

Nos. 21-7000 (lead), 21-4157

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

*IN RE: MCP NO. 165., OCCUPATIONAL SAFETY AND HEALTH  
ADMINISTRATION RULE ON COVID-19 VACCINATION AND TESTING, 86  
FED. REG. 61402*

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**IDAHO LEGISLATURE'S MOTION FOR LEAVE TO FILE  
OPPOSITION TO RESPONDENTS' EMERGENCY MOTION TO  
DISSOLVE STAY**

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Idaho Legislature*

Pursuant to Federal Rule of Appellate Procedure 29, Scott Bedke, Speaker of the Idaho House of Representatives; Chuck Winder, President Pro Tempore of the Idaho Senate; and the Sixty-Sixth Idaho Legislature (collectively “Idaho Legislature”) respectfully request leave to file the accompanying Idaho Legislature’s Opposition to Dissolving Stay of Enforcement (“Opposition”) in response to Respondents’ Emergency Motion to Dissolve the Stay [Dkt. 69] (“Respondents’ Motion”). Good cause exists for this Court to allow the Idaho Legislature to file the Opposition because the Idaho Legislature was not a party to the action prior to the deadline for filing such briefing.

This Court previously issued a scheduling order stating that any responses to the Respondents’ Motion “may be filed no later than Tuesday, December 7, 2021.” [Dkt. 104]. The Idaho Legislature’s Petition for Review, filed in Case No. 21-4157 on December 7, 2021, was consolidated into the lead case, Case No. 21-7000, on December 8, 2021. [Case No. 21-4157, Dkt. 1-1]. The Petition for Review was filed after this Court denied the Idaho Legislature’s Motion to Intervene [Dkt. 174] through an Order [Dkt. 299-2] issued on Friday December 3, 2021.

The Idaho Legislature should be allowed to file the Opposition to afford it the opportunity to participate fully in the case in which it is now a party. “For good cause, the court may extend the time prescribed by these rules or by its order to perform any act, or may permit an act to be done after that time expires.” Fed. R.

App. P. 26(b); *see also* 6 Cir. R. 26(a)(1) (“A party seeking an extension of time must do so by written motion.”). Good cause exists here because the Idaho Legislature could not file its Opposition brief until its Petition for Review was consolidated into the lead case. Now that the consolidation is complete, the Idaho Legislature moves with all reasonable speed to ask this Court for leave to file its Opposition.

### CONCLUSION

For the foregoing reasons, the Idaho Legislature respectfully request that the Court grant leave to file the accompanying Opposition to Respondents’ Motion.

December 9, 2021

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### CERTIFICATE OF COMPLIANCE

I hereby certify, in accordance with Rule 32(g) of the Federal Rules of Appellate Procedure, that this motion complies with the type-volume requirements and contains 644 words. *See* Fed. R. App. P. 35(b)(2)(A).

I further certify that this motion complies with the typeface requirements of Federal Rule 32(a)(5) and the type-style requirements of Federal Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

*/s/William G. Myers III* \_\_\_\_\_

William G. Myers III

**CERTIFICATE OF SERVICE**

I hereby certify that on December 9, 2021, the foregoing motion was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

*/s/William G. Myers III* \_\_\_\_\_

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