

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

Brianna Boe, <i>et al.</i> ,)	
)	
<i>Plaintiffs</i> ,)	
)	
United States of America,)	
)	
<i>Intervenor Plaintiff</i> ,)	
)	
v.)	Civil Action No. 2:22-cv-184-LCB
)	
Hon. Steve Marshall, in his official)	
capacity as Attorney General,)	
of the State of Alabama, <i>et al.</i> ,)	
)	
<i>Defendants</i> .)	

DEFENDANTS’ MOTION FOR HEARING

Defendants respectfully ask the Court to set a hearing in this case as soon as is convenient for the Court. There are three time-sensitive matters that warrant the Court’s attention.

First, as the Court knows, this case is on a tight discovery track, with HHS to complete its discovery in response to Defendants’ requests for production by October 20, 2023. *See* Doc. 292 at 1. That deadline—or something quite close to it—must be met if Defendants’ experts are to have time to consider the production when writing their supplemental expert reports, which are due December 1, 2023. And Defendants need to meet that December 1 deadline for Plaintiffs to be able to file

their rebuttal expert reports by January 8, 2024—and so on for the rest of the schedule. Accordingly, Defendants seek a ruling on their pending motion to compel the designation of Admiral Rachel Levine as a document custodian at HHS. *See* Doc. 302 (Defendants’ motion), 307 (United States’s response), 309 (Defendants’ reply). Defendants believe a hearing on the matter would help facilitate a ruling before the discovery timeline gets off track.

Second, Defendants are similarly concerned about the notice filed by the United States informing the Court that “the full NIH document production cannot be completed by October 20, 2023,” and may not be fully produced until “December 15, 2023.” Doc. 315 at 3. While Defendants appreciate that the agreed-upon search terms returned more documents than HHS had expected and that some delay may result, Defendants are worried that the United States is devoting insufficient resources to the matter if it will take an *additional two months* to review 6,000 documents. If HHS’s projection is right, Defendants will not receive the completed production until two weeks *after* their supplemental expert reports are due, which will necessitate either the need to file further supplemental reports or an adjustment to the discovery schedule.

Third, Defendants have moved for a stay of this Court’s preliminary injunction, and that stay motion is fully briefed. *See* Doc. 313 (Defendants’ motion), Doc. 316 (Plaintiffs’ response), Doc. 317 (Defendants’ reply). That motion is also time-

sensitive because Defendants and the public are being irreparably harmed by not being able to enforce Alabama's presumptively valid law that protects children from risky, sterilizing drugs.

For these reasons, Defendants respectfully request a hearing to discuss these time-sensitive matters with the Court.

Date: October 5, 2023

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Respectfully submitted,

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CERTIFICATE OF SERVICE

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

s/ Edmund G. LaCour Jr.
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