

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

FEDERAL TRADE COMMISSION, et al.,

Plaintiffs,

v.

WORLD PROFESSIONAL ASSOCIATION
FOR TRANSGENDER HEALTH, INC., a
Texas corporation, et al.,

Defendants.

Case No. 4:26-cv-00748-O

**DEFENDANT WORLD PROFESSIONAL ASSOCIATION FOR TRANSGENDER
HEALTH, INC.'S BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION TO STRIKE**

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The Federal Trade Commission’s (“FTC”) claims in this lawsuit raise important questions concerning the Constitution’s allocation of power between the federal and state governments. ECF 53 at 25-30. Eighteen States have sought leave to file an amicus brief explaining how the FTC’s claims impact their ability to regulate medical care provided within their borders. ECF 58. There is no basis to oppose Proposed Amici’s motion for leave to file. Federal Rule of Appellate Procedure 29(a)(2) provides that a “state may file an amicus brief without the consent of the parties or leave of court.” Supreme Court Rule 37.4 says the same. Those rules reflect courts’ respect for sovereign governments that wish to express their views on legal issues of importance, which should be honored in this application.¹

Lacking any basis to oppose Proposed Amici’s motion for leave to file on the merits, Plaintiffs seek to strike it for failure to meet-and-confer under Local Civil Rule 7.1(a). That turns the rule on its head. Local Rule 7.1(a) exists to *avoid* unnecessary motions practice, not to generate *additional* motions practice that is wholly collateral to the merits. *See, e.g., LCP RCP LLC v. Ally Bank*, No. 3:19-cv-0396-M, 2021 WL 5285068, at *1 (N.D. Tex. Mar. 4, 2021). “The conference requirement of Local Civil Rule 7.1 is not a sword to be used offensively, and it is not intended to multiply the disputes to be presented to the Court.” *See Brown v. Bridges*, No. 12-cv-4947-P, 2015 WL 11121361, at *2 (N.D. Tex. Jan. 30, 2015). “Our system of justice can ill-afford to devote scarce resources to supervising matters that do not advance the resolution of the merits of a case.” *Dondi Props. Corp. v. Com. Sav. & Loan Ass’n*, 121 F.R.D. 284, 286 (N.D. Tex. 1988). Without any serious basis for opposing on the merits, Plaintiffs can hardly oppose the motion based on Proposed Amici’s supposed failure to seek reasonable compromise.

¹ Plaintiffs’ motion highlights that Local Rule 7.2(b) requires leave of court for all amicus briefs. But Local Rule 7.2(b) does not specifically address amicus briefs by States, much less suggest that States are entitled to any less respect in this Court than in the U.S. Supreme Court or Circuit Courts of Appeal.

Plaintiffs' motion to strike is legally improper. “[M]otions to strike under Rule 12(f) are not authorized to be filed against other motions, only pleadings.” *Considerate Com. Inc. v. ISP Elecs. LLC*, No. 3:23-cv-2140-E-BN, 2024 WL 3251722, at *5 (N.D. Tex. June 5, 2024) (quoting *Burnett v. ARCCA Inc.*, No. 15-cv-1214, 2016 WL 828151, at *4 (W.D. La. Feb. 25, 2016)). “Filing a motion to strike instead of a response to a motion merely serves to cause unnecessary delay and increase the cost of litigation.” *Brown*, 2015 WL 11121361, at *2. Even as to pleadings, the movant bears the burden of showing both (1) that the pleading contains “redundant, immaterial, impertinent, or scandalous matter,” and (2) that “significant prejudice” would result if the motion to strike were denied. *Washington v. Pac. Summit Energy LLC*, No. 4:20-cv-290, 2021 WL 229653, at *1 (S.D. Tex. Jan. 21, 2021) (quoting Fed. R. Civ. P. 12(f)); *see also*, Wright & Miller, 5C Fed. Prac. & Proc. Civ. § 1380 (3d ed. 2026). Courts have recognized that, “[a]s a general matter, motions to strike are disfavored and disserve the interest of judicial economy.” *Considerate*, 2024 WL 3251722, at *5 (quoting *Cooper v. Dallas Police Ass’n*, No. 3:05-cv-1778-N, 2013 WL 1787564, at *6 (N.D. Tex. Apr. 5, 2013)). Plaintiffs do not acknowledge these standards, much less try to meet them.

Putting aside its legal deficiency, Plaintiffs' motion to strike creates a dispute where none should exist. The only concern the FTC has identified regarding Proposed Amici's motion is that it would “force Plaintiffs to respond to any amicus in an unfairly expedited timeframe.” ECF 61-1 at 79; *see also* ECF 58 at 5 (asserting FTC stated that its “consent to the motion depended” on an “extension of deadlines”). Ironically, the FTC's suggestion that Proposed Amici should have waited longer to file would have compounded that prejudice by further shortening the FTC's time to respond. Regardless, WPATH addressed any concern by consenting to the FTC's request for an extension of “8 additional days to respond to these briefs” (as well as five additional pages).

ECF 61 at 12. Nor can the State Plaintiffs claim any prejudice from the alleged failure to confer, because Proposed Amici's arguments address only the FTC's claims, without affecting the State Plaintiffs' claims at all. *E.g.*, ECF 58-1 at 1. WPATH informed Plaintiffs on August 6 that it would "respond quickly" regarding any extension Plaintiffs wished to request, just as the parties had "worked cooperatively" on past extension requests. Ex. A. But rather than accept an extension as a reasonable compromise, Plaintiffs chose to move to strike four days later.

