IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

STATE OF TEXAS; STATE OF MISSISSIPPI; STATE OF LOUISIANA,

Plaintiffs-Appellees,

v.

JANET YELLEN, in her official capacity as Secretary of the Treasury; RICHARD K. DELMAR, in his official capacity as Acting Inspector General of the Department of the Treasury; UNITED STATES DEPARTMENT OF THE TREASURY; UNITED STATES OF AMERICA,

Defendants-Appellants.

No. 22-10560

UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO FILE OPENING BRIEF

The federal government respectfully requests a 30-day extension, to and including August 24, 2022, of the deadline for its opening brief. There is good cause for the requested extension, and plaintiffs do not oppose it.

1. This is a challenge to a provision of the American Rescue Plan Act, which provided nearly $200 billion in new federal grants to help States "mitigate the fiscal effects" of the Covid-19 pandemic. 42 U.S.C. § 802(a)(1). The Act affords States considerable latitude to determine how best to use the allocated funds for pandemic-related purposes but provides that they may not use the funds "to either directly or indirectly offset a reduction in the[ir] net tax revenue … resulting from" certain changes to state

law. *Id.* § 802(c)(2)(A). The district court held that provision unconstitutional and enjoined its enforcement against plaintiffs.

2. Daniel Winik has principal responsibility for preparing the government's brief. Mr. Winik also has principal responsibility for preparing the government's en banc brief in *Feds for Medical Freedom v. Biden* (5th Cir. No. 22-40043, due July 27), for presenting oral argument in *Kentucky v. Yellen* (6th Cir. No. 21-6108, set for July 21) and *Center for Food Safety v. Vilsack* (9th Cir. No. 21-15883, set for July 27), and for various internal matters.

3. Alisa B. Klein, who has principal supervisory responsibility in this case, is also responsible for supervising upcoming filings in *Restaurant Law Center v. Department of Labor* (5th Cir. No. 22-50145, response brief due July 8); *United Therapeutics Corp. v. Johnson* (D.C. Cir. No. 21-5304, reply brief due July 27); *Wall v. CDC* (11th Cir. No. 22-11532, response brief due July 27); and *Livingston Educational Service Agency v. Becerra* (6th Cir. No. 22-1257, response brief due August 1), and for various internal matters.

4. As noted above, plaintiffs do not oppose the requested extension.

Respectfully submitted,

MARK B. STERN
ALISA B. KLEIN

/s/ Daniel Winik
DANIEL WINIK
Attorneys, Appellate Staff
Civil Division, Room 7245
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530
(202) 305-8849

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify that this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 305 words, according to Microsoft Word.

/s/ Daniel Winik
Daniel Winik