

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

GENBIOPRO, INC.,

Plaintiff,

v.

CIVIL ACTION NO. 3:23-0058

MARK A. SORSAIA, in his official capacity
as Prosecuting Attorney of Putnam County and
PATRICK MORRISEY, in his official capacity
as Attorney General of West Virginia,

Defendants.

ORDER

Pending before the Court is Defendants' Motion for Stay.¹ ECF No. 48. The Motion is **DENIED**.

The Court finds it inadvisable to stay based upon a district court opinion granting a preliminary injunction, which merely forecasts that FDA approval of generic mifepristone may eventually be set aside. Decisions from the Northern District of Texas and the Fifth Circuit are not binding upon this Court. Nor would a Supreme Court decision as to the preliminary injunction issued by that District impact the proceedings here. Further, the Court observes that the opinion in *Alliance for Hippocratic Medicine v. United States Food & Drug Administration*, No. 2:22-cv-

¹ At the Court's direction, Plaintiff filed a Response in Opposition on April 20, 2023. ECF No. 50. On April 21, 2023, Defendant Morrisey's counsel informed the Court that a Reply would be filed by noon. When no Reply was filed by that time, the Court attempted to contact Defendant, to no avail. Accordingly, the Court proceeded to enter this Order.

00223 (N.D. Tex.) has been met with broad criticism from legal commentators. Therefore, the Court accords that opinion little weight.

The instant case is in its very early stages, and the Court has recently scheduled oral arguments on the issue of standing. There is no reason to delay consideration of that issue. Plaintiff bears the ultimate burden of establishing standing. Accordingly, to facilitate the argument scheduled for Monday, April 24, 2023, the Court informs the parties that Plaintiff will present its arguments first.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented parties.

ENTER: April 21, 2023

A handwritten signature in black ink, appearing to read 'Robert C. Chambers', written over a horizontal line.

ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE