

No. 26-30203

In the United States Court of Appeals for the Fifth Circuit

STATE OF LOUISIANA, BY AND THROUGH ITS ATTORNEY GENERAL, LIZ
MURRILL; ROSALIE MARKEZICH,
Plaintiffs-Appellants / Cross-Appellees,

V.

FOOD & DRUG ADMINISTRATION; MARTY MAKARY, COMMISSIONER, U.S.
FOOD & DRUG ADMINISTRATION; RICHARD PAZDUR, IN HIS OFFICIAL
CAPACITY AS DIRECTOR, CENTER FOR DRUG EVALUATION & RESEARCH, U.S.
FOOD & DRUG ADMINISTRATION; UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ROBERT F. KENNEDY, JR., SECRETARY, U.S.
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
Defendants-Appellees,

V.

GENBIOPRO, INC.,
Intervenor-Appellee / Cross-Appellant,

V.

DANCO LABORATORIES, L.L.C.,
Intervenor-Appellee / Cross-Appellant.

On Appeal from the United States District Court
for the Western District of Louisiana
No. 25-cv-1491, Hon. David C. Joseph

MOTION TO EXPEDITE ORAL ARGUMENT

(Counsel listed on inside cover)

Erin M. Hawley
Erik C. Baptist
Gabriella M. McIntyre
ALLIANCE DEFENDING
FREEDOM
44180 Riverside Parkway
Lansdowne, VA 20176
Telephone: (571) 707-4655
ehawley@ADFlegal.org

*Counsel for Louisiana and
Rosalie Markezich*

LIZ MURRILL
ATTORNEY GENERAL

J. Benjamin Aguiñaga
Solicitor General
Caitlin Huettemann
Assistant Solicitor General
OFFICE OF THE LOUISIANA
ATTORNEY GENERAL
1885 N. Third Street
Baton Rouge, LA 70802
Telephone: (225) 506-3746
AguinagaB@ag.louisiana.gov

Counsel for Louisiana

CERTIFICATE OF INTERESTED PERSONS

Louisiana, et al., v. Food and Drug Administration, et al.

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Plaintiffs-Appellants:

The State of Louisiana

Rosalie Markezich

Defendants-Appellees:

U.S. Food and Drug Administration

U.S. Department of Health and Human Services

Martin A. Makary, M.D., in his official capacity as Commissioner of Food and Drugs, U.S. Food and Drug Administration

Tracy Beth Høeg, M.D., Ph.D., in her official capacity as Acting Director, Center for Drug Evaluation and Research, U.S. Food and Drug Administration

Robert F. Kennedy, Jr., in his official capacity as Secretary, U.S. Department of Health and Human Services

Intervenors-Appellees:

Danco Laboratories, LLC (Danco represents that it does not have a parent company and there is no publicly held corporation that owns 10% or more of Danco's stock.)

GenBioPro, Inc. (GenBioPro represents that its parent company is Xenia Holdco LLC, and there is no publicly held corporation that owns 10% or more of GenBioPro's stock.)

Third Party Manufacturer:

Evita Solutions LLC

Party Counsel:

For Plaintiff-Appellant Louisiana:

Liz Murrill
J. Benjamin Aguiñaga
Caitlin Huettemann
Office of the Louisiana Attorney General
1885 N. Third Street
Baton Rouge, LA 70804

For Plaintiffs-Appellants Louisiana and Rosalie Markezich:

Erin Morrow Hawley
Erik C. Baptist
Julie Marie Blake
Gabriella M. McIntyre
Dalton A. Nichols
Alliance Defending Freedom
44180 Riverside Pkwy
Lansdowne, VA 20176

For Plaintiff-Appellant Rosalie Markezich:

Michael T. Johnson
Johnson, Siebeneicher & Ingram
2757 Highway 28 East
Pineville, Louisiana 71360

For Defendants-Appellees:

Brett A. Shumate
James W. Harlow
Noah Katzen
U.S. Department of Justice
1100 L St., NW
Washington, DC 20005

For Intervenor-Appellee Danco Laboratories:

William Most
Most & Associates
201 St. Charles Ave., Ste. 2500 #968
New Orleans, Louisiana 70170

Jessica Lynn Ellsworth
Alexander V. Sverdlov
Danielle Desaulniers Stempel
Dana Raphael
Hogan Lovells US LLP
555 Thirteenth Street NW
Washington, DC 20004

For Intervenor-Appellee GenBioPro:

Skye L. Perryman
Carrie Y. Flaxman
Lisa Newman
Democracy Forward Foundation
P.O. Box 34553
Washington, DC 20043

