



U.S. Department of Justice
Civil Division
Consumer Protection Branch

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Via ECF

Hon. Jill A. Otake
United States District Court
District of Hawaii
300 Ala Moana Blvd 3-338
Honolulu, HI 96850
otake_orders@hid.uscourts.gov

Re: Stay of proceedings pending *Washington v. FDA*, 1:23-cv-3026-TOR (E.D. Wash.)

Dear Judge Otake:

I write in response to this Court's June 15, 2023 Order (ECF No. 183). Defendants support staying this action pending resolution of the district court proceedings in *Washington v. FDA*, 1:23-cv-3026-TOR (E.D. Wash.).

Plaintiffs in both cases seek ultimate relief that would enjoin Defendants from enforcing or applying the Mifepristone REMS Program. While Defendants believe that relief would be improper in either case, it would be inefficient for two district courts in the same Circuit to simultaneously consider the same issues. To be sure, this case has been pending longer than *Washington*, and the government has argued that the *Washington* plaintiffs lack standing and failed to administratively exhaust their claims. Nevertheless, it is more appropriate to stay this case (rather than *Washington*) because the *Washington* preliminary injunction may conflict with the ultimate relief sought in this case. If this Court waits until a final judgment in *Washington*, no such conflict should arise, since the ultimate relief sought by the *Washington* plaintiffs aligns with the ultimate relief sought here. The hardship of subjecting Defendants to potentially conflicting relief outweighs any hardship that Plaintiffs suffer from delaying consideration of their request for relief until a time when it would no longer conflict with another order from a district court in the same Circuit. *Cf. Landis v. N. Am. Co.*, 299 U.S. 248 (1936).

Regards,

/s/ Noah T. Katzen

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