

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): Nos. 23-615, 23-616 Caption [use short title]

Motion for: Joint motion to dismiss appeal

Set forth below precise, complete statement of relief sought:

Joint motion to dismiss appeal

Bragg v. Jordan

MOVING PARTY: All parties OPPOSING PARTY:

- Plaintiff Defendant
Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Theodore J. Boutrous OPPOSING ATTORNEY:
[name of attorney, with firm, address, phone number and e-mail]

Gibson, Dunn & Crutcher 213-229-7804
333 South Grand Ave Tboutrous@gibsondunn.com
Los Angeles, CA

Court- Judge/ Agency appealed from: Vyskocil

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):
Yes No (explain):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has this request for relief been made below? Yes No
Has this relief been previously sought in this court? Yes No
Requested return date and explanation of emergency:

Opposing counsel's position on motion:
Unopposed Opposed Don't Know

Does opposing counsel intend to file a response:
Yes No Don't Know

Is oral argument on motion requested? Yes No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set? Yes No If yes, enter date:

Signature of Moving Attorney:

/ Theodore J. Boutrous, Jr. Date: 4/21/2023 Service by: CM/ECF Other [Attach proof of service]

**Nos. 23-615, 23-616**

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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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ALVIN L. BRAGG JR.,  
in his official capacity as District Attorney for New York County

*Appellant,*

v.

JIM JORDAN,  
in his official capacity as Chairman of the Committee on the Judiciary, et al.,

*Appellees,*

**JOINT MOTION TO DISMISS APPEAL**

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*Counsel for Appellant*

Dated: April 21, 2023

Pursuant to Federal Rule of Appellate Procedure 42(b), Plaintiff-Appellant Alvin L. Bragg Jr., in his official capacity as District Attorney for New York County, Appellee-Defendants Jim Jordan, in his official capacity as Chairman of the Committee on the Judiciary; the Committee on the Judiciary of the United States House of Representatives; and Mark F. Pomerantz respectfully move to dismiss this appeal.

On April 19, 2023, District Attorney Bragg filed an emergency motion seeking an interim administrative stay and a stay pending appeal of the return date of a subpoena issued to Mr. Pomerantz by the Committee on the Judiciary of the United States House of Representatives. On April 19, 2023, this Court granted an administrative stay of the return date of the subpoena so that a three-judge panel could consider the motion seeking a stay pending appeal of the district court's order. District Attorney Bragg, Chairman Jordan, and the Committee have now entered into a settlement agreement, with an effective date of April 21, 2023, that resolves this appeal. Although Mr. Pomerantz is not a party to that agreement, he joins the motion to dismiss this appeal. Pursuant to that settlement agreement, all parties have agreed that the above captioned appeals should be dismissed without prejudice, that the administrative stay should be dissolved, and that Plaintiff's Emergency

Application for an Administrative Stay And Stay of Return Date Pending Expedited Appeal be withdrawn.

The parties respectfully request that the Court dismiss this appeal without prejudice, with each party bearing its own attorneys' fees and costs.

Dated: April 21, 2023

Respectfully submitted,

/s/ Theodore J. Boutrous, Jr.  
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*Counsel for Plaintiff-Appellant Alvin L.  
Bragg, Jr.*

/s/ Matthew Berry<sup>1</sup>

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*Congressional Defendants*

/s/ Theodore V. Wells, Jr.

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*Counsel for Defendant-Appellee Mark*

*F. Pomerantz*

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<sup>1</sup> All parties consent to Appellant filing this document on their behalf.

**CERTIFICATE OF INTEREST**

Counsel for Plaintiff-Appellant Alvin L. Bragg certifies the following:

**1. The full name of every party or amicus who has been represented by me is:**

Alvin L. Bragg, Jr., in his official capacity as District Attorney for New York County (assignment for the benefit of creditors).

**2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:**

None.

**3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:**

None.

**4. The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court (and who have not or will not enter an appearance in this case) are:**

Gibson Dunn & Crutcher LLP (Theodore J. Boutrous, Jr., Mylan L. Denerstein, Lee R. Crain, and Katherine Moran Meeks) and the District Attorney's Office for New York County (Alvin L. Bragg, Jr., Steven C. Wu, Leslie B. Dubeck, Stephen J. Kress, Caroline S. Williamson).

**5. The title and number of any case known to counsel to be pending in this or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal are:**

*Bragg v. Jordan et al.*, No. 23-cv-3032 (S.D.N.Y.)

Dated: April 21, 2023

Respectfully submitted,

/s/ Theodore J. Boutrous, Jr.  
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*Counsel for Plaintiff-Appellant Alvin L. Bragg, Jr.*



**PROOF OF SERVICE**

I hereby certify that a true and correct copy of this motion was served on all counsel of record, via the CM/ECF system.

Dated: April 21, 2023

Respectfully submitted,

/s/ Theodore J. Boutrous, Jr.  
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