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July 12, 2024

Honorable Scott S. Harris
Clerk
Supreme Court of the United States
Washington, D.C. 20543

Re: *Alaska, et al. v. Department of Education, et al.,* No. 24A11

Dear Mr. Harris:

On behalf of the State of Texas—as well as the States of Alaska and South Carolina—I write to update the Court about a development in the U.S. Court of Appeals for the Tenth Circuit.

As the States explained in their Application, last week the States moved for expedited review in the Tenth Circuit. Yesterday, the Tenth Circuit granted in part the States' unopposed motion in the attached order (Attachment A). Under the Tenth Circuit's briefing schedule, the Department of Education must file its Opening Brief on or before July 15, 2024; the States must file their combined Response Brief and Opening Cross-Appeal Brief no later than seven days afterwards; the Department must file its combined Reply Brief and Cross-Appeal Response Brief no later than seven days afterwards; and the States must file their Cross-Appeal Reply Brief no later than two days afterwards. Under this schedule, briefing should be complete by no later than July 31, 2024.

Although the States urged the Tenth Circuit to reach a decision before August 1, 2024, *see* Unopposed Motion to Expedite Review at 4, *Alaska v. U.S. Dep't of Educ.*, No. 24-3089 (10th Cir. Jul. 5, 2024) (Attachment B), the Tenth Circuit has not indicated that it will do so. By itself, this calls out for emergency relief from this Court.

Emergency relief from this Court, however, is now even more warranted. As the States' Application indicates, August 1 is the most relevant date here because

the SAVE Plan went into effect on July 1, 2024, thus triggering billing changes for the loan repayment process. Before the Tenth Circuit, however, the Department of Education contested "the legal significance of August 1." Response to Unopposed Motion to Expedite Review at 5, *Alaska v. U.S. Dep't of Educ.*, No. 24-3089 (10th Cir. Jul. 7, 2024) (Attachment C). Yet under the Department's ordinary practice, federal loan recipients are informed of their monthly payment amount at least 30 days before payment is due—making August 1 the relevant date. *See* Reply in Support of Unopposed Motion to Expedite Review, *Alaska v. U.S. Dep't of Educ.*, No. 24-3089 (10th Cir. Jul. 8, 2024) (Attachment D). Regardless, "if the Department goes against past practice and says the payments are actually due in early July, then that would increase the urgency of a faster ruling." *Id.* at 5.

The same analysis applies here. Because the Department apparently may begin unlawfully cancelling student debt even before August 1, emergency relief from this Court vacating the Tenth Circuit's unreasoned stay is even more essential.

The Department also argued to the Tenth Circuit that "under the terms of the *Missouri* preliminary injunction, the Department will not grant any loan forgiveness under the shortened timelines provided for in the final rule while that injunction remains in effect." Attachment C at 4. This argument misses the mark. Under the SAVE Plan, millions of borrowers will receive effective loan cancellation because, even if their loans are not technically forgiven, those borrowers will not be required to pay them back. *See* Attachment D at 3. Accordingly, whatever label the Department wishes to use, the critical point is that the States will be irreparably harmed and the public stands to lose hundreds of billions of dollars if the aspects of the SAVE Plan enjoined by the district court *in this case* are allowed to go into effect. Emergency relief is plainly warranted.

Respectfully submitted,

/s/ Aaron L. Nielson
Aaron L. Nielson
Counsel for the State of Texas

cc: Joseph David Spate and Elizabeth B. Prelogar

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Tab A

FILED
United States Court of Appeals
Tenth Circuit

July 11, 2024

Christopher M. Wolpert
Clerk of Court

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

STATE OF ALASKA, et al.,

Plaintiffs - Appellees/Cross-Appellants,

v.

UNITED STATES DEPARTMENT OF EDUCATION, et al.,

Defendants - Appellants/Cross-Appellees.

Nos. 24-3089 & 24-3094
(D.C. No. 6:24-CV-01057-DDC-ADM)
(D. Kan.)

ORDER

These matters are before the court on: (1) appellees/cross-appellants' *Unopposed Motion to Expedite Review of This Case*, in which appellees/cross-appellants (collectively, "the States") move the court to enter an agreed, expedited briefing schedule in these cross-appeals; (2) the response of appellants/cross-appellees (collectively, the "Department of Education") to that motion; and (3) the States' reply.

