

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

Deborah S. Hunt
Clerk

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Filed: December 03, 2021

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Re: Case No. 21-7000, *MCP No.165, OSHA Covid Rule*
Originating Case No. : OSHA-2001-0007

Dear Parties,

The Court issued the enclosed Order today in this case.

Sincerely yours,

s/Leon T. Korotko
Case Manager
Direct Dial No. 513-564-7069

cc:

Ms. Esmeralda Aguilar
Mr. Robert Alt
Mr. Michael Timothy Anderson
Mr. Irwin W. Aronson
Mr. Ryan Baasch
Mr. Edmund Charles Baird
Mr. Ryan Bangert
Mr. Craig Becker
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Mr. Christopher Michael Carr
Mr. Jeffrey A. Chanay
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Mr. Jefferson Downing
Mr. Jeffrey B. Dubner
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Mr. Steven R. Eatherly
Mr. Drew Curtis Ensign
Mr. Rick Esenberg
Mr. Evan Matthew Ezray
Mr. Thomas Molnar Fisher
Mr. Benjamin Michael Flowers
Mr. Peter Ford
Ms. Rachel Fried
Mr. Paul L. Frieden
Mr. Anthony J. Galdieri
Mr. Thomas P. Gies
Mr. Jamila Gleason
Ms. Elena S. Goldstein
Ms. Brianne Jenna Gorod
Mr. Stanley M. Gosch
Mr. Grant Joseph Guillot
Mr. Deepak Gupta
Mr. David J Hacker
Ms. Sarah Harbison
Ms. Sarah E. Harrington
Mr. Jeffrey Matthew Harris
Mr. Ryan Lawrence Heath
Mr. Robert Henneke
Mr. Jason H Hilborn
Mr. Clark Lassiter Hildabrand
Ms. Melissa Ann Holyoak
Mr. Thomas T. Hydrick
Ms. Rachel Louise Jag
Mr. Adam C. Jed
Mr. Jeffrey Jennings
Mr. Thomas M. Johnson Jr.
Ms. Lindsey Keiser
Mr. Scott Allen Keller
Ms. Ashley Steiner Kelly
Ms. JoAnn Kintz
Mr. Kris W. Kobach
Mr. Edmund Gerard LaCour Jr.
Mr. Samuel Paul Langholz
Mr. Steven Paul Lehotsky
Mr. Daniel P. Lennington

Mr. Sheng Tao Li
Mr. Mithun Mansinghani
Mr. Steven Marshall
Ms. Cathleen A. Martin
Mr. Jeffrey Carl Mateer
Mr. Justin Lee Matheny
Mr. R. Trent McCotter
Mr. Ryan J. McDaniels
Mr. David M. McVey
Mr. Mark P. Meuser
Mr. Matthew R. Miller
Ms. Jessica Anne Morton
Mr. Matthew W. Murphy
Ms. Elizabeth B. Murrill
Mr. John Parham Murrill
Mr. William G. Myers III
Ms. Seema Nanda
Mr. Scott Lawrence Nelson
Mr. Jonathan D. Newman
Mr. Russell A. Newman
Mr. Stephen Joseph Obermeier
Mr. Leif Olson
Mr. Richard J. Oparil
Mr. Jesus Armando Osete
Ms. Lea Patterson
Mr. James Hamilton Percival II
Mr. Henry M. Perlowski
Ms. Lanora Christine Pettit
Ms. Heather R. Phillips
Mr. Javier Pico-Prats
Mr. David Andrew Porter
Mr. Michael S. Raab
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Mr. William R. Reinken
Mr. Aaron Randall Rice
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Ms. Amy L. Rosenberger
Mr. David A. Rosenfeld
Mr. Scott E. Rosenow
Mr. Andrew Dean Roth
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Mr. Matthew A. Sagsveen
Mr. Hiram S Sasser
Mr. Dean John Sauer
Mr. Ryan T. Schelhaas
Ms. Marisa C. Schnaith
Mr. Michael B. Schon
Ms. Lindsay Sara See
Mr. Donald J. Siegel
Mr. Brandon James Smith
Ms. Lisl R. Soto
Ms. Katherine D. Spitz
Mr. Brian James Springer
Mr. Joseph Scott St. John
Ms. Jessica Elizabeth Hart Steinmann
Mr. Scott G. Stewart
Mr. James Larry Stine
Mr. Judd Edward Stone II
Mr. Patrick Strawbridge
Mr. Daniel Robert Suhr
Mr. James Patrick Sullivan
Ms. Krystal Brunner Swendsboe
Mr. Michael E. Talent
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Mr. Jeffrey S. Thompson
Mr. Michael Eugene Toner
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Mr. Thomas Tso
Mr. Ryan J. Tucker
Ms. Alicia Embley Turner
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Mr. Drew Waldbeser
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Mr. Henry Charles Whitaker
Mr. Christopher David Wiest
Mr. Kurtis T. Wilder
Mr. Benjamin D. Wilson
Mr. Thomas Alexander Wilson
Mr. Daniel William Wolff
Ms. Allison M. Zieve

