UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

Brianna Boe, et al.,)
Plaintiffs,)
and)
United States of America,)
Plaintiff-Intervenor,)
V.) No. 2:22-cv-00184-LCB-CWB
Hon. Steve Marshall, in his official capacity as Attorney General of the)))
State of Alabama, et al.,	
Defendants.	,)

PLAINTIFF-INTERVENOR UNITED STATES OF AMERICA'S RENEWED MOTION TO STAY ALL DISTRICT COURT PROCEEDINGS

Plaintiff-Intervenor the United States of America respectfully renews its motion to stay all district court proceedings. On June 24, 2024, the United States Supreme Court granted certiorari in *United States v. Skrmetti*, No. 23-477. On December 4, 2023, the United States initially moved to stay all district court proceedings in light of the pending petition for certiorari. ECF No. 387. The Court denied the United States' motion to stay without prejudice and suggested that if the Supreme Court should grant certiorari in *Skrmetti*, the Court would reconsider the United States' request for a stay. ECF No. 399. Now that the Supreme Court has done so, a stay is warranted.

The United States' petition for certiorari in *Skrmetti* expressly raises the question of the appropriate standard of review to be applied in cases challenging state bans on gender-affirming care for transgender minors. Pet. for Writ of Cert. at 16, *United States v. Skrmetti*, No. 23-477 (U.S. Nov. 6, 2023). Thus, it is no longer speculative that the Supreme Court will take up the question of the appropriate

¹ Private Plaintiffs have indicated they do not oppose the renewed motion. Defendants oppose.

² U.S. Sup. Ct., Order List (June 24, 2024), <u>Order List (06/24/2024) (supremecourt.gov)</u>.

³ The United States also filed a brief in support of Private Plaintiffs' motion to stay dispositive motion and trial-related deadlines. ECF No. 526. On May 24, 2024, the Court denied that motion, noting at the time that any change in the standard of review remained speculative. ECF No. 553.

standard of review to be applied in this case, and the question will be settled no later than a year from now.⁴

This Court has broad power to control its own docket and grant a stay.

Clinton v. Jones, 520 U.S. 681, 706 (1997); Southpoint Condo. Ass'n, Inc. v.

Lexington Ins. Co., No. 19-cv-61365-BLOOM/Valle, 2020 WL 888025, at *1

(S.D. Fla. Feb. 24, 2020) (citing Am. Mfrs. Mut. Ins. Co. v. Edward D. Stone, Jr. & Assocs., 743 F.2d 1519, 1525 (11th Cir. 1984)). The United States seeks a stay to avoid the prospect of re-litigation of the claims in this case in light of the Supreme Court's decision and the resulting unnecessary expenditure of judicial resources.

Accordingly, the United States respectfully renews its motion to stay all district court proceedings until the Supreme Court rules on the appropriate standard of review. This would include a stay of all pending deadlines related to the case, including responses to Defendants' pending motion for summary judgment, responses to *Daubert* motions, final lists of trial witnesses and exhibits and objections thereto, and trial.⁵

Dated: June 24, 2024 Respectfully submitted,

JONATHAN S. ROSS

Acting United States Attorney

Middle District of Alabama

KRISTEN CLARKE

Assistant Attorney General

Civil Rights Division

⁴ The Supreme Court is expected to hear arguments in *Skrmetti* this fall, with a decision likely by late June or early July 2025. Amy Howe, *Supreme Court takes up challenge to ban on gender-affirming care*, SCOTUSblog (June 24, 2024), https://www.scotusblog.com/2024/06/supreme-court-takes-up-challenge-to-ban-on-gender-affirming-care/.

⁵ The United States does not propose to stay any deadlines related to the ongoing ethics inquiry.

PRIM F. ESCALONA
United States Attorney
Northern District of Alabama

JASON R. CHEEK Chief, Civil Division

MARGARET L. MARSHALL Assistant U.S. Attorney U.S. Attorney's Office Northern District of Alabama 1801 Fourth Avenue North Birmingham, AL 35203 Tel.: (205) 244-2104 Margaret.Marshall@usdoj.gov

STEPHEN D. WADSWORTH Assistant United States Attorney U.S. Attorney's Office Middle District of Alabama Post Office Box 197 Montgomery, AL 36101-0197 Tel.: (334) 223-7280 Stephen.Wadsworth@usdoj.gov CHRISTINE STONEMAN
Chief, Federal Coordination and Compliance
Section

/s/ Coty Montag
COTY MONTAG (DC Bar No. 498357)
Deputy Chief, Federal Coordination and
Compliance Section

RENEE WILLIAMS (CA Bar No. 284855)
KAITLIN TOYAMA (CA Bar No. 318993)
Trial Attorneys
United States Department of Justice
Civil Rights Division
Federal Coordination and Compliance Section
950 Pennsylvania Avenue NW – 4CON
Washington, DC 20530
Tel.: (202) 305-2222
Renee.Williams3@usdoj.gov
Kaitlin.Toyama@usdoj.gov

JAMES V. FLETCHER (MD Bar No. 1412160273)
Trial Attorney
United States Department of Justice
Civil Rights Division
Disability Rights Section
950 Pennsylvania Avenue NW – 4CON
Washington, DC 20530
Tel. (202) 598-0083
James.Fletcher@usdoj.gov

Attorneys for Plaintiff-Intervenor United States of America

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record.

Respectfully submitted,

/s/ Coty Montag
Deputy Chief, Federal Coordination
and Compliance Section
Civil Rights Division
U.S. Department of Justice