

App. No. _____

**In The
Supreme Court of the United States**

Randall Bock MD
v.
Candace Sloane and George Abraham

ON APPLICATION FOR AN EXTENSION OF TIME TO FILE A PETITION
FOR A WRIT OF CERTIORARI
TO THE U.S. FIRST CIRCUIT COURT OF APPEALS
(23-1492)

December 26, 2023

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**PETITIONER’S APPLICATION TO EXTEND TIME TO
FILE A PETITION FOR A WRIT OF CERTIORARI**

To Circuit Justice Ketanji Brown Jackson:

Petitioner Dr. Randall Bock respectfully requests that the time to file a Petition for a Writ of Certiorari in this matter be extended for sixty days, up to and including May 20, 2024. On December 22, 2023, the First Circuit Court of Appeals denied a motion for *en banc* review and issued its mandate. Docket report enclosed. Absent an extension of time, the Petition would be due on March 21, 2024. This Court has jurisdiction over this Application under 28 U.S.C. 1254, and has authority to grant the requested relief under 28 U.S.C. 1651.

BACKGROUND

On January 22, 2014, defendants Sloane and Abraham summarily suspended Dr. Bock’s medical license on the spot, without any warning to him, under the false claim that because he tapered patients **off** Suboxone slowly over four months in accordance with both the patients’ own wishes and **state policy**, it meant the ‘manner in which [Dr. Bock] prescribes Suboxone is below the standard of care’ and that he represented an “immediate and serious threat to the public health, safety, or welfare.” Any normal person would be forgiven for assuming that the defendants suspended Dr. Bock for recklessly continuing to prescribe Suboxone (and for cash) instead of slowly taking patients off Suboxone. No, the defendants excluded Dr. Bock from the

medical marketplace in Massachusetts for one reason → he offered slow detoxification to opiate addicts in compliance with state policy.

Throughout that period, and until today, encouraging detoxification remains the clearly-articulated and affirmatively-expressed state policy in Massachusetts (and federally) and thus Dr. Bock acted in full accordance with official state policy. Excluding a physician from the medical marketplace because he adhered to official state policy is not an action that qualifies for state-action antitrust immunity.

The US Supreme Court has declared that,

“Because a controlling number of the Board’s decisionmakers are active market participants in the occupation the Board regulates, the Board can invoke state-action antitrust immunity only if it was subject to active supervision by the State, and here that requirement is not met.”

“A nonsovereign actor controlled by active market participants—such as the Board—enjoys *Parker* immunity only if “ ‘the challenged restraint . . . [is] clearly articulated and affirmatively expressed as state policy,’ and . . . ‘the policy . . . [is] actively supervised by the State.’ ” *FTC v. Phoebe Putney Health System, Inc.*, 568 U. S. ___, ___ (quoting *California Retail Liquor Dealers Assn. v. Midcal Aluminum, Inc.*, 445 U. S. 97, 105). Here, the Board did not receive active supervision of its anticompetitive conduct.”

North Carolina Board of Dental Examiners v. U.S. Fed. Trade Commission,
574 U.S. 494 (2015)(“*North Carolina Dental*”)

The complaint explained in detail greater than required by *Twombly* that the defendants fail to meet both prongs of the *Midcal* test to qualify for “state-action immunity” and so they did not even try. The district court failed to discharge its duty to perform the mandatory *Midcal* analysis required by *North Carolina Dental*, to determine state-action antitrust immunity, and granted the defendants “quasi-judicial immunity” and “state-action immunity” in this single-count antitrust case because the defendant market participants were members of a licensing board and ‘*of course*’ enjoy immunity from antitrust suits - *as if* the US Supreme Court had never spoken in *North Carolina Dental*. Dr. Bock informed the First Circuit panel that

enabling this error shall disrespect the US Supreme Court, gut civil remedies for antitrust violations and violate this Nation's right to economic freedom. The panel chose to do exactly that. The *en banc* court was compelled to reverse and remand for discovery and trial, because the panel's decision conflicts with a decision of the United States Supreme Court and consideration by the full court was therefore necessary to secure and maintain uniformity of the court's decisions. The First Circuit voted against *en banc* review.

