

governed by reference to the Federal Rules of Appellate Procedure. The schedule proposed below is consistent with *Olenhouse* and in the interests of an expeditious final resolution of this case.

- 1) On or before August 29, 2013, Federal Defendants will lodge the Administrative Record for Plaintiffs' claims with the Court in CD-Rom or DVD format;
- 2) On or before September 12, 2013, Plaintiffs and Plaintiff-Intervenor will file their Opening Briefs on the Merits;
- 3) On or before September 26, 2013, Federal Defendants and Defendant-Intervenors will file their Response Briefs on the Merits;
- 4) On or before October 10, 2013, Plaintiffs and Plaintiff-Intervenor will file their Reply Briefs on the Merits.¹

In accordance with *Olenhouse*, the length of the Parties' briefs should be consistent with the Federal Rules of Appellate Procedure.

Consistent with this agreement for an expedited briefing schedule, Federal Defendants and Defendant-Intervenors respectfully request that the Court issue a final decision on the merits as soon as possible after the Reply Briefs are filed on October 10, 2013, as the Court's schedule allows. A ruling on the merits will moot Plaintiffs' pending request for a preliminary injunction and will terminate the August 2, 2013 Temporary Restraining Order, ECF No. 94, as amended by ECF No. 125. In the event that the Court is unable to render a decision on the merits on or

¹ The draft of this joint motion gave Plaintiffs and Plaintiff-Intervenor one week, to October 3, 2013, to file their reply briefs. In their request to modify the draft joint motion, Plaintiffs and Plaintiff-Intervenor requested two weeks, to October 10, 2013, to file their reply briefs. While Federal Defendants and Defendant-Intervenors were not able to agree to Plaintiffs' and Plaintiff-Intervenor's other requests, Federal Defendants and Defendant-Intervenors are willing to accommodate them on the requested two weeks for reply briefs, and have modified the proposed schedule accordingly.

before October 17, 2013, the August 2, 2013 Temporary Restraining Order, as amended, should be immediately converted to a Preliminary Injunction pending the final decision on the merits.

THEREFORE, Federal Defendants and Defendant-Intervenors respectfully request that the Court adopt the proposed expedited briefing schedule on the merits set forth above. Plaintiffs' and Plaintiff-Intervenor have been consulted in an attempt to obtain their joinder in this Joint Motion. Plaintiffs (joined by Plaintiff-Intervenor) indicated that they "are in agreement with the concept of expedited briefing on the merits" and "are in agreement with the federal defendants' position that resolution of the case with briefing and a possible hearing on the merits is appropriate, subject to . . . additional considerations" that they wanted added to Joint Motion. While Federal Defendants and Defendant-Intervenors were not able to agree with all of Plaintiffs' requests, we did, as noted above, accommodate Plaintiffs' request for two weeks instead of one week for Plaintiffs' and Plaintiff-Intervenor's reply briefs on the merits. Because Federal Defendants and Defendant-Intervenors were not able to agree to all of Plaintiffs' requests, Plaintiffs indicated that they will shortly be filing a separate document with their additional considerations. So that this opportunity for an expedited briefing schedule on the merits is not lost, Federal Defendants respectfully suggest that the Court hold a status conference on an expedited basis to address these considerations, as all Parties appear to be in general agreement on the overall schedule for conversion of the preliminary injunction hearing into a hearing on the merits and expedited briefing on the merits. A form of order accompanies this Joint Motion.

Respectfully submitted this 26th day of August, 2013.

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CERTIFICATE OF SERVICE

I hereby certify that on August 26, 2013, I filed through the United States District Court ECF System the foregoing document to be served by CM/ECF electronic filing on all counsel of record.

/s/Andrew A. Smith
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U.S. Department of Justice