

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE OF NEW YORK, et al.,

Plaintiffs,

-v-

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

Defendants.

19 Civ. 4676 (PAE)
19 Civ. 5433 (PAE)
19 Civ. 5435 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received defendants’ request to continue the deadline to respond to plaintiffs’ motions for a preliminary injunction and to set a briefing schedule for cross motions on summary judgment. Dkt. 79. Defendants “represent to this Court that HHS will delay enforcement of the HHS rule challenged in this case, Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2018) (“Final Rule”), until *November 22, 2019*—four months after its July 22, 2019 effective date.” *Id.* at 1. Defendants argue, therefore, that “the initial alleged emergency that prompted Plaintiffs’ preliminary injunction motions no longer exists.” *Id.* Plaintiffs counter that such a representation is inadequate and does not fully preserve the status quo. *See* Dkt. 80 at 1–2.

The Court denies defendants’ request in its entirety. Unless and until defendants either (1) supply conclusive evidence that the *effective date* of the Final Rule has been officially postponed; or (2) consent to a Court order that would enjoin defendants from enforcing,

applying, or taking any action to implement the Final Rule until resolution of the preliminary injunction motions, the existing briefing and argument schedule remains in effect.¹

For avoidance of doubt, defendants' opposition to plaintiffs' motions for a preliminary injunction remain due **tomorrow, June 28, 2019**. The Court will construe a failure to file opposition submissions on this date as signifying that defendants do not oppose plaintiffs' application for preliminary relief.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: June 27, 2019
New York, New York

¹ The Court notes that a district court in the Northern District of California today denied similar relief requested by defendants in a case challenging the same HHS rule. *See City and Cty. of San Francisco v. Azar*, No. C 19-2405 WHA (N.D. Cal.) at Dkt. 54.