

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

Civil Action No. 3:21-cv-679

DAN BISHOP,

Plaintiff,

v.

AMY L. FUNDERBURK, et al.,

Defendants.

**CONSENT MOTION FOR
EXTENSION OF TIME**

Now come Defendants Clerk of the Supreme Court of North Carolina Amy L. Funderburk, Chief Justice of the Supreme Court of North Carolina Paul Newby, Associate Justice of the Supreme Court of North Carolina Robin Hudson, Associate Justice of the Supreme Court of North Carolina Samuel L. Ervin, Associate Justice of the Supreme Court of North Carolina Michael Morgan, Associate Justice of the Supreme Court of North Carolina Anita Earls, Associate Justice of the Supreme Court of North Carolina Philip Berger, Associate Justice of the Supreme Court of North Carolina, Tamara Barringer, and, with Plaintiff's consent, respectfully move the Court to enlarge the time in which to file and serve their response to Plaintiff's motion for preliminary injunction or for a writ of mandamus, and to answer or file and serve other responsive pleadings to Plaintiff's Complaint. DE 2. In support of this motion, Defendants show the Court the following:

1. On December 22, 2021, Plaintiff filed Complaint in this matter naming the Clerks of Court and all Judges and Justices of the North Carolina Court of Appeals and the North Carolina Supreme Court as Defendants. DE 1.

2. On the same day, December 22, 2021, Plaintiff filed a motion designated as “Motion for Mandamus or Preliminary Injunction.” DE 2.

3. On or about January 4, 2022, the undersigned counsel was served with Plaintiff’s Complaint, Summons for all Defendants and Plaintiff’s motion for preliminary injunction or for a writ of mandamus.

4. The Court’s ECF docket currently indicates that Defendants’ response to Plaintiff’s motion for preliminary injunction is due on January 5, 2022, and response to Plaintiff’s motion for a writ of mandamus is due on January 10, 2022.

5. Preparing a response to Plaintiff’s Complaint and Plaintiff’s motion for preliminary injunction or for a writ of mandamus requires legal research and factual investigation of the implicated issues. Taking into account the official state holiday schedule¹ and other work and personal commitments, counsel for Defendants requires additional time to perform these tasks.

6. Further, it is anticipated that Defendants’ forthcoming responsive pleadings or motions to dismiss and Defendants’ responses to Plaintiff’s motion for preliminary injunction or for a writ of mandamus may feature interlinking or related arguments in support of Defendants’ respective positions. The proposed

¹ December 23, 2021, December 24, 2021, December 27, 2021, and December 31, 2021 are state holidays falling within the implicated time period. See <https://oshr.nc.gov/stateemployee-resources/benefits/leave/holidays>.

synchronization of deadlines for filing and serving Defendants' responsive pleadings and responses to Plaintiff's pending motion for injunctive relief to the same date would therefore promote goals of judicial economy and efficiency.

7. In light of the information that currently appears on the Court's docket and out of abundance of caution, Defendants hereby move for extension of time to file their response to Plaintiff's motion for a writ of mandamus or preliminary injunction to January 31, 2022.

8. Defendants additionally move for a brief extension of time until January 31, 2022 to answer Plaintiff's Complaint or file other responsive pleadings or motions thereto.

9. This is the undersigned's first request for extension of time in this matter.

10. The time prescribed to file Defendants' response to Plaintiff's motion or to answer Plaintiff's Complaint has not yet expired.

11. The undersigned counsel contacted counsel for Plaintiff to confer regarding the requested extension of time. Plaintiff consents to this request.

WHEREFORE, Defendants respectfully move the Court to grant an extension of time, to and including January 31, 2022, in which to file and serve a response to Plaintiff's motion for preliminary injunction or for a writ of mandamus and to answer or file other responsive pleadings or motions to Plaintiff's Complaint.

Respectfully submitted, this 4th day of January, 2022.

JOSH STEIN
Attorney General

/s/Olga E. Vysotskaya de Brito
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CERTIFICATE OF SERVICE

I hereby certify that on January 4, 2022, a copy of this MOTION FOR EXTENSION OF TIME was filed electronically using the Court's ECF system, which will send notice electronically to all counsel of record who have entered an appearance in this case.

/s/Olga E. Vysotskaya de Brito
Olga E. Vysotskaya de Brito
Special Deputy Attorney General