

No. 19-56271

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

Cara O'Callaghan and Jeneé Misraje,

Plaintiffs-Appellants,

v.

Michael V. Drake, in his official capacity as President of the
University of California; Teamsters Local 2010; and Xavier Becerra,
in his official capacity as Attorney General of California,

Defendants-Appellees.

On Appeal from the United States District Court
for the Central District of California
No. 2:19-cv-02289
Hon. James V. Selna

**APPELLANTS' RESPONSE TO
MOTION FOR PERMISSION TO FILE REPLY TO APPELLANTS'
SUPPLEMENTAL BRIEF AND TO HOLD IN ABEYANCE**

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On December 11, 2020, Appellee Teamsters Local 2010 (“Teamsters” or the “Union”) moved this Court (Dkt. 45) to enter an Order granting permission to the Union to file a response to Appellants’ Supplemental Brief (Dkt. 37) and to hold the deadline for such response in abeyance until the Court rules on the Union’s Motion to Remand or Dismiss (Dkt. 44-1). This motion (Dkt. 45) should be denied because it is unnecessary. This Court already granted Teamsters 30 days in which to file a response to the Supplemental Brief. *See* Order Accepting Supplemental Brief (Dkt. 38).

In the Court’s Order Accepting the Supplemental Brief, the Court ruled that, “Appellant’s motion to file a supplemental brief (Docket Entry No. 36) is granted.” In Appellants’ motion (Dkt. 36-1), Appellants moved “that this Court enter an order accepting Appellants’ Supplemental Brief as filed and providing Appellees 30 days to file their own equivalent supplemental brief in response.” Therefore, when the Court granted the motion, it granted Appellees 30 days in which to file a Response. Thirty days from the entry of the Court’s Order on Nov. 19, 2020 is Dec. 19, 2020, which is a Saturday; therefore, Appellees’ Responses to the Supplemental Brief are due Monday, December 21. This deadline should not be held in abeyance because of an eleventh-hour, desperate attempt by the Union to moot the case. *See Knox v. SEIU, Local 1000*, 567 U.S. 298, 307 (2012) (rejecting a late in-the-day attempt by a union to moot appellate review). The Court should

reiterate that it has already ruled that all response briefs to the Supplemental Brief are due December 21, 2020.

Dated: December 16, 2020

Respectfully submitted,

/s/ Brian K. Kelsey

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CERTIFICATE OF COMPLIANCE WITH F.R.A.P. RULE 27(d)(2)

9th Cir. Case Number: 19-56271

I certify that this Response complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2). This motion was prepared in 14-point Times New Roman, and it contains 270 words.

/s/Brian K. Kelsey
Brian K. Kelsey

December 16, 2020