This Court's ruling in *North Carolina Dental* has already been applied to members of the Georgia dental board, members of the Salt River electricity board, members of the California dental board, members of the Texas medical board, members of the Louisiana real estate board, members of the Louisiana shorthand reporters board, and the First Circuit did not spend any ink on why it may not apply to the defendants here.

Neither the defendants nor the panel provided a scholarly discussion of *Parker v. Brown*, 317 U.S. 341 (1943), *California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97 (1980), *SmileDirectClub v. Battle*, 969 F.3d 1134 (11th Cir. 2020)(*lack of jurisdiction*, 4 F.4th 1274 (2021)), *SmileDirectClub v. Tippins*, 29 F.4th 513 (9th Cir., 2022), *Teladoc, Inc. v. Tex. Med. Bd.*, U.S. Dist. LEXIS 166754 (W.D. Tex., Dec. 14, 2015), *SolarCity Corp. v. Salt River Project*, 859 F.3d 720 (9th Cir. 2017), *Veritext Corp. v. Bonin*, 901 F. 3d 287 (5th Cir. 2018), *FTC v. Phoebe Putney Health System, Inc.*, 568 U. S. 216 (2013), *Louisiana Real Estate Appraisers Bd. v. U.S. Fed. Trade Commission*, 976 F.3d 597 (5th Cir. 2020), all of which are current national case law on application of antitrust law upon market participants on licensing boards. The First Circuit did not even mention the word *Parker*.

Market participants on licensing boards have proven repeatedly to be a clear and present danger to the nation's economic freedoms and thus the Supreme Court has ruled that their actions

must be rigorously examined, in terms of the actual facts in each individual case, with the total absence of any deference. The First Circuit's openly defiant decision is in intentional conflict with mandatory binding US Supreme Court precedent regarding a Federal law.

REASONS FOR GRANTING AN EXTENSION OF TIME

The time to file a Petition for a Writ of Certiorari should be extended for sixty days for these reasons:

“It is this Court's responsibility to say what a statute means, and once the Court has spoken, it is the duty of other courts to respect that understanding of the governing rule of law. A judicial construction of a statute is an authoritative statement of what the statute meant before as well as after the decision of the case giving rise to that construction.” *Rivers v. Roadway Express, Inc.*, 511 U.S. 298 (1994)

This case presents clear defiance by the First Circuit of this Court's repeated rulings on the vital need to ensure that actions by market participants on medical licensing boards must be pursuant to a clearly articulated state policy and under active supervision by the state before they are cloaked by state action immunity. *North Carolina Board of Dental Examiners v. U.S. Fed. Trade Commission*, 574 U.S. 494 (2015)(“*North Carolina Dental*”)

The First Circuit instead declared that it has not and would not “adopt” this Court's holdings in *North Carolina Dental*, declared that it continues to hold a 1990 First Circuit ruling to be the binding precedent regarding licensing boards, and granted all sorts of immunities to the defendant market participants though they were sued under just the Sherman Act, their action was counter to state policy, and their action was not under active supervision by the state. The First Circuit simply granted *carte blanche* to all market participants on all licensing boards in Massachusetts, Rhode Island, New Hampshire and Maine, simply for being board members.

Review by the Court is thus an essential “national interest demand.” There is at minimum a substantial prospect that this Court will grant certiorari and reverse given the danger that the documented defiance of this Court’s massively important ruling in *North Carolina Dental* shall spread nationwide, and deliver a severe blow to the nation’s economic liberty.

The Petitioner is working diligently to retain counsel with Supreme Court expertise to prepare the Petition. The extension sought shall assist greatly in locating appropriate counsel.

No meaningful prejudice to any party would arise from the extension.

CONCLUSION

Based on the facts and legal arguments presented herein, this Application for extension of time to file a petition for certiorari must be granted and the time to file should be extended sixty days up to and including May 20, 2024, which is what the petitioner respectfully requests.

Respectfully submitted,

December 26, 2023

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Certificate of Service

Petitioner certifies that he served a copy of this application upon the defendants via counsel via email.

December 26, 2023

Respectfully submitted,
/s/ Randall Bock M.D.
RANDALL BOCK M.D., *pro se*

