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January 20, 2021

Hon. Scott R. Harris, Clerk
Supreme Court of the United States
One First Street, N.E.
Washington, D.C. 20543

**Re: *South Bay United Pentecostal Church, et al. v. Newsom, et al.*, No. 20-746
Opposition to Request for Extension of Time**

Dear Mr. Harris:

Petitioners South Bay United Pentecostal Church and Bishop Arthur Hodges III (collectively “South Bay”) respectfully oppose California’s request to extend the deadline for it to respond to South Bay’s petition for a writ of certiorari before judgment.

Following early litigation, including an application for injunctive relief submitted to this Court, the Ninth Circuit ordered limited remand to the Southern District of California for it to consider South Bay’s renewed motion for a preliminary injunction based on significant new evidence. On October 15, 2020, the Southern District of California denied that motion. *S. Bay United Pentecostal Church v. Newsom*, --- F. Supp. 3d ---, 2020 WL 6081733 (S.D. Cal. 2020). The Ninth Circuit then resumed jurisdiction, under Case No. 20-55533. Pending the Ninth Circuit supplemental briefing, on November 24, 2020, South Bay filed the present petition for a writ of certiorari before judgment with this Court.

Following this Court’s orders in *Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63 (2020), and *Harvest Rock Church v. Newsom*, -- S. Ct. --, 2020 WL 7061630 (2020),

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on December 8, 2020, the Ninth Circuit vacated the Southern District of California's October 15, 2020 order, remanded the case (with the panel retaining jurisdiction over future appeals), and instructed the District Court to reconsider its order denying preliminary injunctive relief. *S. Bay United Pentecostal Church v. Newsom*, 981 F.3d 765 (9th Cir. 2020). Two days later, on December 10, 2020, the first California Superior Court to grant preliminary injunctive relief did so, enjoining both California and San Diego County (along with Los Angeles, San Bernardino, and Kern counties) from restricting worship services, but based on the Free Exercise clause of the California constitution, which the court interpreted as "at least as protective of religious liberties as the First Amendment." *Burfitt v. Newsom*, No. BCV-20-102267 (Cal. Super. 2020). California and San Diego County simply ignored the order; but on December 19, 2020, Los Angeles County lifted all restrictions on churches, stating in its press release that doing so was necessary to "align" with *Diocese of Brooklyn* and *Burfitt*.

On December 21, 2020, the Southern District of California re-issued an order denying preliminary injunctive relief in toto, and re-incorporating by reference its earlier October 15, 2020 order. *S. Bay United Pentecostal Church v. Newsom*, --- F. Supp. 3d ---, 2020 WL 7488974 (S.D. Cal. 2020). The Ninth Circuit then resumed jurisdiction, under Case No. 20-56358, and South Bay filed an urgent motion for an injunction pending appeal.

On December 23 and 24, 2020, the Ninth Circuit denied South Bay's motion for an injunction pending appeal, without prejudice, but expedited South Bay's appeal with oral argument to be completed on Friday, January 15, 2021 because California's restrictions on worship "strike at the very heart of the First Amendment's guarantee of religious liberty." *S. Bay United Pentecostal Church v. Newsom*, 982 F.3d 1239 (9th Cir. 2020) (quoting *Diocese of Brooklyn*, 141 S. Ct. at 68); *S. Bay United Pentecostal Church v. Newsom*, 983 F.3d 383 (9th Cir. 2020).

On December 30, 2020, instead of timely filing their response to South Bay's petition for a writ of certiorari before judgment, both California and San Diego County filed statements indicating that they would not respond to the petition unless ordered to do so by this Court. On January 14, 2021, this Court ordered them to do so by February 16, 2021. On January 15, 2021, the Ninth Circuit heard oral argument, and took the appeal under submission. A ruling is expected any day. But on January 19, 2021, California (but not yet San Diego) requested that its response deadline be extended to March 18, 2021.

This Court should deny the requested extension. The Ninth Circuit took seriously that all people of faith suffer irreparable harm as every "Sabbath passes," *Diocese of Brooklyn*,

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141 S. Ct. at 68, and thus expedited the appeal. *S. Bay*, 982 F.3d 1239. California, in contrast, has thumbed its nose at this Court's guidance, refusing to come into compliance, and even ignoring court orders enjoining it. It beggars belief that the Attorney General of the largest state of the nation, where under the present legal regime "Hollywood can film a simulated indoor worship service, complete with singing, for a movie or TV show, but South Bay cannot conduct a real service," Appellants' Opening Brief at 26, *S. Bay United Pentecostal Church v. Newsom*, No. 20-56358 (Dec. 31, 2020) (9th Cir. Dkt. 20), cannot find an attorney to staff this case and draft California's response. Any further delay is a mockery of both this Court's and the U.S. Constitution's authority.

Sincerely,

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