

ORAL ARGUMENT NOT YET SCHEDULED

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNION OF CONCERNED)
 SCIENTISTS, et al.,)
)
 Petitioners,)
)
 v.)
)
 NATIONAL HIGHWAY TRAFFIC)
 SAFETY ADMINISTRATION,)
)
 Respondent.)
 _____)

Case No. 19-1230 &
Consolidated Cases

**OPPOSITION OF INTERVENING STATES TO PETITIONERS' SEC-
OND SUPPLEMENTAL RESPONSE TO COURT'S ORDER (STATES OF
OHIO, ALABAMA, ALASKA, ARKANSAS, GEORGIA, INDIANA, LOUI-
SIANA, MISSOURI, NEBRASKA, SOUTH CAROLINA, TEXAS,
UTAH, AND WEST VIRGINIA)**

REPLY

The Intervening States oppose the lengthy extension of the briefing schedule that the Petitioners are seeking in this case. The ongoing pandemic has caused significant disruptions to the home and work lives of all Americans. And the Intervening States empathize with the hardships caused to the Petitioners' lawyers in particular. But, notwithstanding these difficulties, the business of the country must move forward. As applied to the courts, that principle means that no hardship can delay a case forever. These consolidated cases involve, for the Intervening States, a matter of their equal sovereignty with California. Not only is that sovereignty "an end in itself," *Bond v. United States*, 564 U.S. 211, 221 (2011), but this current pandemic has shown the real-world value of the States as sovereigns independent of the national government. The Intervening States are ready to defend their equal sovereignty under the original schedule. And the Intervening States have never objected to a reasonable extension of time—for example, they have no objection to the already-agreed-upon proposal moving the briefing schedule back twenty-one days. But it is too much to move that date back an additional five-and-a-half weeks. So extreme an extension would likely delay a final decision in these cases, which were filed in 2019, until well into 2021.

Dated: May 11, 2020

Respectfully submitted,

DAVE YOST

Attorney General of Ohio

/s/ Benjamin M. Flowers

BENJAMIN M. FLOWERS

Ohio Solicitor General

AARON FARMER

Assistant Attorney General

30 East Broad Street, 17th Floor

Columbus, Ohio 43215

614-466-8980

614-466-5087 fax

bflowers@ohioattorneygeneral.gov

Counsel for State of Ohio

STEVE MARSHALL
Attorney General of Alabama

/s/ Edmund G. LaCour Jr. (BMF per authority)

EDMUND G. LACOUR JR.
Alabama Solicitor General
Office of the Attorney General
501 Washington Ave.
Montgomery, Alabama 36130
(334) 353-2196
edmund.lacour@alabamaag.gov

Counsel for State of Alabama

KEVIN G. CLARKSON
Attorney General of Alaska

/s/ Dario Borghesan (BMF per authority)

DARIO BORGHESAN
Chief Assistant Attorney General
Opinions, Appeals & Ethics Section
Alaska Department of Law
1031 W. Fourth Avenue, Suite 200
Anchorage, Alaska 99501
(907) 269-5100
dario.borghesan@alaska.gov

Counsel for State of Alaska

LESLIE RUTLEDGE
Attorney General of Arkansas

/s/ Nicholas J. Bronni (BMF per authority)

NICHOLAS J. BRONNI
Arkansas Solicitor General
VINCENT WAGNER
Deputy Solicitor General
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-6302
nicholas.bronni@arkansasag.gov

Counsel for State of Arkansas

CHRISTOPHER M. CARR
Attorney General of Georgia

/s/ Andrew A. Pinson (BMF per authority)

ANDREW A. PINSON
Georgia Solicitor General
Office of the Georgia Attorney General
40 Capitol Square SW
Atlanta, Georgia 30334
(404) 651-9453
apinson@law.ga.gov

Counsel for State of Georgia

CURTIS T. HILL, JR.
Attorney General of Indiana

/s/ Thomas M. Fisher (BMF per authority)

THOMAS M. FISHER
Indiana Solicitor General
Office of the Attorney General
302 West Washington Street
IGCS-5th Floor
Indianapolis, IN 46204
(317) 233-8292
katherine.jacob@atg.in.gov

