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October 17, 2019

Via Messenger/Hand Delivery

Supreme Court of the United States
ATTN: Office of the Clerk
1 First Street, N.E.
Washington, D.C. 20543

RE: *Our Lady of Guadalupe School v. Agnes Morrissey-Berru*, No. 19-267

MOTION TO EXTEND THE DEADLINE TO FILE OPPOSITION TO PETITION FOR WRIT OF CERTIORARI BY TEN (10) DAYS (UP TO AND INCLUDING OCT. 28, 2019)

Dear Clerk of the Supreme Court of the United States:

Pursuant to Supreme Court Rule 30.4, Respondent Agnes Morrissey-Berru hereby applies for an extension of time of **ten (10) days, up to and including Monday, October 28, 2019**, to file her Brief in Opposition to the Petition for Writ of Certiorari. If this requested extension is not granted, then Respondent's deadline to file and serve her Brief in Opposition to the Petition for Writ of Certiorari will be this Friday, October 18, 2019.

In support of this application for an extension of time to file the Brief in Opposition to the Petition, Respondent submits the following specific reasons that justify granting this request:

1. Respondent's Counsel previously requested, and was granted, an 18-day extension to file her Opposition to the Petition.

On September 26, 2019, Respondent's Counsel from JML Law, A.P.L.C. requested an eighteen (18) day extension to file Respondent's Brief in Opposition to the Petition for Writ of Certiorari. The grounds for that initial extension were that Respondent's Counsel was awaiting admission to the Bar of the United States Supreme Court and would not be admitted in time to file the Brief in Opposition to the Petition by the deadline, September 30, 2019, as well as because the attorney who had handled and argued the underlying matter in district court and in the Ninth Circuit Court of Appeals had recently departed from the firm and Respondent's Counsel (Jennifer A. Lipski) was in the process of reviewing the relevant records and the pertinent case law.

The clerk graciously granted Respondent's requested extension, thereby making October 18, 2019, the new (and current) deadline to file and serve Respondent's Opposition to the Petition for Writ of Certiorari.

2. Respondent Counsel's firm has been experiencing a server outage which is not expected to be resolved by tomorrow, and the server outage has prevented access to *all* of the firm's case files, including the draft of Respondent's Opposition to the Petition.

Respondent's Counsel's firm, JML Law, APLC, uses a third-party case management software platform called "TrialWorks," which is a database that houses all of the firm's case files, and that database is operated on a remote server that is managed by TrialWorks Hosted Services. (*See*, <https://www.trialworks.com>)

On Sunday morning, October 13, 2019, TrialWorks notified its customers, including Respondent's Counsel, that it was experiencing a "hosting outage" at its data center. (*See* attached emails.) The October 13th email from TrialWorks did not indicate the severity or anticipated length of the service outage. On October 14,

2019, Trial Works notified its customers that the hosting outage was caused by a *ransomware* incident. (*Id.*) As a result, TrialWorks indicated that in order to resolve the security threat, it must quarantine *all* data and completely restrict access to its customers. On October 15, 2019, TrialWorks provided an “update” which still had no estimated date as to when the system would be restored and accessible to its customers, but merely indicated that it would continue to work through the night with its data security consultants to bring the system back online in full as soon as possible. (*See* attached emails.)

On October 16, 2019, TrialWorks sent a further “update” via email, but still provided no estimated date as to when its customers would be able to access their databases and case files. By end of the day on October 16, 2019, TrialWorks stated it was continuing to work around the clock but that its Cybersecurity experts cautioned that TrialWorks not provide access to customers until *all* of the restoration is complete. (*Id.*) In that email, TrialWorks warned: “At this time we do not expect that our hosting environment will be fully operational tomorrow.” (*Id.*) In speaking with one of the TrialWorks representatives by phone on October 16, 2019, it sounds as though none of TrialWorks’ customers will have their databases restored and accessible by the end of this week, and possibly may still not have access by early next week.

JML Law, APLC has been extremely impacted as a result of the cyber attack and TrialWorks’ inability to promptly restore its servers and customers’ databases. Respondent’s Counsel is locked out of all of the firm’s case files and documents, and does not know how many more days it will take TrialWorks to restore the files and provide Respondent’s Counsel with access to its TrialWorks database. But, without access to those files, Respondent’s Counsel has not been able to access the most

recent and near-finalized version of the Opposition Brief, and does not know when she will gain access to that draft of the Opposition.

