

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

_____)	
UNITED STATES OF AMERICA)	
)	
v.)	Criminal Action No. 1:23-cr-00061-MN
)	
ROBERT HUNTER BIDEN,)	
)	
Defendant.)	
_____)	

STATUS REPORT

Defendant Robert Hunter Biden files this Status Report to bring to the Court’s attention the status of the case filed against him in California and its overlap with issues pending in this matter:

1. Pursuant to this Court’s Order on October 19, 2023 (DE 57), Mr. Biden filed his motions to dismiss the indictment on December 11, 2023; the prosecution filed its oppositions on January 16, 2024; and, Mr. Biden filed his replies on January 30, 2024. The motions are now fully briefed.

2. No other dates are presently scheduled in this case.

3. The Court is aware that on December 8, 2023, the prosecution filed separate charges against Mr. Biden in the Central District of California. *United States v. Robert Hunter Biden*, Case No. 2:23-cr-00599-MCS. On January 11, 2024, the Judge in California issued a scheduling order (Minutes at DE 17) requiring Mr. Biden’s pretrial motions by February 20, 2024; opposition briefs by March 11, 2024; any reply briefs by March 18, 2024; a hearing date for pretrial motions of March 27, 2024; and, an anticipated date for deciding pretrial motions of April 17, 2024. Should the case continue, a tentative trial date is scheduled for June 20, 2024.

4. On February 8, 2024, Mr. Biden requested that only those pretrial motions unique to the California case be filed to promote judicial economy, conserve party resources, and avoid duplicative or different rulings. (Ex Parte Application for an Order to Modify Pretrial Motions Deadline, DE 21 (*citing Heieck v. Federal Signal Corp.*, 2019 WL 1883895, at *2 (C.D. Cal., Mar. 11, 2019) (“[W]hen cases between the same parties raising the same issues are pending in two or more federal districts, the forum of the first-filed action should generally be favored”)).)¹

5. On Friday February 9, the Court in California denied that request. (DE 22.) However, at the initial appearance on January 11, 2024, the Judge in California specifically recognized the issues resulting from two different cases in two different jurisdictions having motions that would overlap and stated: “So what I’m going to do is, I’ll go ahead and issue an order with [scheduling deadlines]. That will hopefully prevent conflict with Delaware, because this order will be in place and the Court in Delaware will likely be aware of it.” (1/11/2024 Tr. at 17:6-10).

6. This Court already may be aware of the California Court’s schedule and statement to “prevent conflict with Delaware.” On the chance that is not the case, Mr. Biden hereby files this Status Report and is available for a status conference or any other proceeding the Court would deem appropriate.

¹ The Third Circuit also applies the “first-filed rule” in cases with federal concurrent jurisdiction, which counsels deference to the suit that was filed first, when two lawsuits involving similar issues and parties are pending in separate federal district courts. *See Honeywell Int’l, Inc. v. Int’l Union*, 502 F. Appx. 201, 205 (3d Cir. 2012); *EEOC v. Univ. of Pa.*, 850 F.2d 969, 971 (3d Cir. 1988). The “first-filed” rule in the civil context is analogous here given the unique and rare situation in which two different criminal cases, with the same motions and same parties, are simultaneously pending in parallel court proceedings.

Dated: February 12, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February, 2024, I filed the foregoing Status Report with the Clerk of Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ Abbe David Lowell
Abbe David Lowell

Counsel for Robert Hunter Biden