

**In the United States Court of Appeals
for the Fifth Circuit**

State of Texas; State of Montana,
Plaintiffs - Appellees

v.

Robert F. Kennedy, Jr., Secretary, U.S. Department of Health and Human
Services; Melanie Fontes Rainer, Director; Centers for Medicare and Medicaid
Services; United States Department of Health and Human Services,
Defendants - Appellants

On Appeal from the United States District Court
for the Eastern District of Texas, Tyler Division

**UNOPPOSED MOTION TO SUSPEND BRIEFING
DEADLINES PENDING A RULING ON THE PARTIES'
JOINT MOTION TO HOLD APPEAL IN ABEYANCE**

Pursuant to Federal Rule of Appellate Procedure 27, the States ask this Court to suspend briefing deadlines in this matter pending a ruling on the Parties' Joint Motion to hold this appeal in abeyance. In support of this motion, the States state the following:

1. This appeal involves a rule issued by the U.S. Department of Health and Human Services (HHS) promulgating regulations to implement the prohibition on sex discrimination in health programs and activities that receive federal financial assistance under Section 1557 of the Affordable Care Act. *See Nondiscrimination in*

Health Programs and Activities, 89 Fed. Reg. 37,522 (May 6, 2024). The district court stayed the effective date of the rule with respect to certain challenged provisions under 5 U.S.C. § 705. The federal government appealed and filed its opening brief on November 27, 2024. The States' response brief is currently due February 26, 2025.

2. On February 19, 2025, the Parties filed a joint motion to hold the appeal in abeyance for 90 days to allow new officials in the federal government sufficient time to become familiar with the issues in this case and determine how they wish to proceed. That motion is still pending with this Court.

3. Because the States' response brief is currently due February 26, 2025, the States respectfully ask this Court to suspend all briefing deadlines in this matter until the Court has had an opportunity to rule on joint motion to hold these proceedings in abeyance. The federal government is unopposed.

Dated: February 25, 2025

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Respectfully submitted,

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CERTIFICATE OF CONFERENCE

On February 25, 2025, counsel for Appellees conferred with counsel for Appellants. This motion is unopposed by all parties.

/s/Kathleen T. Hunker
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CERTIFICATE OF SERVICE

On February 25, 2025, this motion was served via CM/ECF on all registered counsel and transmitted to the Clerk of the Court. Counsel further certifies that: (1) any required privacy redactions have been made in compliance with Fifth Circuit Rule 25.2.13; (2) the electronic submission is an exact copy of the paper document in compliance with Fifth Circuit Rule 25.2.1; and (3) the document has been scanned with the most recent version of Symantec Endpoint Protection and is free of viruses.

/s/Kathleen T. Hunker
KATHLEEN T. HUNKER

CERTIFICATE OF COMPLIANCE

This motion complies with: (1) the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 249 words, excluding the parts exempted by Rule 27(a)(2)(B); and (2) the typeface and type-style requirements of Rules 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared in a proportionally spaced typeface (14-point Equity) using Microsoft Word (the same program used to calculate the word count).

/s/Kathleen T. Hunker
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