In an effort to remedy the situation and meet the current filing deadline (October 18, 2019), Respondent's Counsel, Jennifer A. Lipski, has been manually retyping the Opposition using the printed early draft, *however*, she does not have access to the most recent draft and will likely not be able to recount all of the significant changes and additions which she made over the course of the last two weeks. Once Respondent's Counsel regains access to the firm's TrialWorks database, it should not take more than a day or two for her to finalize that draft and arrange for 40+ booklet-style Opposition Briefs to be printed, filed, and served.

3. Respondent's Counsel is out of town for a legal conference between October 17, 2019 to October 19, 2019.

Respondent's Counsel is flying to San Jose, California today to attend the 32nd Annual Employment Law Conference hosted by the California Employment Lawyers Association (CELA). The duration of the legal conference is from October 17, 2019 to October 19, 2019. Respondent's Counsel did not believe that attendance of this legal conference would interfere with the filing of the Brief in Opposition to the Petition because as of the end of last week, the Opposition was near-finalized and Respondent's Counsel could not have foreseen that her firm would be locked out of all of their case files and documents, and would not regain access to those files by the end of this week. Therefore, an additional ten (10) days is essential for Respondent's Counsel to adequately finalize a complete, accurate, and concise Brief in Opposition to the Petition in order to best aid the Court with determining the appropriate outcome on the Petition.

4. The amount of time requested for extending the filing and service deadline for the Brief in Opposition to the Petition is only 10 days.

Although a Petitioner has 90 days to prepare, file, and serve a Petition for Writ of Certiorari, a Respondent only has 30 days from when the case is placed on the Court's docket to file a Brief in Opposition to the Petition. Petitioner in this case also requested and was granted a 30-day extension to file its Petition.

Respondent has thus far obtained one 18-day extension to file her Brief in Opposition to the Petition, and is now only seeking an additional 10 days to file and serve her Opposition to the Petition. If this request for a 10-day extension is granted, the amount of time that Respondent's deadline has been extended will still be less than that granted to Petitioner (28 days for Respondent versus 30 days for Petitioner). Such a brief extension is reasonable and not prejudicial to any party.

Therefore, for the forgoing reasons, Respondent respectfully requests that the Clerk grant this application for an extension of 10 additional days, up to and including October 28, 2019, to file and serve Respondent's Brief in Opposition to the Petition for Writ of Certiorari, which Brief in Opposition is otherwise due tomorrow, October 18, 2019.

Dated: October 17, 2019

Respectfully submitted,

/s/ Jennifer A. Lipski

JENNIFER A. LIPSKI, ESQ.

JML LAW, A.P.L.C.

5855 Topanga Canyon Blvd., Suite 300

Woodland Hills, California 91367

(818) 610-8800

jennifer@jmlaw.com

Counsel for Applicant,

Respondent Agnes Morrissey-Berru

Jennifer Lipski

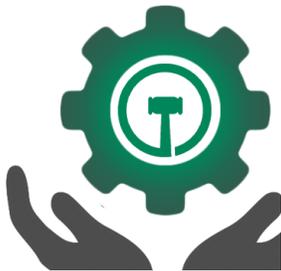
From: TrialWorks Hosting Service <no-reply@trialworks.com>
Sent: Sunday, October 13, 2019 9:25 AM
To: Jennifer Lipski
Subject: TrialWorks Hosting - Service Outage 10/13



Hosting Service Outage

We are currently experiencing a hosting outage at our data center. Our team is working on this issue. We will continue to communicate as we uncover additional information.

In the meantime, please access your email using the web browser at mail.office365.com for Office 365 users and gmail.com for G Suite users.



TrialWorks Support is available
M-F 8:30 am-5:30 pm EST
support@trialworks.com | Tel: 305.357.6500

TrialWorks has initiated After-Hours Emergency Support (Option 5) to our Telephone Automated Attendant. Any customer with an emergency outage outside of our regular support hours should use this option.

FOLLOW US



[Visit our website](#)

TrialWorks Hosting Services | 1550 Madruga Avenue, Suite 508, Coral Gables, FL 33146 (305) 357-6500

[Unsubscribe \[jennifer@jmlaw.com\]\(mailto:jennifer@jmlaw.com\)](mailto:unsubscribe.jennifer@jmlaw.com)

Jennifer Lipski

From: TrialWorks Hosting Service <no-reply@trialworks.com>
Sent: Monday, October 14, 2019 4:30 PM
To: Jennifer Lipski
Subject: TrialWorks Hosting - Outage Update: Monday Evening, 10/14



Hosting Service Outage Update

Thank you for your continued patience as we have worked tirelessly to restore access to your data following the ransomware incident TrialWorks experienced. As we work around-the-clock to restore system access, we are partnering with multiple top cyber security firms to help ensure that the security incident has been remediated. Once the incident has been resolved and our systems are secure, we will focus on restoring customer access. This process, which we expect to begin later this evening, will require us to methodically bring systems back online during the week so customers may have limited access during that time. We expect that access to our systems will not be available tomorrow.

