

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STATE OF NEW YORK, *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES;
ALEX M. AZAR II, *in his official capacity as
Secretary of the United States Department of
Health and Human Services*; and UNITED
STATES OF AMERICA,

Defendants.

)
) No. 1:19-cv-04676-PAE
) (consolidated with 1:19-cv-05433-PAE;
) 1:19-cv-05435-PAE)
)

) **STIPULATED REQUEST FOR AN**
) **ORDER TO POSTPONE RULE’S**
) **EFFECTIVE DATE; TO SUSPEND**
) **DEFENDANTS’ DEADLINE TO**
) **RESPOND TO PLAINTIFFS’**
) **PRELIMINARY INJUNCTION**
) **MOTIONS; AND TO VACATE THE**
) **CURRENT BRIEFING SCHEDULE**
) **AND HEARING DATE**
) **[5 U.S.C. § 705]**
)
)
)

PLANNED PARENTHOOD FEDERATION
OF AMERICA, INC.; and PLANNED
PARENTHOOD OF NORTHERN NEW
ENGLAND, INC.,

Plaintiffs,

v.

ALEX M. AZAR II, *in his official capacity as*
Secretary, United States Department of
Health and Human Services; UNITED
STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES; ROGER
SEVERINO, *in his official capacity as*
Director, Office for Civil Rights, United
States Department of Health and Human
Services; and OFFICE FOR CIVIL RIGHTS,
United States Department of Health and
Human Services,

Defendants.

)
) No. 1:19-cv-05433-PAE
) (consolidated with 1:19-cv-0476-PAE;
) 1:19-cv-05435-PAE)
)
)
)

NATIONAL FAMILY PLANNING AND)	
REPRODUCTIVE HEALTH)	
ASSOCIATION; and PUBLIC HEALTH)	No. 1:19-cv-05435-PAE
SOLUTIONS,)	(consolidated with 1:19-cv-0476-PAE;
)	1:19-cv-05433-PAE)
)	
<i>Plaintiffs,</i>)	
)	
v.)	
)	
ALEX M. AZAR II, in his official capacity as)	
Secretary of the U.S. Department of Health)	
and Human Services; U.S. DEPARTMENT)	
OF HEALTH AND HUMAN SERVICES;)	
ROGER SEVERINO, in his official capacity)	
as Director of the Office for Civil Rights of)	
the U.S. Department of Health and Human)	
Services; OFFICE FOR CIVIL RIGHTS of)	
the U.S. Department of Health and Human)	
Services,)	
)	
<i>Defendants.</i>)	
)	
)	
)	

Subject to the Court’s approval, the parties through their undersigned counsel of record
HEREBY STIPULATE as follows:

1. At present, Defendants’ opposition to Plaintiffs’ motions for a preliminary injunction is due on June 28, 2019, Plaintiffs’ reply is due on July 5, 2019, and a hearing is scheduled on July 12, 2019.

2. The U.S. Department of Health and Human Services (“HHS”) agrees to postpone the effective date of the rule titled Protecting Statutory Conscience Rights in Health Care; Delegations of Authority, 84 Fed. Reg. 23,170 (May 21, 2019) (“Final Rule”), until November 22, 2019. HHS stipulates to this postponement because it is the most efficient way to adjudicate the Final Rule on the merits. HHS does not concede that Plaintiffs are “likely to succeed on the merits,

that [they are] likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in [their] favor, [or] that an injunction is in the public interest.” *See Winter v. NRDC*, 555 U.S. 7, 20 (2008).

3. Plaintiffs maintain that—for the reasons expressed in their motions for a preliminary injunction and their opposition to Defendants’ motion to continue the deadline to respond to Plaintiffs’ motions—Plaintiffs would suffer various irreparable injuries were the Final Rule’s effective date not postponed.

4. The parties request that the Court issue an order, pursuant to 5 U.S.C. § 705, that the effective date of the Final Rule is postponed until November 22, 2019.

5. The parties further request, in light of this postponement, that the Court suspend the June 28, 2019 deadline for Defendants’ opposition brief and set a new and more protracted schedule for submission of the remaining briefs on Plaintiffs’ preliminary injunction motions.

6. The parties agree to meet and confer to determine whether they can reach an agreement on a proposed schedule to resolve this case through cross-motions for summary judgment prior to the Final Rule’s new November 22, 2019 effective date.