Upon consideration:

A. The court grants the motion in part as set forth below;

B. The court expedites the deadlines for the parties to file the preliminary documents in Appeal No. 24-3094 and:

(1) Directs the States—on or before July 15, 2024—to file an entry of appearance and certificate of interested parties, a docketing

statement, and either a transcript order form or notice that no transcript is necessary for purposes of the cross-appeal; and

(2) Directs the Department of Education to file an entry of appearance and certificate of interested parties in the cross-appeal on or before July 15, 2024;

C. The court directs the Department of Education—on or before July 15, 2024—to file their opening brief (the "First Brief on Cross-Appeal") and appendix;

D. The remainder of the briefing on appeal will proceed on the expedited schedule the parties propose:

(1) The States will file their combined Response Brief and Opening Cross-Appeal Brief (the "Second Brief on Cross Appeal") within 7 days after the Department of Education files a compliant First Brief on Cross-Appeal and appendix;

(2) The Department of Education will file its combined Reply Brief and Cross-Appeal Response Brief (the "Third Brief on Cross-Appeal") within 7 days after the States file a compliant Second Brief on Cross-Appeal;

(3) The States will file their Cross-Appeal Reply Brief within 2 days after the Department of Education files a compliant Third Brief on Cross-Appeal.

E. The court will not consider or grant any extension of any of these briefing deadlines absent extraordinary circumstances.

F. To the extent that either party has requested expedited consideration of the appeal or setting of any oral argument, those requests are referred to the panel of judges who will later be assigned to consider these appeals on the merits.

Entered for the Court

CHRISTOPHER M. WOLPERT, Clerk

Tab B

No. 24-3089

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

STATE OF ALASKA, et al.,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF EDUCATION, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Kansas District Court Case
No. 6:24-CV-01057-DDC-ADM

APPELLEES' UNOPPOSED MOTION TO EXPEDITE REVIEW OF THIS CASE

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July 5, 2024

Pursuant to Federal Rules of Appellate Procedure 2(a), 27, and 31(a)(2), and Tenth Circuit Rules 27.3 and 27.5(a)(7), Appellees/Cross-Appellants[1] the States of Alaska, South Carolina, and Texas (collectively, "the States") respectfully move that the Court enter an expedited briefing schedule in this case. Counsel for the Federal Appellants/Cross-Appellees (collectively, "the Department of Education") has indicated that they do not oppose expedited briefing.

Last year, the Supreme Court rejected an effort by the Biden Administration to cancel $430 billion of student debt. *See Biden v. Nebraska*, 600 U.S. 482 (2023). Notwithstanding that decision, the Biden Administration has promulgated a new rule that would cancel $475 billion of student debt. *See Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program*, 88 Fed. Reg. 43,820 (July 10, 2023) ("Final Rule"). Indeed, President Biden has announced that "[t]he Supreme Court tried to block me from relieving student debt. But they didn't stop me." Ingrid Jacques, *Courts Keep Telling Biden His Student Loan Scam Is Illegal. Will It Stop Him? Nah!*, USA Today (July 1, 2024).

On March 28, 2024, a group of 11 States challenged the Final Rule in the District of Kansas and moved for a preliminary injunction. The district court

[1] Earlier today, the States noticed a cross-appeal in the district court and anticipate that the Court will update the caption accordingly.

ultimately determined that Alaska, South Carolina, and Texas have Article III standing and, on June 24, 2024, issued a memorandum and order granting a preliminary injunction—though the order did not provide as broad of a preliminary injunction as the States sought. *See Alaska v. U.S. Dep't of Educ.*, No. 24-1057-DDC-ADM, 2024 WL 3104578 (D. Kan. June 24, 2024). The Final Rule became effective on July 1, 2024, meaning the first challenged loan cancelations here under the Final Rule will begin on August 1, 2024. *See* 88 Fed. Reg. at 43821.

On Sunday, June 30, the Court granted the Defendants' motion to stay the district court's injunction pending appeal in an unreasoned order over the dissent of Judge Tymkovich. Earlier today, the States noticed a cross-appeal of the district court's order of June 24, 2024.

Good cause exists to expedite this appeal for three primary reasons.

First, this appeal of a preliminary injunction concerns a federal rule worth hundreds of billions of dollars, even though just last year the Supreme Court rejected a similar effort to cancel student debt. In fact, in *Nebraska*, the Supreme Court granted certiorari before judgment—a truly extraordinary event. As the Supreme Court explained, because the major questions doctrine applies where, as here, a federal agency attempts to cancel hundreds of billions of dollars of debt, Congress must clearly authorize such cancelation. *See Nebraska*, 600 U.S. at 506. Here, the district court determined that Congress has not provided such clear authorization.

See, e.g., *Alaska*, 2024 WL 3104578, at 10. This appeal thus is of extraordinary significance by any measure.

Second, this appeal is also extraordinarily time sensitive. The Final Rule is now in effect, and the Department will begin canceling loans on August 1, 2024. As the district court explained, those cancelations will irreparably harm the States. *See id.* at *15. They will also irreparably harm taxpayers across the nation. The Court should consider the merits of this significant case *before* the Department of Education begins unilaterally costing the federal government billions of dollars. For such an important rule, legal certainty is essential for every affected stakeholder.

Third, the Court's order staying the district court's preliminary injunction is unreasoned and the States submit, with respect, erroneous. Expedited merits briefing will allow the Court to consider the merits more fully and act to reduce the amount of irreparable harm caused by the Final Rule.

For these reasons, the States seek the following briefing schedule, such that the parties will not seek extensions of time to file their respective briefs:

- The Department of Education's Opening Brief: July 15, 2024;
- The States' combined Response Brief and Opening Cross-Appeal Brief: July 22, 2024;
- The Department of Education's combined Reply Brief and Cross-Appeal Response Brief: July 29, 2024;
- The States' Cross-Appeal Reply Brief: July 31, 2024.

The States do not believe that oral argument should be necessary, especially given the Supreme Court's decision in *Nebraska* and its decision regarding the appropriate requirements for arbitrary-and-capricious review last week in *Ohio v. EPA*, No. 23A349, 2024 WL 3187768 (U.S. June 27, 2024). The States thus urge the Court to affirm the district court without oral argument before August 1, 2024. If oral argument would aid the Court's decisional process, however, the States are willing to file their Cross-Appeal Reply Brief on July 30, 2024, and respectfully request the Court to schedule argument on July 31, 2024, or as soon as is practicable after briefing is completed.

Respectfully Submitted,

s/ Joseph D. Spate
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Attorney for the State of South Carolina

CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Joseph D. Spate
Joseph D. Spate

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a), and Tenth Circuit Rule 32, I certify that the attached Motion is proportionately spaced, has a typeface of 14 points or more, and contains 805 words.

Date: July 5, 2024

s/ Joseph D. Spate
Joseph D. Spate

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing: (1) all required privacy redactions have been made per 10th Cir. R. 25.5; (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents; (3) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Microsoft Defender, and according to the program are free of viruses.

Date: July 5, 2024

s/ Joseph D. Spate
Joseph D. Spate

Tab C

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

STATE OF ALASKA, et al., Plaintiffs-Appellees, v. UNITED STATES DEPARTMENT OF EDUCATION, et al., Defendants-Appellants.	No. 24-3089

RESPONSE TO APPELLEES' UNOPPOSED MOTION TO EXPEDITE REVIEW OF THIS CASE

Pursuant to Federal Rule of Appellate Procedure 27(a)(3), defendants-appellants respectfully submit this response to plaintiffs-appellees' motion to expedite the briefing schedule in this case. Although defendants do not oppose the proposed briefing schedule, certain inaccurate statements in the motion warrant clarification.

1. In July 2023, the Department of Education promulgated a final rule amending the regulations governing income-contingent repayment plans for Federal Direct Loans. *See Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program*, 88 Fed. Reg. 43,820 (July 10, 2023). The rule amended and renamed an existing income-contingent repayment plan to create the Saving on Valuable Education (SAVE) plan. *See id.* at 43,820. Although the effective date for portions of the rule was July 1, 2024, the

Secretary of Education exercised his statutory authority to designate certain regulatory changes for early implementation beginning on July 30, 2023. *See id.* at 43,820-21.

