

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

COMMONWEALTH OF PENNSYLVANIA,

Plaintiff-Appellee,

v.

PRESIDENT, UNITED STATES OF

AMERICA et al.,

Defendants-Appellants,

and

LITTLE SISTERS OF THE POOR SAINTS

PETER AND PAUL HOME,

Intervenor-Defendant-Appellant.

Nos. 17-3752 and 18-1253

UNOPPOSED MOTION TO STAY BRIEFING SCHEDULE

The federal defendants and the Commonwealth of Pennsylvania respectfully request that this Court stay the briefing schedule pending the parties' filing of motions to govern further proceedings and the Court's disposition of those motions. The only other party to this appeal, intervenor Little Sisters of the Poor, does not oppose this motion.

1. Plaintiff-appellant, the Commonwealth of Pennsylvania, challenges two interim final rules issued by the Department of Health and Human Services, the Department of Labor, and the Department of the Treasury.

2. The agencies have promulgated final rules superseding those interim final rules. The final rules were made publicly available on the Federal Register's website (<https://www.federalregister.gov/publicinspection/current>), on November 7, 2018, and are scheduled to be published in the Federal Register on November 15, 2018.

3. Briefing has not yet been completed in this case. The government and intervenor the Little Sisters filed their opening briefs on September 21, 2018, and Pennsylvania's response brief is currently due November 14, 2018.

4. In a separate letter submitted to this Court, the government proposed that the parties file motions to govern further proceedings by November 20, 2018.

5. The federal defendants and the Commonwealth of Pennsylvania respectfully request that the current briefing deadlines be stayed pending the Court's disposition of those motions and the issuance of a revised briefing schedule if appropriate.

6. Intervenor Little Sisters of the Poor has authorized us to represent that it does not oppose this motion.

CONCLUSION

For the foregoing reasons, the Court should stay the current briefing deadlines pending the Court's disposition of motions to govern further proceedings and the issuance of a revised briefing schedule if appropriate.

Respectfully submitted,

JOSH SHAPIRO
Attorney General
Commonwealth of Pennsylvania

/s/ Michael J. Fischer
MICHAEL J. FISCHER
Chief Deputy Attorney General
AIMEE D. THOMSON
Deputy Attorney General
Office of Attorney General
Strawberry Square
Harrisburg, PA 17120
(215) 560-2171
mfischer@attorneygeneral.gov

*Counsel for the Commonwealth of
Pennsylvania*

SHARON SWINGLE
/s/ Lowell V. Sturgill Jr.
LOWELL V. STURGILL JR.
KAREN SCHOEN
Attorneys, Appellate Staff
Civil Division, Room 7241
U.S. Department of Justice 950
Pennsylvania Avenue N.W.
Washington, D.C. 20530
(202) 514-3427
lowell.sturgill@usdoj.gov

*Counsel for the Federal
Government*

NOVEMBER 2018

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this motion complies with the requirements of Rule 27(d)(1)(E) because it has been prepared in 14-point Century Schoolbook, a proportionally spaced font, and that it complies with the type-volume limitation of Rule 27(d)(2)(A), because it contains 277 words, according to the count of Microsoft Word.

/s/ Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.
*Counsel for the Federal
Government*

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2018, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the Third 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/ Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.