

**[ORAL ARGUMENT NOT SCHEDULED]**

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

ASSOCIATION FOR COMMUNITY  
AFFILIATED PLANS, NATIONAL ALLIANCE  
ON MENTAL ILLNESS, MENTAL HEALTH  
AMERICA, AMERICAN PSYCHIATRIC  
ASSOCIATION, AIDS UNITED, NATIONAL  
PARTNERSHIP FOR WOMEN & FAMILIES, and  
LITTLE LOBBYISTS, LLC,

Plaintiffs-Appellants,

v.

No. 19-5212

U.S. DEPARTMENT OF THE TREASURY; U.S.  
DEPARTMENT OF LABOR; U.S. DEPARTMENT  
OF HEALTH AND HUMAN SERVICES; ALEX  
M. AZAR II, in his official capacity as Secretary of  
Health and Human Services; EUGENE SCALIA, in  
his official capacity as Secretary of Labor; STEVEN  
T. MNUCHIN, in his official capacity as Secretary of  
the Treasury; and the UNITED STATES OF  
AMERICA,

Defendants-Appellees.

**MOTION FOR A 45-DAY EXTENSION OF TIME  
TO FILE APPELLEES' BRIEF**

Under Circuit Rule 28(e), defendants-appellees respectfully request a 45-day extension of the deadline for their response brief, to and including **January 21, 2020**.

Plaintiffs take no position on this motion and will not be filing an opposition.

There is good cause for the requested extension for the following reasons.

1. This case concerns a regulation promulgated in 2018 by the Departments of the Treasury, Labor, and Health and Human Services. The regulation largely restores the regulatory definition of “short-term limited duration insurance,” 42 U.S.C. § 300gg-91(b)(5), that was in place from 1997 to 2016. The district court rejected plaintiffs’ contention that the regulation is contrary to the statute and arbitrary and capricious.

2. Plaintiffs filed their opening brief on November 4, 2019, three and a half months after the district court’s decision was issued. Several groups have indicated that they intend to file amicus briefs in support of plaintiffs next week.

3. The government’s response brief is currently due December 4, 2019. We respectfully request a 45-day extension, to and including January 21, 2020, in which to file the brief. Daniel Winik has primary responsibility for preparing the government’s brief. Mr. Winik’s wife is due to give birth by November 12, and Mr. Winik will take leave after the birth. Mr. Winik also has responsibility for the government’s briefs in *Louisiana Real Estate Appraisers Board v. FTC* (5th Cir. No. 19-30796, filed November 7), *Karkalas v. Marks* (3d Cir. No. 19-2816, due December 6), and *Bundy v. Sessions* (D.C. Cir. No. 19-5183, due December 27), and will present oral argument in *Rosen v. FAA* (No. 18-56059) before the Ninth Circuit on December 13.

4. Alisa Klein, who has supervisory responsibility in this case, argued *American Hospital Association v. Azar* (Nos. 19-5048, -5198) before this Court this

morning (November 8), and is responsible for preparing a response to rehearing petitions in *LaTurner v. United States* (Fed. Cir. Nos. 18-1509, -1510, due November 26). Ms. Klein also has supervisory responsibility for the government's briefs in other matters including *Texas v. United States* (5th Cir. No. 18-10545, due November 20), and *Linza v. Saul* (2d Cir. No. 19-2766, due December 5). Ms. Klein also will be on leave during the winter holidays between December 23 and January 5.

5. As noted above, plaintiffs take no position on this extension request and will not file an opposition.

Respectfully submitted,

ALISA B. KLEIN

/s/ Daniel Winik

DANIEL WINIK

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November 8, 2019

**CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(g), I hereby certify this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 393 words, according to the count of Microsoft Word.

*/s/ Daniel Winik*

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Daniel Winik

**CERTIFICATE OF SERVICE**

I hereby certify that on November 8, 2019, I electronically filed the foregoing with the U.S. Court of Appeals for the District of Columbia Circuit 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/ Daniel Winik*

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Daniel Winik