

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

STATE OF TEXAS; STATE OF WISCONSIN; STATE OF ALABAMA; STATE OF ARIZONA; STATE OF FLORIDA; STATE OF GEORGIA; STATE OF INDIANA; STATE OF KANSAS; STATE OF LOUISIANA; PAUL LEPAGE, Governor of Maine; STATE OF MISSISSIPPI, by and through Governor Phil Bryant; STATE OF MISSOURI; STATE OF NEBRASKA; STATE OF NORTH DAKOTA; STATE OF SOUTH CAROLINA; STATE OF SOUTH DAKOTA; STATE OF TENNESSEE; STATE OF UTAH; STATE OF WEST VIRGINIA; STATE OF ARKANSAS; NEILL HURLEY; JOHN NANTZ,

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF HEALTH & HUMAN SERVICES; ALEX AZAR, II, SECRETARY, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES; UNITED STATES DEPARTMENT OF INTERNAL REVENUE; CHARLES P. RETTIG, in his Official Capacity as Commissioner of Internal Revenue,

Defendants-Appellants,

STATE OF CALIFORNIA; STATE OF CONNECTICUT; DISTRICT OF COLUMBIA; STATE OF DELAWARE; STATE OF HAWAII; STATE OF ILLINOIS; STATE OF KENTUCKY; STATE OF MASSACHUSETTS; STATE OF NEW JERSEY; STATE OF NEW YORK; STATE OF NORTH CAROLINA; STATE OF OREGON; STATE OF RHODE ISLAND; STATE OF VERMONT; STATE OF VIRGINIA; STATE OF WASHINGTON; STATE OF MINNESOTA,

Intervenor Defendants-Appellants.

No. 19-10011

MOTION TO LIFT THE STAY OF THE PROCEEDINGS

The federal defendants-appellants hereby move to lift the previously granted stay of proceedings in the above-captioned case.

1. On January 9, 2019, the United States filed a motion for a stay of the proceedings in light of the expiration of the appropriations act that had been funding the Department of Justice. Doc. 00514787871. This Court granted that motion on January 11. Doc. 00514791127. The Court instructed the United States that it must file a motion “to lift the stay” once the Department of Justice received funding, and that the response time for the pending motion to intervene by the House of Representatives would be “re-set for ten (10) days once [the] case is removed from abeyance.” Doc. 00514791126.

2. On January 25, 2019, the President signed a three-week continuing resolution that restored funding to the Department of Justice.

3. In light of the restoration of funding, undersigned counsel for the Department of Justice requests that the Court lift the stay of the proceedings in this case. As the Court previously indicated, once the stay is lifted, the ten-day response time for parties to respond to the pending motion to intervene should be re-set.

Respectfully submitted,

JOSEPH H. HUNT

Assistant Attorney General

BRETT A. SHUMATE

Deputy Assistant Attorney General

s/Martin V. Totaro

MARTIN V. TOTARO

Attorney, Appellate Staff

Civil Division, Room 7513

U.S. Department of Justice

950 Pennsylvania Avenue, NW

Washington, DC 20530

(202) 616-5374

martin.totaro@usdoj.gov

JANUARY 2019

CERTIFICATE OF COMPLIANCE

I hereby certify that this motion complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because the motion contains 193 words, excluding the parts of the motion exempted by Federal Rule of Appellate Procedure 32(f). I further certify that this motion complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E), 32(a)(5), and 32(a)(6) because it has been prepared using Microsoft Word 2016 in a proportionally spaced typeface, 14-point Calisto MT typeface.

s/Martin V. Totaro
MARTIN V. TOTARO

CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2019, I electronically filed the foregoing motion with the Clerk of the Court 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.

s/Martin V. Totaro
MARTIN V. TOTARO