

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

STATE OF MISSOURI, *et al.*,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR.,
in his official capacity as the President of
the United States of America, *et al.*,

Defendants.

No. 4:21-cv-01329

**CONSENT MOTION FOR EXTENSION OF TIME AND
TO SET BRIEFING SCHEDULE**

Defendants respectfully move for an extension of time to file their forthcoming Motion to Dismiss the First Amended Complaint, and for a briefing schedule. Defendants propose that their Motion will be due by January 20, 2023, Plaintiffs' opposition will be due by February 15, and Defendants' reply, if any, will be due by March 10. In support of this motion, Defendants state the following:

1. Plaintiffs filed their First Amended Complaint on November 23, 2022. *See* ECF No. 72.
2. On November 28, 2022, the parties jointly moved the Court to declare the First Amended Complaint as the operative complaint, to deny as moot Defendants' prior motion to dismiss, and to order Defendants to respond to the First Amended Complaint by January 6, 2023. ECF No. 73. The parties also reserved any arguments about whether the First Amended Complaint is an amended or supplemental complaint, and Defendants preserved all arguments or defenses that may be raised in a motion to dismiss.

3. The Court granted the parties' joint motion on November 29, 2022 and ordered Defendants to respond to the First Amended Complaint by January 6, 2023. ECF No. 74.

4. Defendants seek a two-week extension of time to respond to the First Amended Complaint, until January 20, 2023, because undersigned counsel, who shares primary responsibility for this matter with one other attorney, has been ill for the past several days and unable to prepare Defendants' anticipated motion to dismiss. Further, Defendants' co-counsel has been on leave and unavailable.

5. Defendants conferred with Plaintiffs, via counsel, and Plaintiffs consented to the requested extension of time, on the condition that Defendants also ask the Court to extend the deadline for Plaintiffs' opposition to Defendants' forthcoming motion to dismiss to February 15, 2023. Defendants agreed, and Plaintiffs further consented to Defendants' additional request that the Court extend Defendants' deadline for filing a reply in support of their motion to dismiss to March 10, 2023.

6. Accordingly, Defendants request that the Court order the following briefing schedule:

- a. Defendants' Motion due by January 20, 2023
- b. Plaintiffs' Opposition due by February 15, 2023
- c. Defendants' Reply due by March 10, 2023

Dated: December 22, 2022

Respectfully submitted,

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Principal Deputy Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director
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/s/ Michael Drezner
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Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on December 22, 2022, a true and correct copy of the foregoing and any attachments were filed electronically through the Court's CM/ECF system, to be served on counsel for all parties by operation of the Court's electronic filing system.

/s/ Michael Drezner
Counsel for Defendants

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[PROPOSED] ORDER

Upon consideration of Defendants' Consent Motion for Extension of Time and to Set a Briefing Schedule, finding good cause to grant the Motion, the Court **GRANTS** Defendants' Consent Motion and Orders the following:

1. Defendants' Motion to Dismiss the First Amended Complaint is due by January 20, 2023; and
2. Plaintiffs' Opposition is due by February 15, 2023; and
3. Defendants' Reply is due by March 10, 2023.

Date: _____

United States District Judge