

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

NATIONAL VETERANS LEGAL SERVICES
PROGRAM, NATIONAL CONSUMER
LAW CENTER, ALLIANCE FOR JUSTICE,

Plaintiffs - Appellants,

v.

UNITED STATES,

Defendant - Cross-appellant.

No. 2019-1081

**UNOPPOSED MOTION FOR SIXTY-DAY EXTENSION OF TIME
TO FILE OPENING BRIEF**

For the following reasons, the government respectfully requests a 60-day extension of time, to and including **April 26, 2019**, in which to file its opening brief as cross-appellant. This motion is unopposed.

1. Plaintiffs filed their opening brief on January 16, 2019, after receiving one extension. The government's opening brief as cross-appellant is currently due February 25, 2019.

2. The government respectfully requests a 60-day extension of time, to and including April 26, 2019, in which to file its opening brief. The requested extension is necessary in light of other appellate deadlines faced by government counsel, including deadlines that were extended as a result of the protracted lapse of

appropriations for the Department of Justice. Alisa Klein is lead counsel for the government in this appeal. On February 7, Ms. Klein will be presenting oral argument before this Court in *LaTurner v. United States*, No. 18-1509 (Fed. Cir.). Ms. Klein also has principal or supervisory responsibility for the following matters: *Reilly v. Marin Housing Authority*, No. S249593 (California Supreme Court) (invited amicus brief due February 15, as extended); *Rosen v. United States*, No. 18-56059 (9th Cir.) (appellee's brief due February 15, as extended); *American Clinical Laboratory Ass'n v. Azar*, No. 18-5312 (D.C. Cir.) (appellee's brief due February 25, as extended); *Porzeczanski v. Azar*, No. 18-5222 (D.C. Cir.) (appellee's brief due February 27, as extended); *Ipsen Biopharmaceuticals, Inc. v. Azar*, No. 18-5299 (D.C. Cir.) (appellee's brief due February 27); *Kientz v. Commissioner*, No. 18-3240 (10th Cir.) (appellee's brief due March 11); *Baystate Franklin Medical Center v. Azar*, No. 18-5264 (D.C. Cir.) (appellee's brief due March 12); *Sanford Health Plan v. United States*, No. 19-1290 (Fed. Cir.) (appellant's brief due March 13, as extended); *ASSE International v. Pompeo*, No. 18-55979 (9th Cir.) (appellee's brief due March 29, as extended); *Cares Community Health v. HHS*, No. 18-5319 (D.C. Cir.) (appellee's brief due April 3); *La Vigne v. COSTCO*, No. 18-415 (2d Cir.) (invited amicus brief due April 15, as extended); *Cigar Ass'n of America v. FDA*, No. 18-5195 (D.C. Cir.) (appellee's brief due April 22, as extended).

3. Plaintiffs' counsel authorized us to state that this motion is unopposed.

Respectfully submitted,

MARK B. STERN

s/ Alisa B. Klein

ALISA B. KLEIN

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Civil Division

U.S. Department of Justice

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JANUARY 2019

CERTIFICATE OF COMPLIANCE

I certify that this document complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 358 words.

/s/ Alisa B. Klein

Alisa B. Klein

**IN THE UNITED STATES COURT OF APPEALS
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NATIONAL VETERANS LEGAL SERVICES
PROGRAM, NATIONAL CONSUMER
LAW CENTER, ALLIANCE FOR JUSTICE,

Plaintiffs - Appellants,

v.

UNITED STATES,

Defendant - Cross-appellant.

No. 2019-1091

DECLARATION

I, Alisa B. Klein, hereby declare as follows:

1. I am an attorney with the Appellate Staff of the Civil Division of the U.S. Department of Justice. The government respectfully requests a 60-day extension of time, to and including April 26, 2019, in which to file its opening brief in this case. The requested extension is necessary in light of other appellate deadlines faced by government counsel, including deadlines that were extended as a result of the protracted lapse of appropriations for the Department of Justice.

2. I am lead counsel for the government in this appeal. On February 7, I will be presenting oral argument before this Court in *LaTurner v. United States*, No. 18-1509 (Fed. Cir.). I also have principal or supervisory responsibility for the following matters: *Reilly v. Marin Housing Authority*, No. S249593 (California Supreme Court)

(invited amicus brief due February 15, as extended); *Rosen v. United States*, No. 18-56059 (9th Cir.) (appellee's brief due February 15, as extended); *American Clinical Laboratory Ass'n v. Azar*, No. 18-5312 (D.C. Cir.) (appellee's brief due February 25, as extended); *Porzeczanski v. Azar*, No. 18-5222 (D.C. Cir.) (appellee's brief due February 27, as extended); *Ipsen Biopharmaceuticals, Inc. v. Azar*, No. 18-5299 (D.C. Cir.) (appellee's brief due February 27); *Kientz v. Commissioner*, No. 18-3240 (10th Cir.) (appellee's brief due March 11); *Baystate Franklin Medical Center v. Azar*, No. 18-5264 (D.C. Cir.) (appellee's brief due March 12); *Sanford Health Plan v. United States*, No. 19-1290 (Fed. Cir.) (appellant's brief due March 13, as extended); *ASSE International v. Pompeo*, No. 18-55979 (9th Cir.) (appellee's brief due March 29, as extended); *Cares Community Health v. HHS*, No. 18-5319 (D.C. Cir.) (appellee's brief due April 3); *La Vigne v. COSTCO*, No. 18-415 (2d Cir.) (invited amicus brief due April 15, as extended); *Cigar Ass'n of America v. FDA*, No. 18-5195 (D.C. Cir.) (appellee's brief due April 22, as extended).

3. Plaintiffs' counsel authorized us to state that this motion is unopposed.

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

Executed on January 29, 2019. See 28 U.S.C. § 1746(2).

s/Alisa B. Klein

ALISA B. KLEIN

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U.S. Department of Justice

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Washington, DC 20530

CERTIFICATE OF SERVICE

I hereby certify that on January 29, 2019, I electronically filed the foregoing motion with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Alisa B. Klein

Alisa B. Klein