

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**DYLAN BRANDT, by and through his mother,
Joanna Brandt, et al.,**

PLAINTIFFS,

v.

No. 4:21-CV-00450-JM

**LESLIE RUTLEDGE, in her official capacity as
the Arkansas Attorney General, et al.,**

DEFENDANTS.

**MOTION FOR EXTENSION OF TIME TO RESPOND TO
PRELIMINARY-INJUNCTION MOTION; AND TO SHORTEN PLAINTIFFS' TIME TO RESPOND**

Defendants respectfully request a ten-day extension of time to respond to Plaintiffs' motion for a preliminary injunction. Defendants' response is currently due June 29. If the Court grants a ten-day extension, it will be due July 9. Because of the time-sensitive nature of this requested extension, and because Plaintiffs have in an email to the Court already stated their position on this extension, Defendants additionally request that the Court order Plaintiffs to respond to this motion by 5:00 PM today.

The statute that Plaintiffs challenge, the SAFE Act, was passed by the Arkansas General Assembly on April 6, 2021. (*See* Compl., Dkt. No. 1 ¶ 1.) But Plaintiffs then waited nearly two months to file this lawsuit. (*See id.*) They then waited another 21 days to file their preliminary-injunction motion on June 15. (*See* Dkt. No. 11.) And they supported that motion with a 60-page brief and a dozen exhibits, including two declarations by proposed expert witnesses. (*See* Dkt. Nos. 11-1 through 11-12; Dkt No. 12.)

Since the filing of Plaintiffs' preliminary-injunction motion one week ago, Defendants' counsel have faced many other professional obligations making a short extension appropriate. On the day it was filed, last Tuesday, Defendants' counsel had a brief due in the U.S. Supreme

Court. The next day was Defendants' responsive-pleading deadline in this case, on which they filed a motion to dismiss. Last Thursday, Defendants' counsel filed an amicus brief in the U.S. Supreme Court on behalf of 23 States. And on Friday, Defendants' counsel filed a brief with a special master appointed by the U.S. Supreme Court in a case under the Court's original jurisdiction in which Arkansas leads a coalition of 30 States in a lawsuit against another State. Additionally, Defendants' counsel has supervisory responsibility for other emergency litigation pending in this District seeking a preliminary injunction blocking a law scheduled to become effective on July 28.

Plaintiffs' counsel would not consent to even a seven-day extension unless Defendants agreed not to enforce the SAFE Act—essentially granting Plaintiffs the precise relief they seek in their preliminary-injunction motion. Plaintiffs' only stated ground for opposing a short extension of the time for Defendants to respond is that the SAFE Act will likely take effect on July 28. But they have known since at least April 28 that July 28 is the likely effective date. *See Ark. Op. Att'y Gen. No. 2021-029 (May 20, 2021), 2021 WL 2186493.* Plaintiffs have offered no explanation for their delay in filing this lawsuit nor, once it was filed, their additional delay in seeking a preliminary injunction.

The proximity of the preliminary-injunction motion to the July 28 effective date is a situation entirely of Plaintiffs' own creation. Granting a ten-day extension would materially assist Defendants' preparation of a response to the preliminary-injunction motion, and it would allow this Court to have two-and-a-half weeks to consider the motion and Defendants' response.

For these reasons, Defendants respectfully request that the Court grant them a ten-day extension of time to file a response to Plaintiffs' preliminary-injunction motion, making that response due on July 9, and that the Court order Plaintiffs to respond to this motion by 5:00 PM today.

Dated: June 22, 2021

Respectfully submitted,

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