

February 6, 2019

VIA FEDERAL EXPRESS

The Honorable Scott S. Harris
Clerk of the Court
Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543-0001

**Re: *Tree of Life Christian Schools v. City of Upper Arlington, Ohio*
*No. 18-944***

Dear Clerk Harris:

Pursuant to Supreme Court Rule 30.4, Respondent City of Upper Arlington, Ohio respectfully requests that its time to respond to the petition for certiorari filed by Petitioner Tree of Life Christian Schools be extended by 30 days, from February 19, 2019, to March 21, 2019. Counsel for Tree of Life has been consulted and indicated via email that Petitioner consents to this request.

Like the extension that Tree of Life obtained for filing its petition, the City's extension request is not made for purposes of creating undue delay. Rather, additional time to prepare a response is necessary due to counsel's obligations in other cases and in court-related service endeavors.

Mark Landes, counsel of record for the City, is traveling each day this week and two next week for speaking engagements and is committed to client board meetings the next week. During the time period in question, he has been or will soon be responsible for responding to a fee application in United States District Court for the Southern District of Ohio (*Doe v. State of Ohio*, Case No. 2:91-cv-00464), expert designations in the United States District Court for the Southern District of Ohio (*Malone v. Good*, Case No. 2:18-cv-00284), a dispositive motion in the United States District Court for the Northern District of Ohio (*Neal v. Akron Metro*, Case No. 5:18-cv-2402), discovery in the United States District Court for the Southern District of Ohio (*Gorsha v. Clark*, Case No. 2:18-cv-00508), an oral argument in the Public Utilities Commission of Ohio (*First Energy Corporate Separation*, Case No. 17-974-EL-UNC), expert disclosures in the United States District Court for the Southern District of Ohio (*Riley v. Columbus City Schools*, Case No. 2:17-cv-1136), investigation, removal and response to a wrongful death case (*Bivens v. City of Whitehall*), and a trial in the Common Pleas Court of Franklin County, Ohio (*Huntington v. Todd*, Case No. 18-CV-1738).

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Counsel Shawn Judge, who is working with Mr. Landes on the response, has also been assisting co-counsel in preparing for the recent oral argument before the Fourth Circuit (*Belville v. Ford Motor Co.*, Fourth Cir. Case No. 18-1470), was working on a brief in a case in federal district court (*Timber View Properties, Inc. v. M&T Property Investments, Ltd.*, S.D. Ohio Case No. 2:15-cv-2855 (briefing since stayed pending mediation)), and has been working on multiple other cases, including the filing of new complaints in several jurisdictions and engaging in ongoing discovery responsibilities in a multi-district litigation case. Mr. Judge has concurrently been preparing a presentation to teach at a February court training seminar at the request of the United States District Court for the Southern District of Ohio and has been preparing to present materials at a two-day February meeting of the Ohio Judicial Conference's Ohio Jury Instructions Committee. These case-related obligations and court-service obligations have created a need for additional time to prepare a meaningful response to the certiorari petition. Such an extension would not cause any prejudice to Petitioner.

For the foregoing reasons, the City of Upper Arlington respectfully requests a 30-day extension, until March 21, 2019, to submit its response to the petition for certiorari. Thank you for your consideration.

Respectfully submitted,

Mark Landes

Mark Landes

Shawn Judge

Shawn Judge

*Counsel for Respondent
City of Upper Arlington, Ohio*

CERTIFICATE OF SERVICE

The undersigned certifies that, on this 6th day of February 2019, one true and correct copy of the foregoing document was served by Federal Express, postage prepaid – in addition to a courtesy copy via email – on the following counsel of record:

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