Robert J. Katerberg
Daphne O'Connor
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue NW
Washington, DC 20001-3743

John Adcock
Adcock Law
8131 Oak Street, Ste. 100
New Orleans, LA 70118

Amici and Counsel:

100 Reproductive Health Rights & Justice Organizations

Jessica Ring Amunson
Jenner & Block (DC)
1099 New York Ave. NW, Ste. 900
Washington, DC 20001

Jamila Asha Johnson
Lawyering Project
900 Camp St. 3rd Floor, Ste. 1197
New Orleans, LA 70130

60 Plus Association

Alabama Policy Institute

Alaska Family Council

American Association of Senior Citizens

American Values

Americans United for Life

Americas Women

Association of Mature American Citizens Actions

Centennial Institute at Colorado Christian University

Center for Urban Renewal & Education

Christian Law Association

Christian Medical & Dental Associations

Democrats for Life

Eagle Forum

Family Council in Arkansas

Family Foundation of Virginia

Family Institute of Connecticut Action

Fran Bevan

Frontline Policy Council

Human Coalition

International Conference of Evangelical Chaplain Endorsers

Tim Jones

Former Speaker, Missouri House, Founder, Leadership for America
Institute

Alveda King

Louisiana Family Forum

Lutheran Center for Religious Liberty

Maryland Family Institute

Men & Women for a Representative Democracy in America, Inc.

Men for Life

Calum Miller

National Religious Broadcasters

National Right to Life

New York State Conservative Party

North Carolina Values Coalition

Melissa Ortiz

Principal & Founder, Capability Consulting

Phyllis Schlafly's Pennsylvania Eagle Forum

Priests for Life

Rick Santorum

Gregory P. Seltz

Executive Director, LCRL, Speaker Emeritus, The Lutheran Hour

Paul Stam

Former Speaker Pro Tem, N C House of Representatives

Kathy Szeliga

Delegate District 7 A, Vice Chair of the Maryland Freedom Caucus

Suzi Voyles

President, Eagle Forum of Georgia

Wagner Center

Wisconsin Family Action, Inc.

Women for Democracy in America, Inc.

Young America's Foundation

Ben E. Clayton
Clayton Law Firm (Slidell)
893 Brownswitch Rd., Ste. 101
Slidell, LA 70458

Advancing American Freedom, Inc.

Ben E. Clayton
Clayton Law Firm (Slidell)
893 Brownswitch Rd. Ste. 101
Slidell, LA 70458

John Marc Wheat
Advancing American Freedom
801 Pennsylvania Ave. NW, Ste. 930
Washington, DC 20004

American Association of Pro-life Obstetricians & Gynecologists

Family Research Council

Samaritan's Purse

Martha Shuping

Brian Wade Arabie
Sigler Arabie & Cannon
P.O. Box 1550

Lake Charles, LA 70602

Christopher E. Mills
Spero Law
557 E. Bay St., Ste. 22251
Charleston, SC 29413

American Center for Law and Justice

Olivia F. Summers
American Center for Law & Justice
201 Maryland Ave. NE
Washington, DC 20002

Kevin S. Vogeltanz
Law Office of Kevin S Vogeltanz
428 W. 21st Ave.
Covington, LA 70433

American College of Obstetricians and Gynecologists

Meaghan Hannan Davant
Molly A. Meegan
American College of Obstetricians & Gynecologists
409 12th St. SW
Washington, DC 20024

Malcolm Clark Lloyd
ACLU of Louisiana
1340 Poydras St., Ste 2160
New Orleans, LA 70112

Nicole Amanda Marton
Debevoise & Plimpton (DC)
801 Pennsylvania Ave. NW, Ste. 500
Washington, DC 20004

Kathryn Campbell Saba

Shannon Rose Selden
Debevoise & Plimpton (NY)
66 Hudson Blvd.
New York, NY 10001

States of Arizona, California, Colorado, Connecticut, Delaware,
District of Columbia, Hawaii, Illinois, Maine, Maryland, Massachusetts,
Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode
Island, Vermont, and Washington

Ester Murdukhayeva
Attorney General of NY (NYC)
28 Liberty St.
New York, NY 10005

Jacob Kennedy Weixler
Weixler Law
3640 Magazine St.
New Orleans, LA 70115

States of Nebraska, Alabama, Alaska, Arkansas, Georgia, Idaho,
Indiana, Iowa, Kansas, Mississippi, Missouri, Montana, North Dakota,
Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, West
Virginia, and Wyoming

Cody S. Barnett
Attorney General of NE
1445 K St., Rm. 2115
Lincoln, NE 68508

Rachel Thyre Vogeltanz
Law Office of Rachel Vogeltanz
428 W. 21st Ave.
Covington, LA 70433

Robert M. Califf, Michael A. Friedman, Margaret Hamburg, Jane
E. Henney, David A. Kessler, Stephen Ostroff, Joshua M. Sharfstein,
Norman E. Sharpless, and Janet A. Woodcock.

