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February 15, 2023

BY ELECTRONIC SUBMISSION

The Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, N.E.
Washington, DC 20543

Re: *United States ex rel. Schutte et al. v. SuperValu Inc. et al.* (No. 21-1326), and
United States ex rel. Proctor v. Safeway Inc. (No. 22-111)

Dear Mr. Harris:

We write to request the Court's permission to defer submission of the joint appendix in the above-captioned consolidated cases under Rule 26.4. To avoid delay in the Court's consideration of the case, the parties have agreed to submit their principal briefs in compliance with Rule 33.1 and in accordance with the Court's current briefing schedule. The parties' principal briefs will be filed once and include citations to the pagination in the joint appendix, thus avoiding any need to resubmit the briefs with corrected record citations. Petitioners' counsel has indicated that petitioners support this request.

The parties believe that deferring submission of the joint appendix will aid the Court's consideration of these cases. The records in these consolidated cases are voluminous and current counsel of record was first retained after the petitions for certiorari were granted. The proceedings and filings span over a decade of litigation, and both cases were decided following extensive discovery and on motions for summary judgment. This matter comes to the Court after two appeals that will both be at issue. By deferring the submission of the joint appendix until respondents have submitted their principal briefs, the parties will be better able to identify, and limit the joint appendix to, those materials most helpful to the Court.

I hope the Court will consider granting this request. Please let me know if you have any questions or concerns.

SIDLEY

Page 2

Sincerely,

A handwritten signature in dark ink that reads "Carter G. Phillips". The signature is written in a cursive, slightly slanted style.

Carter G. Phillips
Counsel of Record for Respondents

cc: Counsel of Record