

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF
PENNSYLVANIA,

Plaintiff,

v.

JOSEPH R. BIDEN, in his official
capacity as President of the United States,
et al.,

Defendants.

Civil Action No. 2:17-cv-04540 (WB)

MOTION FOR A STAY OF PROCEEDINGS

Federal Defendants hereby request that the Court extend the stay entered in this case until July 30, 2021, to afford new leadership at Federal Defendant agencies and the U.S. Department of Justice additional time to evaluate the issues presented by this case.

1. This case involves a challenge to final rules the defendant agencies issued in 2018 expanding the prior religious exemption to the contraceptive coverage requirement and creating a new moral exemption. *See* Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA, 83 Fed. Reg. 57,536 (Nov. 15, 2018); Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA, 83 Fed. Reg. 57,592 (Nov. 15, 2018).
2. This Court entered a preliminary injunction; the judgment was reversed and remanded by the Third Circuit on August 21, 2020, following the Supreme Court’s decision in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020).
3. The Court has before it fully briefed dispositive motions. *See, e.g.*, ECF Nos. 252, 254, 255.
4. The Court has the inherent power to stay this case to save “time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Relatedly,

the Court has the power to hold motions in abeyance. *See, e.g., Bracey v. Lancaster Foods LLC*, 2019 WL 1129436, at *6 (D. Md. Mar. 12, 2019), *appeal dismissed*, 2020 WL 7385192 (4th Cir. Dec. 16, 2020).

5. On March 5, 2021, Federal Defendants asked the Court to stay this case or, in the alternative, hold the pending dispositive motions in abeyance, to enable new leadership at the Defendant Agencies and the U.S. Department of Justice to evaluate the issues presented by the case. ECF No. 269.
6. The Court entered an order staying the case until April 30, 2021 and instructing Federal Defendants to file a status report on or before the same day. ECF No. 271.
7. New leadership at the federal defendant agencies—the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the U.S. Department of the Treasury—and the U.S. Department of Justice are continuing to evaluate the issues that this case presents in light of all relevant facts and circumstances, including the Executive Order on Strengthening Medicaid and the Affordable Care Act, January 28, 2021 (EO), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/executive-order-on-strengthening-medicaid-and-the-affordable-care-act/?_hsmi=117826243&_hsenc=p2ANqtz-9ZGdrSbFhmzpZv1U5tBXA5boILZhCzIZdVpKC3RgZl3d3ZDayiCDM0lrq6CTOqVJsF88ThoYbQQFpNxZbyc7C5jyrg9A.
8. The EO states, “it is the policy of [the Biden] Administration to protect and strengthen Medicaid and the ACA and to make high-quality healthcare accessible and affordable for every American.” *Id.* § 1. The EO also instructs “[t]he Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and the heads of all other executive departments and agencies with authorities and responsibilities related to Medicaid and the ACA (collectively, heads of agencies) [to] as soon as practicable, review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) to determine whether

such agency actions are inconsistent with the” Administration’s policy articulated in the first sentence of this paragraph. *Id.* § 3.

9. It would conserve the resources of the Court and the parties to extend the stay entered in this case until July 30, 2021, while the agencies continue this evaluation.
10. Federal Defendants propose to file a status report with the Court on or before July 30, 2021.
11. Plaintiffs’ counsel represents that Plaintiffs do not oppose the requested relief. Counsel for Defendant-Intervenor, The Little Sisters of the Poor, state that their client opposes this motion.
12. Therefore, the Government hereby moves for an extension of the stay of proceedings in this case, until July 30, 2021, to permit new leadership to continue to evaluate the issues presented by this case.

DATED: April 30, 2021

Respectfully submitted,

SARAH E. HARRINGTON
Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

MICHELLE R. BENNETT
Assistant Director, Federal Programs Branch

/s/ Justin M. Sandberg
JUSTIN M. SANDBERG (Il. Bar No. 6278377)

Senior Trial Counsel

MICHAEL GERARDI

CHRISTOPHER R. HEALY

REBECCA M. KOPPLIN

DANIEL RIESS

Trial Attorneys

U.S. Dep’t of Justice, Civil Div., Federal Programs Branch

1100 L Street, NW

Washington, D.C. 20001

(202) 514-5838

Justin.Sandberg@usdoj.gov

Attorneys for Federal Defendants

CERTIFICATE OF SERVICE

I hereby certify that, on April 30, 2021, a copy of the forgoing document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 30th day of April, 2021.

s/ Justin M. Sandberg
JUSTIN M. SANDBERG
Senior Trial Counsel
Unite States Department of Justice

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FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,)	
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Plaintiff,)	
v.)	Civil Action No. 2:17-cv-04540 (WB)
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JOSEPH R. BIDEN, in his official capacity as President of the United States, <i>et al.</i> ,)	
)	
Defendants.)	
_____)	

[PROPOSED] ORDER

The Court, having considered the Federal Defendants’ motion to stay proceedings in this case, hereby GRANTS the motion and STAYS the case until July 30, 2021. Federal Defendants shall file a status report on or before July 30, 2021.

IT IS SO ORDERED, this _____ day of _____, 2021.

HON. WENDY BEETLESTONE
United States District Judge