

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

COMMONWEALTH OF  
MASSACHUSETTS, *et al.*,

Plaintiffs,

v.

ROBERT F. KENNEDY, JR., in his official  
capacity as Secretary of Health and Human  
Services, *et al.*,

Defendants.

Civil Action No. 1:25-cv-10814-WGY

**Defendants' Motion to Dismiss**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Local Rule 7.1, and the Court's scheduling order, Doc No. 121, Defendants move to dismiss Plaintiffs' complaint with respect to all unreasonable delay/phase 2 claims for the reasons set forth in the accompanying memorandum of points and authorities.

Defendants respectfully request that the Court enter an expedited deadline for Plaintiffs' response of June 26, 2025, which is reciprocal to the amount of time the Court provided for Defendants to move to dismiss after the phase 1 hearing concluded. Defendants had four business days (and four calendar days) to move. Defendants propose that Plaintiffs be provided four business days (six calendar days) to respond. This promotes the interests of justice and efficiency, since the Court's ruling on the motion to dismiss could impact the administrative record that is being prepared for phase 2.

Defendants asked Plaintiffs for their position on this proposal. State Plaintiffs did not agree and insisted on the 10-day response deadline proposed by Defendants in the parties' joint

statement, and previously unaltered by the Court. Defendants respectfully submit that ten days is inappropriate because Defendants proposed more reciprocal deadlines (Defendants had 7 days to move while Plaintiffs had 10 days to respond) and—most important—in Defendants’ proposal, the decision on the motion to dismiss triggered the deadline for the administrative record. Plaintiffs requested and the Court entered significantly more expedited deadlines for Defendants, including a fixed date to produce the administrative record. Without an expedited response deadline, Defendants will need to produce the administrative record shortly after Plaintiffs’ respond to their motion to dismiss.

Respectfully submitted,

BRETT A. SHUMATE  
Assistant Attorney General

LEAH B. FOLEY  
United States Attorney

KIRK T. MANHARDT  
Director

MICHAEL J. QUINN  
Senior Litigation Counsel

Dated: June 20, 2025

/s/ Thomas W. Ports, Jr.

THOMAS W. PORTS, Jr. (Va. Bar No.  
84321)  
*Trial Attorney*  
U.S. Department of Justice  
Civil Division, Corporate/Financial Section  
P.O. Box 875  
Ben Franklin Stations  
Washington D.C. 20044-0875  
(202) 307-1105  
thomas.ports@usdoj.gov

ANUJ KHETARPAL  
Assistant U.S. Attorney  
1 Courthouse Way, Suite 9200

Boston, MA 02210  
(617) 748-3658  
anuj.khetarpal@usdoj.gov

*Attorneys for Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: June 20, 2025

/s/ Thomas W. Ports, Jr.  
Thomas W. Ports, Jr.