

The Honorable Lauren King

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

NO. 2:25-cv-00244-LK

JOINT STATUS REPORT

Pursuant to the Court's March 6, 2025, Minute Order, Dkt. #241, counsel for the parties to this matter met and conferred on March 14, 2025, at 1:00 p.m. PT and respectfully submit this Joint Status Report.

Proposed Next Steps

Plaintiffs' Position: Plaintiffs respectfully request that the Court set a Rule 16(a) pretrial conference. Plaintiffs intend to conduct discovery regarding, inter alia, the factual assertions made in the challenged executive orders, the government interests intended to be served by those orders, and Defendants' compliance with this Court's orders since litigation began. Plaintiffs requested that the parties conduct a Rule 26(f) conference on March 14, 2025, but Defendants refused to participate in a 26(f) conference on that date, instead making themselves available only for a conference regarding the instant status report. Plaintiffs also requested that Defendants identify a

1 date they would be available for a Rule 26(f) conference, noting that under Rules 16(b) and 26(f),
2 the conference must occur no later than March 24. Defendants represented that they would not make
3 themselves available for a 26(f) conference by March 24, and refused to provide a date they would
4 be available.

5 Plaintiffs intend to prosecute this case toward a final determination which will include
6 discovery and motions practice before this Court, and likely cross-motions for summary judgment.
7 Plaintiffs oppose a stay of this Court's proceedings pending any appeal. The record on the motion
8 for preliminary injunction is likely to be different from the record on summary judgment or at trial,
9 and any appellate guidance may have limited usefulness. *See California v. Azar*, 911 F.3d 558, 584
10 (9th Cir. 2018). That is especially true where, as here, Plaintiffs seek discovery into central questions
11 of fact having to do with Defendants' interest in the challenged orders and the assertions of fact
12 made in those orders, an issue upon which they have submitted no evidence whatsoever so far.
13 There is no guarantee that an appeal would be fully exhausted prior to when this case is ready for a
14 final merits determination in any event. *See Melendres v. Arpaio*, 695 F.3d 990, 1003 (9th Cir.
15 2012) (at the time the interlocutory opinion on a preliminary injunction was issued by the Ninth
16 Circuit, "final judgment [was] imminent"); *see also Sports Form, Inc. v. United Press Intern., Inc.*,
17 686 F.2d 750, 753 (9th Cir. 1982) ("We think it likely that this case, for instance, could have
18 proceeded to a disposition on the merits in far less time than it took to process this appeal.").

19 Staying proceedings pending appeal would also prevent Plaintiffs from amending their
20 complaint or moving to modify the preliminary injunction should either be necessary to protect their
21 legal interests. Defendants have already shown that they intend to skirt this Court's orders by
22 whatever means at their disposal (*see* Dkt. #245-8). These efforts so far are straightforwardly in
23 violation of this Court's injunction (*see generally* Dkt. #243), but it is possible, if not likely, that
24 Defendants will undertake new projects to deny gender-affirming care in the Plaintiff States and, if
25 they do, then Plaintiffs should not be barred from requesting additional relief from this Court.
26

1 Moving forward with this case while Defendants appeal the preliminary injunction would
 2 not prejudice Defendants in any way. Defendants raise the specter of thorny discovery disputes, but
 3 simultaneously refuse to even meet for a Rule 26(f) conference to attempt to engage in discovery
 4 cooperatively, as the rules require.

5 Plaintiffs request a Rule 16(a) pretrial conference to facilitate a speedy and efficient
 6 resolution of this matter.

7 **Defendants' Position:** The Solicitor General has authorized Defendants to appeal this
 8 Court's preliminary injunction. Because the Ninth Circuit's decision on appeal is likely to
 9 materially bear on the significant legal issues in this case, Defendants propose that this Court
 10 stay district-court proceedings—other than any necessary and jurisdictionally proper
 11 proceedings regarding the scope or enforcement of the preliminary injunction—pending
 12 resolution of Defendants' appeal. Although it is unclear whether and why Plaintiffs would need
 13 to further amend the complaint while the appeal is pending, Defendants do not object to
 14 exempting any proceedings regarding such an amendment from their requested stay. Defendants
 15 further propose that the parties file another joint status report within 14 days of the conclusion
 16 of all appellate proceedings to propose next steps in the case.¹

