

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

COMMONWEALTH OF KENTUCKY and STATE
OF TENNESSEE,

Plaintiffs-Appellees,

v.

JANET YELLEN, in her official capacity as Secretary
of the Treasury; RICHARD K. DELMAR, in his offi-
cial capacity as Acting Inspector General of the De-
partment of the Treasury; and the U.S.
DEPARTMENT OF THE TREASURY,

Defendants-Appellants.

No. 21-6108

**REPLY IN SUPPORT OF MOTION TO HOLD APPEAL IN ABEYANCE
PENDING THIS COURT'S DECISION IN A RELATED CASE**

The government defers to the Court as to whether the interest of judicial economy would be served by hearing oral argument in this case while *Ohio v. Yellen*, No. 21-3787—which was heard on January 26—is pending. We note, however, that plaintiffs are mistaken in suggesting that the government raised the relationship between the *Ohio* case and this case for the first time in its abeyance motion.

The government has repeatedly explained that the forthcoming *Ohio* decision is expected to control the disposition of this case. In our opening brief, we explained (at v) that because “[t]he issues presented by this case are also presented in *Ohio*,” we

suggested “that this case be assigned to the same panel that [would] hear the *Ohio* appeal,” in order “[t]o ensure consistent rulings” in the two cases. In our reply brief, we explained (at 1) that the “Court’s resolution of the *Ohio* appeal” would “be controlling here” and that plaintiffs’ brief did “not identify any material differences between the cases.” And in our May 17 letter identifying argument conflicts, we again explained that because “[t]he issues presented in this appeal are currently pending before this Court in *Ohio*,” we had “suggested that this case be assigned to the *Ohio* panel, which [could] determine whether oral argument in this case would be helpful.”

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify that this reply complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 220 words, according to Microsoft Word.

/s/ Daniel Winik _____
Daniel Winik