

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

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STATE OF TEXAS, STATE OF		)	
LOUISIANA		)	
	Plaintiffs,	)	
v.		)	No. 6:21-cv-00016
		)	
UNITED STATES OF AMERICA, <i>et al.</i>		)	
	Defendants.	)	
<hr/>		)	

**JOINT ADVISORY ON PROPOSED SCHEDULE**

Consistent with the parties' representation in their December 13, 2021, joint advisory, they have continued to discuss ways to further streamline proceedings in this case and a proposed schedule going forward. In the accompanying proposed order, the parties propose such a process and schedule for this Court's consideration.

Date: December 20, 2021

Respectfully submitted.

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**CERTIFICATE OF SERVICE**

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on December 20, 2021, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/Ryan D. Walters  
RYAN D. WALTERS

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STATE OF TEXAS, STATE OF LOUISIANA	)	
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v.	)	No. 6:21-cv-00016
	)	
UNITED STATES OF AMERICA, <i>et al.</i>	)	
	)	
Defendants.	)	

**[PROPOSED] ORDER**

This Court ORDERS the following:

1. Plaintiffs’ claims challenging DHS’s January 20, 2021, guidance and ICE’s February 18, 2021, guidance identified in Paragraph 5 of Plaintiffs’ First Amended Complaint, ECF No. 109, are dismissed without prejudice.
  
2. The parties’ previous briefing and exhibits, including any supplemental briefing or extra-record evidence including affidavits or declarations, on Plaintiffs’ Motion to Postpone the Effective Date of Agency Action or, in the Alternative, For Preliminary Injunction, challenging the Secretary of Homeland Security’s Guidelines for the Enforcement of Civil Immigration Law (Sept. 30, 2021), e.g., ECF Nos. 109, 111, 115, 116, 122, 128, 130, 131, are incorporated and consolidated with this Court’s consideration of the merits pursuant to Federal Rule of Civil Procedure 65(a)(2). Pursuant to the parties’ agreement, the evidentiary materials attached to their previous briefing, and any supplemental exhibits, affidavits or declarations they may submit, are admitted as authentic and without need of a sponsoring witness, and are presumptively admitted as “part of the trial record and need not be repeated at trial.”

Fed. R. Civ. P. 65(a)(2). All objections, including to the Court's consideration of extra-record evidence, however, are considered preserved subject to the remaining schedule for raising such objections.

3. The parties may submit supplemental affidavits or declarations, limited to those that update previously filed affidavits or declarations.
4. The parties are limited to calling three live witnesses at trial per side. No new witness may be called in rebuttal.
5. Defendants' deadline of January 27, 2022, to file a responsive pleading, ECF No. 114, is vacated. Any such deadline is stayed absent any further order of the Court.
6. The following deadlines shall apply to this matter:
  - a. No later than January 11, 2022:
    - i. Plaintiffs shall file on the Court's docket any affidavits, declarations, or documentary evidence, other than the administrative record, that they may wish the Court to consider, including any documents they may seek to introduce through live testimony. In lieu of repeated filings, Plaintiffs may instead designate previously filed affidavits, declarations, or documentary evidence. Plaintiffs do not have to identify documents they may potentially rely upon in cross-examination for purposes of impeachment.
    - ii. Plaintiffs shall file on the Court's docket the identity of any witness they seek to call for live testimony at trial. For each witness, Plaintiffs shall provide the scope of the expected testimony. Plaintiffs may call

any of their direct witnesses in rebuttal to Defendants' witnesses' testimony.

iii. Defendants shall file on the Court's docket the administrative record that they previously served on Plaintiffs.

b. No later than January 21, 2022:

i. Defendants shall file on the Court's docket any affidavits, declarations, or documentary evidence, other than the administrative record, that they may wish the Court to consider, including any documents they may seek to introduce through live testimony. Defendants do not have to identify documents they may potentially rely upon in cross-examination for purposes of impeachment.

ii. Defendants shall file on the Court's docket the identity of any witness they seek to call for live testimony at trial. For each witness, Defendants shall provide the scope of the expected testimony.

c. No later than January 25, 2022:

i. The parties shall file any motions to exclude evidence or witnesses. These are without prejudice to objections at trial to particular testimony or particular uses of a piece of evidence and are apart from any argument about extra-record evidence.

d. No later than January 27, 2022:

i. The parties shall submit their pre-trial proposed findings of fact and conclusions of law.

e. No later than January 28, 2022 at 5:00 PM:

- i. The parties shall file responses to any motion to exclude evidence or witnesses.
- f. The trial shall commence on January 31, 2022, at \_\_\_\_ AM, in Courtroom \_\_\_\_\_, in Houston, Texas.
- g. The parties shall present argument the business day after evidence is closed. Besides potentially addressing the evidence previously submitted, the parties may present legal argument on the matters at issue in this case. Plaintiffs shall have 90 minutes for opening argument; Defendants shall have 120 minutes for their argument; and Plaintiffs shall have 30 minutes for rebuttal.
- h. No later than February 17, 2022, the parties shall file post-trial findings of fact and conclusions of law, and any post-trial memoranda of law. These submissions may address, but are not limited to, the Court's consideration of extra-record evidence and Count V of Plaintiffs' First Amended Complaint.
- i. No later than March 3, 2022, the parties shall file responses to the other parties' post-trial findings of fact and conclusions of law, and any post-trial memoranda of law.

It is SO ORDERED.

Signed this \_\_\_\_ of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Drew B. Tipton  
United States District Judge