

[NOT SCHEDULED FOR ORAL ARGUMENT]

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

UNITED STATES HOUSE OF  
REPRESENTATIVES,

Plaintiff-Appellee,

v.

THOMAS E. PRICE, in his official capacity as  
Secretary of Health & Human Services; U.S.  
Department of Health & Human Services;  
STEVEN T. MNUCHIN, in his official capacity  
as Secretary of the Treasury; U.S. Department of  
the Treasury,

Defendants-Appellants.

No. 16-5202

**RESPONSE OF DEFENDANTS-APPELLANTS TO  
MOTION TO LIFT ABEYANCE TO ALLOW  
CONSIDERATION OF INTERVENTION MOTION**

This case is in abeyance by agreement of the parties and order of this Court. *See* 3/2/2017 Order. On May 18, a coalition of States moved to intervene in this case and to lift the abeyance for the limited purpose of considering that motion.

The motion to lift the abeyance should be denied. The States' filings are premised on the assumption that the parties are "ready to agree to allow the injunction to stand." Intervention Mot. 24. That assumption has been overtaken by the parties' most recent joint status report, which requested that the abeyance be

continued because the parties continue to discuss measures that would obviate the need for judicial determination of this appeal, including potential legislative action. *See* 5/22/2017 Joint Status Report. Under the terms of this Court's March 2 order, the next status reports will be due on August 21.

The States' intervention motion should be denied without prejudice as premature because the motion rests on speculation about possible future litigation steps. Under similar circumstances, this Court denied an intervention motion filed by individuals and ordered that the abeyance should continue. *See* 1/12/2017 Order. We do not intend to respond substantively to the States' intervention motion unless directed to do so by the Court.

Respectfully submitted,

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*s/ Alisa B. Klein*  
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MAY 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2017, I electronically filed the foregoing document with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

*/s/ Alisa B. Klein*  
\_\_\_\_\_  
Alisa B. Klein

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this document complies with the requirements of Federal Rule of Appellate Procedure 27. The document contains 207 words.

*/s/ Alisa B. Klein*  
\_\_\_\_\_

Alisa B. Klein