

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

HUNTER DOSTER, et. al.	:	Case No. 22-3497
Plaintiffs/Appellees	:	
v.	:	
HON. FRANK KENDALL, et. al.	:	
Defendants/Appellants	:	

PLAINTIFFS/APPELLEES MOTION TO CONSOLIDATE APPEALS

Plaintiffs/Appellees, through Counsel, move this Court for an order consolidating two overlapping appeals, *Doster, et. al. v. Kendall, et. al.*, 22-3497 (hereinafter “*Doster I*”), and *Doster, et. al. v. Kendall, et. al.*, 22-3702 (hereinafter “*Doster II*”), and establishing a common briefing schedule.

Doster I involves an appeal by the Government Defendants of a preliminary injunction granted to the 18 named Plaintiffs on March 31, 2022, related to Defendants’ discriminatory processing of religious exemptions to its vaccination mandate. The facts of the case are largely centered around the Government’s granting of thousands of medical and administrative exemptions, and systemic denial of religious exemptions.

Doster II involves an appeal by the Government Defendants of a class-wide preliminary injunction entered July 27, 2022 (and modified August 19, 2022), arising out of the same District Court case, on virtually the same record, involving virtually the same facts, and involving a significant overlap of legal issues.

By way of example, and not limitation, in *Doster I*, the Government argues failure to exhaust administrative remedies; in *Doster II*, we anticipate the Government to take the position that class-wide relief was improper because all of the claimants should have been subject to an individualized assessment. In response to both arguments, we presented evidence of systemic discrimination, so as to trigger the futility exception to administrative exemption and to demonstrate the propriety of class-wide relief. The overlap of facts and evidence is wholly intertwined.

This court has long held that where an appeal involves common questions of law and fact, they may, and should, be joined. *Ne. Ohio Coal. for the Homeless v. Blackwell*, 467 F.3d 999 (6th Cir. 2006). That is unquestionably the case here.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I have served a copy of the foregoing upon all Counsel of record via
CM/ECF, this 7th day of September, 2022.

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