

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

AMERICAN HOSPITAL ASS'N, *et al.*,

Plaintiffs-Appellees,

v.

ALEX M. AZAR II, *et al.*,

Defendants-Appellants.

Nos. 19-5048, 19-5198

**APPELLANTS' UNOPPOSED MOTION
TO CONSOLIDATE RELATED APPEALS**

Pursuant to this Court's order of March 27, 2019, the government respectfully moves to consolidate two appeals that arise out of the same case: (1) Appeal No. 19-5048, which is an interlocutory appeal that this Court put in abeyance on the government's motion; and (2) Appeal No. 19-5198, which is a recently filed appeal from final judgment. Plaintiffs have authorized us to state that this consolidation motion is unopposed.

Respectfully submitted,

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ALISA B. KLEIN

/s/ Laura E. Myron

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 78 words. This motion also complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) and 32(a)(5)-(6) because it was prepared using Microsoft Word 2013 in Garamond 14-point font, a proportionally spaced typeface.

s/ Laura E. Myron

LAURA E. MYRON

CERTIFICATE OF SERVICE

I hereby certify that on July 25, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia 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.

ls/ Laura E. Myron

LAURA E. MYRON

CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), the undersigned counsel certifies as follows:

A. Parties and Amici

Plaintiffs-Appellees are the American Hospital Association, the Association of American Medical Colleges, America's Essential Hospitals, Northern Light Health, Henry Ford Health System, and Fletcher Hospital, Inc. (d/b/a Park Ridge Health).

Defendants-Appellants are Alex M. Azar II, in his official capacity as Secretary of Health & Human Services, and the United States Department of Health & Human Services.

The Federation of American Hospitals participated as amicus curiae in district court.

B. Rulings under Review

The rulings under review are the opinion and order entering final judgment on July 10, 2019 (ECF Nos. 58, 59); and all prior orders and decisions that merge into the final judgment, including the December 27, 2018 opinion and order (ECF Nos. 24, 25), and the May 6, 2019 opinion and order (ECF Nos. 49, 50). The rulings were issued by the Honorable Rudolph Contreras in Case No. 1:18-cv-02084-RC (D.D.C.). The December 27, 2018

opinion is reported at 348 F. Supp. 3d 62. The May 6, 2019 opinion is unreported but available at 2019 WL 1992868. The July 10, 2019 opinion is unreported but available at 2019 WL 3037306.

C. Related Cases

This Court previously issued an opinion involving the same dispute between the same parties. *See American Hosp. Ass'n v. Azar*, 895 F.3d 822 (D.C. Cir. 2018).

In this case, the district court styled its December 27, 2018 order as a permanent injunction, although the order did not enjoin any conduct. The government filed a notice of appeal as a protective measure (No. 19-5048). On the government's motion, this Court put that appeal into abeyance pending further district court proceedings. The government is not aware of any pending related cases within the meaning of D.C. Circuit Rule 28.

s/ Laura E. Myron
LAURA E. MYRON