

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA**

ORCUN SELCUK; ALAN DAVID)
Gwilliam; TINGTING ZHEN; MICHAEL)
BROKLOFF; and THE LEAGUE OF)
UNITED LATIN AMERICAN CITIZENS OF)
IOWA, on behalf of itself and its members,)

Plaintiffs,)

v.)

PAUL D. PATE, in his official capacity as the)
Iowa Secretary of State; BENJAMIN D.)
STEINES, in his official capacity as the)
Winneshiek County Auditor and Winneshiek)
County Commissioner of Elections; JAMIE)
FITZGERALD, in his official capacity as the)
Polk County Auditor and Polk County)
Commissioner of Elections; MELVYN)
HOUSER, in his official capacity as the)
Pottawattamie County Auditor and)
Pottawattamie County Commissioner of)
Elections; ERIN SHANE, in her official)
capacity as the acting Johnson County Auditor)
and acting Johnson County Commissioner of)
Elections; and KERRI TOMPKINS, in her)
official capacity as the Scott County Auditor)
and Scott County Commissioner of Elections,)

Defendants.)

Case No. 4:24-cv-390

**UNOPPOSED STIPULATION
AND JOINT MOTION FOR
STAY**

**STIPULATION AND JOINT MOTION OF PLAINTIFFS
AND DEFENDANT COUNTY ATTORNEYS FOR STAY**

All Plaintiffs in this action and Defendants Steines, Fitzgerald, Houser, Shane, and Tompkins, in their official capacities as the County Auditors and County Commissioners of Elections of their respective counties of the State of Iowa, and on behalf of themselves, their offices, their successors in office, and all personnel acting on behalf of their respective offices

(“Defendant County Auditors”) (together, the “Stipulating Parties”) stipulate and jointly move for a stay of all deadlines for the Defendant County Auditors, subject to the conditions set forth below. The other Defendant in this action—Secretary of State Paul D. Pate—takes no position on this Stipulation and Joint Motion for a Stay.

A district court has discretion whether to stay proceedings before it. *Clinton v. Jones*, 520 U.S. 681, 706-07 (1997); *Huggins v. FedEx Ground Package Sys.*, 592 F.3d 853, 856 (8th Cir. 2010) (“District courts have broad discretion to manage their dockets and address particular circumstances by enforcing local rules and by setting enforceable time limits.”); *Walsh Construction Co., II, LLC, v. Peerless Specialty Flooring, LLC*, 2017 WL 7693380, *2 (S.D. Iowa Aug. 14, 2017) (unreported) (determining court had discretion to excuse violations of its own procedural deadline). The district court’s power to grant a stay of proceedings before it is “incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. North America Co.*, 299 U.S. 248, 254 (1936).

In considering a motion to stay, the court weighs “factors such as the economy of judicial resources and balancing the potential prejudice, hardship, and inequity to the parties.” *See Doe v. Univ. of Nebraska*, 2020 WL 5057767, *1 (D. Neb. Aug. 7, 2020). Here, a stay is reasonable and supported by good cause because it will simplify the issues in question, reduce the burden of litigation for all parties, and will not burden the other defendant.

In light of the foregoing, the Stipulating Parties enter into the following stipulations and agreements, and make the following joint motion:

1. The Stipulating Parties hereby jointly move to stay all deadlines for the Defendant County Auditors in this case, subject to the conditions herein. If such a stay is entered, Plaintiffs will not seek to lift the stay over the Defendant County Auditors' objection, absent good cause.

2. The stay of all deadlines for the Defendant County Auditors set forth in Paragraph 1 will be conditioned upon, and subject to the agreement of, each Stipulating Party as follows:

a. Each Defendant County Auditor, in their official capacity, agrees (on behalf of themselves, their offices, their successors in office, and all personnel acting on behalf of their respective offices) to the following:

i. To comply with and be bound by the terms of any injunction, preliminary or permanent, that may be entered in this matter against Defendant Paul D. Pate, in his official capacity as Secretary of State of the State of Iowa ("State Defendant"). An injunction or declaratory judgment entered against the State Defendant shall be binding upon the Defendant County Auditors to the same extent as against any State Defendant.

ii. Not to enforce (or seek to enforce) any enjoined action, directive, policy, or practice in a manner that violates said injunction during the time such an injunction is in place, or against conduct that was protected by such an injunction at the time that conduct occurred, even if such injunction was later vacated; and

iii. That any judgment in this action declaring the State Defendant's action, directive, policy, or practice unconstitutional will be binding on themselves, their respective offices, successors in office, and all personnel acting

on behalf of their respective offices, to the same degree it is binding on the State Defendant.

b. In the event that the State Defendant prevails on any claim on the merits—including dismissal for failure to state a claim or summary judgment on the merits—the Plaintiffs agree to be bound by that judgment with respect to the Defendant County Auditors to the same degree they are bound with respect to any State Defendant.

3. The Stipulating Parties agree that, upon Court approval of this agreement and joint motion, the Court may enforce this agreement as necessary and appropriate in the adjudication of this matter and in the enforcement of its orders or judgment entered in this matter.

4. The Stipulating Parties agree to forgo any claim for damages, attorneys' fees and costs against each other.

5. To the extent written discovery, deposition testimony, or other sworn statement of the County Auditors shall be reasonably necessary for evidentiary purposes, Plaintiffs and the undersigned County Auditors stipulate and agree to reasonably cooperate with each other to provide such discovery, testimony, or statement.

6. County Auditors agree that they will not impede discovery in this action; that they will, by the dates contemplated in the Scheduling Order and Discovery Plan to be entered in this matter in the normal course, answer and respond to the written interrogatories, document requests, and requests for admission served upon them by Plaintiffs.

7. Consistent Local Rule 7(j), the Stipulating Parties provide the following information to the court:

- a. This motion seeks to stay all deadlines applicable to Defendant County Auditors indefinitely, with the exception of discovery deadlines as outlined above;
- b. No new date or deadline is requested at this time;
- c. These deadlines have not been continued or extended previously;
- d. There is no other existing court-ordered deadline in this matter;
- e. No final pretrial conference or trial date is scheduled yet.

8. Consistent with Local Rule 7(k), counsel for Plaintiffs have conferred with counsel for the County Auditor Defendants. Plaintiffs and the County Auditor Defendants bring this motion jointly. In addition, counsel for Plaintiffs conferred with counsel for State Defendant, who takes no position on this motion.

Dated: January 28, 2025

Respectfully submitted,

/s/Rita Bettis Austen

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Thomas Story, AT0013130

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SCOTT COUNTY AUDITOR

/s/ Donald D. Stanley, Jr.

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ATTORNEY FOR DEFENDANT JAMIE FITZGERALD
POLK COUNTY AUDITOR

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing paper with the Clerk of Court by using the CM/ECF system, serving all Defendants.

Date: January 28, 2025

/s/ Rita Bettis Austen
Rita Bettis Austen