

No. 23-30445

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

State of Missouri; State of Louisiana; Aaron Kheriaty; Martin Kulldorff; Jim Hoft;
Jayanta Bhattacharya; Jill Hines,

Plaintiffs-Appellees,

v.

Joseph R. Biden, Jr.; Vivek H. Murthy; Xavier Becerra; Department of Health &
Human Services; Anthony Fauci; Et al.,

Defendants-Appellants.

On Appeal from the United States District Court
for the Western District of Louisiana

**PLAINTIFFS-APPELLEES' CONSENT MOTION
TO ENLARGE TIME FOR ORAL ARGUMENT**

CERTIFICATE OF INTERESTED PERSONS

No. 23-30445 – *Missouri, et al., v. Biden, et al.*

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the Judges of this Court may evaluate possible disqualification or recusal.

Plaintiffs Dr. Jayanta Bhattacharya, Dr. Martin Kulldorff, Dr. Aaron Kheriaty, Ms. Jill Hines, Mr. Jim Hoft

Mr. John Vecchione – New Civil Liberties Alliance (Counsel for Plaintiffs Bhattacharya, Kulldorff, Kheriaty, and Hines)

New Civil Liberties Alliance, 1225 19th St. N.W., Suite 450, Washington, DC 20036

Mr. John Burns – Burns Law Firm (Counsel for Plaintiff Hoft)

Burns Law Firm, P.O. Box 191250, St. Louis, MO 63119

/s/ D. John Sauer

D. John Sauer

Counsel for State of Louisiana

**PLAINTIFFS-APPELLEES' CONSENT MOTION
TO ENLARGE TIME FOR ORAL ARGUMENT**

Plaintiffs-Appellees respectfully request that this Court enlarge the time for oral argument in this case from 20 minutes per side to 30 minutes per side. Plaintiffs-Appellees have consulted with Defendants-Appellants, and Defendants-Appellants consent to the relief requested herein.

This case involves issues of unique complexity and importance. Plaintiffs-Appellees contend that dozens of federal officials have insinuated themselves into the content-moderation policies and decisions of major social-media platforms through campaigns of coercion, pressure, collusion, and deceit, all for the purpose of suppressing disfavored speakers and viewpoints. The court below concluded that “the present case arguably involves the most massive attack against free speech in United States’ history.” D.Ct. Doc. 293, at 2. The district court made that determination in a 155-page opinion that includes 82 pages of factual findings supported by 577 citations of the record evidence, which was drawn from roughly 20,000 pages of documents reflecting communications between federal officials and social-media platforms, and six full-length depositions of federal officials with personal knowledge of relevant facts. *Id.* at 4-86. As a reflection of the case’s complexity, in analyzing the evidence for the district court, Plaintiffs submitted 360 pages containing 1,442 paragraphs of Proposed Findings of Fact, citing voluminous

evidence, D.Ct. Doc. 214-1; and Defendants responded with a 717-page response. D.Ct. Doc. 266-8.

Appropriately, this case is being briefed and argued on a highly expedited schedule. After appealing the District Court's Preliminary Injunction Order, Defendants-Appellants filed an emergency motion for a stay pending appeal. Doc. 11. On July 14, 2023, this Court entered a temporary administrative stay and expedited the appeal. Doc. 34-2. Oral Arguments were subsequently scheduled for August 10, 2023. Doc. 37. The case thus presents complex and important issues for the Court's consideration, all within a highly expedited manner. Considering these unique and extraordinary circumstances, Plaintiffs respectfully request that the Court expand the time for oral argument from 20 minutes per side to 30 minutes per side. Defendants-Appellants have consented to this request.

CONCLUSION

For the reasons stated, Plaintiffs-Appellees respectfully request that this Court enlarge the time for oral argument in this case from 20 minutes per side to 30 minutes per side.

Dated: July 28, 2023

ANDREW BAILEY
Attorney General of Missouri
/s/ Joshua M. Divine
Joshua M. Divine
Solicitor General
Todd A. Scott
Senior Counsel
Missouri Attorney General's Office
Post Office Box 899
Jefferson City, MO 65102
(573) 751-8870
josh.divine@ago.mo.gov
Counsel for State of Missouri

/s/ John J. Vecchione
John J. Vecchione
New Civil Liberties Alliance
1225 19th Street N.W., Suite 450
Washington, DC 20036
(202) 918-6905
john.vecchione@ncla.legal
*Counsel for Plaintiffs Dr. Jayanta
Bhattacharya, Dr. Martin
Kulldorff, Dr. Aaron Kheriaty,
and Jill Hines*

Respectfully Submitted,

JEFFREY M. LANDRY
Attorney General of Louisiana
/s/ D. John Sauer
Elizabeth B. Murrill
Solicitor General
Tracy Short
Assistant Attorney General
D. John Sauer
Special Assistant Attorney General
Louisiana Department of Justice
1885 N. Third Street
Baton Rouge, LA 70802
(225) 326-6766
murrille@ag.louisiana.gov
Counsel for State of Louisiana

/s/ John C. Burns
John C. Burns
Burns Law Firm
P.O. Box 191250
St. Louis, MO 63119
(314) 329-5040
john@burns-law-firm.com
Counsel for Plaintiff Jim Hoft

CERTIFICATE OF SERVICE

I hereby certify that, on July 28, 2023, I caused a true and correct copy of the foregoing to be filed by the Court's electronic filing system, to be served by operation of the Court's electronic filing system on counsel for all parties who have entered in the case.

/s/ D. John Sauer

CERTIFICATE OF COMPLIANCE

This document complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 364 words, excluding those portions pursuant to Federal Rule of Appellate Procedure 32(f), according to the word-counting feature of Microsoft Word.

This document complies with the typeface requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5) and the type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(6) because it was prepared in a proportionally spaced typeface in Microsoft Word utilizing 14-point Times New Roman font.

/s/ D. John Sauer