

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

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STATE OF MISSOURI, <i>et al.</i> ,		)	
		)	
Plaintiffs,		)	
		)	
v.		)	Civil Action No. 4:21-cv-1329
		)	
JOSEPH R. BIDEN, JR., <i>et al.</i> ,		)	
		)	
Defendants.		)	
<hr/>		)	

**DEFENDANTS' UNOPPOSED MOTION  
TO MAINTAIN THE STAY OF PROCEEDINGS**

The Defendants respectfully move to maintain the stay of proceedings in this court, pending the resolution of Plaintiffs' recently filed petition for a writ of certiorari in this case. To the Defendants' understanding, the stay of proceedings that this Court has previously entered in this case remains in place until the conclusion of appellate proceedings relating to this Court's preliminary injunction order, which would include the pending certiorari petition; the Defendants nonetheless file this motion out of an abundance of caution. The undersigned counsel has consulted with counsel for the Plaintiffs, who has confirmed that the Plaintiffs do not oppose the relief requested in this motion.

1. On November 12, 2021, the Plaintiffs filed a motion for a preliminary injunction. ECF No. 6. The Defendants opposed the motion. ECF No. 23. This Court granted the Plaintiffs' motion on November 29, 2021. ECF No. 28.

2. The Defendants filed a notice of appeal of this Court's order to the United States Court of Appeals for the Eighth Circuit. ECF No. 29. The Defendants moved for a stay of the injunction before this Court and before the Eighth Circuit; both courts denied the motion for a stay. ECF No. 35, ECF No. 38. The Defendants filed an application in the Supreme Court for a stay of the injunction "pending the consideration and disposition of applicants' appeal from that injunction to the United States Court of Appeals for the Eighth Circuit and, if necessary, pending the filing and disposition of a petition for a writ of certiorari and any further proceedings in this Court." Application for a Stay at

1, *Biden v. Missouri*, No. 21A240 (U.S. Dec. 16, 2021).

3. The Defendants, with the consent of the Plaintiffs, moved for a stay of proceedings in this Court during the pendency of the appeal of the preliminary injunction order. ECF No. 39. This Court granted the motion. ECF No. 40. This Court concluded that “the Eighth Circuit’s decision on appeal, as well as the Supreme Court’s decision on the application for a stay, likely will guide further proceedings in this case,” and that therefore “[s]taying the proceedings here pending the appeal will preserve the resources of the parties and this Court.” *Id.* at 2. This Court also saw “no potential prejudice or hardship to the parties that would warrant denying a stay of the proceedings.” *Id.* This Court later denied a motion to lift the stay of proceedings. ECF No. 51.

4. After holding oral argument, the Supreme Court granted the Defendants’ application for a stay of the preliminary injunction. *Biden v. Missouri*, 142 S. Ct. 647 (2022). In light of the Supreme Court’s opinion, the Eighth Circuit entered an order vacating the preliminary injunction on April 11, 2022, and issued its judgment and mandate on the same day. *See* ECF No. 52, ECF No. 53, ECF No. 54.

5. The Plaintiffs filed a petition for a writ of certiorari in the Supreme Court on May 12, 2022, and the petition was docketed on May 19, 2022. *See* ECF No. 60.

6. Given that Plaintiffs have filed a petition for a writ of certiorari with respect to the Eighth Circuit’s order vacating this Court’s preliminary injunction order, appellate proceedings regarding that order have not yet concluded. The Defendants accordingly understand that the stay of proceedings that this Court has previously entered in this case remains in place until the Supreme Court disposes of the Plaintiffs’ certiorari petition. The Defendants nonetheless file this motion out of an abundance of caution.<sup>1</sup>

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<sup>1</sup> Defendants previously filed an unopposed motion for extension of time to respond to the complaint. ECF No. 56. At that time, Defendants were not aware that Plaintiffs would file a petition for a writ of certiorari and, in light of the Eighth Circuit’s issuance of its judgment and mandate, Eighth Circuit Order, ECF No. 52; Eighth Circuit Judgment, ECF No. 53; Eighth Circuit Mandate, ECF No. 54, Defendants moved promptly to adjust the schedule out of an abundance of caution for the reasons identified in that motion, *see* ECF No. 56, ¶ 2.

7. To the extent that a motion may be necessary to maintain the current stay of proceedings, the Defendants respectfully submit that maintaining the stay is appropriate for essentially the same reasons that this Court found it to be appropriate initially to enter the stay of proceedings in this case. The Defendants have explained in previous filings that the Supreme Court's decision has effectively disposed of each of the claims in the Plaintiffs' complaint. *See* ECF No. 47 at 7-18. The Plaintiffs take a different view, however, and are now seeking additional review in the Supreme Court of the Eighth Circuit's decision on appeal. A continued stay of proceedings in this Court is warranted to preserve the resources of this Court (and the parties) while the Plaintiffs seek further review by the Supreme Court. *See Landis v. North Am. Co.*, 299 U.S. 248, 254–55 (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"); *see also Seefeldt v. Ent. Consulting Int'l, LLC*, No. 4:19-CV-00188-MTS, 2020 WL 4922371, at \*1 (E.D. Mo. Aug. 21, 2020). No party would be prejudiced or would suffer hardship if the stay of proceedings in this Court were to be maintained.

For these reasons, the Defendants respectfully request that the Court renew its stay of proceedings in this Court pending the exhaustion of all appellate avenues with respect to this Court's preliminary injunction order.

Dated: May 26, 2022

Respectfully submitted,

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_____	)	

[PROPOSED] ORDER

Upon consideration of Defendants’ unopposed motion for a renewed stay of proceedings, IT IS HEREBY ORDERED that the Motion is GRANTED, and this case is STAYED pending the disposition of the petition for a writ of certiorari that the Plaintiffs have filed in this matter.

DATE: \_\_\_\_\_

UNITED STATES DISTRICT JUDGE