

No. 16-5202

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

UNITED STATES HOUSE OF REPRESENTATIVES,
Plaintiff-Appellee,

v.

THOMAS E. PRICE, M.D., in his official capacity as Secretary of Health and Human Services; U.S. Department of Health and Human Services; STEVEN T. MNUCHIN, in his official capacity as Secretary of the Treasury; U.S. Department of the Treasury,
Defendants-Appellants.

On Appeal from the United States District Court
for the District of Columbia, No. 1:14-cv-01967
Honorable Rosemary M. Collyer

**MOTION TO LIFT ABEYANCE TO CONSIDER
STATES' MOTION TO INTERVENE**

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May 18, 2017

This appeal concerns a dispute between the House of Representatives and the Executive Branch over the authority and responsibility of the Executive Branch to make payments for certain reimbursement subsidies under the Patient Protection and Affordable Care Act. The appeal also presents a dispute regarding the standing of Plaintiff-Appellee House of Representatives to bring this lawsuit as an initial matter. Proceedings are currently in abeyance based on a joint motion filed by the parties on February 21, 2017 and this Court's March 2, 2017 order.

For the reasons stated in their separate, concurrently filed motion to intervene, the signatory States seek to intervene in this appeal to protect their interests and those of their residents. The current parties previously responded to a motion to intervene on behalf of private parties by suggesting that they could not file a substantive response to the motion due to the abeyance of proceedings. *See* ECF No. 1652824; ECF No. 1652761. The private parties then sought a limited suspension of the abeyance to consider their motion to intervene, which the House opposed. This Court directed the parties to file responses to the individuals' motion to intervene.

In light of those prior proceedings, the proposed intervenor States respectfully request that the Court similarly lift its abeyance order to the extent necessary to permit responses to and a ruling on the States' motion to intervene.

Dated: May 18, 2017

Respectfully submitted,

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CERTIFICATE OF PARTIES AND AMICI

Pursuant to D.C. Circuit Rules 27(a)(4) and 28(a)(1), movants certify that: Except for the following, all parties and amici appearing before the district court and in this court are listed in the Brief for Defendants-Appellants.

Amicus briefs or notices of intent to file an amicus brief were also filed in this court by the following groups:

Organizations: Families USA, Asian & Pacific Islander American Health Forum, Community Catalyst, Inc., National Health Law Program, National Partnership for Women & Families, National Women's Law Center, America's Health Insurance Plans, Blue Cross Blue Shield Association, American Hospital Association, Federation of American Hospitals, the Catholic Health Association of the United States, Association of American Medical Colleges, Center for Constitutional Jurisprudence, Cato Institute.

Professors: Walter Dellinger, William N. Eskridge, Jr., David A. Strauss.

Economic and health policy scholars: Kenneth J. Arrow, Ph.D., Susan Athey, Ph.D., Jeremy Barofsky, Sc.D., Barry Bosworth, Ph.D., Gary Burtless, Ph.D., Phillip J. Cook, Ph.D., Amitabh Chandra, Ph.D., Janet Currie, Ph.D., Karen Davis, Ph.D., Peter Diamond, Ph.D., Mark Duggan, Ph.D., Ezekiel Emanuel, M.D., Ph.D., Austin Frakt, Ph.D., Claudia Goldin, Ph.D., Vivian Ho, Ph.D., Jill Horwitz, Ph.D., Lawrence Katz, Ph.D., Genevieve M. Kenney, Ph.D., Frank Levy,

Ph.D., Peter H. Lindbert, Ph.D., Eric S. Maskin, Ph.D., Alan C. Monheit, Ph.D.,
Joseph Newhouse, Ph.D., Daniel Polsky, Ph.D., James B. Rebitzer, Ph.D., Michael
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Kenneth Thorpe, Ph.D., Laura Tyson, Ph.D., Paul N. Van de Water, Ph.D., Justin
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May 18, 2017

/s/ Edward C. DuMont
Edward C. DuMont

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the requirements of Federal Rule of Appellate Procedure 27(d)(2), because it contains 228 words, according to the count of Microsoft Word. I further certify that this brief complies with typeface requirements of Rule 27(d)(1)(E) because it has been prepared in 14-point Times New Roman font.

May 18, 2017

/s/ Edward C. DuMont
Edward C. DuMont

CERTIFICATE OF SERVICE

I certify that on May 18, 2017, the foregoing Motion to Intervene was served electronically via the Court's CM/ECF system upon all counsel of record.

May 18, 2017

/s/ Edward C. DuMont
Edward C. DuMont