

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

STATE OF MISSISSIPPI, *et al.*,

Plaintiffs,

v.

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

Defendants.

Civil Action No. 1:22-cv-00113-HSO-RPM

**JOINT MOTION FOR SUMMARY JUDGMENT BRIEFING SCHEDULE AND TO
EXTEND DEADLINE TO FILE DISPOSITIVE MOTIONS**

The parties respectfully request that this Court enter a briefing schedule for cross-motions for summary judgment in which Plaintiffs will file a motion for summary judgment by October 15, 2024, Defendants will file a combined cross-motion for summary judgment and opposition to Plaintiffs' motion for summary judgment by November 5, 2024, Plaintiffs will file a combined reply in support of their motion for summary judgment and opposition to Defendants' cross-motion for summary judgment by November 26, 2024, and Defendants will file a reply in support of their cross-motion for summary judgment by December 17, 2024. The parties further move for this Court to extend the deadline for the parties to file dispositive motions in accordance with that briefing schedule. In support of this motion, the parties state the following:

1. On March 28, 2024, this Court entered an Order, ECF No. 135, denying Plaintiffs' motion for summary judgment, ECF No. 78, denying without prejudice Defendants' cross-motion for summary judgment, ECF No. 90, and granting Plaintiffs' request for limited discovery as to standing under Federal Rule of Civil Procedure 56(d).

2. Pursuant to that order and following the parties' telephonic scheduling conference, this Court entered a scheduling order on April 10, 2024, under which the parties were to conduct the limited discovery as to standing that this Court authorized. *See* ECF No. 136. That scheduling order directed that discovery would be completed by July 24, 2024, and that "the parties shall have until September 16, 2024, to file any and all dispositive motions, including but not limited to the issue of standing." *Id.* (emphasis omitted). Following Plaintiffs' consent motion for an extension of time to complete discovery, ECF No. 164, the deadline for discovery was extended to August 14, 2024, through this Court's July 25, 2024 Order. The September 16, 2024 deadline to file dispositive motions was not extended.

3. Following the conclusion of limited discovery as to Plaintiffs' standing, the parties conferred regarding further proceedings. Both parties intend to move for summary judgment. The parties submit, however, that the briefing on those cross-motions for summary judgment will be most efficient for the parties and helpful to the Court if submitted pursuant to a four-brief schedule. Through the submission of a combined opposition and cross-motion and a combined opposition and reply, this schedule will reduce the overall number of briefs and pages filed. By avoiding concurrently-filed motions for summary judgment, this schedule will also ensure that the briefing Defendants submit on the question of standing is directly responsive to the theories of standing that Plaintiffs are asserting.

4. Additionally, to accommodate conflicting obligations that have arisen since the entry of the April 10, 2024 scheduling order, the parties respectfully request that the deadline to file dispositive motions be extended to October 15, 2024, for Plaintiffs, and to November 5, 2024, for Defendants.

For these reasons, the parties respectfully ask the Court to enter the above briefing schedule for cross-motions for summary judgment and to extend the deadline for the parties to file dispositive motions in accordance with that briefing schedule. A proposed order is attached.

Dated: August 21, 2024

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

MICHELLE BENNETT
Assistant Director, Federal Programs Branch

/s/ Alexander W. Resar
Alexander W. Resar
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
P.O. Box 883
Washington, DC 20044
Phone: (202) 616-8188
Email: alexander.w.resar@usdoj.gov

Counsel for Defendants

s/ Justin L. Matheny
Justin L. Matheny (MS Bar No. 100754)
Deputy Solicitor General
MISSISSIPPI ATTORNEY
GENERAL'S OFFICE
P.O. Box 220
Jackson, MS 39205-0220
(601) 359-3680
justin.matheny@ago.ms.gov

*Counsel for Mississippi, Alabama,
Arkansas, Kentucky, Louisiana,
Missouri, and Montana*

s/ Cameron T. Norris
Cameron T. Norris*
C'Zar D. Bernstein*
CONSOVOY MCCARTHY PLLC
1600 Wilson Blvd., Ste. 700
Arlington, VA 22209
(703) 243-9423
cam@consovoymccarthy.com
czar@consovoymccarthy.com

Counsel for Mississippi

* pro hac vice

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

STATE OF MISSISSIPPI, *et al.*,

Plaintiffs,

v.

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

Defendants.

Civil Action No. 1:22-cv-00113-HSO-RPM

**ORDER GRANTING JOINT MOTION FOR SUMMARY JUDGMENT BRIEFING
SCHEDULE AND TO EXTEND DEADLINE TO FILE DISPOSITIVE MOTIONS**

Upon consideration of the parties' joint motion for summary judgment briefing schedule and to extend deadline to file dispositive motions, it is hereby:

ORDERED that the Motion is **GRANTED**. The parties shall submit cross-motions for summary judgment according to the following schedule:

- October 15, 2024: Plaintiffs' motion for summary judgment;
- November 5, 2024: Defendants' combined cross-motion for summary judgment and opposition to Plaintiffs' motion for summary judgment;
- November 26, 2024: Plaintiffs' combined reply in support of motion for summary judgment and opposition to Defendants' cross-motion for summary judgment;
- December 17, 2024: Defendants' reply in support of cross-motion for summary judgment.

SO ORDERED this _____ day of _____, 2024.

U.S. District Judge Halil S. Ozerden