

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

BILL NELSON, in his official capacity
as Administrator of NASA, et al.,

Defendants.

No. 8:21-cv-2524-SDM-TGW

JOINT MOTION TO STAY DISTRICT COURT PROCEEDINGS
PENDING APPEAL

The parties jointly request that this Court stay further proceedings in this matter pending final resolution of Defendants' appeal from the Court's Opinion and Order granting Plaintiffs' motion for a preliminary injunction, except insofar as the Court plans to resolve the remainder of Plaintiff's motion for preliminary injunction. *See* ECF Nos. 37 and 40 ("Opinion and Order").¹

On December 22, 2021, the Court granted in part Florida's motion for a preliminary injunction on Florida's claim that the President likely exceeded his statutory authority under the Federal Procurement and Administrative Services Act (FPASA). ECF No. 37. And on December 30, 2021, the Court issued an order enjoining the Federal Government "from enforcing within Florida any contract clause requiring compliance with the COVID Safety Protocols for Federal Contractors described in

¹ Defendants do not concede that the Court would have jurisdiction to issue any further orders or opinions related to Florida's motion for a preliminary injunction, in light of Defendants' appeal of the preliminary injunction to the Eleventh Circuit. ECF No. 41.

Executive Order 14042 . . . or from denying Florida a government contract based on Florida’s refusal to agree to such a contract clause.” ECF No. 40. Defendants noticed their appeal of the Court’s Opinion and Order on January 12, 2022. *See* ECF No. 41. Defendants are currently obligated to respond to Plaintiffs’ amended complaint on or before January 21, 2022. ECF No. 37.

The parties agree and respectfully suggest that a stay of proceedings pending the final resolution of Defendants’ appeal will both promote judicial economy and preserve the resources of the parties and this Court. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (A district court’s “power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”); *accord Claridy v. City of Lake City*, No. 3:13-cv-558, 2014 WL 11430972, at *1 (M.D. Fla. Nov. 25, 2014). Defendants’ appeal implicates important legal issues that the parties and the Court will likely have to address in future proceedings, including the scope of the President’s authority under FPASA—an issue addressed by “[o]nly sparse authority” and “none in the Eleventh Circuit.” ECF 37 at 24.

An appellate decision on those issues (and others) will thus likely provide the Court and the parties significant aid in the ultimate resolution of this case. Furthermore, the parties’ proposed stay is of a limited and definite duration that will not cause undue delay in the resolution of this case.

Furthermore, although the Court has ruled on Florida’s motion for preliminary injunction regarding the President’s authority under FPASA, the Court retained under

advisement the balance of Florida’s motion. ECF No. 37 at 35, 37–38. The filing of the stay motion is not intended to preclude the Court from issuing further orders or opinions regarding the balance of Florida’s motion if it so chooses.

Accordingly, the parties respectfully request that the Court stay further district court proceedings in this matter until the parties have exhausted appellate proceedings.

DATED: January 12, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

On January 12, 2022, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Middle District of Florida, using the electronic case filing system of the Court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Zachary A. Avallone
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