

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

ABBVIE INC.,

Plaintiff,

v.

ROBERT F. KENNEDY JR., in his official
capacity, et al.,

Defendants

and

NATIONAL ASSOCIATION OF COMMUNITY
HEALTH CENTERS, INC.; and RYAN WHITE
CLINICS FOR 340B ACCESS,

Proposed Intervenor-Defendants.

No. 1:26-cv-1190-RDM

**REPLY IN SUPPORT OF JOINT MOTION OF PROPOSED INTERVENORS
NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS, INC.
AND RYAN WHITE CLINICS FOR 340B ACCESS FOR EXTENSION OF TIME
TO FILE REPLY IN SUPPORT OF MOTION TO DISMISS**

Plaintiff AbbVie, Inc. (“AbbVie”) offers no persuasive reason to deny Proposed Intervenor National Association of Community Health Centers, Inc. (“NACHC”), and Ryan White Clinics for 340B Access (“RWC-340B”) (together, the “Proposed Intervenor”) an additional week, up to and including September 3, 2026, to file their reply brief in support of Defendants’ pending motion to dismiss. *See* Dkt. 38 (Proposed Intervenor’s motion to extend); *cf.* Dkt. 40 (AbbVie’s opposition thereto). AbbVie consented to Defendants’ request for a twenty-three-day extension, from August 4, 2026 up to and including August 27, 2026, to file their reply brief in support of the same. *See* Dkt. 39 at 2.

First, AbbVie is wrong in arguing that this request is premature. Proposed Intervenor filed their motion for an extension of time to prevent any future dispute about the timeliness of their reply brief. If this Court does not rule on their motion to intervene before the deadline to file a reply brief in support of the motion to dismiss, Proposed Intervenor intend to file—by the deadline—a motion for leave to file their reply brief, attaching the proposed reply brief as an exhibit.

Second, contrary to AbbVie’s contentions, a brief, one-week extension beyond Defendants’ deadline will not result in either delay or unfairness in resolving Defendants’ motion to dismiss. *Cf.* Dkt. 40 at 2. A one-week extension is unlikely to delay this Court’s resolution of Defendants’ motion. But, if the Court disagrees, Proposed Intervenor are willing and able to file their reply brief on whatever schedule best fits the Court’s needs, whether that is a shorter extension of two or three days beyond Defendants’ deadline, or even the same deadline as Defendants. Moreover, it would not be unfair—and rather would further efficiency interests—to allow Proposed Intervenor to first review Defendants’ reply brief before filing their own. And, because Defendants’ motion to dismiss challenges the Court’s subject-matter jurisdiction, any “*additional*

arguments” to which AbbVie may object, *cf.* Dkt. 40 at 2, will relate to that issue, which this Court may raise *sua sponte*. *Woodyard v. Harper*, 162 F. Supp. 3d 3, 6 (D.D.C. 2016).

Third, that there would likely be some overlap between the arguments that Defendants and Proposed Intervenor would raise in their reply briefs were they to file those briefs on the same day does not mean that Defendants will adequately represent Proposed Intervenor’s interests in this litigation. Proposed Intervenor seeks to file a reply brief because they believe their arguments will provide a “vigorous and helpful supplement” to Defendants’ motion to dismiss. *Nat. Res. Def. Council v. Costle*, 561 F.2d 904, 912–13 (D.C. Cir. 1977) (holding that proposed intervenors meet the “minimal burden” of demonstrating that “existing representation ‘may be’ inadequate” where their participation may “likely” provide a “vigorous and helpful supplement” to a government agency’s defense).

Because good cause exists for Proposed Intervenor’s modest extension request, they respectfully ask that the Court extend the deadline for them to file their reply in support of Defendants’ motion to dismiss up to and including September 3, 2026. In the alternative, they ask that this Court extend their deadline to at least align with Defendants’ requested deadline of August 27, 2026, to which AbbVie has consented.

Dated: July 31, 2026

Respectfully submitted,

/s/ Gene C. Schaerr

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