

No. 20-2387

IN THE UNITED STATES COURT OF APPEALS

FOR THE SEVENTH CIRCUIT

SCHUYLER FILE,

Plaintiff-Appellant,

v.

KATHLEEN BROST, et al.,

Defendants-Appellees.

**DEFENDANTS-APPELLEES’
UNOPPOSED JOINT MOTION FOR AN
EXTENSION OF TIME TO FILE THEIR BRIEFS**

Defendants-Appellees Kathleen Brost and Larry Martin (the “State Bar Defendants”), by their counsel, Roberta F. Howell of Foley & Lardner LLP, and Defendants-Appellees Wisconsin Supreme Court Chief Justice Patience D. Roggensack, and Justices Ann Walsh Bradley, Annette Kingsland Ziegler, Rebecca Grassl Bradley, Rebecca Frank Dallet, Brian Hagedorn, and Jill J. Karofsky, in their official capacities (the “Supreme Court Defendants”), by their counsel, Assistant Attorney General Clayton P. Kawski, jointly file this unopposed motion for an extension of time to November 6, 2020, to file their

briefs. This motion is made pursuant to Federal Rule of Appellate Procedure 26 and Circuit Rule 26, and is supported by the following:

1. On September 14, 2020, this Court accepted Plaintiff-Appellant Schuyler File's brief and short appendix for filing. (7th Cir. Dkt. 8.) The brief is considered filed on September 8, 2020.

2. The State Bar Defendants' and the Supreme Court Defendants' response briefs are both due for filing by October 8, 2020. To maintain consistency in filing deadlines, this motion is a joint motion filed by all Defendants-Appellees.

3. Attorney Howell will be responsible for preparing and filing a response brief on behalf of the State Bar Defendants. AAG Kowski will be responsible for preparing and filing a response brief on behalf of the Supreme Court Defendants.

4. Since the filing of Mr. File's opening brief, AAG Kowski has been and will be engaged in the following work, along with his general case-management obligations:

- a. *Planned Parenthood of Wisconsin, Inc. v. Kaul*, 2019CV38 (W.D. Wis.): preparing for and taking the depositions of witnesses by videoconference on September 17, 2020, at 9 a.m. and September 23, 2020, at 1 p.m.;
- b. *In re the Marriage of Zimmer*, 2020AP919 (Wis. Ct. App.): researching and drafting a reply brief that is due for filing by

September 28, 2020;

- c. *City of Mayville v. State of Wisconsin Department of Administration*, 2019AP882 (Wis. Ct. App.): researching and drafting a petition for review that is due for filing in the Wisconsin Supreme Court by October 2, 2020;
- d. *Carol J. Reinhardt v. Wisconsin Department of Revenue*, 20CV46 (Buffalo Cty. Cir. Ct.): researching and drafting a reply in support of a motion to dismiss that is due for filing by October 2, 2020; and
- e. *United America, LLC v. Wisconsin Department of Transportation*, 18AP2383 (Wis. Sup. Ct.): researching and drafting a response brief that is due for filing by October 9, 2020.

5. The Wisconsin Department of Justice's internal review procedure requires that briefs be submitted for administrative review approximately one week before they are due for filing. Based on the current due date for the Supreme Court Defendants' brief in this case, AAG Kawski would be expected to circulate a complete draft on or before October 1, 2020.

6. Due to the foregoing considerations, AAG Kawski will not be able to timely file and serve the Supreme Court Defendants' brief by October 8, 2020.

7. After the current due date for Defendants-Appellees' briefs in this matter, AAG Kawski also expects to be engaged in work on the following matters, in addition to those previously listed:

- a. *Carol J. Reinhardt v. Wisconsin Department of Revenue*, 20CV46 (Buffalo Cty. Cir. Ct.): preparing for and presenting oral arguments on October 15, 2020, at 3 p.m.;
 - b. *Planned Parenthood of Wisconsin, Inc. v. Kaul*, 2019CV38 (W.D. Wis.): researching and drafting motions in limine that are due for filing on October 23, 2020.
 - c. *Mark Girtler v. Gary Boughton*, 2020AP1308 (Wis. Ct. App.): researching and drafting a response brief that is due for filing by October 26, 2020; and
 - d. *Planned Parenthood of Wisconsin, Inc. v. Kaul*, 2019CV38 (W.D. Wis.): researching and drafting responses to motions in limine that are due for filing on November 6, 2020.
8. The requested extension also accounts for administrative considerations, including support-staff scheduling and workload.
9. Defendants-Appellees have not previously requested an extension of time in which to file a brief in this appeal.
10. It is more efficient use of the Court's and the parties' resources if the response briefs are due contemporaneously, with a single date for the appellant's reply.
11. Undersigned counsel consulted with Mr. File's counsel, Attorney Daniel Suhr, who said that he does not oppose this extension motion.

WHEREFORE, good cause exists to grant an extension of time for Defendants-Appellees to file their briefs in this case. This Court should enter an order stating that Defendants-Appellees' briefs are each due by November 6, 2020.

Dated this 15th day of September 2020.

Respectfully submitted,

<p><u>s/ Clayton P. Kawski</u> CLAYTON P. KAWSKI Assistant Attorney General WI Bar #1066228</p> <p>Wisconsin Department of Justice Post Office Box 7857 Madison, Wisconsin 53707-7857 (608) 266-8549 (608) 267-2223 (Fax) kawskicp@doj.state.wi.us</p> <p>Counsel for Defendants-Appellees Wisconsin Supreme Court Chief Justice Patience D. Roggensack, and Justices Ann Walsh Bradley, Annette Kingsland Ziegler, Rebecca Grassl Bradley, Rebecca Frank Dallet, Brian Hagedorn, and Jill J. Karofsky, in their official capacities</p>	<p><u>s/ Roberta F. Howell</u> ROBERTA F. HOWELL</p> <p>WI Bar #1000275</p> <p>Foley & Lardner LLP 150 East Gilman Street Madison, WI 53703-1482 Post Office Box 1497 Madison, WI 53701-1497 608.257.5035 608.258.4258</p> <p>Counsel for Defendants-Appellees Kathleen Brost and Larry Martin</p>
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CERTIFICATE OF SERVICE

I certify that on September 15, 2020, I electronically filed the foregoing extension motion with the clerk of court using the CM/ECF system, which will accomplish electronic notice and service for all participants who are registered CM/ECF users.

Dated this 15th day of September 2020.

s/ Roberta F. Howell