17 Defendants' forthcoming appeal implicates important legal issues that the parties and the
 18 Court will likely have to address in future proceedings, including whether this case is ripe for
 19 review, the proper interpretation of the challenged Executive Orders, the scope of the President's
 20 Article II authority, the relevance of agencies' delegated authority to award grants, the
 21 appropriate level of review under the Equal Protection Clause, and the validity of the
 22 government's interests intended to be served by the Executive Orders. An appellate decision on

23 ¹ Contrary to Plaintiffs' assertions, Defendants did not refuse to make themselves
 24 available for a 26(f) conference should one be required. Rather, Defendants stated that it was
 25 premature to hold a Rule 26(f) conference in advance of the deadline for the joint status report
 26 and before Defendants had decided whether to appeal. Further, Defendants explained that they
 were unable to prepare for and conduct a proper 26(f) conference on the accelerated timeline
 Plaintiffs proposed.

1 those (and other) issues will thus likely provide the Court and the parties significant aid in the
 2 ultimate resolution of this case. *Mobilize the Message LLC v. Bonta*, No. 2:21-CV-
 3 05115VAPJPRX, 2021 WL 6104312, at *5 (C.D. Cal. Sept. 17, 2021) (“It would be wise for the
 4 Court to preserve its judicial resources in light of the pending appellate review of issues central
 5 to this case.”).

6 Pausing proceedings until the conclusion of further review would also defer and
 7 potentially avoid altogether the thorny legal issues surrounding discovery requests aimed at the
 8 White House itself, which would be at odds with the Supreme Court’s admonition that the
 9 “Executive Branch’s interest in maintaining the autonomy of its office and safeguarding the
 10 confidentiality of its communications” counsels “judicial deference and restraint” that should
 11 “inform the conduct of the entire proceeding, including the timing and scope of discovery.”
 12 *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 385 (2004); *see also Trump v. Vance*, 140 S. Ct. 2412,
 13 2430 (2020) (similar); *La Unión del Pueblo Entero v. Ross*, 353 F. Supp. 3d 381, 399 (D. Md.
 14 2018) (discovery targeting the White House would “implicate[] a whole set of . . . separation of
 15 powers issues, and executive privilege issues”).

16 At the same time, a stay would not prejudice Plaintiffs, as this Court’s preliminary
 17 injunction remains in place. Moreover, Defendants’ requested stay would not reach any
 18 proceedings necessary for the Court to ensure compliance with its preliminary injunction,
 19 including resolution of Plaintiffs’ pending contempt motion.² *See* Pls.’ Mot. Contempt, ECF No.
 20 243. Plaintiffs claim that they must have the opportunity to modify the preliminary injunction
 21 while the preliminary injunction is on appeal. But “[o]nce a notice of appeal is filed, the district
 22 court is divested of jurisdiction over the matters being appealed.” *Griggs v. Provident Consumer*
 23 *Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam); *Nat. Res. Def. Council, Inc. v. Sw. Marine*

24
 25 ² For the reasons explained in Defendants’ Opposition to Plaintiffs’ Motion for
 26 Contempt, Shortened Time, and Attorney’s Fees, ECF No. 253, Plaintiffs are not entitled to
 discovery on their pending contempt motion. Nor is discovery on “Defendants’ compliance with
 this Court’s orders since litigation began” justified based on Plaintiffs’ unsupported request.

1 *Inc.*, 242 F.3d 1163, 1166 (9th Cir. 2001). To the extent Plaintiffs are concerned about
 2 maintaining the status quo with respect to the preliminary injunction, *NRDC*, 242 F.3d at 1166,
 3 Defendants reiterate that they have no objection to participating in any necessary and
 4 jurisdictionally proper proceedings regarding the scope or enforcement of the existing
 5 preliminary injunction while other case deadlines are stayed.

6 Accordingly, Defendants intend to move for a stay of proceedings later this week unless
 7 this Court *sua sponte* stays proceedings pending further review of its preliminary-injunction
 8 decision. *See Landis v. North Am. Co.*, 299 U.S. 248, 254–55 (1936) (A district court's “power
 9 to stay proceedings is incidental to the power inherent in every court to control the disposition
 10 of the causes on its docket with economy of time and effort for itself, for counsel, and for
 11 litigants.”).

12 DATED this 17th day of March 2025.

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