

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

THOMAS L. SANDERSON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:23CV1242 JAR
)	
ANDREW BAILEY,)	
<i>in his official capacity as Attorney General</i>)	
<i>of the State of Missouri, et al.,</i>)	
)	
Defendants.)	

ORDER

After a telephone conference held with all counsel, and pursuant to agreement, the Court finds good cause to consolidate the preliminary injunction proceedings with the trial on the merits in this case. Federal Rule of Civil Procedure 65(a)(2) allows the Court to consolidate the preliminary injunction proceedings with the trial on the merits, and it intends to do so in this case. Federal Rule of Civil Procedure 65(a)(2) provides as follows:

Before or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial become part of the trial record and need not be repeated at trial. But the court must preserve any party’s right to a jury trial.

It is well-established in the Eighth Circuit that district courts have discretion to combine the hearing on a motion for preliminary injunction with the trial on the merits under Federal Rule of Civil Procedure 65(a)(2). *See, e.g., West Publ'g Co. v. Mead Data Central, Inc.*, 799 F.2d 1219, 1229 (8th Cir. 1986), *cert. denied*, 479 U.S. 1070 (1987) (finding “this procedure is a good one, and we wish to encourage it.”). Consolidation under Rule 65 saves time and conserves judicial resources at both the trial and appellate courts. *See id.* A district court should only consolidate a hearing on a preliminary injunction with a trial on the merits when it gives the

parties clear notice of its intent to do so, which this Court has done in this case. *University of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981); *United States ex rel. Goldman v. Meredith*, 596 F.2d 1353, 1358 (8th Cir.), *cert. denied*, 444 U.S. 838 (1979). The parties provided March 27, 2024 as a mutual date for these proceedings. For these reasons, and after hearing the arguments from counsel, the Court also finds good cause to extend the Temporary Restraining Order pursuant to Federal Rule of Civil Procedure 65(b)(2).

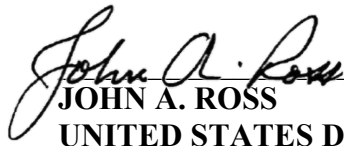
Lastly, upon review of the record, the Court notes that after Defendants filed their notice of appeal of the Temporary Restraining Order, Defendants filed their respective motions to dismiss this case [ECF Nos. 27 and 28]. The Court finds that briefing on those motions shall go forward in accordance with Local Rule 4.01.

Accordingly,

IT IS HEREBY ORDERED that pursuant to Federal Rule of Civil Procedure 65(a)(2), the preliminary injunction proceedings in this case are consolidated with the trial on the merits. The preliminary injunction hearing set for November 9, 2023 is **VACATED**, and the trial on the merits is set to begin on **March 27, 2024 at 10:00 A.M.**

IT IS FURTHER ORDERED that the parties shall brief Defendants' pending motions to dismiss in accordance with Local Rule 4.01.

Dated this 3rd day of November, 2023.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE