

No. 22-30748

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

State of Louisiana; State of Alabama; State of Alaska; State of Arizona; State of Arkansas;
State of Florida; State of Georgia; State of Indiana; State of Iowa; State of Kansas;
Commonwealth of Kentucky; State of Mississippi; State of Missouri; State of Montana;
State of Nebraska; State of North Dakota; State of Ohio; State of Oklahoma; State of
South Carolina; State of South Dakota; State of Tennessee; State of Utah; State of West
Virginia; State of Wyoming; Sandy Brick,

Plaintiffs-Appellees,

v.

Xavier Becerra, in his official capacity as Secretary of Health & Human Services; United
States Department of Health and Human Services; Administration for Children &
Families; Jooyeun Chang, in her official capacity as Principal Deputy Assistant for
Children & Families; Bernadine Futrell, in her official capacity as the director of the
Office of Head Start; Joseph R. Biden, Jr.; Office of Head Start,
Defendants-Appellants.

On Appeal from the United States District Court
for the Western District of Louisiana

RECORD EXCERPTS

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CERTIFICATE OF SERVICE

APPEAL, LEAD

**U.S. District Court
Western District of Louisiana (Monroe)
CIVIL DOCKET FOR CASE #: 3:21-cv-04370-TAD-KDM**

Louisiana et al v. Becerra et al
Assigned to: Judge Terry A Doughty
Referred to: Magistrate Judge Kayla D McClusky
Member case:

2:21-cv-04386-TAD-KDM

Case in other court: TXND, 5:21-cv-300
Cause: 05:702 Administrative Procedure Act

Plaintiff

State of Louisiana

Date Filed: 12/21/2021
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review or
Appeal of Agency Decision
Jurisdiction: U.S. Government Defendant

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V.

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Date Filed	#	Docket Text
12/21/2021	<u>1</u>	COMPLAINT against Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (Filing fee \$402, receipt number ALAWDC-4936479) filed by Commonwealth of Kentucky, State of Tennessee, State of Georgia, State of Ohio, State of Alabama, State of Utah, State of Louisiana, State of Oklahoma, State of West Virginia, State of North Dakota, State of Missouri, State of Florida, State of Alaska, State of Iowa, State of Mississippi, State of South Dakota, State of Montana, State of Nebraska, State of Indiana, State of Arizona, State of Wyoming, State of South Carolina, State of Kansas, State of Arkansas. (Attachments: # <u>1</u> Civil cover sheet)(Attorney Elizabeth Baker Murrill added to party State of Alabama(pty:pla), State of Alaska(pty:pla), State of Arizona(pty:pla), State of Arkansas(pty:pla), State of Florida(pty:pla), State of Georgia(pty:pla), State of Indiana(pty:pla), State of Iowa(pty:pla), State of Kansas(pty:pla), Commonwealth of Kentucky(pty:pla), State of Louisiana(pty:pla), State of Mississippi(pty:pla), State of Missouri(pty:pla), State of Montana(pty:pla), State of Nebraska(pty:pla), State of North Dakota(pty:pla), State of Ohio(pty:pla), State of Oklahoma(pty:pla), State of South Carolina(pty:pla), State of South

		Dakota(pty:pla), State of Tennessee(pty:pla), State of Utah(pty:pla), State of West Virginia(pty:pla), State of Wyoming(pty:pla))(aty,Murrill, Elizabeth) Modified on 12/21/2021 to modify docket text. (Crick, S). (Entered: 12/21/2021)
12/21/2021	<u>2</u>	MOTION for Preliminary Injunction by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motion Ripe Deadline set for 12/21/2021. (Attachments: # <u>1</u> Memorandum / Brief, # <u>2</u> Exhibit A, # <u>3</u> Exhibit B, # <u>4</u> Exhibit C, # <u>5</u> Exhibit D, # <u>6</u> Exhibit E, # <u>7</u> Exhibit F, # <u>8</u> Exhibit G, # <u>9</u> Exhibit H, # <u>10</u> Exhibit I, # <u>11</u> Exhibit J, # <u>12</u> Exhibit K, # <u>13</u> Exhibit L, # <u>14</u> Exhibit M, # <u>15</u> Exhibit N, # <u>16</u> Exhibit O, # <u>17</u> Exhibit P, # <u>18</u> Exhibit Q, # <u>19</u> Exhibit R, # <u>20</u> Exhibit S, # <u>21</u> Exhibit T, # <u>22</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 12/21/2021)
12/21/2021		CASE Assigned to Judge Terry A Doughty and Magistrate Judge Kayla D McClusky. (crt,Crick, S) (Entered: 12/21/2021)
12/22/2021	<u>3</u>	MINUTE ENTRY: Plaintiffs are to promptly serve Defendants with the Complaint and <u>2</u> Motion for Preliminary Injunction and file proof of service in the record. Upon receipt, Defendants may file a Response to the Motion no later than 5 p.m. on 1/14/2022. Plaintiffs may file a Reply no later than 5 p.m. on 1/21/2022. Signed by Judge Terry A Doughty on 12/22/2021. (crt,Keifer, K) (Entered: 12/22/2021)
12/22/2021	<u>4</u>	ISSUED IN ERROR. SUMMONS ISSUED as to Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (crt,Crick, S) Modified on 12/22/2021 to indicate issued in error. (Crick, S). (Entered: 12/22/2021)
12/22/2021	<u>5</u>	SUMMONS ISSUED as to U S Attorney, U S Attorney General, Xavier Becerra, U S Dept of Health & Human Services, Administration for Children & Families, Jooyeun Chang, Bernadine Futrell. (crt,Crick, S) (Entered: 12/22/2021)
12/23/2021	<u>6</u>	MOTION for Temporary Restraining Order by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motion Ripe Deadline set for 12/23/2021. (Attachments: # <u>1</u> Memorandum / Brief, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 12/23/2021)
12/23/2021	<u>7</u>	Amended MOTION for Temporary Restraining Order by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motion Ripe Deadline set for 12/23/2021. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 12/23/2021)
12/23/2021	<u>8</u>	NOTICE of Appearance by Christopher D Edelman on behalf of Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services (Attorney Christopher D Edelman added to party Administration for Children & Families(pty:dft), Attorney Christopher D Edelman added to party Xavier Becerra(pty:dft), Attorney Christopher D Edelman added to party Jooyeun Chang(pty:dft), Attorney Christopher D Edelman added to party Bernadine Futrell(pty:dft), Attorney Christopher D Edelman added to party U S Dept of Health & Human Services(pty:dft)) (aty,Edelman, Christopher) (Entered: 12/23/2021)
12/23/2021	<u>9</u>	MINUTE ENTRY: Defendants are to file a response to <u>6</u> Motion for Temporary Restraining Order by 5:00 p.m. on Wednesday, December 29, 2021. Plaintiffs may file

		a reply by 5:00 p.m. on Friday, December 31, 2021. Plaintiffs are to promptly notify Defendants of this briefing schedule in order to allow Defendants sufficient time to respond. The previous briefing schedule [Doc. No. 3] for the Preliminary Injunction remains in effect. Signed by Judge Terry A Doughty on 12/23/2021. (crt,Miletello, A) (Entered: 12/23/2021)
12/27/2021	<u>10</u>	NOTICE of Appearance by Michael Patrick Clendenen on behalf of Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services (Attorney Michael Patrick Clendenen added to party Administration for Children & Families(pty:dft), Attorney Michael Patrick Clendenen added to party Xavier Becerra(pty:dft), Attorney Michael Patrick Clendenen added to party Jooyeun Chang(pty:dft), Attorney Michael Patrick Clendenen added to party Bernadine Futrell(pty:dft), Attorney Michael Patrick Clendenen added to party U S Dept of Health & Human Services(pty:dft)) (aty,Clendenen, Michael) (Entered: 12/27/2021)
12/27/2021	<u>11</u>	Unopposed MOTION for Leave to File Excess Pages <i>re Plaintiffs' Motion for Preliminary Injunction and Motion for Temporary Restraining Order</i> by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 12/27/2021. (Attachments: # <u>1</u> Proposed order)(aty,Edelman, Christopher) (Entered: 12/27/2021)
12/27/2021		Motions Transferred regarding <u>11</u> Unopposed MOTION for Leave to File Excess Pages <i>re Plaintiffs' Motion for Preliminary Injunction and Motion for Temporary Restraining Order</i> . Motions referred to Judge Terry A Doughty. (crt,Miletello, A) (Entered: 12/27/2021)
12/27/2021	<u>12</u>	ORDER granting <u>11</u> Motion for Leave to File Excess Pages. Defendants may file a combined brief in response to Plaintiffs Motion for Preliminary Injunction and Motion for Temporary Restraining Order not to exceed 50 pages, excluding the table of contents and table of authorities. IT IS FURTHER ORDERED that Plaintiffs may file a combined reply brief in support of both Plaintiffs Motion for Preliminary Injunction and Motion for Temporary Restraining Order not to exceed 20 pages, excluding the table of contents and table of authorities. Signed by Judge Terry A Doughty on 12/27/2021. (crt,Miletello, A) (Entered: 12/27/2021)
12/29/2021	<u>13</u>	MEMORANDUM in Opposition re <u>2</u> MOTION for Preliminary Injunction , <u>7</u> Amended MOTION for Temporary Restraining Order filed by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (aty,Clendenen, Michael) (Entered: 12/29/2021)
12/31/2021	<u>14</u>	REPLY to Response to Motion re <u>2</u> MOTION for Preliminary Injunction , <u>6</u> MOTION for Temporary Restraining Order filed by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. (aty,Murrill, Elizabeth) (Entered: 12/31/2021)
01/01/2022	<u>15</u>	MEMORANDUM ORDER granting <u>2</u> Motion for Preliminary Injunction; denying as moot <u>6</u> Motion for TRO and <u>7</u> Amended Motion for TRO. The U.S. Department of Health and Human Resources, the Administration for Children and Families, and the Office of Head Start, along with their Secretary, directors, administrators, and employees are hereby ENJOINED and RESTRAINED from implementing the Head Start Mandate set forth in 86 Fed. Reg. 68052 (November 30, 2021), as to all Head Start staff, volunteers, contractors, students, and all others covered by said Head Start Mandate. Signed by Judge Terry A Doughty on 1/1/2022. (crt,Crawford, A) (Entered: 01/01/2022)
01/06/2022	<u>16</u>	MOTION for Stephen J. Petrany to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4950223) by State of Georgia. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/6/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/06/2022)

01/06/2022	<u>17</u>	MOTION for Elisabeth Daigle to Enroll as Counsel by State of Louisiana. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/6/2022. (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/06/2022)
01/06/2022	<u>18</u>	MOTION for Lindsay S. See to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4951354) by State of West Virginia. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/6/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/06/2022)
01/06/2022	<u>19</u>	MOTION for David M. McVey to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4951543) by State of South Dakota. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/6/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/06/2022)
01/07/2022	<u>20</u>	ORDER granting <u>16</u> Motion to Appear Pro Hac Vice for appearance of Stephen J Petrany for State of Georgia. Signed by Magistrate Judge Kayla D McClusky on 1/7/2022. (crt,Crick, S) (Entered: 01/07/2022)
01/07/2022	<u>21</u>	ORDER granting <u>17</u> Motion to Enroll as Counsel. Added as counsel Elisabeth Ashley Daigle for State of Louisiana. Signed by Magistrate Judge Kayla D McClusky on 1/7/2022. (crt,Crick, S) (Entered: 01/07/2022)
01/07/2022	<u>22</u>	ORDER granting <u>19</u> Motion to Appear Pro Hac Vice for appearance of David M McVey for State of South Dakota. Signed by Magistrate Judge Kayla D McClusky on 1/7/2022. (crt,Crick, S) (Entered: 01/07/2022)
01/07/2022	<u>23</u>	ORDER granting <u>18</u> Motion to Appear Pro Hac Vice for appearance of Lindsay S See for State of West Virginia. Signed by Magistrate Judge Kayla D McClusky on 1/7/2022. (crt,Crick, S) (Entered: 01/07/2022)
01/07/2022	<u>24</u>	MOTION for James A. Campbell to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4953095) by State of Nebraska. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/7/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/07/2022)
01/10/2022	<u>25</u>	ORDER granting <u>24</u> Motion to Appear Pro Hac Vice for appearance of James A Campbell for State of Nebraska. Signed by Magistrate Judge Kayla D McClusky on 1/10/2022. (crt,Leday, A) (Entered: 01/10/2022)
01/11/2022	<u>26</u>	MOTION for Thomas T. Hydrick to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4956326) by State of South Carolina. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/11/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/11/2022)
01/11/2022		Motions Transferred regarding <u>26</u> MOTION for Thomas T. Hydrick to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4956326). Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 01/11/2022)
01/11/2022		Motions Transferred regarding <u>26</u> MOTION for Thomas T. Hydrick to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4956326). Motions referred to Magistrate Judge Kayla D McClusky. (crt,Crick, S) (Entered: 01/12/2022)
01/14/2022	<u>27</u>	SUMMONS Returned Executed by Commonwealth of Kentucky, State of Tennessee, State of Georgia, State of Ohio, State of Alabama, State of Utah, State of Louisiana, State of Oklahoma, State of West Virginia, State of North Dakota, State of Missouri, State of Florida, State of Alaska, State of Iowa, State of Mississippi, State of South Dakota, State of Montana, State of Nebraska, State of Indiana, State of Arizona, State of Wyoming, State of South Carolina, State of Kansas, State of Arkansas Xavier Becerra served on 12/27/2021, answer due 2/25/2022. (Attachments: # <u>1</u> Exhibit A-USPS Tracking, # <u>2</u> Exhibit B-USPS Tracking-US Atty, # <u>3</u> Exhibit C-USPS Tracking-US AG)(aty,St John, Joseph) (Entered: 01/14/2022)
01/14/2022	<u>28</u>	SUMMONS Returned Executed by Commonwealth of Kentucky, State of Tennessee, State of Georgia, State of Ohio, State of Alabama, State of Utah, State of Louisiana, State of Oklahoma, State of West Virginia, State of North Dakota, State of Missouri, State of Florida, State of Alaska, State of Iowa, State of Mississippi, State of South Dakota, State of Montana, State of Nebraska, State of Indiana, State of Arizona, State

		of Wyoming, State of South Carolina, State of Kansas, State of Arkansas U S Dept of Health & Human Services served on 12/27/2021, answer due 2/25/2022. (Attachments: # <u>1</u> Exhibit A–USPS Tracking, # <u>2</u> Exhibit B–USPS Tracking–US Atty, # <u>3</u> Exhibit C–USPS Tracking–US AG)(aty,St John, Joseph) (Entered: 01/14/2022)
01/14/2022	<u>29</u>	SUMMONS Returned Executed by Commonwealth of Kentucky, State of Tennessee, State of Georgia, State of Ohio, State of Alabama, State of Utah, State of Louisiana, State of Oklahoma, State of West Virginia, State of North Dakota, State of Missouri, State of Florida, State of Alaska, State of Iowa, State of Mississippi, State of South Dakota, State of Montana, State of Nebraska, State of Indiana, State of Arizona, State of Wyoming, State of South Carolina, State of Kansas, State of Arkansas Administration for Children & Families served on 12/27/2021, answer due 2/25/2022. (Attachments: # <u>1</u> Exhibit A–USPS Tracking, # <u>2</u> Exhibit B–USPS Tracking–US Atty, # <u>3</u> Exhibit C–USPS Tracking–US AG)(aty,St John, Joseph) (Entered: 01/14/2022)
01/14/2022	<u>30</u>	SUMMONS Returned Executed by Commonwealth of Kentucky, State of Tennessee, State of Georgia, State of Ohio, State of Alabama, State of Utah, State of Louisiana, State of Oklahoma, State of West Virginia, State of North Dakota, State of Missouri, State of Florida, State of Alaska, State of Iowa, State of Mississippi, State of South Dakota, State of Montana, State of Nebraska, State of Indiana, State of Arizona, State of Wyoming, State of South Carolina, State of Kansas, State of Arkansas Jooyeun Chang served on 12/27/2021, answer due 2/25/2022. (Attachments: # <u>1</u> Exhibit A–USPS Tracking, # <u>2</u> Exhibit B–USPS Tracking–US Atty, # <u>3</u> Exhibit C–USPS Tracking–US AG)(aty,St John, Joseph) (Entered: 01/14/2022)
01/14/2022	<u>31</u>	SUMMONS Returned Executed by Commonwealth of Kentucky, State of Tennessee, State of Georgia, State of Ohio, State of Alabama, State of Utah, State of Louisiana, State of Oklahoma, State of West Virginia, State of North Dakota, State of Missouri, State of Florida, State of Alaska, State of Iowa, State of Mississippi, State of South Dakota, State of Montana, State of Nebraska, State of Indiana, State of Arizona, State of Wyoming, State of South Carolina, State of Kansas, State of Arkansas Bernadine Futrell served on 12/27/2021, answer due 2/25/2022. (Attachments: # <u>1</u> Exhibit A–USPS Tracking, # <u>2</u> Exhibit B–USPS Tracking–US Atty, # <u>3</u> Exhibit C–USPS Tracking–US AG)(aty,St John, Joseph) (Entered: 01/14/2022)
01/14/2022	<u>32</u>	MOTION for Benjamin M. Flowers to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–4961479) by State of Ohio. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/14/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/14/2022)
01/14/2022	<u>33</u>	MOTION for Morgan Brungard to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–4961593) by State of Louisiana. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/14/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/14/2022)
01/14/2022	<u>34</u>	ORDER granting <u>26</u> Motion to Appear Pro Hac Vice for appearance of Thomas Tyler Hydrick for State of South Carolina. Signed by Magistrate Judge Kayla D McClusky on 1/14/2022. (crt,Leday, A) (Entered: 01/14/2022)
01/19/2022	<u>35</u>	ORDER granting <u>32</u> Motion to Appear Pro Hac Vice for appearance of Benjamin M Flowers for State of Ohio. Signed by Magistrate Judge Kayla D McClusky on 1/19/2022. (crt,Leday, A) (Entered: 01/19/2022)
01/19/2022	<u>36</u>	ORDER granting <u>33</u> Motion to Appear Pro Hac Vice for appearance of Morgan Elizabeth Brungard for State of Louisiana. Signed by Magistrate Judge Kayla D McClusky on 1/19/2022. (crt,Leday, A) (Entered: 01/19/2022)
02/01/2022	<u>37</u>	MOTION for D. John Sauer to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–4981352) by State of Missouri. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/1/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 02/01/2022)
02/01/2022	<u>38</u>	MOTION for Melissa A. Holyoak to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–4981489) by State of Utah. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/1/2022. (Attachments: # <u>1</u> Certificate of

		good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 02/01/2022)
02/02/2022	<u>39</u>	ORDER granting <u>37</u> Motion to Appear Pro Hac Vice for appearance of D John Sauer for State of Missouri. Signed by Magistrate Judge Kayla D McClusky on 2/2/2022. (crt,Leday, A) (Entered: 02/02/2022)
02/02/2022	<u>40</u>	ORDER granting <u>38</u> Motion to Appear Pro Hac Vice for appearance of Melissa A Holyoak for State of Utah. Signed by Magistrate Judge Kayla D McClusky on 2/2/2022. (crt,Leday, A) (Entered: 02/02/2022)
02/07/2022	<u>41</u>	MOTION for David Dewhirst to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4989147) by State of Montana. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/7/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 02/07/2022)
02/08/2022	<u>42</u>	ORDER granting <u>41</u> Motion to Appear Pro Hac Vice for appearance of David M S Dewhirst for State of Montana. Signed by Magistrate Judge Kayla D McClusky on 2/8/2022. (crt,Crawford, A) (Entered: 02/08/2022)
02/15/2022	<u>43</u>	MOTION for Extension of Time to File Answer with consent by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/15/2022. (Attachments: # <u>1</u> Proposed order)(aty,Clendenen, Michael) (Entered: 02/15/2022)
02/17/2022	<u>44</u>	ORDER granting <u>43</u> Motion for Extension of Time to Answer <u>1</u> Complaint. Answers due by 3/24/22. Signed by Magistrate Judge Kayla D McClusky on 2/16/2022. (crt,Crawford, A) (Entered: 02/17/2022)
02/18/2022	<u>45</u>	MOTION for Shannon Grammel to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5003363) by State of Kansas. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/18/2022. (Attachments: # <u>1</u> Certificate of good standing)(aty,Murrill, Elizabeth) (Main Document 45 & Attachment 1 replaced on 2/22/2022 with non-fillable forms) (Crick, S). Modified on 2/22/2022 to indicate proposed order submitted within pdf of main document. (Crick, S). (Entered: 02/18/2022)
02/18/2022	<u>46</u>	MOTION for Natalie Christmas to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5003581) by State of Florida. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/18/2022. (Attachments: # <u>1</u> Certificate of good standing)(aty,Murrill, Elizabeth) Modified on 2/22/2022 to indicate proposed order submitted within pdf of main document. (Crick, S). (Entered: 02/18/2022)
02/23/2022	<u>47</u>	ORDER granting <u>45</u> Motion to Appear Pro Hac Vice for appearance of Shannon Grammel for State of Kansas. Signed by Magistrate Judge Kayla D McClusky on 2/23/2022. (crt,Leday, A) (Entered: 02/23/2022)
02/23/2022	<u>48</u>	ORDER granting <u>46</u> Motion to Appear Pro Hac Vice for appearance of Natalie Christmas for State of Florida. Signed by Magistrate Judge Kayla D McClusky on 2/23/2022. (crt,Leday, A) (Entered: 02/23/2022)
02/23/2022	<u>49</u>	MOTION for Charles E. Brasington to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5008172) by State of Alaska. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 2/23/2022. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Certificate of good standing)(aty,Murrill, Elizabeth) (Entered: 02/23/2022)
02/24/2022	<u>50</u>	ORDER granting <u>49</u> Motion to Appear Pro Hac Vice for appearance of Charles E Brasington for State of Alaska. Signed by Magistrate Judge Kayla D McClusky on 2/24/2022. (crt,Leday, A) (Entered: 02/24/2022)
03/03/2022	<u>51</u>	MOTION for Dylan L. Jacobs to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5017204) by State of Arkansas. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 3/3/2022. (Attachments: # <u>1</u> FILED IN ERROR. Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 3/15/2022 to indicate <u>53</u> Corrected Certificate of Good Standing submitted. (Crick, S). (Entered: 03/03/2022)

03/07/2022	<u>52</u>	ORDER granting <u>51</u> Motion to Appear Pro Hac Vice for appearance of Dylan L Jacobs for State of Arkansas. Signed by Magistrate Judge Kayla D McClusky on 3/7/2022. (crt,Leday, A) (Entered: 03/07/2022)
03/15/2022	<u>53</u>	CORRECTIVE DOCUMENT entitled Certificate of Good Standing–Dylan Jacobs filed by State of Arkansas regarding <u>51</u> MOTION for Dylan L. Jacobs to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–5017204) . (aty,Murrill, Elizabeth) (Entered: 03/15/2022)
03/23/2022	<u>54</u>	MOTION for Matthew A. Sagsveen to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–5040226) by State of North Dakota. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 3/23/2022. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Certificate of good standing)(aty,Murrill, Elizabeth) (Entered: 03/23/2022)
03/24/2022	<u>55</u>	NOTICE of Certification and Index of Administrative Record by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services (Attachments: # <u>1</u> Exhibit AR 1–50, # <u>2</u> Exhibit AR 51–52, # <u>3</u> Exhibit AR 53–64, # <u>4</u> Exhibit AR 65–85, # <u>5</u> Exhibit AR 86–88, # <u>6</u> Exhibit AR 89–94, # <u>7</u> Exhibit AR 95–98, # <u>8</u> Exhibit AR 99–104, # <u>9</u> Exhibit AR 105–07, # <u>10</u> Exhibit AR 108–28, # <u>11</u> Exhibit AR 129–43, # <u>12</u> Exhibit AR 144–69, # <u>13</u> Exhibit AR 170–93, # <u>14</u> Exhibit AR 194–222, # <u>15</u> Exhibit AR 223–96, # <u>16</u> Exhibit AR 297–304, # <u>17</u> Exhibit AR 305–24, # <u>18</u> Exhibit AR 325–70, # <u>19</u> Exhibit AR 371–94, # <u>20</u> Exhibit AR 395–96, # <u>21</u> Exhibit AR 397–98, # <u>22</u> Exhibit AR 399–409, # <u>23</u> Exhibit AR 410–14, # <u>24</u> Exhibit AR 415–19, # <u>25</u> Exhibit AR 420–23, # <u>26</u> Exhibit AR 424–43, # <u>27</u> Exhibit AR 444–56, # <u>28</u> Exhibit AR 457–63, # <u>29</u> Exhibit AR 464–66, # <u>30</u> Exhibit AR 467–69, # <u>31</u> Exhibit AR 470–73, # <u>32</u> Exhibit AR 474–86, # <u>33</u> Exhibit AR 487–91, # <u>34</u> Exhibit AR 492–98, # <u>35</u> Exhibit AR 499–504, # <u>36</u> Exhibit AR 505–10, # <u>37</u> Exhibit AR 511–17, # <u>38</u> Exhibit AR 518–22, # <u>39</u> Exhibit AR 523–28, # <u>40</u> Exhibit AR 529–35, # <u>41</u> Exhibit AR 536–42, # <u>42</u> Exhibit AR 542–48, # <u>43</u> Exhibit AR 549–53, # <u>44</u> Exhibit AR 554–56, # <u>45</u> Exhibit AR 557–62, # <u>46</u> Exhibit AR 563–66, # <u>47</u> Exhibit AR 567–76, # <u>48</u> Exhibit AR 577–82, # <u>49</u> Exhibit AR 583–84, # <u>50</u> Exhibit AR 585–86, # <u>51</u> Exhibit AR 587–91, # <u>52</u> Exhibit AR 592–94, # <u>53</u> Exhibit AR 595–600, # <u>54</u> Exhibit AR 601–27, # <u>55</u> Exhibit AR 628–34, # <u>56</u> Exhibit AR 635–38, # <u>57</u> Exhibit AR 639–860, # <u>58</u> Exhibit AR 861–76, # <u>59</u> Exhibit AR 877–99, # <u>60</u> Exhibit AR 889–98, # <u>61</u> Exhibit AR 899–903, # <u>62</u> Exhibit AR 904–11, # <u>63</u> Exhibit AR 912–20, # <u>64</u> Exhibit AR 921–37, # <u>65</u> Exhibit AR 938–52, # <u>66</u> Exhibit AR 953–54, # <u>67</u> Exhibit AR 955–60, # <u>68</u> Exhibit AR 961–63, # <u>69</u> Exhibit AR 964, # <u>70</u> Exhibit AR 965–71)(aty,Clendenen, Michael) (Entered: 03/24/2022)
03/24/2022	<u>56</u>	NOTICE of Certification and Index of Administrative Record (Continued) by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services (Attachments: # <u>1</u> Exhibit AR 972–77, # <u>2</u> Exhibit AR 978–82, # <u>3</u> Exhibit AR 983–95, # <u>4</u> Exhibit AR 996–98, # <u>5</u> Exhibit AR 999–1029, # <u>6</u> Exhibit AR 1030–32, # <u>7</u> Exhibit AR 1033–44, # <u>8</u> Exhibit AR 1045–47, # <u>9</u> Exhibit AR 1048–50, # <u>10</u> Exhibit AR 1051–53, # <u>11</u> Exhibit AR 1054–56, # <u>12</u> Exhibit AR 1057–66, # <u>13</u> Exhibit AR 1067–75, # <u>14</u> Exhibit AR 1076–84, # <u>15</u> Exhibit AR 1085–93, # <u>16</u> Exhibit AR 1094–1102, # <u>17</u> Exhibit AR 1103–11, # <u>18</u> Exhibit AR 1112–25, # <u>19</u> Exhibit AR 1126–41, # <u>20</u> Exhibit AR 1142–56, # <u>21</u> Exhibit AR 1157–65, # <u>22</u> Exhibit AR 1166–74, # <u>23</u> Exhibit AR 1175–83, # <u>24</u> Exhibit AR 1184–92, # <u>25</u> Exhibit AR 1193–1201, # <u>26</u> Exhibit AR 1202–10, # <u>27</u> Exhibit AR 1211–20, # <u>28</u> Exhibit AR 1221–30, # <u>29</u> Exhibit AR 1231–39, # <u>30</u> Exhibit AR 1240–50, # <u>31</u> Exhibit AR 1251–65, # <u>32</u> Exhibit AR 1266–75, # <u>33</u> Exhibit AR 1276–83, # <u>34</u> Exhibit AR 1284–87, # <u>35</u> Exhibit AR 1288–89, # <u>36</u> Exhibit AR 1290–97, # <u>37</u> Exhibit AR 1298–1303, # <u>38</u> Exhibit AR 1304–15, # <u>39</u> Exhibit AR 1316–20, # <u>40</u> Exhibit AR 1321–37, # <u>41</u> Exhibit AR 1338–40, # <u>42</u> Exhibit AR 1341–58, # <u>43</u> Exhibit AR 1359–1553, # <u>44</u> Exhibit AR 1554–1665, # <u>45</u> Exhibit AR 1666–73, # <u>46</u> Exhibit AR 1674–1768, # <u>47</u> Exhibit AR 1769–87, # <u>48</u> Exhibit AR 1788–90, # <u>49</u> Exhibit AR 1791–1818, # <u>50</u> Exhibit AR 1819–44, # <u>51</u> Exhibit AR 1845–47, # <u>52</u> Exhibit AR 1848–1909, # <u>53</u> Exhibit AR 1910–19, # <u>54</u> Exhibit AR 1920–23, # <u>55</u> Exhibit AR 1924–33, # <u>56</u> Exhibit AR 1934–43, # <u>57</u> Exhibit AR 1944–50, # <u>58</u> Exhibit AR 1951–83, # <u>59</u> Exhibit AR 1984–85, # <u>60</u> Exhibit AR 1986–92, # <u>61</u> Exhibit AR 1993–2001, # <u>62</u> Exhibit AR 2002, # <u>63</u> Exhibit AR 2003–51, # <u>64</u> Exhibit AR 2052–66, # <u>65</u> Exhibit AR 2067–72, # <u>66</u> Exhibit AR 2073–6341, # <u>67</u> Exhibit AR 6342–8611, # <u>68</u> Exhibit AR

		8612-14901, # <u>69</u> Exhibit AR 14902-16551, # <u>70</u> Exhibit AR 16552-21177, # <u>71</u> Exhibit AR 21178-22803, # <u>72</u> Exhibit AR 22804-17)(aty,Clendenen, Michael) (Entered: 03/24/2022)
03/24/2022	<u>57</u>	MOTION for Leave to File Excess Pages <i>MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT</i> by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 3/24/2022. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Proposed pleading, # <u>3</u> Proposed pleading)(aty,Clendenen, Michael) Modified on 3/25/2022 to modify docket text and to indicate attorney will submit proposed motion to dismiss as corrective document.(Crick, S). Modified on 3/28/2022 to indicate <u>61</u> Proposed motion submitted. (Crick, S). Modified on 3/28/2022 to indicate <u>63</u> Proposed Statement of Material Facts submitted.(Crick, S). (Entered: 03/24/2022)
03/24/2022	<u>58</u>	FILED IN ERROR. MOTION for Leave to File Excess Pages <i>MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT</i> by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 3/24/2022. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Memorandum / Brief Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, # <u>3</u> Proposed order)(aty,Clendenen, Michael) Modified on 3/25/2022 to indicate filed in error. (Crick, S). (Entered: 03/24/2022)
03/24/2022	<u>59</u>	ORDER granting <u>54</u> Motion to Appear Pro Hac Vice for appearance of Matthew A Sagsveen for State of North Dakota. Signed by Magistrate Judge Kayla D McClusky on 3/24/2022. (crt,Miletello, A) (Entered: 03/25/2022)
03/24/2022		Motions Transferred regarding <u>57</u> MOTION for Leave to File Excess Pages <i>MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT</i> . Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 03/25/2022)
03/25/2022		NOTICE of Corrective Action to Michael Patrick Clendenen on behalf of Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services regarding <u>58</u> MOTION for Leave to File Excess Pages <i>MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT</i> . Action taken: Terminated <u>58</u> Motion for Leave to File Excess Pages. Document filed in error.. (crt,Crick, S) (Entered: 03/25/2022)
03/25/2022	<u>60</u>	NOTICE of Appearance by Madeline McMahan on behalf of Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (aty,McMahon, Madeline) Modified on 3/28/2022 to modify docket text. (Crick, S). (Entered: 03/25/2022)
03/25/2022	<u>61</u>	CORRECTIVE DOCUMENT entitled Motion to Dismiss, or in the Alternative, Motion for Summary Judgment filed by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services regarding <u>57</u> MOTION for Leave to File Excess Pages <i>MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT</i> . (aty,McMahon, Madeline) (Entered: 03/25/2022)
03/28/2022	<u>62</u>	MINUTE ENTRY: Oppositions to the Motion to Consolidate, filed in Civil Action No. 2:21-cv-4386, are due within 14 days from the date of this minute entry. Signed by Magistrate Judge Kayla D McClusky on 3/28/2022. (Attachments: # <u>1</u> Motion to Consolidate filed in 2:21-cv-4386)(crt,Crawford, A) (Entered: 03/28/2022)
03/28/2022	<u>63</u>	PROPOSED STATEMENT OF MATERIAL FACTS OF WHICH THERE IS NO GENUINE ISSUE filed by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services regarding <u>57</u> MOTION for Leave to File Excess Pages <i>MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT</i> . (aty,Clendenen, Michael) Modified on 3/28/2022 to modify docket text. (Crick, S). (Entered: 03/28/2022)
03/29/2022	<u>64</u>	ORDER granting <u>57</u> Motion for Leave to File Excess Pages. Signed by Judge Terry A Doughty on 3/29/2022. (crt,Crawford, A) (Entered: 03/29/2022)

03/29/2022	<u>65</u>	Defendants' MOTION to Dismiss or in the Alternative, MOTION for Summary Judgment by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. Motions referred to Magistrate Judge Kayla D McClusky. (Attachments: # <u>1</u> Memorandum / Brief, # <u>2</u> Statement of material facts, # <u>3</u> Text of proposed order)(crt,Crawford, A) (Entered: 03/29/2022)
03/29/2022	<u>66</u>	NOTICE of Motion Setting regarding: <u>65</u> MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment. Motions referred to Judge Terry A Doughty. Responses due by 4/19/2022.(crt,Crawford, A) (Entered: 03/29/2022)
04/01/2022	<u>67</u>	NOTICE by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services <i>Regarding Consolidation in Response to ECF No. 62</i> (aty,Clendenen, Michael) (Entered: 04/01/2022)
04/19/2022	<u>68</u>	MOTION to Order Completion of Administrative Record by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 4/19/2022. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Exhibit 1, # <u>3</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 4/20/2022 to modify motion event. Crick, S). (Entered: 04/19/2022)
04/19/2022	<u>69</u>	MOTION to Stay Briefing Schedule re <u>65</u> Motion to Dismiss or in the Alternative, Motion for Summary Judgment <i>Pending Completion of Administrative Record</i> by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 4/19/2022. (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 4/20/2022 to create docket entry relationship and modify docket text. (Crick, S). (Entered: 04/19/2022)
04/19/2022		Motions Transferred regarding <u>69</u> MOTION to Stay Briefing Schedule re <u>65</u> Motion to Dismiss or in the Alternative, Motion for Summary Judgment <i>Pending Completion of Administrative Record</i> , <u>68</u> Motion to Order Completion of Administrative Record. Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 04/20/2022)
04/20/2022	<u>70</u>	MINUTE ENTRY: Defendants' Response as to <u>68</u> Motion to Order Completion of Administrative Record is due by 5/4/2022. Plaintiffs may reply seven days thereafter. Signed by Judge Terry A Doughty on 4/20/2022. (crt,Crawford, A) (Entered: 04/20/2022)
04/20/2022	<u>71</u>	ORDER granting <u>69</u> Motion to Stay Plaintiffs' deadline to respond to <u>65</u> Motion to Dismiss, pending resolution of <u>68</u> Motion to Order Completion of the Administrative Record. Signed by Judge Terry A Doughty on 4/20/2022. (crt,Crawford, A) (Entered: 04/20/2022)
04/29/2022	<u>72</u>	MOTION for Bryan Cleveland to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5086504) by State of Oklahoma. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 4/29/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 04/29/2022)
05/04/2022	<u>73</u>	ORDER granting <u>72</u> Motion to Appear Pro Hac Vice for appearance of Bryan Cleveland for State of Oklahoma. Signed by Magistrate Judge Kayla D McClusky on 5/4/2022. (crt,Leday, A) (Entered: 05/04/2022)
05/04/2022	<u>74</u>	RESPONSE to Motion re <u>68</u> Motion to Order Completion of Administrative Record filed by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (Attachments: # <u>1</u> Affidavit Katherine Troy Rau)(aty,Clendenen, Michael) (Entered: 05/04/2022)

