

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

DYLAN BRANDT, et al.,

PLAINTIFFS

v.

Case No. 4:21-CV-00450-JM

TIM GRIFFIN, et al.,

DEFENDANTS

**PLAINTIFFS' UNOPPOSED MOTION FOR EXTENSION OF TIME TO
FILE MOTION FOR ATTORNEYS' FEES AND COSTS**

Plaintiffs respectfully move this Court for the entry of an order extending the deadline to move for attorneys' fees and costs under Federal Rule of Civil Procedure 54 until 45 days after the later of either the final resolution of any appeals, or the expiration of the time to file any notice of appeal, in this case. Defendants do not oppose the requested relief.

In support of this Motion, Plaintiffs respectfully state as follows:

1. On May 25, 2021, Plaintiffs filed the Complaint for Injunctive and Declaratory Relief (ECF No. 1) in the above-captioned action, challenging Act 626, which banned gender-affirming medical care in Arkansas for transgender people under age 18. *See* Act 626, ARK. CODE ANN. § 20-9-1502. Plaintiffs sought relief under 42 U.S.C. § 1983 and requested reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988. (ECF No. 1 at pgs. 43–46.)

2. On June 15, 2021, Plaintiffs filed a Motion for a Preliminary Injunction (ECF No. 11). This Court issued a Preliminary Injunction on July 21, 2021, enjoining Defendants' enforcement of Act 626 during the pendency of the litigation. (ECF No. 59.)

3. On July 28, 2021, Plaintiffs filed their Unopposed Motion for an Extension of Time to File Motion for Attorneys' Fees and Costs (ECF No. 62), which requested an extension of the deadline to file a motion for attorneys' fees and costs until "45 days following the entry of a final judgment at the conclusion of this case." (*Id.*) This Court granted the motion on August 2, 2021. (ECF No. 63.)

4. On June 20, 2023, this Court entered Judgment in favor of Plaintiffs. (ECF No. 284.) Thus, pursuant to this Court's August 2, 2021 order, Plaintiffs' deadline to move for attorneys' fees and costs currently is August 4, 2023.

5. Under Federal Rule of Civil Procedure 54, "[u]nless a statute or court order provides otherwise," a motion for attorneys' fees and costs must "be filed no later than 14 days after the entry of judgment." Fed. R. Civ. P. 54(d)(2)(B)(i). District courts have "discretion to defer a ruling on [a] motion [for attorneys' fees and costs], or to dismiss the motion without prejudice and order a new deadline for filing." *Spirit Lake Tribe v. Jaeger*, 5 F.4th 849, 854 (8th Cir. 2021); *Paris Sch. Dist. v. Harter*, 894, F.3d 885, 890 (8th Cir. 2018) (party's "request for attorney fees for the district court litigation was ripe and would be due within fourteen days *unless*

the [district] court provided otherwise” (emphasis added)); *see also* Fed. R. Civ. P. 54 (Advisory Committee’s notes to 1993 amendment) (“If an appeal on the merits of the case is taken, the court may rule on the claim for fees, may defer its ruling on the motion, or may deny the motion without prejudice”); Fed. R. Civ. P. 6(b)(1)(A) (“When an act may or must be done within a specified time, the court may, for good cause, extend the time” on a party’s motion “before the original time or its extension expires[.]”).

6. Courts in this Circuit have granted requests to defer motions for attorneys’ fees and costs until after the resolution of any appeals. *See, e.g., Muhammad v. Mayfield*, 2019 WL 13181999, at *2 (E.D. Ark. Mar. 25, 2019) (staying briefing on motion for attorneys’ fees “until after the Eighth Circuit has ruled on defendants’ appeal” pursuant to the court’s power “to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants” (quoting *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936)); *Styczinski v. Arnold*, 2021 WL 6231441, at *1 (D. Minn. Sept. 23, 2021) (denying motion for attorneys’ fees and costs without prejudice “[i]n light of [p]laintiffs’ appeal on the merits, and in the interest of judicial efficiency” and instructing the plaintiffs to refile “no later than fourteen (14) days after entry of a mandate by the Court of Appeals”).

7. Plaintiffs intend to file a motion for statutory attorneys' fees and costs incurred in the above-captioned case. Plaintiffs respectfully submit that it would conserve resources and be more efficient for both the Court and the parties for Plaintiffs to file a motion for attorneys' fees at the conclusion of this case, following the final resolution of any appeals.

8. As noted above, Defendants do not oppose the requested relief.

9. Thus, Plaintiffs respectfully move this Court to exercise its discretion to extend the deadline for Plaintiffs to move for attorneys' fees and costs until 45 days after the later of either the final resolution of any appeals, or the expiration of the time to file any notice of appeal, in this case.

Dated: June 29, 2023

Respectfully submitted,

Leslie Cooper

Leslie Cooper
Chase Strangio*
James Esseks*
Li Nowlin-Sohl*
American Civil Liberties Union
Foundation
125 Broad St.
New York, NY 10004
Telephone: (917) 345-1742
lcooper@aclu.org
cstrangio@aclu.org
jesseks@aclu.org
lnowlin-sohl@aclu.org
Attorneys for the Plaintiffs

Beth Echols, Ark. Bar No. 2002203
Christopher Travis, Ark. Bar No. 97093
Drake Mann, Ark. Bar No. 87108
Gill Ragon Owen, P.A.
425 W. Capitol Avenue, Suite 3800
Little Rock, AR 72201
Telephone: (501) 376-3800
echols@gill-law.com
travis@gill-law.com
mann@gill-law.com
*On behalf of the Arkansas Civil Liberties
Union Foundation, Inc.
Attorneys for the Plaintiffs*

Brean Walas, Ark. Bar No. 2006077
Walas Law Firm, PLLC

Sarah Everett, Ark. Bar No. 2017249

711 W. 3rd St.
Little Rock, AR 72201
Telephone: (501) 246-1067
breean@walaslawfirm.com
*On behalf of the Arkansas Civil
Liberties Union Foundation, Inc.
Attorney for the Plaintiffs*

Arkansas Civil Liberties Union
Foundation, Inc.
904 W. 2nd Street
Little Rock, AR 72201
Telephone: (501) 374-2842
sarah@acluarkansas.org
Attorney for the Plaintiffs

Garrard R. Beeney*
Lauren M. Goldsmith*
Alexander S. Holland*
Maxime D. Matthew*
Jonathan G. Lester*
Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Telephone: (212) 558-4000
beeneyg@sullcrom.com
goldsmithl@sullcrom.com
holland@a@sullcrom.com
matthewm@sullcrom.com
lesterj@sullcrom.com
Attorneys for the Plaintiffs

Laura Kabler Oswell*
Aviv S. Halpern*
Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, CA 94303
Telephone: (650) 461-5600
oswelll@sullcrom.com
halperna@sullcrom.com
Attorneys for the Plaintiffs

**Admitted pro hac vice*

Daniel J. Richardson*
Sullivan & Cromwell LLP
1700 New York Avenue, NW
Suite 700
Washington, DC 20006
Telephone: (202) 956-7500
richardsond@sullcrom.com
Attorney for Plaintiffs