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Scott S. Harris
Clerk of the Court
Supreme Court of the United States
One First Street, NW
Washington, DC 20543-0001

Re: *New York State Rifle & Pistol Ass'n v. City of New York*, No. 18-280

Dear Mr. Harris:

I represent petitioners in the above-captioned case, and I write in response to respondents' letter of July 22, 2019, "request[ing] a further extension of time in which to file a brief in this case to and including September 30, 2019." Respondents' letter marks their third attempt since this Court granted certiorari to delay or derail the previously-agreed-upon and already generous briefing schedule in this case. The first two efforts did not succeed, and neither should the third.

Respondents have been on notice for more than five months that their merits brief would be due on or before August 5, 2019. After the Court granted certiorari on January 22, 2019, the parties agreed in February to a liberal joint extension, setting May 7 and August 5 as the due dates for the parties' respective briefs on the merits. Respondents asked this Court back in April to hold that briefing schedule in abeyance to give them time to endeavor to moot the case, and this Court declined. Petitioners then filed their opening brief as scheduled on May 7, as provided for in the parties' agreement approved by this Court. Respondents have now had 78 days (and counting) to prepare their response brief—more than double the time that the default briefing schedule contemplates. Now they ask this Court for yet another extension of *another* 30 days, during which they apparently hope that petitioners will file a response to their just-filed Suggestion of Mootness in mere days, and that the Court will break from its summer recess to consider their Suggestion on an expedited basis and ultimately relieve them of their obligation to file any merits brief at all. That request is extraordinary. While petitioners stand ready to explain why this case is not moot and should not be removed from the Court's argument schedule, it would be highly inequitable to insist that petitioners respond in a matter of days to a Suggestion of Mootness filed earlier this week, while granting respondents an additional 30 days to respond to a brief filed in early May.

This Court should reject respondents' latest request. As petitioners will explain more fully in their response to respondents' Suggestion, petitioners certainly do not agree that this case is moot or should be removed from the Court's calendar. That contested issue can and will be briefed separately from the merits and provides no excuse for delaying the merits briefing. The mootness issues can and should be considered by the Court in the ordinary course, whether that is when the Court returns from recess or alongside the merits briefing and argument. In the meantime, respondents have had more than enough time to prepare their defense of the challenged provisions—provisions that they have successfully defended in both the district court and the Second Circuit and continue to insist are constitutional. There is no reason to give them even more time, or for this Court to rush its consideration of their mootness arguments, simply because respondents apparently would prefer not to defend in this Court a regime that they imposed on petitioners and other New York residents for more than a decade.

To accede to respondents' latest request to delay briefing mere weeks before their due date would create perverse incentives. Respondents have been able to engage in these machinations only because of a fluke of timing and petitioners' willingness to agree to an extended briefing schedule. Had the Court granted certiorari a few weeks earlier, this case would already have been briefed, argued, and decided, and respondents would not have had time to try to moot the case in lieu of briefing it. Because of an accident of timing, the parties were able to agree to a generous briefing schedule, which was then approved by the Court. If the consequence of agreeing to such a generous briefing schedule is not only to allow machinations designed to moot a hard-won grant of certiorari, but to beget additional extensions on top of an agreed-upon schedule to avoid respondents' merits briefing altogether, then petitioners certainly will think twice about agreeing to such extensions in future cases. This Court should not validate respondents' efforts to unilaterally relieve themselves of their obligation to defend the decision that they procured below.

Sincerely,

Paul D. Clement

cc: All counsel of record