

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

STATE OF FLORIDA,

Plaintiff,

v.

XAVIER BECERRA, Secretary of the
Dep't of Health and Human Services,
et al.,

Defendants.

Case No. 8:21-cv-839-SDM-AAS

**DEFENDANTS' SECOND MOTION TO EXTEND TIME
TO RESPOND TO THE COMPLAINT**

Defendants, Xavier Becerra, Secretary of Health and Human Services ("HHS"); HHS; Rochelle Walensky, director of the Centers for Disease Control and Prevention ("CDC"); the CDC; and the United States America, by and through undersigned counsel, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, respectfully request an approximately 30-day extension of time, until August 2, 2021, to answer or otherwise respond to Plaintiff's Complaint. Undersigned counsel has conferred with Plaintiff's counsel, who does not consent to the full relief requested, as set forth in the certification below. In support of this motion, Defendants submit the following:

1. On April 8, 2021, Plaintiff filed a Complaint against Defendants seeking judicial review of a CDC order issued on October 31, 2020. ECF No. 1. The

United States attorney was served on April 13, 2021. The original deadline for Defendants to respond to the Complaint was June 14, 2021.

2. Defendants previously moved to extend that deadline for two weeks, in consideration of the time spent on the intervening litigation over the motion for a preliminary injunction and motions for intervention, as well as time spent in mediation. *See* ECF No. 73. On June 8, 2021, the Court granted that motion, such that Defendants have until July 1, 2021 to respond to the Complaint. ECF No. 81.
3. On June 18, 2021, the Court entered an order on the motion for a preliminary injunction. ECF No. 91. The 124-page order finds that Plaintiff has a likelihood of success on several of its claims and otherwise meets the standard for a preliminary injunction. Staying the injunction for one month, the Court enjoined the Defendants “from enforcing against a cruise ship arriving in, within, or departing from a port in Florida the conditional sailing order” and “later measures (technical guidelines, manuals, and the like).” The Court also invited Defendants to file a motion by July 2, 2021, for a “narrower injunction both permitting cruise ships to sail timely and remaining within CDC’s authority as interpreted” by the Court. Moreover, the Court ordered the parties to return to mediation before Magistrate Judge Porcelli.
4. Defendants are still reviewing the Order, including consideration of whether to seek a narrower injunction as proposed by the Court, appellate review, or other relief, as well as any other options that may be available. Defendants

must also address any demands of additional mediation at a time and place as may be imminently ordered by Judge Porcelli. Each of these options consumes time of counsel and Defendants that would otherwise be spent on a response to the Complaint.

5. Any response to the Complaint will need to take into account the Court's lengthy preliminary-injunction order, which addresses several novel issues and may inform the course of any further briefing. And Defendants must first decide how to address the immediate deadlines related to the Court's order, including the July 2 deadline to propose any narrowed injunction, as well as any intervening mediation activity, amid the ongoing threat to public health. The shorter, two-week extension proposed by Plaintiff's counsel does not provide sufficient time for all of the other deadlines to be met, as well as completion of a response to the Complaint.

THEREFORE, Defendants respectfully request that the Court extend the time to file an answer or otherwise respond to the Complaint until August 2, 2021.

Local Rule 3.01(g) Certification

Undersigned counsel conferred with counsel for the State of Florida by email on June 23 and 24, 2021. Plaintiff's counsel indicated that Florida consents to a two week extension, but is unwilling to consent to a longer extension until it has a clearer picture of Defendants' plans regarding the preliminary injunction.

Dated: June 24, 2021

Respectfully submitted,

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