

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN ACADEMY OF PEDIATRICS,  
*et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., *et al.*,

Defendants.

Case No. 1:25-cv-11916-BEM

**DEFENDANTS' MOTION TO EXTEND THE STAY OF PROCEEDINGS PENDING  
RESOLUTION OF THE FIRST CIRCUIT APPEAL**

On July 23, 2026, the Court granted Defendants’ renewed motion to stay district-court proceedings due to Defendants’ expedited appeal of the preliminary relief granted to Plaintiffs on the Federal Advisory Committee Act (FACA) claim in Count II. *See* ECF No. 347. As the Court recognized, “[t]here is a significant question in front of the First Circuit,” which “could certainly narrow what’s left of the case.” 7/23/26 Hrg. Tr. 37:3-4, 37:17-18. And the Court was hard pressed to see any “negative ramifications of a short stay” because the “temporary order” of March 16, 2026 “will remain in place” to protect Plaintiffs. *Id.* 36:15-16, 36:22. Thinking “sometime in September is probably in the ballpark” for a First Circuit decision, the Court set the stay to expire on “the earlier of either” September 3, 2026 “or three weeks from the day that the First Circuit issues its opinion.” *Id.* 40:6-7, 43:14-16.

Given recent developments in the First Circuit, Defendants now move to extend the stay until three weeks from the day on which the First Circuit issues its opinion. At the time of the July 23 hearing, it was an open question whether the First Circuit deemed the issues worthy of oral argument or suitable for resolution on the briefs. *See* 7/23/26 Hrg. Tr. 13:1-13. The First Circuit has since answered the former.

On August 14, 2026, Defendants moved the First Circuit to calendar oral argument at the earliest available date or resolve the appeal on the briefs. *See* Defs.-Appellants’ Mot. to Calendar Oral Argument, Doc. 00118491434 (1st Cir. Aug. 14, 2026). On August 19, the First Circuit ordered that “[o]ral argument will be calendared for the next available date.” Order of Court, Doc. 00118494139 (1st Cir. Aug. 19, 2026). The clerk has set argument for October 6, 2026. *See* Calendaring Notice, Doc. 00118497732 (1st Cir. Aug. 26, 2026).

The First Circuit’s decision to set oral argument for October 6 supports extending the stay of proceedings before this Court. Coming on the heels of its June order for expedited briefing and

resolution of the matter “without undue delay,” the Circuit’s subsequent decision to schedule oral argument on the next possible date confirms that it perceives Defendants’ appeal to raise substantial arguments. Otherwise, it would have ruled on the papers before now.

All of the rationales in favor of a stay noted by this Court during the July 23 hearing remain true: The First Circuit’s ruling could significantly streamline this case at no cost to Plaintiffs, who remain fully protected by the March 16 stay order. If anything, these rationales militate even more forcefully in favor of a stay now that we know oral argument will occur in only a few weeks with a decision sure to follow soon after.

Plaintiffs’ opposition to this motion rings hollow given what they recently told the First Circuit. Plaintiffs agreed that “[t]he issues presented” in Defendants’ appeal “are very significant.” Pls.-Appellees’ Resp., Doc. 00118493475, at 2 (1st Cir. Aug. 18, 2026). So much so that Plaintiffs flagged “the possibility” they might “seek review and interim relief from the Supreme Court” if the First Circuit rules against them. *Id.* Plaintiffs further assured the First Circuit that if it had not decided the appeal “by September 3, Defendants[] remain free to seek a further stay from the district court.” *Id.* at 3. But now when Defendants seek such an extension, Plaintiffs quickly do an about-face. This Court should not let them have it both ways.

For all these reasons, the Court should extend the stay of district-court proceedings until three weeks from the day on which the First Circuit issues its opinion on Defendants’ appeal.

September 3, 2026

Respectfully submitted,

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**LOCAL RULE 7.1 CERTIFICATE**

On September 2 and 3, 2026, Defendants conferred with Plaintiffs, who oppose this Motion. Plaintiffs intend to file a response to this Motion by Thursday, September 10.

/s/ James W. Harlow  
James W. Harlow