

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/28/19
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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 late yesterday denied, by memo endorsement, a letter motion in which defendants sought to extend today's deadline to file an opposition to plaintiffs' motions for a preliminary injunction until July 1, 2019. Dkt. 84. That ruling stands and the deadline for defendants' opposition to plaintiffs' motions for a preliminary injunction remains today.

The Court, however, wishes to correct a factual error in yesterday's memo endorsement. The Court erroneously recited the date of the Order in which it set a briefing schedule on the preliminary injunction motion. That Order issued on June 7, 2019, Dkt. 27, and gave defendants two weeks, *i.e.*, until June 28, 2019, to respond to plaintiffs' motions for a preliminary injunction, which under the Order was due, and which was timely filed, on June 14, 2019, Dkt. 41.

The Court is mindful of counsels' understandable desire for additional time to brief the significant issues raised by the pending motions and shares all counsels' view that the process of reliable adjudication benefits from a measured briefing process. The Court is further mindful that counsel for the U.S. Department of Health and Human Services ("HHS") earlier this week sought additional time based on a representation by counsel that HHS will delay enforcement of

the HHS rule at issue until November 22, 2019. Dkt. 79. The Court denied that request because HHS had not postponed the rule's effective date, Dkt. 82, and, without such a postponement, plaintiffs viably claimed a risk of harm, *see* Dkt. 80. For avoidance of doubt, the Court clarifies that, in the event of an official postponement of the effective date of the rule to November 22, 2019, the Court would suspend today's deadline for an opposition brief, set a new and more protracted schedule for submission of the remaining briefs on plaintiffs' preliminary injunction motions, and thereafter entertain applications to litigate this case instead, as defendants have proposed, via cross-motions for summary judgment. Absent an official postponement of the effective date, however, the present briefing schedule stands.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: June 28, 2019
New York, New York