

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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December 14, 2020

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 19-12227-U
Case Style: SmileDirectClub, LLC v. Tanja Battle, et al
District Court Docket No: 1:18-cv-02328-WMR

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Non-incarcerated pro se parties are permitted to use the ECF system by registering for an account at www.pacer.gov. Information and training materials related to electronic filing, are available at www.ca11.uscourts.gov.

For the purpose of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus their briefs on the following issues:

1. Are district court orders denying *Parker* immunity¹ entitled to interlocutory review under the collateral order doctrine, as this court held in *Diverse Power, Inc. v. City of LaGrange, Georgia*, 934 F.3d 1270 (11th Cir. 2019), *Praxair, Inc. v. Florida Power & Light Co.*, 64 F.3d 609 (11th Cir. 1995), and *Commuter Transportation Systems, Inc. v. Hillsborough County Aviation Authority*, 801 F.2d 1286 (11th Cir. 1986)?

¹ See *Parker v. Brown*, 317 U.S. 341, 350–52 (1943).

2. Assuming this Court has jurisdiction, under the facts and circumstances presented by the record in this case, are members of the Georgia Board of Dentistry entitled to *Parker* immunity?

APPELLANT'S EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE JANUARY 4, 2021. APPELLEE'S EN BANC BRIEF SHALL BE SERVED AND ELECTRONICALLY FILED ON OR BEFORE JANUARY 25, 2021. An en banc reply brief shall be electronically filed on or before February 4, 2021. **NO EXTENSIONS WILL BE GRANTED.** Parties should format their briefs according to Federal Rules of Appellate Procedure 28 and 32 and shall contain the title "En Banc Brief". Each brief must adhere to the page and type-volume limitations Rule 32(a)(7). Fifteen (15) copies of the en banc briefs should be filed (appellant's in blue covers, appellee's in red covers and any reply in gray covers). Counsel is expected to serve all parties a copy of their brief before the close of business on the day of filing. PAPER COPIES OF THE BRIEFS SHOULD BE RECEIVED BY THE NEXT BUSINESS DAY. The filing of an en banc amicus brief is governed by 11th Cir.R.35-8.

Oral argument will be conducted the week of February 22, 2021 in Atlanta, Georgia. Each party will be allotted twenty (20) minutes per side for oral argument. It has not been determined at this time if oral argument will be held remotely or in person. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

DAVID J. SMITH, Clerk of Court

Reply to: Jenifer L. Tubbs
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BR-1CIV Civil appeal briefing ntc issued