2. In January 2024, the Secretary again exercised his early-implementation authority to designate the portion of the final rule shortening the maximum repayment window for SAVE plan enrollees to 10 years (from 20 or 25) of qualifying payments for loans with original balances of $12,000 or less.[1] *Improving Income Driven Repayment for the William D. Ford Federal Direct Loan Program and the Federal Family Education Loan (FFEL) Program*, 89 Fed. Reg. 2489 (Jan. 16, 2024). The result is that some repayment plans have been modified and some borrowers had their loan balances forgiven under the SAVE plan by late February 2024.

3. On March 28, 2024, plaintiffs filed this challenge to the SAVE plan under the Administrative Procedure Act. *See* Dkt. 1. On June 24, 2024, the district court preliminarily enjoined the Department from implementing certain portions of the final rule. Dkts. 76-77. The district court did not enjoin the shortened timeline to loan forgiveness under the SAVE plan, citing in part plaintiffs' "fail[ure] to proffer a reasonable explanation for the delay" in bringing this suit. *See* Dkt. 76, at 28.

[1] The rule provides for forgiveness after one additional year for each additional $1,000 in original loan balance above $12,000, up to the statutory 25-year maximum. 88 Fed. Reg. at 43,903; 20 U.S.C. § 1087e(d)(1)(D). A SAVE enrollee whose original balance was $14,000, for example, would be eligible for forgiveness after 12 years of qualifying payments.

On the government's motion, this Court stayed the preliminary injunction pending appeal. Order (June 30, 2024).

4. In a separate suit brought by different plaintiffs, the U.S. District Court for the Eastern District of Missouri preliminarily enjoined the Department "from any further loan forgiveness for borrowers under the Final Rule's SAVE plan" pending disposition of that case. *Missouri v. Biden*, 2024 WL 3104514, at *30 (E.D. Mo. June 24, 2024), *appeal filed* (June 27, 2024). The government believes the *Missouri* injunction is legally unsound and should be reversed on appeal, but it has not sought a stay pending appeal of that injunction. *See* Notice of Compliance, *Missouri v. Biden*, No. 24-cv-520 (E.D. Mo. June 28, 2024). Thus, "[u]pon receipt of the preliminary injunction and in compliance with it, [d]efendants immediately ceased processing any additional loan forgiveness for borrowers enrolled in SAVE on the shortened timelines provided for in the Final Rule. For the duration of the injunction's effect, [d]efendants will not grant any loan forgiveness under the shortened timelines provided for in the Final Rule." *Id.*[2]

[2] The plaintiffs in *Missouri* have filed a motion for clarification of the scope of the preliminary injunction in that case. The government's response to that motion is due July 8, 2024. Order, *Missouri v. Biden*, No. 24-cv-520 (E.D. Mo. July 3, 2024). Regardless of the *Missouri* court's disposition of the clarification motion, however, the Department will continue to not grant any additional loan forgiveness for borrowers enrolled in SAVE on the shortened timelines provided for in the Final Rule while the *Missouri* preliminary injunction remains in effect.

5. Appellees Alaska, South Carolina, and Texas now move for an order expediting the briefing schedule in this appeal and their cross-appeal.[3] The Court has taken this motion under advisement. Order (July 5, 2024). Although the government does not oppose the proposed briefing schedule, certain inaccurate statements in those plaintiffs' motion warrant this response.

6. The motion inaccurately states that "the first challenged loan cancelations here under the Final Rule will begin on August 1, 2024." Mot. 2; *see also id.* at 3 (stating that "the Department will begin canceling loans on August 1, 2024"). That is incorrect for two reasons. *First*, because the Department exercised its early implementation authority, some borrowers received debt cancellation under the SAVE plan as early as February 2023, well before this suit was filed. No portion of the final rule—including the shortened timeline to loan forgiveness—was ever scheduled to go into effect on August 1. *See* 88 Fed. Reg. at 43,820-21. *Second*, under the terms of the *Missouri* preliminary injunction, the Department will not grant any loan forgiveness under the shortened timelines provided for in the final rule while that injunction remains in effect.

[3] Alaska, South Carolina, and Texas have filed a notice of appeal of the district court's preliminary injunction order, while the other eight States that were plaintiffs below have filed a notice of appeal of the district court's order dismissing them from the case for lack of standing. Dkts. 88-89. Those other appeals have not yet received docket numbers in this Court. The government reserves all arguments, rights and defenses, including the right to raise any jurisdictional defects with respect to those other appeals.

