

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 19-4254, 20-31, 20-32, 20-41

Caption [use short title]

Motion for: 14-day extension of time to file the
government's reply briefState of New York v. United States Department of
He

Set forth below precise, complete statement of relief sought:

The government respectfully requests that the
Court grant a 14-day extension of time to
file the government's reply brief, through and
including Monday, August 31, 2020.

MOVING PARTY: U.S. Dep't of Health & Human Services, et al.

☐ Plaintiff☒ Defendant☒ Appellant/Petitioner☐ Appellee/Respondent

OPPOSING PARTY: State of New York et al.

MOVING ATTORNEY: Leif Overvold

OPPOSING ATTORNEY: Diana Salgado

[name of attorney, with firm, address, phone number and e-mail]

U.S. Department of Justice

Planned Parenthood Federation of America

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212-261-4399; diana.salgado@ppfa.org

Court-Judge/Agency appealed from: S.D.N.Y.; Hon. Paul A. Engelmayer

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):

☒ Yes ☐ No (explain):

Opposing counsel's position on motion:

☒ Unopposed ☐ Opposed ☐ Don't Know

Does opposing counsel intend to file a response:

☐ Yes ☒ No ☐ Don't KnowFOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:

Has request for relief been made below?

☐ Yes ☐ No

Has this relief been previously sought in this Court?

☐ Yes ☐ No

Requested return date and explanation of emergency:

Is oral argument on motion requested?

☐ Yes ☒ No (requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?

☐ Yes ☒ No If yes, enter date:

Signature of Moving Attorney:

/s/ Leif Overvold

Date: 7/30/2020

Service by: ☒ CM/ECF☐ Other [Attach proof of service]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

STATE OF NEW YORK, et al.,

Plaintiffs-Appellees,

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC., et al.,

Consolidated-Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF HEALTH &
HUMAN SERVICES, et al.,

Defendants-Appellants,

DR. REGINA FROST, et al.,

Intervenor-Defendants-Appellants,

ROGER T. SEVERINO, et al.,

Consolidated-Defendants-
Appellants.

Nos. 19-4254, 20-31, 20-32,
20-41

**UNOPPOSED MOTION FOR A FOURTEEN-DAY EXTENSION OF
TIME TO FILE THE GOVERNMENT'S REPLY BRIEF**

Pursuant to Fed. R. App. P. 26 & 27, and Second Cir. Local R. 27.1(f), the government respectfully moves for a fourteen-day extension of time, to and including Monday, August 31, 2020, within which to file its reply brief. The reasons for the motion are set out below. The motion is unopposed.

1. The government filed its opening brief in this case on April 27, 2020, within 91 days of the “ready date” in these consolidated appeals. Plaintiffs-Appellees subsequently requested 120 days in which to file their response briefs. This Court denied that request on May 27, 2020, ordering that the briefs were due on July 27, 2020, and stating that “[t]here shall be absolutely no further extensions.” Plaintiffs-Appellees timely filed their response briefs on July 27, 2020. The government’s reply brief is therefore due on Monday, August 17, 2020. The government has not previously requested an extension of time in this appeal.

2. Counsel for the government will be unable to prepare the reply brief by August 17, 2020 for the following reasons. This consolidated appeal involves three separate challenges to a 2019 final rule promulgated by the U.S. Department of Health & Human Services raising numerous statutory and constitutional issues, which resulted in a 147-page district court decision vacating the rule based on a number of independent grounds. The government’s reply brief must respond to two oversized briefs filed by the Plaintiffs-Appellees, and may have to respond as well to additional arguments raised in at least five amicus briefs to be filed in support of the Plaintiffs-Appellees. Given the large number and scope of independent legal questions that must be addressed and the significance of the decision at issue, a fourteen-day extension of the time in which to file the reply brief is warranted.

3. In addition, the attorney with primary responsibility for the reply brief in this appeal is Leif Overvold. Mr. Overvold is also scheduled to present oral argument

on August 11, 2020, in *Reid v. United States*, No. 18-16042 (9th Cir.). Mr. Overvold also has primary responsibility for the response brief in *Hunt v. Matevousian*, No. 18-17464 (9th Cir.), due on August 19, 2020.

4. The supervisory attorney assigned to this case is Michael Raab. Mr. Raab will also be occupied with other pressing appellate matters in the coming weeks, including the following: *Guardiola v. United States*, No. 20-15831 (9th Cir.) (opening brief due August 10, 2020); *Hall v. USDA*, No. 20-16232 (9th Cir.) (response brief due August 11, 2020); *Confederated Tribes of the Chehalis Reservation v. Mnuchin*, Nos. 20-5204, 20-5205, 20-5209 (D.C. Cir.) (response brief due August 18, 2020, on expedited schedule).

5. A fourteen-day extension of time will not unduly delay this case, which has not yet been scheduled for oral argument.

6. We have contacted counsel for the Plaintiffs-Appellees and the Intervenor-Defendants-Appellants in this case, and they do not oppose this motion.

7. For the foregoing reasons, the Court should grant a fourteen-day extension of time to file the government's reply brief, through and including Monday, August 31, 2020.

Respectfully submitted,

MICHAEL RAAB
LOWELL V. STURGILL
SARAH CARROLL

/s/ Leif Overvold

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JULY 2020

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A), because it contains 520 words, according to the count of Microsoft Word.

/s/ *Leif Overvold*
LEIF OVERVOLD

CERTIFICATE OF SERVICE

I hereby certify that on July 30, 2020, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Second Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ *Leif Overvold*
LEIF OVERVOLD