

No. 21-885

IN THE
Supreme Court of the United States

PEOPLECONNECT, INC.,
Petitioner,

v.

MEREDITH CALLAHAN AND LAWRENCE GEOFFREY ABRAHAM, on behalf of themselves
and all others similarly situated,
Respondents.

CONDITIONAL MOTION TO EXPEDITE CONSIDERATION OF
PETITION FOR WRIT OF CERTIORARI

DEBBIE L. BERMAN
WADE A. THOMSON
CLIFFORD W. BERLOW
GABRIEL K. GILLET
JENNER & BLOCK LLP
353 N Clark St.
Chicago, IL 60654
(312) 222-9350

IAN HEATH GERSHENGORN
ADAM G. UNIKOWSKY
Counsel of Record
JENNER & BLOCK LLP
1099 New York Ave., NW
Suite 900
Washington, DC 20001
(202) 639-6000
aunikowsky@jenner.com

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 has no publicly held affiliates.

PeopleConnect, Inc. (“PeopleConnect”) 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.

This case will be fully briefed in the Ninth Circuit as of December 22, 2021, and the Ninth Circuit has stated that the case would be considered for oral argument in March, April, or June 2022. Taking into account the potential for a petition for rehearing after a decision issues, 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 December 23, 2021. PeopleConnect would file its reply brief by December 30, 2021 which would allow this Court to consider the petition at its January 7, 2022 Conference. PeopleConnect would then respectfully request a briefing schedule that would allow the case to be argued in 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.

DEBBIE L. BERMAN
WADE A. THOMSON
CLIFFORD W. BERLOW
GABRIEL K. GILLET
JENNER & BLOCK LLP
353 N Clark St.
Chicago, IL 60654
(312) 222-9350

Respectfully submitted,

/S/ ADAM G. UNIKOWSKY
IAN HEATH GERSHENGORN
ADAM G. UNIKOWSKY
Counsel of Record
JENNER & BLOCK LLP
1099 New York Ave., NW
Suite 900
Washington, DC 20001
(202) 639-6000
aunikowsky@jenner.com

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CERTIFICATE OF SERVICE

I, Adam G. Unikowsky, hereby certify that I am a member of the Bar of this Court, and that I have this 13th day of December 2021, caused a copy of the Conditional Motion To Expedite Consideration of Petition for Writ of Certiorari to be served via overnight mail and an electronic version of the document to be transmitted via the Court's electronic filing system to:

Ben R. Osborn
Law Office of Benjamin R. Osborn
102 Bergen Street
Suite 4
Brooklyn, NY 11201
(347) 645-0464
ben@benosbornlaw.com

Michael Ram
Marie Noel Appel
Morgan & Morgan
711 Van Ness Avenue
Suite 500
San Francisco, CA 94102
(415) 358-6913
mram@forthepeople.com
mappel@forthepeople.com

Counsel for Meredith Callahan and Lawrence Geoffrey Abraham

/s/ Adam G. Unikowsky
Adam G. Unikowsky