

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

|                                 |   |                       |
|---------------------------------|---|-----------------------|
|                                 | ) |                       |
| GEORGIA COLLEGE OF EMERGENCY    | ) |                       |
| PHYSICIANS, <i>et al.</i> ,     | ) |                       |
|                                 | ) |                       |
| Plaintiffs,                     | ) |                       |
|                                 | ) |                       |
| v.                              | ) | No. 1:21-cv-05267-MHC |
|                                 | ) |                       |
| U.S. DEPARTMENT OF HEALTH AND   | ) |                       |
| HUMAN SERVICES, <i>et al.</i> , | ) |                       |
|                                 | ) |                       |
| Defendants.                     | ) |                       |
|                                 | ) |                       |

**JOINT MOTION TO CONTINUE THE STAY OF PROCEEDINGS**

The parties respectfully request that the Court stay proceedings in this case for an additional forty-five (45) days. The reasons for this request are as follows:

1. In this case, Plaintiffs challenge portions of an interim final rule that implements aspects of the No Surprises Act. *See* Requirements Related to Surprise Billing; Part II, 86 Fed. Reg. 55,980 (Oct. 7, 2021).
2. There are similar challenges to the interim final rule pending in several other districts, including the Eastern District of Texas.
3. On February 23, 2022, the U.S. District Court for the Eastern District of Texas issued a judgment that vacated portions of the same interim final rule that

Plaintiffs challenge in this Court. *Tex. Med. Ass'n et al. v. Dept. of Health and Human Servs. et al.*, No. 6:21-CV-425-JDK, 2022 WL 542879, at \*15 (E.D. Tex. Feb. 23, 2022).

4. The Defendants have already taken comments from the public, and have begun preparing a final rule. The Defendants anticipate that a final rule will be issued by the early summer of 2022. That final rule will replace the portions of the interim final rule that Plaintiffs have challenged in this action, and that were also at issue in *Texas Medical Association*.

5. The Defendants filed a notice of appeal of the judgment in *Texas Medical Association*. The Defendants anticipate that the final rule will be issued before that appeal would be fully briefed or decided.

6. In light of the vacatur of the interim final rule and the forthcoming final rule, the parties jointly moved for a stay of proceedings in this case for sixty days. This Court granted that motion. Order Granting Joint Motion for Stay, ECF No. 25.

7. The parties have conferred and have agreed that would best serve the interests of efficiency and economy to continue the stay of proceedings in this case for an additional forty-five days.

8. This Court has the inherent power to grant this request to continue the stay of proceedings. *See, e.g., Four Seasons Hotels & Resorts, B.V. v. Consorcio Barr S.A.*, 377 F.3d 1164, 1172 n.7 (11th Cir. 2004) (“[A] district court ... retains the inherent authority to issue a stay for the purposes of managing its own docket.”); *see*

*also Life Ins. Co. of N. Am. v. Williams*, No. 1:15-cv-62, 2015 WL 10961833, at \*3 (N.D. Ga. May 22, 2015) (“District courts enjoy the authority to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for the litigants.”).

9. The parties also respectfully request that they be permitted to file a joint status report on or before June 16, 2022.

10. Accordingly, the parties respectfully request that the Court: (1) stay this case for an additional forty-five (45) days; (2) enter an order instructing the parties to submit a joint status report on or before June 16, 2022.

11. A proposed order reflecting this proposal is attached.

Dated: April 28, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

KURT R. ERSKINE  
United States Attorney

TRISHANDA L. TREADWELL  
Georgia Bar No. 356896  
trish.treadwell@usdoj.gov  
Assistant U.S. Attorney  
75 Ted Turner Dr. SW, Suite 600  
Atlanta, GA 30303

ERIC B. BECKENHAUER  
Assistant Branch Director

/s/ Joel McElvain

JOEL McELVAIN  
D.C. Bar No. 448431  
Senior Trial Counsel  
U.S. Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, NW  
Washington, DC 20001  
Tel.: (202) 616-8298  
[Joel.L.McElvain@usdoj.gov](mailto:Joel.L.McElvain@usdoj.gov)

*Counsel for Defendants*

HALL BOOTH SMITH, P.C.

/s/ Brittany H. Cone

BRITTANY H. CONE  
Georgia Bar No. 488550  
S. DAVID MCLEAN, JR.  
Georgia Bar No. 496890  
JORDAN S. JOHNSON  
Georgia Bar No. 649655  
BAYLEE A. CULVERHOUSE  
Georgia Bar No. 407463

191 Peachtree Street, N.E.  
Suite 2900  
Atlanta, GA 30303-1775  
Tel: 404-954-5000  
Fax: 404-954-5020  
Email: [bcone@hallboothsmith.com](mailto:bcone@hallboothsmith.com)  
Email: [dmclean@hallboothsmith.com](mailto:dmclean@hallboothsmith.com)  
Email: [jjohnson@hallboothsmith.com](mailto:jjohnson@hallboothsmith.com)  
Email: [bculverhouse@hallboothsmith.com](mailto:bculverhouse@hallboothsmith.com)

*Counsel for Plaintiffs*