

No. 2017-1460

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

DEE FULCHER, GIULIANO SILVA, AND THE TRANSGENDER AMERICAN
VETERANS ASSOCIATION,

Petitioners,

v.

SECRETARY OF VETERANS AFFAIRS,

Respondent.

On Appeal from the United States Department of Veterans Affairs.

**PETITIONERS' UNOPPOSED MOTION FOR A 17-DAY EXTENSION OF
TIME TO FILE THEIR REPLY BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and Federal Circuit Rule 26(b), Petitioners Dee Fulcher, Giuliano Silva, and the Transgender American Veterans Association (“Petitioners”) respectfully move for a 17-day extension of the time within which they may file their reply brief. Counsel for Respondent Secretary of Veterans Affairs (“Respondent”) has informed counsel for Petitioners that Respondent does not oppose this motion and will not file a response.

Petitioners’ reply brief is currently due on or before Tuesday, December 12, 2017. Petitioners respectfully request that the briefing schedule be revised such that the deadline is extended by 17 days. If Petitioners’ request is granted, their reply brief would be due Friday, December 29, 2017. Petitioners were previously

granted a 30-day extension of time to file their principal brief. Respondent was previously granted two 60-day extensions to file his principal brief.

Petitioners therefore respectfully request that this motion be granted. A proposed order is included herewith.

Dated: November 29, 2017

Respectfully submitted,

M. DRU LEVASSEUR
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, NY 10005
(212) 809-8585

SHAWN THOMAS
MEERKAMPER
TRANSGENDER LAW
CENTER
P.O. Box 70976
Oakland, CA 94612
(510) 587-9696

/s/ Alan Schoenfeld
ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 937-724

TARA L. BORELLI
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
730 Peachtree Street NE,
Suite 640
Atlanta, GA 30308-1210
(404) 897-1880

PAUL R.Q. WOLFSON
MICHAEL POSADA
WILMER CUTLER PICKERING
HALE AND DORR LLP
1875 Pennsylvania Avenue
Washington, DC 20006
(202) 663-6390

Counsel for Petitioners

CERTIFICATE OF INTEREST

Counsel for Petitioners Dee Fulcher, Giuliano Silva, and the Transgender American Veterans Association certifies the following:

1. The full name of every party or *amicus* represented by us is:

Dee Fulcher, Giuliano Silva, and the Transgender American Veterans Association

2. The names of the real party in interest represented by us is:

Not applicable.

3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or *amicus curiae* represented by me are:

None.

4. The names of all law firms and the partners or associates that appeared for the party or *amicus* now represented by me in the trial court or agency or are expected to appear in this court are (and who have not or will not enter an appearance in this case) are:

All counsel have filed appearances in this case.

5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal:

None.

November 29, 2017

/s/ Alan Schoenfeld
ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 937-7294

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DEE FULCHER, GIULIANO SILVA, AND THE TRANSGENDER AMERICAN
VETERANS ASSOCIATION,

Petitioners,

v.

SECRETARY OF VETERANS AFFAIRS,

Respondent.

On Appeal from the United States Department of Veterans Affairs.

**DECLARATION OF ALAN SCHOENFELD IN SUPPORT OF
PETITIONERS' UNOPPOSED MOTION FOR A 17-DAY EXTENSION OF
TIME TO FILE THEIR REPLY BRIEF**

1. I am a partner at Wilmer Cutler Pickering Hale and Dorr LLP (“WilmerHale”), counsel to Petitioners Dee Fulcher, Giuliano Silva, and the Transgender American Veterans Association (“Petitioners”) in this appeal. I am submitting this declaration of counsel in support of Petitioners’ motion for a 17-day extension of the time within which to file their reply brief.

2. Under the current briefing schedule, Petitioners’ reply brief is currently due on or before Tuesday, December 12, 2017. Petitioners respectfully request that the briefing schedule be revised such that the deadline is extended by 17 days. If Petitioners’ request is granted, their principal brief would be due

Friday, December 29, 2017. Petitioners were previously granted a 30-day extension of time to file their principal brief.

3. The additional time requested herein is necessary because undersigned counsel will be significantly occupied over the next month and will need additional time to draft, review, and coordinate with co-counsel on the reply brief. Among other obligations, the undersigned is presenting oral argument in the United States Court of Appeals for the Seventh Circuit on November 29, 2017 in *A.D. v. Credit One Bank, N.A.*, No. 17-1486, and oral argument on a motion for summary judgment in the United States District Court for the Eastern District of Michigan on January 11, 2018 in *JM Adjustment Services, LLC v. JPMorgan Chase Bank, N.A.*, No. 16-10460. In addition, the undersigned is subject to a truncated discovery schedule in the United States District Court for the District of Columbia in *Doe v. Trump*, No. 17-1597, with initial disclosures, initial requests for production of documents, and a status report on a joint discovery plan due on December 15, 2017.

4. Pursuant to Federal Circuit Rule 27(a)(5), counsel for Petitioners has conferred with counsel for Respondent regarding this motion. Respondent does not oppose Petitioners' request for a 17-day extension of the time within which to file its brief and will not file a response.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 29, 2017

/s/ Alan Schoenfeld
ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 937-7294

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 27(d) and 32(g), the undersigned hereby certifies that this motion complies with the type-volume limitation of Circuit Rule 27(d).

1. Exclusive of the accompanying documents as authorized by Fed. R. App. P. 27(a)(2)(B) and the exempted portions of the response as provided by Fed. R. App. P. 27(d)(2) and 32(f), the motion contains 155 words.

2. The motion has been prepared in proportionally spaced typeface using Microsoft Word 2010 in 14 point Times New Roman font as provided by Fed. R. App. P. 32(a)(5)-(6). As permitted by Fed. R. App. P. 32(g), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

/s/ Alan Schoenfeld

ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 937-7294

November 29, 2017

CERTIFICATE OF SERVICE

I hereby certify that, on this 29th day of November, 2017, I filed the foregoing Petitioners Dee Fulcher, Giuliano Silva, and the Transgender American Veterans Association's Unopposed Motion for a 17-Day Extension of Time to File Its Reply Brief with the Clerk of the United States Court of Appeals for the Federal Circuit via the CM/ECF system, which will send notice of such filing to all registered CM/ECF users.

/s/ Alan Schoenfeld

ALAN SCHOENFELD
WILMER CUTLER PICKERING
HALE AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 937-7294

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