

June 28, 2019

BY ELECTRONIC COURT FILING

The Honorable Paul A. Engelmayer
United States District Court
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square, Room 2201
New York, NY 10007

Re: Joint Letter Motion Requesting Entry of Stipulated Order, No. 1:19-cv-04676-PAE
(consolidated with Nos. 1:19-cv-05433-PAE & 1:19-cv-05435-PAE).

Dear Judge Engelmayer:

The parties have agreed to a joint stipulation, attached as Exhibit A, under which Defendants agree to postpone the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019) (“Final Rule”), until November 22, 2019 for the reasons stated in the stipulation. Accordingly, the parties respectfully request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants’ opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs’ preliminary injunction motions. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross motions for summary judgment prior to the Final Rule’s new November 22, 2019 effective date.

We appreciate your Honor’s time and attention to this matter.

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Attorneys for the *NFPRHA* Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
ALEX M. AZAR II, *in his official capacity as
Secretary of the United States Department of
Health and Human Services*; and UNITED
STATES OF AMERICA,

Defendants.

)
) No. 1:19-cv-04676-PAE
) (consolidated with 1:19-cv-05433-PAE;
) 1:19-cv-05435-PAE)
)

) **STIPULATED REQUEST FOR AN**
) **ORDER TO POSTPONE RULE’S**
) **EFFECTIVE DATE; TO SUSPEND**
) **DEFENDANTS’ DEADLINE TO**
) **RESPOND TO PLAINTIFFS’**
) **PRELIMINARY INJUNCTION**
) **MOTIONS; AND TO VACATE THE**
) **CURRENT BRIEFING SCHEDULE**
) **AND HEARING DATE**
) **[5 U.S.C. § 705]**
)
)
)

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.; and PLANNED
PARENTHOOD OF NORTHERN NEW
ENGLAND, INC.,

Plaintiffs,

v.

ALEX M. AZAR II, *in his official capacity as*
Secretary, United States Department of
Health and Human Services; UNITED
STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ROGER
SEVERINO, *in his official capacity as*
Director, Office for Civil Rights, United
States Department of Health and Human
Services; and OFFICE FOR CIVIL RIGHTS,
United States Department of Health and
Human Services,

Defendants.

)
) No. 1:19-cv-05433-PAE
) (consolidated with 1:19-cv-0476-PAE;
) 1:19-cv-05435-PAE)
)
)
)

that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public interest.” *See Winter v. NRDC*, 555 U.S. 7, 20 (2008).

3. Plaintiffs maintain that—for the reasons expressed in their motions for a preliminary injunction and their opposition to Defendants’ motion to continue the deadline to respond to Plaintiffs’ motions—Plaintiffs would suffer various irreparable injuries were the Final Rule’s effective date not postponed.

4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019.

5. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants’ opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs’ preliminary injunction motions.

6. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross-motions for summary judgment prior to the Final Rule’s new November 22, 2019 effective date.

Dated: June 28, 2019

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Respectfully submitted,

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[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. *See* 5 U.S.C. § 705. Defendants' June 28, 2019 deadline to respond to Plaintiffs' preliminary injunction motions is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 7, 2019 and June 13, 2019 Orders is vacated. This order is without prejudice to the merits.

Dated: _____

PAUL A. ENGELMAYER
UNITED STATES DISTRICT JUDGE