Dated: June 28, 2019

LETITIA JAMES
Attorney General of the State of New York

By: /s/ Matthew Colangelo
Matthew Colangelo
Chief Counsel for Federal Initiatives
Justin Deabler, *Assistant Attorney General*
Brooke Tucker, *Assistant Attorney General*
Amanda Meyer, *Assistant Attorney General*
Office of the New York State Attorney
General
28 Liberty Street
New York, NY 10005
Phone: (212) 416-6057

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director

matthew.colangelo@ag.ny.gov

Attorneys for the *State of New York* Plaintiffs

/s/ Bradley P. Humphreys

BRADLEY P. HUMPHREYS

(D.C. Bar No. 988057)

Trial Attorney, U.S. Department of Justice

Civil Division, Federal Programs Branch

1100 L Street, N.W.

Washington, D.C. 20005

Phone: (202) 305-0878

E-mail: Bradley.Humphreys@usdoj.gov

Counsel for Defendants

Diana Salgado (*pro hac vice*)
Planned Parenthood Federation of America,
Inc.
1110 Vermont Ave., NW Ste. 300
Washington, D.C. 20005
Tel.: (202) 973-4800
Fax: (202) 296-3480
diana.salgado@ppfa.org

Hana Bajramovic
Planned Parenthood Federation of America,
Inc.
123 William St., 9th Floor
New York, NY 10038
Tel.: (212) 541-7800
Fax: (212) 247-6811
hana.bajramovic@ppfa.org

Michelle Banker
Sunu Chandy
National Women's Law Center
11 Dupont Circle, NW #800
Washington DC 20036
Tel: (202) 588-5180
Fax: (202) 588-5185
mbanker@nwlc.org
schandy@nwlc.org

Adam Grogg*
Robin F. Thurston*
Democracy Forward Foundation
P.O. Box 34553
Washington, DC 20043
Tel: (202) 448-9090
agrogg@democracyforward.org
rthurston@democracyforward.org

* *Pro hac vice* motion forthcoming

Attorneys for the *PPFA* Plaintiffs

Alexa Kolbi-Molinas
Lindsey Kaley
Elizabeth Deutsch*
Brigitte Amiri

Sarah Mac Dougall
Cristina Alvarez*
Covington & Burling LLP
620 Eighth Avenue
New York, NY 10018-1405
Tel: (212) 841-1000
Fax: (212) 841-1010
smacdougall@cov.com
calvarez@cov.com

Kurt G. Calia*
Marina Dalia-Hunt*
Covington & Burling LLP
3000 El Camino Real, 5 Palo Alto Square
Palo Alto, CA 94306-2112
Tel: (650) 632-4717
Fax: (650) 632-4800
kcalia@cov.com
mdaliahunt@cov.com

Ryan Weinstein*
Paulina Slagter*
Covington & Burling LLP
1999 Avenue of the Stars
Los Angeles, CA 90067-4643
Tel: (424) 332-4800
Fax: (424) 332-4749
rweinstein@cov.com
pslagter@cov.com

* *Pro hac vice* motion forthcoming

Attorneys for the *PPFA* Plaintiffs

Christopher Dunn
Erin Beth Harrist
Donna Lieberman
New York Civil Liberties Union Foundation

American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004
Phone: (212) 549-2633
Fax: (212) 549-2652
akolbi-molinas@aclu.org
lkaley@aclu.org
edeutsch@aclu.org
bamiri@aclu.org

Daniel Mach**
American Civil Liberties Union Foundation
915 15th Street NW
Washington, DC 20005
Phone: (202) 675-2330
Fax: (202) 546-0738
dmach@aclu.org

* Application for admission forthcoming
***Pro hac vice* motion forthcoming

Attorneys for the *NFPRHA* Plaintiffs

125 Broad Street, 19th Floor
New York, NY 10004
Phone: (212) 607-2298
cdunn@nyclu.org
eharrist@nyclu.org
dlieberman@nyclu.org

Elizabeth O. Gill**
American Civil Liberties Union Foundation
of Northern California, Inc.
39 Drumm Street
San Francisco, CA 94111
Phone: (415) 621-2493
Fax: (415) 255-8437
egill@aclunc.org

* Application for admission forthcoming
***Pro hac vice* motion forthcoming

Attorneys for the *NFPRHA* Plaintiffs

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED. The effective date of the Final Rule is postponed until November 22, 2019. *See* 5 U.S.C. § 705. Defendants' June 28, 2019 deadline to respond to Plaintiffs' preliminary injunction motions is suspended, and the preliminary injunction briefing schedule and hearing date set forth in the Court's June 7, 2019 and June 13, 2019 Orders is vacated. This order is without prejudice to the merits.

Dated: _____

PAUL A. ENGELMAYER
UNITED STATES DISTRICT JUDGE