

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
WICHITA DIVISION**

State of MONTANA, State of KANSAS, State of IOWA, State of SOUTH DAKOTA, State of MISSISSIPPI, State of NEBRASKA, State of NORTH DAKOTA, State of OKLAHOMA, and State of SOUTH CAROLINA,

Plaintiffs,

v.

JOSEPH R. BIDEN, JR., in his official capacity as President of the United States; DEPARTMENT OF THE TREASURY; JANET L. YELLEN, in her official capacity as Secretary of the Department of the Treasury; DEPARTMENT OF JUSTICE; MERRICK B. GARLAND, in his official capacity as the Attorney General of the United States; DEPARTMENT OF THE INTERIOR; DEBRA A. HAALAND, in her official capacity as the Secretary of the Department of the Interior; DEPARTMENT OF AGRICULTURE; THOMAS J. VILSACK, in his official capacity as the Secretary of the Department of Agriculture; DEPARTMENT OF LABOR; JULIE A. SU, in her official capacity as the Acting Secretary of the Department of Labor; DEPARTMENT OF HEALTH AND HUMAN SERVICES; XAVIER BECERRA, in his official capacity as the Secretary of the Department of Health and Human Services; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ADRIANNE TODMAN, in her official capacity as the Acting Secretary of the Department of Housing and Urban Development; DEPARTMENT OF EDUCATION; MIGUEL CARDONA, in his official capacity as the Secretary of the Department of Education; and the UNITED STATES OF AMERICA;

Defendants.

Civil Action No. 6:24-cv-01141

PLAINTIFFS' UNOPPOSED MOTION FOR STAY OF PROCEEDINGS

Plaintiffs move for a stay of proceedings until February 10, 2025, or until President-elect Trump rescinds Executive Order 14019 (“EO14019”), 86 Fed. Reg. 13,623, 13,623-27, whichever occurs first. Defendants’ do not oppose Plaintiffs’ motion.

BACKGROUND

In early March 2021, President Biden issued EO14019, which sought to “expand access to, and education about, voter registration and election information, and to combat misinformation, in order to enable all eligible Americans to participate in our democracy.” ECF No. 1, ¶72. Section 3 of EO14019 implements the order’s purpose and policy by directing federal agencies and departments to “consider ways to expand citizens’ opportunities to register to vote and to obtain information about, and participate in, the electoral process.” ECF No. 1, ¶74.

Plaintiffs sued in August 2024, raising seven claims: (1) the plans that agencies provided under EO14019 are unlawful under the APA; (2) agency actions taken to implement EO14019 are unconstitutional; (3) agency action under EO14019 is arbitrary and capricious because the agencies failed to engage in reasoned decisionmaking in the implementation of EO14019; (4) agencies implemented plans under EO14019 without engaging in the required notice-and-comment rulemaking; (5) implementation of EO14019 violates the Tenth Amendment; (6) President Biden’s issuance of EO14019 was ultra vires; and (7) the agencies’ implementation of substantive rules without notice-and-comment rulemaking is ultra vires. ECF No. 1, ¶¶151-213.

In late October, Defendants timely moved this Court to extend their deadline to file a responsive pleading, ECF No. 33, which this Court granted, ECF No. 34. Defendants’ responsive pleading is currently due November 21, 2024. Following the general election on November 5, 2024, former President Trump won reelection, and he will be inaugurated on January 20, 2025.

LEGAL STANDARD

“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936). Federal courts may stay proceedings when, combined with considerations of fairness to the parties, it furthers “the orderly course of justice measured in terms of the simplifying ... of issues, proof, and questions of law.” *In re PG&E Corp. Sec. Litig.*, 100 F.4th 1076, 1085 (9th Cir. 2024) (citation omitted); *see also Elan Pharms., LLC v. Sexton*, 421 F. Supp.3d 1119, 1123 (D. Kan. 2019) (staying proceedings permissible when “the outcome of [another] trial could be dispositive of the entire action”).

ARGUMENT

Following the results of the November 5, 2024 presidential election, there is strong reason to believe that the incoming Trump administration will take a different position than the Biden administration on the merits of EO14019 and rescind the order. Because executive action along those lines would likely moot Plaintiffs’ existing claims, Plaintiffs seek—in the interest of preserving the parties’ and this Court’s time and resources—to stay proceedings until February 10, 2025, or until President-elect Trump rescinds EO14019, whichever occurs first.

Given that the rescission of EO14019 would likely moot Plaintiffs’ claims, they respectfully submit that it would be appropriate to stay these proceedings to determine if President-elect Trump will rescind EO14019. *See Brent Elec. Co. v. IBEW Loc. Union No. 584*, 110 F.4th 1196, 1207 (10th Cir. 2024) (“suit must present a real and substantial controversy with respect to which relief may be fashioned” (quotations omitted)) Staying these proceedings would not prejudice any party, as reflected by this unopposed motion. *See Reed v. Nellcor Puritan Bennett*, 312 F.3d 1190, 1192 (10th Cir. 2002) (“Unopposed motions are considered and decided as an uncontested motion, and ordinarily will be granted without further notice.” (quotations omitted)).

CONCLUSION

For these reasons, Plaintiffs respectfully request that this Court enter an order (i) staying these proceedings until February 10, 2025, or until President-elect Trump rescinds EO14019, whichever occurs first; and (ii) directing the parties to confer and file a status report on February 24, 2025, or 14 days after EO14019 is rescinded, whichever occurs first.

Dated: November 15, 2024

Respectfully submitted,

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