

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION**

STATE OF MISSOURI ET AL

CASE NO. 3:22-CV-01213

VERSUS

JUDGE TERRY A. DOUGHTY

JOSEPH R BIDEN JR ET AL

MAG. JUDGE KAYLA D. MCCLUSKY

MEMORANDUM ORDER

Pending before the Court is a Motion to Adjourn Deposition of Jennifer R. Psaki (“Psaki”) [Doc. No. 124] (“Motion to Adjourn”) filed by Federal Defendants.¹ An Opposition [Doc. No. 131] was filed by Plaintiffs.² A Reply [Doc. No. 132] was filed by Federal Defendants on November 28, 2022.

For the reasons set forth herein, the Motion to Adjourn is **DENIED**.

I. BACKGROUND

On May 5, 2022, Plaintiffs filed a Complaint against Federal Defendants, which alleged Federal Defendants have colluded with and/or coerced social media companies to suppress disfavored speakers, viewpoints, and content on social media platforms by labeling the content “dis-information,” “mis-information,” and “mal-information.” On June 14, 2022, Plaintiffs filed a Motion for Preliminary Injunction and on June 17, 2022, Plaintiffs filed a Motion to Expedite Preliminary-Injunction Related Discovery.

¹ Federal Defendants consist of Joseph R. Biden, Jr., Vivek H. Murthy, Xavier Becerra, Department of Health and Human Services, Dr. Anthony Fauci, National Institute of Allergy and Infectious Diseases, Centers for Disease Control & Prevention, Alejandro Mayorkas, Department of Homeland Security, Jen Easterly, Cybersecurity & Infrastructure Security Agency, and Nina Jankowicz, Karine Jean-Pierre, Carol Y. Crawford, Jennifer Shopkorn, U.S. Census Bureau, U. S. Department of Commerce, Robert Silvers, Samantha Vinograd and Gina McCarthy.

² Plaintiffs consist of the State of Missouri, the State of Louisiana, Dr. Aaron Kheriaty, Dr. Martin Kulldorff, Jim Hoft, Dr. Jayanta Bhattacharya, and Jill Hines

On July 12, 2022, the Court granted Plaintiffs expedited preliminary-injunction related discovery and set an expedited schedule. Pursuant to that schedule, on October 14, 2022, Plaintiffs sought to be allowed to take ten depositions for the expedited preliminary-injunction related discovery. On October 21, 2022, the Court authorized Plaintiffs to take eight depositions. One of the depositions authorized was that of Psaki.

Psaki, along with Federal Defendants, filed a Motion to Quash in the Eastern District of Virginia, Alexandria Division on November 3, 2022. After expedited briefing, on November 18, 2022, a hearing was held before Magistrate Judge Ivan D. Davis. After the hearing, Judge Davis transferred the Motion to Quash to this Court pursuant to FED. R. CIV. P. 45(f). Judge Davis also denied Psaki and Federal Defendants' Oral Motion/Request for Stay.

On the evening of November 18, 2022, Federal Defendants filed a Notice of the transferred Motion to Quash³. On November 21, 2022, this Court denied Psaki's Motion to Quash.⁴ On November 22, 2022, Federal Defendants filed the pending Motion to Adjourn, asking the Court to adjourn the deposition of former White House Press Secretary Psaki until this Court is able to consider the ground for such a deposition in light of an order from the United States Court of Appeals for the Fifth Circuit ("Fifth Circuit") ruling.⁵

II. ANALYSIS

On November 21, 2022,⁶ in the matter of *In Re Vivek H. Murthy, et al*, Fifth Circuit No. 22-30697, pursuant to a writ of mandamus, the Fifth Circuit stayed the deposition of Vivek H. Murthy ("Murthy"), Jen Easterly ("Easterly"), and Rob Flaherty ("Flaherty"). The Fifth Circuit required this Court to consider (prior to the taking of the depositions) whether the information

³ [Doc. No. 119]

⁴ [Doc. No. 120]

⁵ [Doc. No. 121]

⁶ [Id]

sought could be obtained from alternative sources. The Fifth Circuit also required this Court to evaluate the prudence of ruling on the Government's Motion to Dismiss⁷ prior to taking the depositions.

On November 22, 2022,⁸ this Court set a briefing schedule on these issues with the final brief to be filed on December 5, 2022. Psaki's deposition is currently scheduled for December 8, 2022.⁹

Although the Fifth Circuit's ruling does not directly involve Psaki, this Court must undoubtedly evaluate the need for Psaki's deposition in the same manner as the depositions of Murthy, Easterly, and Flaherty.¹⁰ Because this Court previously set a briefing schedule¹¹ to address these issues, there is no need to adjourn Psaki's deposition until after the Court has evaluated whether the information sought from Psaki could be obtained from alternative sources and evaluated on the prudence of ruling on Federal Defendant's Motion to Dismiss prior to the taking of Psaki's deposition. However, a short delay in the scheduling of Psaki's deposition may be needed.

For the reasons set forth herein, Federal Defendants' Motion to Adjourn [Doc. No. 124] is **DENIED**. The previous Order¹² extending the deadline for completion of expedited discovery depositions is extended from December 9, 2022, until December 30, 2022. In the event Federal Defendants move to reschedule Psaki's December 8, 2022, deposition, it should provide alternative dates to Plaintiffs for Psaki's deposition during the weeks of December 12, December 19, and December 26, 2022.

⁷ [Doc. No. 128]

⁸ [Doc. No. 127]

⁹ [Doc. No. 131, p. 1]

¹⁰ Psaki is a former White House Press Secretary

¹¹ [Doc. No. 127], this Court intends to rule shortly after the issues are briefed.

¹² [Doc. No. 99]

III. CONCLUSION

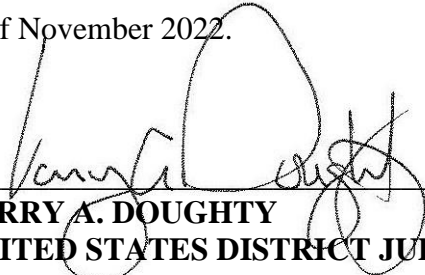
For the reasons set forth herein,

IT IS ORDERED that Federal Defendants' Motion to Adjourn [Doc. No. 124] is **DENIED**.

IT IS FURTHER ORDERED that the previous Order [Doc. No. 99] extending the deadlines for completion of expedited discovery depositions is extended from December 9, 2022, until December 30, 2022.

IT IS FURTHER ORDERED that in the event Federal Defendants move to reschedule Psaki's December 8, 2022, deposition, Federal Defendants shall provide alternative dates to Plaintiffs for Psaki's deposition during the weeks of December 12, December 19, and December 26, 2022.

MONROE, LOUISIANA, this 29th day of November 2022.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE