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Attorneys for Defendant Thomas C. Horne

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Jane Doe, by her next friends and parents Helen
Doe and James Doe; Megan Roe, by her next
friends and parents, Kate Roe and Robert Roe,

Plaintiffs,

v.

Thomas C. Horne, in his official capacity as
State Superintendent of Public Instruction;
Laura Toenjes, in her official capacity as
Superintendent of the Kyrene School District;
Kyrene School District; The Gregory School;
and Arizona Interscholastic Association, Inc.,

Defendants.

Case No. 4:23-cv-00185-JGZ

**SECOND REQUEST FOR EXTENSION
OF BRIEFING SCHEDULE ON
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION AND
ANSWER/RESPONSE TO COMPLAINT**

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1 Defendant Thomas C. Horne in his official capacity as State Superintendent of Public
2 Instructions (“Superintendent Horne”) hereby respectfully requests an extension to the deadline
3 for Superintendent Horne to respond to Plaintiffs’ Motion for a Preliminary Injunction and
4 Complaint.

5 Plaintiffs recently stipulated with another defendant, Arizona Interscholastic Association,
6 Inc. (“AIA”) to a briefing schedule on the Preliminary Injunction and Complaint that provides
7 AIA more time to respond than the time Plaintiffs previously stipulated with Superintendent
8 Horne. *See* 05-08-23 Stipulation to Extend Time for Arizona Interscholastic Association, Inc., to
9 Answer Plaintiffs’ Complaint (28). That discrepancy is obviously unfair to Superintendent Horne
10 (and the other Defendants)—who currently have less time than AIA to respond. That discrepancy
11 is also unnecessary, in addition to being unfair. The Court will consider all the parties’ responses
12 to the Preliminary Injunctions Motion at the same time, so it makes no sense to force some
13 Defendants to respond earlier than others.

14 Plaintiffs stipulated that (1) AIA could file its responses on May 25, 2023 (2) Plaintiffs
15 would respond to any motions filed by AIA on May 25 and reply to AIA’s opposition to Plaintiffs’
16 Preliminary Injunctions Motion by June 6, 2023, and (3) AIA would file its reply in support of
17 any motions it filed (on May 25) two days later, by June 8, 2023.

18 Counsel for Superintendent Horne spoke with counsel for Plaintiffs and requested that
19 Plaintiffs also stipulate that Superintendent Horne could file his responses to Plaintiffs’ Complaint
20 and Preliminary Injunction Motion by May 25, 2023, but requested that Horne be given 7 days
21 (rather than 2 days) to file any replies by June 13, 2023 (instead of June 8). Although that schedule
22 would only increase the total briefing time by 5 days (by allowing Superintendent Horne 7 days
23 to file any reply, rather than only 2 days) Plaintiffs declined to stipulate.

24 Defendant Horne therefore requests that the Court enter an order setting the following
25 briefing schedule:

- 26 May 25, 2023: Horne’s Response to Preliminary Injunction Motion;
27 May 25, 2023: Horne’s Response to Complaint (answer or motion);
28 June 6, 2023: Plaintiffs’ Reply in Support of Preliminary Injunctions Motion;

1 June 6, 2023: Plaintiffs' response to any motion filed by Horne on May 25;

2 June 13, 2023: Horne's reply in support of any motion filed by Horne on May 25.

3 Good cause exists for this extension because it merely synchronizes the date for
4 Superintendent Horne's responses with the date already stipulated to by Plaintiffs with Defendant
5 AIA, and because it merely seeks 7 days to file a reply in support of any motion filed in response
6 to the Complaint (rather than 2 days). The proposed schedule therefore only extends the existing
7 schedule agreed to by Plaintiffs by 5 days in order to permit a reasonable time for Superintendent
8 Horne to reply. This request is not made for purposes of causing undue delay, and no party will
9 be prejudiced. A proposed Order is attached hereto for the Court's convenience.

10 **RESPECTFULLY SUBMITTED** on May 10, 2023.

11 **WILENCHIK & BARTNESS, P.C.**

12 /s/ Dennis I. Wilenchik

13 Dennis I. Wilenchik, Esq.

14 Karl Worthington, Esq.

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19 *Attorneys for Defendant Thomas C. Horne*

20 /s/ Maria Syms, Esq.

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26 *Attorneys for Defendant Thomas C. Horne*

27 **CERTIFICATE OF SERVICE**

28 I hereby certify that on May 10, 2023, I electronically transmitted the attached document
to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic
Filing to the CM/ECF registrants.

By: /s/ Hilary Myers

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3 **DISTRICT OF ARIZONA**

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5 Doe and James Doe; Megan Roe, by her next
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12 Superintendent of the Kyrene School District;
13 Kyrene School District; The Gregory School;
14 Arizona Interscholastic Association, Inc.,

Defendants.

Case No. 4:23-cv-00185-JGZ

**ORDER GRANTING SECOND REQUEST
FOR EXTENSION OF BRIEFING
SCHEDULE ON PLAINTIFFS' MOTION
FOR PRELIMINARY INJUNCTION AND
ANSWER/RESPONSE TO COMPLAINT**

15 For good cause shown, the Second Request for Extension of Briefing Schedule on
16 Plaintiffs' Motion for Preliminary Injunction and Answer/Response to Complaint is GRANTED.

17 The following schedule shall apply:

18 May 25, 2023: Defendant Horne's Response to Preliminary Injunction Motion;

19 May 25, 2023: Defendant Horne's Response to Complaint (motion or answer);

20 June 6, 2023: Plaintiffs' Reply in Support of Preliminary Injunction Motion;

21 June 6, 2023: Plaintiffs' response to any motion filed by Defendant on May 25;

22 June 13, 2023: Defendant Horne's reply in support of any motion filed on May 25, 2023.

23 IT IS SO ORDERED.

24 Dated: _____

25 _____
26 Honorable Jennifer G. Zipps
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