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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON
AT YAKIMA**

STATE OF WASHINGTON,

Plaintiff,

v.

ALEX M. AZAR II, in his official
capacity as Secretary of the United
States Department of Health and
Human Services; and UNITED
STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

Nos. 2:19-cv-0183-SAB

**STIPULATED REQUEST FOR
AN ORDER TO POSTPONE
RULE’S EFFECTIVE DATE;
HOLD PLAINTIFF’S MOTION
FOR PRELIMINARY
INJUNCTION IN ABEYANCE**

**STIPULATED REQUEST FOR AN
ORDER TO POSTPONE RULE’S
EFFECTIVE DATE; HOLD
PLAINTIFF’S MOTION FOR
PRELIMINARY INJUNCTION IN
ABEYANCE**

1 Subject to the Court’s approval, the parties through their undersigned
2 counsel of record HEREBY STIPULATE as follows:

- 3 1. At present, Defendant’s opposition to Plaintiff’s motion for
4 preliminary injunction is due on July 8, 2019, Plaintiff’s reply is due
5 on July 15, 2019, and a hearing is scheduled for July 17, 2019.
- 6 2. The U.S. Department of Health and Human Services (HHS) stipulates
7 to postponement of the effective date of the rule titled Protecting
8 Statutory Conscience Rights in Health Care, Delegations of Authority,
9 84 Fed. Reg. 23,170 (May 21, 2019) (Final Rule), until November 22,
10 2019. HHS stipulates to this delay because it is the most efficient way
11 to adjudicate the Final Rule on the merits. HHS does not concede that
12 Plaintiff is “likely to succeed on the merits, that [it is] likely to suffer
13 irreparable harm in the absence of preliminary relief, that the balance
14 of equities tips in [its] favor, [or] that an injunction is in the public
15 interest.” *See Winter v. NRDC*, 555 U.S. 7, 20 (2008).
- 16 3. Plaintiff maintains that for the reasons expressed in its motion for a
17 preliminary injunction and accompanying declarations, Plaintiff would
18 suffer various irreparable injuries were the Final Rule’s effective date
19 not postponed.
- 20 4. The parties request that the Court issue an order, pursuant to 5 U.S.C.
21 § 705, that the effective date of the Final Rule is postponed until
22 November 22, 2019, at noon PST.

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5. HHS agrees that, within a reasonable amount of time after the entry of the Court’s order and before July 12, 2019, HHS will post notice on its public-facing website that the Rule’s effective date is postponed until November 22, 2019.
6. The parties further request, in light of this postponement, that the Court hold Plaintiff’s motion for a preliminary injunction in abeyance and vacate the preliminary injunction briefing schedule and hearing date set forth in its June 26, 2019 order.
7. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross motions for summary judgment prior to the Final Rule’s new November 22, 2019 effective date, or whether renewed preliminary injunction briefing will be necessary. The parties propose to file a joint status report on or before July 12, 2019 addressing the schedule in this case going forward.

Dated: July 3, 2019

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

JOSEPH H. HARRINGTON
United States Attorney

MICHELLE R. BENNETT
Assistant Branch Director

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/s/ Rebecca Kopplin
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[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. *See* 5 U.S.C. § 705. Defendants’ July 8, 2019 deadline to respond to Plaintiff’s preliminary injunction motion is suspended, the preliminary injunction briefing schedule set forth in the Court’s June 26, 2019 Order is vacated, and the July 17, 2019 hearing date is vacated. This Order is without prejudice to the merits. The Parties are further ordered to file a joint status report on or before July 12, 2019 addressing the schedule in this case going forward.

Dated: _____

THE HONORABLE STANLEY A. BASTIAN
UNITED STATES DISTRICT JUDGE

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CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

/s/ Rebecca Kopplin
REBECCA KOPPLIN
Trial Attorney
U.S. Department of Justice

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