



May 10, 2023

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

Re: No. 22-942, *Tingley v. Ferguson*

Dear Mr. Harris:

Petitioner's counsel freely consents to most extension requests. But we cannot do so here given the special circumstances. Petitioner's counsel filed the petition nearly a month early, on March 28, 2023, so that Respondents could seek a 30-day extension (from April 27 to May 29) and the petition could still be distributed for the Court's conferences of June 15 and June 22. Although the petition presents a clear circuit split and was supported by 13 amici briefs, Respondents waived their right to respond, presumably so they could push consideration of the petition until the Long Conference in September. Instead, the Court directed Respondents to submit their opposition brief by June 5—which, when Petitioner waives the right to file a reply brief before distribution, will allow the Court to consider the petition at its June 22 conference. Granting the requested extension necessarily pushes the petition's consideration three months, until the Long Conference, which would punish Petitioners for acting diligently and reward Respondents for choosing to file a strategic waiver. Accordingly, Petitioner opposes the extension request.

Sincerely,

*s/John J. Bursch*

John J. Bursch  
*Counsel for Petitioner*

cc: Noah Purcell, Washington State Solicitor General  
*Counsel for Respondents*