United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

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February 09, 2022

Ms. Sarah Wendy Carroll
U.S. Department of Justice
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950 Pennsylvania Avenue, N.W.
Room 7511
Washington, DC 20530

Mr. James Garland Gillingham
U.S. Attorney's Office
Eastern District of Texas
110 N. College Street
Suite 700
Tyler, TX 75702

Mr. R. Trent McCotter
Boyden Gray & Associates
801 17th Street, N.W.
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Washington, DC 20006

Mr. Casen Ross
U.S. Department of Justice
Civil Division, Appellate Section
950 Pennsylvania Avenue, N.W.
Roon 7270
Washington, DC 20530

No. 22-40043 Feds for Medical Freedom v. Biden
USDC No. 3:21-CV-356

Dear Ms. Carroll, Mr. Gillingham, Mr. McCotter, Mr. Ross,

In light of the court order of 2/9/2022, please adhere to the following expedited briefing schedule.

- Appellants brief is due on 03/02/2022
- Appellees brief is due on 03/16/2022
- Appellants reply brief is due on 03/23/2022

Record Excerpts: 5TH CIR. R. 30.1.7(c) provides that the electronic PDF version of the record excerpts should contain pages representing the "tabs" identified in the index of the document. However, we remind attorneys that the actual paper copies of record excerpts filed with the court must contain actual physical tabs that extend beyond the edge of the document, to facilitate easy identification and review of tabbed documents.

Brief Covers: THE CASE CAPTION(S) ON BRIEF COVERS MUST BE EXACTLY THE SAME AS THE CASE CAPTION(S) ON THE ENCLOSED TITLE CAPTION SHEET(S). YOU WILL HAVE TO CORRECT ANY MODIFICATIONS YOU MAKE TO THE CAPTION(S) BEFORE WE SUBMIT YOUR BRIEF TO THE COURT.

Dismissal of Appeals: The clerk may dismiss appeals without notice if you do not file a brief on time, or otherwise fail to comply with the rules.

Appearance Form: If you have not electronically filed a "Form for Appearance of Counsel," you must do so within 14 days of this date. You must name each party you represent, See FED. R. APP. P. and 5TH CIR. R. 12. The form is available from the Fifth Circuit's website, www.ca5.uscourts.gov.

ATTENTION ATTORNEYS: Direct access to the electronic record on appeal (EROA) for pending appeals will be enabled by the U S District Court on a per case basis. Counsel can expect to receive notice once access to the EROA is available. Counsel must be approved for electronic filing and must be listed in the case as attorney of record before access will be authorized. Instructions for accessing and downloading the EROA can be found on our website at http://www.ca5.uscourts.gov/docs/default-source/forms/instructions-for-electronic-record-download-feature-of-cm. Additionally, a link to the instructions will be included in the notice you receive from the district court.

Sealed documents, except for the presentence investigation report in criminal appeals, will not be included in the EROA. Access to sealed documents will continue to be provided by the district court only upon the filing and granting of a motion to view same in this court.

Guidance Regarding Citations in Pleadings.

5TH CIR. R. 28.2.2 grants the Clerk the authority to create a standard format for citation to the electronic record on appeal. You must use the proper citation format when citing to the electronic record on appeal.

A. In single record cases, use the short citation form, "ROA" followed by a period, followed by the page number. For example, "ROA.123."

B. For multiple record cases, cite "ROA" followed by a period, followed by the Fifth Circuit appellate case number of the record referenced, followed by a period, followed by the page of the record. For example, "ROA.13-12345.123.".

C. Please note each individual citation must end using a termination of a period (.) or semicolon (;).

Brief Template: The clerk's office offers brief templates and the ability to check the brief for potential deficiencies prior to docketing to assist in the preparation of the brief. To access these options, log in to CM/ECF and from the Utilities menu, select 'Brief Template' (Counsel Only) or 'PDF Check Document'.

Reminder as to Sealing Documents on Appeal: Our court has a strong presumption of public access to our court's records, and the court scrutinizes any request by a party to seal pleadings, record excerpts, or other documents on our court docket. Counsel moving to seal matters must explain in particularity the necessity for sealing in our court. Counsel do not satisfy this burden by simply stating that the originating court sealed the matter, as the circumstances that justified sealing in the originating court may have changed or may not apply in an appellate proceeding. It is the obligation of counsel to justify a request to file under seal, just as it is their obligation to notify the court whenever sealing is no longer necessary. An unopposed motion to seal does not obviate a counsel's obligation to justify the motion to seal.

P.S. This expedited briefing schedule is subject to change.

Sincerely,

LYLE W. CAYCE, Clerk

Laney Lampard

By: _____
Laney L. Lampard, Deputy Clerk
504-310-7652

Enclosure(s)

cc w/encl:
Mr. Gene Patrick Hamilton
Mr. Jordan E. Pratt

Case No. 22-40043

Feds for Medical Freedom; Local 918, American Federation of Government Employees; Highland Engineering, Incorporated; Raymond A. Beebe, Jr.; John Armbrust; et al,

Plaintiffs - Appellees

v.

Joseph R. Biden, Jr., in his official capacity as President of the United States; The United States of America; Pete Buttigieg, in his official capacity as Secretary of Transportation; Department of Transportation; Janet Yellen, in her official capacity as Secretary of Treasury; et al,

Defendants - Appellants