

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Form 14. Motion for Extension of Time

Instructions for this form: <http://www.ca9.uscourts.gov/forms/form14instructions.pdf>

9th Cir. Case Number(s)

Case Name

Requesting Party Name(s)

I am: The party requesting the extension.
 Counsel for the party or parties requesting the extension.

I request an extension of time to file a:

- Brief (*you **must** also complete the Declaration on page 3*)
- Motion to proceed in forma pauperis
- Motion for a certificate of appealability
- Response/opposition to a pending motion
- Reply to a response/opposition to a pending motion
- Certified Administrative Record
- Response to court order dated
- Other (*you **must** describe the document*)

The requested new due date is:

I request the extension of time because (**cannot be left blank**):

(attach additional pages if necessary)

Immediately after filing their notice of appeal, Plaintiffs filed motions for an injunction pending appeal before both this Court and the district court. This Court then granted Plaintiffs' emergency motion on 10/26/23. The time required for that motion practice was significant. In addition, the significance and complexity of the legal issues here, concerning the constitutional rights of transgender students, warrant a brief extension. Plaintiffs seek a three-week extension, in light of the upcoming holidays and preplanned international travel.

Signature Date

(use "s/[typed name]" to sign electronically-filed documents)

Feedback or questions about this form? Email us at forms@ca9.uscourts.gov

Recitals in criminal and immigration cases pursuant to Circuit Rule 27-8
Complete this section for criminal or immigration cases.

Previous requests for extension of time to file the document, including any request for a Streamlined Extension of Time under Circuit Rule 31-2.2(a) (*select one*):

- I have **NOT** filed a previous request to extend time to file the document.
- I have previously requested an extension of time to file the document.

This motion is my request.
(Examples: first, second)

Bail/detention status (*select one*):

- The defendant is incarcerated. The projected release date is: .
- The petitioner is detained.
- The defendant/petitioner in this criminal/immigration case is at liberty.

Signature **Date**
(use "s/[typed name]" to sign electronically-filed documents)

Declaration in support of extension to file brief under Circuit Rule 31-2.2(b)
Complete this section if you are requesting an extension of time to file a brief.

1. I request an extension of time to file the brief.

(Examples: opening, answering, reply, first cross-appeal)

2. The brief's current due date is:

3. The brief's first due date was:

4. A more detailed explanation of why the extension of time to file the brief is necessary: *(Under Circuit Rule 31-2.2(b), a request for extension of time to file a brief must be "supported by a showing of diligence and substantial need" and a conclusory statement as to the press of business does not constitute such a showing. Attach additional pages if necessary.)*

5. The position of the other party/parties regarding this request is:

Unopposed.

Opposed by *(name of party/parties opposing this motion)*:

Unknown. I am unable to verify the position of the other party/parties because:

6. The court reporter is not in default with regard to any designated transcripts.

If the court reporter is in default, please explain:

7. I have exercised diligence and I will file the brief within the time requested.

I declare under penalty of perjury that the foregoing is true and correct.

Signature

Date

(use "s/[typed name]" to sign electronically-filed documents)

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Attachment to Form 14

1. I am pro bono counsel for Plaintiffs-Appellants (“Plaintiffs”). I have personal knowledge of the facts set forth below and could and would competently testify as to these facts if called upon to do so. I submit this declaration in satisfaction of the requirement to show diligence and substantial need under Circuit Rule 31-2.2(b).

2. Under the current schedule, Plaintiffs’ opening brief in this appeal is due on or before November 13, 2023. Plaintiffs have received no prior extensions. Plaintiffs request a three-week extension of time, to and including December 4, 2023. Streamlined extension requests are not available in this appeal because this is a preliminary injunction appeal. Cir. Rule 31-2.2(a)(3).

3. This case is a challenge to Idaho Senate Bill 1100 (“S.B. 1100”), which bans transgender students from restrooms and other facilities consistent with their gender identity in public schools in Idaho. Plaintiffs have raised claims alleging that S.B. 1100 violates their federal constitutional rights to equal protection and privacy as well as Title IX.

4. After initially granting a temporary restraining order (“TRO”) against S.B. 1100, the district court denied Plaintiffs’ motion for preliminary injunction on Thursday, October 12, 2023, and stated that S.B. 1100 would take effect 21 days thereafter, on November 2, 2023.

5. Plaintiffs filed their notice of appeal on Monday, October 16, 2023. Since that time, they have devoted substantial time to emergency motion practice in this appeal, and at the district court level in this case, that overlapped with their time to draft their opening brief. On October 16, 2023, Plaintiffs simultaneously filed an emergency motion for an injunction pending appeal with this Court and a motion for an injunction pending appeal with the district court. Expedited briefing on both motions proceeded in parallel. On October 24, 2023, Plaintiffs filed their reply brief in this Court in support of their motion for an injunction pending appeal. On October 25, 2023, Plaintiffs filed their reply brief in support of a motion for an injunction pending appeal in the district court. On October 26, 2023, a motions panel of this Court granted Plaintiffs' motion for injunction pending appeal.

6. The time required by the emergency motions for an injunction pending appeal was significant and displaced time otherwise available to devote to Plaintiffs' opening brief. As evidenced by that emergency motion practice, Plaintiffs' counsel has exercised diligence in prosecuting this appeal expeditiously, and there is a substantial need for an extension.

7. On October 31, 2023, Defendants-Appellees filed what they styled as an emergency motion for reconsideration en banc of the order granting an injunction pending appeal. To the extent that motion requires a response, that work

would further detract from the time available for Plaintiffs' opening brief in the appeal.

8. In addition, the significance and complexity of the legal issues presented in this appeal—which concern the federal constitutional and statutory rights of transgender students—warrant the brief extension of time sought. Below, Defendants sought and obtained an extension of time to oppose Plaintiffs' preliminary injunction motion, including on the grounds of ensuring that the complex issues in this case receive appropriate briefing. ECF 21 at 3.

9. Plaintiffs' request for a three-week extension—rather than a one- or two-week extension—is justified for other reasons as well. Undersigned counsel has a preplanned international trip from November 12-19, 2023, which would make a shorter period of extension difficult. Moreover, an extension of only two weeks would overlap with the Thanksgiving holiday. Plaintiffs have thus sought an extension of three weeks, to move the deadline for the opening brief from November 13, 2023, to December 4, 2023, in light of the intervening holiday and preplanned international travel during that period.

10. Plaintiffs have exercised diligence and will file their opening brief within the time requested. Plaintiffs are mindful of the importance of proceeding expeditiously with this appeal. They have requested the shortest extension

reasonable under the circumstances and, barring new and extraordinary circumstances, will not seek any further extension for their opening brief.

11. Defendants have indicated that they oppose this extension request.
12. Finally, the court reporter is not in default with regard to any designated transcripts.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate ACMS system on October 31, 2023, and that service will be accomplished by the appellate ACMS system on all registered participants.

/s/ Peter C. Renn
Peter C. Renn