If you have any questions, the best way to reach us is via email at: support@trialworks.com

Your email may be accessed using the web browser at mail.office365.com for Office 365 users and gmail.com for G Suite users.



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Jennifer Lipski

From: TrialWorks Hosting Service <no-reply@trialworks.com>
Sent: Tuesday, October 15, 2019 4:44 PM
To: Jennifer Lipski
Subject: TrialWorks Hosting - Outage Update: Tuesday Evening, 10/15



Hosting Service Outage Update

We can confirm that the core remediation efforts are complete. Our team made significant progress throughout the day cleaning and removing any remaining system anomalies and are actively decrypting and restoring data as we speak. Our leadership team will continue working through the night with our data security consultants to bring the system back online in full as soon as possible. We are implementing a methodical process to ensure systems and data are restored in a secure manner – which is a taxing but necessary process.

We will continue to provide updates as milestones are confirmed by our security consultants and are deeply grateful for your understanding as we move quickly to restore services. Tomorrow we will be sharing additional information on our efforts to date along with details on our plan moving forward.

Your email may be accessed using the web browser at mail.office365.com for Office 365 users and gmail.com for G Suite users.

If you have any questions, the best way to reach us is via email at: support@trialworks.com.



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Jennifer Lipski

From: TrialWorks Hosting Service <patrice@trialworks.com>
Sent: Wednesday, October 16, 2019 11:34 AM
To: Jennifer Lipski
Subject: TrialWorks Hosting - Outage Update: 10/16



Dear Jennifer Lipski,

As you are already aware, we are continuing to experience a system outage as a result of being targeted by a recent cyber attack. I know that it is beyond frustrating to be impacted by this incident and we deeply regret that you are bearing the brunt of this disruption.

First, I want to assure you that our entire leadership team, myself included, is working around the clock to get our hosted platform back to full service in a secure and responsible manner.

I also know that actions speak louder than words – we have and continue to make a number of investments to restore services as quickly as possible and to do everything we can to help prevent such an attack from affecting our customers in the future.

1. We have engaged teams of cyber security experts, from two leading firms, to help us investigate and restore operations as quickly and safely as possible.
2. Our Chief Technology Officer, Jim Garrett, is on board and working with our external cyber security experts to restore our hosting environment.
3. Additionally, as our CEO, Ryan Pakter shared in his recent email to customers, we have brought in an additional third-party to audit our recent infrastructure modernization. While this is already in progress, we will continue to update our defensive measures as best as we can to keep up with the rapid pace at which cyber criminals evolve their tactics and strategies.

Second, some of the feedback we have received to date is that you need consistency and clarity on when updates will be provided and whether you should expect to be live the following day to manage staffing considerations, etc. Accordingly, we will provide you with an update each afternoon at 4:00 pm detailing the progression of the restoration and whether we anticipate you being live the following day. However, we will continue to work around the clock to ensure that you are up as soon as possible. As appropriate, we will supplement that communication with updates as milestones are confirmed.

We are not the first, nor will we be the last organization in our industry to be the target of one of these attacks. However, we have learned from this experience and are committed to expend all the resources required to both address this issue head-on and mitigate the chance of a recurrence. The entire leadership team and I are committed to redoubling our efforts to earn the trust you have invested in our company.

Sincerely,
Patrice Gimenez
Chief Customer Advocate

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TrialWorks Hosting Services | 1550 Madruga Avenue, Suite 508, Coral Gables, FL 33146 (305) 357-6500

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Sent by patrice@trialworks.com in collaboration with

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Jennifer Lipski

From: TrialWorks Hosting Service <no-reply@trialworks.com>
Sent: Wednesday, October 16, 2019 1:00 PM
To: Jennifer Lipski
Subject: TrialWorks Hosting - Service Outage 4pm Update: 10/16



Hosting Outage: 4pm Update

As committed to in this afternoon's message from our Chief Customer Advocate, we are providing a 4pm status update.

We continue to work around the clock and have restored meaningful portions of our environment. In working with our Cybersecurity experts, they have cautioned that we do not provide access to customers until all of the restoration is complete. As a result, we will continue to double down to complete all restoration activities as safely and effectively as possible.

At this time we do not expect that our hosting environment will be fully operational tomorrow. We will communicate via email as milestones are completed.

Your email may be accessed using the web browser at mail.office365.com for Office 365 users and gmail.com for G Suite users.

If you have any questions, the best way to reach us is via email at: support@trialworks.com.



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