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11 **UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**  
13 **TUCSON DIVISION**

14 Jane Doe, by her next friend and parents  
15 Helen Doe and James Doe; and Megan Roe,  
16 by her next friend and parents, Kate Roe and  
17 Robert Roe,

18 Plaintiffs,

19 v.

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

27 Defendants,

28 Warren Petersen, in his official capacity as  
President of the Arizona State Senate, and  
Ben Toma, in his official capacity as  
Speaker of the Arizona House of  
Representatives,

Intervenor-Defendants.

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

**PLAINTIFFS' MOTION TO EXTEND  
FACT DISCOVERY (SECOND REQUEST)**

1 Pursuant to LRCiv 7.3, Plaintiffs respectfully request a 60-day extension of the  
2 fact discovery period from May 7, 2024 to July 8, 2024, as well as a corresponding 60-  
3 day extension to the deadlines outlined below. This is the second request in this case to  
4 extend time for discovery. Plaintiffs have met and conferred with opposing counsel, and  
5 no party objects to this extension.

6 Good cause exists here to extend the fact discovery deadline by 60 days.  
7 *See* Fed. R. Civ. P. 16(b)(4) (requiring good case to modify a scheduling order); *see also*  
8 *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (noting that  
9 the “good cause” standard “primarily considers the diligence of the party seeking” the  
10 modification). As outlined in Plaintiffs’ first motion for an extension of time (Dkt. 182),  
11 Plaintiffs have diligently pursued their discovery obligations since the Parties’ Rule 26  
12 Conference on August 25, 2023. Despite the significant progress, Plaintiffs’ Motion to  
13 Compel Discovery and Plaintiffs’ Motion for a Protective Order (Dkts. 191–202) remain  
14 pending. The Court has scheduled oral argument for both motions on May 7, 2024, the  
15 same day that fact discovery is currently scheduled to close. (Dkt. 203.) Depending on  
16 how the Court rules on those motions, the Parties may notice a number of depositions,  
17 none of which has been scheduled. In addition, it is possible that follow-up discovery  
18 requests will become necessary based on the additional information that Plaintiffs receive  
19 from any depositions. Even if these items are pursued with the utmost diligence, it is not  
20 possible for fact discovery to be completed by the May 7, 2024 deadline.

21 Because extending fact discovery will impact other case deadlines, Plaintiffs  
22 request the below revised schedule, which also extends the deadlines for the close of  
23 expert discovery and for dispositive motions by 60 days.

- 24 • Plaintiffs’ Disclosure of Rule 26(a)(2) Expert Witness Material: July 1, 2024\*
- 25 • Close of Fact Discovery: July 8, 2024
- 26 • Disclosure of Lay Witnesses: July 8, 2024\*

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\* While Plaintiffs first motion for an extension of time did not specifically reference these witness deadlines, we include them in this motion for clarity.

- Defendants' Disclosure of Rule 26(a)(2) Expert Witness Material: July 30, 2024\*
- Rebuttal Expert Opinions: September 12, 2024\*
- Close of Expert Discovery: November 18, 2024
- Dispositive Motions: December 16, 2024

### CONCLUSION

For the foregoing reasons, the Court should find good cause to grant Plaintiffs' motion to extend fact discovery and other related case deadlines by 60 days and adopt the amended deadlines listed above.

Respectfully submitted this 25<sup>th</sup> day of April, 2024.

*/s/ Colin M. Proksel*

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**[PROPOSED] ORDER GRANTING  
PLAINTIFFS' MOTION TO EXTEND  
FACT DISCOVERY (SECOND REQUEST)**

