

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

SKYWORKS, LTD., et al.,

Appellees/Cross-Appellants,

v.

Nos. 21-3443, 21-3563

CENTERS FOR DISEASE CONTROL  
AND PREVENTION, et al.,

Appellants/Cross-Appellees.

**APPELLANTS/CROSS-APPELLEES' MOTION FOR  
30-DAY EXTENSION OF TIME TO FILE OPENING BRIEF**

Pursuant to Federal Rules of Appellate Procedure 26 and 27 and Sixth Circuit Rule 26(a)(1), appellants/cross-appellees request a 30-day extension, to and including September 29, 2021, of the deadline to file their opening brief. This is appellants/cross-appellees' first request for an extension of time. Appellees/cross-appellants oppose this extension request.

1. This case involves a temporary moratorium on certain evictions that was issued to prevent the spread of COVID-19. The Centers for Disease Control and Prevention (CDC) first issued the moratorium in September 2020 and subsequently issued orders extending it through July 31, 2021. On

August 3, 2021, the CDC issued a new moratorium, limited to areas with substantial or high levels of COVID-19 spread, which is set to expire on October 3, 2021.

2. The district court in this case ruled that the prior moratorium exceeded the CDC's statutory authority and entered a final judgment declaring the prior moratorium unenforceable with respect to appellees/cross-appellants. In a separate appeal, this Court ruled that the prior moratorium exceeded the CDC's statutory authority. *Tiger Lily, LLC v. U.S. Dep't of Hous. & Urban Dev.*, No. 21-5256, 2021 WL 3121373 (6th Cir. July 23, 2021). The time for seeking further review of that decision has not yet run. In another challenge to the prior moratorium, a district court ordered vacatur but stayed its judgment pending appeal, and the D.C. Circuit and the Supreme Court declined to lift that stay. *See Alabama Ass'n of Realtors v. Department of Health & Human Servs.*, 141 S. Ct. 2320 (2021). The district court in that case recently denied the plaintiffs' request for emergency relief against the new moratorium, and the plaintiffs have indicated that they intend to seek additional relief, as necessary, from the D.C. Circuit and the Supreme Court.

3. Appellants/cross-appellees' opening brief is currently due on August 30, 2021. Appellants/cross-appellees have not requested any prior extension of time.

4. Good cause exists for granting the requested 30-day extension, which is necessary for the following reasons. The requested extension is necessary to allow the government to take into account ongoing developments regarding the moratorium and to consult with the affected agencies in preparing the opening brief.

5. The requested extension is also necessary to ensure adequate time to prepare and file the opening brief. Brian J. Springer, the attorney with primary responsibility for preparing the opening brief in this case, is involved in the following matters with impending deadlines: *Noem v. Haaland*, No. 21-2542 (8th Cir.) (appellee's brief due September 22); *State of Florida v. Becerra*, No. 21-12243 (11th Cir.) (opening brief due October 1, as extended); *Chambless Enterprises v. Walensky*, No. 21-30037 (5th Cir.) (oral argument tentatively set for the week of October 4); *Terkel v. CDC*, No. 21-40137 (5th Cir.) (oral argument tentatively set for the week of October 4).

Alisa B. Klein is the attorney with supervisory responsibility for this case. Ms. Klein also has principal or supervisory responsibility for the

following matters with impending deadlines: *Leal v. Becerra*, No. 21-10302 (5th Cir.) (appellees' brief due August 20, as extended); *Turnbull v. SSA*, No. 20-5365 (D.C. Cir.) (appellee's brief due August 26, as extended); *Missouri v. Yellen*, No. 21-2118 (8th Cir.) (appellee's brief due September 15, as extended); *State of Florida v. Becerra*, No. 21-12243 (11th Cir.) (opening brief due October 1, as extended); *Chambless Enterprises v. Walensky*, No. 21-30037 (5th Cir.) (oral argument tentatively set for the week of October 4); *Terkel v. CDC*, No. 21-40137 (5th Cir.) (oral argument tentatively set for the week of October 4); *Arizona v. Yellen*, No. 21-16227 (9th Cir.) (appellee's brief due October 5, under expedited schedule); *American Hospital Ass'n v. Becerra*, No. 20-1114 (S. Ct.) (respondent's brief due October 20). In addition, Ms. Klein will be out of town on vacation from August 30 through September 1.

6. Appellants/cross-appellees therefore respectfully request a 30-day extension to September 29, 2021 to prepare the opening brief. A 30-day extension will not appreciably delay resolution of the case, and counsel will exercise diligence in preparing the brief in the time requested.

7. Appellees/cross-appellants oppose this extension motion. However, appellees/cross-appellants have a district court judgment in their

favor and will not be prejudiced by the requested extension of the deadline for filing the opening brief.

Respectfully submitted,

ALISA B. KLEIN

*s/ Brian J. Springer*

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AUGUST 2021

## CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because the motion contains 716 words. The motion complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)-(6) because it has been prepared using Microsoft Word 2016 in Century Expd BT 14-point font, a proportionally spaced typeface.

*s/ Brian J. Springer*  
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Brian J. Springer

## CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2021, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Sixth Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

*s/ Brian J. Springer*  
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Brian J. Springer