Salvador I. Bivalacqua
Mandie E. Landry
Bivalacqua Gele Ellis
650 Poydras St., Ste. 2200
New Orleans, LA 70130

Margaret M. Dotzel
Alyssa Howard
William B. Schultz
Zuckerman Spaeder (DC)
2100 L St. NW, Ste. 400
Washington, DC 20037

Center Against Forced Abortions

Justice Foundation

National Association of Christian Lawmakers

Women Injured by Abortion

Mary Jane Browning
Allan E. Parker, Jr.
R Clayton Trotter
Justice Foundation
8023 Vantage Dr., Ste. 1275
San Antonio, TX 78230

Hunter W. Lundy
Lundy Law
P.O. Box 3010
Lake Charles, LA 70602

Troy Houston Middleton, IV
Lundy Law (LC)
501 Broad St.
Lake Charles, LA 70601

Concerned Women for America

Ben E. Clayton
Clayton Law Firm (Slidell)
893 Brownswitch Rd., Ste. 101
Slidell, LA 70458

Mario Alberto Diaz
Concerned Women for America
1000 N. Payne St.
Alexandria, VA 22314

60 Members of Congress

Heather Gebelin Hacker
Hacker Stephens
108 Wild Basin Rd. S, Ste. 250
Austin, TX 78746

Joseph Scott St. John
St. John LLC
1701 Jefferson Ave., 7th Fl.
New Orleans, LA 70115

Disability Rights Education & Defense Fund

Kristen Diane Amond
Amond Law
3640 Magazine St.
New Orleans, LA 70115

Chloe Marie Chetta
Barrasso Usdin et al. (NO)
909 Poydras St., Ste. 2350
New Orleans, LA 70112

Elizabeth Renee June

Allen Overy et al (DC)
1101 New York Ave. NW
Washington, DC 20005

Katherine Mallory Tosch Hoggatt
Allen Overy et al.
800 Capitol St., Ste. 2200
Houston, TX 77002

Maria Michelle Uzeta
Disability Rights Education & Defense Fund
3075 Adeline St., Ste. 210
Berkeley, CA 94703

Ethics and Public Policy Center

Michelle Ward Ghetti
Ghetti Law
139-B James Comeaux Rd., Ste. 802
Lafayette, LA 70508

Martin Edward Whelan, III
Ethics & Public Policy Center
1730 M St. NW, Ste. 910
Washington, DC 20036

Carol Everett, Tammi Morris, Monty Patterson, and Leslie Wolbert

Brian Wade Arabie
Sigler Arabie & Cannon
P.O. Box 1550
Lake Charles, LA 70602

Former U.S. Department of Justice Officials

Arielle Kay Herzberg
Wilmer Cutler et al. (CO)
1225 17th St Ste 2600

Denver, CO 80202

Maitland Lilja Io Jones
Wilmer Cutler et al. (10007)
250 Greenwich St.
New York, NY 10007

Kimberly Ari Parker
Wilmer Cutler et al.
2100 Pennsylvania Ave. NW
Washington, DC 20037

Richard Gerard Perque
Law Office of Richard G Perque
700 Camp St.
New Orleans, LA 70130

Alan Evan Schoenfeld
Wilmer Cutler et al. (10007)
250 Greenwich St.
New York, NY 10007

Kyle Edwards Haugh
CA Dept of Justice
455 Golden Gate Ave., Ste. 11000
San Francisco, CA 94102

Heartbeat International, Inc.

Brennan Tyler Brooks
Thomas More Society
309 W. Washington St., Ste. 1250
Chicago, IL 60606

Charles Kenneth Cicero, III
Cicero Law
205 Holiday Blvd., Ste. 100
Covington, LA 70433

Danielle Merry White
Heartbeat International, Inc.
8405 Pulsar Pl., Ste. 100
Columbus, OH 43240

I G H

Sapna Khatri
Boston University School of Law
765 Commonwealth Ave., 9th Fl.
Boston, MA 02215

Meghan K. Matt
Murrell Law Firm
4005 St Claude Ave.
New Orleans, LA 70117

Legal Voice

Robin Michelle Turner
Legal Voice
P.O. Box 582
Missoula, MT 59806

Rebekka C. Veith
Miller Thibodeaux et al.
643 Magazine St., Ste. 405
New Orleans, LA 70130

Medical Students for Choice

Kathryn Coniglio Arnett
Charlotte Vida Baigent
Jayme Alyse Jonat
Katharine Gene Zeigler
Holwell Shuster & Goldberg
425 Lexington Ave.

