

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

THE STATE OF MISSOURI, *et al.*,

Intervenor-Plaintiffs,

v.

Case No. 4:25-cv-01580-CMS

U.S. FOOD AND DRUG ADMINISTRATION, *et al.*,

Defendants,

and

DANCO LABORATORIES, LLC; GENBIOPRO,

Intervenor-Defendants.

**DANCO LABORATORIES, LLC'S MOTION FOR LEAVE TO FILE CONSOLIDATED RESPONSE**

Intervenor-Defendant Danco Laboratories, LLC (“Danco”) respectfully requests that the Court grant it until March 6, 2026, to file a consolidated response to Intervenor Plaintiffs’ Amended Complaint (Doc. 217) and Supplemental Complaint (Doc. 281). The reasons for this request are set out briefly below.

1. On November 19, 2025, Plaintiffs filed a Motion for Leave to Supplement the Amended Complaint “to update their claims to reflect the FDA’s approval of a second generic mifepristone.” Doc. 277 at 3.

2. On December 3, 2025, the Federal Defendants responded to that motion and stated that they did not oppose the motion to supplement the complaint but noted that they had a pending motion to dismiss when the case was transferred to this Court. The Federal Defendants requested that if the Court “determines the motions to dismiss are no longer pending (or for any other reason),” they be permitted to file a consolidated response to the Amended Complaint and

Supplemental Complaint at least 60 days after the Supplemental Complaint is filed. Doc. 278 at 2-3.

3. On December 19, 2025, this Court granted the Plaintiffs' motion to supplement, Doc. 280, and the Supplemental Complaint was filed that same day, Doc. 281.

4. On December 22, 2025, this Court issued a second order in which it granted the Federal Defendants' request for leave to file a consolidated response to the Amended and Supplemental Complaints, Doc. 282. The Court set the due date for the Federal Defendants' consolidated response as March 6, 2026. The Court stated that "[t]o the extent the Federal Defendants' previously filed Motion to Dismiss Intervenor States' Amended Complaint (Doc. 218 ) is not already entirely mooted by the filing of Plaintiffs' Supplemental Complaint, the Court DENIES that motion as moot." *Id.* at 2.

5. Danco, like the Federal Defendants, had filed a motion to dismiss the Plaintiffs' Amended Complaint prior to this action's transfer from the Northern District of Texas to this Court. Doc. 221-222 (motion to dismiss); Doc. 228 (Plaintiffs' response); Doc. 248 (reply). Danco's venue argument is no longer applicable given this action's transfer, but Danco's remaining arguments remain applicable to the Amended Complaint. Danco respectfully requests that the Court grant Danco until March 6, 2026, to file its consolidated response to Plaintiffs' Amended and Supplemental Complaints. Granting this request would allow Danco to renew the arguments in its previously filed motion to dismiss based on Eighth Circuit law, instead of the Fifth Circuit law upon which Danco relied while this action was pending in Texas.

Respectfully submitted this 23rd day of December, 2025.

Respectfully submitted,

*/s/ Katrina L. Smeltzer*

Katrina Smeltzer, MO 60797  
SANDBERG PHOENIX PC  
4600 Madison Ave., Suite 1000  
Kansas City, MO 64112  
Tel: (816) 627 5332  
ksmeltzer@sandbergphoenix.com

Jessica L. Ellsworth\*  
Catherine E. Stetson\*  
Marlan Golden\*  
HOGAN LOVELLS US LLP  
555 Thirteenth Street N.W.  
Washington, D.C. 20004  
Tel: (202) 637-5600  
jessica.ellsworth@hoganlovells.com

\*admitted *pro hac vice*

*Counsel for Danco Laboratories, LLC*

**Certificate of Service**

I hereby certify that on the 23rd day of December 2025 the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon all counsel of record.

*/s/ Katrina L. Smeltzer*