Even if Plaintiffs were correct that Proposed Amici failed to comply with Local Rule 7.1, and Proposed Amici dispute that, the Court should still deny the motion to strike because the "parties have conferred at length after [the] filing" of Proposed Amici's motion for leave to file. *Samsung Elecs. Am., Inc. v. Chung*, 321 F.R.D. 250, 288 (N.D. Tex. 2017). The parties have agreed that Plaintiffs should have eight additional days and five extra pages to respond to Proposed Amici's brief. ECF 61 at 12. If Plaintiffs would have agreed to that outcome in the meet-and-confer required by Local Rule 7.1(a)—obviating the need for the Court to decide Proposed Amici's motion for leave, much less Plaintiffs' motion to strike—then they should not get a different outcome after the filing of two unnecessary motions they could have prevented.

Finally, the Court should disregard Plaintiffs' irrelevant attacks on WPATH. WPATH did not participate in the meet-and-confer at issue. Its past actions have no bearing on whether or not Proposed Amici complied with Local Rule 7.1. Plaintiffs attempt to create the appearance of relevance by characterizing Proposed Amici as WPATH's "supporters." ECF 61 at 2-3. But Proposed Amici are not WPATH's "supporters." They are 18 States acting independently in the interests of their citizens.

Regardless, what Plaintiffs characterize as "uncommon hostility," *id.* at 2, is not a reflection of reality. Plaintiffs complain that WPATH did not promptly respond with its position on a request

to keep certain declarants' names confidential. *Id.* at 3. But when Plaintiffs reached out to WPATH's counsel in the *D.C.* action, WPATH had not yet decided whether that counsel would represent it in this case. *See* L.R. 83.10 (requiring parties to engage counsel who have offices within 50 miles of the courthouse). As Local Rule 7.1 states that "[c]onferences are not required . . . when a conference is not possible," the FTC could have simply explained this issue in its Certificate of Conference, rather than filing its motion. *See* L.R. 7.1(a), (b)(3). Plaintiffs next urge that WPATH should have allowed them to review *WPATH*'s extension request before filing, in addition to conferring on its position. ECF 61 at 3. This extension request was not presented as a joint request. *See* ECF 42. But no rule requires parties to submit routine extension motions for opposing counsel's review, and such review is "not commonplace" in the experience of WPATH's counsel. ECF 61-1 at 33. Finally, Plaintiffs fault WPATH for seeking discovery based on "significant questions" about the FTC's compliance with the D.C. District Court's injunction, D.D.C. ECF 46-1 at 1, only to withdraw that request after receiving additional evidence, D.D.C. ECF 62; N.D. Tex. ECF 61 at 2-3. But that withdrawal only underscores WPATH's commitment to resolving issues without requiring an "unnecessary expenditure of time" by the Court. *Dondi*, 121 F.R.D. at 291. Plaintiffs' insubstantial grievances do not warrant this Court's attention, especially when wholly irrelevant to the issue at hand.

Plaintiffs have no grounds for opposing Proposed Amici's motion for leave to file an amicus brief. Their attempt to create a procedural ground is legally deficient and defies the very Local Rule that Plaintiffs purport to invoke. The Court should deny Plaintiffs' motion to strike and grant Proposed Amici's motion for leave to file.

Dated: August 14, 2026

Respectfully submitted,

/s/ Caleb Hayes-Deats

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on August 14, 2026, a true and correct copy of the foregoing document was filed with the Clerk of Court via the CM/ECF system, causing it to be served electronically on all counsel of record.

/s/ Caleb Hayes-Deats
Caleb Hayes-Deats

Exhibit A



RE: Meet-and-Confer Request

From Caleb Hayes Deats <CHayes.Deats@lowellandassociates.com>

To Cohen, Jonathan <jcohen2@ftc.gov>; Carmen, Morgan (AGO) <Morgan.Carmen@mass.gov>; Dirks, Katherine (AGO) <katherine.dirks@mass.gov>; Slater, Allyson (AGO) <Allyson.Slater@mass.gov>; Cambier, Adam (AGO) <Adam.Cambier@mass.gov>; Stewart, Sarah Cummings <sarah.stewart@reedsmith.com>; Layne, Jeff <jlayne@reedsmith.com>; Schuyler Standley <sstandley@lowellandassociates.com>; Abbe David Lowell <adlowell@lowellandassociates.com>; Parker, Kristin B. <KParker@reedsmith.com>

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Jonathan,

I'm available at 3:30pm tomorrow, but I'm unclear on why there's any issue. Under FRAP 29(a) (2), a "state may file an amicus brief without the consent of the parties or leave of court." Is there a reason to believe district courts should be less receptive to amicus briefs from states? Even if there were an argument, why would it be in the interest of other states and the federal government to take that position?

Separately, if I understand the certificate of conference correctly, the amici states did confer, and Plaintiffs attempted to condition their consent on WPATH agreeing to an extension and extra pages for Plaintiffs. Putting aside that it's not appropriate to condition consent to amici's application on concessions from a party, WPATH has already offered to agree to extra pages for Plaintiffs' briefing and has worked cooperatively with Plaintiffs on extensions in the past. Tell us what Plaintiffs would like in terms of an extension, and we are happy to confer with our client and respond quickly.

Sincerely,
Caleb

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Subject: Meet-and-Confer Request

Counsel,

We ask to meet and confer with you regarding a motion (a) to strike the motion for leave to file an amicus, as a result of proposed amicus' failure to comply with meet-and-confer requirements, and (b) if the Court allows the proposed amicus filing, for additional time and pages necessary to respond to amicus as well as WPATH.

We are available on Friday at 2:00 PM, 3:30, or 5:00 Eastern.

Thanks,

Jonathan Cohen

Acting Deputy Director

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