening brief on October 30, 2023. The government's response brief is currently due November 29, 2023, and appellant's reply brief is due December 20, 2023.

2. The proposed modified briefing schedule would extend the government's time to file its response brief by 23 days, to and including

December 22, 2023. This extension is necessary in light of other briefing deadlines faced by government counsel. Sarah Clark has principal responsibility for preparing the government's brief in this case. Ms. Clark also has principal responsibility for preparing the government's brief in *Crocker v. Austin*, No. 23-30497 (5th Cir.) (response brief due December 18, 2023), as well as multiple internal deadlines. Ms. Clark will also be on leave from November 22 to November 26, 2023. Michael Raab and Mark Stern have supervisory responsibility for the government's brief in this case. Mr. Raab also has supervisory responsibility for the following matters with upcoming briefing deadlines: *Phillips v. U.S. Customs and Border Patrol*, No. 21-55768 (9th Cir.) (response to petition for rehearing due November 14, 2023); *Pitsilides v. Attorney General*, No. 21-3320 (3rd Cir.) (supplemental brief due November 15, 2023, as extended); *Azawi v. McDonough*, No. 22-56157 (9th Cir.) (response brief currently due November 30, 2023); *Mackinac Center for Public Policy v. Cardona*, No. 23-1736 (6th Cir.) (response brief due November 30, 2023, as extended). And Mr. Stern has supervisory responsibility for the following matters with upcoming briefing deadlines: *American Reliable Ins. Co. v. United States*, No. 22-6014 (6th Cir.) (reply brief due Nov. 15, 2023, as extended); *Georgia v. Dep't of Justice*, No. 23-5083 (D.C. Cir.) (reply brief due Nov. 20, 2023, as extended); *United States v. King County*, No. 23-35362 (9th Cir.) (response brief due Nov. 29, 2023, as

extended); *In re MMJ BioPharma Cultivation Inc.*, No. 23-1224 (D.C. Cir.) (response to mandamus petition due Dec. 1, 2023).

3. Under the proposed modified briefing schedule, appellant's reply brief would be due on January 29, 2024. This is a 17-day extension beyond the 21 days appellant would be accorded if the government's deadline is extended to December 22, 2023. This extension is necessary in light of scheduled leave. In particular, appellant's counsel Jared Pettinato made travel plans over the holidays based on the earlier deadline for his brief of December 20, 2023, and he also made plans to move houses and his law practice during that time. In light of those commitments, Mr. Pettinato still would have approximately the same 21 days to complete the reply brief for this case. That would ensure Mr. Pettinato could provide this Court complete, thorough, and well-considered briefing.

4. The parties jointly request this modification of the briefing schedule.

Respectfully submitted,

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/s/ Jared S. Pettinato

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November 13, 2023

CERTIFICATE OF COMPLIANCE

I certify that the foregoing complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d), because it contains 496 words according to the count of Microsoft Word and is printed in Calisto MT 14-point font.

/s/ Sarah J. Clark
SARAH J. CLARK

CERTIFICATE OF SERVICE

I certify that on November 13, 2023, I filed and served this motion with the Clerk of Court by causing a copy to be electronically filed via the CM/ECF system. I also certify that the participants in this case are registered CM/ECF users and will be served via the CM/ECF system.

/s/ Sarah J. Clark
SARAH J. CLARK

ADDENDUM

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

A. Parties and Amici

Plaintiff in district court, and appellant here, is Citizens for Constitutional Integrity. Defendants in district court, and appellees here, are the Census Bureau, the Department of Commerce, Gina M. Raimondo, in her official capacity as Secretary of Commerce, and Robert Santos, in her official capacity as Census Bureau Director. There are no amici or intervenors at this time.

B. Ruling Under Review

The ruling under review is the opinion and order entered on April 18, 2023 (Dkt. Nos. 36, 37), *see Citizens for Constitutional Integrity v. Census*, No. 1:21-cv-3045 (Nichols, J.).

C. Related Cases

The case on review has not previously been before the Court. There are no related cases within the meaning of D.C. Circuit Rule 28(a)(1)(C).

/s/ Sarah J. Clark

SARAH J. CLARK