

No. 26-30203

IN THE
**United States Court of Appeals
for the Fifth Circuit**

THE STATE OF LOUISIANA, *et al.*,
Plaintiffs-Appellees,

v.

U.S. FOOD AND DRUG ADMINISTRATION, *et al.*,
Defendants-Appellants,
and

DANCO LABORATORIES, LLC,
Intervenor-Defendant-Appellant.

On Appeal from the United States District Court
for the Western District of Louisiana, No. 6:25-cv-01491-DCJ-DJA (Joseph, J.)

**DANCO LABORATORIES, LLC'S EMERGENCY MOTION FOR
TEMPORARY ADMINISTRATIVE STAY**

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May 1, 2026

Danco Laboratories, LLC moves for an emergency administrative stay of the Fifth Circuit Panel’s Friday night Order purporting immediately “to stay the 2023 REMS” that governs mifepristone. Dkt. 119-1 at 18. Danco requests a temporary administrative stay of the Panel’s Order for one week—through Friday, May 8, 2026—to allow Danco time in which to seek relief in the United States Supreme Court and for that Court to rule on Danco’s request for relief. Because the Panel’s Order threatens Danco with immediate harm, **Danco requests a decision on this motion no later than 9 P.M. Central Time**, after which time Danco will seek emergency relief in the Supreme Court absent relief from this Court.

A one-week administrative stay is appropriate for at least three reasons.

First, the immediate effect of the ruling is unclear. The Panel’s Friday night Order is unprecedented: Never before has a federal court purported to immediately change a drug’s conditions of use upon issuance of its order. The Order results in immediate chaos. It is now unclear whether pharmacies nationwide may still dispense mifepristone to women tonight. It is unclear what patients and providers must do if they have an appointment this weekend or early next week. And finally, what are Danco’s obligations given that FDA has told the Supreme Court that the governing REMS does not “simply snap back” to some previous version? *See* Declaration of FDA Principal Deputy Commissioner Janet Woodcock, M.D., in

support of Emergency Stay Application Appendix 113a-116a, *FDA v. Alliance for Hippocratic Med.*, No. 22A902 (U.S.), <https://tinyurl.com/muvakjc4>.

Second, Louisiana will not be prejudiced by a one-week administrative stay. Louisiana’s request for a stay pending appeal did not ask for a ruling from this Court until May 11, 2026—this Court granted them relief 10 days early. *See* Dkt. 12 (docket text). A 7-day stay thus cannot prejudice Louisiana.

Third, an administrative stay is appropriate given the Supreme Court’s prior grant of a stay in related litigation. When the Northern District of Texas purported to previously “stay” FDA’s approval of mifepristone, that order never took effect. That is because the district court stayed its order for 7 days to allow the federal government and Danco to seek emergency relief. *Alliance for Hippocratic Med. v. FDA*, 668 F. Supp. 3d 507, 560 (N.D. Tex. 2023), *rev’d*, *FDA v. Alliance for Hippocratic Med.*, 602 U.S. 367 (2024). When this Court declined to stay that order in full, the Supreme Court entered an administrative stay, extended the administrative stay, and then stayed the district court’s order in full pending disposition of the appeal and disposition of a petition for a writ of certiorari. *See Danco v. Alliance for Hippocratic Med.*, No. 22A901 (U.S.); *FDA v. Alliance for Hippocratic Med.*, No. 22A902 (U.S.). This Court should grant the same relief here.

Respectfully submitted,

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May 1, 2026

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the requirements of Federal Rule of Appellate Procedure 27(d) because it has been prepared in 14-point Times New Roman, a proportionally spaced font. I further certify that this motion complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because it contains 466 words, according to the count of Microsoft Word. I further certify that this emergency motion complies with the requirements of Fifth Circuit Rule 27.3 because it was preceded by a telephone call to the Clerk's Office on May 1, 2026 and correspondence to counsel for the Plaintiffs and the Government the same day, advising of Danco's intent to file this emergency motion. I further certify that the facts supporting emergency consideration of this motion are true and complete and that this motion is being served at the same time it is being filed.

/s/ Jessica L. Ellsworth
Jessica L. Ellsworth

Counsel for Danco Laboratories, LLC

CERTIFICATE OF CONFERENCE

On May 1, 2026, counsel for Danco notified counsel for Plaintiffs by way e-mail and telephone of Danco's intent to file this motion. Danco also requested Plaintiffs' position on this motion. As of the time of filing, Danco has not received a response.

CERTIFICATE OF SERVICE

I hereby certify that on May 1, 2026, I electronically filed the foregoing using the CM/ECF system, which will send notification of this filing to the attorneys of record.

/s/ Jessica L. Ellsworth

Jessica L. Ellsworth

Counsel for Danco Laboratories, LLC