

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Aimee Maddonna,)	
)	
Plaintiff,)	Civil Action No. 6:19-cv-03551-JD
)	
v.)	Joint Motion for Relief
)	from Mediation Order
United States Department of Health and)	
Human Services et al.,)	
)	
Defendants.)	

Pursuant to Local Rule 16.05 of the Local Civil Rules for the United States District Court, District of South Carolina, Plaintiff and Defendants hereby jointly request relief from the Court’s Order to Conduct Mediation (ECF No. 49), and that portion of the Court’s Fifth Amended Conference and Scheduling Order (ECF No. 95) that requires the mediation to be completed by February 25, 2022.¹ Local Rule 16.05 provides that such relief “shall be freely given for good cause shown.”

Plaintiff filed this case on December 20, 2019, asserting four causes of action for alleged violations of the Establishment and Equal Protection Clauses of the United States Constitution and the Administrative Procedures Act, all allegedly arising from actions taken by Defendants in relation to private, faith-based foster care services providers. (ECF No. 1.) The Court subsequently dismissed Plaintiff’s Equal Protection claim, but allowed the remainder of the case to proceed to discovery. (ECF No. 43.²) Over the next 18 months, the parties served and

¹ Because a full explanation of the grounds for this motion is contained within the motion itself, the parties do not file a supporting memorandum at this time. Local Civ. Rule 7.04 (D.S.C.)

² As foreshadowed by the parties’ Rule 26(f) Proposed Discovery Plan (*see* ECF No. 57 at 3–5), Plaintiff has declined to pursue any discovery against the Federal Defendants beyond the production of the Administrative Record.

responded to interrogatories, requests to admit, and requests for production; exchanged thousands of pages of documents; served multiple experts' reports; and conducted a deposition.³ Under the Court's Fifth Amended Conference and Scheduling Order, discovery closed on February 18, 2022.

As the close of discovery approached, and in the following days, the State Defendants' and Plaintiff's counsel conferred with their respective clients and engaged in discussions between counsel to explore whether settlement of some or all of the claims asserted in this suit would be possible. State Defendants' and Plaintiff's mutual determination at the conclusion of those discussions was that settlement of this case, in whole or in part, is not feasible. In addition, all parties, including Federal Defendants, believe that mediation would be an unproductive endeavor and a needless expenditure of time, cost, and effort by the parties, their counsel, and the mediator.

For all these reasons, the parties and their counsel respectfully submit that good cause within the meaning of Local Rule 16.05 exists for relief from the aforementioned Mediation Order and deadline. Accordingly, the parties respectively request that the Court grant this joint motion and excuse the parties from the mediation requirement.

[SIGNATURE PAGES ATTACHED]

³ Because the depositions the parties would normally have expected to conduct in this case would have been largely duplicative of those taken in *Rogers et al. v. U.S. Dept. of Health & Human Servs. et al.*, No. 6:19-cv-01567-JD (D.S.C.), the parties to this proceeding agreed to rely on the deposition transcripts from *Rogers*, plus the deposition of Plaintiff Aimee Maddonna, rather than replicating those depositions.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: s/ Miles E. Coleman
Miles E. Coleman
Federal Bar No. 11594
E-Mail: miles.coleman@nelsonmullins.com
2 W. Washington Street, Fourth Floor
Greenville, SC 29601
(864) 373-2352

Jay T. Thompson
Federal Bar No. 09846
E-Mail: jay.thompson@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

OFFICE OF THE ATTORNEY GENERAL

Robert D. Cook
South Carolina Solicitor General
Federal Bar No. 285
E-Mail: bcook@scag.gov
Post Office Box 11549
Columbia, SC 29211
(803) 734-3970

DAVIDSON, WREN & DEMASTERS P.A.

Kenneth P. Woodington
Federal Bar No. 4741
William H. Davidson
Federal Bar No. 425
1611 Devonshire Drive, 2nd Floor
Post Office Box 8568
Columbia, South Carolina 29202-8568
E-mail: [wdavidson@dml-law.com](mailto:w davidson@dml-law.com)
E-mail: kwoodington@dml-law.com
(803) 806-8222

Attorneys for Defendants Henry McMaster and Michael Leach

BRIAN M. BOYNTON
Acting Assistant Attorney General

Corey F. Ellis
U.S. Attorney

MICHELLE BENNETT
Assistant Branch Director

s/ Christie V. Newman
Christie V. Newman
Assistant United States Attorney
1441 Main St., Suite 500
Columbia, SC 29201
(803) 929-3021
Christie.Newman@usdoj.gov

Benjamin Takemoto (admitted pro hac vice)
Federal Programs Branch
U.S. Department of Justice, Civil Division
1100 L Street, NW
Washington, DC 20005
(202) 353-0543
Benjamin.Takemoto@usdoj.gov

Attorneys for Federal Defendants

/s/ Aaron J. Kozloski

Aaron J. Kozloski (D.S.C. Bar No. 9510)
CAPITOL COUNSEL, LLC
P.O. Box 1996
Lexington, SC 29071-1996
Tel: (803) 465-1400
Fax: (888) 513-6021
aaron@capitolcounsel.us

Richard B. Katskee*
Kenneth D. Upton, Jr.*
AMERICANS UNITED FOR SEPARATION
OF CHURCH AND STATE
1310 L Street NW, Suite 200
Washington, DC 20005
Tel: (202) 466-3234
Fax: (202) 466-3353
katskee@au.org
upton@au.org

* Admitted pro hac vice

Counsel for Plaintiff