05/11/2022	<u>75</u>	REPLY to Response to Motion re <u>68</u> Motion to Order Completion of Administrative Record filed by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. (aty,Murrill, Elizabeth) (Entered: 05/11/2022)
05/16/2022	<u>76</u>	MEMORANDUM ORDER granting in part and denying in part <u>68</u> Motion to Order Completion of Administrative Record. Signed by Judge Terry A Doughty on 5/16/2022. (crt,Crawford, A) (Entered: 05/16/2022)
05/23/2022	<u>77</u>	MEMORANDUM ORDER: IT IS ORDERED that the cases of State of Louisiana, et al v. Xavier Becerra, et al, Case No. 3:21-cv-04370 and Sandy Brick, et al v. Joseph R. Biden, et al, Case No. 2:21-cv-04386 are ordered CONSOLIDATED in accordance with Federal Rule of Civil Procedure 42(a). Case No. 3:21-cv-4370 shall be the lead case.. Signed by Judge Terry A Doughty on 5/23/2022. (crt,Chavis, J) (Entered: 05/24/2022)
05/23/2022	<u>78</u>	NOTICE of Consolidation by Clerk. (crt,Chavis, J) (Entered: 05/24/2022)
05/23/2022		ADMINISTRATIVE ENTRY: Per Memorandum Order <u>77</u> in Lead Case 3:21-cv-4370 and # 41 in Member Case 2:21-cv-4386: DENIED AS MOOT #29 MOTION for Discovery of Complete Administrative Record in Member case 2:21-cv-04386. In accordance with the Memorandum Order Doc. No. 76 filed on May 16, 2022, in Lead Case No. 3:21-cv-04370, after Government Defendants file the completed Administrative Record, Brick and Trenn shall have twenty-one (21) days to respond to Government Defendants two pending motions: (1) Defendants #24 Motion to Dismiss, or in the Alternative, Motion for Summary Judgment; and (2) Defendants #35 Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, both filed in Case No. 2:21-cv-04386. IT IS FURTHER ORDERED that Government Defendants shall have fourteen (14) days after Brick and Trenns response to file a reply. (crt,Reeves, T) (Entered: 05/25/2022)
05/23/2022		MOTION to Dismiss, or in the Alternative, MOTION for Summary Judgment by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. ADMINISTRATIVE ENTRY to capture filing event found in Member Case 2:21-cv-4386 at document #35. (crt,Crick, S) (Entered: 08/08/2022)
05/23/2022		Motions Transferred regarding MOTION to Dismiss MOTION for Summary Judgment. Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 08/08/2022)
05/31/2022	<u>79</u>	MOTION for Andree Sophia Blumstein to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5123273) by State of Tennessee. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 5/31/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 05/31/2022)
06/01/2022	<u>80</u>	ORDER granting <u>79</u> Motion to Appear Pro Hac Vice for appearance of Andree Sophia Blumstein for State of Tennessee. Signed by Magistrate Judge Kayla D McClusky on 6/1/2022. (crt,Leday, A) (Entered: 06/01/2022)
06/01/2022	<u>81</u>	MOTION for Samuel P. Langholz to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5124812) by State of Iowa. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/1/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 06/01/2022)
06/01/2022	<u>82</u>	MOTION for Edmund G. LaCour to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5125123) by State of Alabama. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/1/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 06/01/2022)

06/02/2022	<u>83</u>	ORDER granting <u>81</u> Motion to Appear Pro Hac Vice for appearance of Samuel P Langholz for State of Iowa. Signed by Magistrate Judge Kayla D McClusky on 6/2/2022. (crt,Leday, A) (Entered: 06/02/2022)
06/02/2022	<u>84</u>	ORDER granting <u>82</u> Motion to Appear Pro Hac Vice for appearance of Edmund G LaCour, Jr for State of Alabama. Signed by Magistrate Judge Kayla D McClusky on 6/2/2022. (crt,Leday, A) (Entered: 06/02/2022)
06/02/2022	<u>85</u>	MOTION for Thomas A. Wilson to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5125889) by State of Alabama. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/2/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 06/02/2022)
06/03/2022	<u>86</u>	MOTION for Extension of Record Completion Deadline with opposition by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/3/2022. (Attachments: # <u>1</u> Proposed order)(aty,Clendenen, Michael) (Entered: 06/03/2022)
06/03/2022		Motions Transferred regarding <u>86</u> MOTION for Extension of Record Completion Deadline with opposition . Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 06/03/2022)
06/03/2022	<u>87</u>	ORDER granting <u>85</u> Motion to Appear Pro Hac Vice for appearance of Thomas A Wilson for State of Alabama. Signed by Magistrate Judge Kayla D McClusky on 6/3/2022. (crt,Leday, A) (Entered: 06/03/2022)
06/06/2022	<u>88</u>	ORDER granting <u>86</u> Motion for Extension of Time. Government Defendants shall complete the administrative record by 7/15/22. It Is Further Ordered that Plaintiff States shall have 21 days to response to <u>65</u> Motion to Dismiss, or in the alternative, Motion for Summary Judgment. Signed by Judge Terry A Doughty on 6/6/2022. (crt,Crawford, A) (Entered: 06/06/2022)
06/06/2022		Set/Reset Deadlines as to <u>65</u> MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment. Responses due by 8/5/2022. (crt,Crawford, A) (Entered: 08/08/2022)
06/08/2022	<u>89</u>	MOTION for James A. Barta to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5132676) by State of Indiana. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/8/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 06/08/2022)
06/08/2022	<u>90</u>	MOTION for Thomas M. Fisher to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5132686) by State of Indiana. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/8/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 06/08/2022)
06/09/2022	<u>91</u>	ORDER granting <u>89</u> Motion to Appear Pro Hac Vice for appearance of James A Barta for State of Indiana. Signed by Magistrate Judge Kayla D McClusky on 6/9/2022. (crt,Leday, A) (Entered: 06/09/2022)
06/09/2022	<u>92</u>	ORDER granting <u>90</u> Motion to Appear Pro Hac Vice for appearance of Thomas Molnar Fisher for State of Indiana. Signed by Magistrate Judge Kayla D McClusky on 6/9/2022. (crt,Leday, A) (Entered: 06/09/2022)
06/20/2022	<u>93</u>	DEFICIENT. MOTION to Withdraw Josiah Kollmeyer as Attorney by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 6/20/2022. (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 6/22/2022 to indicate deficient status. (Crick, S). Modified on 6/24/2022 to indicate <u>95</u> Motion to Withdraw resubmitted. (Crick, S). (Entered: 06/20/2022)

06/22/2022	<u>94</u>	NOTICE of Deficiency to Elizabeth Baker Murrill on behalf of State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming regarding <u>93</u> MOTION to Withdraw Josiah Kollmeyer as Attorney . Reason: A motion to withdraw or to substitute counsel must be signed by or have consent of the withdrawing attorney. (crt,Crick, S) (Entered: 06/22/2022)
06/23/2022	<u>95</u>	CORRECTIVE DOCUMENT entitled Motion to Withdraw filed by State of Louisiana, State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. regarding <u>93</u> MOTION to Withdraw Josiah Kollmeyer as Attorney . (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 6/24/2022 to capture motion event and add filers. (Crick, S). (Entered: 06/23/2022)
06/23/2022		Motions Transferred regarding <u>95</u> Motion to Withdraw as Attorney., Set/Reset Deadlines as to <u>95</u> Motion to Withdraw as Attorney.(Motion Ripe Deadline set for 6/23/2022.) Motions referred to Magistrate Judge Kayla D McClusky. (crt,Crick, S) (Entered: 06/24/2022)
06/23/2022		NOTICE of Corrective Action to Elizabeth Baker Murrill on behalf of State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming regarding <u>93</u> MOTION to Withdraw Josiah Kollmeyer as Attorney . Action taken: Terminated <u>93</u> Motion to Withdraw. <u>95</u> Motion to Withdraw resubmitted. (crt,Crick, S) (Entered: 06/24/2022)
06/24/2022	<u>96</u>	ORDER granting <u>95</u> Motion to Withdraw as Attorney. Attorney Josiah Kollmeyer terminated. Signed by Magistrate Judge Kayla D McClusky on 6/24/2022. (crt,Leday, A) (Entered: 06/24/2022)
07/15/2022	<u>97</u>	NOTICE by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services (Attachments: # <u>1</u> Administrative Record Documents, # <u>2</u> Privilege Log)(aty,McMahon, Madeline) (Entered: 07/15/2022)
07/25/2022	<u>98</u>	MOTION for Ryan Schelhaas to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5188335) by State of Wyoming. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 7/25/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 07/25/2022)
07/26/2022	<u>99</u>	ORDER granting <u>98</u> Motion to Appear Pro Hac Vice for appearance of Ryan Schelhaas for State of Wyoming. Signed by Magistrate Judge Kayla D McClusky on 7/26/2022. (crt,Leday, A) (Entered: 07/26/2022)
08/05/2022	<u>100</u>	Cross MOTION for Summary Judgment by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. (Attachments: # <u>1</u> Response to Defendants Statement of Material Facts and Statement of Material Facts in Support of Cross-Motion for Summary Judgment, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 08/05/2022)
08/05/2022	<u>101</u>	MOTION for Leave to File Excess Pages for Consolidated Memorandum re <u>65</u> Motion to Dismiss & <u>100</u> Cross Motion for Summary Judgment by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of

		Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 8/5/2022. (Attachments: # <u>1</u> Proposed pleading, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 8/8/2022 to create docket entry relationship and modify docket text. (Crick, S). (Entered: 08/05/2022)
08/05/2022		Motions Transferred regarding <u>101</u> MOTION for Leave to File Excess Pages . Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 08/08/2022)
08/08/2022	<u>102</u>	NOTICE of Motion Setting regarding: <u>100</u> Cross MOTION for Summary Judgment . Motions referred to Judge Terry A Doughty. Responses due by 8/29/2022 (crt,Crick, S) (Entered: 08/08/2022)
08/08/2022	<u>103</u>	ORDER granting in part and denying in part <u>101</u> Motion for Leave to File Excess Pages. Plaintiffs shall file a Memorandum in Opposition to Defendants Motion for Summary Judgment or Motion to Dismiss and a separate Memorandum in Support of Plaintiff States Cross-Motion for Summary Judgment in excess of page limits. IT IS FURTHER ORDERED that the Motion is DENIED to the extent that Plaintiff States move to consolidate the memoranda. Signed by Judge Terry A Doughty on 8/8/2022. (crt,Crawford, A) (Entered: 08/08/2022)
08/09/2022	<u>104</u>	FILED IN ERROR. MOTION for Leave to File Excess Pages by Sandy Brick, Jessica Trenn. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 8/9/2022. (Attachments: # <u>1</u> Proposed pleading Plaintiff Sandy Brick's Memorandum Opposing Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment, # <u>2</u> Proposed pleading Plaintiff Sandy Brick's Memorandum Supporting her Cross-Motion for Summary Judgment, # <u>3</u> Proposed order)(aty,Harbison, Sarah) Modified on 8/10/2022 to indicate filed in error. <u>108</u> Motion for Leave to File Excess Pages resubmitted. (Crick, S). (Entered: 08/09/2022)
08/09/2022	<u>105</u>	MOTION for Summary Judgment by Sandy Brick, Jessica Trenn. (Attachments: # <u>1</u> Statement of Undisputed Material Facts, # <u>2</u> Declaration)(aty,Harbison, Sarah) Modified on 8/11/2022 to indicate <u>111</u> Memorandum/Brief submitted. (Crick, S). (Entered: 08/09/2022)
08/09/2022		NOTICE of Corrective Action to Sarah Harbison on behalf of Sandy Brick, Jessica Trenn regarding <u>104</u> MOTION for Leave to File Excess Pages . Action taken: Terminated <u>104</u> Motion to File Excess Pages. <u>108</u> Motion to File Excess Pages resubmitted. (crt,Crick, S) (Entered: 08/10/2022)
08/10/2022	<u>106</u>	MEMORANDUM in Opposition re <u>65</u> MOTION to Dismiss MOTION for Summary Judgment filed by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) Modified on 8/10/2022 to create docket entry relationship. (Crick, S). (Entered: 08/10/2022)
08/10/2022	<u>107</u>	MEMORANDUM in Support re <u>100</u> Cross MOTION for Summary Judgment filed by State of Alabama, State of Alaska, State of Arizona, State of Arkansas, State of Florida, State of Georgia, State of Indiana, State of Iowa, State of Kansas, Commonwealth of Kentucky, State of Louisiana, State of Mississippi, State of Missouri, State of Montana, State of Nebraska, State of North Dakota, State of Ohio, State of Oklahoma, State of South Carolina, State of South Dakota, State of Tennessee, State of Utah, State of West Virginia, State of Wyoming. (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 08/10/2022)
08/10/2022	<u>108</u>	MOTION for Leave to File Excess Pages by Sandy Brick, Jessica Trenn. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 8/10/2022. (Attachments: # <u>1</u> Proposed pleading Memorandum Supporting Cross-Motion for Summary Judgment, # <u>2</u> Proposed pleading Memorandum Opposing Defendants' Motion to Dismiss, or in the alternative, Motion for Summary Judgment, # <u>3</u> Proposed

