

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

BRIANNA BOE,	)	
<i>et al.</i> ,	)	
	)	
<i>Plaintiffs</i> ,	)	
	)	
and	)	
	)	
UNITED STATES OF AMERICA,	)	No. 2:22-cv-00184-LCB-CWB
	)	Hon. Liles C. Burke
<i>Plaintiff-Intervenor</i> ,	)	
	)	
v.	)	
	)	
STEVE MARSHALL, in his official	)	
capacity as Attorney General of the	)	
State of Alabama, <i>et al.</i> ,	)	
	)	
<i>Defendants</i> .	)	

**JOINT MOTION TO AMEND SCHEDULING ORDER**

Come now Plaintiffs Brianna Boe, individually and on behalf of her minor son, Michael Boe; Megan Poe, individually and on behalf of her minor daughter, Allison Poe; Kathy Noe, individually and on behalf of her minor son, Christopher Noe; Rachel Koe, M.D.; Rebecca Roe, individually and on behalf of her minor daughter, Melissa Roe; Heather Austin, Ph.D.; and Robert Moe, individually and on behalf of his minor daughter, April Moe; and Defendants Steve Marshall, in his official capacity as Attorney General of the State of Alabama; Daryl D. Bailey, in his official capacity as District Attorney for Montgomery County; C. Wilson

Baylock, in his official capacity as District Attorney for Cullman County; Jessica Ventiere, in her official capacity as District Attorney for Lee County; Tom Anderson, in his official capacity as District Attorney for the 12th Judicial Circuit; and Danny Carr, in his official capacity as District Attorney for Jefferson County (collectively, “the Parties”), and respectfully request that the deadlines for discovery cutoff and expert testimony set forth in this Court’s Third Amended Scheduling Order (Doc. 225) be extended for all parties as follows below. Plaintiff-Intervenor United States of America has indicated that it does not join in the motion but does not oppose it.

**Discovery Cutoff:** All discovery must be commenced in time to be completed by June 30, 2023.

**Expert Testimony:** Unless modified by court order for good cause shown, the names and anticipated subject matter of Defendants’ expert witnesses shall be disclosed by April 10, 2023. A complete report under Fed. R. Civ. P. 26(a)(2)(B) from any expert specially retained or employed by Defendants shall be due by May 19, 2023. Rebuttal expert opinions shall be due by June 16, 2023.

In support of this request, the Parties state as follows:

1. The parties have been diligently attempting to resolve discovery issues and produce records. Defendants requested Plaintiffs’ medical records on July 18, 2022. *See* Doc. 215. After months of meeting and conferring in an attempt to resolve

the parties' disagreement over the production of medical records, Defendants filed a motion to compel production of medical records on January 5, 2023. *Id.* The Court held a hearing on the motion on February 8 and entered an order compelling production of medical records on March 27. Doc. 260.

2. Defendants' expert reports are due April 10, 2023. As they noted during the status conference with the Court in January, as well as at the February 8 hearing (2/8/2023 Tr. 30), Defendants intend to ask their expert physicians to review the Plaintiffs' medical records and incorporate their conclusions into their expert reports. Additionally, Defendants have requested to depose the Plaintiff Parents *after* the medical records have been produced to avoid the need for a second-round of supplemental depositions to discuss the records. Defendants intend to provide the deposition transcripts to their expert physicians to review and, as appropriate, incorporate into their expert reports.

3. Plaintiffs anticipate producing the requested medical records by April 14. Plaintiffs also believe that depositions of the Parent Plaintiffs can be done by May 12.

4. Based on this anticipated schedule, the parties respectfully request that the Court amend the expert disclosure and discovery deadlines as proposed above.

5. Extension of the expert deadlines and discovery cutoff will not impact any other deadlines, including the July 14, 2023 dispositive motion deadline or the August 21, 2023 trial setting in this case.

WHEREFORE, PREMISES CONSIDERED, the Private Plaintiffs and Defendants respectfully jointly request that the Court amend the Third Amended Scheduling Order (Doc. 225), to allow the disclosure of experts and discovery consistent with the schedule suggested above. A proposed order is attached.

Dated: April 5, 2023

Respectfully submitted,

**FOR THE PRIVATE PLAINTIFFS:**

s/ Adam Reinke

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### **CERTIFICATE OF SERVICE**

I certify that I electronically filed this document using the Court's CM/ECF system on April 5, 2023, which will serve all counsel of record.

s/ A. Barrett Bowdre

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	)	
<i>Defendants</i> .	)	

**[PROPOSED] FOURTH AMENDED SCHEDULING ORDER**

For good cause shown under Federal Rule of Civil Procedure 16(b)(4), the Court AMENDS the Third Amended Scheduling Order (Doc. 225) as follows:

**Discovery Cutoff:** All discovery must be commenced in time to be completed by June 30, 2023.

**Expert Testimony:** Unless modified by court order for good cause shown, the names and anticipated subject matter of Defendants’ expert witnesses shall be disclosed by April 10, 2023. A complete report under Fed. R. Civ. P. 26(a)(2)(B)

from any expert specially retained or employed by Defendants shall be due by May 19, 2023. Rebuttal expert opinions shall be due by June 16, 2023. All other deadlines and requirements outlined in the Court's Third Amended Scheduling Order remain in effect.

DONE and ORDERED April \_\_\_\_, 2023.

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HON. LILES C. BURKE  
UNITED STATES DISTRICT JUDGE