

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

COMMONWEALTH OF MASSACHUSETTS,

Plaintiff-Appellant,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES et al.,

Defendants-Appellees.

No. 18-1514

ASSENTED-TO MOTION TO STAY BRIEFING SCHEDULE

The federal defendants respectfully request that this Court stay the briefing schedule pending the government's filing of a motion to govern further proceedings and the Court's disposition of that motion.

1. Plaintiff-appellant, the Commonwealth of Massachusetts, 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/public-inspection/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.

Massachusetts filed its opening brief on September 17, 2018, and the government's response brief is currently due November 16, 2018.

4. In a separate letter submitted to this Court, the government proposed that the government file a motion to govern further proceedings by November 20, 2018, and that Massachusetts file any response by December 7, 2018 (a schedule to which Massachusetts has agreed).

5. We respectfully request that the current briefing deadlines be stayed pending the Court's disposition of the motion to govern further proceedings and the issuance of a revised briefing schedule if appropriate.

6. We have contacted counsel for Massachusetts, who have authorized us to state that they consent to this motion.

CONCLUSION

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

Respectfully submitted,

SHARON SWINGLE

LOWELL V. STURGILL JR.

/s/ Karen Schoen

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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 271 words, according to the count of Microsoft Word.

/s/ Karen Schoen
Karen Schoen

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2018, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the First 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/ Karen Schoen
Karen Schoen