

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: Extend word limit for the government's reply brief

State 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 increase the word-count limit on the government's reply brief by 1,000 words, from 7,000 words to 8,000 words.

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

OPPOSING PARTY: State of New York, et al.

Plaintiff Defendant Appellant/Petitioner Appellee/Respondent

MOVING ATTORNEY: Leif Overvold

OPPOSING ATTORNEY: Steven C. Wu

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

U.S. Department of Justice 950 Pennsylvania Ave., NW, Washington, DC 20530 (202) 532-4631; leif.overvold2@usdoj.gov

New York State Office of the Attorney General 28 Liberty Street, New York, NY 10005 212-416-6312; Steven.Wu@ag.ny.gov

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):

FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND INJUNCTIONS PENDING APPEAL:

Has request for relief been made below? Has this relief been previously sought in this Court? Requested return date and explanation of emergency:

Opposing counsel's position on motion: Unopposed Opposed Don't Know

Does opposing counsel intend to file a response: Yes No Don't Know

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: 8/14/2020

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 TO EXTEND WORD LIMIT

Pursuant to Second Circuit Rule 27.1, the government respectfully requests that the Court extend the word-count limit on the government's reply brief by 1,000 words, from 7,000 words to 8,000 words.

1. This consolidated appeal arises from a final rule that the U.S. Department of Health & Human Services (HHS) promulgated in 2019. *See* Protecting Statutory

Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019). The plaintiffs filed three separate challenges to the rule raising numerous statutory and constitutional issues, which were consolidated in district court. The government's appeals from the district court's final judgment in these cases have been consolidated in this Court as well, along with an appeal filed by Intervenor-Defendants Dr. Regina Frost and the Christian Medical and Dental Associations.

2. A 1,000-word extension of the word-count limit is warranted here. The rule at issue clarifies and interprets the requirements imposed by, and explains HHS's procedures for enforcing, numerous statutes protecting individuals and entities with religious or moral objections to providing certain health-care-related services through conditions placed on the receipt of HHS funds. The district court's opinion and order vacating HHS's rule is 147 pages and vacates the rule based on a number of independent grounds. In addition, the government's reply brief must respond to two oversized briefs filed by the Plaintiffs-Appellees. It must also address additional arguments presented in eight amicus briefs filed in support of the Plaintiffs-Appellees. Given the large number and scope of independent legal questions at issue, the consolidated nature of the appeals and the range of briefs filed by or in support of the Plaintiffs-Appellees, and the significance of the decision at issue, an increase in the briefing word-count limit from 7,000 words to 8,000 words is warranted.

3. We have contacted counsel for the Plaintiffs-Appellees and the Intervenor-Defendants-Appellants in this case, and they have no objection to this motion.

4. For the foregoing reasons, the government respectfully requests that the Court extend the word-count limit for the government's reply brief from 7,000 words to 8,000 words.

Respectfully submitted,

MICHAEL S. RAAB
LOWELL V. STURGILL
SARAH CARROLL

/s/ Leif Overvold

LEIF OVERVOLD

(202) 532-4631

Attorneys, Appellate Staff
Civil Division, Room 7226
U.S. Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
(202) 532-4631
leif.overvold2@usdoj.gov

AUGUST 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 347 words, according to the count of Microsoft Word.

/s/ Leif Overvold

LEIF OVERVOLD

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 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