		order)(aty,Harbison, Sarah) (Entered: 08/10/2022)
08/10/2022		Motions Transferred regarding <u>108</u> MOTION for Leave to File Excess Pages . Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 08/10/2022)
08/10/2022	<u>109</u>	MOTION for Judicial Notice re <u>105</u> MOTION for Summary Judgment by Sandy Brick, Jessica Trenn. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 8/10/2022. (Attachments: # <u>1</u> Memorandum / Brief)(aty,Harbison, Sarah) (Entered: 08/10/2022)
08/10/2022	<u>110</u>	ORDER granting <u>108</u> Motion for Leave to File Excess Pages. Signed by Judge Terry A Doughty on 8/10/2022. (crt,Crawford, A) (Entered: 08/10/2022)
08/10/2022	<u>111</u>	MEMORANDUM in Support re <u>105</u> MOTION for Summary Judgment filed by Sandy Brick, Jessica Trenn. (crt,Crawford, A) (Entered: 08/10/2022)
08/10/2022	<u>112</u>	MEMORANDUM in Opposition re MOTION to Dismiss or in the Alternative, MOTION for Summary Judgment, filed by Sandy Brick, Jessica Trenn. (crt,Crawford, A) (Entered: 08/10/2022)
08/11/2022	<u>113</u>	NOTICE of Motion Setting regarding: <u>105</u> MOTION for Summary Judgment . Motions referred to Judge Terry A Doughty. Responses due by 9/1/2022 (crt,Crick, S) (Entered: 08/11/2022)
08/19/2022	<u>114</u>	MOTION for Extension of Time to File Response/Reply as to <u>100</u> Cross MOTION for Summary Judgment, <u>65</u> MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment, <u>105</u> MOTION for Summary Judgment with consent sought but not yet obtained <i>from Louisiana counsel and with consent obtained from Brick counsel</i> by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 8/19/2022. (Attachments: # <u>1</u> Proposed order)(aty,Edelman, Christopher) (Entered: 08/19/2022)
08/19/2022		Motions Transferred regarding <u>114</u> MOTION for Extension of Time to File Response/Reply as to <u>100</u> Cross MOTION for Summary Judgment, <u>65</u> MOTION to Dismiss for Lack of Jurisdiction, MOTION for Summary Judgment, <u>105</u> MOTION for Summary Judgment. Motions referred to Judge Terry A Doughty. (crt,Miletello, A) (Entered: 08/19/2022)
08/22/2022	<u>115</u>	ORDER granting <u>114</u> Motion for Extension of Time to File Response/Reply as to <u>65</u> MOTION to Dismiss for Lack of Jurisdiction, or in the Alternative, MOTION for Summary Judgment, <u>100</u> Cross MOTION for Summary Judgment, <u>105</u> MOTION for Summary Judgment. Responses and Replies due by 9/14/2022. Signed by Judge Terry A Doughty on 8/22/2022. (crt,Crawford, A) (Entered: 08/22/2022)
08/23/2022	<u>116</u>	STIPULATION of Dismissal by Jessica Trenn . (aty,Harbison, Sarah) (Entered: 08/23/2022)
08/24/2022	<u>117</u>	MEMORANDUM in Opposition re <u>109</u> MOTION for Judicial Notice re <u>105</u> MOTION for Summary Judgment filed by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. (aty,Clendenen, Michael) (Entered: 08/24/2022)
08/31/2022	<u>118</u>	REPLY to Response to Motion re <u>109</u> MOTION for Judicial Notice re <u>105</u> MOTION for Summary Judgment filed by Sandy Brick. (aty,Harbison, Sarah) (Entered: 08/31/2022)
09/13/2022	<u>119</u>	MOTION for Jeremy Sylvester to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5272752) by Commonwealth of Kentucky. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 9/13/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 09/13/2022)
09/14/2022	<u>120</u>	Consent MOTION for Leave to File Excess Pages re <u>100</u> Cross Motion for Summary Judgment by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. Motions referred to Kayla

		D McClusky. Motion Ripe Deadline set for 9/14/2022. (Attachments: # <u>1</u> Proposed pleading, # <u>2</u> Proposed pleading, # <u>3</u> Proposed order)(aty,Edelman, Christopher) Modified on 9/15/2022 to modify docket text and create docket entry relationship.(Crick, S). (Entered: 09/14/2022)
09/14/2022	<u>121</u>	REPLY to Response to Motion re <u>65</u> MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment filed by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (aty,Edelman, Christopher) (Entered: 09/14/2022)
09/14/2022	<u>122</u>	RESPONSE to Motion re <u>105</u> MOTION for Summary Judgment filed by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. (Attachments: # <u>1</u> Statement of material facts)(aty,Clendenen, Michael) (Entered: 09/14/2022)
09/14/2022	<u>123</u>	REPLY to Response to Motion re <u>105</u> MOTION for Summary Judgment filed by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. (aty,Clendenen, Michael) Modified on 9/19/2022 to modify docket entry relationship. (Crick, S). (Entered: 09/14/2022)
09/14/2022		Motions Transferred regarding <u>120</u> Consent MOTION for Leave to File Excess Pages <i>for Defendants' Response in Opposition to Plaintiff States' Cross-Motion for Summary Judgment</i> . Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 09/15/2022)
09/15/2022	<u>124</u>	ORDER granting <u>120</u> Motion for Leave to File Excess Pages. Signed by Judge Terry A Doughty on 9/15/2022. (crt,Crawford, A) (Entered: 09/15/2022)
09/15/2022	<u>125</u>	MEMORANDUM in Opposition re <u>100</u> Cross MOTION for Summary Judgment filed by Administration for Children & Families, Xavier Becerra, Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services. (Attachments: # <u>1</u> Response to Statement of Material Facts)(crt,Crawford, A) (Entered: 09/15/2022)
09/15/2022	<u>126</u>	ORDER granting <u>119</u> Motion to Appear Pro Hac Vice for appearance of Jeremy Sylvester for Commonwealth of Kentucky. Signed by Magistrate Judge Kayla D McClusky on 9/15/2022. (crt,Miletello, A) (Entered: 09/15/2022)
09/20/2022	<u>127</u>	MOTION for Extension of Time to File Response/Reply with consent by Sandy Brick. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 9/20/2022. (Attachments: # <u>1</u> Proposed order)(aty,Harbison, Sarah) (Entered: 09/20/2022)
09/20/2022		Motions Transferred regarding <u>127</u> MOTION for Extension of Time to File Response/Reply with consent . Motions referred to Judge Terry A Doughty. (crt,Crick, S) (Entered: 09/21/2022)
09/21/2022	<u>128</u>	MEMORANDUM RULING re <u>65</u> MOTION to Dismiss for Lack of Jurisdiction or in the Alternative MOTION for Summary Judgment filed by Jooyeun Chang, Bernadine Futrell, U S Dept of Health & Human Services, Administration for Children & Families, Xavier Becerra; MOTION to Dismiss, or in the Alternative, MOTION for Summary Judgment by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services; <u>100</u> Cross MOTION for Summary Judgment filed by Commonwealth of Kentucky, State of Iowa, State of Missouri, State of Mississippi, State of Utah, State of Georgia, State of Kansas, State of Ohio, State of Alabama, State of Oklahoma, State of Alaska, State of North Dakota, State of Louisiana, State of Indiana, State of Montana, State of Arizona, State of Florida, State of South Dakota, State of Arkansas, State of Nebraska, State of Wyoming, State of South Carolina, State of Tennessee, State of West Virginia; and <u>105</u> MOTION for Summary Judgment filed by Jessica Trenn, Sandy Brick. Signed by Judge Terry A Doughty on 9/21/2022. (crt,Crawford, A) (Entered: 09/21/2022)
09/21/2022	<u>129</u>	JUDGMENT granting <u>100</u> Cross Motion for Summary Judgment, filed by Plaintiff States; granting <u>105</u> Motion for Summary Judgment, filed by Brick; denying <u>65</u> Motion to Dismiss for Lack of Jurisdiction or in the Alternative Motion for Summary Judgment and Motion to Dismiss or in the Alternative Motion for Summary Judgment,

		(Doc No 35 in Member case No. 2:21-cv-4396), filed by Agency Defendants.. Signed by Judge Terry A Doughty on 9/21/2022. (crt,Crawford, A) (Entered: 09/21/2022)
09/21/2022	<u>130</u>	ORDER denying as moot <u>127</u> Motion for Extension of Time to File Reply Brief. Signed by Judge Terry A Doughty on 9/21/2022. (crt,Crawford, A) (Entered: 09/21/2022)
11/18/2022	<u>131</u>	NOTICE OF APPEAL as to <u>129</u> Order on Motion to Dismiss/Lack of Jurisdiction, Order on Motion for Summary Judgment, <u>128</u> Memorandum Ruling, by Administration for Children & Families, Xavier Becerra, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Bernadine Futrell, Office of Head Start, U S Dept of Health & Human Services. (Filed on behalf of USA – Filing Fee not required) (aty,Edelman, Christopher) (Entered: 11/18/2022)
12/01/2022		Set Deadline for Clerk re <u>131</u> Notice of Appeal: Certify Appeal Record (22–30748) by Clerk to COA 12/16/2022. (crt,WalkerSld, B) (Entered: 12/01/2022)
12/09/2022	<u>132</u>	MOTION for Christian B. Corrigan to Appear Pro Hac Vice, MOTION to Substitute Counsel (Admission fee: \$105, receipt number ALAWDC–5392286) by State of Montana. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 12/9/2022. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,St John, Joseph). Added MOTION to Substitute Attorney on 12/12/2022 (Crick, S). (Entered: 12/09/2022)
12/09/2022		Set/Reset Deadlines as to <u>132</u> MOTION for Christian B. Corrigan to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–5392286) MOTION to Substitute Attorney. Motion Ripe Deadline set for 12/9/2022. (crt,Crick, S) (Entered: 12/12/2022)
12/13/2022	<u>133</u>	ORDER granting <u>132</u> Motion to Appear Pro Hac Vice and to Substitute Counsel for appearance of Christian Corrigan for State of Montana. David Dewhirst is authorized to withdraw as counsel of record for the State of Montana. Signed by Magistrate Judge Kayla D McClusky on 12/13/2022. (crt,Miletello, A) (Entered: 12/13/2022)
12/20/2022		ELECTRONICALLY CERTIFIED Record on Appeal to US Court of Appeals re <u>131</u> Notice of Appeal, is now available to Appellate Counsel via the 5th Circuit Court of Appeals website. See Instructions for Access and Use of the Electronic Record Download Feature of CM/ECF by clicking here . (USCA #22–30748) If you do not have access to the Electronic Download Feature of CM/ECF, please submit your request for the certified record on appeal to the District Court. After obtaining permission from COA for sealed/restricted filings, please request access via the District Courts CM/ECF system. (crt,WalkerSld, B) (Entered: 12/20/2022)
01/03/2023	<u>134</u>	MOTION for Brett W. Johnson to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–5412881) by State of Arizona. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/3/2023. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,St John, Joseph) (Entered: 01/03/2023)
01/06/2023	<u>135</u>	ORDER granting <u>134</u> Motion to Appear Pro Hac Vice for appearance of Brett W Johnson for State of Arizona. Signed by Magistrate Judge Kayla D McClusky on 1/4/2023. (crt,Leday, A) (Entered: 01/06/2023)
01/17/2023	<u>136</u>	MOTION to Withdraw Shannon Grammel as Attorney by State of Kansas. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/17/2023. (Attachments: # <u>1</u> Proposed order)(aty,Murrill, Elizabeth) (Entered: 01/17/2023)
01/18/2023	<u>137</u>	ORDER granting <u>136</u> Motion to Withdraw as Attorney. Attorney Shannon Marie Grammel terminated. Signed by Magistrate Judge Kayla D McClusky on 1/18/2023. (crt,Leday, A) (Entered: 01/18/2023)
01/31/2023	<u>138</u>	MOTION for Maria A. Lanahan to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC–5442078) by State of Missouri. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 1/31/2023. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Murrill, Elizabeth). Added MOTION to Withdraw as Attorney and modified docket text to indicate deficient status on 2/1/2023

		(Crick, S). Modified on 2/1/2023 to indicate <u>140</u> Corrective Document submitted. (Crick, S). (Entered: 01/31/2023)
01/31/2023		Set/Reset Deadlines as to <u>138</u> MOTION for Maria A. Lanahan to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5442078) MOTION to Withdraw as Attorney. Motion Ripe Deadline set for 1/31/2023. (crt,Crick, S) (Entered: 02/01/2023)
02/01/2023	<u>139</u>	NOTICE of Deficiency to Elizabeth Baker Murrill on behalf of State of Missouri regarding <u>138</u> MOTION for Maria A. Lanahan to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5442078) MOTION to Withdraw as Attorney. Reason: Motion to Withdraw Attorney requires signature or consent of withdrawing attorney. (crt,Crick, S) (Entered: 02/01/2023)
02/01/2023	<u>140</u>	CORRECTIVE DOCUMENT entitled Motion to Appear Pro Hac Vice and to Substitute Counsel filed by State of Missouri regarding <u>138</u> MOTION for Maria A. Lanahan to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-5442078) MOTION to Withdraw as Attorney <i>D. John Sauer</i> . (aty,Murrill, Elizabeth) (Entered: 02/01/2023)
02/02/2023	<u>141</u>	ORDER granting <u>138</u> Motion to Appear Pro Hac Vice for appearance of Maria A Lanahan for State of Missouri; granting <u>138</u> Motion to Withdraw as Attorney. Added attorney Maria A Lanahan for State of Missouri. Signed by Magistrate Judge Kayla D McClusky on 2/2/2023. (crt,Leday, A) (Entered: 02/02/2023)

MEMBER

**U.S. District Court
Western District of Louisiana (Lake Charles)
CIVIL DOCKET FOR CASE #: 2:21-cv-04386-TAD-KDM**

Brick et al v. Biden et al
Assigned to: Judge Terry A Doughty
Referred to: Magistrate Judge Kayla D McClusky
Lead case: 3:21-cv-04370-TAD-KDM
Member case:
2:21-cv-04386-TAD-KDM
Cause: 05:551 Administrative Procedure Act

Date Filed: 12/22/2021
Jury Demand: None
Nature of Suit: 899 Other Statutes:
Administrative Procedures Act/Review or
Appeal of Agency Decision
Jurisdiction: U.S. Government Defendant

Plaintiff

Sandy Brick

represented by **Sarah Harbison**
Pelican Institute for Public Policy
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PRO HAC VICE
ATTORNEY TO BE NOTICED

Plaintiff

Jessica Trenn
TERMINATED: 08/23/2022

represented by **Sarah Harbison**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Daniel Robert Suhr
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V.

