

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

MAYOR AND CITY COUNCIL OF
BALTIMORE,

Plaintiff,

v.

ALEX M. AZAR II, in his official capacity as
SECRETARY OF HEALTH AND HUMAN
SERVICES; and U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

No. 1:19-cv-01672-GLR

**STIPULATED REQUEST FOR AN ORDER TO POSTPONE RULE'S EFFECTIVE
DATE; HOLD PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION IN
ABEYANCE; AND SET SUMMARY JUDGMENT BRIEFING SCHEDULE**

Subject to the Court's approval, the parties through their undersigned counsel of record
HEREBY STIPULATE as follows:

1. At present, Defendants' opposition to Plaintiff's motion for preliminary injunction is due on July 1, 2019, Plaintiffs' reply is due on July 8, 2019, and a hearing is scheduled for July 17, 2019.

2. The U.S. Department of Health and Human Services (HHS) stipulates to postponement of 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. HHS stipulates to this delay because it is the most efficient way to adjudicate the Final Rule on the merits. HHS does not concede that Plaintiff is "likely to succeed on the merits, 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. Plaintiff maintains that—for the reasons expressed in its motion for a preliminary

injunction—it, its residents, and its insureds would suffer irreparable injuries were the 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. HHS further agrees that, within a reasonable amount of time after entry, and before July 10, 2019, HHS will post notice that the Rule’s effective date is postponed until November 22, 2019, on its public-facing website.

6. The parties further request, in light of this postponement, that the Court hold Plaintiff’s motion for a preliminary injunction in abeyance and vacate the preliminary injunction briefing schedule and hearing date set forth in its June 27, 2019 order. Plaintiff reserves the right, however, to request that briefing on its preliminary injunction motion recommence as necessary before November 22, 2019.

7. The parties tentatively propose the following schedule for briefing to resolve this litigation on cross-motions for summary judgment:

- a. July 22, 2019: HHS provides Plaintiff with the administrative record.
- b. September 4, 2019: Defendants file their motion for summary judgment.
- c. September 26, 2019: Plaintiff files its opposition and cross-motion for summary judgment.
- d. October 10, 2019: Defendants file their reply and opposition.
- e. October 24, 2019: Plaintiff files its reply.

8. The parties request that the Court schedule a status conference during the week of July 29, 2019, at a time convenient for the Court, at which any party may request modification of the tentative briefing schedule set forth above.

Dated: July 1, 2019

By: /s/ Andre M. Davis
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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 Plaintiff's preliminary injunction motion is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 27, 2019 Order is vacated. This order is without prejudice to the merits. The U.S. Department of Health and Human Services shall make this Order available on its public-facing website. This Order is without prejudice to the merits, which will be adjudicated following briefing on the parties' cross-motions for summary judgment absent further order of the Court.

Dated: _____

GEORGE L RUSSELL III
UNITED STATES DISTRICT JUDGE