

Nos. 21A240, 21A241

# In the Supreme Court of the United States

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JOSEPH R. BIDEN, JR., President of the United States, *et al.*,  
*Applicants*,

v.

STATE OF MISSOURI, *et al.*,  
*Respondents*.

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XAVIER BECERRA, Secretary, U.S. Department of Health and Human Services, *et al.*,  
*Applicants*,

v.

STATE OF LOUISIANA, *et al.*,  
*Respondents*.

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ON APPLICATIONS FOR STAYS OF THE INJUNCTIONS ISSUED BY THE  
UNITED STATES DISTRICT COURTS FOR THE EASTERN DISTRICT OF  
MISSOURI AND THE WESTERN DISTRICT OF LOUISIANA

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## JOINT MOTION FOR DIVIDED ARGUMENT

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In accordance with Rules 21 and 28.4, Respondents in Case No. 21A240 (“Missouri”) and in Case No. 21A241 (“Louisiana”) jointly move for divided argument. Respondents request to divide their 30 minutes of argument time equally, or 15 minutes per Respondent. At the time of filing, counsel for Applicants had not communicated to counsel for Respondents Applicants’ position on this motion.

1. The two groups of Respondents have been represented by different counsel throughout this litigation. They filed separate complaints in separate district courts that brought separate claims and alleged separate factual predicates for their irreparable injuries. For example, Louisiana alone brought a claim under the Congressional Review Act and alleged an irreparable injury from the deprivation of its procedural rights. And the two groups won relief on different bases. In Missouri’s case, the district court held that Missouri was likely to win on the merits of its statutory-authority claim, its arbitrary-and-capricious claim, and its notice-and-comment claim. *Missouri v. Biden*, No. 4:21-cv-01329, 2021 WL 5564501 (E.D. Mo. Nov. 29, 2021). In Louisiana’s case, the district court held that Louisiana was likely to win on the merits of those claims, but also on the merits of its claims under the Tenth Amendment, the Non-Delegation Doctrine, and its claims arising under 42 U.S.C. §1395, 42 U.S.C. §1395z, and 42 U.S.C. § 1302(b)(1). *See Louisiana v. Becerra*, No. 3:21-CV-03970, 2021 WL 5609846 (W.D. La. Nov. 30, 2021).

2. The two groups of Respondents anticipate making different arguments to this Court. For example, Louisiana anticipates raising potentially dispositive waiver claims that Missouri will not be positioned to raise. And Missouri intends to

highlight the district court's review of over thirty declarations to show the devastating effects the vaccine mandate will have on rural healthcare if it is not enjoined. Allowing Louisiana and Missouri to argue separately in this case would enable the Court to hear from two groups with distinct insights on the matters before it.

3. In sum, the two groups of applicants have been consistently represented by different attorneys, and have made and will continue to make different arguments. Given the distinctive differences in how each case has been litigated and decided below and because this case is being argued in under two weeks, it would be difficult for counsel for one group to fully fairly represent the interests of the other.

4. For all the reasons discussed above, Missouri and Louisiana believe that allowing both to participate in oral argument would materially aid in the resolution of this case. Counsel will coordinate such that the arguments are not repetitive on matters of law that are of common concern. Therefore, they jointly move to divide their 30 minutes of argument time equally, with 15 minutes for the Missouri Respondents and 15 minutes for the Louisiana respondents. Counsel for the Missouri Respondents shall argue first, with counsel for the Louisiana Respondents to follow.

December 28, 2021

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