Counsel for State of Indiana

JEFF LANDRY
Attorney General of Louisiana

/s/ Elizabeth B. Murrill (BMF per authority)

ELIZABETH B. MURRILL
Louisiana Solicitor General
LOUISIANA DEPARTMENT
OF JUSTICE
1885 N. 3rd St.
Baton Rouge, LA 70802
(225) 326-6766
MurrillE@ag.louisiana.gov

Counsel for State of Louisiana

ERIC S. SCHMITT
Attorney General of Missouri

/s/ John Sauer (BMF per authority)

D. JOHN SAUER
Missouri Solicitor General
207 W. High St.
P.O. Box 899
Jefferson City, MO 65102
(573) 751-3321
john.sauer@ago.mo.gov

Counsel for State of Missouri

DOUGLAS J. PETERSON
Attorney General of Nebraska

/s/ Justin D. Lavene (BMF per authority)

JUSTIN D. LAVENE
Assistant Attorney General
Office of the Attorney General
2115 State Capitol
Lincoln, Nebraska 68509
(402) 471-2834
justin.lavene@nebraska.gov

Counsel for State of Nebraska

ALAN WILSON
Attorney General of South Carolina

/s/ Alan Wilson (BMF per authority)

ALAN WILSON
South Carolina Attorney General
P.O. Box 11549
Columbia, S.C. 29211
(803) 734-6151
phunter@scag.gov

Counsel for State of South Carolina

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

/s/ Kyle D. Hawkins (BMF per authority)

KYLE D. HAWKINS
Texas Solicitor General
DAVID J. HACKER
Special Counsel to the First
Assistant Attorney General
Office of the Attorney General
P.O. Box 12548 (MC 059)
Austin, Texas 78711-2548
(512) 936-1700
Kyle.Hawkins@oag.texas.gov

Counsel for State of Texas

SEAN D. REYES
Attorney General of Utah

/s/ Tyler R. Green (BMF per authority)

TYLER R. GREEN
Utah Solicitor General
350 N. State Street, Suite 230
Salt Lake City, UT 84114-2320
(801) 538-9600
tylergreen@agutah.gov

Counsel for State of Utah

PATRICK MORRISEY
Attorney General of West Virginia

/s/ Lindsay S. See (BMF per authority)

LINDSAY S. SEE
West Virginia Solicitor General
OFFICE OF THE WEST VIRGINIA
ATTORNEY GENERAL
State Capitol Complex
Building 1, Room E-26
Charleston, WV 25305
(304) 558-2021
lindsay.s.see@wvago.gov

Counsel for State of West Virginia

CERTIFICATE OF COMPLIANCE

Pursuant to Fed R. App. P. 32 (f) and (g), I hereby certify that the foregoing response complies with the limitation of Fed. R. App. P. 27(d)(2)(A) and Circuit Rule 27(a)(2) because it contains 212 words, excluding exempted portions, according to the count of Microsoft Word.

I further certify that the motion complies with Fed. R. App. P. 27(d)(1)(E), 32(a)(5) and (6) because it has been prepared in 14-point Equity Font.

/s/ Benjamin M. Flowers
BENJAMIN M. FLOWERS
Counsel for State of Ohio

CERTIFICATE OF SERVICE

I hereby certify that on this the 11th day of May, 2020, I caused the foregoing motion to be electrically filed with the Clerk of the Court by using the Court's CM/ECF system. All registered counsel will be served by the Court's CM/ECF system. I further certify that a copy of the foregoing has been served via United States First Class Mail upon the following:

Kathrine Currie Pittard
Sacramento Metropolitan Air
Quality Management Division
777 12th Street
Third Floor
Sacramento, CA 95814

William F. Cooper
State of Hawaii
Department of the Attorney General
425 Queen Street
Honolulu, HI 96813

Shana D.G. Lazerow
Communities for a Better Environment
1904 Franklin Street
Suite 600
Oakland, CA 94612

/s/ Benjamin M. Flowers
BENJAMIN M. FLOWERS
Counsel for State of Ohio