New York, NY 10017

Alexandra DiBiase Moody
Lift Louisiana
2831 St. Claude Ave. #203
New Orleans, LA 70117

National Domestic Violence Hotline

Robin Michelle Turner
Legal Voice
P.O. Box 582
Missoula, MT 59806

Rebekka C. Veith
Miller Thibodeaux et al.
643 Magazine St., Ste. 405
New Orleans, LA 70130

Students For Life of America

L. Katie Buckner
Students for Life of America
1000 Winchester St., Ste. 301
Fredericksburg, VA 22401

R. Bradley Lewis
Law Office of R. Bradley Lewis
248 Richmond St.
Bogalusa, LA 70427

Trinity Legal Center

Brian Wade Arabie
Sigler Arabie & Cannon
P.O. Box 1550
Lake Charles, LA 70602

Linda Boston Schlueter
Trinity Legal Center
1150 N. Loop 1604 W, Ste. 108-208
San Antonio, TX 78248

/s/ J. Benjamin Aguiñaga
J. BENJAMIN AGUIÑAGA

Under Federal Rule of Appellate Procedure 27 and this Court’s Rule 27.5, Appellants, the State of Louisiana and Rosalie Markezich, respectfully move the Court to expedite oral argument in this appeal. Appellants file this motion simultaneously with their opening brief on June 15, 2026, one week before the deadline provided in the Court’s briefing notice. *See* ECF 142. Any merits response brief from Appellees will be due July 15, 2026, and Intervenor-Appellees’ brief will be due July 22, 2026. Appellants commit to filing their reply brief by July 29, 2026, within fourteen days of the filing of Appellees’ brief and within 7 days of the filing of Intervenor-Appellees’ brief. In accordance with this briefing schedule, Appellants request that the Court set this matter for oral argument the week of August 31 to September 3, 2026, or on the next available oral argument calendar date.

The need for expeditious review in this appeal arises from the irreparable harm the State faces every day that the challenged 2023 REMS remains in place. As both the district court and a motions panel of this Court have already determined, “Louisiana has shown it is suffering irreparable harm” because of the 2023 REMS. ECF.119-1 at 14. “[T]he 2023 REMS injures Louisiana by undermining its laws protecting unborn

human life and also by causing it to spend Medicaid funds on emergency care for women harmed by mifepristone.” *Id.* It is therefore of the utmost importance to the State that this Court reach the merits of this appeal expeditiously, to abate the harms the State continues to suffer on a daily basis. To most effectively protect its rights and ensure expeditious review of these important issues, Appellants therefore seek an expedited schedule from this Court.

Accordingly, Appellants respectfully request that the Court expedite the argument in this appeal by setting oral argument for the week of August 31 to September 3, 2026, or on the next available oral argument calendar. Appellees have represented that they oppose this motion and will file a response. Intervenor-Appellees Danco and GenBioPro have reserved taking a position on the relief requested until the motion has been filed.

Respectfully submitted,

Dated: June 15, 2026

ELIZABETH B. MURRILL
Attorney General of Louisiana

J. Benjamin Aguiñaga

J. BENJAMIN AGUIÑAGA

Solicitor General

OFFICE OF THE ATTORNEY GENERAL

1885 N. 3rd St.

Baton Rouge, LA 70802

(225) 506-3746

AguinagaB@ag.louisiana.gov

CERTIFICATE OF SERVICE

I certify that on June 15, 2026, I filed the foregoing brief with the Court's CM/ECF system, which will automatically send an electronic notice of filing to all counsel of record.

/s/ J. Benjamin Aguiñaga
J. BENJAMIN AGUIÑAGA

CERTIFICATE OF COMPLIANCE

Pursuant to Fifth Circuit Rule 32.3, the undersigned certifies that this motion complies with:

(1) the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2) because it contains 355 words; and

(2) the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Century Schoolbook) using Microsoft Word 2016 (the same program used to calculate the word count).

/s/ J. Benjamin Aguiñaga
J. BENJAMIN AGUIÑAGA

Dated: June 15, 2026