

No. _____

IN THE
Supreme Court of the United States

PEOPLECONNECT, INC.,
Applicant,

v.

BARBARA KNAPKE, INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED,
Respondent.

CONDITIONAL MOTION TO EXPEDITE CONSIDERATION OF
PETITION FOR WRIT OF CERTIORARI

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RULE 29.6 STATEMENT

Pursuant to Supreme Court Rule 29.6, PeopleConnect, Inc. (“PeopleConnect”) hereby states that it is a wholly-owned subsidiary of PeopleConnect Holdings, Inc., a non-public Delaware corporation, and PCHI Parent, Inc., a non-public Delaware corporation. No publicly held corporation owns 10% or more of PeopleConnect’s stock. PeopleConnect, Inc. has no publicly held affiliates.

PeopleConnect, Inc. respectfully seeks expedited consideration of its petition for certiorari in order to ensure that the Court can decide this case before it becomes moot.

PeopleConnect's petition for certiorari asks the Court to resolve a 5-3 circuit split on the legal standard courts should apply in deciding whether district court proceedings should be stayed pending appeals of denials of motions to compel arbitration. In five circuits, a non-frivolous appeal of a denial of a motion to compel arbitration ousts the district court of jurisdiction, and proceedings halt automatically. By contrast, in three circuits, proceedings continue unless the traditional discretionary standard for staying proceedings is satisfied. In the decision below, the Ninth Circuit denied a stay under that traditional discretionary standard. PeopleConnect has also filed an application to stay proceedings in the district court pending disposition of its petition for certiorari.

Because this case concerns the legal standard for a stay pending appeal, this case—and any other case raising the same question—will become moot once the court of appeals issues its mandate. If the Court grants certiorari, it should ensure that the case is decided before it becomes moot.

On the current briefing schedule, PeopleConnect's Ninth Circuit reply brief would be due on January 10, 2022. Based on trends within the Ninth Circuit, PeopleConnect believes that this case is unlikely to be fully resolved in the Ninth Circuit by the end of the current Supreme Court Term (*i.e.*, June 2022), but the case is likely to be fully resolved prior to the end of the next Term (*i.e.*, June 2023).

To avoid mootness, the Court should ensure that the case is decided this Term, and ideally by the spring. To ensure that this case is heard expeditiously, the Court has two options.

First, it can construe PeopleConnect's stay application as a petition for certiorari, grant certiorari, and set an expedited briefing schedule. This would be PeopleConnect's preference because it would be the most expeditious and efficient option. If the Court treats the stay application as a petition for certiorari, PeopleConnect would dismiss its separately-filed petition for certiorari and would also dismiss this motion to expedite consideration.

The Court took that path the last time a similar situation arose. In *Nken v. Holder*, 556 U.S. 418 (2009), the applicant filed a stay application, seeking review of a circuit split on the appropriate legal standard for stays pending appeal in immigration cases. Like this case, *Nken* (and any other case raising the same issue) would inherently become moot once the court of appeals ruled. The Court granted the stay application, treated the stay application as a petition for certiorari, granted certiorari, and set an expedited briefing schedule that allowed the case to be argued less than two months after the stay application was granted. If the Court proceeds similarly here, PeopleConnect would be prepared to brief this case on whatever expedited schedule the Court deems appropriate.

In an abundance of caution, PeopleConnect has also filed a separate petition for certiorari as well as this motion to expedite consideration. In the event the Court declines to treat the stay application as a petition for certiorari, PeopleConnect respectfully requests that the Court grant the stay application, and also grant this motion to expedite

consideration of the petition for certiorari. PeopleConnect would propose that the brief in opposition be due on November 29, 2021. PeopleConnect would file its reply brief by December 3, 2021, which would allow this Court to consider the petition at its December 10, 2021 Conference. PeopleConnect would then respectfully request a briefing schedule that would allow the case to be argued in February or March 2022.

CONCLUSION

If the Court declines to treat PeopleConnect's stay application as a petition for certiorari, the Court should grant PeopleConnect's conditional motion to expedite consideration of its petition for certiorari.

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Respectfully Submitted,
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