

FAULK COMPANY, INC.,	)	
	)	
Plaintiff-Appellee	)	
	)	
v.	)	No. 25-10773
	)	
ROBERT F. KENNEDY, JR., in his official	)	
capacity as Secretary of Health and	)	
Human Services, U.S. DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES and	)	
its subcomponent CENTERS FOR	)	
MEDICARE AND MEDICAID SERVICES,	)	
MEHMET OZ, in his official capacity as	)	
Administrator of the Centers for Medicare	)	
and Medicaid Services, and	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendants-Appellants	)	
	)	

The defendants-appellants United States, the U.S. Department of Health and Human Services (“HHS”) and its subcomponent the Centers for Medicare and Medicaid Services (“CMS”), the Secretary of HHS, and the Administrator of CMS (collectively, “the Government”) hereby notify the Court that Department of Justice attorneys have resumed their

usual civil functions as of November 13, 2025. The Government further states as follows:

1. At the end of the day on September 30, 2025, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed.

2. On October 8, 2025, the Government moved this Court for a stay of briefing in this case, explaining that Department of Justice attorneys assigned to this appeal were prohibited from working during the lapse of appropriations, except in very limited circumstances. The Government's motion stated that it would notify the Court when the lapse of appropriations ended.

3. This Court, by order entered October 16, 2025, granted the Government's "unopposed motion for a stay of briefing and for an extension of time to file [its opening] brief for the total number of days of the lapse in Congressional appropriations." (ECF Doc. 35-2)

4. On the evening of November 12, 2025, Congress passed, and President Trump signed, the Continuing Appropriations, Agriculture, Legislative Branch, Military Construction and Veterans Affairs, and

Extensions Act, 2026, H.R. 5371, 119th Cong. (2025), restoring funding to the Department through January 30, 2026.

5. Consistent with the Government's stay motion, undersigned counsel hereby notifies the Court that Congress has appropriated funds for the Department of Justice, allowing the Department of Justice attorneys working on this matter to resume work on November 13, 2025. An extension of 43 days (the length of the lapse in appropriations) from the original due date for the Government's opening brief of October 24, 2025, would fall on December 6, 2025. Because December 6, 2025, is a Saturday, the Government calculates that its opening brief is now due on December 8, 2025. *See Fed. R. App. P. 26(a)(1)(C).*

Respectfully submitted,

/s/ Ellen Page DelSole
Ellen Page DelSole
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Tax Division
Department of Justice
Post Office Box 502
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202-514-8128
Counsel for the Appellants

Dated: November 17, 2025

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

_____	)	
FAULK COMPANY, INC.,	)	
	)	
Plaintiff-Appellee	)	
	)	
v.	)	No. 25-10773
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capacity as Secretary of Health and	)	
Human Services, U.S. DEPARTMENT OF	)	
HEALTH AND HUMAN SERVICES and	)	
its subcomponent CENTERS FOR	)	
MEDICARE AND MEDICAID SERVICES,	)	
MEHMET OZ, in his official capacity as	)	
Administrator of the Centers for Medicare	)	
and Medicaid Services, and	)	
UNITED STATES OF AMERICA,	)	
	)	
Defendants-Appellants	)	
_____	)	

DECLARATION

I, Ellen Page DelSole, of the United States Department of Justice,
Washington, D.C., state as follows:

1. I am an attorney employed in the Appellate Section of the
Tax Division, United States Department of Justice. In that capacity, I
have been assigned as the supervisory attorney for the above-captioned
appeal on behalf of the Government.

2. The facts recited in the foregoing motion are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct. Executed on this 17th day of November, 2025, at Washington, D.C.

/s/ Ellen Page DelSole
ELLEN PAGE DELSOLE
Attorney

CERTIFICATE OF COMPLIANCE

With Type-Volume Limitation, Typeface Requirements,
and Type Style Requirements

1. This motion complies with the type-volume limitation of Fed. R. App. P. 27(d) because:

☒ this motion contains 342 words, excluding the parts thereof exempted by Fed. R. App. P. 32(a)(7)(B)(iii), *or*

☐ this motion uses a monospaced typeface and contains [*state the number of*] lines of text, excluding the parts thereof exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because:

☒ this motion has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Century Schoolbook, *or*

☐ this motion has been prepared in a monospaced typeface using [*state name and version of word processing program*] with [*state number of characters per inch and name of type style*].

(s) /s/ Ellen Page DelSole

Attorney for the Appellants

Dated: November 17, 2025