

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

DATA MARKETING PARTNERSHIP, LP,
et al.,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF LABOR, *et al.*,

Defendants-Appellants.

No. 20-11179

**UNOPPOSED MOTION FOR ADDITIONAL 30-DAY EXTENSION OF
TIME TO FILE OPENING BRIEF**

For the reasons set forth below, the government respectfully requests an additional 30-day extension of time, to and including March 15, 2021, in which to file its opening brief in the above-captioned case. Plaintiffs do not oppose this request.

1. On January 4, 2021, this Court granted the government's motion for a 30-day Level 1 extension. The government's opening brief is currently due on February 12, 2021.

2. Despite diligent efforts, an additional 30-day extension of the briefing deadline is necessary to allow the government adequate time to prepare and review its response brief. The attorney with principal responsibility for preparing the brief is Michael Shih. Mr. Shih has principal responsibility for several other appellate matters, including *National Postal Policy Council v. Postal Regulatory Commission*, Nos. 17-1276,

20-1505, 20-1510, and 20-1521 (D.C. Cir.) (response to stay motion due Feb. 8, 2021). The attorney with principal supervisory responsibility for preparing the brief is Mark B. Stern. Mr. Stern has also supervisory responsibility for a number of other appellate matters. *See, e.g., Gustafson v. Springfield, Inc.*, No. 207 WDA 2019 (Pa. Sup. Ct.) (en banc response brief due Feb. 3); *Cigar Ass'n of Am. v. FDA*, No. 20-5266 (D.C. Cir.) (response brief due Feb. 12, as extended); *Cuadrado-Concepcion v. United States*, No. 20-13747 (11th Cir.) (response brief due Feb. 16, 2021, as extended); *Pagan-Lisboa v. SSA*, No. 20-1377 (1st Cir.) (oral argument calendared for Mar. 4); *Asociacion Hospital de Maestro v. Azar*, No. 19-1475 (1st Cir.) (oral argument calendared for Mar. 5). And both Mr. Shih and Mr. Stern are responsible for reviewing and monitoring many other matters with pressing internal deadlines. Additional time is also necessary to allow the government adequate time to consult with the Office of the Solicitor General and the U.S. Department of Labor.

3. The government has conferred with counsel for plaintiffs. Plaintiffs do not oppose the requested relief.

CONCLUSION

For these reasons, the government respectfully requests an additional 30-day extension, to and including March 15, 2021, of the time for filing its opening brief in this case.

Respectfully submitted,

MARK B. STERN

/s/ Michael Shih

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JANUARY 2021

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 341 words.

/s/ Michael Shih
MICHAEL SHIH

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2021, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system. I further 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/ Michael Shih
MICHAEL SHIH