Enclosure

No. 21-7000

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED Dec 03, 2021 DEBORAH S. HUNT, Clerk
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IN RE: MCP NO. 165,)
OCCUPATIONAL SAFETY AND)
HEALTH ADMINISTRATION RULE)
ON COVID-19 VACCINE AND)
TESTING, 86 FED. REG. 61402)

ORDER

On November 23, 2021, OSHA filed an Emergency Motion to Dissolve the Stay that was issued by the Fifth Circuit Court of Appeals and consolidated herein (Dkt. 69). Given the Government's pending motion, the motions to stay the agency's ruling and related motions, including Dkt. Entry Nos. 148, 150, 154, 157, 160, 161, 165, 168, 170, 171, 172, 175, 176, 182, and 197, are hereby DENIED AS MOOT.

A. Responses to Government's Motion to Dissolve (Dkt. 69) and Reply Thereto

Per this Court's November 23, 2021, Scheduling Order (Dkt. 141), responses to the Government's Motion to Dissolve Stay (Dkt. 69) may be filed no later than December 7, 2021. Parties may choose to respond, pursuant to the instructions in the Initial Case Management Order (Dkt. 8), by one of the following methods:

- (1) Filing a direct response to the Government's Motion, limited to 5,200 words (motions for leave to file an oversized response will not be entertained); OR

(2) Filing a notice of joinder in another filed response, specifying the joined document by its docket number in case 21-7000; OR

(3) Filing a notice to adopt their previously filed motion for stay, specified by docket number in case 21-7000, to which the word limit designated in subsection (1) does not apply.

The Government and the parties that joined in the Government's motion may each file their own single consolidated reply that addresses all responses, which is due no later than December 10, 2021, and limited to 5,200 words.

B. Government's Motion to Amend Briefing Schedule and Set Merits Briefing (Dkt. 131)

The Court DENIES the Government's motion to amend the briefing schedule established in Dkt. 141. The Court reserves judgment on setting a merits briefing schedule. Finally, the Court encourages the parties to consider the option noted above in A(2) and group their responses by joinder, but given practical considerations of the expedited proceedings, declines to set any requirements. Parties are advised to continue to adhere to the briefing schedule set forth in Dkt. 141.

C. Motions to Transfer (Dkt. 95, 213)

The Court hereby DENIES the motions to transfer the matter to the Fifth Circuit (Dkt. 95) and the D.C. Circuit (Dkt. 213).

D. Motion to Hold Case in Abeyance Pending the Outcome of Initial En Banc (Dkt. 99)

The Court hereby DENIES the motion to hold the case in abeyance pending the outcome of initial en banc. Parties are advised to continue to adhere to the briefing schedule set forth in Dkt. 141.

E. Motions for Leave to File Amicus Briefs (Dkt. 87, 88, 100, 101, 167, 208, 235, 241, 243)

Several parties (Dkt. 87, 88, 167, 208) previously filed motions for leave to file an amicus curiae brief and/or related motions regarding the initial motions for to stay. Because these motions for stay were herein denied as moot, the above-referenced amicus motions are also DENIED AS MOOT. Amici are advised that they may designate their previously filed amicus brief as their response to the Government's motion to dissolve the stay (Dkt. 69) by filing a notice adopting their initial amicus filing, such notice being filed in accordance with the schedule in Dkt. 141 and the procedures in the initial case management order.

The current motions for leave to file amicus brief regarding the Government's motion to dissolve stay (Dkt. 100, 101, 235, 241, 243) are hereby GRANTED.

F. Motion to Dismiss and Reimburse Filing Fee (Dkt. 147)

The motion to dismiss is GRANTED and the party is DISMISSED without prejudice. The motion to reimburse filing fee is DENIED.

G. Motion to Add an Additional Party (Dkt. 164)

The motion is GRANTED, and IEC and IEC – FL will be added as petitioners.

H. Motions to Intervene (Dkt. 174, 234)

Intervention is DENIED. The parties are advised that all circuit cases have been consolidated in 21-7000, where the parties may file directly for relief.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", written in a cursive style.

Deborah S. Hunt, Clerk