

No. _____

IN THE
Supreme Court of the United States

THE DEPOT, INC., UNION CLUB BAR, INC., and TRAIL HEAD, INC.,

Plaintiffs-Appellants,

v.

CARING FOR MONTANANS, INC. and
HEALTH CARE SERVICE CORPORATION,

Defendants-Appellees.

**All Parties' Joint Application for Extension of Time
to File a Petition for a Writ of Certiorari to
the United States Court of Appeals for the Ninth Circuit**

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

Plaintiffs-Appellants below are businesses that sponsor health benefit plans under the Employee Retirement Income Security Act (“ERISA”), 29 U.S.C. §§ 1001 *et seq.*, and Defendants-Appellees below are entities that insure ERISA health benefit plans. Both sides intend to file petitions for writs of certiorari in connection with a decision issued by the U.S. Court of Appeals for the Ninth Circuit that was partially in favor of Plaintiffs-Appellants and partially in favor of Defendants-Appellees. Pursuant to Supreme Court Rule 13.5, the parties jointly request that the time for any party to file a petition for a writ of certiorari be extended 30 days, to and including

July 15, 2019 (*i.e.*, the first business day following the thirtieth day, which falls on a Saturday). A petition for a writ of certiorari is currently due in this Court on June 13, 2019. This Application is being filed more than ten days before that date.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

The judgment sought to be reviewed is *Depot, Inc., et al. v. Caring for Montanans, Inc., et al.*, No. 17-35597 (9th Cir.), decided on February 6, 2019. Defendants-Appellees timely sought panel and *en banc* rehearing, which was denied on March 15, 2019. A copy of the opinion is attached (Appendix A), along with the order denying the petition for panel and *en banc* rehearing (Appendix B). (Appendix C is a Corporate Disclosure Statement.)

Good cause exists for granting this Application. The opinion for which review will be sought is a complex and lengthy one and deals with questions regarding the availability of ERISA causes of action regarding insurer conduct and the preemption of state-law claims. The additional time will allow both sides to present better petitions for the Court to consider. Moreover, each side would like to file a single petition from multiple parties on that side, in order to avoid burdening the Court with multiple petitions per side; the additional time will allow the parties on each side sufficient opportunity to coordinate their presentations and file a single petition. Finally, lead counsel for each side also have primary responsibilities for competing work-related matters; those responsibilities are such that, even with the assistance of other attorneys, they cannot reasonably complete the work necessary to prepare a

petition by the present due date (June 13, 2019). Respectfully, the parties believe these factors justify granting this Application for an extension.

The parties make this request in good faith and believe that the requested extension of time is necessary.

Wherefore, the parties jointly request that an order be entered extending the time for any party to file a petition for a writ of certiorari to and including July 15, 2019.

May 31, 2019

Respectfully submitted,

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