

No. 23-10326

In the United States Court of Appeals for the Fifth Circuit

BRAIDWOOD MANAGEMENT, INCORPORATED; JOHN SCOTT KELLEY;
KELLEY ORTHODONTICS; ASHLEY MAXWELL; ZACH MAXWELL; JOEL
STARNES,

Plaintiffs-Appellees/Cross-Appellants,

v.

XAVIER BECERRA, SECRETARY, U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, IN HIS OFFICIAL CAPACITY AS SECRETARY OF
HEALTH AND HUMAN SERVICES; UNITED STATES OF AMERICA; JANET
YELLEN, SECRETARY, U.S. DEPARTMENT OF TREASURY, IN HER OFFICIAL
CAPACITY AS SECRETARY OF THE TREASURY; JULIE A. SU, ACTING
SECRETARY, U.S. DEPARTMENT OF LABOR, IN HER OFFICIAL CAPACITY
AS SECRETARY OF LABOR,

Defendants-Appellants/Cross-Appellees.

On Appeal from the United States District Court
for the Western District of Texas
Case No. 4:20-cv-00283-O

**JOINT REPORT ON POSSIBLE AGREEMENT OF THE PARTIES TO
TERMS OF A PARTIAL STAY PENDING APPEAL**

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The parties met and conferred immediately after oral argument on Tuesday, June 6, 2023, and discussed the framework of an agreement in which the plaintiffs would acquiesce to a partial stay of the district court's judgment pending appeal in exchange for the defendants' commitment not to seek penalties against the named plaintiffs for actions taken on the basis of Judge O'Connor's injunction and judgment, even if the judgment is later vacated or reversed on appeal. Although the agreement remains subject to approval, the parties hope to submit a stipulation along these lines to the Court by Tuesday, June 13, 2023.

Respectfully submitted.

/s/ Alisa B. Klein

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CERTIFICATE OF SERVICE

I certify that on June 9, 2023, this document was electronically filed with the clerk of the court for the U.S. Court of Appeals for the Fifth Circuit and served through CM/ECF upon:

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CERTIFICATE OF COMPLIANCE

with type-volume limitation, typeface requirements,
and type-style requirements

1. This brief complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 100 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).
2. This brief complies with the typeface and type-style requirements of Fed. R. App. P. 27(d)(1)(E), 32(a)(5), and Fed. R. App. P. 32(a)(6) because it uses Equity Text B 14-point type face throughout, and Equity Text B is a proportionally spaced typeface that includes serifs.

Dated: June 9, 2023

/s/ Jonathan F. Mitchell
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CERTIFICATE OF ELECTRONIC COMPLIANCE

Counsel also certifies that on June 9, 2023, this brief was transmitted to Mr. Lyle W. Cayce, Clerk of the United States Court of Appeals for the Fifth Circuit, through <http://www.pacer.gov>.

Counsel further certifies that: (1) required privacy redactions have been made, 5th Cir. R. 25.2.13; (2) the electronic submission is an exact copy of the paper document, 5th Cir. R. 25.2.1; and (3) the document has been scanned with the most recent version of VirusTotal and is free of viruses.

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