

No. 22-56090

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

JUNIOR SPORTS MAGAZINES INC. ET AL.,
Plaintiffs-Appellants,

V.

ROB BONTA, IN HIS OFFICIAL CAPACITY AS
ATTORNEY GENERAL OF THE STATE OF CALIFORNIA ET AL.,
Defendants-Appellees.

**On Appeal from the United States District Court
for the Central District of California**

No. 2:22-cv-04663-CAS-JCx
Hon. Christina A. Snyder, Judge

**DEFENDANT-APPELLEE'S UNOPPOSED MOTION FOR
EXTENSION OF TIME TO FILE A BRIEF;
DECLARATION OF KEVIN J. KELLY**

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December 29, 2022

Pursuant to Circuit Rule 31-2.2(b), Defendant-Appellee Rob Bonta (“Defendant”) respectfully requests a 10-day extension of time, until January 27, 2023, in which to file his answering brief on the merits. Plaintiffs-Appellants consent to the requested extension. *See* Declaration of Kevin J. Kelly (“Kelly Dec.”) ¶ 5. Defendant has not previously requested an extension of time in which to file his answering brief. *Id.* ¶ 7.

There is substantial need for a 10-day extension. *See* Cir. Rule 31-2.2(b). Plaintiffs-Appellants have raised numerous contentions on appeal requiring a response, including, among other things, that California’s Assembly Bill 2571 reflects content- and viewpoint-based discrimination, fails to satisfy the test applicable to state regulation of commercial speech, and violates the equal protection clause. Kelly Decl. ¶ 6. The undersigned will also be working to meet and prepare for various deadlines and hearings in other matters during the briefing period, including *Duncan v. Bonta*, 3:17-cv-01017-BEN-JLB (S.D. Cal.). *Id.* The answering brief will also need to be reviewed by other attorneys before it is finalized and filed. *Id.*

For these reasons, Defendant respectfully requests that the Court grant a 10-day extension of time, until January 27, 2023, in which to file the answering brief.

Dated: December 29, 2022

Respectfully submitted,

ROB BONTA

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THOMAS S. PATTERSON

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/s/ Kevin J. Kelly

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DECLARATION OF KEVIN J. KELLY

1. I am a Deputy Attorney General in the California Department of Justice. I am responsible for leading the preparation of the answering brief on the merits in this case.

2. On November 22, 2022, the Court set a briefing schedule making the opening brief due not later than December 19, 2022 and the answering brief due on January 17, 2023 or 28 days after service of the opening brief, whichever is earlier.

3. On December 19, 2022, Plaintiffs-Appellants filed their opening brief. Given that January 16, 2023 is a Court holiday, the answering brief is due on January 17, 2023.

4. A 10-day extension of time would make the answering brief due on January 27, 2023.

5. In a December 27, 2022 e-mail, counsel for Plaintiffs-Appellants informed me that their clients consent to the requested extension.

6. Plaintiffs-Appellants have raised numerous contentions on appeal requiring a response, including, among other things, that California's Assembly Bill 2571 reflects content- and viewpoint-based discrimination, fails to satisfy the test applicable to state regulation of commercial speech, and violates the equal protection clause. The undersigned will also be working to meet and prepare for various deadlines and hearings in other matters during the briefing period,

including *Duncan v. Bonta*, 3:17-cv-01017-BEN-JLB (S.D. Cal.), and the answering brief will also need to be reviewed by other attorneys before it is finalized and filed.

7. Defendant has not previously requested an extension of time in which to file the answering brief.

8. I have exercised diligence in preparing Defendant's answering brief, and the brief will be filed within the time requested.

9. The court reporter is not in default with regard to any designated transcripts.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed in Los Angeles, California, on December 29, 2022.

/s/ Kevin J. Kelly
Kevin J. Kelly

CERTIFICATE OF SERVICE

I certify that on December 29, 2022, I electronically filed the foregoing document with the Clerk of the Court of the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all other participants in this case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Dated: December 29, 2022

/s/ Kevin J. Kelly