

**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.

Case No. 1:19-cv-01672-GLR

CONSENT MOTION TO EXPAND PAGE LIMITS

Defendants respectfully move, pursuant to Local Rule 105.3, for permission to exceed by twenty-five pages the thirty five–page limit for the memorandum in support of their forthcoming motion to dismiss or, in the alternative, for summary judgment and opposition to Plaintiff’s motion for a preliminary injunction, and, correspondingly, for the Court to allow Plaintiff to exceed by twenty-five pages the thirty five–page limit for its cross motion for summary judgment, opposition to Defendants’ motion to dismiss or, in the alternative, for summary judgment, and reply in support of its motion for a preliminary injunction.

1. Plaintiff filed suit in this District on June 5, 2019 raising statutory and constitutional challenges to a May 21, 2019 rule promulgated by the U.S. Department of Health & Human Services, *see* Protecting Conscience Rights in Health Care: Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019) (Final Rule).

2. On June 12, 2019, Plaintiff moved for a preliminary injunction. ECF No. 14.

3. On July 2, 2019, the Court granted the parties’ stipulated request for an order to postpone the Final Rule’s effective date to November 22, 2019, to hold Plaintiff’s motion for a

preliminary injunction in abeyance, and to set a summary judgment briefing schedule. ECF No. 26, Marginal Order. The Court ordered that Defendants file their motion for summary judgment by August 22, 2019; that Plaintiff file its opposition and cross motion for summary judgment by September 12, 2019; Defendants file their reply and opposition by September 20, 2019, and that Plaintiff file its reply by September 27, 2019. *Id.*

4. On July 31, 2019, the Court entered a further order directing briefing on Plaintiff's motion for preliminary injunction along with the previously scheduled briefing of the parties' forthcoming summary judgment motions. ECF No. 36. The Court ordered Defendants' response to the preliminary injunction motion to be filed on August 22, 2019 by 4:30 p.m., and Plaintiff's reply to be filed on September 12, 2019 by 4:30 p.m. *Id.*

5. Local Rule 105.3 sets the page limit for motions and oppositions at thirty-five pages. Given the large number of arguments raised in Plaintiff's complaint and motion for preliminary injunction, and Defendants' need to address the Final Rule's regulatory history and respond to Plaintiff's arguments, Defendants seek permission to file a memorandum in support of their motion to dismiss or, in the alternative, for summary judgment and opposition to Plaintiff's motion for preliminary injunction of sixty pages. Defendants also ask that the Court correspondingly allow Plaintiff to file a cross motion for summary judgment, opposition to Defendants' motion to dismiss or, in the alternative, for summary judgment, and reply in support of its preliminary injunction motion of sixty pages.

6. Under Local Rule 105.3, Defendants' reply in support of their motion to dismiss or, in the alternative, for summary judgment and opposition to Plaintiff's cross motion for summary judgment will be subject to a thirty five-page limit, and Plaintiff's reply in support of its

cross motion for summary judgment will be subject to a twenty-page limit.

7. Counsel for Defendants conferred with counsel for Plaintiff about this motion, and counsel for Plaintiff indicated that Plaintiff consents to Defendants' request, provided that Plaintiff receives the same number of pages in its cross motion, opposition, and reply as does Defendants in their memorandum in support of its motion to dismiss or, in the alternative, for summary judgment and in opposition to Plaintiff's preliminary injunction motion.

FOR THE REASONS SET FORTH ABOVE, Defendants respectfully ask that the Court grant Defendants leave to file a memorandum in support of their motion to dismiss or, in the alternative, for summary judgment and opposition to Plaintiff's motion for a preliminary injunction that exceeds the thirty five-page limit by twenty-five pages, and that the Court grant leave for Plaintiff to file a cross motion for summary judgment, opposition to Defendants' motion to dismiss or, in the alternative, for summary judgment, and reply in support of its preliminary injunction motion that exceeds the thirty five page-limit by twenty-five pages. A proposed order to exceed the page limit is attached with this motion.

Dated: August 21, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director

/s/ Bradley P. Humphreys

BRADLEY P. HUMPHREYS

(D.C. Bar No. 988057)

Trial Attorney, U.S. Department of Justice

Civil Division, Federal Programs Branch

1100 L Street, N.W.

Washington, D.C. 20005

Phone: (202) 305-0878

E-mail: Bradley.Humphreys@usdoj.gov

Counsel for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of August, 2019, a copy of the foregoing was filed electronically and was thus served on all counsel of record.

/s/ Bradley P. Humphreys
BRADLEY P. HUMPHREYS

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[PROPOSED] ORDER

Having reviewed Defendants' consent motion to expand page limits for Defendants' memorandum in support of their motion to dismiss or, in the alternative, for summary judgment and in opposition to Plaintiff's motion for a preliminary injunction, and for Plaintiff's cross motion for summary judgment, opposition to Defendants' motion to dismiss or, in the alternative, for summary judgment, and reply in support of Plaintiff's motion for a preliminary injunction, it is hereby ORDERED that:

1. Defendants may file a memorandum in support of their motion to dismiss or, in the alternative, for summary judgment and in opposition to Plaintiff's motion for preliminary injunction of up to sixty pages in length.

2. Plaintiff may file a cross motion for summary judgment, opposition to Defendants' motion to dismiss or, in the alternative, for summary judgment, and reply in support of its motion for preliminary injunction of up to sixty pages in length.

SO ORDERED.

DATED this _____ day of August, 2019.

Hon. George L. Russell
United States District Judge