No. 164, Original

In the Supreme Court of the United States

STATE OF IOWA AND STATE OF MONTANA,

Plaintiffs,

v.

STATE OF ARIZONA; STATE OF CALIFORNIA; STATE OF COLORADO; STATE OF CONNECTICUT; COMMONWEALTH OF MASSACHUSETTS; STATE OF MINNESOTA; STATE OF NEVADA; STATE OF NEW JERSEY; STATE OF NEW MEXICO; STATE OF NEW YORK; STATE OF OREGON; AND STATE OF WASHINGTON,

Defendants.

ON MOTION FOR LEAVE TO FILE A BILL OF COMPLAINT

OPPOSITION TO MOTION TO EXPEDITE

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Respondent States respectfully oppose Applicant States' motion to expedite consideration of their motion for leave to file a bill of complaint.

STATEMENT

In early 2026, Paramount Skydance Corp. ("Paramount") agreed to acquire all outstanding shares of Warner Bros. Discovery, Inc. ("Warner Bros.") for $31 per share, a transaction valued at approximately $110 billion. Compl. ¶¶ 1, 34, *California v. Paramount Skydance Corp.*, No. 26-cv-07116 (N.D. Cal. July 13, 2026), Dkt. No. 1.[1] The combined entity would control two of the "big five" film studios, more than fifty basic cable channels, three subscription streaming services, and three of the most prolific television production studios. *Id.* ¶ 35. Paramount and Warner Bros.'s agreement anticipates a substantial period of antitrust review. Dkt. No. 204-3, at 79-80. It includes a provision that allows either party to opt out of the merger beginning March 4, 2027, if the transaction has not yet closed, but that date is automatically extended to June 4, 2027, if regulatory or court approval is pending. *Id.* And that date can be further extended by mutual agreement of the two companies. *Id.* The contractual purchase price at closing is $31 per share plus a "ticking consideration" of $0.25 for every 90-day quarter beginning September 30, 2026 (prorated daily), through closing. *Id.* at 106, 108.

[1] Future references to "Dkt. No." refer to the district court docket in *California v. Paramount Skydance Corp.*, No. 26-cv-07116 (N.D. Cal.).

Respondent States filed a lawsuit in federal district court raising a single antitrust claim under Section 7 of the Clayton Act and moved for a temporary restraining order and preliminary injunction. Dkt. Nos. 1, 27. On July 20, 2026, the district court granted a temporary restraining order. Dkt. No. 141. The district court set an expedited schedule for consideration of Respondent States' preliminary injunction motion, alongside a similar motion filed by the Writers Guild of America ("WGA") in a separate case challenging the same merger. *Id.* at 9; Dkt. No. 166, at 2.[2]

The parties in both cases subsequently filed a stipulation in which Paramount and Warner Bros. agreed that their transaction "shall not close, be consummated, or otherwise be completed and [that Paramount and Warner Bros.] will not take any steps, directly or indirectly, to integrate or consolidate their operations pursuant to the Transaction until the earlier of (1) five days after the merits determination in these matters, or (2) June 1, 2027." Dkt. No. 169, at 3. The district court entered the stipulation, removed the preliminary injunction hearing from the calendar, and set the cases for trial in early March 2027. Dkt. No. 170, at 3, 10; Dkt. No. 197, at 2.

On August 25, 2026, Applicant States filed a motion in this Court for leave to file a bill of complaint. The complaint asks the Court to exercise its original jurisdiction to declare that Respondent States may not obtain an

[2] The WGA case is docketed at *Writers Guild of America, West, Inc. v. Paramount Skydance Corp.*, No. 26-cv-07212 (N.D. Cal.).

injunction against the merger; to declare that the merger does not violate the Clayton Act; and to enjoin Respondent States from continuing their suit in district court. Compl. ¶ 92. In their brief in support of the motion, Applicant States ask the Court to hold that original jurisdiction over suits between States is mandatory rather than discretionary. *See* Br. in Support 5-13. Alternatively, Applicant States contend that the Court should exercise original jurisdiction over the dispute because the delay and potential blockage of the merger allegedly harms "two large, storied American businesses" and their employees, which in turn allegedly harms the Applicant States' "economies" and their residents' access to "content and services." Compl. ¶¶ 61-70, 85; *see* Br. in Support 13-22. The complaint does not seek any relief against the WGA's suit challenging the same merger, which operates on the same litigation timeline as Respondent States' action and is scheduled to be tried along with the Respondent States' action in March 2027.

