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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA

9
10 Jane Doe, by her next friends and parents
Helen Doe and James Doe; and Megan
11 Roe, by her next friends and parents, Kate
Roe and Robert Roe,

12 Plaintiffs,

13 v.

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

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

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

20 Plaintiffs oppose Defendant Horne's Second Request for Extension of Briefing
21 Schedule on Plaintiffs' Motion for Preliminary Injunction and Answer/Response to
22 Complaint (Doc. No. 31).

23 All Defendants who have made an appearance in this case have requested an
24 extension of time to respond to the Complaint and Plaintiffs' Motion for Preliminary
25 Injunction. Plaintiffs have consented to all Defendants' extension requests and conferred
26 in good faith regarding a briefing schedule for Defendants' responses to the Complaint
27 and Plaintiffs' Motion for Preliminary Injunction. Plaintiffs have aimed to streamline the
28 deadlines for all Defendants and allow the Court ample opportunity to decide Plaintiffs'

1 Motion for Preliminary Injunction before the mid-July timeframe outlined in that motion.
2 (*See* Doc. No. 3 at 1.) This timeline is necessary given the Plaintiffs’ desire to compete in
3 sports starting this upcoming school year.

4 Plaintiffs first discussed a briefing schedule with counsel for Defendant Horne and
5 Defendant The Gregory School (“TGS”) and agreed on the same dates with both counsel.
6 The Court granted these extensions and set a briefing schedule on May 5, 2023. (Doc.
7 No. 25.)¹ After those agreements were reached, counsel for Defendant Arizona
8 Interscholastic Association (“AIA”) reached out to Plaintiffs’ counsel for an extension of
9 time to respond to the same filings. Although Plaintiffs asked AIA to adhere to the same
10 briefing schedule Plaintiffs had already agreed on with the other Defendants, counsel for
11 AIA sought a modified schedule because he was going to be traveling internationally for
12 two weeks without access to the Internet. (*See* Doc. No. 28 at 1.) Plaintiffs and AIA agreed
13 to a briefing schedule, keeping the last filing deadline—June 8, 2023—the same as the
14 other Defendants. The Court granted this extension on May 10, 2023. (Doc. No. 30.)²

15 Plaintiffs oppose Defendant Horne’s second request for an extension of time for
16 three reasons. First, Plaintiffs would like to allow the Court ample opportunity to decide
17 their Motion for a Preliminary Injunction before the mid-July timeframe outlined in that
18 motion. (*See* Doc. No. 3 at 1.) Plaintiffs are concerned Defendant Horne’s proposed last
19 filing date of June 13, 2023 will not allow the court such ample opportunity. Second,

21 ¹ Under this briefing schedule, Defendant Horne and Defendant TGS must respond
22 to the Complaint and Plaintiffs’ Motion for Preliminary Injunction on or before May 18,
23 2023. Plaintiffs’ reply in support of their Motion for Preliminary Injunction is due on or
24 before June 1, 2023. In the event Defendants Horne and/or Defendant TGS file a motion
in response to the Complaint, Plaintiffs’ responses are due on or before June 1, 2023.
Defendants replies to any such oppositions are due on or before June 8, 2023.

25 ² Under this briefing schedule, Defendant AIA must respond to the Complaint and
26 Plaintiffs’ Motion for Preliminary Injunction on or before May 25, 2023. Plaintiffs’ reply
27 to AIA’s opposition to the Motion for Preliminary Injunction is due on or before June 6,
28 2023. In the event AIA files a motion in response to the Complaint, Plaintiffs’ response
is due on or before June 6, 2023. AIA’s reply to any such opposition is due on or before
June 8, 2023.

1 Plaintiffs oppose Defendant Horne’s proposed deadline of June 6, 2023 for Plaintiffs’
2 reply in support of their Motion for Preliminary Injunction and any motions filed by
3 Horne on May 25. Plaintiffs need the full 14 days allotted under the Local Rules to
4 respond to any motions Defendant Horne files (LRCiv 7.2) as well as 14 days to reply to
5 Defendant Horne’s opposition to their Motion for Preliminary Injunction. The parties had
6 previously agreed on this timeframe, and Defendant Horne has not shown good cause to
7 depart from the Local Rules and the parties’ prior agreement.³ Third, Plaintiffs already
8 reached an agreement with Defendant Horne regarding the length of time Defendant
9 Horne believed would be necessary to respond to the Complaint and Plaintiffs’ Motion
10 for Preliminary Injunction. Defendant Horne has not shown any changed circumstances
11 related to him to depart from that previously agreed upon schedule.

12 Accordingly, Plaintiffs respectfully request that the Court deny Defendant Horne’s
13 Second Request for Extension of Briefing Schedule on Plaintiffs’ Motion for Preliminary
14 Injunction and Answer/Response to Complaint. If the Court decides to grant Defendant
15 Horne’s request, Plaintiffs respectfully request that the Court provide Plaintiffs 14 days
16 to respond to any motions Defendant Horne files as well as 14 days to reply to Defendant
17 Horne’s opposition to their Motion for Preliminary Injunction.

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27 ³ Plaintiffs compromised with Defendant AIA regarding the June 6 date because
28 of counsel’s showing of good cause and the anticipated time Plaintiffs believe they will
need to respond to AIA’s filings.

1 DATED this 11th day of May, 2023.

2 OSBORN MALEDON, P.A.

3
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CERTIFICATE OF SERVICE

I hereby certify that on May 11, 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 following CM/ECF registrants:

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I hereby certify that on May 11, 2023, I electronically transmitted the attached document via electronic mail to:

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