7. As a result, defendants do not agree that the Court should decide this appeal "without oral argument before August 1, 2024." Mot. 4. Because plaintiffs-appellees are incorrect about the legal significance of August 1, there is no need for the Court to decide this appeal on or before then. Defendants respectfully defer to the Court on whether oral argument should be scheduled and, if so, when. *See* Fed. R. App. P. 34.

Respectfully submitted,

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JULY 2024

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2024, I electronically filed the foregoing response with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the appellate CM/ECF system. Service will be accomplished by the appellate CM/ECF system.

s/ Simon C. Brewer
Simon C. Brewer

CERTIFICATE OF COMPLIANCE

This response to a motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 1001 words. It also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Word for Microsoft 365 in Garamond 14-point font, a proportionally spaced typeface.

s/ Simon C. Brewer
Simon C. Brewer

TAB D

No. 24-3089

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

STATE OF ALASKA, et al.,

Plaintiffs-Appellees,

v.

UNITED STATES DEPARTMENT OF EDUCATION, et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Kansas District Court Case
No. 6:24-CV-01057-DDC-ADM

PLAINTIFFS-APPELLEES' REPLY IN SUPPORT OF UNOPPOSED MOTION TO EXPEDITE REVIEW OF THIS CASE

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Attorney for the State of South Carolina

July 8, 2024

Pursuant to Federal Rule of Appellate Procedure 27(a)(3), Plaintiffs-Appellees respectfully submit this Reply in Support of their Unopposed Motion to Expedite Review of This Case ("Motion") to clarify any misunderstanding that may arise from Defendants-Appellants' Response, which alleges that Plaintiffs-Appellees' Motion is "inaccurate" and "incorrect" in requesting a decision on this appeal by August 1.

Each passing day is a harm to the States because their instrumentalities that hold FFELP loans will continue feeling the effects of borrowers consolidating those loans into direct federal loans that are eligible for the SAVE Plan. Such consolidation decisions happen in advance. But at a minimum, the Court should address this issue before borrowers' payments *become due* on their student loan bills under the lower payment provisions that have taken effect, which would be August 1 and onward.

ARGUMENT

On July 5, 2024, Plaintiffs-Appellees filed their Motion to request expedited briefing and any possible oral argument prior to August 1, 2024, because loan cancellations under the SAVE Plan "will begin on August 1, 2024." Mot. (Jul. 5, 2024) at 2-4. That same day, this Court filed an order indicating that the Motion has been taken under advisement. Order (Jul. 5, 2024). On July 7, 2024, Defendants-Appellants filed a Response to the Motion, not to challenge Plaintiff-Appellees' proposed expedited briefing schedule but to argue that this appeal need not be

decided on or before August 1, 2024, because Plaintiff-Appellees are "incorrect about the legal significance of August 1." Resp. (Jul. 7, 2024) at 5. Specifically, Defendants-Appellants challenged the accuracy of Plaintiffs-Appellees' characterization of the legal significance of August 1 because 1) "some borrowers received debt cancellation under the SAVE plan as early as February 2023," and 2) Defendants-Appellants will not grant any loan forgiveness during the pendency of the preliminary injunction issued in *Missouri v. Biden*, 2024 WL 3104514 (E.D. Mo. June 24, 2024), *appeal filed* (June 27, 2024). *Id.* at 4.

In Reply, Plaintiffs-Appellees seek to clarify the "legal significance of August 1." Resp. at 5. As an initial matter, Plaintiffs-Appellees do not dispute that some borrowers have already received "loan forgiveness" under the SAVE Plan;[1] as much was raised in Plaintiffs-Appellees' Amended Complaint. *See* Defendants-Appellants' App.A121. Neither do Plaintiffs-Appellees dispute that the "loan forgiveness" portions of the SAVE Plan have been preliminarily enjoined by *Missouri*. Instead, Plaintiffs-Appellees submit that the aspects of the SAVE Plan that were enjoined by the District Court in the present case (before that injunction was

[1] On page 2 of their Response, Defendants-Appellants assert that loan forgiveness under the SAVE Plan occurred as early as February 2024, but then on page 4 they argue such loan forgiveness occurred as early as February 2023. Resp. at 2, 4. Plaintiffs-Appellants do not dispute that such loan forgiveness occurred as early as February 2024 but do not agree that such loan forgiveness occurred in February 2023 because the Final Rule had not yet been promulgated. The "February 2023" date appears to be a typo and this Reply will treat it as such.

stayed by this Court) will have the effect of cancelling loan amounts that borrowers would otherwise be required to pay.[2] And even though those aspects of the SAVE Plan went into effect on July 1, their full impact will be felt starting August 1.

