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

Re: Reply to Opposition to Request for an Extension of the Time To File a Brief in Opposition in *ExxonMobil Corporation, et al. v. Environment Texas Citizen Lobby, Incorporated, et ano.*, No. 24-982

Dear Mr. Harris:

Petitioners filed a letter objecting to respondents' first (and only) request for a 28-day extension. Along with the factors respondents laid out in their previous letter, an extension is further warranted because an amicus brief has been filed in support of the petition, and respondents' counsel has been notified that at least one more amicus brief is forthcoming. *See* Stephen M. Shapiro et al., *Supreme Court Practice* § 6.37(c) (11th ed. 2019) (explaining that the notice requirement allows a respondent to respond to the petition and also any supporting amicus briefs "by seeking an extension" (internal quotation marks omitted)). Here, respondents respond to several parts of the letter that risk leaving a reader with misimpressions.

First, the letter characterizes respondents' decision to waive a response as "strategic." But this Court's rules allow respondents to waive a response, and respondents routinely do so.[1] Respondents filed the waiver shortly after the petition was filed; they did not take the full period of time the rules allow.

Second, petitioners' letter states a goal of having this Court "consider the petition . . . before its summer recess," but they have been unwilling to take any steps to facilitate that goal. Petitioners took the entire 90-day period the rules allow to file their petition. No rule requires petitions to be heard before the Court's summer recess: that is only petitioners' preference. The

[1] *See, e.g., Sportswear, Inc. dba Prep Sportswear v. Savannah College of Art and Design, Inc.*, No. 17-1316; *Whirlpool Financial Corporation v. Commissioner of Internal Revenue*, No. 22-9.

only ground petitioners give for that preference is to avoid "unnecessarily delay[ing]" resolution of the petition. But petitioners offer no reason why this case needs to be argued in October or November 2025 as opposed to in January or February 2026 (if review is granted).

Third, even now petitioners remain unwilling to facilitate their preferred timeline, all the while claiming respondents must do so at the expense of their brief in opposition. As explained, if the extension is granted, the brief in opposition will be due June 6, 2025. Petitioners may waive the 14-day period for distribution under Rule 15.5, which would allow the petition to be distributed on June 10 for consideration at the June 26 conference. Petitioners respond by claiming that this timeline would require them to file a reply brief within 4 days, but that reflects a misunderstanding of this Court's rules. "[I]f the reply arrives after distribution but before the Justices' consideration of the petition at conference, it will be distributed . . . immediately upon docketing."[2] Petitioners do not suggest that their counsel cannot prepare a brief limited to 3,000 words on that timeline. Petitioners also suggest that only a 14-day extension is acceptable because consideration at the final scheduled conference on June 26 would not allow for a grant before the summer recess. Again, that is incorrect. Last year, this Court granted five cases that were first conferenced at the last scheduled conference of the term.[3] It has acted similarly for years now.[4]

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[2] *See Memorandum Concerning The Deadlines For Cert Stage Pleadings And The Scheduling Of Cases For Conference* at 2--3 (Jan. 2023), tinyurl.com/334y49sk; *see also, e.g., Home Depot U.S.A., Inc. v. Blue Cross Blue Shield Ass'n*, No. 23-1063 (noting distribution of a reply brief filed after the distribution date).

[3] *See Velazquez v. Bondi*, No. 23-929 (circulated for June 20, 2024 conference; recirculated for a later-added July 1, 2024 conference; granted July 2, 2024); *Hewitt v. United States*, No. 23-1002 (same); *Duffey v. United States*, No. 23-1150 (same); *FDA v. Wages & White Lion Investments*, No. 23-1038 (same); *Free Speech Coalition v. Paxton*, No. 23-1122 (same).

[4] *See, e.g., SEC v. Jarkesy*, No. 22-859 (first distributed for last scheduled conference of June 22, 2023, and then granted on June 30, 2023, after additional conference on June 29, 2023); *Ciminelli v. United States*, No. 21-1170 (first distributed for last scheduled conference of June 23, 2022, and then granted on June 30, 2022, after additional conference on June 29, 2022); *Becerra v. Empire Health Foundation*, No. 20-1312 (first distributed for last scheduled conference of June 24, 2021, and then granted on July 2, 2021, after additional conference on July 1, 2021).

In sum, petitioners have not identified some urgent need to resolve this matter, which arises out of a per curiam opinion affirming a $14.25 million penalty that petitioners have not yet paid. They have no right to consideration at a particular time, particularly when they are unwilling to facilitate that timeline.

Thank you for considering our request.

Respectfully submitted,

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cc: All Counsel of Record