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September 11, 2023

Mr. Scott S. Harris  
Clerk of the Court  
Supreme Court of the United States  
One First Street, NE  
Washington D.C. 20543-0001

Re: City of Costa Mesa, California  
v. SoCal Recovery, LLC, et al.  
Case No. 23-71  
*Application to Extend Time to File Brief in*  
*Response to Petition for Writ of Certiorari*

Dear Mr. Harris:

Pursuant to Supreme Court Rule 30.4, respondents SoCal Recovery, LLC, and RAW Recovery, LLC make this application for a 21-day extension of time in which to file their response to the petition for writ of certiorari filed by the City of Costa Mesa. The Court requested respondents to file a response on or before September 27, 2023. A 21-day extension of time until October 18, 2023, is justified for the following reasons:

- (1) I am the attorney for respondents responsible for preparing the response brief.
- (2) The case is complex, involving two separate district court cases and records. The Ninth Circuit reversed the district court's grant of summary judgment in favor of petitioner City of Costa Mesa in both cases, ruling that the district court had erred in granting summary judgment against respondents, providers of housing for persons with disabilities, on the grounds that they had failed to establish that their current and future

residents were “handicapped” under the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* and “disabled” under the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.* The Ninth Circuit remanded for further proceedings with instructions to the district court outlining the types of evidence it must or should consider in determining whether respondents had raised a triable issue of fact on the disability status of their current and future residents.

(3) Petitioner argues that review of the Ninth Circuit’s decision is warranted because the Court has never addressed what type of evidence housing providers must submit to establish that their residents, both current and future, meet the definition of actually “handicapped” or “disabled.” Petitioner also contends that the Ninth Circuit erroneously instructed the district court that it should consider evidence of public comment made to the city council in deciding whether the City of Costa Mesa “regarded” respondents’ group home residents as disabled if that public comment appeared as a stated reason for the city council’s decision. Petitioner claims that there is “confusion and inconsistency” in the circuit courts on these issues.

(4) Respondents disagree that there is any confusion or inconsistency in the circuit courts. Nonetheless, the issues raised are of significant importance – the United States of America filed an *amicus curiae* brief in support of respondents in the Ninth Circuit. Seven Southern California cities and the Association of California Cities-Orange County have filed an *amicus curiae* brief in support of the petition for writ of certiorari.

(5) On August 28, the Court requested that respondents file their response to the petition by September 27. Because of vacation and family obligations, I have been unable to commence work on the response until this week. Due to the complexity of the case and the limited time remaining before expiration of the filing deadline, I need additional time in order to prepare and file a response that is helpful to the Court in explaining and contextualizing the relevant legal and factual issues raised by petitioner and its *amici*.

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(6) Respondents are not aware of any party who would be prejudiced by the granting of a 21-day extension. Petitioner was granted a 58-day extension of time to file its petition.

Accordingly, I respectfully request that the Court grant respondents' requested extension of time. Thank you for your consideration.

Respectfully submitted,

/s/ Elizabeth Brancart  
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