Defendant

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ATTORNEY TO BE NOTICED

Defendant

Office of Head Start

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Madeline McMahon

(See above for address)

ATTORNEY TO BE NOTICED

Michael Patrick Clendenen

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Bernadine Futrell

represented by **Christopher D Edelman**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Madeline McMahon

(See above for address)

ATTORNEY TO BE NOTICED

Michael Patrick Clendenen

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

**Administration for Children &
Families**

represented by **Christopher D Edelman**

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Madeline McMahon

(See above for address)

ATTORNEY TO BE NOTICED

Michael Patrick Clendenen

(See above for address)

ATTORNEY TO BE NOTICED

Defendant

Jooyeun Chang

represented by **Christopher D Edelman**

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Madeline McMahon

(See above for address)

ATTORNEY TO BE NOTICED

Michael Patrick Clendenen
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Dept of Health & Human Services

represented by **Christopher D Edelman**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Madeline McMahon
(See above for address)
ATTORNEY TO BE NOTICED

Michael Patrick Clendenen
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ATTORNEY TO BE NOTICED

Defendant

Xavier Beccera

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Madeline McMahon
(See above for address)
ATTORNEY TO BE NOTICED

Michael Patrick Clendenen
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/22/2021	<u>1</u>	COMPLAINT for Declaratory and Injunctive Relief against All Defendants (Filing fee \$402, receipt number ALAWDC-4937771) filed by Sandy Brick. (Attachments: # <u>1</u> Civil cover sheet)(Attorney Sarah Harbison added to party Sandy Brick(pty:pet))(aty,Harbison, Sarah) (Entered: 12/22/2021)
12/22/2021		CASE Assigned to Judge James D Cain, Jr and Magistrate Judge Kathleen Kay. (crt,Jones, P) (Entered: 12/22/2021)
12/22/2021	<u>2</u>	SUMMONS ISSUED as to Administration for Children and Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Department of Health and Human Services, Bernadine Futrell, Office of Head Start. (crt,Jones, P) (Entered: 12/22/2021)
12/22/2021	<u>3</u>	MOTION for Daniel R. Suhr to Appear Pro Hac Vice (Admission fee: \$105, receipt number ALAWDC-4937980) by Sandy Brick, Jessica Trenn. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 12/22/2021. (Attachments: # <u>1</u> Certificate of good standing, # <u>2</u> Proposed order)(aty,Harbison, Sarah) (Entered: 12/22/2021)
12/23/2021	<u>4</u>	MOTION for Preliminary Injunction by Sandy Brick, Jessica Trenn. Motion Ripe Deadline set for 12/23/2021. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Affidavit)(aty,Harbison, Sarah) (Entered: 12/23/2021)
12/27/2021	<u>5</u>	PROPOSED ORDER re: <u>4</u> MOTION for Preliminary Injunction by Sandy Brick, Jessica Trenn. Motion Ripe Deadline set for 12/27/2021. (aty,Harbison, Sarah) Modified on 12/28/2021 to indiate more accurate filing (Jones, P). (Entered: 12/27/2021)
12/28/2021	<u>6</u>	ORDER granting <u>3</u> Motion to Appear Pro Hac Vice for appearance of Daniel R Suhr for Sandy Brick,Daniel R Suhr for Jessica Trenn. Signed by Magistrate Judge Kathleen Kay on 12/28/2021. (crt,Jones, P) (Entered: 12/28/2021)

12/28/2021	<u>7</u>	ORDER REASSIGNING CASE. Case reassigned to Judge Terry A Doughty. Judge James D Cain, Jr no longer assigned to case. Signed by Judge James D Cain, Jr on 12/28/2021. (crt,Jones, P) (Entered: 12/28/2021)
12/29/2021	<u>8</u>	MINUTE ENTRY: Plaintiffs ask for a preliminary injunction as to the Head Start Vaccine and Mask Mandate. This same issue is currently before this Court in a pending proceeding entitled State of Louisiana, et al v. Xavier Becerra, et al, No. 3:21-cv-4370. This Court intends to decide whether a preliminary injunction and/or temporary restraining order should issue by Sunday, January 2, 2022. Therefore, no briefing deadlines will issue in this proceeding as to the pending Motion for Preliminary Injunction. Signed by Judge Terry A Doughty on 12/29/2021. (crt,Keifer, K) (Entered: 12/29/2021)
01/03/2022	<u>9</u>	MEMORANDUM ORDER denying <u>4</u> Motion for Preliminary Injunction. Signed by Judge Terry A Doughty on 1/3/2022. (crt,Crawford, A) (Entered: 01/03/2022)
01/03/2022	<u>10</u>	AFFIDAVIT of Service for Summons & Complaint filed by Sandy Brick, Jessica Trenn. (aty,Suhr, Daniel) Modified on 1/4/2022 to edit text (Jones, P). (Entered: 01/03/2022)
01/06/2022	<u>11</u>	FILED IN ERROR – MOTION to Consolidate Case with Case Number 3:21-cv-4370 with opposition by Sandy Brick, Jessica Trenn. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 1/6/2022. (Attachments: # <u>1</u> Proposed order)(aty,Suhr, Daniel) Modified on 1/6/2022 to indicate refiled as Document <u>12</u> (Jones, P). (Entered: 01/06/2022)
01/06/2022	<u>12</u>	MOTION to Consolidate Case with Case Number 3:21-cv-4370 with opposition by Sandy Brick, Jessica Trenn. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 1/6/2022. (Attachments: # <u>1</u> Proposed order)(aty,Suhr, Daniel) (Entered: 01/06/2022)
01/10/2022	<u>13</u>	NOTICE of Appearance by Christopher D Edelman on behalf of Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services (Attorney Christopher D Edelman added to party Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services(pty:dft)) (aty,Edelman, Christopher) Modified on 1/11/2022 to edit text (Jones, P). (Entered: 01/10/2022)
01/11/2022	<u>14</u>	NOTICE of Motion Setting regarding: <u>12</u> MOTION to Consolidate Case with Case Number 3:21-cv-4370 with opposition . Motions referred to Magistrate Judge Kathleen Kay. (crt,Jones, P) (Entered: 01/11/2022)
01/11/2022	<u>15</u>	NOTICE of Appearance by Madeline McMahon on behalf of Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services (Attorney Madeline McMahon added to party Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services(pty:dft)) (aty,McMahon, Madeline) Modified on 1/11/2022 to edit text (Jones, P). (Entered: 01/11/2022)
01/11/2022	<u>16</u>	NOTICE of Appearance by Michael Patrick Clendenen on behalf of Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services (Attorney Michael Patrick Clendenen added to party Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services(pty:dft)) (aty,Clendenen, Michael) Modified on 1/11/2022 to edit text (Jones, P). (Entered: 01/11/2022)
03/04/2022	<u>17</u>	NOTICE by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services re <u>12</u> MOTION to Consolidate Case with Case Number 3:21-cv-4370 with opposition (aty,Clendenen, Michael) (Entered: 03/04/2022)
03/04/2022	<u>18</u>	MOTION for Extension of Time to File Answer re <u>1</u> Complaint, with consent by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 3/4/2022.

		(Attachments: # <u>1</u> Proposed order)(aty,Clendenen, Michael) (Entered: 03/04/2022)
03/08/2022	<u>19</u>	ORDER granting <u>18</u> Motion for Extension of Time to Answer re <u>1</u> Complaint, Administration for Children & Families answer due 3/24/2022; Xavier Beccera answer due 3/24/2022; Joseph R Biden, Jr answer due 3/24/2022; Jooyeun Chang answer due 3/24/2022; Bernadine Futrell answer due 3/24/2022; Office of Head Start answer due 3/24/2022; Dept of Health & Human Services answer due 3/24/2022. Signed by Magistrate Judge Kathleen Kay on 3/8/2022. (crt,Jones, P) (Entered: 03/08/2022)
03/24/2022	<u>20</u>	MOTION for Leave to File Excess Pages by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 3/24/2022. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Proposed pleading, # <u>3</u> Proposed proposed order)(aty,Clendenen, Michael) Modified on 3/25/2022 to edit text (Jones, P). (Entered: 03/24/2022)
03/24/2022	<u>21</u>	NOTICE re: Administrative Record by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services (aty,Clendenen, Michael) Modified on 3/25/2022 to edit text (Jones, P). (Entered: 03/24/2022)
03/24/2022		Motions Transferred regarding <u>20</u> MOTION for Leave to File Excess Pages. Motions referred to Judge Terry A Doughty. (crt,Jones, P) (Entered: 03/25/2022)
03/25/2022	<u>22</u>	CORRECTIVE DOCUMENT entitled Motion to Dismiss, or in the Alternative, Motion for Summary Judgment filed by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services regarding <u>20</u> MOTION for Leave to File Excess Pages. (aty,McMahon, Madeline) Modified on 3/25/2022 to edit text (Jones, P). (Entered: 03/25/2022)
03/25/2022	<u>23</u>	ORDER granting <u>20</u> Motion for Leave to File Excess Pages. Signed by Judge Terry A Doughty on 3/25/2022. (crt,Jones, P) (Entered: 03/25/2022)
03/25/2022	<u>24</u>	MOTION to Dismiss For Failure to State a Claim, MOTION to Dismiss for Lack of Jurisdiction, or Alternatively MOTION for Summary Judgment by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. Motions referred to Magistrate Judge Kathleen Kay. (Attachments: # <u>1</u> Memorandum / Brief, # <u>2</u> Proposed order)(crt,Jones, P) Modified on 3/28/2022 to indicate SEE <u>25</u> Statement of Material Facts (Jones, P). (Entered: 03/25/2022)
03/28/2022	<u>25</u>	CORRECTIVE DOCUMENT entitled STATEMENT OF MATERIAL FACTS OF WHICH THERE IS NO GENUINE ISSUE filed by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services regarding <u>24</u> MOTION to Dismiss For Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment . (aty,Clendenen, Michael) (Entered: 03/28/2022)
03/28/2022	<u>26</u>	NOTICE of Motion Setting regarding: <u>24</u> MOTION to Dismiss For Failure to State a Claim MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment. Motions referred to Judge Terry A Doughty. Responses due by 4/18/2022 (crt,Jones, P) (Entered: 03/28/2022)
04/15/2022	<u>27</u>	FIRST AMENDED COMPLAINT against Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services filed by Jessica Trenn, Sandy Brick.(aty,Harbison, Sarah) Modified on 4/18/2022 to edit text (Jones, P). (Entered: 04/15/2022)
04/15/2022	<u>28</u>	NOTICE of Nonresponse by Sandy Brick, Jessica Trenn (aty,Harbison, Sarah) (Entered: 04/15/2022)
04/15/2022	<u>29</u>	MOTION for Discovery of <i>Complete Administrative Record</i> by Sandy Brick, Jessica Trenn. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 4/15/2022. (aty,Harbison, Sarah) (Entered: 04/15/2022)

