

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

STATE OF TEXAS; STATE OF
LOUISIANA,

Plaintiffs,

v.

The UNITED STATES OF AMERICA;
ALEJANDRO MAYORKAS, Secretary of the
United States Department of Homeland
Security, in his official capacity; UNITED
STATES DEPARTMENT OF HOMELAND
SECURITY; TROY MILLER, Senior Official
Performing the Duties of the Commissioner of
U.S. Customs and Border Protection, in his
official capacity; U.S. CUSTOMS AND
BORDER PROTECTION; TAE JOHNSON,
Acting Director of U.S. Immigration and
Customs Enforcement, in his official capacity;
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; TRACY RENAUD,
Senior Official Performing the Duties of the
Director of the U.S. Citizenship and
Immigration Services, in her official capacity;
U.S. CITIZENSHIP AND IMMIGRATION
SERVICES,

Defendants.

Civ. Action No. 6:21-cv-00016

PLAINTIFFS' RESPONSE TO COURT'S QUESTIONS

On June 24, 2021, the Court ordered the parties to file responses to certain questions about any “new guidance on immigration enforcement priorities that Defendants” will issue. ECF 61 at 1. In an effort to more helpfully answer those questions, Plaintiffs conferred with Defendants about the possibility of such new guidance. Defendants did not provide any information about anticipated new guidance to Plaintiffs. To the extent Defendants provide the Court with such information, Plaintiffs respectfully request the opportunity to address that information.

First, the Court asked whether new guidance would “supersede the February 18 Memorandum” and what effect it would “have on the January 20 and February 18 Memoranda.” ECF 61 at 1. Plaintiffs do not know, and were unable to ascertain from Defendants, what any new guidance would purport to do.

Second, the Court asked about whether and how “the issuance of this new guidance [would] impact the claims raised by the Plaintiffs in the case before this Court.” *Id.* New guidance will not end this litigation unless Defendants credibly commit to complying with their legal obligations, as outlined in Plaintiffs’ motion for preliminary injunction. *See* ECF 18. Indeed, even if new guidance purported to supersede the previous memoranda, the parties’ current dispute would remain live. Depending on what the new guidance says, Plaintiffs may seek to challenge it as well, but Plaintiffs would continue challenging the January 20 and February 18 Memoranda to ensure, at the very least, that any relief regarding the new guidance does not reinstate the unlawful policies embodied in the previous memoranda.

Third, Plaintiffs have no information about when, if ever, any “new guidance will be published” and do not know whether Defendants have such information. ECF 61 at 2.

The possibility of new guidance should not delay resolution of Plaintiffs’ pending motion for preliminary injunction, particularly in light of Defendants’ inability to describe what

forthcoming guidance would say or when it would issue. Absent relief, Plaintiffs will continue to suffer irreparable injury. *See* ECF 18 at 33–34.

Date: June 28, 2021

Respectfully submitted.

KEN PAXTON
Attorney General of Texas

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN
Deputy Attorney General for Special Litigation
Attorney-in-Charge
Texas Bar No. 00798537
Southern District of Texas Bar No. 1829509
patrick.sweeten@oag.texas.gov

BRENT WEBSTER
First Assistant Attorney General

JUDD E. STONE II
Solicitor General

WILLIAM T. THOMPSON
Deputy Chief, Special Litigation Unit
Texas Bar No. 24088531
Southern District of Texas Bar No. 3053077
will.thompson@oag.texas.gov

RYAN D. WALTERS
Special Counsel
Texas Bar No. 24105085
Southern District of Texas Bar No. 3369185
ryan.walters@oag.texas.gov

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548 (MC-009)
Austin, Texas 78711-2548
Tel.: (512) 463-2100
Fax: (512) 457-4410

COUNSEL FOR PLAINTIFF STATE OF TEXAS

JEFF LANDRY
LOUISIANA ATTORNEY GENERAL

/s/Elizabeth B. Murrill
ELIZABETH B. MURRILL
Solicitor General
JOSEPH S. ST. JOHN

Deputy Solicitor General

Louisiana Department of Justice
1885 N. Third St.
Baton Rouge, LA 70804
(225) 326-6766
murrille@ag.louisiana.gov
stjohnj@ag.louisiana.gov

COUNSEL FOR PLAINTIFF STATE OF LOUISIANA

CERTIFICATE OF COMPLIANCE

I certify that the total number of words in this response, exclusive of the matters designated for omission, is 335, as counted by Microsoft Word.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on June 28, 2021, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN