UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

WHOLE WOMAN'S HEALTH ALLIANCE, *et al.*, Plaintiffs, v. FOOD AND DRUG ADMIN., *et al.*, Defendants.	Case No. 3:23-cv-00019-RSB

REPLY IN SUPPORT OF MOTION TO STAY PROCEEDINGS

The U.S. Food and Drug Administration is conducting a review of the mifepristone REMS. ECF No. 92 (Mot.), at 1. If Plaintiffs are satisfied with the outcome of that review, no judicial review will be necessary. If not, then Plaintiffs can seek to challenge the agency's new decision following review. Either way, this Court should stay its hand until that review is complete, just as another court hearing a related case recently did. *See Louisiana v. FDA*, No. 6:25-cv-01491-DCJ-DJA, 2026 WL 936958 (W.D. La. Apr. 7, 2026). As Judge Joseph explained in *Louisiana*, a stay is appropriate in light of FDA's "good faith, evidence-based, and expeditious review of the mifepristone REMS." *Id.* at *2.

None of Plaintiffs' arguments in their Opposition, ECF No. 93 (Opp'n), justify denying a stay. As FDA explained in its Motion, Plaintiffs would not be harmed by a stay because the remand in *Purcell v. Kennedy* already ensures that FDA will do

precisely what Plaintiffs request this Court to order FDA to do. Mot. 4. In response, Plaintiffs argue that they request "more than a general remand order" because they ask the Court to consider certain statutory factors. Opp'n 5-6. But the *Purcell* remand order directs FDA to consider those factors, too. *Purcell v. Kennedy*, Civ. No. 17-00493-JAO-RT, 2025 WL 3101785, at *14-*20, *28 (D. Haw. Oct. 30, 2025). Plaintiffs also allege prejudice based on their past "expend[iture]" of "significant resources" in this litigation, Opp'n 4, but they do not explain how denying a stay would redress those sunk costs. To be sure, summary judgment is already fully briefed. But the complete absence of harm to Plaintiffs counsels against this Court deciding the merits while FDA is undertaking its own review.

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Respectfully submitted,

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