

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i>)	
)	
)	
Plaintiffs,)	
)	No. 1:14-cv-254
v.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i>)	
)	
Defendants.)	
)	

JOINT MOTION TO STAY MERITS PROCEEDINGS

Pursuant to this Court's October 6, 2016, Order, the parties have met and conferred and have reached agreement on how to proceed in this case. For the reasons stated below, the parties jointly move to stay proceedings on the merits of Plaintiffs' claims, including the obligation to propose a schedule for resolution of the case, until February 20, 2017. The basis for this motion is as follows:

1. This Court previously stayed the merits of this litigation, including the obligation to propose a schedule to resolve the merits of this action, pending Fifth Circuit and Supreme Court proceedings so that the Court and the parties could benefit by knowing the disposition of any appeal. *See* ECF Nos. 164, 200, 271, 320, 364, 422; Minute Entry (Aug. 31, 2016).

2. This case is at a unique juncture in which a preliminary injunction has been fully litigated to the Supreme Court and the case has now returned to this Court. Given the change in Administration, the parties jointly submit that a brief stay of any further litigation in this Court before beginning any further proceedings would serve judicial efficiency and economy so that the parties have a better understanding of how they might choose to move forward. In the

meantime, this Court's preliminary injunction of February 16, 2015, would remain in effect for the duration of any stay.

3. This Court has the authority to issue a stay of proceedings: "[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes of its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936). Accordingly, the parties respectfully submit that further proceedings on the merits of this case, including the submission of a schedule for resolving the merits, should be stayed until February 20, 2017. Because all parties are amenable to a stay of the merits proceedings, moreover, the balance of interests weighs heavily in favor of granting that stay.

Dated: November 18, 2016

KENNETH MAGIDSON
United States Attorney

DANIEL DAVID HU
Assistant United States Attorney
Deputy Chief, Civil Division

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Branch Director, Federal Programs Branch
Attorney-in-Charge (VA Bar No. 29281)

JOHN R. TYLER
Assistant Branch Director

/s/ Adam D. Kirschner
ADAM D. KIRSCHNER (IL Bar #6286601)
JULIE S. SALTMAN
Civil Division, Federal Programs Branch
U.S. Department of Justice
P.O. Box 883
Washington, D.C. 20044
Tel.: (202) 353-9265
Fax: (202) 616-8470
Adam.Kirschner@usdoj.gov

Attorneys for Defendants

LUTHER STRANGE
Attorney General of Alabama

MARK BRNOVICH
Attorney General of Arizona

LESLIE RUTLEDGE
Attorney General of Arkansas

PAMELA JO BONDI
Attorney General of Florida

SAMUEL S. OLENS
Attorney General of Georgia

LAWRENCE G. WASDEN
Attorney General of Idaho

JOSEPH C. CHAPELLE
PETER J. RUSTHOVEN
Counsel for the State of Indiana

DEREK SCHMIDT
Attorney General of Kansas

JEFF LANDRY
Attorney General of Louisiana

TIMOTHY C. FOX
Attorney General of Montana

DOUG PETERSON
Attorney General of Nebraska

ADAM PAUL LAXALT
Attorney General of Nevada

WAYNE STENEHJEM
Attorney General of North Dakota

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY STARR
Deputy First Assistant Attorney General

SCOTT A. KELLER
Solicitor General

/s/ Angela V. Colmenero
ANGELA V. COLMENERO
Assistant Attorney General
Attorney-in-Charge
Tx. Bar No. 24048399
Southern District ID No. 1002881

J. CAMPBELL BARKER
Deputy Solicitor General

ERIC A. HUDSON
ADAM N. BITTER
Assistant Attorneys General

Office of the Attorney General of Texas
P.O. Box 12548
Austin, Tx. 78711-2548
(512) 936-1700

MICHAEL DEWINE
Attorney General of Ohio
ERIC E. MURPHY
Co-counsel for the State of Ohio

E. SCOTT PRUITT
Attorney General of Oklahoma

ALAN WILSON
Attorney General of South Carolina

MARTY J. JACKLEY
Attorney General of South Dakota

HERBERT SLATERY III
Attorney General and Reporter of Tennessee

SEAN D. REYES
Attorney General of Utah

PATRICK MORRISEY
Attorney General of West Virginia

BRAD D. SCHIMEL
Attorney General of Wisconsin

BILL SCHUETTE
Attorney General for the People of Michigan

DREW SNYDER
Counsel for the Governor of Mississippi

PAUL R. LEPAGE
Governor of Maine

ROBERT C. STEPHENS
*Counsel for the Governor of North
Carolina*

CALLY YOUNGER
Counsel for the Governor of Idaho

O'MELVENY & MYERS LLP

Adam P. KohSweeney
Cal. Bar No. 229983)*
Gabriel Markoff (Cal. Bar. No. 291656)*
2 Embarcadero Center 28th Floor
San Francisco, CA 94111-3823
Tel: (415) 984-8700
Fax: (415) 984-8701

DLA PIPER LLP

Linda J. Smith (Cal. Bar. No. 78238)*
2000 Avenue of the Stars, Ste. 400N
Los Angeles, CA 90067
Tel: (310) 595-3038
Fax: (310) 595-3300

*Admitted *pro hac vice*

**MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND**

By /s/ Nina Perales

Nina Perales (Tex. Bar No. 24005046;
Southern District of Tex. Bar No. 21127)
Attorney-in-Charge
110 Broadway, Suite 300
San Antonio, Texas 78205
Tel: (210) 224-5476
Fax: (210) 224-5382
nperales@maldef.org

**GARCIA & GARCIA, ATTORNEYS AT LAW,
P.L.L.C.**

Carlos M. Garcia (Tex. Bar No. 24065265;
Southern District of Tex. Bar No. 1081768)
P.O. Box 4545
McAllen, Texas 78502
Tel: (956) 630-3889
Fax: (956) 630-3899

Attorneys for Intervenors

CERTIFICATE OF CONFERRAL

Undersigned counsel hereby certifies that counsel for Plaintiffs, Angela Colmenero, and counsel for Intervenor, Nina Perales, concurred in the filing of this Joint Motion to Stay Merits Proceedings.

/s/ Adam D. Kirschner
Counsel for Defendants

CERTIFICATE OF SERVICE

Undersigned counsel hereby certifies that a true and correct copy of the foregoing Joint Motion to Stay Merits Proceedings has been delivered electronically on November 18, 2016, to counsel of record via the District's ECF system.

/s/ Adam D. Kirschner
Counsel for Defendants