

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MAINE**

THE FAMILY PLANNING ASSOCIATION OF)	
MAINE D/B/A MAINE FAMILY PLANNING,)	
on behalf of itself, its staff, and its patients, <i>et al.</i> ,)	
)	Case No. 1:19-cv-00100-LEW
Plaintiffs,)	
)	JOINT MOTION TO STAY
v.)	DISTRICT COURT
)	PROCEEDINGS PENDING
UNITED STATES DEPARTMENT OF)	APPEAL
HEALTH AND HUMAN SERVICES, <i>et al.</i> ,)	
)	
Defendants.)	
)	

**JOINT MOTION TO STAY DISTRICT COURT
PROCEEDINGS PENDING APPEAL**

The Parties hereby jointly move to stay further district court proceedings pending final resolution of Plaintiffs’ appeal from this Court’s Order denying Plaintiffs’ Motion for Preliminary Injunction. The reasons for this motion are set forth below:

Plaintiffs filed this action to enjoin *Compliance with Statutory Program Integrity Requirements* (the “Rule”),¹ published by the United States Department of Health and Human Services (“HHS”), on March 4, 2019. Plaintiffs moved for a preliminary injunction on March 25, 2019. ECF No. 17.

The Court issued a Decision and Order on Motion for Preliminary Injunction on July 3, 2019, denying Plaintiffs’ Motion for Preliminary Injunction. ECF No. 77. Plaintiffs moved to amend the preliminary injunction order or in the alternative, for an injunction pending appeal, ECF No. 78. The Court denied the motion on August 9, 2019, ECF No. 84. Plaintiffs filed a

¹ Compliance with Statutory Program Integrity Requirements, 84 Fed. Reg. 7714 (Mar. 4, 2019).

Notice of Appeal, No. 19-1836, of the Court's Order denying the Motion for Preliminary Injunction on August 15, 2019. ECF No. 85.

The Parties now respectfully submit this motion to stay further proceedings in this Court pending appeal of the preliminary injunction order, because a ruling by the First Circuit is likely to provide substantial guidance to the District Court and will guide the parties in resolving central merits issues presented in this case. Proceeding in the absence of such guidance would likely be inefficient and a waste of the resources of the Court and the Parties. The Parties therefore agree that while the First Circuit resolves the questions presented in the appeal, a stay in the instant case is warranted and is in the best interest of judicial economy.

For all these reasons, the Parties jointly move the Court to stay proceedings in the instant case pending final resolution of Plaintiffs' appeal.

Dated: August 29, 2019

/s/ Richard L. O'Meara
RICHARD O'MEARA
Murray Plumb & Murray
75 Pearl Street
Portland, ME 04104
Telephone: (207) 773-5651
romeara@mpmlaw.com

Emily Nestler*
Molly Duane*
Arielle Humphries*
Center for Reproductive Rights
199 Water Street, 22nd Floor
New York, NY 10038
Telephone: (917) 637-3600
enestler@reprorights.org

Respectfully submitted,

/s/ JOSEPH H. HUNT
JOSEPH H. HUNT
Assistant Attorney General

MICHELLE R. BENNETT
Assistant Branch Director

/s/ R. Charlie Merritt
R. CHARLIE MERRITT (VA Bar No. 89400)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
919 East Main Street, Suite 1900
Richmond, VA 23219
Tel.: (202) 616-8098
Email: robert.c.merritt@usdoj.gov

Counsel for Defendants

Emily Ullman*
Jennifer Saperstein*
Covington & Burling LLP
One CityCenter
850 Tenth Street NW
Washington, DC 20001
Telephone: (202) 662-6000
eullman@cov.com

*Attorneys for Plaintiffs The Family Planning
Association of Maine d/b/a Maine Family
Planning and J. Doe, DO, MPH*

** Admitted pro hac vice*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Joint Motion to Stay District Court Proceedings Pending Appeal was served on counsel for all parties using the Court's CM/ECF system on August 29, 2019.

/s/ Richard L. O'Meara
Richard L. O'Meara
MURRAY, PLUMB & MURRAY
75 Pearl Street, P.O. Box 9785
Portland, ME 04104-5085
(207) 773-5651
E-mail: romeara@mpmlaw.com