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April 2, 2024

Re: No. 23-1063, *Home Depot U.S.A., Inc. v. Blue Cross Blue Shield Association, et al.*

Dear Mr. Harris:

I write on behalf of Respondent Blue Cross Blue Shield Association and other Respondents¹ (together, the “Blues”) in the above-captioned case. Home Depot’s petition for certiorari was placed on the docket on March 28, 2024. Respondents’ briefs in opposition are currently due on April 29, 2024. Pursuant to Supreme Court Rule 30.4, the Blues respectfully request an additional 30 days to file a brief in opposition in this case, extending the deadline to May 29, 2024.

This 30-day extension is requested because two additional potential petitioners—David Behenna and George Cochran—have until April 25, 2024 to seek review of the judgment below. Both parties were objectors to the settlement at issue in this case and appealed final

¹ *Aware Integrated, Inc.; Blue Cross and Blue Shield of Alabama; Blue Cross and Blue Shield of Arizona, Inc.; Blue Cross and Blue Shield of Florida, Inc.; Blue Cross of Idaho Health Service, Inc.; Blue Cross and Blue Shield of Kansas, Inc.; Blue Cross and Blue Shield of Kansas City; Blue Cross and Blue Shield of Massachusetts, Inc.; Blue Cross Blue Shield of Michigan Mutual Insurance Company; BCBSM, Inc. (Blue Cross and Blue Shield of Minnesota); Blue Cross & Blue Shield of Mississippi, a Mutual Insurance Company; Blue Cross and Blue Shield of Nebraska; Blue Cross and Blue Shield of North Carolina, Inc.; Blue Cross Blue Shield of North Dakota; Blue Cross & Blue Shield of Rhode Island; Blue Cross and Blue Shield of South Carolina; BlueCross BlueShield of Tennessee, Inc.; Blue Cross and Blue Shield of Vermont; Blue Cross Blue Shield of Wyoming; California Physicians’ Service d/b/a Blue Shield of California; Cambia Health Solutions, Inc.; Capital Blue Cross; CareFirst, Inc.; CareFirst of Maryland, Inc.; Group Hospitalization and Medical Services, Inc.; CareFirst BlueChoice, Inc.; Elevance Health, Inc. f/k/a Anthem, Inc., and all of its named subsidiaries in this consolidated action; Excellus Health Plan, Inc., d/b/a Excellus BlueCross BlueShield; Hawaii Medical Service Association (Blue Cross and Blue Shield of Hawaii); Health Care Service Corporation, an Illinois Mutual Legal Reserve Company, including its divisions Blue Cross and Blue Shield of Illinois, Blue Cross and Blue Shield of Texas, Blue Cross and Blue Shield of New Mexico, Blue Cross and Blue Shield of Oklahoma, and Blue Cross and Blue Shield of Montana; Caring for Montanans, Inc., f/k/a Blue Cross and Blue Shield of Montana, Inc.; Highmark Health, a Pennsylvania non-profit organization; Highmark Inc., f/k/a Highmark Health Services; Highmark West Virginia Inc.; Highmark Blue Cross Blue Shield Delaware Inc.; Highmark Western and Northeastern New York Inc.; Horizon Healthcare Services, Inc. (Horizon Blue Cross and Blue Shield of New Jersey); Independence Hospital Indemnity Plan, Inc.; Independence Health Group, Inc.; Louisiana Health Service & Indemnity Company (Blue Cross and Blue Shield of Louisiana); Premera Blue Cross, d/b/a Premera Blue Cross Blue Shield of Alaska; Regence BlueShield of Idaho; Regence BlueCross BlueShield of Utah; Regence BlueShield (of Washington); Regence BlueCross BlueShield of Oregon; Triple-S Management Corporation; Triple-S Salud, Inc.; USABLE Mutual Insurance Company, d/b/a Arkansas Blue Cross and Blue Shield and as Blue Advantage Administrators of Arkansas; Wellmark of South Dakota, Inc. (Wellmark Blue Cross and Blue Shield of South Dakota); Wellmark, Inc. (Wellmark Blue Cross and Blue Shield of Iowa).*

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approval of the settlement to the Eleventh Circuit.² Further, Mr. Behenna unsuccessfully sought en banc rehearing of the panel decision in that court. The Blues wish to have the opportunity to respond to all potential petitions in a single filing for the sake of efficiency and to avoid burdening the Clerk, this Court and the parties. *Cf.* Stephen M. Shapiro, et al., *Supreme Court Practice* § 6.22 (11th ed. 2019) (noting that a single petition is preferable to multiple and citing *Decker v. Nw. Env'tl Def. Ctr.*, No. 11-338 and *Ga.-Pac. W., Inc. v. Nw. Env'tl Def. Ctr.*, No. 11-347, in which the respondent filed a single brief in opposition addressing separate petitions). Without an extension, the Blues will be unable to respond in a single filing to arguments made in any petitions filed by Messrs. Behenna and Cochran, and may be in the position of having to file multiple oppositions.

Respectfully,

/s/ Karin A. DeMasi
Karin A. DeMasi

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
One First Street, NE
Washington, DC 20543

Cc: Petitioner's Counsel of Record; Plaintiff-Respondents' Counsel of Record

Via Electronic Filing (S. Ct. R. 29.7) and via Federal Express and Email (S. Ct. R. 29.3)

² The fourth appellant below, Topographic, Inc. and Employee Services, Inc., filed a motion in the district court stating that it "will not seek a writ of certiorari from the Supreme Court of the United States" in this case. Topographic's Motion to Withdraw Appeal Bond at 3, *In re Blue Cross Blue Shield Antitrust Litig.* (MDL No. 2406), No. 2:13-cv-20000 (N.D. Ala. Mar. 8, 2024), ECF No. 3114.