

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STATE OF NEW YORK, et al.,

Plaintiffs,

-v-

UNITED STATES DEPARTMENT OF HEALTH AND
HUMAN SERVICES, et al.,

Defendants.

19 Civ. 4676 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

The Court has received a motion to intervene, Dkt. 64, from proposed intervenors Dr. Regina Frost and Christina Medical and Dental Associations (together, the “Proposed Intervenors”), a memorandum of law in support, Dkt. 65 (“Mem.”), and declarations in support from Drs. Regina Frost, Dkt. 66, and David Stevens, Dkt. 67. Plaintiffs have indicated their intent to respond within the time allowed by Local Civil Rule 6.1(b), which would require a response by July 9, 2019. Dkt. 62.

The rule that is the subject of this litigation is due to take effect on July 22, 2019. Plaintiffs filed a motion for a preliminary injunction on June 14, 2019. Under the Court’s schedule, defendants’ opposition to the preliminary injunction motion is due in two days, on June 28, 2019. Dkt. 27.

The Proposed Intervenors state that they first learned of this action on May 21, 2019, and filed the motion to intervene promptly after obtaining counsel. Mem. at 12. The Proposed Intervenors represent that, if permitted to intervene, they would respond to plaintiffs’ preliminary injunction motion on the existing schedule. *Id.* at 13. This proposal, however, would require plaintiffs to respond to the motion to intervene, and the Court to resolve that motion, within 48

hours of today. That is burdensome and unrealistic. Had the Proposed Intervenors wished a resolution of their motion to intervene prior to the deadline for opposing plaintiffs' preliminary injunction motion, they should have moved to intervene earlier.

The Court will therefore allow briefing on the motion to intervene under Local Civil Rule 6.1(b), with plaintiffs' response due July 9, 2019, and the Proposed Intervenors' reply, if any, due July 16, 2019. The Court will thereafter rule on the motion to intervene.

The Court, however, is interested in receiving the views of the Proposed Intervenors regarding the preliminary injunction. The Court accordingly will permit the Proposed Intervenors to file a brief as *amicus curiae* in support of defendants' opposition to plaintiffs' motion for a preliminary injunction. That brief is due June 28, 2019, the same day that defendants' opposition motion is due.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: June 26, 2019
New York, New York