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December 2, 2021

Scott S. Harris
Clerk of Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: **Response in Opposition to Motion for Extension – Docket No. 21-674
North Carolina State Health Plan for Teachers and State Employees v. Maxwell
Kadel, et al.**

Dear Mr. Harris,

I represent the Petitioner in the above-captioned case. On December 1, 2021, Respondents requested a 45-day extension of time to file their brief in opposition to certiorari, up to and including, January 20, 2022.

Petitioners respectfully object to an extension of this length. Granting Respondents such an extension would defer the Court's consideration of this petition until either the February 18 or the February 25 conference, effectively preventing the Court from considering the case this term.

Petitioner's brings a petition for interlocutory review of the lower courts' denial of sovereign immunity, on a question of law that involves a circuit split. Discovery in this case is complete, and the district court has scheduled a trial for all defendants for July 2022. The remaining defendants do not have the protection of sovereign immunity, and the case will proceed to trial at that time regardless of this Court's decision about review.

Indeed, with the Fourth Circuit having ruled against immunity, Respondents now seek summary judgment against Petitioner on the same briefing schedule as other defendants. This is the schedule (motions due 11/30/21 with responses due 12/30/21) identified by Respondents' counsel. While Petitioner cannot comment on deadlines in other cases, thirteen attorneys, from three separate firms, currently represent Respondents in the court below. While Petitioner appreciates the Respondents' desire to engage additional counsel before this

Court, this is not a case where Respondents lack the representation necessary to press their concerns in accord with the usual timelines.

The Fourth Circuit issued its decision on September 1, 2021. Petitioner did not languish in seeking certiorari, filing on November 2, 2021. Petitioner supports some additional time for Respondents but asks that the Court grant an extension that preserves the option for briefing and argument this term, if it concludes this is the proper course.

If Respondents receive a 15-day extension, to December 21, 2021, Petitioner will waive the 14-day waiting period, and the petition could be distributed for the January 7, 2021 conference. Respondents then would have had 46 days to respond since the case was docketed. Alternatively, if Respondents receive a 22-day extension, Petitioner will waive the 14-day timeline for reply, and this matter could be considered at the Court's conference of January 14, 2021. Respondents would have had 53 days to respond.

Petitioner respectfully requests that the Court limit the Respondents' extension as described above.

Respectfully submitted,

s/ John G. Knepper

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