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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mark Brnovich, *et al.*,
Plaintiffs,
v.
Joseph R. Biden, *et al.*
Defendants.

No. 2:21-cv-01568-MTL

**JOINT STIPULATION
REGARDING BIFURCATION AND
BRIEFING SCHEDULE**

1 Pursuant to the Court’s Order of December 14, 2021 (Doc. 121), the parties hereby
2 jointly stipulate the following:

3 1. The original complaint in this matter was served on the U.S. Attorney’s Office for
4 the District of Arizona on October 22, 2021. Plaintiffs’ Second Amended Complaint (Doc.
5 70) was filed on November 19, 2021. The Federal Defendants’ deadline to file a responsive
6 pleading is currently December 21, 2021. *See* Fed. R. Civ. P. 12(a)(2), 15(a)(3). The City of
7 Phoenix’s deadline to file a responsive pleading is currently December 22, 2021. *See* Doc. 118.

8 2. Plaintiffs intend to file a Third Amended Complaint by 12:00 p.m. MST on
9 December 20, 2021. *See* Doc. 122. This forthcoming complaint will contain the same thirteen
10 counts as the Second Amended Complaint.

11 3. Pursuant to Federal Rule of Procedure 42(b), the parties recommend to the Court
12 that adjudication of Counts I through VIII (the “Vaccine Counts”) be separated from
13 adjudication of Counts IX through XIII (the “Immigration Counts”) of the forthcoming Third
14 Amended Complaint.

15 4. All of the Plaintiffs and all of the Defendants are involved with one or more Vaccine
16 Counts. Defendants’ deadline for filing a responsive pleading would ordinarily be January 3,
17 2022. *See* Fed. R. Civ. P. 12(a)(2), 15(a)(3).

18 5. In light of Plaintiffs’ pending motion for preliminary injunction, *see* Doc. 72, the
19 parties recommend that Defendants’ deadline for responding to the Vaccine Counts be stayed
20 until fourteen days after the Court issues a ruling on the preliminary injunction motion.

21 6. The Immigration Counts are asserted by only the State Plaintiffs against only the
22 Federal Defendants. The State Plaintiffs and Federal Defendants recommend to the Court
23 the following schedule and page limits for briefing the Federal Defendants’ forthcoming
24 motion to the Immigration Counts: By January 3, 2022, the Federal Defendants shall file a
25 Motion to Dismiss the Immigration Counts. The Motion shall not exceed 35 pages. By
26 February 2, 2022, State Plaintiffs shall file their Response. The Response shall not exceed 35
27 pages. By February 17, 2022, the Federal Defendants shall file their Reply. The Reply shall
28 not exceed 20 pages.

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RESPECTFULLY SUBMITTED this 17th day of December, 2021.

**MARK BRNOVICH
ATTORNEY GENERAL**

By: /s/James K. Rogers
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**UNITED STATES
DEPARTMENT OF JUSTICE**

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*Attorneys for Plaintiffs PLEA and
United Phoenix Firefighters Association Local 493*

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of December, 2021, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the District of Arizona using the CM/ECF filing system. Counsel for all Defendants, who have appeared, are registered CM/ECF users and will be served by the CM/ECF system pursuant to the notice of electronic filing.

/s/ James Rogers
Attorney for Plaintiff Mark Brnovich, in his official capacity as Attorney General of Arizona; and the State of Arizona

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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Mark Brnovich, in his official capacity as
Attorney General of Arizona; *et al.*,

Plaintiffs,

v.

Joseph R. Biden in his official capacity as
President of the United States; *et al.*,

Defendants.

No. 2:21-cv-01568-MTL

[PROPOSED] ORDER

1 Having considered the Parties’ Joint Stipulation Regarding Bifurcation and
2 Briefing Schedule, **IT IS HEREBY ORDERED** granting the stipulation.

3 **IT IS FURTHER ORDERED** that:

4 1. Pursuant to Federal Rule of Procedure 42(b) and the stipulation of the parties,
5 adjudication of Counts I through VIII (the “Vaccine Counts”) is separated from
6 adjudication of Counts IX through XIII (the “Immigration Counts”) of the Second
7 Amended Complaint (Doc. 70).

8 2. Defendants’ deadline for filing a responsive pleading regarding the Vaccine
9 Counts is hereby stayed until fourteen days after the Court issues a ruling on the pending
10 preliminary injunction motion (Doc. 72) regarding those counts.

11 3. By January 3, 2022, the Federal Defendants shall file a Motion to Dismiss the
12 Immigration Counts. The Motion shall not exceed 35 pages. By February 2, 2022, State
13 Plaintiffs shall file their Response. The Response shall not exceed 35 pages. By February
14 17, 2022, the Federal Defendants shall file their Reply. The Reply shall not exceed 20
15 pages.