04/18/2022	<u>30</u>	NOTICE of Motion Setting regarding: <u>29</u> MOTION for Discovery of <i>Complete Administrative Record</i> . Motions referred to Magistrate Judge Kathleen Kay. (crt,Jones, P) (Entered: 04/18/2022)
04/25/2022	<u>31</u>	RE-NOTICE of Motion Setting regarding: <u>29</u> MOTION for Discovery of <i>Complete Administrative Record</i> . Motions referred to Judge Terry A Doughty. Responses due by 5/16/2022 (crt,Jones, P) (Entered: 04/25/2022)
04/29/2022	<u>32</u>	Unopposed MOTION for Leave to File Excess Pages by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. Motions referred to Kathleen Kay. Motion Ripe Deadline set for 4/29/2022. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Proposed pleading Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, # <u>3</u> Memorandum / Brief, # <u>4</u> Proposed order Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, # <u>5</u> Statement of material facts)(aty,Clendenen, Michael) (Entered: 04/29/2022)
04/29/2022		Motions Transferred regarding <u>32</u> Unopposed MOTION for Leave to File Excess Pages . Motions referred to Judge Terry A Doughty. (crt,Reeves, T) (Entered: 04/29/2022)
04/29/2022	<u>33</u>	CORRECTIVE DOCUMENT entitled UNOPPOSED MOTION FOR LEAVE TO FILE MOTION TO DISMISS, OR IN THE ALTERNATIVE, MOTION FOR SUMMARY JUDGMENT, IN EXCESS OF PAGE LIMITS filed by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services regarding <u>32</u> Unopposed MOTION for Leave to File Excess Pages . (aty,Clendenen, Michael) (Entered: 04/29/2022)
05/02/2022	<u>34</u>	ORDER granting <u>32</u> Motion for Leave to File Excess Pages. Signed by Judge Terry A Doughty on 5/2/2022. (crt,Crawford, A) (Entered: 05/02/2022)
05/02/2022	<u>35</u>	MOTION to Dismiss, or in the Alternative, MOTION for Summary Judgment by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. Motions referred to Magistrate Judge Kathleen Kay. (Attachments: # <u>1</u> Memorandum / Brief, # <u>2</u> Statement of material facts, # <u>3</u> Proposed order)(crt,Crawford, A) (Entered: 05/02/2022)
05/02/2022	<u>36</u>	NOTICE of Motion Setting regarding: <u>35</u> MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment. Motions referred to Judge Terry A Doughty. Responses due by 5/23/2022 (crt,Crawford, A) (Entered: 05/02/2022)
05/10/2022	<u>37</u>	ORDER staying response dates as to <u>35</u> MOTION to Dismiss and <u>24</u> MOTION to Dismiss, pending resolution of <u>29</u> Motion for Discovery and Completion of the Administrative Record. Signed by Judge Terry A Doughty on 5/10/2022. (crt,Crawford, A) (Entered: 05/10/2022)
05/16/2022	<u>38</u>	RESPONSE to Motion re <u>29</u> MOTION for Discovery of <i>Complete Administrative Record</i> filed by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. (aty,Clendenen, Michael) (Entered: 05/16/2022)
05/16/2022	<u>39</u>	AFFIDAVIT re <u>38</u> Response to Motion, <i>Declaration of Katherine Troy Rau</i> by Administration for Children & Families, Xavier Beccera, Joseph R Biden, Jr, Jooyeun Chang, Bernadine Futrell, Office of Head Start, Dept of Health & Human Services. (aty,Clendenen, Michael) (Entered: 05/16/2022)
05/17/2022	<u>40</u>	REPLY to Response to Motion re <u>29</u> MOTION for Discovery of <i>Complete Administrative Record</i> filed by Sandy Brick, Jessica Trenn. (aty,Harbison, Sarah) (Entered: 05/17/2022)
05/20/2022		Motions Transferred regarding <u>12</u> MOTION to Consolidate Case with Case Number 3:21-cv-4370 with opposition . Motions referred to Judge Terry A Doughty. (crt,Crawford, A) (Entered: 05/20/2022)
05/23/2022	<u>41</u>	ORDER granting <u>12</u> Motion to Consolidate Cases. Lead Case Number: 3:21-cv-4370. Member Case Number(s): 2:21-cv-04386.(This Order is filed as document #77 in

		lead case 3:21-cv-4370 Signed by Judge Terry A Doughty on 5/23/2022. (crt,Chavis, J) (Entered: 05/24/2022)
05/23/2022		Cases associated. Create association to 3:21-cv-04370-TAD-KDM. (crt,Chavis, J) (Entered: 05/24/2022)
05/23/2022		CASE Reassigned to Magistrate Judge Kayla D McClusky. Magistrate Judge Kathleen Kay no longer assigned to the case. See <u>41</u> Order of Consolidation. (crt,Reeves, T) (Entered: 05/25/2022)
05/23/2022		ADMINISTRATIVE ENTRY: Per Memorandum Order #77 in Lead Case 3:21-cv-4370 and # 41 in Member Case 2:21-cv-4386: DENIED AS MOOT <u>29</u> MOTION for Discovery of Complete Administrative Record in Member case 2:21-cv-04386. In accordance with the Memorandum Order Doc. No. 76 filed on May 16, 2022, in Lead Case No. 3:21-cv-04370, after Government Defendants file the completed Administrative Record, Brick and Trenn shall have twenty-one (21) days to respond to Government Defendants two pending motions: (1) Defendants <u>24</u> Motion to Dismiss, or in the Alternative, Motion for Summary Judgment; and (2) Defendants <u>35</u> Motion to Dismiss, or in the Alternative, Motion for Summary Judgment, both filed in Case No. 2:21-cv-04386. IT IS FURTHER ORDERED that Government Defendants shall have fourteen (14) days after Brick and Trenns response to file a reply. (crt,Reeves, T) (Entered: 05/25/2022)
08/05/2022	<u>42</u>	FILED IN ERROR – COUNSEL REQUESTED TO RE-FILE IN LEAD CASE. Unopposed MOTION for Leave to File Excess Pages by Sandy Brick, Jessica Trenn. Motions referred to Kayla D McClusky. Motion Ripe Deadline set for 8/5/2022. (Attachments: # <u>1</u> Proposed order)(aty,Harbison, Sarah) Modified on 8/8/2022 to indicate proposed pleading submitted at doc <u>43</u> (Miletello, A). Modified on 8/8/2022 to reflect filed in wrong case (Miletello, A). (Entered: 08/05/2022)
08/05/2022	<u>43</u>	FILED IN ERROR – COUNSEL REQUESTED TO RE-FILE IN LEAD CASE. MEMORANDUM in Opposition re <u>35</u> MOTION to Dismiss for Lack of Jurisdiction MOTION for Summary Judgment filed by Sandy Brick, Jessica Trenn. (Attachments: # <u>1</u> Proposed Memorandum / Brief, # <u>2</u> Statement of material facts, # <u>3</u> Affidavit)(aty,Harbison, Sarah) Modified on 8/8/2022 to reflect attach #1 as proposed, see <u>42</u> Motion for Leave to File Excess Pages (Miletello, A). Modified on 8/8/2022 to reflect filed in wrong case (Miletello, A). (Entered: 08/05/2022)
08/08/2022		Motions Transferred regarding <u>42</u> Unopposed MOTION for Leave to File Excess Pages. Motions referred to Judge Terry A Doughty. (crt,Miletello, A) (Entered: 08/08/2022)
08/08/2022		NOTICE of Corrective Action to Sarah Harbison, Daniel Robert Suhr on behalf of Sandy Brick, Jessica Trenn regarding <u>42</u> Unopposed MOTION for Leave to File Excess Pages, <u>43</u> Memorandum in Opposition. Action taken: Edited text of entry to reflect Filed in Error – Counsel requested to re-file in LEAD case. Counsel reminded that from the point of consolidation forward, electronic filings should be submitted in the Lead case only, unless ordered otherwise. (crt,Miletello, A) (Entered: 08/08/2022)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

STATE OF LOUISIANA, <i>et al.</i> ,)	Civil Action No. 3:21-CV-04370-TAD-KDM
)	(Lead)
Plaintiffs,)	
)	JUDGE TERRY A. DOUGHTY
v.)	
)	MAGISTRATE JUDGE KAYLA D.
XAVIER BECERRA, in his official capacity)	MCCLUSKY
as Secretary of the United States Department)	
of Health and Human Services, <i>et al.</i> ,)	
)	
Defendants.)	
<hr/>		
SANDY BRICK, <i>et al.</i> ,)	Civil Action No. 2:21-CV-04386-TAD-KK
)	(Member)
Plaintiffs,)	
)	
v.)	
)	
JOSEPH BIDEN, in his official capacity)	
as President of the United States, <i>et al.</i> ,)	
)	
Defendants.)	
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NOTICE OF APPEAL

Notice is hereby given that Defendants Xavier Becerra, in his official capacity as Secretary of Health and Human Services; the U.S. Department of Health and Human Services; Administration for Children and Families; Jooyeun Chang, in her official capacity as Principal Deputy Assistant for Children and Families; Bernadine Futrell, in her official-capacity as the director of the Office of Head Start; and Joseph R. Biden, in his official capacity as President of the United States, appeal to the U.S. Court of Appeals for the Fifth Circuit from this Court's Judgment (Docket No. 129, entered September 21, 2022) and all prior orders and opinions merged into the judgment, including but not limited to Docket No. 128 (entered September 21, 2022).

Dated: November 18, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director
Federal Programs Branch

/s/ Christopher D. Edelman

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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

STATE OF LOUISIANA ET AL

CASE NO. 3:21-CV-04370 LEAD

VERSUS

JUDGE TERRY A. DOUGHTY

XAVIER BECERRA ET AL

MAG. JUDGE KAYLA D. MCCLUSKY

JUDGMENT

For the reasons set forth in the Memorandum Ruling,

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiff States' Cross Motion for Summary Judgment [Doc. No. 100] is **GRANTED**. Additionally, Brick's Motion for Summary Judgment [Doc. No. 105] is **GRANTED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Motion to Dismiss, or in the Alternative, Motions for Summary Judgment [Doc. No. 65 and Doc. No. 35 in Member case No. 2:21-cv-4396] filed by Agency Defendants are **DENIED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the United States Department of Health and Human Resources, the Administration for Children and Families, and the Office of Head Start, along with their Secretary, directors, administrators, and employees are hereby **ENJOINED** and **RESTRAINED** from implementing the Head Start Mandate as set forth in 86 Fed. Reg. 68052 (November 30, 2021), as to all Head Start staff, volunteers, contractors, students, and all others covered by said Head Start Mandate.

IT IS FURTHER ORDERED that the geographic scope of the Permanent Injunction will be limited to the twenty-four Plaintiff States, Louisiana, Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, Montana,

IT IS FURTHER ORDERED that there is an absence of any issue of disputed fact as to the issues addressed. Therefore, no hearing is required. *Kaepa, Inc.*, 76 F.3d at 628.

MONROE, LOUISIANA, this 21st day of September 2022.

ER 37

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

STATE OF LOUISIANA ET AL

CASE NO. 3:21-CV-04370 LEAD

VERSUS

JUDGE TERRY A. DOUGHTY

XAVIER BECERRA ET AL

MAG. JUDGE KAYLA D. MCCLUSKY

ORDER

Considering the foregoing Unopposed Motion for an Extension of Time to File her Reply to the Defendants' Response in Opposition to her Cross-Motion for Summary Judgment and Defendants' Response to her Statement of Material Facts [Doc. No. 127] filed by Plaintiff Sandy Brick,

IT IS ORDERED that the Motion is **DENIED** as moot pursuant to this Court’s Memorandum Ruling and Judgment [Doc. Nos. 128, 129] filed in the record on September 21, 2022.

MONROE, LOUISIANA, this 21st day of September 2022.

Terry A. Doughty
United States District Judge

Exhibit O

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

THE STATE OF LOUISIANA,
By and through its Attorney General, JEFF
LANDRY, et al.

PLAINTIFFS,

V.

XAVIER BECERRA, in his official capacity as Secretary of Health and Human Services, et al.;

DEFENDANTS.

DECLARATION OF STEPHEN LISONBEE

I, Stephen Lisonbee, make the following declarations under penalty of perjury.

1. I am a resident of the United States and the State of Utah and I am over the age of 18. I am competent to testify as to the matter stated herein and base these statements on personal knowledge.

2. I am personally familiar with the facts set forth in this declaration and, if called to testify as a witness in this action, I would testify consistent with these statements.

11. As a recipient of federal funds SUU Head Start is ultimately responsible for ensuring that all applicable regulations and guidance are followed, including the Head Start Program Performance Standards issued by the U.S. Department of Health and Human Services.

12. I am personally aware that as part of President Biden’s “Path out of the Pandemic”, the Office of Head Start (OHS) published an interim final rule with comment (“the Mandate”) on Nov. 30, 2021, requiring all staff, certain contractors, and volunteers to be vaccinated for COVID-19 by Jan. 31, 2022, or face losing funding for the programs. Masks are also being required on staff and students.

13. The Mandate likely will have a variety of negative impacts on SUU Head Start. This includes staff quitting or leaving, an inability to replace staff in many areas of southern Utah, parents pulling their children from the only educational program many of them can afford. These negative impacts affect more than SUU Head Start and could have a negative economic impact on many rural communities in southern Utah.

14. Because SUU Head Start is charged with the duty of monitoring and enforcing the mask and vaccine mandates for its partner programs, it will be required to collect individual health information on staff that are funded through grants or other federal funds, whether or not they are SUU Head Start employees.

No additional funding has been provided for these new functions, nor were these requirements part of any prior Head Start grant conditions. Thus, the impact is also economic on SUU Head Start.

15. SUU Head Start staff frequently visit Head Start programs or meets with Head Start Families, and are thus required to be vaccinated and masked under the mandate.

16. Monitoring compliance with the mask mandate, including for toddlers, especially, would be difficult for SUU Head Start. Many of our playgrounds are small and the required social distancing and mask usage is simply not feasible.

17. SUU Head Start will experience (and has already experienced) difficulties in hiring and retaining staff and students due to the Mandate. Any resulting staffing shortages could adversely impact educational opportunities in some of Utah's most vulnerable and rural communities.

18. At SUU Head Start there are 88 full time staff and 27 part time staff.

19. To date at least 4 full time staff have submitted resignations based on the Biden Administration Head Start COVID 19 vaccine and mask requirements. More resignations are anticipated. It is also anticipated that part time staff will submit resignations.

22. The mask requirement is also a significant issue for many Head Start employees and parents. Thus, many parents have threatened to remove their children from SUU Head Start.

DECLARATION UNDER PENALTY OF PERJURY

DATED this 20th day of December 2021.

*(Signed copy of document bearing signature
of Stephen Lisonbee is being maintained in
office of the Filing Attorney)*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

THE STATE OF LOUISIANA,
By and through its Attorney General, JEFF
LANDRY; ET AL,

PLAINTIFFS,

v.

XAVIER BECERRA, in his official capacity as
Secretary of Health and Human Services; et al.,

DEFENDANTS.

CIVIL ACTION NO. 3:21-CV-04370-TAD-
KDM

**PLAINTIFF STATES' RESPONSE TO DEFENDANTS' STATEMENT OF MATERIAL FACTS
AND STATEMENT OF MATERIAL FACTS IN SUPPORT OF THEIR CROSS-MOTION FOR SUMMARY
JUDGMENT**

1. Head Start is a federal discretionary grant program that promotes school readiness in low-income children up to age five. 42 U.S.C. §9831.

Response: Statement not disputed.

2. Children under age three are eligible for the related Early Head Start program. *Id.*

§9840a.

Response: Statement not disputed.

3. The Head Start program began as a summer program and demonstration grant in 1964, and in 1974 the Headstart–Follow Through Act made it a permanent program. Headstart, Economic Opportunity, & Community Partnership Act of 1974, Pub. L. No. 93-644, 88 Stat. 2291.

Response: Statement not disputed.

4. Head Start is a direct federal-to-local grant that does not pass through the state. 42 U.S.C. §§ 9833, 9835.

Response: Statement disputed. Some Head Start funds go to state agencies.

5. On November 30, 2021, the Department of Health and Human Services (HHS) published the Interim Final Rule at issue here. 86 Fed. Reg. 68,052.

Response: Statement not disputed.

6. Plaintiffs are twenty-four states. Compl. ¶¶ 3–26.

Response: Statement not disputed.

7. Southern Utah University, but not the State of Utah, is a Head Start grantee. See Decl. of Stephen Lisonbee ¶¶ 4, 9, Pls.' Ex. O, ECF No. 2-16.

11. Some DECAL staff may on occasion visit a partnership classroom, but it is not part of their day-to-day duties, and they do not provide direct Head Start services. See Decl. of Amy Jacobs ¶¶ 5, 11, Pls.’ Ex. C, ECF No. 2-3.

Response: Statement disputed. Defendants’ cited source states that “DECAL staff frequently visit Head Start programs or meets with Head Start Families, and are thus required to be vaccinated and masked under the mandate.” Doc. 2-3 ¶11. DECAL also would monitor and enforce the Mandate and be required by the Mandate to collect individual health information on staff that are funded through Head Start. *Id.* ¶10.

12. The remaining twenty-two Plaintiffs are also not Head Start grantees. Compl. ¶ 42.

Response: Statement not disputed except insofar as it implies that Plaintiff States are not deeply involved with, directly affected by, and dependent on Head Start Programs. *See* Doc. 1 ¶¶42-56.

13. Plaintiffs filed a lawsuit under the APA challenging the Rule on December 21, 2021. ECF No. 1.

Response: Statement not disputed.

14. The basis for the Rule is set forth in the preamble to the Rule, located in the Federal Register at 86 Fed. Reg. 68,052 and in the administrative record.

Response: Statement not disputed.

PLAINTIFF STATES’ STATEMENT OF MATERIAL FACTS IN SUPPORT OF THEIR CROSS-MOTION FOR SUMMARY JUDGMENT

15. The Georgia Department of Early Care and Learning is a State entity.

16. Southern Utah University is a State entity.

17. State entities are subject to the Mandate.

18. If the Head Start Mandate took effect, State entities would incur costs enforcing and complying with it.

19. Plaintiff States were unable to provide public comment on the Mandate through the APA's notice-and-comment procedures before it went into effect.

20. As a result of the Head Start Mandate, staff and volunteers will likely leave the Head Start program, certain providers will close, and low-income children in affected areas will be denied access to the preschool education that Congress guaranteed them. *See* Docs. 2-2 to 2-15, 2-16 to 2-19.

21. As a result of the Head Start Mandate, some parents would remove their children from Head Start programs. *See* Docs. 2-8, 2-10, 2-16.

22. Widespread closure of Head Start programs would harm the health and well-being of each State's residents. Docs. 2-7, 2-11, 2-12, 2-17.

23. The Mandate may cause Plaintiff States to lose direct federal funding or cause public schools to lose federal funding. *See* Docs. 2-2 to 2-16; *see also* Doc. 2-17 at 2-3.

24. Plaintiff States would have to change their own laws and policies to comply with the Mandate. *See, e.g.*, Doc. 2-1 at 24.

25. The Mandate would force preschool staff to decide to either submit to vaccination or lose their jobs. Docs. 2-13 to 2-16, 2-18.

27. The Mandate will force 29,953 staff to submit to the vaccine and 11,519 staff to lose their jobs. 86 Fed. Reg. at 68077-78.

28. The National Head Start Association surveyed Head Start programs and found that over one-fourth of Head Start programs anticipate losing more than 30% of their staff as a result of the Mandate. Doc. 2-2 at 3.

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ER 56

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION**

SANDY BRICK, et. al.,

Plaintiffs,

v.

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

Defendants.

No. 2:21-cv-04386-JDC-KK

Declaration of Plaintiff Sandy Brick

Pursuant to 28 U.S.C. § 1746, Sandy Brick declares as follows:

1. I am over 18 years old and have personal knowledge of the facts described herein.
2. I am the plaintiff in the above cited case.
3. I started working as a teacher at Allen Action Agency Inc.'s Head Start Center ("employer") in Kinder, Louisiana, in 2012 and I am still working there today.
4. Around December 12, 2021, my employer sent me a memo. It referenced "Head Start" and stated that staff would have to get vaccinated by January 31, 2022, or apply for a medical or religious exemption. The memo said that "staff" was defined in accordance with "45 C.F.R. 1305.2[staff]." It also stated that those who are granted an exemption must undergo weekly testing. And it stated that refusing to get vaccinated or tested weekly would mean the employee is "subject to termination" as

of January 31, 2022. The memo stated that staff must wear a mask during all indoor activities and unvaccinated staff must wear a mask during outdoor activities while supervising children. A true and correct copy of the memo is attached hereto as **Exhibit A.**

5. I have not taken any vaccines related to COVID-19 and do not wish to do so. I do not have religious beliefs preventing me from taking the COVID-19 vaccine. While I may have a medical condition that counsels against taking the vaccine, having a medical exemption approved is not guaranteed. It also requires me to disclose my private medical information to my employer and that is not something that I wish to do. Additionally, the Head Start vaccine mandate is illegal regardless of whether I could obtain a medical exemption or not.

6. On December 22, 2021, I filed this lawsuit to protect my job.

7. Around the beginning of this year (2022), my employer informed me that the vaccination policy was not being enforced because a court had blocked the federal Head Start vaccine mandate from going into effect. Indeed, my employer has chosen not to require vaccination or masks on its own volition. Since the beginning of this year, my employer also has not required staff to wear masks.

8. Thus, without an injunction from this Court against the federal Head Start vaccine mandate, I will be forced to choose between continuing to serve preschool students and their families as a teacher, or taking the vaccine. I believe that the COVID vaccine is a personal medical decision and that I should not be forced to take it under the duress of losing my livelihood.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 5, 2022.

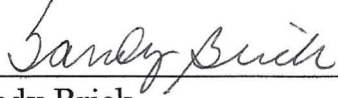

Sandy Brick

EXHIBIT A

AAA Head Start Mask Policy and Procedure

Policy

All staff, consultants, vendors and volunteers follow appropriate practices to keep children safe during all activities at a minimum requirement listed in 45 CFRS 1302.47(b)(5)

Procedure

1. Staff are required to wear a mask during all indoor activities at the center. Staff who are **not** fully vaccinated, must wear a mask during outdoor activities while supervising children.
2. Children are required to wear a mask on the bus and in the center. Masks will be provided, if needed.
3. Masks will be provided, if needed, to staff, consultants, vendors and volunteers before entering the center.

Exemptions

- ❖ Children and adults when eating or drinking
- ❖ Children napping
- ❖ Individuals who cannot safely wear a mask because of a disability as defined by the ADA and consistent with the CDC guidance on disability exemptions.
- ❖ When a child's healthcare provider advises an alternative face covering to accommodate the child's healthcare needs. A written note from a medical professional would be required

AAA Head Start Plan for Unvaccinated Staff

Staff who are not vaccinated and are granted an exemption **must** test weekly.

L & K Mobile Lab will provide free testing at the sites, at this time. If for whatever reason this service is no longer available:

1. Staff will be responsible for testing weekly and providing documentation of the test results from a medical provider to the agency. All cost incurred from weekly COVID testing will be the responsibility of the staff.
2. If a staff miss testing on the scheduled date, then the staff must schedule their own test and cannot return to work until they have acquired a negative test from an accepted facility and/or medical professional.
3. Staff will have to use personal days if they miss the scheduled testing date. If he/she does not have accumulated personal days, they will have to be docked for the missed days.
4. Subs who have to be tested weekly if they have plans to work that week. If they chose not to work a particular week, they do not have to be tested.
5. Any staff who refuses to be vaccinated and/or tested weekly are subject to termination as of January 31, 2022.

AAA Head Start Vaccination Policy

Full vaccination against COVID 19 is required for all staff (as defined in Terms 45 CFR 1305.2[staff]), contractors whose activities involve contact with or providing direct services to children and families, and volunteers who are in classrooms or working directly with children other than their own.

People are considered fully vaccinated:

1. 14 days after their 2nd dose in a two-dose series, such as the Pfizer or Moderna vaccines
2. 14 days after a single dose vaccine, such as Johnson & Johnson Janssen vaccine.

Staff, certain contractors, and volunteers must have their second dose in a two-dose series or first in a single dose by January 31, 2022.

Exemptions

Exemptions **may be** granted for people who request and receive an exemption from vaccination because of a:

- ❖ Medical condition as documented by a licensed medical practitioner
- ❖ Sincerely held religious belief, practice or observance

Staff who are granted an exemption for one of the reasons listed above **must** undergo weekly testing.

**ALLEN ACTION AGENCY HEAD START
MEDICAL EXEMPTION FROM COVID 19 VACCINATION FORM
TO BE COMPLETED BY A PHYSICIAN/NURSE PRACTITIONER**

PATIENT NAME _____

BIRTHDATE _____

****TO BE COMPLETED BY PHYSICIAN/NURSE PRACTITIONER ONLY****

PHYSICIAN
NAME _____

PHYSICIAN
ADDRESS _____

PHYSICIAN PH.# _____

Reason for Medical Exemption from COVID 19 vaccination. Please explain:

Patient Signature

Date

Physician Signature

Date

**ALLEN ACTION AGENCY HEAD START
RELIGIOUS EXEMPTION FROM COVID 19 VACCINATION FORM**

STAFF NAME _____

BIRTHDATE _____

Reason for Religious Exemption from COVID 19 vaccination. Please explain:

Staff Signature

Date

CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2023, I electronically filed the foregoing excerpts of record with the Clerk of the Court for the United States Court of Appeals for the Fifth Circuit by using the appellate CM/ECF system.

s/ Alisa B. Klein

Alisa B. Klein