

[ORAL ARGUMENT HELD ON NOVEMBER 14, 2019]

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

STATE OF NEW YORK, *et al.*,

Plaintiffs-Appellees,

v.

U.S. DEPARTMENT OF LABOR, *et al.*,

Defendants-Appellants.

No. 19-5125

**RESPONSE TO MOTION TO SUBSTITUTE COMMONWEALTH OF  
KENTUCKY *EX REL.* ANDY BESHEAR AS A PARTY**

Andy Beshear, the current Governor of the Commonwealth of Kentucky, has asked this Court to substitute “Commonwealth of Kentucky *ex rel.* Andy Beshear” for the Commonwealth of Kentucky, a plaintiff-appellee in this case. The federal government takes no position on the substitution motion, including as to the question whether Governor Beshear has authority to represent the Commonwealth of Kentucky in this matter. *Cf.* KRS 15.020; *Commonwealth ex rel. Beshear v. Commonwealth Office of the Governor ex rel. Bevin*, 498 S.W.3d 355 (Ky. 2016).

Respectfully submitted,

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DECEMBER 2019

**CERTIFICATE OF SERVICE**

I hereby certify that on December 18, 2019, I electronically filed the foregoing response with the Clerk of this Court by using the appellate CM/ECF system. The participants in the case are registered CM/ECF users and will be served through the CM/ECF system.

*/s/ Michael Shih*

MICHAEL SHIH

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**CERTIFICATE OF COMPLIANCE**

I hereby certify that the foregoing response complies with the requirements of Fed. R. App. P. 27(d) because it has been prepared in 14-point Garamond, a proportionally spaced font. I further certify that the response complies with the type-volume limitation of Fed. R. App. P. 27(d)(2) because it contains 83 words according to the count of Microsoft Word.

/s/ Michael Shih

MICHAEL SHIH

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