

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

STATE OF TEXAS,  
STATE OF MONTANA  
*Plaintiffs,*

v.

XAVIER BECERRA, in his official capacity  
as Secretary of Health and Human Services;  
MELANIE FONTES RAINER, in her  
official capacity as Director of the Office for  
Civil Rights; CENTERS FOR MEDICARE  
& MEDICAID SERVICES; UNITED  
STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES,

*Defendants.*

Case No. 6:24-cv-211

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**JOINT MOTION FOR SCHEDULING ORDER  
ON PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER,  
PRELIMINARY INJUNCTION, AND STAY OF AGENCY ACTION**

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The Parties jointly submit this motion to the Court, requesting the following briefing schedule on Plaintiffs' Motion for Temporary Restraining Order, Preliminary Injunction, and Stay of Agency Action (Dkt. 2).

Plaintiffs challenge a Final Rule promulgated by Defendants and published in the Federal Register on May 6, 2024, Nondiscrimination in Health Programs and Activities, 89 Fed. Reg. 37,522 (the Final Rule). It is set to take effect on July 5, 2024. Plaintiffs served Defendants with Plaintiffs' Motion for Temporary Restraining Order, Preliminary Injunction, and Stay of Agency Action (Dkt. 2) on June 13, 2024. The parties have reached agreement on a proposed schedule for briefing Plaintiffs' motion. The parties request that the Court enter the following schedule:

June 27, 2024 Defendants' Response to Plaintiffs' Motion

July 1, 2024 Plaintiffs' Reply in Support of Plaintiffs' Motion

Plaintiff States respectfully request an order from this Court on injunctive relief by July 4, 2024. Defendants take no position on that request but note that Plaintiffs have not shown that any enforcement proceedings under the Final Rule are certainly impending on or immediately after July 5, 2024.

In the alternative, Plaintiff States request a hearing on their Motion for Temporary Restraining Order before briefing is complete so that they may have an opportunity to be afforded temporary injunctive relief before the effective date of the Final Rule. Defendants oppose this request.

#### **CONCLUSION**

The Parties respectfully request that the Court enter the proposed schedule as outlined above. In the alternative, Plaintiff States respectfully request a hearing on their Motion for Temporary Restraining Order.

Dated: June 17, 2024

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*/s/ Amy S. Hilton*

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*/s/ James G. Gillingham*

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Respectfully Submitted,

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**COUNSEL FOR STATE OF MONTANA**

**CERTIFICATE OF CONFERENCE**

I certify that the Parties conferred on Friday, June 14, 2024, and agreed to submit this Motion jointly.

*/s/ Amy S. Hilton*

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**AMY SNOW HILTON**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served on the June 17, 2024, via the electronic case filing system with the Court causing electronic service upon all counsel of record.

*/s/ Amy S. Hilton*

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**AMY SNOW HILTON**