Applicant States filed a motion to expedite consideration of their motion for leave to file a bill of complaint. Applicant States assert that "[t]he corporate officers, employees, suppliers, and contractors at Paramount and Warner Bros." suffer economic harm while the merger is paused. Mot. to Expedite 2. Applicant States also argue that proceeding under the ordinary schedule governing original actions would leave the Court with insufficient time to decide this matter before the June 4, 2027 "deadline for the merger." *Id.* at 2. They propose an accelerated deadline of 21 days to respond to their motion to file a bill of complaint, so that the Court may consider the case at the October 9, 2026 conference. *Id.* at 1-2.

ARGUMENT

For three independent reasons, the Court should deny the Applicant States' request for expedition.

1. The motion to expedite is based on two false premises: that "the deadline for the merger is June 2027" and that the Court cannot grant relief before then under the ordinary briefing schedule. Mot. to Expedite 3. Neither premise is true. The parties' merger agreement does not impose a deadline; it simply permits either company to abandon the deal after June 4, 2027. *See* Dkt. No. 204-3, at 79-80. Nothing in the agreement prohibits Paramount and Warner Bros. from consummating the transaction after that date if the companies agree the merger should proceed. *See id.* Indeed, the agreement expressly contemplates that the parties could change this self-imposed date if more time is needed. *See id.*

In any event, the standard briefing schedule set out in Rule 17 would permit the case to be briefed and considered on the merits this term in the unlikely event that the Court grants Applicant States' motion to file their bill of complaint. Under that schedule, Respondent States' brief in opposition to the motion to file the bill of complaint would be due October 26, 2026; the case could be distributed by November 5; and the case could be conferenced as early as December 4—a schedule that Applicant States do not dispute would allow the Court to hear and resolve this matter by the alleged merger "deadline." *See*

Mot. to Expedite 3. Even if the Court were to grant a 30-day extension to respond, Applicant States agree that the case could be conferenced by January 8, 2027. *See id.* The Court regularly grants cases in January that it resolves in or before early June. *See, e.g.*, *FCC v. AT&T, Inc.*, 146 S. Ct. 1418 (2026) (granted January 9, 2026; decided June 4, 2026); *Smith v. Spizzirri*, 601 U.S. 472 (2024) (granted January 12, 2024; decided May 16, 2024). Applicant States offer no reason why that is not possible here.

2. While Applicant States acknowledge this "case is not an emergency yet," they seek expedition on the theory that continued delay of the merger harms "corporate officers, employees, suppliers, and contractors at Paramount and Warner Bros." Mot. to Expedite 2-3. But the merger is currently paused because Paramount and Warner Bros. proposed and entered into a stipulation with both Respondent States and the WGA to not close their transaction until June 1, 2027, or until the district court issues a decision on the merits, whichever comes first. *See* Dkt. No. 169, at 3. Applicant States cannot credibly claim that the merger must move ahead urgently when the private parties with the greatest interest in seeing the merger close have agreed to hold off through no later than June 1, 2027.[3]

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[3] Paramount and Warner Bros. have sought to modify the stipulation to require Respondent States and the WGA to post a bond, but they have not sought to shorten the stipulated period during which they have agreed not to close. *See* Dkt. No. 204. The district court has scheduled a hearing on that motion for September 24, 2026. *See* Dkt. No. 206.

Applicant States also claim injury because "Paramount is obligated to pay Warner Bros. $7 million *per day* beginning in October." Br. in Support 22. As an initial matter, voluntary payments from one company to shareholders of another do not plausibly injure Applicant States. But in any event, the premise of Applicant States' argument is also inaccurate. The parties' agreement does not require any payments beginning in October. Rather, the price that Paramount must pay to Warner Bros. shareholders *at closing* is calculated in a manner that reflects the time value of money: a $31 per share baseline price plus a prorated $0.25 for every 90-day quarter beginning September 30, 2026, through closing. *See* Dkt. No. 204-3, at 106, 108. This calculation method was voluntarily agreed on by both parties and aligns with the economic principle that $110 billion in 2027 is worth slightly less than $110 billion in 2026.[4]

The absence of any plausible basis for urgency distinguishes this case from *Missouri v. New York*, No. 159, Orig. (U.S., July 3, 2024). *See* Mot. to Expedite 3.[5] There, Missouri filed a motion for leave to file a bill of complaint and a preliminary injunction motion seeking a stay of a court order obtained by the Manhattan District Attorney's office and the impending imposition of a criminal sentence against Donald J. Trump during the 2024 Presidential

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[4] For a $31.00 per share baseline price, a $0.25 increase every 90 days reflects an annualized growth rate of approximately 3.27%. Paramount offered the ticking fee to win a bidding war against Netflix to acquire Warner Bros. *See* Dkt. No. 213 at 8.

[5] Documents cited in this paragraph are from the docket in *Missouri v. New York*, No. 159, Orig. (U.S.).

election season. *See* Mot. for Leave 1. Missouri asserted that the court order and impending sentencing interfered with the ability of Missouri's voters and prospective electors to hear then-candidate Trump's views on the Manhattan District Attorney's prosecution. *See* Compl. ¶ 54. In light of the alleged First Amendment and election-related harms, and given the fast-approaching 2024 election, Missouri sought expedited consideration of its case. *See* Mot. to Expedite 1-2, 4-5. New York did not oppose expedition and proposed a timeline to respond to both motions (*see* Resp. 1), and the Court ordered an expedited deadline for New York to respond (*see* Order, *Missouri v. New York*, No. 159, Orig. (U.S., July 12, 2024)). No similar circumstances exist here.

3. Finally, expedited briefing is not warranted because Applicant States do not present a plausible argument for the Court's exercise of original jurisdiction. Applicant States seek leave to file their bill of complaint to allow the Court to consider whether the Court's jurisdiction over suits between States is mandatory. But this Court has consistently held that its original jurisdiction over disputes between States is discretionary, not mandatory. *See, e.g.*, *Wyoming v. Oklahoma*, 502 U.S. 437, 450-451 (1992). And the Court has repeatedly declined the invitation to reconsider that precedent, including earlier this year. *See, e.g.*, Order, *Florida v. California*, No. 162, Orig. (U.S. May 26, 2026); Order, *Alabama v. California*, No. 158, Orig. (U.S. March 10, 2025); Order, *Arizona v. California*, No. 150, Orig. (U.S. Feb. 24, 2020).

There is also no reason to believe this Court will grant the motion for leave to file a bill of complaint under its discretionary standard. In determining whether to entertain an original suit, the Court examines both "'the nature of the interest of the complaining State,'" and "the availability of an alternative forum in which the issue tendered can be resolved." *Mississippi v. Louisiana*, 506 U.S. 73, 77 (1992).

As to the former, original jurisdiction is inappropriate where a State is "merely litigating as a volunteer the personal claims of its citizens." *Pennsylvania v. New Jersey*, 426 U.S. 660, 665 (1976) (per curiam). A State must instead seek to litigate its own "sovereign or quasi-sovereign interests," *id.* at 666, as in the classic cases of disputes over boundaries, use or pollution of shared waterways, and interstate compacts, *see, e.g.*, Shapiro et al., Supreme Court Practice § 10.2 (11th ed. 2019) (collecting cases). As their proposed bill of complaint demonstrates, Applicant States plainly seek to litigate the private interests of two out-of-state, multibillion dollar entertainment companies rather than their own sovereign interests. *See* Compl. ¶¶ 63-70.

There is also an obvious "alternative forum in which the issue tendered can be resolved," *Mississippi*, 506 U.S. at 77—the district court that is currently adjudicating the lawsuits brought by both Respondent States and the WGA. *See California v. Am. Stores Co.*, 495 U.S. 271, 284 (1990) ("Private enforcement of the [Clayton] Act . . . was an integral part of the congressional plan for protecting competition."). Applicant States contend that they cannot intervene in that forum. Br. in Support 15. That position is inconsistent with their intervention in other litigation adverse to States.[6] In any event, the relevant question is not whether *Applicant States* can sue elsewhere; it is whether there is an "alternative forum in which *the issue tendered* can be resolved." *Mississippi*, 506 U.S. at 77 (emphasis added). The issue here is undisputedly being resolved in the district court; if Applicant States wish to have their views considered, they are free to seek to participate, as amici or otherwise, in those district court proceedings.

[6] *E.g.*, Mot. to Intervene, *California v. U.S. Postal Serv.*, No. 26-cv-13917 (D. Mass. Aug. 27, 2026), Dkt. No. 32 (Montana moving to intervene in litigation against California and other States).

CONCLUSION

The motion to expedite should be denied.

Respectfully submitted,

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