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April 2, 2024

By Electronic & U.S. Mail

Honorable Scott S. Harris
Clerk of the Supreme Court of the United States
1 First Street, N.E.
Washington, D.C. 20543

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

Dear Mr. Harris:

I write on behalf of the Plaintiffs-Respondents Subscriber Classes (the “Subscriber Respondents”) with respect to the application by Defendants-Respondents Blue Cross Blue Shield Association, et al. (the “BCBS Respondents”) for a 30-day extension, until May 29, 2024, of the deadline to respond to the pending petition for writ of certiorari filed by Petitioner Home Depot U.S.A., Inc.¹ The Subscriber Respondents include two classes that comprise approximately 100 million members and that were certified under Federal Rule of Civil Procedure 23 in connection with the settlement in 2020 of MDL antitrust litigation that the trial court characterized as “extraordinarily complex, protracted, and hard-fought.” *In re Blue Cross Blue Shield Antitrust Litigation*, No. 2:13-cv-20000, 2022 WL 4587618, at *2 (N.D. Ala. Aug. 9, 2022), *affirmed*, 85 F.4th 1070 (11th Cir. 2023). The settlement cannot be fully implemented, however, until the pending petition and any other petition that may be filed are resolved.

Although Subscriber Respondents have consistently sought to expedite appellate proceedings relating to approval of the settlement, we do not oppose the BCBS Respondents’ request for a 30-day extension. We write, rather, to request that in the

¹ The Petition (at pp. ii-iii) contains an accurate list of Subscriber Respondents, but should be supplemented with the following additional Subscriber Respondents: Keith Cerven, Teresa Cerven, Tony Forsythe, Ross Hill, Iron Gate Technology, Inc., Joel Jameson, Mark Krieger, Scott Morris, Pioneer Farm Equipment, Inc., Kathryn Scheller, and Nancy Thomas. With the exception of Subscriber Respondent Hibbett Retail, Inc., f/k/a Hibbett Sporting Goods, Inc., no Subscriber Respondent that is a corporation has a parent corporation, and no public corporation owns 10 percent or more of its stock. Hibbett Retail, Inc. is a subsidiary of Hibbett, Inc.; Blackrock, Inc. owns 10 percent or more of the stock of Hibbett, Inc.

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event that the Court grants that request, in whole or in part, the Court make clear that any revision to the schedule for responding to the pending petition will apply to both the BCBS Respondents and the Subscriber Respondents.

Dated: April 2, 2024

Respectfully submitted,

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