1. Cancellation of Loans.

Plaintiffs-Appellants argue that, even in the absence of the SAVE Plan's outright "loan forgiveness" aspects, the Plan's lower monthly loan payments still amount to an illegal grant of money to borrowers since such "payments" under the Plan do not actually repay any principal amounts due in most cases. *See* Defendants-Appellants' App.A144. The Biden Administration has acknowledged that of the "[n]early 8 million borrowers [who] have enrolled in the SAVE plan, 4.5 million borrowers have a monthly payment of $0 . . . ." THE WHITE HOUSE, *President Joe Biden Outlines New Plans to Deliver Student Debt Relief to Over 30 Million Americans Under the Biden-Harris Administration* (Apr. 8, 2024), https://bit.ly/4cvvkzE. Even if SAVE Plan enrollees do not receive outright "loan forgiveness" for unpaid loan amounts after 10 years of payments, over half of enrollees have a $0 monthly payment, so their loans are still effectively cancelled. And as it relates to the States, the fact that the SAVE Plan still dramatically lowers monthly student loan payments incentivizes borrowers to consolidate their FFELP

[2] On July 5, 2024, Plaintiffs-Appellants filed a Notice of Cross Appeal of the preliminary injunction as to other portions of relief that were denied by the District Court. Dkt. No. 89. That appeal has not yet received a docket number in this Court.

loans held by state instrumentalities into direct federal loans that are compatible with the SAVE Plan, resulting in loss of interest revenue to the States. *See* Defendants-Appellants' App.A67, A141-43.

2. Legal Significance of August 1, 2024.

Although the lower payments provision went into effect July 1, 2024, student loan borrowers who enroll in the SAVE Plan will not see a difference in their bills until sometime after that date because loan servicers must update borrowers' bills and send billing statements before the next payment is due. First-time payers are informed of their monthly payment amount at least 30 days before their first payment is due. FEDERAL STUDENT AID, AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION, *Repaying Student Loans for the First Time*, https://tinyurl.com/dpppkrm6. After that initial notification, loan servicers send billing statements at least 21 days before payment is due. *Id.*; *see also* FEDERAL STUDENT AID, AN OFFICE OF THE U.S. DEPARTMENT OF EDUCATION, *Repaying Student Loans 101*, https://tinyurl.com/268zpmzb. Thus, some SAVE Plan enrollees likely received updated student loan repayment bills on or after July 1 reflecting lower payments that are due on or after July 22 (i.e., 21 days after the SAVE Plan went into effect). However, Plaintiffs-Appellees' have focused the Court's attention on the more conservative target of August 1, 2024, which is approximately 30 days after the SAVE Plan went into effect. Even though the states continue to experience daily

harm from the Final Rule, the States' Motion seeks a schedule that is as reasonable as an expedited one can be.

Additionally, if the Department goes against past practice and says the payments are actually due in early July, then that would increase the urgency of a faster ruling. Therefore, in either scenario, expedited appellate review is necessary to prevent further irreparable harm against the states.

CONCLUSION

Although the States face ongoing harms from the Final Rule, the previously enjoined aspects of the SAVE Plan will come to full fruition on August 1, 2024. That's why this Court should grant Plaintiffs-Appellants' Unopposed Motion to Expedite Review of This Case.

Respectfully submitted,

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Attorney for the State of South Carolina

July 8, 2024

CERTIFICATE OF SERVICE

I hereby certify that on July 8, 2024, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Joseph D. Spate
Joseph D. Spate

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(a), and Tenth Circuit Rule 32, I certify that the attached Motion is proportionately spaced, has a typeface of 14 points or more, and contains 1106 words.

Date: July 8, 2024

s/ Joseph D. Spate
Joseph D. Spate

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing: (1) all required privacy redactions have been made per 10th Cir. R. 25.5; (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents; (3) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Microsoft Defender, and according to the program are free of viruses.

Date: July 8, 2024

s/ Joseph D. Spate
Joseph D. Spate